



## Development Control Committee

5<sup>th</sup> November 2009

### Report of Head of Planning and Building Control, Regeneration

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| 1       | 1       | 09/0961/FL         | DARLASTON COMMUNITY SCHOOL, HERBERTS PARK ROAD, DARLASTON, WALSALL, WS10 8QJ | Change of use of part of George Rose Park, to part of Darlaston Community School and erection of fencing  | GRANT SUBJECT TO CONDITIONS AND TO RESOLUTION OF THE ENVIRONMENT AGENCY OBJECTION |
| 2       | 23      | 09/1101/FL         | WALSALL CAMPUS, GORWAY ROAD, WALSALL, WS1 3BD                                | Erection of a new teaching building for the performing arts and learning resource centre, together with demolition of redundant buildings, car parking and landscaping.   | Grant Subject to conditions   |
| 3       | 41      | 09/0915/FL         | MORRISONS SUPERMARKET, ANCHOR ROAD, ALDRIDGE, WALSALL, WS9 8PT               | Demolition of existing ambulance station and erection of a warehouse extension to existing foodstore, construction of new service yard, extension of existing car park, provision of ambulance office and ambulance parking bay and diversion of existing footpath. | Grant Subject to conditions   |
| 4       | 57      | 09/1102/FL         | BIRCHILLS C.OF E. SCHOOL, FARRINGTON DON STREET, WALSALL, WS2 8NF            | Proposed new school building following partial demolition of existing school buildings together with associated access, car parking and landscaping.  | Grant Subject to conditions   |
| 5       | 65      | 09/0880/FL         | LAND AT BENTLEY ROAD NORTH, WALSALL  | Addition of 4 no. flats to existing approval 07/2228/FL/W7 for a  | GRANT SUBJECT TO RESOLVING THE  |

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|   |     |                | LL   | retirement village   | ENVIRONMENT<br>AGENCY<br>OBJECTION, AND A<br>PLANNING<br>OBLIGATION |
| 6 | 79  | 09/0979/FL     | UNIT<br>1B,GATEHOUS<br>E TRADING<br>ESTATE,LICHFI<br>ELD<br>ROAD,WALSAL<br>L,WS8 6JZ | Change of use to allow<br>for the storage of waste<br>asbestos prior to disposal<br>elsewhere, plus removal<br>of existing porch and<br>replacement of existing<br>roller shutter door with a<br>larger one and addition of<br>a smaller roller shutter<br>door and UPVC window<br>and door on the western<br>side of the building | Grant Subject to<br>conditions                                      |
| 7 | 87  | 07/1878/FL/E10 | Railswood<br>Nurseries,Railsw<br>ood<br>Drive,Pelsall,WS<br>3 4BE                    | Change of use for<br>stationing one residential<br>caravan for one gypsy<br>family   | Grant Subject to<br>conditions                                      |
| 8 | 105 | 09/1086/FL     | WALSALL<br>ARBORETUM,LI<br>CHFIELD<br>STREET,WALSA<br>LL                             | Proposed demolition of<br>single storey buildings &<br>erection of new visitor<br>centre.  | Delegate to Head of<br>Planning and<br>Building Control             |
| 8 | 105 | 09/1172/CC     | WALSALL<br>ARBORETUM,LI<br>CHFIELD<br>STREET,WALSA<br>LL                             | Proposed demolition of<br>single storey buildings &<br>erection of new visitor<br>centre   | Delegate to Head of<br>Planning and<br>Building Control             |
| 8 | 105 | 09/0168/CC     | WALSALL<br>ARBORETUM,LI<br>CHFIELD<br>STREET,WALSA<br>LL                             | Demolition of toilet<br>blocks, gazebo, shelters<br>and shed at various<br>locations (including one<br>structure adjoining a<br>public footpath).  | Delegate to Head of<br>Planning and<br>Building Control             |
| 8 | 105 | 09/0171/LB     | BOAT<br>HOUSE,ARBOR<br>ETUM,LICHFIEL<br>D<br>STREET,WALSA<br>LL,WS4 2BU              | Repairs, including<br>structural, and<br>replacement of roof tiles.  | Delegate to Head of<br>Planning and<br>Building Control             |
| 8 | 106 | 09/0172/FL     | BANDSTAND,<br>ARBORETUM,<br>LICHFIELD<br>STREET,<br>WALSALL, WS4<br>2BU              | Repairs and<br>reinstatement,<br>replacement of roof<br>materials.   | Delegate to Head of<br>Planning and<br>Building Control             |

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| 8  | 106 | 09/0170/FL | LAKESIDE CAFE, ARBORETUM, LICHFIELD STREET, WALSALL, WS4 2BU  | Partial demolition/conversion to open sided shelter.   | Delegate to Head of Planning and Building Control  |
| 9  | 113 | 09/1133/FL | 51 Leckie Road, Walsall, W S2 8DA                             | Two storey rear extensions to provide GP trainer and trainee rooms & training/seminar room. Single storey front extension to increase existing waiting area. | Grant Subject to conditions  |
| 10 | 121 | 09/0778/FL | ABLEY MOTORS, ST. JOHNS ROAD, WALSALL, WS2 9TT                | Change of use to wedding hall and function room  | REFUSE unless additional information not considered in the committee report is received within the consultation period |
| 11 | 133 | 09/0901/OL | LAND BETWEEN 4 & 5 HERBERTS PARK ROAD, WEDNESBURY, WS10 8QN   | Outline: Erection detached dwelling (layout and access to be considered)   | Grant Subject to conditions  |
| 12 | 141 | 09/0904/OL | LAND BETWEEN 2 & 4 WELL AVENUE, WEDNESBURY, WALSALL, WS10 8QN | Erection of detached dwelling (layout and access to be considered).  | Grant Subject to conditions  |
| 13 | 149 | 09/1126/FL | 119 CHESTER ROAD, STREETLY, B74 2HE                           | Re-submission of 09/0447/FL for extension of ground & first floors to the Oaks Medical Practice.   | Grant Subject to conditions  |
| 14 | 157 | 09/1084/FL | Land Between 47-55 Ryders Hayes Lane, Pelsall, Walsall        | Proposed 4 bedroom house   | Granting Subject to Conditions   |
| 15 | 167 | 09/1241/FL | LAND ADJACENT TO 9 HILARY DRIVE, ALDRIDGE, WALSALL, WS9 0DE   | Construction of 2 storey dwelling  | Granting Subject to Conditions   |

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| 16 | 177 | 09/0927/FL | LAND ADJ. 1<br>HALEY<br>STREET,<br>WILLENHALL,<br>WALSALL,<br>WV12 4JU | Proposed 2 bedroom 2<br>storey dwelling and<br>access road junction and<br>demolition of existing<br>outbuilding.            | Grant Subject to<br>conditions |
| 17 | 186 | 09/0999/FL | 27 GILLITY<br>AVENUE,WALS<br>ALL,WS5 3PJ                               | Re-submission of refused<br>application 08/0757/FL for<br>replacement 6 bedroom<br>dwelling                                  | Grant Subject to<br>conditions |
| 18 | 195 | 09/1128/FL | 76 DELVES<br>GREEN<br>ROAD,WALSAL<br>L,WS5 4LP                         | Proposed extensions and<br>alterations to convert<br>existing garage to dining<br>room and first floor<br>bedroom extension. | Grant Subject to<br>conditions |
| 19 | 201 | 09/1148/FL | 62 FURZEBANK<br>WAY,WILLENHA<br>LL,WV12 4BG                            | Single storey front and<br>rear extensions and two<br>storey side and rear<br>extension                                      | Grant Subject to<br>conditions |
| 20 | 201 | 09/1170/FL | 34<br>MOUNTFORD<br>CRESCENT,ALD<br>RIDGE,WALSAL<br>L,WS9 8LD           | Two storey side & rear<br>extension & alterations  | Grant Subject to<br>conditions |
| 21 | 217 | 09/1156/FL | 100<br>BROADWAY<br>WEST,<br>WALSALL, WS1<br>4DN                        | Two storey side extension<br>and single storey rear<br>extension   | Refuse                         |
| 22 | 225 | 09/1195/FL | 15 LINLEY<br>CLOSE,WALSAL<br>L,WS9 0ES                                 | Conservatory to rear of<br>property  | Grant Subject to<br>conditions |
| 23 | 230 | 08/1603/FL | LAND AT<br>JUNCTION OF<br>WALSALL<br>ROAD AND<br>STEELMANS<br>ROAD     | Change of use to lorry<br>parking ( to include an<br>additional maximum 10<br>HGV's) acoustic fencing<br>and landscaping.    | Grant Subject to<br>conditions |



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
05 Nov 2009

**REASON FOR BRINGING TO COMMITTEE: Major application**

**Application Number:** 09/0961/FL

**Application Type:** Regulation 3 Consent  
(V)

**Applicant:** Walsall Council

**Proposal:** Change of use of part of George  
Rose Park, to part of Darlaston Community  
School and erection of fencing

**Ward:** Darlaston South

**Recommendation Summary:** GRANT SUBJECT TO CONDITIONS AND TO  
RESOLUTION OF THE ENVIRONMENT AGENCY OBJECTION

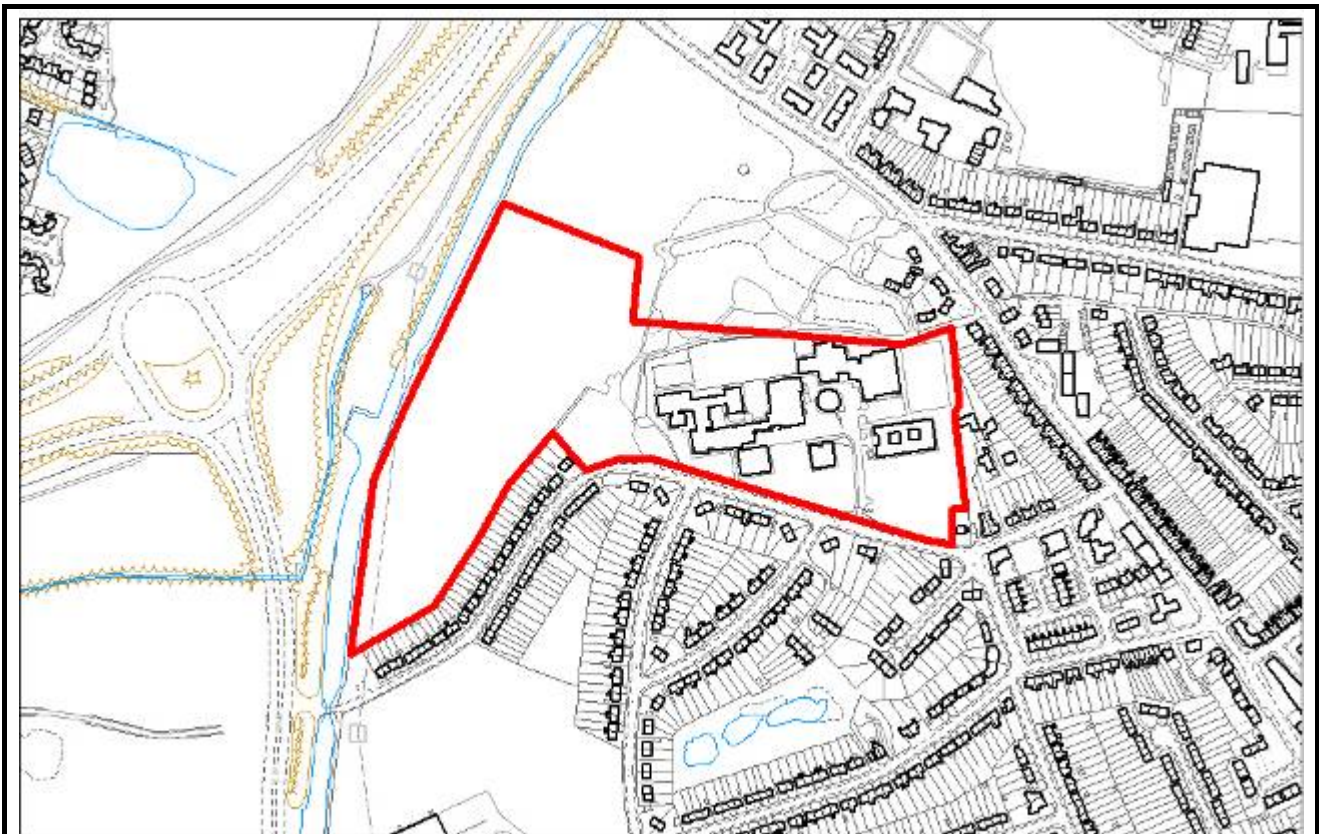
**Case Officer:** Bob Scrivens

**Telephone Number:** 01922 652488

**Agent:** Seymour Harris Architecture

**Location:** DARLASTON COMMUNITY  
SCHOOL, HERBERTS PARK  
ROAD, DARLASTON, WALSALL, WS10  
8QJ

**Expired:** 02/11/2009



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## **Status**

The application was withdrawn from the agenda of the last meeting, when a lengthy submission was made very close to the start of the meeting. That material, and further submissions have been included in this report.

## **Application and Site Details**

The application is to fence an area of George Rose Park, and change its use from part of the park to part of the adjoining comprehensive school, as playing fields. The proposed development site intends to annex 52% of the current area of George Rose Park, which is designated as urban open space in the adopted Walsall UDP.

The Design and Access Statement states that a capital fund has been set aside for improvement works for the rest of the park. It also states that *“the civic and public enhancement of the school within its community context is a strong driver for redevelopment and controlled access and usage of the new Academy and grounds by the school and the community.”* The statement also refers to strong community support for the new Darlaston Academy, not only from staff, pupils and parents from the local area but also from local community engagement groups such as Darlaston Youth Services.

New fencing is also proposed around the area to be added to the school, and much of the existing school boundary. The fencing proposed is 2.4 metres tall Weldmesh (a proprietary form of fence, the panels are made up of fine wire, welded at frequent intervals). It is a very secure style of fence, but its visual impact is less aggressive than, for example, steel palisade fencing. In this case, the Weldmesh fence is proposed to be plastic coated in a green colour. The fencing is proposed wherever fencing needs to be replaced or added to the existing palisade fencing around the existing school area, and to parts of the park, to define the new school boundary.

The school presently make use of this area but that use is limited, as both pupils and staff have been abused by the public, and there may also be insurance issues.

The level of use will increase, if the site is fenced as proposed, and it will be used on a daily basis.

The application is supported by a range of information pointing towards the redevelopment of the larger school site. It is clearly not part of the current application (though a number of responses have touched on it), as the Design and Access Statement includes the statement

*“The change of use application directly relates to the following items:*

*A. Reclassification of the land currently in use as green Urban Open Space ... to form the site for a new .... Academy, and*

*B. The detailed application for the perimeter boundary fence treatment.*

*For information, the future Outline Planning proposals directly relate to the following items:*

*A. The overall development strategy for the ... Academy ....*

*B. Changing the organisation of the site including ... location of site access points, and the preferred new building location.”*

The redevelopment is the subject of a subsequent application, for new buildings and the rearrangement of the open areas on the site. It will be reported to a future meeting.

## **Relevant Planning History**

None.

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

## **Unitary Development Plan (UDP)**

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

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

3.16: The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

3.16, GP7, ENV32, and 3.116: seeks the design of developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

LC1: on Urban Open Spaces states that proposals for development which would result in a loss of, or otherwise adversely affect, urban open spaces will not be permitted unless it can be demonstrated that, in particular, none of the following functions would be prejudiced

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

though it also provides for the consideration of appropriate compensatory provision

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

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

T13: sets maximum car parking standards, account should be taken of the location of development in relation to local facilities and public transport and unless demonstrated. Retail development should provide a maximum of 1 space per 14sq.m. of gross floorspace, at least 1 bike stand for every 20 car parking spaces and taxi facilities.

## **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. Submission to the Secretary of State is anticipated in October/November 2008 following a further period of public consultation. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of recent national and regional planning guidance

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

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

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

### **Designing Walsall SPD**

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

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

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

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

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

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

### **Natural Environment SPD**

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

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

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

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

Overall the strategy promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

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

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

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

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

### **National Policy**

Planning Policy Statement (PPS) 1: PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted." Paragraphs 33 to 39 also state the importance of good design.



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

PPS25 on flooding and related issues.

## **Consultations**

### **Regeneration Strategy Team**

application can be supported, provided:

- improvements can be secured to George Rose Park that would raise the overall quality of the park and outweigh the loss of urban open space;
- measures can be put in place to secure community access to and use of the sports facilities to be provided;
- equal compensatory provision for sports pitches, which may be lost as part of the annexing of a significant area of the current park, will be made either on or off-site.
- on the information available, the benefits of the development, namely much improved educational facilities, considerable improvements to presently low quality open space at George Rose Park, and secured community use of new sports facilities (including sports pitches) on the proposed development site would significantly outweigh the loss of an area of urban open space.
- the proposed development is acceptable in principle in policy terms.

### **Greenspaces – supports the scheme**

George Rose Park is identified in the Council's Green Space Strategy (2006) as being of Neighbourhood Significance and considered to be Low Quality but High Value on the Quality/Value Matrix. The Green Space Strategy also recognises the considerable importance of George Rose Park to the local community for formal and informal recreation, including children's play.

Greenspace Services strongly supports the proposed improvements to secondary education provision in Darlaston and acknowledges the potential contribution of the redevelopment of Darlaston Community College to the wider regeneration of the area. However, the proposed incorporation of playing fields previously part of George Rose Park into the Academy site represents a significant loss of Unrestricted Accessible Greenspace for the local community, in an area that is already deficient in accessible high quality green space, and this is regrettable.

Notwithstanding the above it is understood that a capital fund of up to £300,000 has been earmarked by Walsall Council to invest in George Rose Park following the establishment and ongoing development of the Academy and this is acceptable as part of the compensatory provision.

Additionally it is understood that the Grace Academy intends to make its outdoor sports pitch provision accessible to the local community under the management of the Academy and this provides considerable comfort.

In accordance with the Green Space Strategy and Greenspaces Service Plan 2009/10 Greenspace Services Officers will continue to work closely with The Friends Group to produce a 10 year Management and Maintenance Plan for George Rose Park, in order to guide the investment of the capital fund and other external funding, and provide a blueprint for further improvements to the Park.

The proposal to erect 2400mm high weldmesh fencing along the boundaries of the Park and the Walsall Canal is also supported.

**Transportation** - No Objection subject to gates being set back 5 metres from the edge of the highway, to enable a vehicle to be temporarily stationed clear of the footway prior to entering the site.

**Pollution Control - Contaminated Land Team**

Some concerns about ground conditions. These are particularly relevant to the wider scheme for the school which may be impacted by residual contamination arising from previous land uses.

Pending that scheme coming forward, this application is essentially an “enabling” process, conditions are recommended that will prohibit any physical development (other than the erection of the proposed fencing), landscaping or changes to the land to be acquired from the existing park and ensure that spoil or debris from works to erect or realign the boundary fence are dealt with appropriately.

**Pollution Control Scientific Team** - No objection to this proposal in principle.

A Note for Applicant has been provided however to alert the applicant to issues that must be addressed at the next stage of development.

They consider the concrete fence at the side of 70 Herbert's Park Road should be retained.

**Regeneration (Trees): Natural Environment** - no objections

The existing tree constraints are not significant enough to warrant consideration of this application for refusal, due to the lack of significant arboricultural implications.

**Severn Trent Water** - No objection subject to condition and note for applicant.

**Environment Agency**

In the absence of a flood risk assessment (FRA), **OBJECT** and recommend refusal because the majority of the application lies within Flood Zone 1 defined by PPS25 as having a low probability of flooding, with a small section shown as Flood Zone 3 (high probability of flooding). However the proposed scale of development may present risks of flooding on-site and/or off-site if surface water run-off is not effectively managed. In the absence of an FRA, the flood risks resulting from the proposed development are unknown.

In relation to a surface water drainage strategy, Building Regulations 2000 encourages a SUDS approach.

**Drainage** – satisfactory.

**Severn Trent** - No objection subject to conditions

**Sport England**

No objection subject to comments:-

The erection of fencing will not lead to any quantitative loss of playing field but it will have the effect of severing the playing field. This will prevent unmanaged public access to the area subject to this application. This is normally of concern, but we have been consulted on the overall development of the Academy.

It is understood that it is proposed to construct the new academy on existing playing field. However, to compensate for this loss, the existing building footprint will be converted into new outdoor sports provision. In terms of quantitative losses and replacement provision (sq.m.), it appears that the area of 'replacement' outdoor provision as a whole will be

greater than the overall area of outdoor sports provision to be lost. It is understood that this new provision will be available for structured use by the community and these arrangements will be secured through any planning permissions.

#### **Natural England - no objection**

There could be a possibility of water voles being present and this should be investigated.

#### **Natural Environment – no objection subject to conditions**

Information is available that there may be wildlife on the southern part of this area, which would need the proposed fence to include access arrangements to allow foraging. The Weldmesh fencing may have difficulties in handling levels changes, and this needs to be addressed. A landscape scheme is appropriate inside the new fencing.

**Landscape Design** – no objection in principle. Palisade fencing should be painted not left simply galvanised. This may be difficult where there are also hedges.

#### **Centro**

None of Centro's existing infrastructure would be adversely affected. The application site is well served by existing bus services with the 334 and 339 services (Bilston to Walsall via Darlaston) stopping close to the site.

The current Planning Application is unlikely to impact upon the public transport network but consideration should be given now to the future proposals for the Academy.

It is recommended that the school revisits their Travel Plan. In particular, it will be important to assess pedestrian and cycling provision. There will also be a need to look at car parking provision and consider the possibility of staff car sharing to the site. The Travel Plan should make provision for continual monitoring of travel habits and set targets for modal shift as appropriate.

#### **British Waterways**

no objections subject to conditions and/or the applicant first entering into a **legal agreement** relating to:

1. BW has a pumping shaft in George Rose Park, and any capping / grouting / infilling of the mineshafts may affect it.
2. The retention of existing landscaping along the boundary and the provision of additional native landscaping is welcomed
3. Weldmesh fencing is preferable to palisade fencing, but roll top or blunt top fencing is the best visual boundary treatment (dark green or black).
4. During construction and operation of the site, British Waterways would require the works, handling, storage and disposal of waste generated by construction and operation to be carried out in accordance with relevant legislation and regulatory requirements. Potential contamination of the waterway and ground water from wind blow, seepage or spillage at the site should be avoided.
5. As the application site is adjacent to the towpath, pedestrian and cycle connections could be made to the local area via a direct and sustainable route. Barnes Meadow Bridge to the south of the application site is well used by the local community and a link to the community school via the towpath would be beneficial to local residents.

British Waterways seeks funding from all new developments within and immediately adjacent to the canal corridor, where appropriate, towards improvement works in order to create an attractive, accessible and bio diverse canal corridor. The development warrants contributions for the following, and their approximate monetary values are set out:-

- Access improvements at Barnes Meadow Bridge - to improve pedestrian access to and from the towpath via the Barnes Meadow Bridge for canal corridor users and to benefit the Community School pupils - £10,000 (based on previous access improvements which have ranged from £10,000 to £40,000)

- Removal of graffiti from all surfaces of Barnes Meadow Bridge - £5,900 (based on £2,000 to mobilise plant and equipment plus removal of graffiti over 78 square metre area at unit cost of £50 per square metre)
- Works to repair motorcycle barriers - £400 per barrier (general indicative cost may be higher depending on specifics)
- Management of the trees and vegetation along the canal between Barnes Meadow Bridge and Porketts Bridge (north of the application site) - £6,300 (based on 630 metres of canal embankment at unit cost of £10 per linear metre)

**Inland Waterways Association – object.**

Loss of the majority of the park would have a negative effect on canal users and local people, contrary to Government agenda of providing easy access to public open space. Loss of park means greater risk of activity next to the canal which is dangerous near deep water. Puts lives at risk.

Welcomes less visually obtrusive fencing.

Fencing could disturb habitat such as birds, and needs to be done properly.

**Monarch's Way Association** – Interest stems from The Monarch's Way Long Distance Footpath which utilizes the towpath of the Walsall Canal at the perimeter of the proposed 'change of use' site. Initially concerned at possible implications but on the assumption that the canal towpath will not be encroached upon, withdrew their holding objection.

**National Grid**

On site risk assessment is moderate. Range of guidance is available.

**Access Officer** - No comments at this stage.

**Fire Service** - satisfactory.

**Representations**

There have been objections from 5 residents, on the following issues.

- Over half of the existing park is to be completely sealed off from the public - are the pupil numbers at Darlaston Community School to increase by such a significant number to justify the requirement for what must amount to over a doubling of the space required?
- In the initial short consultations for the academy the question was asked and a response was given that the academy could be built on a smaller site
- The park was created for the people of Walsall – scheme is taking free to use open public green space from the local public and will spoil this beauty spot
- Shared use of school facilities will be charged for and this will discourage use, putting more pressure on remaining park
- Darlaston has not got enough large freely accessible public green space for the use by general public which was also remarked upon in the Walsall Green Spaces strategy
- Improvements to the rest of the park will not compensate for proposed losses
- Improvements will be damaged by vandals anyway
- There is a need for more exercise in the population at large so we need this green space
- The park is well used by young and old
- It is argued that the park needs to be reduced in area to deal with problems of abuse such as motorbikes – this scheme will not solve those problems
- The need to take away this substantial amount of green space is unnecessary when Darlaston also has a vast number of empty brown field sites

- A number of elderly and disabled people use the footpaths through the park to get to the nearest bus stop, shops and schools – the alternative is much longer
- Why does the scheme need this much space
- Playing fields should be shared with the public
- Risk of loss of trees
- Scheme should leave a margin along the canal for wild habitat and a pathway for walkers, especially as this is currently a habitat for local wildlife (many cabbage white butterflies have been seen here, for example)
- Not against the academy or building one on the current Darlaston Community Science College site, but against the loss of a substantial part of George Rose Park

One resident lives adjacent to the car park in the park. There is a concrete fence on the boundary, erected by the council following an agreement to compensate for the change of the then-tennis courts to a car park. The fence provides security, privacy and noise reduction. The scheme is acceptable if the fence is retained, otherwise he objects if it is to be removed and not replaced with something as good. In addition, he objects to the proposed accesses for the Academy.

A number of comments about the wider redevelopment scheme are also made, but these have been excluded from this list, unless they are relevant to the present scheme. Such issues need to be considered in the redevelopment application.

The Supplementary paper at the last meeting recorded one further, complex, objection, made on behalf of a resident. The points made are:-

- as the application is submitted by WBC, it should demonstrate best practice
- The application documents are confusing and misleading, to consultees as well as residents
- Consultees should be reconsulted and asked to address the correct situation
- many residents have been confused by the wealth of unnecessary and irrelevant information – this is not best practice
- there is no correlation between the application forms, the report, what consultees have commented on, and the planning conditions – this is wholly unacceptable and the application should be withdrawn
- if it is not withdrawn, it should be repackaged to resolve these issues
- the LPA has an obligation to help people understand applications
- the legal requirements for the content of the site plan are not met and it should show all existing trees
- Such confusion could lead to a complaint to the ombudsman
- information is required on trees to be retained and the means of protecting them - not required by condition
- as the location of the sports pitches is unknown, the impact on trees can not be assessed
- an example of the confused nature of the application is the 'proposed' new vehicle access to the site it is not in the application forms however Transportation views on gates are offered, and condition 5 requires details - if a new access is part of this application, it MUST be included in the development description, and full details to make it possible to assess its impacts are needed now – otherwise condition 5 should be deleted
- the application plans do not show the number, size or location of the playing fields - this is important as condition 2 identifies community use
- there are no details of what 'community use' is included - how can the impact of the change of use be assessed
- the Community Use Agreement should require the input of the community to shape the agreement.

- there is no evidence with the application (as required by planning policy) for the loss of open space - would a private developer be allowed to not make such a submission
- of much greater concern is the potential for illuminated use during evenings and the impacts of lighting have not been considered
- The application does not refer to new gates/barriers - how can consent be granted for something not included in the application submission as would result from proposed condition 5
- The Environment Agency seek a Flood Risk Assessment – this should have been submitted with the application and the application should not be determined without one.
- condition 13 is not appropriate in this situation and as a result of the EA objection, this application must be referred to Government Office
- Sport England have misdirected their comments – they should be asked to specifically comment on this application and if there is an objection referral to GOWM will also be necessary.
- British Waterways position is not assessed in the report other than being dismissed because "there is no financial scope to be paid for by the project" - more account needs to be taken of this
- Natural England - water vole habitat is protected under the Wildlife and Countryside Act 1981 - a survey is required to demonstrate the situation - such surveys must be carried out in advance of a planning application decision - consent can not yet be granted
- On condition 2 - heads of terms should have been submitted with the application - such details are required to fully assess the proposals - and no provision is made for implementation, nor any mechanism to vary or alter the agreement
- On condition 3 – the improvement details should be in the application so that everyone can assess them – and if they need planning permission they should be in the application
- On condition 4 - why is public art considered more necessary than the improvements suggested by British Waterways?
- condition 5 is unnecessary and misguided - a plan should have been submitted
- Does condition 7 reinforce the fact that there should be no physical development such as a new vehicle access point?
- Why is condition 9 necessary given the restrictions recommended in conditions 7 and 8?
- the application can not be determined until the full impact of the proposals on trees and hedgerow are thoroughly assessed so the details required under condition 10 should have been submitted with the application.
- Given the restrictions in condition 7, why should landscaping details be required as in condition 11 and there is no mention of proposed landscaping in the application and no details submitted
- Condition 12 refers to wildlife foraging habitats - these aren't covered in the application submission and case law is very clear that details are required to assess these, and should not required after determination via a condition.
- Extend the concrete fence along the rear boundary of the first house should be included in condition 16

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

### **Determining Issues**

The redevelopment of the school is not part of this application. A number of representations and consultations have, however, raised issues which relate to that

redevelopment. Others have made assumptions about the present proposal which expect that redevelopment to occur.

The approval of this application would allow the implementation of the change of use and fencing without any redevelopment.

The decision on this application must be made on the basis that it could be the only development of the site which takes place, and judgements made need to reflect that possibility.

Reconsultation is not seen as necessary. The issues before the Council as Local Planning Authority are clear.

- Principle of development
- Environment Agency objection
- Loss of land in the park
- Restrictions on use of park
- Public access to the park
- Traffic implications
- Ground conditions
- Fencing
- Wildlife
- Lighting
- Trees on site
- British Waterways contributions and Percent for Art

## **Observations**

### **Principle of development**

The UDP seeks to improve education facilities. It also seeks to improve parks and open spaces. It follows that the scheme is acceptable as long as the conclusion is reached that the impact on the park is acceptable. This is examined under some of the following sections.

The applicant has responded to the suggestion in the objections that this application should be withdrawn and instead considered as part of the pending outline application for redevelopment. The suggestion is rejected by them, as:-

1. The purpose of the application is to change the use for the required and outlined purpose
2. The application will enable the erection of a fence around the proposed site, which will enable Grace Academy Darlaston to utilise the area for secured external play until the proposed new build development commences.

As already set out, there is an objection that many local residents have been confused by the range of application information, and it is judged to be unnecessary and irrelevant, and should be repackaged. Officers do not subscribe to this criticism, as telling the complete story (so residents and others can understand what is coming forwards) is appropriate, and the documents are clear on the relationship with the redevelopment application.

It is also being argued in the objections that the application does not properly overcome the issues that need to be applied for and should be withdrawn. Officers do not accept this proposition, as there is a clear legal basis that all of the submitted documents contribute to defining what is applied for, and these make very clear what is applied for. It is also argued that it is not possible to use conditions as recommended, as they do not

reflect the submitted material. Officers hold the view that the recommended conditions draw from the submitted material and the concerns and issues expressed by the various parties – their content is relevant to the decision and meets the relevant tests.

An objector argues that the scheme should define the precise arrangement of the playing fields, in order that these can be assessed, e.g. in relation to the loss of the park, or the community use argument. However, officers consider that if a change of use is approved, it is for the site operator to make decisions such as how many or where there will be specific sports areas – e.g. if there were 4 football pitches on the plan, the permission should not (without good reason) prevent the use of one or more of them for (say) baseball diamonds, as unreasonable controls over the use of land are not a proper exercise of planning control.

Officers conclude there is nothing in these issues that calls for the decision to be delayed.

### **Environment Agency objection**

EA state that because the proposed development site is larger than 1 hectare, a flood risk assessment must be submitted to ensure that surface water on the site can be safely managed and demonstrate that the development will not flood third party land. The objection is to the absence of a flood risk assessment (FRA), and because the majority of the application lies within Flood Zones.

The boundary of the application is the existing park boundary along the canal, and the Council's mapping system shows that the flood zone extends about 16 metres into park. As the application is just to use the park as school grounds and erect a simple fence, the storm water regime will be generally unchanged (there may be effects from the fence, e.g. trapping detritus carried by a flood, and this could be an increased risk, given the poor state of the existing park fence). Officers have queried the EA on their position, and the EA have offered further justification.

The Environment Agency recognise a Flood Risk Assessment is likely to be a formality, but if their requirements are not met, they have a name-and-shame policy, which they must pursue. The recommendation is therefore to grant permission subject to resolving the EA objection.

In relation to surface water drainage strategy, The EA point to the Building Regulations encouraging a SUDS approach. In addition an objector argues that this can not be properly controlled by a condition (see condition 13 in the recommendation). However, SUDS is not seen as relevant to the present proposal, as no new sources of drainage are proposed. Condition 13 is "required" by STW, and on its face they have assumed the scheme is for building works (an issue explored elsewhere in this report). As no drainage works are proposed in the application, the condition is drafted to recognise that NO works may be proposed, in which case no submission is required under the condition (the precise STW wording has been altered to this end).

### **Loss of land in the park**

The proposed development would significantly reduce the area of the existing park. But, providing adequate improvement works to the remainder of the park are carried out, the park would maintain a high value to the local community. Improvement works should also help to address anti-social behaviour issues that are currently present within the park.

There is an objection that the improvement details should be included in the application so that everyone can assess whether the proposed off-site improvements are truly benefits that offset the loss of half the park. In response, officers conclude that the



applicants have defined a general position and have been in discussion with the community about it. The decision on the application needs to be more carefully set out, to deliver the proper levels of compensatory provision, and this is embodied in the recommendation.

The potential for long-term benefits, as a result of improved educational facilities, to the local community from the proposed development will outweigh the loss of open space. However this will only be the case if community usage of new Academy sports facilities, such as playing pitches, is factored in.

A condition is recommended, to ensure that community use is a requirement, to address both sides of this question. Some objectors point to the implications of charges on potential use of such facilities. There is nothing in the Development Plan to require such facilities to be free, and the pressure on local authority finance, in general, is leading a trend away from free use of council facilities. This is not seen as a critical issue for the determination of this application.

There is an objection that details of the community use intended should be included in the application, so that the impact of the change of use be fully assessed. Officer advise that the application does not specifically promote community use, however, Sport England (for example) point to the relevance of community use in the context of the redevelopment of the school. This report identifies the flaw in this position (on a general basis). The condition recommended is prepared on the basis that the change of use may be the only scheme to be implemented and that if the park is taken out of public use, the community use arrangements should be in place. The specifics of what community use will occur would then develop from the agreement, under the condition.

An objection refers to UDP Policy LC1, and argues that there is no evidence submitted with the application to comply with the stringent requirements of this policy. PPG17 also requires an assessment to be submitted with an application. The objector asks whether a private developer submitting an application involving the loss of urban open space would be asked for supporting evidence to justify any loss, as the UDP policy requires.

However, the Design and Access Statement identifies that a programme of works to the rest of the park has been explored with the community and that funding has been identified. This commitment has been weighed as part of this issue, the policy implications are weighed (for example) in the comments of the Regeneration Strategy Team and the scheme supported in policy terms, provided certain things follow. The recommendation in the report sets out to deliver those qualifiers

### **Restrictions on use of park**

Residents have pointed to an alleged restriction on the park, as a result of the terms of its creation.

Conveyancing have confirmed that the council owns the land and free from any restrictions which would prevent the land being developed for, or leased to, the Academy.

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

Residents allege there are rights of way through the park.

It is clear there are no definitive footpaths in the park.

The terms of their comments offer a prospect that there could be prescriptive rights of way (these are not recorded on the definitive maps). Proof has not been offered of their status.

If they do exist, then the applicant can not close them without due process, in other words erecting the fence may not be possible.

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

The value of the routes through the park need to be weighed against the gains to the community from the creation of an improved school. Overall, the application is supported.

### **Traffic implications**

Transportation see this application as raising no issues. That conclusion is accepted.

An example of the confused nature of the application is raised in an objection about a proposed new vehicle access to the site. It is shown on one of the submitted drawings (and in the illustrative material about the future development of the school buildings). However, it is not part of the present application, and this is clear from the forms and the Design and Access Statement.

It is also objected that condition 5 requires details of the new access and gates. This is a misunderstanding of the terms of condition 5 which is drafted to reflect the possibility that there may be NO vehicle access to the site at all, but that if there are to be any, access(es) will be suitably designed, and this is particularly relevant to, for example, the existing vehicle accesses – e.g. will they continue to be used in connection with the change of use – and if so, they ought to be designed to this standard. The objector argues that condition 5 should be deleted. However, this would mean that most such changes would not need planning permission (e.g. a new gate in the existing fence along Herberts Park Road, or indeed the continued use of the existing gate). Condition 5 serves a useful purpose.

### **Ground conditions**

It is clear from the records that ground conditions are poor. However, this is an application to use the surface for a use very similar to its present use. On that basis this is not an issue, provided that the restrictive conditions suggested by Pollution Control are put in place, as recommended.

An objection refers to condition 11 on landscaping and poses the question how can this be reconciled with the controls over ground conditions. Condition 7 is intended to protect against ground contamination but in addition, landscaping needs to be put in place to enhance the fencing. Resolving the tension between the two needs to be achieved, for example, by specific mechanisms in the landscaping scheme. The interaction between the conditions needs to be resolved in the details

### **Fencing**

The existing school is fenced for security. Parts of the park boundary have also had palisade fencing. Some of that fencing is worn out and needs to be replaced. Other parts need to meet higher security standards (if the use is to proceed). New and / or replacement fencing is proposed. A good design of fence is proposed. However, there will be a marked environmental gain if that new fencing is accompanied by a landscaping scheme. A condition is proposed.

Additionally, a resident seeks the retention of a concrete fence adjacent to their house. The applicants have met the resident. They have agreed the concrete fence should be retained, and extended across the bottom of the garden. This is reflected in the conditions.

## **Wildlife**

Natural England refer to the possibility of the presence of water voles. Water vole habitat is protected under the Wildlife and Countryside Act 1981. It is suggested by an objector that a survey is required to demonstrate the existence of, or otherwise of any such habitat.

Under case law, it is well established that such surveys must be carried out in advance of the decision on a planning application decision being taken. AS no such survey has been submitted with this application, the objection argues the decision can not be made.

Officers hold the view that there is not enough clear evidence that protected species are present to require formal action. However, condition 12 is recommended, to secure modest measures in the fencing to improve the position for any wildlife in the area. The condition reflects what are seen as possibilities as there is not enough clear evidence that protected species are present to require more formal action.

## **Lighting**

No lighting is proposed in the application.

However, an objection is lodged that condition 17 can not be imposed to allow lighting to be provided by way of a planning condition (especially as the impacts of lighting have not been considered in the application submission or anywhere in the Committee report.

The objection is misinterpreting condition 17. Once the use has been approved, the operator of the site has a range of options (permitted development, and works that do not even need planning permission) . Some of that could be the introduction of lighting. Some lighting (typically floodlights on tall columns) needs planning permission in its own right and such works would be the subject of a separate planning application. Condition 17 brings under local authority control even those lighting installations that do not need a planning application. Such control is intended to benefit the residents.

## **Trees on site**

The site boundary has several trees of varying species, ages and sizes which may be affected by the proposed new fencing. These trees warrant retention. In the vast majority of cases, the existing fence can be replaced with little detriment to the existing trees, subject to the contractor taking care. However, there are 3 instances where the fence must be re-aligned to avoid direct conflict with the existing trees. One is on the west boundary (opposite the pylon on the west bank of the canal), one is on the north side of the existing school building, the remaining is on the left hand side of the existing access.

The existing trees on the submitted drawing do not correspond with the trees on site. It would be prudent to condition the submission of details in this respect so that the position with regards to tree retention is absolutely clear.

There is an objection that trees on the application site, or on land adjacent, should be defined in information with the application, not required by condition 10. As a result, since the location of the sports pitches is unknown, the impact on trees can not be assessed. Officers consider that, as the Design and Access Statement includes a statement that all trees and hedges will be retained, that is clear. It is, however qualified by the term "wherever possible". The condition is intended to control that qualification.

## **British Waterways contributions and Percent for Art**

As set out, a range of contributions are sought.

The applicants have advised there is no financial scope for such work to be paid for by the project. This is noted. A condition is recommended, to deliver art work as part of the development (as it is important for the Council to be seen to do such things).

However, the justification for work on British Waterways property is more nebulous and can not be recommended as a requirement for this application. They seek money to prevent motor bike abuse (for example) but do not offer any evidence that their objectives are in any way related to a change of use application as submitted – how does a school playing field call for finance to improve access for canal corridor users, for example

### **Summary of Reasons for GRANTING PERMISSION SUBJECT TO CONDITIONS AND TO RESOLUTION OF THE ENVIRONMENT AGENCY OBJECTION**

#### **Reasons for approval**

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

The proposed fence raises detailed issues about wildlife, levels and the protection of an adjoining dwelling. These are addressed through conditions, as is the retention of a length of concrete fence, for the benefit of residents..

A landscape scheme is appropriate inside the new fencing, and again is addressed through a condition.

The Environment Agency encourage the use of SUDS as part of a surface water drainage strategy. This is not seen as relevant to the present proposal, as no new sources of drainage are proposed.

There are objections to the loss of part of the Park, and it is argued that this is an unnecessary loss in an area short of freely accessible green space for the public. It is also argued that the improvements to the rest of the park will not compensate for proposed losses. The proposed development would reduce the area of the park, but, improvement works are proposed to the remainder that will maintain a high value to the local community. Improvement works should also help to address anti-social behaviour issues. There are concerns that charges for the shared use of school facilities will discourage use. Measures can be put in place to secure community access to, and use of, the sports facilities to be provided; and this is addressed by a condition, but there is no justification in planning terms to control charges for such facilities.

The Development Plan envisages securing compensatory provision for sports pitches which may be lost, and none is proposed. However, the potential for long-term benefits to the local community from the proposed development, as a result of improved educational facilities, should outweigh that loss.

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

The value of the routes through the park (whatever their legal status) needs to be weighed against the gains to the community from the creation of an improved school, but the conclusion is reached that the proposal is acceptable in these terms.

Centro seek revisions to the school's Travel Plan. While the significance of this for the school is recognised, it has no direct relevance to the present proposal, and can not be justified as a requirement of this permission.

Ground conditions are recognised to be sensitive. Conditions are imposed to control this, and ensure satisfactory actions, e.g. in carrying out landscaping work.

Trees on site are at risk from the construction of the fence, though the application envisages, generally, retention of the trees. This is controlled by condition, to ensure the retention of the existing trees.

British Waterways seeks funding for improvement works to the canal corridor. While the value of the canal corridor for the local environment is recognised, the present scheme is not of a scale or nature that justifies such a requirement.

A percent for art contribution is required by the Development Plan and a supporting Supplementary Planning Document (Designing Walsall), and this is delivered by a condition.

Objections suggest this application should be withdrawn in favour of the pending outline application for redevelopment. However, the purpose of the application is to change the use for the required and outlined purpose, and enable the erection of a fence, which can be implemented independently of the redevelopment, and should be dealt with separately. There are objections that the application does not properly overcome the issues that need to be applied for, but all of the submitted documents contribute to defining what is applied for, and these are clear. The conditions draw from the submitted material and meet the relevant tests.

An objector argues that the scheme should define the precise arrangement of the playing fields, in order that these can be assessed, but it is for the site operator to make such decisions, as that level of controls over the use of land is not a proper exercise of planning control.

It has been argued that the details of the improvement of the remainder of the park and of community use of the school, should be included in the application so they can be assessed against the loss of part of the park, however, the general position is defined and conditions are used to define and deliver these issues.

An objection argues there is no evidence submitted with the application to comply with the requirements of policy LC1, or PPG17. The application identifies that a programme of works to the rest of the park has been explored with the community and that funding has been identified. This is supported in policy terms, provided suitable steps are taken to deliver those issues, and is done by the conditions.

There is an objection that condition 5 does not meet the appropriate tests for a condition. However, it serves a purpose by requiring design issues to be resolved, if there are to be accesses used onto the site of the application.

There is an objection to condition 17, however, the condition controls works that are not development, or are permitted development, but which could affect residents of other users of the area.

Overall, the benefits of the development, namely much improved educational facilities, considerable improvements to presently low quality open space at George Rose Park, and secured community use of new sports facilities (including sports pitches) on the proposed development site significantly outweigh the issues raised by consultation responses and representations.

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies 2.2, GP2, GP4, 3.6, 3.7, 3.16, 3.17, ENV32, ENV33, and LC1 and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

While not a planning matter, and as such not influencing the decision taken, ownership restrictions are identified by some representations. The council owns the land free from any restrictions which would prevent the land being developed as proposed.

Public reaction to this application has also attracted comments about the wider redevelopment scheme, including possible new access points. That is not part of this application, and these comments need to be considered, separately, in relation to any redevelopment application that may come forward.

**Recommendation: GRANTING PERMISSION SUBJECT TO CONDITIONS AND TO RESOLUTION OF THE ENVIRONMENT AGENCY OBJECTION**

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. Prior to commencement of school use of the site, a Community Use Agreement shall be submitted to and approved in writing by the Local Planning Authority which secures the delivery of increased participation in sport and physical activity by maximising the range of sports opportunities for school pupils, local/regional sports clubs/bodies and the local community through the use of the site. The Community Use Agreement shall be implemented in accordance with the approved details.

*Reason:* To control the impact on sports facilities from the development.

3. No development shall be carried out until a scheme of improvements to George Rose Park, including a timetable for implementation, have been submitted to and approved in writing by the Local Planning Authority. The approved scheme will be implemented in accordance with the approved timetable.

*Reason:* To ensure appropriate compensation for the loss of land to the park, to raise the overall quality of the park and outweigh the loss of urban open space;

4. Prior to the development commencing, the following details relating to a public art element of the scheme shall be submitted to and agreed in writing with the Local Planning Authority:-

- an artist's brief and contract to provide opportunities for high quality artisans and crafts people to work in the borough
- details of the selection process and interview process for the artist
- details of how the project will be managed and evaluated
- details of how the project will involve local communities that includes how the project will shape and engender improving civic pride
- timetable for the project to be brought forward, completed and installed

Following the public consultation, in-conjunction with the local planning authority, the agreed public art scheme shall be completed in accordance with the approved timescale.

*Reason:* To ensure the development complies with Policy EN34 of the Unitary Development Plan and Policy DW9 of the Designing Walsall SPD.

5. No development shall be carried out until details of any / all proposed vehicle access(es) to the site, and details of gates or other barriers, have been submitted to and approved in writing by the Local Planning Authority. The approved scheme will be implemented before the development is brought into use, and thereafter retained as approved. There shall be no other vehicle access(es) to the site.

*Reason:* To ensure satisfactory vehicle access to the site.

6. No development shall be carried out until details of the painting of all existing palisade fencing to be retained (including techniques for preventing paint affecting existing vegetation adjoining such fences) have been submitted to and approved in writing by the Local Planning Authority. The approved details will be implemented within 3 months of the any part of the development being brought into use.

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

7. Except for the erection of the boundary fence permitted by this planning approval no physical development, landscaping of soils, changes to the landform or excavations (other than for the purpose of ground investigation by suitably qualified personnel) shall be implemented on land currently within the park that is to be enclosed by the proposed fence.

*Reason:* To ensure safe development to protect as far as possible land users and the environment.

8. No spoil, debris or excess materials arising from any excavation or ground works undertaken in order to erect the perimeter fence permitted by this planning approval shall be deposited or redistributed on or at the surface level of the existing land form.

*Reason:* To ensure safe development to protect as far as possible land users and the environment.

9. No development shall be carried out until details to ensure that:-

- the works, handling, storage and disposal of waste generated by construction and operation are to be carried out in accordance with relevant legislation and regulatory requirements, and
- that potential contamination of the waterway and ground water from wind blow, seepage or spillage at the site will be avoided,

have been submitted to and approved in writing by the Local Planning Authority. The approved scheme will be implemented before the development is brought into use, and thereafter retained as approved.

*Reason:* To control the risk of pollution.

10. No development shall be commenced until

- a) a detailed survey and assessment of trees, shrubs and hedgerows shall be carried out by a qualified arboriculturalist in accordance with BS5837 'Trees in relation to construction on site',
- b) the submission under part (a) of this condition will include details and positions of all trees on the site, and whether the tree is proposed to be retained, its species, trunk diameter, height, radial crown spread, height of crown clearance, general condition, recommended works, and the root protection areas for each tree proposed to be retained.
- c) details of the working method to be employed for the construction of the perimeter fencing within the Root Protection Areas of all trees to be retained. The details shall include, but not be restricted to, the dimensions of the post holes and method of securing, details of any machinery to be used for the demolition of the old fencing and erection of the new fencing, details of the extent of machinery use within the RPAs of trees to be retained, and measures to be employed to safeguard the long-term health and condition of the trees.

have been submitted to, and agreed in writing by the Local Planning Authority. The fencing shall be carried out in accordance with the approved details.

*Reason:* To preserve and enhance the visual amenities of the locality in accordance with Policies ENV18 of the Walsall UDP 2005 and NE7, NE8 and NE9 of the Natural Environment SPD 2008 and to ensure that the development is carried out with the

minimum loss of existing ecological features which are important to the amenity of the area.

11. Unless otherwise agreed in writing by the Local Planning Authority, no development shall be carried out until a detailed landscaping scheme for the site has been approved in writing by the Local Planning Authority. The scheme shall provide details of:-

- the submission of proposals to explore recycling in situ soils;
- revised wildflower seeding soil specification;
- revised tree pit/station detail;
- planting areas to be mulched to conserve soil moisture and reduce weed competition;
- lighting proposals;
- hard landscape proposals (materials and layout), walls, fencing/gates (materials, height), site furniture etc;
- maintenance plan for the establishment and longer term management proposals for planting and wildflowers

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

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

12. No development shall be carried out until details of

- How the fencing is to create access arrangements to allow foraging by wildlife on and around the southern part of this area
- How levels changes on the site will be handled by the proposed Weldmesh fencing

have been submitted to and approved in writing by the Local Planning Authority. The approved details will be implemented as part of the erection of the fencing, and thereafter retained as approved.

*Reason:* To maintain foraging access for wildlife, and to ensure the satisfactory appearance of the fencing.

13. Unless otherwise agreed in writing by the Local Planning Authority

- , the development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority
- The approved plans shall be implemented in accordance with that approval before the development is first brought into use.

*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.

14. No capping or grouting of mineshafts on the site shall be carried out until details of such work have been submitted to and approved in writing by the Local Planning Authority. Filling and grouting will only be carried out in accordance with the approved details.

*Reason:* British Waterways has a pumping shaft in George Rose Park, and any capping/grouting/infilling of the mineshafts may affect it.



15. (a) If surface water run-off and / or ground water is proposed to drain into the waterway, details shall be submitted to and approved in writing by the Local Planning Authority before implementation.
- (b) If any new foul or surface water drainage is proposed, that work shall not commence until plans have been submitted to and approved by the Local Planning Authority.

*Reason:* To determine the potential for pollution of the waterway and likely volume of water, and 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.

16. The concrete barrier fence at the side of 70 Herbert's Park Road shall be retained in its present form.

*Reason:* To protect the amenity of that dwelling.

17. No external lighting shall be installed on the site until details have been submitted to and approved in writing by the Local Planning Authority and the lights shall be installed in accordance with the approved details.

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

#### NOTES FOR APPLICANT

A) The applicant is advised to contact Mr Des Harris, Senior Third Party Works Engineer on 01827 252038 in order to ensure that any necessary consents are obtained and that the works comply with British Waterways' "Code of Practice for Works affecting British Waterways".

B) British Waterways 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 wall at this location.

C) The applicant is advised that any access to the towpath that is to be provided as part of the scheme will require an agreement with British Waterways.

D) The applicants are advised that this planning permission does not absolve them from complying with the relevant law applicable to wildlife, including obtaining and complying with the terms and conditions of any licences required as described in Part IV B of the *Circular 06/2005*.

E) The area of this proposed development has historically been utilised for industrial purposes including the production or storage of gas and the extraction of coal with subsequent infilling that may have resulted in localised ground contamination that may present Health and Safety implications for people undertaking ground works of any sort. No specific detail of ground conditions in the area is available other than that obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking construction work at the site of the proposed development.

F) This proposal brings the school playing fields within an area which overhead power lines traverse. Guidance must be sought from E-On's Central Networks division regarding health and safety implications of the overhead power lines on site. In the first

instance please contact Mr Adrian Firth, 132 kV Proximity Design Engineer on 08457 353637.

G) It should also be noted that the Black Country Spine Road that runs adjacent to the western boundary of the site has the potential to create disturbance from noise. The location of sports/leisure facilities should be considered very carefully if they will be made available to the general public.

H) There are sewers on the site. Public sewers have statutory protection and may not be built close to, directly over, or diverted without consent. You are advised to contract Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
05 Nov 2009

**REASON FOR BRINGING TO COMMITTEE: Major Development**

**Application Number:** 09/1101/FL

**Application Type:** Full application

**Applicant:** University of Wolverhampton

**Proposal:** Erection of a new teaching building for the performing arts and learning resource centre, together with demolition of redundant buildings, car parking and landscaping.

**Ward:** St. Matthews

**Recommendation Summary:** Grant Subject to conditions

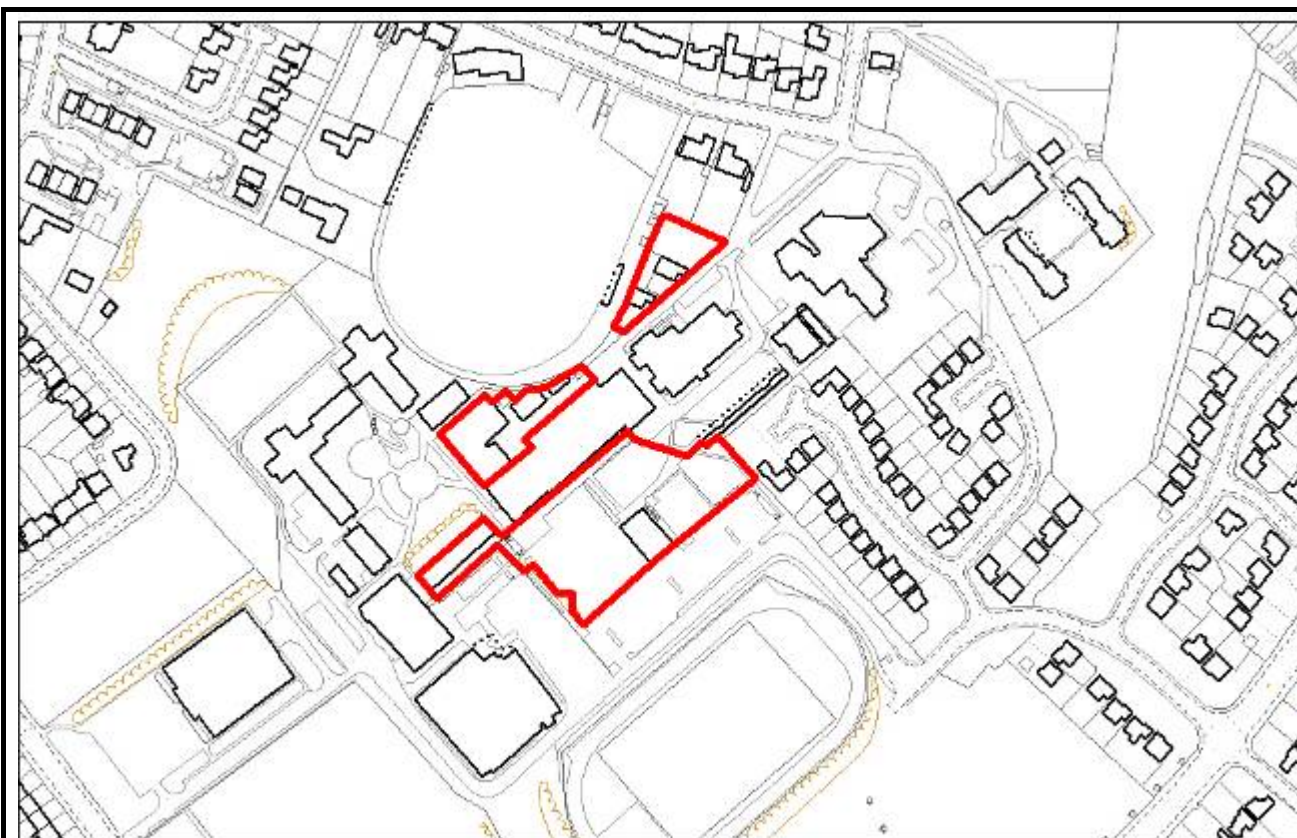
**Case Officer:** Karon Hulse

**Telephone Number:** 01922 652492

**Agent:** Turley Associates

**Location:** WALSALL  
CAMPUS, GORWAY  
ROAD, WALSALL, WS1 3BD

**Expired:** 26/11/2009



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## **Application and Site Details**

The University of Wolverhampton has over the past 7 years undertaken major improvements and developments at its Walsall campus. These include a new judo hall which will be utilised as a training facility during the London Olympics, new halls of residence, state of the art teaching block and new running and all weather pitch. This proposal for a new performing arts centre will be the final instalment in reinventing the campus as a 21<sup>st</sup> century venue for adult education.

This application seeks planning permission for a new University facility, which will provide a new home for the School of Sport, Performing Arts and Leisure at the Walsall Campus. This new facility will replace existing teaching accommodation and will also house a new Learning Resource Centre to replace the existing library. The proposed building will be constructed in the area which was previously occupied by the former teaching tower building.

The proposals include:

- A new 4 storey building on the site of the former teaching tower and the now demolished old halls of residence;
- A high quality, energy efficient, sustainable design to provide a new focal point from The Broadway;
- Accommodation for new performance spaces, music rooms, deanery and a new state of the art Learning Resource Centre;
- The total gross floor area for the scheme is 6,450 square metres;
- Demolition of buildings (some already done, some yet to be demolished) totalling approximately 5,150 square metres;
- Provision of 25 car parking spaces on land at the Gorway entrance giving a net increase of 23 car parking spaces on the Campus bringing the total provision at the Campus to more than 700 permanent spaces.

The proposed new building will use the existing site topography to provide a suitable platform on which to promote the building towards the Broadway, running the long axis of the building along this frontage, which retaining a more slender profile to the adjacent houses of St Catherine's Close.

The building is split into two readily identifiable elements, using the building form and materials to distinguish between the two spaces. The Hub space, a smaller squarer block over three accommodation floors and a roof top plant zone surrounded by a full height façade, houses the main studio theatre and ancillary spaces such as set design and changing rooms, rehearsal spaces and a technicians suite.

The long block running across the frontage to the Broadway and the width of the site, bridging the existing low level car park will house the main Learning Resource Centre (LRC) including dance and drama studios and music practice rooms. It will be split by a central core, and this long element houses, in its Southerly end, the staff accommodation, affording the most gain from natural daylight and ventilation.

The scheme is able to open up the façade a little more to emphasise these spaces and to balance against the more enclosed environments of the rehearsal spaces.

The L Shape of the plan wraps around the retained TPO trees in the centre of the site forming a quadrangle, and off this space the entrance is formed in the glazed atrium between the two solid masses of the main accommodation.

The existing basement of the former WT building will utilise a lower ground level plant and storage facility, and will provide a lift which will give delivery access into the heart of the building.

In addition to the above the planning application has been accompanied by the following:

Transport Statement - The University has an active Travel Plan which will be applied to the proposed development to further encourage the use of sustainable transport modes by staff, students and visitors.

Phase 1 Habitat Survey, tree surveys and a bat survey – these have been carried out and the findings have been taken into account in developing the proposals. Considerable attention has been paid to creating a high quality landscape setting which incorporates and enhances the existing landscaping and in particular the mature trees.

Acoustics Report - Due to the nature of the proposed mix of use to be accommodated within the new building, careful attention has been given to the inclusion of appropriate noise mitigation measures. There will therefore be no noise impact on adjoining residential properties.

A drainage strategy which shows that the proposed development can be connected to the existing drainage system. Measures have been included within the drainage design to ensure that the proposed development does not have any adverse impacts on the Campus or the surrounding area in terms of flood risk.

A Framework Construction Management Plan outlines measures in order to ensure that the residential amenity of properties in the surrounding area is protected during the construction of the proposed development.

### **Relevant Planning History**

02/1060/FL/W5 - New Judo Hall. Grant Subject to Conditions 21st August, 2002

02/1781/OL/W5 - Outline : University Redevelopment Masterplan. Granted 20th January, 2003

02/2147/FL/W5 - Relocation of All Weather Pitch and New Running Track. Grant Subject to Conditions 30<sup>th</sup> April, 2003.

03/0201/RM/W5 - Extension to Boundary House. Approved 30<sup>th</sup> April, 2003.

03/0918/RM/W5 - New access road. Grant Subject to Conditions 4<sup>th</sup> July, 2003

03/0280/RM/W5 - New halls of residence. Grant Subject to Conditions 4<sup>th</sup> July, 2003

03/0918/RM/W5 - Reserved Matters : Design Details For Proposed Access Road (From Broadway Park). Granted 4<sup>th</sup> July, 2003

05/0710/RM/W5 - Reserved Matters – Football Pitches. Grant Subject to Conditions

06/0192/FL/W5 - New Teaching Block. Grant Subject To Conditions 10<sup>th</sup> August, 2006

06/0844/FL/W5 - Erection Of Ball Stops Etc. Grant Subject to Conditions

07/0190/PT/W5 - Replacement Telecom Equipment. Allowed at appeal 13<sup>th</sup> February, 2008.

07/2428/AD/W5 - Adverts on new teaching block. Approve advert consent

08/0022/FL - Temporary Telecom Mast. Approved

### **Relevant Planning Policy Summary**

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

### **Unitary Development Plan**

GP1: The Sustainable Location of Development

GP2: Environmental Protection...principles of sustainable development...following considerations taken into account : visual appearance, pollution, problems of land stability etc., overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property and accessibility by a choice of means of transport.

3.6...Development and redevelopment schemes improve the environment of

3.7...Development or redevelopment protect people from unacceptable noise, pollution and other environmental problems.

3.16...Design and Development. Development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

3.17... Renewable Energy and Energy Efficiency required to reduce consumption of energy

ENV 17 : New Planting will be promoted in a variety of areas including

ENV32 : Design and Development Proposals...(a) poorly designed development / proposals will not be permitted, (b) design of development will use some or all of the following appearance, height, proportion, scale, and mass, materials, integration / co-ordination of buildings and external space, community safety and security, visual relationship with adjacent areas and the street and the character of the surrounding neighbourhood.

ENV33: Landscape Design

8.7...Education, Health and Community Facilities... enhancement of existing, and provision of new, facilities for education will be encouraged...emphasis placed on locations accessible to all by choice of means of transport.

Policy LC10 is very important to any developments on the site and therefore it has been outlined in full :

Wolverhampton University, Walsall Campus, Broadway, Walsall.

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(a) The Council will encourage the continued use and development of the Walsall Campus of the University (as indicated on the Proposals Map) as an important centre of Higher Education in the Borough.

(b) Any proposals for additional development must be considered as part of an overall Master Plan for the campus prepared in full consultation with the local community and agreed by the Council. In particular, proposals will only be acceptable if:-

The uses proposed are of an educational, community, or leisure nature directly related to the use of the remainder of the Campus, and are not uses which should be located in an established centre under policies in Chapter 5 of this Plan.

I. The green and open aspect of the Campus as viewed from surrounding areas including Broadway, Delves Road and Highgate Drive is maintained by retaining existing substantial green corridors along frontages and by the sensitive siting of buildings within an attractive parkland setting. This necessitates retaining the designation of adjacent areas of Protected Urban Open Space off Highgate Drive.

II. All buildings and structures are of a high standard of design.

III. There are satisfactory arrangements for vehicular, cycle and pedestrian access to the campus that are sensitive to the amenities of the surrounding residential areas. A Transport Assessment and Green Travel Plan will be required.

IV. Adequate provision is made for parking within the University Campus for staff, students and visitors to the University so as to minimise parking in surrounding residential roads

8.43...Walsall Campus is recognised as being an important facility for higher education in the Borough and the Black Country.

8.44...The prominence of the campus also justifies particular attention being given to the quality of design.

T7 and T13 – Car Parking, all development should satisfy the car parking standards set out in Policy T13.

### **Regional Policy**

Regional Spatial Strategy for the West Midlands promotes the regeneration of the metropolitan area (including Walsall in the Black Country), sustainable development and investment in town centres, in accordance with National Government guidance (see below). It is also seeking an urban renaissance, with the Black Country continuing its renewal around improved centres, including Walsall.

It also seeks to manage car parks to control the adverse effects on the highway network at peak periods.

### **National Policy**

Planning Policy Statement 1 advises that good design is indivisible from good planning, which should contribute positively to making places better for people and high quality,

inclusive design for the lifetime of the development, considering the direct and indirect impacts on the natural environment.

Planning Policy Guidance Note 13 - Transport, promotes sustainable patterns of development, which reduce the need for travel, especially by car.

### **Consultations**

**Transportation** – no objections

**Pollution Control (Scientific Team)** – no objections

**Pollution Control (Contaminated Land)** – no objections

**Environmental Health** – no objections

**Drainage** – no objections

**Sport England** – no objections

**Severn Trent Water Ltd.** – no objection

**Environment Agency** – no objections

**Centro** – no objections

**Police Architectural Liaison Officer** – no objections

**Regeneration (Trees)** – no objections

**Regeneration (Landscape)** – no objections

### **Public Participation Responses**

Four letters of representation received objecting on following grounds:

- Lack of adequate parking facilities,
- Parking on pavements
- Obstructing access to houses
- Building the teaching block too close to the estate,
- Light pollution from floodlights,
- Major disruption to residents with increased site construction traffic, noise and dust
- Considerable problems from last major development
- How will construction take place, staged, timetable for completion

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

### **Determining Issues**

- Principle of Development / Policy;
- Appearance, Scale, Layout and Design
- Highways / Parking / Travel Plan;
- Sustainability;
- Ecology; Trees / Landscaping
- Noise



- Implementation

## **Observations**

### **Principle of Development / Policy**

The continued use and development of the Walsall Campus is in accordance with Unitary Development Plan Policy LC10. This requires any additional development to be considered as part of an overall Masterplan for the campus.

The University has undertaken a master planning exercise in connection with the continued use and development of its Walsall Campus. The objective of the plan was to support and underpin the provision, at the Campus, of educational opportunities in sport, performing arts, leisure, tourism and health (including nursing and midwifery).

In 2003 outline planning permission was granted for the redevelopment and refurbishment of the Walsall Campus. The outline planning permission established the principle of development on the Campus with all matters except access reserved for later approval. Although that permission has now expired it has set out an overall development strategy for the Campus. The Masterplan accompanied the outline application, and was supported by the Council in making that decision.

The Masterplan showed the approximate location and siting of new buildings, it identified the WT (central tower block) building and associated halls of residence around it to be demolished and replaced with two new buildings, the location of those two new buildings is approximately the location of the proposed Performance Hub and Learning Resource Centre being considered by this application.

The provision of a new building in this location has therefore previously been accepted in principle through the outline planning permission and accompanying Masterplan.

### **Appearance, Scale, Layout and Design**

A Design and Access Statement concludes that the scheme incorporates sound urban design principles and provides a positive form of development in its context.

The existing campus has a predominantly white/grey appearance with flashes of University Blue appearing on vertical lift shafts and other minor elements in the building form. The proposed scheme intends to use a number of high quality materials which will create a building of distinction and difference.

It will have a base of three or four materials, at low level the blocks incorporate a brick plinth and a stainless steel panel system. The upper sections of the blocks differ in appearance but are formed from the same base material. Copper is to be patinated to produce a green finish to the Theatre Hub, with slightly different tones and textures, to contrast with the linear block being formed in an oxidised copper given a darker brown appearance. Window linings will be formed with a powder coated metal panel.

The L shape of the building is a key element of its design, the building will accommodate new teaching space for the performing arts and a new state of the art learning resource centre arranged over four floors. It has been set within a high quality landscape which has been designed to be accessible, legible and safe, the new building has also been designed around the existing topography of the site and will provide a new focus to the Campus, particularly when viewed from the Broadway.

Policy LC10 requires the green and open aspect of the Campus as viewed from surrounding areas including Broadway, Delves Road and Highgate Drive to be

maintained. The new building will enhance the main view of the campus from Broadway and will sit as a visually inspirational building and as a backdrop to the campus playing fields and the green corridor along Broadway.

In addition to maintaining and enhancing views from Broadway the new building has been sited and designed to address the relationship between its side elevation and the adjacent Broadway Park Estate. Its scale has been reduced in height towards those residential properties to ensure that it does not have an overbearing effect. The nearest property to the proposed building will be approximately 28 metres (23 St Catherines Close) whereas the previous teaching block was approximately 18 metres from that property therefore the separation distance between the buildings will be increased. Furthermore, the building has been set back from the previous siting to accommodate the new central car park. The new siting will therefore have less impact on those occupiers on Broadway Park estate in terms of appearance and dominance than the previous buildings.

The proposal is supported in this respect.

### **Highways/Parking/Travel Plan**

Access for emergency vehicles is judged to be acceptable.

The transport statement indicates that Walsall Campus has good walking, cycling and public transport links. The most recent travel survey shows approximately half of students and staff currently travel to the Campus by 'sustainable' transport modes. The University has an active Travel Plan, which operates and will be applied to the proposed development. Similar travel patterns are therefore expected to result from the proposed development.

As the proposal is largely a replacement facility for existing uses on the Campus – the drama course is the only new element – the development will create a maximum of 55 new car trips to the Campus. It will therefore have an insignificant impact on the local road network.

There are currently 690 car parking spaces provided on the Campus, an increase of 260 spaces over recent years as a result of the Masterplan and the provision of the new central car park. As part of the current proposals an additional 25 car parking spaces will be provided at the Gorway Road entrance but two will be lost at the main central car park giving a net increase of 23 new car parking spaces in total to be provided on the Campus. The current car parking provision at the Campus exceeds the Council's car parking standards.

To minimise the impact on the surrounding residential roads, the University will continue to encourage students and staff to travel by sustainable transport modes through its travel plan. The travel plan needs to be revisited on a regular basis in order to review the methods being incorporated to encourage the above.

With all those arrangements put in place, and the proposed car parking, the scheme is supported.

As the proposed car parking exceeds the Council's standards, opposition on lack of parking is not a realistic position which the Council can adopt in relation to this scheme.

### **Sustainability**

The University is committed to the principle of sustainable development and is targeting a BREEAM rating of 'very good' for the proposed Performance Hub and Learning Resource

Centre. A BREEAM pre-assessment has been carried out, which guided the detailed design of the development.

The Sustainability and Energy Statement outlines a number of passive energy efficiency design measures which will be included in the building:

- Heavy weight structures and solar protection to maximise passive cooling and minimise energy use;
- Good building insulation and air tightness;
- Use of natural ventilation where appropriate;
- Use of daylight wherever possible; and
- Utilisation of Combined Heat and Power infrastructure.

In addition to these sustainable design measures, the University is also promoting its travel plan for staff and students to further reduce dependency on the car.

All of these measures are welcomed and supported.

### **Ecology/Trees/Landscaping**

Ecology - An extended Phase 1 Habitat Survey has been prepared by Middlemarch Environmental Ltd. The ecological desk study indicates that there will be no detrimental impact on any features of national or local nature conservation value on the site or its immediate vicinity.

The Phase 1 Habitat Survey highlights that the site is dominated by buildings, hard standing and amenity grassland with small areas of shrub and tree planting and groups of mature scattered trees. No protected species have been recorded on the site

A bat survey has been carried out and concludes that the buildings proposed for demolition are not currently in use for bat roosting, however further surveys need to be carried out if demolition is after April 2010. This can be addressed by condition.

Trees / Landscaping - Hard and soft landscaping will be used to create a functional but interesting setting, integrating the new building into the rest of the Campus.

The principles of the landscape scheme aim to enhance views of the Walsall Campus from Broadway, enhance screening of the Performance Hub and Learning Resource Centre from neighbouring residential properties in St Catherine's Close with additional tree planting and turf mounds, protect existing landscape character of the central campus area, break up the central areas of flat, exposed and underused landscape and maintain the framework boundary and screening along the campus northwest boundary with the Cricket Club

The principle of the hard and soft landscaping is acceptable, however there are elements which appear to have an impact on some existing trees, some of which are protected by a Tree Preservation Order.

The area to the north east of the building is proposed to be re-landscaped which will involve the re-alignment of the footpath and result in the loss of 7 newly planted trees. However, this is mitigated by the replanting of approx. 12 trees on the north east side of this area, adjacent to existing trees and is therefore considered acceptable.

To the north of the proposed building there are 2 small areas of soft landscaping with 3 trees in each separated by a tarmac footpath. This footpath is proposed to be relocated however this is likely to damage the existing protected trees it will therefore be preferable to leave the footpath in its current location.

There is concern over proposed ramp construction for a disabled parking space adjacent to a maturing, protected London Plane tree to the west of the proposed building. The ramp is to be constructed in an area of soft landscaping within the Root Protection Area of the tree and will result in significant root severance to the detriment of the tree. The ramp construction and constraints of the tree require further consideration and a condition of any planning permission should require further details.

There is a row of maturing Lombardy Poplars on the boundary with the Cricket Club and adjacent to some single storey buildings identified for demolition. The trees sit on a raised section approx. 1.0m – 1.5m higher than the ground level of the service area and held back by a brick retaining wall. A Method Statement will be necessary to ensure the trees can be retained as indicated during demolition. Similarly there are 2 existing buildings indicated for demolition, the south westerly building is constrained slightly by 2 semi mature Cherry and Ash trees to its front, these trees are indicated for retention but they may be affected by the demolition process and therefore again a Method Statement covering the demolition is required by condition.

The majority of trees on the application site will be retained in line with the recommendations of the arboricultural assessment with the exception of the removal of 5 trees, which are either dead or dying, along the northern boundary of the site to protect the safety of Campus users and this is considered acceptable on the basis of the proposed scheme.

### **Noise**

The proposed development is supported by an acoustics report.

The proposed development will accommodate uses which generate and require very different noise environments. Whilst a quiet environment will be required in the University's Learning Resource Centre and the proposed office accommodation, the music rooms and performance studios will be inherently noisier. As these uses sit directly next to each other within the same building, attention has been paid to ensure the inclusion of appropriate noise mitigation measures. As a result, this will ensure that there will be little noise impact on adjoining residential uses.

### **Implementation**

The implementation of any approved works will be subject to conditions in the recommendation requiring the submission of a work place strategy which defines working practices and which includes such matters as vehicle access points for construction purposes, location and type of wheel washing equipment, location of site offices, proposed storage compound for materials, proposed lorry manoeuvring areas, signage to indicate site and directions and times of deliveries to the site. The strategy will also include any other relevant practices which may affect the amenity of the nearby residents and school and will relate to duration of construction or engineering works on the site until the erection of the buildings and laying out of hard surfaced areas and landscaped areas is complete.

It is inevitable with all demolition and construction works there will be some impact on the amenity of nearby occupiers through noise and dust. However for any development to take place this has to be accepted to a certain degree. In order to minimise any disruption or disturbance to those nearby residents any works involved during the demolition and construction phases will be restricted in terms of times of operation and deliveries and road cleaning etc. This will reduce any potential impact.

## **Conclusion**

This application seeks consent for a new School of Sport, Performing Arts and Leisure facility at the Walsall Campus. Local planning policy fully supports the continued use and development of the Campus for University related activity. The proposals are in accordance with the policies of the Unitary Development Plan.

A high quality, energy efficient, sustainable building will be provided, set within a quality landscaped setting.

As this is largely a replacement facility for existing uses on the Campus, it will not have a significant impact on the local road network and does not raise any transport issues.

Attention has been paid to creating a high quality landscape setting which incorporates and enhances the existing landscaping and in particular the mature trees.

A Framework Construction Management Plan has been prepared to ensure that the residential amenity of properties in the surrounding area is protected during the construction of the proposed development.

In conclusion, the development is consistent with the requirements of national, regional and local planning policy guidance.

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

The continued use of the site for educational purposes and the provision of a 21<sup>st</sup> century venue for the University of Wolverhampton at its Walsall campus, is in accordance with policies of the Unitary Development Plan, PPS1, PPG4, PPG13, PPS23 and PPS24 and in particular policy LC10 of the Unitary Development Plan.

Furthermore, the development uses a high standard of design and materials and provides an opportunity to further enhance the appearance of the university campus within the public realm and along the green corridor of Broadway.

The new building, in its design and siting, respects the amenity of the adjacent Broadway Park estate, and the decreasing roof line and height together with the increased distance between the building and dwellings on that estate will enhance the relationship between the two uses.

The Local Planning Authority recognises that there are issues arising from inconsiderate parking on the roads around the campus. However, this proposal is predominantly a replacement facility for existing uses on the site with the exception of a new drama department, however the campus currently provides in excess of national and local policy standards in terms of the level of parking provision on the campus overall. Furthermore, the university actively encourage students and staff to travel by alternative sustainable transport modes through its travel plan, with the objective of reducing demand for car parking.

There have been representations about the potential for nuisance from the construction process. There will always be effects from building operations. But this is minimised under this permission, as all demolition and construction phases will be restricted by condition in terms of times of operation and deliveries and road cleaning etc. thereby reducing any potential impact on nearby residential amenity.

There have also been representations made about nuisance from the all weather pitch floodlights on the campus, no changes are proposed or have been made to these which were previously installed in accordance with the approved details therefore this is not an issue relevant to the present decision. A representation has been made about the previous last major development which took place on the campus, as stated with any new development there will always be an element of disruption from any building works, however, the university will be required to provide a work place strategy which will reduce and restrict the operations in and around the campus whilst work is progressing

On balance, having taken into account all material planning considerations and in view of the above, the proposal is considered acceptable and in accordance with policies GP1, GP2, 3.6, 3.7, 3.16, 3.17, ENV 17, ENV32, ENV33, 8.7, LC10, 8.43, 8.44, T7 and T13 of the Unitary Development Plan and national policy as set out in PPS 1 and PPG 13.

**Recommendation: Grant Subject to conditions**

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

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

2. This development shall not be carried out until a schedule of facing materials to be used in external walls and roofs has been approved in writing by the Local Planning Authority.

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

3. Prior to first occupation full details of both hard and soft landscaping works will be submitted to and approved in writing by the Local Planning Authority. The submitted details will include indications of all hard surfaces, walls, fences, access features, the existing trees and hedges to be retained, planting plan to include numbers, species and plant schedule, together with details of the measures to be taken to protect existing features during the construction of the development. They will also include Method Statements on the demolition of the existing buildings, details of the protective fencing measures during demolition and details of any re-landscaping intended post demolition.

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

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

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

5. In this condition 'retained tree' means an existing tree or hedge which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below

shall have effect until the expiration of 5 years from the first occupation of the development.

- (a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping shall be carried out in accordance with British Standard 3998 (tree work) and in accordance with any supplied arboricultural method statement.
- (b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Borough Council.
- (c) Following the completion of any arboricultural works but before any equipment, materials or machinery are brought onto the site in connection with the development, protective fencing and ground protection such as geomembrane or scaffold boards shall be installed around all retained trees in accordance with details that **first shall be submitted to and agreed in writing by the borough council**. Such protection shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition nor shall any fires be started, no tipping, refuelling, disposal of solvents or cement mixing carried out and ground levels within those areas shall not be altered, nor shall any excavation or vehicular access be made, without the written consent of the Borough Council
- (d) Prior to the commencement of works on site and after the installation of the tree protection in accordance with (c) above the Council's arboricultural officer shall be notified to allow a full inspection of the protection measures.

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

6. No development shall take place until details of the service runs for the new lighting have been submitted to, and agreed in writing by, the Local Planning Authority. The details shall include an indication of the routing of the service runs and the depth at which they will be installed. Where the service runs enter the Root Protection Area of any tree to be retained, further information detailing the installation method in accordance with NJUG Vol. 4 shall also be submitted.

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

7. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 07.30 to 18.00 weekdays and 09.00 to 13.00 on Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

[Bank Holidays and Public holidays for this purpose may be taken to include: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday, and August Bank Holiday Monday.]

8. Noise levels generated by plant, equipment and machinery associated with the development shall not exceed a rated level of 5dB above background level at any time as determined in accordance with British Standard BS

4142: 1997 "Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas" or its successor.

9. Notwithstanding the submission of the Framework Construction Management Plan, prior to commencement full details of a work place strategy which will define working practices throughout the development of this site have been submitted to and approved in writing by the Local Planning Authority. The agreed strategy shall be implemented and complied with where relevant before any development commences and during development.

a) Matters to be considered for inclusion in the working practice strategy are :

- Vehicle access points for construction purposes
- Location and type of wheel washing equipment
- Location of site offices
- Proposed storage compound for materials
- Proposed lorry manoeuvring areas
- Signage to indicate site and directions
- Times of deliveries to the site

b) The strategy should also include any other relevant practices which may affect the amenity of the nearby residents and school. The strategy should also relate to duration of demolition, construction or engineering works on the site until the erection of the buildings and laying out of hard surfaced areas and landscaped areas is complete. This includes land reclamation, stabilisation, preparation, remediation, refurbishment or investigation and the siting of plant, machinery or equipment.

c) Any alterations or changes to project commencement times or duration of construction periods shall be submitted to and approved in writing by the Local Planning Authority prior to those amendments being implemented.

*Reason :* To ensure the satisfactory development and functioning of the site and to safeguard the amenities of nearby residential occupants

10. Within three months of commencement of use of the building a review shall be carried out to identify any alterations / revisions to the signal settings and plans of the junction at Broadway and Magdalene Road deemed necessary due to the development. The results of such a review shall be made available to the Local Highways Authority to enable them to implement any necessary changes.

*Reason :* In the interests of highway safety.

11. Prior to first occupation details of CCTV equipment to protect the future users of the building and the building itself shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall have been implemented and completed and thereafter retained in good working order at all times.

(NB. The CCTV should be installed to cover all external areas of the building and its hard drive stored in a secure location inside the campus.)

*Reason :* To protect the building and users of the facility and prevent unauthorised removal of recorded evidence.



12. Prior to first occupation details of amplification equipment and sound proofing for the premises have been approved in writing by the Local Planning Authority, such works to be implemented before the premises are brought into use and thereafter retained.

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

13. No development shall be carried out until full details of existing and proposed levels of the site, accessway and floor levels have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site or adjoining land, and any drainage or other works necessary to facilitate this development.

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

14. No plant or equipment used in connection with supplying, generating and/or transferring heating, ventilation, air conditioning, silencers, filters, chilling and freezing systems in the new building shall be installed until the location of such equipment has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the new building is first used and thereafter retained in good working order.

*Reason :* To safeguard the amenities of local residents and to ensure the satisfactory functioning of the development.

15. The development shall not be brought into use until self closing doors have been fitted to the premises, and these shall thereafter be retained at all times. There shall be no provision in the design of the doors to lock or hold them open and they shall not be wedged or otherwise held open.

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

16. Prior to first occupation a scheme for lighting to be used on the car park at the rear of the WN building shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed and maintained in accordance with the recommendations issued by *The Institution of Lighting Engineers* for the reduction of light pollution. No light shall be directed at, illuminate, reach or cross any occupied dwelling and cause undue glare or distraction to occupiers of adjacent residential properties or users of the highway, by reason of intensity or positioning.

*Reason:* To ensure the satisfactory appearance of the development, to safeguard the amenities of the nearby occupants and in the interests of highway safety.

17. In the event that the two office structures have not been demolished before April 2010, then a further bat survey, shall be undertaken to determine whether or not they are being used as bat roosts.

Prior to any demolition, the results of the survey shall be submitted to the Local Planning Authority for consideration and approval, if bats are found to be roosting in any building proposed to be demolished the survey shall include mitigation measures in order to protect the future of those bats. The mitigation measures shall be implemented to the satisfaction of the Local Planning Authority prior to demolition.

*Reason:* To ensure the protection of bat populations.

18. Notwithstanding the deposited lighting strategy, prior to first occupation

full details of proposed external lighting shall be submitted to and approved in writing by the Local Planning Authority. Any proposed external lighting in the areas near to the northern boundary and the area to the east of the office structures shall only be low level high pressure sodium with UV filters and directional shrouding or shields to prevent light spillage unless otherwise agreed in writing. Any approved lighting shall be implemented in accordance with the agreed details and maintained thereafter unless the Local Planning Authority agrees in writing to any variation.

*Reason:* To avoid disturbance of local bat populations, protect visual amenities and in the interests of community safety and residential amenity.

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

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

20. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

*Reason :* To prevent pollution of the water environment and to ensure the satisfactory functioning of the development.

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

3038 AL (0) 001A - Site Location Plan,  
OX4565-001 E - Landscape Masterplan,  
OX4565-002 D - General Arrangement Plan,  
OX4565-003 D - Soft Landscaping Plan,  
OX4565-004 F - Hard Landscape Plan,  
OX4565-005 C - Lighting Strategy Plan,  
OX4565-006 B - Tree Protection Plan,  
OX4565-D-020 A - Paving Details,  
OX4565-D-021 A - Step And Handrail Details,  
OX4565-D-022 A - Bench Details,  
OX4565-D-023 A - Balustrade Details,  
OX4565-D-024 A - Tree Pit Details,  
3038 AL (0) 002A - Site Plan,  
3038 AL (0) 004 - Existing Site Elevations,  
3038 AL (0) 005 - Existing Site Sections,  
3038 AL (0) 010G - Proposed Site Plan  
Sustainable Urban Drainage Strategy  
Landscape Strategy

Received by the Local Planning Authority on 14<sup>th</sup> August, 2009.

And

3038 AL (2) 001H - Proposed Lower Ground Floor Plan  
3038 AL (2) 002M - Proposed Ground Floor Plan  
3038 AL (2) 003K - Proposed First Floor Plan  
3038 AL (2) 004K - Proposed Second Floor Plan  
3038 AL (2) 005K - Proposed Third Floor Plan  
3038 AL (2) 006F - Roof Plan  
3038 AL (2) 101F - Proposed Sections AA, BB, CC  
3038 AL (2) 102E - Proposed Sections DD,EE,FF  
3038 AL (2) 104C - Proposed Contextual Sections  
3038 AL (2) 200K - Proposed Northeast And West Elevations  
3038 AL (2) 201K - Southeast And Southwest Elevations  
3038 AL (2) 202B - Proposed Contextual Site Elevations

Received by the Local Planning Authority on 12<sup>th</sup> October, 2009.

*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).

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
05 Nov 2009

**REASON FOR BRINGING TO COMMITTEE: Major Application**

**Application Number:** 09/0915/FL

**Application Type:** Full application

**Applicant:** AM Morrison Supermarkets Plc

**Proposal:** Demolition of existing ambulance station and erection of a warehouse extension to existing foodstore, construction of new service yard, extension of existing car park, provision of ambulance office and ambulance parking bay and diversion of existing footpath.

**Ward:** Aldridge/Central & South

**Recommendation Summary:** Grant Subject to conditions

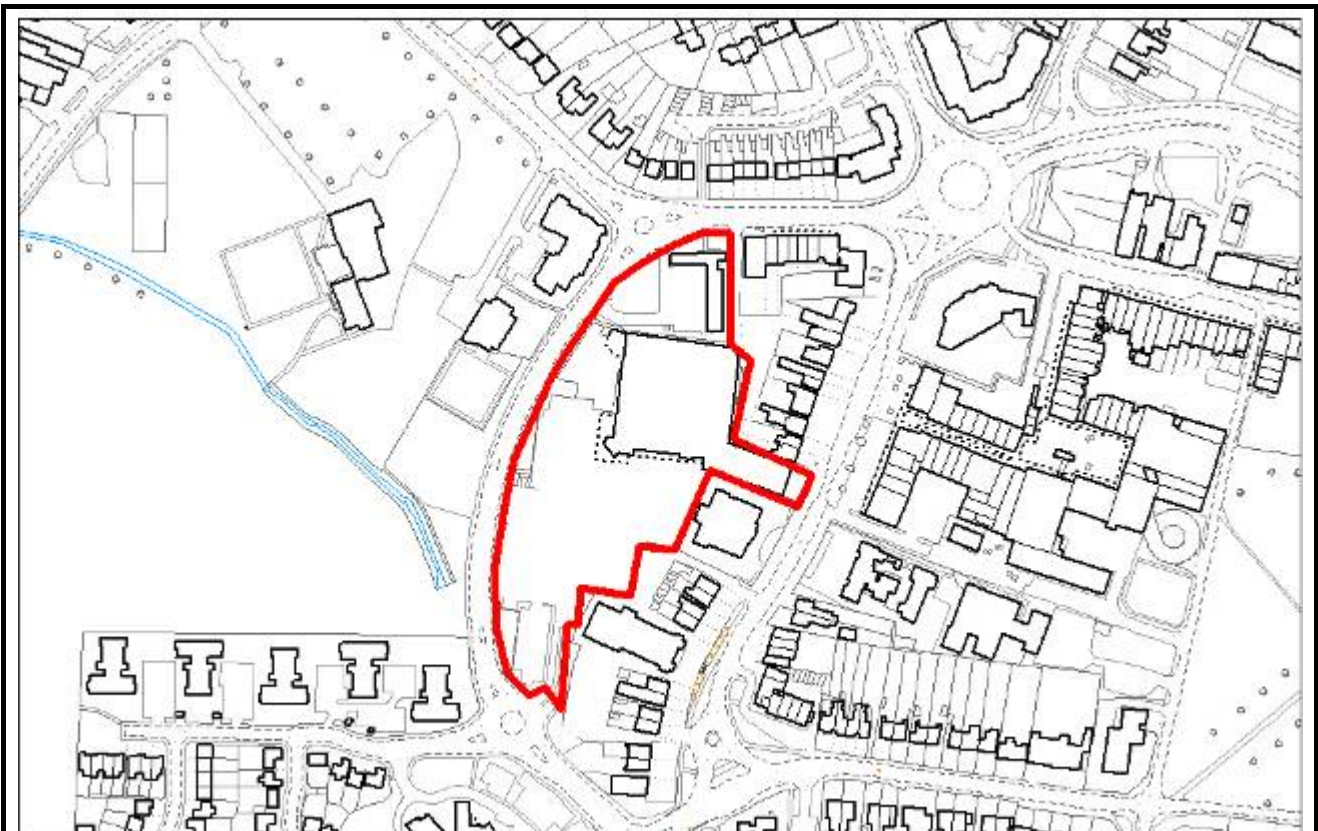
**Case Officer:** Barbara Toy

**Telephone Number:** 01922 652429

**Agent:** WCEC Architects

**Location:** MORRISONS  
SUPERMARKET, ANCHOR  
ROAD, ALDRIDGE, WALSALL, WS9 8PT

**Expired:** 09/10/2009



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### **Application and site details**

The site is situated in the Aldridge District Centre between Anchor Road and Aldridge By-Pass. The site comprises an existing retail food store with car parking to the south and west, vehicle access from an existing traffic island situated to the south of the site, pedestrian link access to the east onto Anchor Road, service yard and access onto Aldridge By-Pass to the west of the existing building and an existing ambulance station (single storey building and parking area) set to the north of the site, with its own access off Aldridge By-Pass.

A public right of way exists through the existing car park to the south of the building and a footpath (created when the store was built) sits between the existing store and the ambulance station, and runs from Aldridge By-Pass through to Anchor Road.

To the west on the opposite side of Aldridge By-Pass lies Anchor Meadow public open space, a bowling green and club and Croxall Court, which is a three storey block of 36 flats. To the north are two storey houses on the opposite side of Leighswood Road. To the east of the site are retail and commercial premises within the district centre.

The application proposes the demolition of the existing ambulance station and erection of a 643sqm warehouse extension to the existing foodstore, construction of a new service yard, extension of existing car park, provision of ambulance office and ambulance parking bay and diversion of existing footpath.

The extension would house a new warehouse and would allow the existing bakery, deli, fish and butchery departments to move into the existing warehouse area, thus creating a small increase in sales floor area. The appearance and design of the proposed extension would match the existing store.

It is proposed to extend the existing car park to provide an additional 27 parking spaces, to provide a total of 318 spaces, including 26 disabled spaces, 8 parent and toddler spaces and motorcycle parking and cycle stands.

A new service yard is proposed to the west of the north and west of the new extension and would utilise the existing vehicle access for the ambulance station onto Aldridge By-Pass.

The proposals include a small office for use by the ambulance service within the extension and one parking bay (for one ambulance) within the service yard.

The proposed extension would be built over an existing footpath to the north of the existing store, created when the store was built in compliance with Condition 14 on planning approval BC36201P. The proposals therefore include an alternative route for the path.

A Design and Access Statement, Transport Assessment, retail and Planning Statement, Preliminary Contamination Statement and Drainage Statement have all been submitted in support of the application.

The applicant has indicated that the proposals would create approx 100 new jobs, approx 50 full time positions and 50 part time.

The proposed extension to the store (643sqm) falls below the 1000sqm threshold for a developer contribution towards Public Art.

### **Relevant Planning History**

BC33819P, outline application for the erection of a foodstore, associated service area, parking, new vehicle access and pedestrian link to the town centre and diversion of a public footpath. Granted subject to conditions 16-10-91 after a local appeal.

BC36201P, amended proposal for a foodstore, associated service area, car parking, new vehicle access and pedestrian link to the town centre and regional offices. Granted subject to conditions 07-07-92.

BC52221P, proposed extension adjacent to the entrance to form cash point room, extension to canopy and alterations to car park. Granted subject to conditions 25-03-98.

03/2067/FL/E12, extension to existing foodstore. Granted subject to conditions 15-01-04. Subsequent appeal against Condition 5 relating to car park charges, dismissed 08-09-04.

### **Relevant Planning Policy Summary**

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

### **Walsall's Unitary Development Plan 2005**

Policies 3.6 and 3.7 states that development should help to improve the environment of the Borough whilst seeking to protect people from environmental problems.

GP2: Environmental Protection

Development should make a positive contribution to the quality of the environment and the principles of sustainable development.

Policy 3.16 requires high quality design.

GP6: Disabled People

Dedicated disabled parking should be provided and transport facilities should be designed to ensure easy access for everyone with convenient interchange facilities.

GP7: Community Safety

Development proposals should have regard to 'designing out crime'.

ENV32: Design and Development Proposals and Policy 3.16.

Considers development in relation to its setting with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

ENV33: Landscape Design

Good landscape design is an integral part of urban design and the Council will require planning applications to be fully supported by details of external layout and landscape proposals.

ENV35: Appearance of Commercial Buildings

The design of frontages to shops and other commercial buildings should be appropriate to their setting and sympathetic to the building on which they are situated.

3.113 New development provides opportunities for high quality architectural and landscape design to contribute to the environmental and economic well-being of the Borough for the benefit of residents and visitors, alike. Good design responds positively and imaginatively to the context in which development takes place.

3.114 Good design can discourage crime and increase safety as well as accommodating the access requirements of all sections of the community.

3.115 the design of buildings and structures together with landscape design have a major role to play in the creation of an environment which is distinctive, creates a sense of

place.

#### S2: The Hierarchy of Centres

(b) District Centres, including Aldridge, smaller than Walsall Town Centre and serve more localised roles. Meet the needs of the district for convenience goods, local services and community facilities.

#### S3: Integration of Developments into Centres

In order to ensure proper integration proposals should be of scale and nature appropriate to the size and function of the centre and sensitively integrated in functional and visual terms with the primary shopping area, pedestrian routes, public transport etc.

#### S4: Town & District Centres: General Principles

The Council will seek to sustain and enhance the range and quality of shopping, leisure and other town centre uses. To safeguard the existing level of shopping, leisure and other provision, but development must not be at the expense of the vitality and viability of the centre as a whole. Primary shopping areas are identified in each district centre to protect the retail function.

#### S8: Housing in Town Centres

It should be recognised that the particular benefits of living in a centre could mean the acceptable level of residential amenity may not be the same as that expected in suburban locations. Residential development must support and not prejudice a centre's retail, commercial and leisure functions.

#### AL1: Aldridge Primary Shopping Area

New retail development and investment will be concentrated within this area.

#### T4 – The Highway Network

(b) District Distributors are important routes connecting the main residential and employment areas of the Borough. Heavy commercial traffic will be allowed.

#### T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13. (a) where appropriate the Council increase the provision of short stay parking for shoppers and visitors to local centres.

(e) all parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area.

#### T13: Parking Provision

Standard car parking spaces should be 4.8m x 2.5m, 10% of all parking spaces should be reserved for disabled people and each reserved space should be at least 4.8m x 3.6m.

Food and Convenience Goods shops – 1 space per 14sqm of gross floor space, at least 1 bike stand for every 20 parking spaces, with a minimum of 2 bike stands and taxi facilities.

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

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

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

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

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

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

DW5: Ease of Movement – connections to existing routes

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



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

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

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

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

Appendix D: Public Art Guidelines, identifies the threshold for developers contribution towards public art as 1000sqm for non-residential proposals.

### **Regional Policy**

The Regional Spatial Strategy for the West Midlands promotes the regeneration of the metropolitan area and sustainable development in accordance with national government guidance.

### **National Policy**

**PPS1:** Delivering Sustainable Development

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

**PPS6:** Planning for Town Centres

Promotes the vitality and viability of town centres by planning for growth and development of existing centres and focusing development in such centres and encouraging a wide range of services in a good environment, accessible to all.

**PPG13:** Transport

Promotes sustainable patterns of development which reduce the need to travel, especially by car.

### **Consultations**

**Transportation** – no objections subject to conditions relating to layout, cycle storage, motorcycle parking and access.

**Parking**

Policy T13 would require 341 car parking spaces for the existing store and 405 for the store following the extension. The site currently provides 291 spaces (85% of UDP requirement) and proposes 318 spaces (79% of the UDP requirement). The site is in the Aldridge District Centre with good links to public transport and is highly accessible therefore the level of parking is considered acceptable.

**Access**

The new vehicle access to the service yard is designed to allow vehicles to pull clear of the highway if a vehicle is waiting to leave, this is an improvement on the present service yard arrangement.

**Deliveries**

The Transport Assessment (TA) identifies that there is unlikely to be a significant increase in the number of deliveries to the store as a result of the increase in the retail floor area. Presently there are 12 vehicles arriving and departing on a daily basis, 3 – 6 of these are HGV's. In the unlikely event that there is an increase in service vehicle this would only be 1 or 2 HGV's.

**Public Rights of Way Officer** – Whilst the existing footpath between the existing store and the ambulance station does not appear on the definitive map of Public Rights of Way, it may have prescriptive rights. The footpath was created when the store was built to comply with condition 14 on the original approval (BC36201P) which required the footpath

to remain available for use by members of the public at all times. The applicants appear to accept this as they have suggested an alternative route for the path. This needs to go through the formal legal procedures for a formal diversion or extinguishment order, which may attract objections, resulting in a public local inquiry and the order may not be confirmed. Cost for local orders and all construction would have to be met by the applicant. The claimed public right of way should remain unobstructed until legal orders have been confirmed.

**Strategic Policy** – no objections. The net increase in size of the floorspace for the store would be 552sqm. This is smaller than the extension approved in Jan 2004, PA 03/2067/FL/E2. The main part of the existing store adjoins the primary shopping area (PSA) and the western pedestrian entrance is within the PSA. The proposals are therefore well integrated to the PSA and complies with policy S3 as an in centre development. The proposals accord with policy to sustain and enhance existing centres.

**West Midlands Police** – no objections.

**Pollution Control – Scientific Team** – no objections subject to conditions regarding hours of construction .

**Contaminated Land Team** – no objections subject to conditions.

**Fire Officer** – considered satisfactory for fire service access.

**Environmental Health** – no objections, the premises is an existing supermarket and there is no evidence to support any restriction on the use.

**Landscape** – no objections, the proposals include a full planting scheme and details for the car park and service yard area.

**Centro** – no adverse impact on the existing infrastructure and numerous bus services exist in the vicinity. Welcome Morrisons travel plan for the site.

**Town Centre Manager** – no objections.

### **Public Participation**

Concerns raised by Councillors Flower and Sears regarding the loss of the ambulance site. Richard Shepherd MP has also submitted a letter expressing concern at the loss of the ambulance station and the impact this will have on the response times to the local residents.

Five individual letters of objection have been received including one from the managing agents of Croxall Court and a further letter of objection signed by 60 residents in Croxall Court.

The objections raised by residents:

- Increase in lorry traffic due to the increase in the size of the warehouse and store.
- Service yard moving closer to residential properties
- Light, noise and vibration pollution from the new service yard and increase in traffic, a reduction in quality of life
- Increase in noise levels from the new warehouse, from loading, engines, reversing vehicle alarms, refrigeration lorries running, opening and closing of gates and doors.

- New access opposite Croxall Court creating a poor view for residents and too close to the existing traffic island and pedestrian refuge.
- Disruption of traffic flow on Aldridge By-Pass from manoeuvring vehicles
- Proposed landscaping unlikely to screen activity
- No hours of use for the service yard and warehouse identified, public nuisance if deliveries at night
- No account of the increase in traffic volume
- Likely to be contaminated land on the ambulance station site
- Loss of public footpath between the ambulance station and the store, used by residents for access to Aldridge centre for the past 20 years therefore a right of way.
- Property devaluation (*Not a material planning consideration*)
- Loss of privacy
- This is a residential area
- The majority of shoppers arrive by car, increase in the size of the store and car park will increase traffic and the numbers of customers
- Expansion of the store may lead to the closure of other local shops in the centre
- Loss of open grassed area and single storey ambulance station building opposite residential properties and replacement with a 3m high wall and a small bit of landscaping, impacting on the views of residents.
- An unnecessary extension other foodstores in the vicinity
- Only a matter of time before ask for 24 hour opening
- Disruption during demolition and construction period
- Increased size of the store means more rubbish and more visits from the refuse lorry
- No benefit to the local community

Further consultation on the amended plans have been sent out. One letter received raising the following objections:

- The right of way opposite Croxall Court will be lost and the alternative route for the path would be considerably longer and the existing route is much safer.
- No restriction on the hours of delivery to prevent disturbed nights.
- Other objections previously raised regarding noise, pollution increased traffic etc remain.

The consultation period expires on 27<sup>th</sup> October 2009. Any further comments received as a result will be reported in the Supplementary Papers.

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

### **Determining issues**

- The principle of extending the store
- Design and Layout
- Impact on the surrounding occupiers and the street scene
- Access, Parking and Highway Safety
- Footpath

### **Observations**

#### **The principle of extending the store**

The proposed extension would provide:

- A warehouse extension of approx 643sqm and would allow the existing warehouse area to be incorporated into the retail store.
- This would provide an additional 889 sqm gross floorspace and an additional 552sqm net floorspace.
- Resulting in a 5,663sqm gross and 2403sqm net foodstore on completion.
- Comprising in an increase of 442sqm net convenience goods and 110sqm increase in net comparison goods floorspace.

This increase in both gross and net retail floorspace is smaller than the extension to the supermarket which was approved in 2004. This consent has not been implemented and has now expired.

The site provides the anchor store for Aldridge District centre. It is the only large convenience store in the centre. The main part of the store immediately adjoins the primary shopping area (PSA) of the centre and the western pedestrian link entrance to the store is in the PSA. The site is therefore well integrated and is development within the centre, which would comply with policy AL1, providing investment in the PSA. The scale of the development is appropriate to the scale of the centre and the catchment the centre serves. There is no evidence to suggest that the expansion of the store might harm investment in other opportunities within the district centre. The proposals would comply with policy S4 which seeks to sustain and enhance the range and quality of shopping for all those who use the centre and it is not considered that the development would be at the expense of the vitality and viability of the centre as a whole.

### **Design and Layout**

The proposed extension has been designed to match the existing building in terms of materials, red facing bricks with blue brick soldier courses and matching roof tiles, roof line to follow the existing, with the same level and pitch, first floor windows, gable roof features and includes a 3m high boundary wall to the service yard to match the existing.

The boundary wall will obscure views of the service yard and full views of the building, and will be softened by landscaping to the back of pavement.

### **Impact on the surrounding occupiers and the street scene**

The proposals would result in the loss of the existing open grassed area on the corner of Leighswood Road and Aldridge By-Pass and the existing single storey ambulance station building and car park area, and replacement with a new service yard (with 3m high boundary wall) and extension to the supermarket. The new boundary wall would obscure views of the service yard from the residential properties opposite in Leighswood Road and Croxall Court and would work as a sound barrier for any noise within the service yard. The boundary wall would be closer to the houses in Leighswood Road than the existing ambulance station building, but would be lower and would be enhanced by planting at back of pavement. It is considered that the change in view from the residential properties would not detrimental to the amenities of the occupiers.

The residents of Croxall Court currently overlook the open corner, large car park area and ambulance station building and sit opposite the existing vehicle access that is used by ambulances and cars using the ambulance station site on a 24 hour basis. The proposals will enclose the area with the new boundary wall, bring the proposed extension closer to the properties and utilise the existing access for the commercial vehicles using the new service yard. Whilst the size of vehicles using the access would increase, the numbers and frequency is likely to decrease. The ambulance station site currently operates with 31

staff, with ambulances and responder cars operating 24 hours a day. It is proposed to make minor amendments to the existing access to give good visibility for vehicles and prevent vehicles having to manoeuvre within the highway or wait on the highway for other vehicles to leave/manoeuvre. The size of the new service yard will provide increased space for vehicles and significant improvements for manoeuvring over the existing situation. The submitted TA indicates that there is unlikely to be a significant increase in the number or size of vehicles delivering to the store as a result of the proposals. Aldridge By-Pass is an existing busy District Distributor route, used by commercial vehicles and allows traffic to by pass the district centre. Policy S8 recognises that the level of residential amenity in town, district or local centre locations may not be the same as that expected in suburban locations, it goes on to state that housing should support and not prejudice a centre's retail, commercial or leisure functions. The flats at Croxall Court have been built on the edge of the district centre adjacent to a busy traffic route but they back onto a large area of public open space (Anchor Meadow) so the rear outlook from the flats has a high level of amenity. It is considered that the proposals are unlikely to have any additional adverse impact on the amenities of the residential occupiers in the immediate vicinity over the existing situation.

Whilst the open aspect on the corner will be lost the proposals include landscaping around the corner in front of the new boundary wall to soften the impact of the wall on the street scene. It is considered that the proposals would have no adverse impact on the general street scene.

#### **Access, Parking and Highway safety**

The proposals include an extension to the existing car park to provide 27 additional spaces and provide a total of 318 spaces .

The current parking provision of 291 spaces represents 85% of the requirements of policy T13, the proposals are 79%. The store is however located within the Aldridge district centre with good links to public transport and allows for shared journeys to other shops and services in the centre and is highly accessible to cyclists and pedestrians, so the parking level is considered satisfactory in this instance.

Access to the customer car park would remain as existing with the current pelican crossing on Aldridge By-Pass will remaining. Access to the new service/delivery yard would utilise the existing ambulance station access point from Aldridge By-Pass, with minor alterations to allow easier lorry access. The existing yard allows for only one delivery vehicle at a time within the yard, the proposals would allow for more than one lorry. The redesigned access will allow service vehicles to pull off the highway even if a lorry is waiting to leave the yard, which is a significant improvement on the present service yard arrangements. The proposals improve the layout and size of the service yard (increase the size by approx 377sqm) which provides more space for vehicles to manoeuvre within the site and prevent vehicles from having to reverse into or out of the site obstructing the highway.

The submitted Transport Assessment (TA), indicates that there will be no significant increase in the number of deliveries to the store as a result of the increase in retail floor space, after the initial stocking of the new warehouse. Presently 12 vehicles arrive and depart on a daily basis, only 3 to 6 of these are HGV's, some goods are delivered by small vehicles. In the event of there being an increase in the number of service vehicles, this would increase by only 1 or 2 HGV's and similar number of smaller vehicles, which would have little impact on the surrounding highway network.

The TA includes data and experience from other similar store extensions and confirms that whilst the uplift in trade is approx 47% the increase in customer numbers averages only 22% increase. The proposals result in an increase in customer spend rather than direct increase in customer numbers.

Whilst it is accepted that the proposals will result in an increase in vehicle trips to the site, the conclusions of the TA show that this is unlikely to have a significant detrimental affect on the surrounding highway network and is therefore considered acceptable.

Transportation has raised no objections.

### **Footpaths**

The existing public right of way (PRW) through the main car park area will remain unaffected by the proposals.

The footpath that runs to the north of the existing store and service yard, between the site, the ambulance station and around the rear of the store from Aldridge By-Pass through to Anchor Road, was created when the store was built (to comply with Condition 14 on planning approval BC36201P).

The proposals require the removal of the first 70m of the footpath. The applicants have included in their proposals an alternative 2m wide footpath to run from Leighswood Road, around the proposed service yard and rejoining the existing footpath route around the store to Anchor Road.

Whilst the existing footpath does not appear on the Definitive Map of PRW's there could be a prescriptive right of way. If this claim is made a formal diversion order would be required to be completed and a new route provided. This is not however an issue that can be resolved by the planning process, other than to note that a planning approval would result in the closure of the existing path and an alternative pathway would be provided as part of the approved scheme, with conditions recommended to ensure implementation of the new footpath route. The alternative route proposed by the applicant would provide a route of similar distance for pedestrians from the north of the site, which is considered acceptable. Pedestrians to the south of the site are likely to continue to use the existing public right of way across the main car park area as this would provide the most direct route to the district centre.

### **Other issues raised by the objectors**

#### Loss of the ambulance station

The ambulance service have provided a statement that confirms that as a result of recent consolidation of their service, the Aldridge ambulance station is no longer required. A new centrally located site will be acquired which will be more fit for purpose. Whilst the residents concerns regarding the loss of this local facility are recognised, this is not in itself a material planning consideration for the current proposals.

#### Delivery hours and store opening times

Residents are concerned at possible future 24 hour opening of the store and continuing of deliveries through the night. The stores original 1992 approval had no restrictions regarding the opening hours of the store or delivery times. The current proposals are to extend the existing warehouse and provide a new service yard and it would be unreasonable to now place retrospective restrictions on the store opening times. Whilst the proposals would increase the size of the service yard and bring it closer to the existing residential properties in Croxall Court and Leighswood Road, a 3m high boundary wall would be provided which would work as a sound barrier. The submitted Transport Assessment indicates that there are no significant increase in the numbers of deliveries to

the store. Environmental Health have raised no objections to the proposals. It is considered unreasonable to now impose restrictions to the delivery hours. Any issues of noise in the future can be dealt with by Environmental Health legislation. This site is situated in a district centre, with its vehicular access onto a busy district distributor route, which forms a by-pass around the district centre. Croxall Court and the houses in Leighswood Road are built on the edge of the district centre where it is recognised that the level of amenity for residents may not be the same as that expected in suburban locations (policy S8).

Unnecessary extension as there are other foodstores in the vicinity.

The store is situated in a district centre with good public transport facilities where investment in retail development is encouraged. The proposals will provide improvements to the warehouse and service yard over the existing situation. The closest other large supermarkets are located in Brownhills district centre, Walsall town centre and outside the Borough in Great Barr, which are all some distance from the site and not on convenient bus routes for residents in Aldridge.

**Summary of Reasons for Granting Planning Permission**

The proposal provides a new warehouse, an increase in retail floorspace, a new service yard and additional parking to an existing retail foodstore located within a district centre. The site is well integrated with the primary shopping area and the proposals comply with policies S4 and AL1 of the UDP which seek to sustain and enhance the range and quality of shopping in the centre whilst encouraging investment in the primary shopping area, which would not adversely impact on the vitality and viability of the centre. The closest alternative foodstores are located in Brownhills, Walsall town centre and out of the Borough in Great Barr.

The design and layout of the proposals are considered appropriate.

The proposal brings the building, the new service yard and its vehicular access closer to the existing residential properties opposite. The submitted Transport Assessment indicates that the proposals does not result in any significant increase in the number or size of vehicles delivering to the store and the Aldridge By-Pass, an existing busy district distributor route currently used by commercial vehicles to deliver to the store. The residential properties are built on the edge of the district centre where it is recognised that the level of amenity for residents would not be the same as that expected in a suburban location. The proposed access is that currently used by the ambulance station on a 24 hour basis. Whilst the size of the vehicles using the access may increase, the number of vehicles will decrease. A boundary wall replaces the existing open corner, with landscaping softening its impact. The wall screens full views of the building and the service yard and acts as a noise barrier to the service yard.

The proposals increase the size of the service yard whilst improving access over the existing situation, which reduces the need for vehicles manoeuvring or waiting in the highway. The proposals will not have any significant detrimental affect on the surrounding highway network.

The Transport Assessment further provides data and experience from other similar store extensions which confirms an increase in trade by approx 47% and an increase in customer numbers of only approx 22%, indicating an increased customer spend rather than direct increase in customer numbers.

The existing footpath to the north of the existing store would be partially lost and whilst this is not a definitive public right of way the applicants have provided an alternative route for the path within the application site, which would continue to provide public access to the district centre from the north of the site.

The loss of the existing ambulance station has been raised regarding response times. This is an issue for the ambulance service and not a material planning consideration for the current proposals.

The store currently has no restrictions to its opening or delivery times and it would be unreasonable to now introduce these restrictions to an 'in centre' development.

The proposed development is therefore considered to accord with the aims and objectives of the development plan, in particular policies GP2, 3.6, 3.7, 3.16, GP7, ENV32, ENV33, ENV35, 3.113, 3.114, 3.115, S2, S3, S4, S8, AL1, T4, T7 and T13 of Walsall's Unitary Development Plan (2005), Supplementary Planning Document: Designing Walsall, PPS1: Delivering Sustainable Development, PPS6: Planning for Town Centres and PPG13: Transport.

**Recommendation: Grant Subject to conditions**

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

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

2. Prior to the first use of the warehouse extension hereby approved the boundary wall to the service yard and the new footpath link from Leighswood Road to the rear corner of the existing store to rejoin the existing path, shown on drawing number 07-049 PL-12 shall be fully implemented.

*Reason:* In order to ensure the implementation of the boundary wall and future provision of pedestrian access to the district centre.

3. Prior to the commencement of the development details of the construction, lighting and boundary treatment of the new footpath link from Leighswood Road to the rear corner of the existing store to rejoin the existing path shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented and retained thereafter.

*Reason:* In order to provide satisfactory pedestrian access to the district centre.

4. The external materials of the extension hereby approved shall match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise agreed in writing by the Local Planning Authority.

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

5. The retail food store shall not exceed a gross floorspace of 5,663sqm, including a net sales area not exceeding 2403sqm.



*Reason:* in order to define the permission and restrict the size and operation of the premises.

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

*Reason:* In the interests of highway safety.

7. No materials, goods or refuse shall be stored or deposited in the open on any part of the site.

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

8. No development shall commence until drainage details, incorporating oil interceptors, have been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed/occupied.

*Reason:* To ensure that the development is provided with 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.

9. No development shall be carried out until full details of existing and proposed levels of the site, access way and floor levels of the proposed extension, have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site and any drainage or other works necessary to facilitate this development. The development shall be carried out and retained in accordance with these approved details.

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

10. No development shall take place until the location and details of the access gates and control system to be provided to the new service yard access have been submitted to and approved in writing by the Local Planning Authority. The access gates shall be installed and operational prior to first use of the service yard and extension hereby approved in accordance with the approved details and thereafter retained in working order.

*Reason:* In the interests of amenity and securing the site.

11. No external lighting shall be installed on the site until details have been submitted to and approved in writing by the Local Planning Authority and the lights shall be installed in accordance with the approved details and retained as such.

*Reason:* To safeguard the visual amenities of the area.

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

*Reason:* To ensure the satisfactory provision of parking areas.

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

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

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

14. A) At all times that the food retail store is open for trading, the car park on the site shall be available for use as short-stay parking for shoppers on the site, and shoppers in the Aldridge district centre.

B) The car park will remain free of charge for up to 3 hours for shoppers and visitors to the Aldridge district centre and no one shall be allowed to park on the car park for more than 3 hours.

C) The extension hereby approved shall not be brought into use until a scheme to enforce part (B) of this condition has been submitted to and approved in writing by the Local Planning Authority. The store and car park will operate in accordance with the approved scheme at all times unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To ensure the car park serves the needs of both shoppers and visitors to the District Centre, and complies with policies 7.38, S4 and T7 of Walsall's Unitary

Development Plan (2005).

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 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason:* In the interests of the amenity of the surrounding residential occupiers.

16. No development shall commence on the site until details of all boundary treatment (including walls, fencing and railings) have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to first occupation of the extension hereby approved.

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

17. No development shall commence on site until details of any plant, ventilation and fume extraction equipment or refrigeration equipment to be installed within the new extension have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to first occupation of the extension hereby approved.

*Reason:* In the interests of the amenity of the surrounding residential occupiers.

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

07-049 PL-01 Rev D – Proposed Elevations submitted on 13 July 2009  
07-049 PL-02 Rev E – Proposed Block Plan submitted 17 July 2009  
07-049 PL-03 Rev C – Proposed Sections submitted on 8 July 2009  
07-049 PL-04 Rev E – Proposed Site Plan submitted 13 July 2009  
07-049 PL-05 Rev A – Existing Site Plan submitted 8 July 2009  
07-049 PL-06 – Existing Elevations submitted 8 July 2009  
07-049 PL-07 – Existing Store Plan submitted 8 July 2009  
07-049 PL-08 – Proposed Levels submitted 8 July 2009  
07-049 PL-09 – Existing Roof Plan submitted 8 July 2009  
07-049 PL-10 Rev B – Proposed Roof Plan submitted 8 July 2009  
07-049 PL-11 Rev A – Proposed Car Park and Landscaping submitted 8 July 2009  
07-049 PL-12 – Proposed Footpath Diversion submitted 8 October 2009  
9014 CSK01 Rev P3 – Proposed Drainage Layout submitted 8 July 2009  
PL – 12 - Proposed Sales and warehouse extension elevations submitted 8 July 2009  
M08021-A-011 - 1 of 5 – Proposed Service Yard submitted 8 July 2009  
M08021-A-011 - 2 of 5 – Swept Path Analysis submitted on 8 July 2009  
M08021-A-011 – 3 of 5 - Swept Path Analysis submitted on 8 July 2009  
M08021-A-011 – 4 of 5 - Swept Path Analysis submitted on 8 July 2009  
M08021-A-011 – 5 of 5 - Swept Path Analysis submitted on 8 July 2009  
Design and Access Statement submitted 8 July 2009  
Retail and Planning Statement – Peacock and Smith Ltd submitted on 8 July 2009  
Transport Assessment – TTHC submitted 8 July 2009.

*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 to Applicant**

#### **CL1**

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

#### **CL2**

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

#### **CL3**

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

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



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
05 Nov 2009

**REASON FOR BRINGING TO COMMITTEE: Major Application**

**Application Number:** 09/1102/FL

**Application Type:** Full application

**Applicant:** Mr. Robert Morton

**Proposal:** Proposed new school building following partial demolition of existing school buildings together with associated access, car parking and landscaping.

**Ward:** Birchills Leamore

**Recommendation Summary:** Grant Subject to conditions

**Case Officer:** Andrew Thompson

**Telephone Number:** 01922 652403

**Agent:**

**Location:** BIRCHILLS C.OF E.  
SCHOOL, FARRINGDON  
STREET, WALSALL, WS2 8NF

**Expired:** 19/11/2009



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### **Application and Site Details**

The application proposes

- the demolition of existing condemned building for Years 3 and 4 (Key Stage 2)
- improvements to the entrance to Years 1 and 2 (Key Stage 1)
- building a new block of 8 classrooms, an IT suite and associated facilities
- new 23 space car park
- refurbishment of the existing 10 space car park at the main entrance.

To facilitate the development the proposals include the temporary placement of demountable classrooms on the existing playing field to the east of the existing buildings. These will be removed on the completion of the new building.

The existing playing fields and landscaping will be remodelled as a result of the proposals.

The school is accessed via pedestrian access from Birchills Street and by foot and car from two entrances on Farringdon Street (opposite numbers 74 and 122).

The proposed building would be two storeys in height and of a contemporary design. It includes two lightwells / dormer windows facing away from Farringdon Street. These are triangular in –shape, and will be a strong visual feature.

The ground floor of the new building would be approximately 1.5m below the street level of Farringdon Street, with the new car park at the same level as Farringdon Street.

### **Relevant Planning History**

No relevant planning history.

### **Relevant Planning Policy Summary**

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

### **Unitary Development Plan (UDP)**

GP1: Supports the sustainable location of development.

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

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

3.16: The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

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

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

3.16, GP7, ENV32 and 3.116: seeks the design of developments to create high quality living environments, well integrated with surrounding land uses and local character.

Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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.

7.1: Seeks to promote an efficient highway network;

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

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

LC1: seeks to retain and enhance existing urban open spaces and readdress any deficiencies in the provision or accessibility of these.

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

### **Designing Walsall SPD**

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

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

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

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

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

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

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

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

### **Natural Environment SPD**

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

Protection is proposed for protected animals, plants etc.

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

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

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

### **National Policy**

Planning Policy Statement (PPS) 1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted."

Paragraphs 33 to 39 also state the importance of good design. Supplementary document published on the need to address climate change through the planning system.

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

### **Consultations**

**Transportation – No objection in principle but additional information required.**

#### **Pollution Control**

**Scientific Team:** No objection to this proposal with the proviso that measures are put in place to address noise issues arising. A condition has been recommended to this end.

**Contaminated Land:** No objection subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues on the site. Conditions to address these have been provided.

**Built Environment (Urban Design) - No objection**

**Coal Authority – No objection**

**Centro** - The development site is within the minimum standards for accessibility by public transport and is well served by bus services operating along Green Lane at all times. Also none of Centro's existing infrastructure is adversely affected by the development.

**WM Police** - Encourage the applicant to design and build to achieve Secured by Design accreditation as recent research shows that developments constructed to this standard suffer on average around 50% less crime than non Secured by Design developments. This would also ensure that minimum security standards are installed from the outset.

**Fire Service – No objection – satisfactory access**

**Land Drainage – No objection but note that there is a Severn Trent Sewer crossing the site.**

**Severn Trent – No objection however advise that the relationship to the existing sewers will need to be resolved and building regulations stage.**

**National Grid – No objection – risk is negligible**

### **Public Participation Responses**

None

#### **Determining Issues**

- Demolition of the existing school buildings
- The demountables
- The proposed school building
- Additional car parking

#### **Observations**

**Demolition of the existing school buildings**



The existing school buildings are a mix of functional style buildings over several levels that take account of site topography but some now do not meet the accessibility requirements for modern needs.

The buildings to be demolished are the south-eastern corner of the building complex and are currently condemned.

The existing buildings are surrounded by the schools playgrounds on two sides, other school buildings and Farringdon Street. The demolition of the existing school buildings is supported as the existing buildings are of little value in terms of architectural or historic merit.

### **The demountables**

The proposed demountables would comprise 5 buildings each comprising 2 classrooms of 61sqm each which would be located on the grass playing field towards the eastern edge of the school site. The proposed demountable structures would only be in situ whilst the existing school buildings are being redeveloped and would then be removed from the site. Considering the temporary nature and the existing use of the area as an outdoor playing field, the proposed demountables would have limited impact on nearby residents or physical impact of the proposals.

### **The proposed school building and external alterations**

The proposed school building would be two storeys, of modern contemporary design and comprise 4 classrooms on each floor with associated toilets. In addition on the ground floor there will be two small group rooms and an IT suite. On the first floor would be a food science room, library and an additional small group room. The levels for the ground floor would be approximately 1.5m below that of Farringdon Street and the proposed car park.

Additional alterations (new doors and the main entrance to the Key Stage 1 and the associated internal remodelling) are acceptable, largely read against the existing scale and mass of the existing buildings.

Overall the proposed buildings are a significant improvement to the existing school architecture. The proposals will improve movement and accessibility around the school site and improve educational opportunities at the school.

### **Additional car parking**

The application proposes remodelling of the existing car park at the entrance to Key Stage 1, and also through the redevelopment will offer 23 new spaces adjacent to the new school building. The proposals would allow for improved parking arrangements for the school and in conjunction with a revised school travel plan, promote improved school access by foot, cycle and public transport.

The proposed additional car parking would be acceptable and in conjunction with the proposed landscaping, will improve the overall environment.

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

The proposals are for the demolition and rebuilding of existing school buildings. The proposed building would be more efficient and of better design quality than the existing buildings. The demountables will not cause material harm to neighbouring amenities

when considered against the existing use of the area as school playing fields. As such the proposals, having taken into account the all relevant consultation responses are considered to comply with Policy GP1, GP2, GP4, ENV32, ENV33, T7, T10, T11 and T13 of Walsall Unitary Development Plan 2005 and Designing Walsall Supplementary Planning Document.

**Recommendation: Grant Subject to conditions**

1. This development must be begun not later than 5 years after the date of this decision.

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

2. Prior to 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 A)

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

3. 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 A)

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

4. 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.

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

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

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

6. 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 B)

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

7. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in

writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason:* To safeguard the amenities of neighbouring and nearby residential occupiers.

8. Unless otherwise agreed in writing, within 3 months of the first occupation of the new approved building the proposed demountables shown on the approved plans shall be removed from the site and the land shall be returned to its former condition.

*Reason:* To ensure that the proposed temporary structures are removed from the site in a satisfactory manner and to ensure that school accommodation is not expanded without due consideration.

9. This development shall not be carried out until a schedule of facing materials to be used in external walls and roofs has been approved in writing by the Local Planning Authority.

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

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding orders, no gates, fences, walls or other means of enclosure, except those included on the approved plans, shall be moved or erected without the prior approval of a planning application relating to that work.

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

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

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

12. A revised School Travel Plan, based on the existing School Travel Plan submitted as part of the current application shall be submitted and approved in writing by the Local Planning Authority within six months of the proposed development being brought into use. The approved details shall be implemented and used by the school.

*Reason:* In order to promote sustainable and alternative modes of transport.

13. Unless otherwise agreed in writing by the Local Planning Authority, the development shall not begin until parking for site operatives and visitors associated with construction works, has been provided within the site, in the form of a temporary car park, to prevent indiscriminate parking of site vehicles on the highway, or obstruct existing businesses or residents vehicle movement, in accordance with details to be submitted to and approved by the Local Planning Authority.

*Reason:* In the interests of highway safety.

14. Prior to the first occupation of the building, all car parking areas shall be surfaced and drained, with all parking spaces being demarcated on the ground with 10% of parking

spaces designed for disabled users and marked accordingly. All spaces shall be thereafter maintained.

Reason: In order to ensure satisfactory appearance and functioning of the development and to ensure access for all.

#### NOTES FOR APPLICANT:

*A) 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.*

*B) 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.*

C) For the purposes of Condition 7, 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

D) Seven Trent advises that there are public sewers located within the application site. Public sewers have statutory protection and may not be built close to, directly over or diverted without consent. You are advised to contact Seven 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 Seven Trent and advise them of any proposals located over or within 3 metres 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. You are advised to contact Raikha Devi on 01902 793883.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
05 Nov 2009

**REASON FOR BRINGING TO COMMITTEE: Major Application**

**Application Number:** 09/0880/FL

**Application Type:** Full application

**Applicant:** Stanley Developments

**Proposal:** Addition of 4 no. flats to existing  
approval 07/2228/FL/W7 for a retirement  
village

**Ward:** Bentley & Darlaston North

**Case Officer:** Andrew Thompson

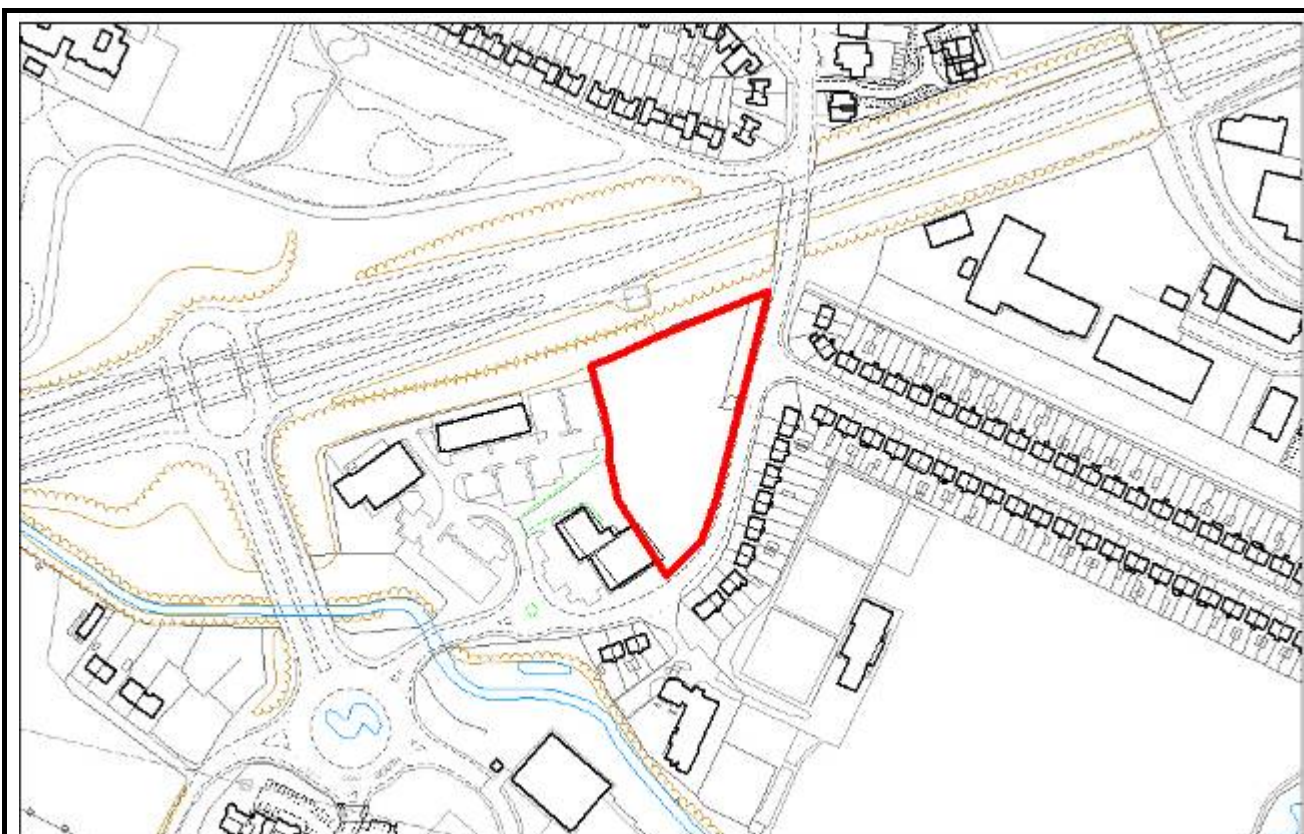
**Telephone Number:** 01922 652403

**Agent:** Plann Architects

**Location:** LAND AT BENTLEY ROAD  
NORTH, WALSALL

**Expired:** 22/10/2009

**Recommendation Summary:** GRANT SUBJECT TO RESOLVING THE  
ENVIRONMENT AGENCY OBJECTION, AND A PLANNING OBLIGATION



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### **Application and Site Details**

Permission has been given for an essentially similar project on this site under planning permission reference 07/2228/FL/W7. This application, while it legally must be for the entire complex and be considered as such, is, in practise only about 4 extra flats being added to the proposal.

The application site is to the south of the Black Country Route and on the western side of Bentley Road North. The site is adjacent to the Travel Lodge and Bentley Green Public House and two medium sized industrial units.

There are two storey houses on the opposite side of Bentley Road North and the Black Country Route (and behind these is the Bentley Leisure Pavilion).

The proposals are for a “retirement village”, a purpose built residential facility aimed at people over the age of 55 wishing to move into smaller premises, with management, security and communal facilities included.

The application proposes 148 units in a mix of 101 one-bedroom units and 47 two-bedroom units. There is also a large area of communal facilities (approx 1,400 square metres), aimed at providing on site health, dining, and social facilities. It is intended that these facilities will also be open to the wider community.

As part of the proposals there is a large communal garden and all units will have large balconies for their own private outdoor space.

The proposals are five storeys in height and are in a contemporary design to reflect the bulk and mass of the neighbouring industrial units, however due to site levels the proposals are lower from the street front, and houses.

There would be 48 car parking spaces proposed (33%) and the application site is 0.77ha. The proposed density is therefore the equivalent of 187dph.

The application is supported by a Design and Access Statement, Transport Assessment, a Travel Plan, and an assessment of the land quality. A summary of the issues surrounding the nearby substation has been submitted with the application. The application is also supported by a detailed landscape strategy.

In addition, prior to the submission of the application, the applicant presented the proposals to the local community with an event held at the nearby Leisure Pavilion and include the results are included with the submission.

### **Relevant Planning History**

BC57250P - Outline: B1(b) and (c) (Light Industrial) and B8 (Storage and Distribution).  
Granted 27/02/2002

03/0411/FL/W1 – Erection of 9 Industrial/Business Units, parking & service area –  
Granted - 02/07/2003

04/2377/OL/W3 - Outline: Erection of Nursing/Care Home and Car Park – Granted  
01/04/2005

07/2228/FL/W7 - Erection of four and five storey building for a retirement village comprising 144 apartments and associated communal facilities together with associated car parking, landscaping and revised access arrangements – Granted 02/07/2008.

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

**Adopted Walsall UDP**

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

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

Policy Env14 specifically encourages the development of previously developed land. Policy Env32 sets out design criteria and Policy Env33 seeks good landscape design. Policy Env39 seeks to ensure renewable energy and energy efficiency is encouraged as part of development

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

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

**Walsall Local Development Framework**

The Urban Open Space SPD (April 2006), Education SPD (February 2007), Healthcare SPD (January 2007) and Residential Design Standards Document (April 2005) are all relevant.

**Regional Spatial Strategy for the West Midlands (RSS11)**

Promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

There is no need for this application to be considered under the Conformity Protocol. A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

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

Policies QE1, QE2, QE3, QE4 and QE5 which seeks to improve the quality of the environment whilst preserving quality and historic buildings and locations. The policies also aim to enhance public spaces and urban green space. Policy EN2 seeks to conserve energy.

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

#### Regional Spatial Strategy Review / Black Country Study

The Regional Spatial Strategy is under review. Phase 1 (Black Country) has completed its Examination in Public and the Secretary of State has made her proposed changes. The revised study will be published in early 2008. The Draft Revision seeks to take the approach in the current RSS further forward in the design and delivery of high quality environments.

#### **National policy**

PPS1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. In paragraph 13 (indent four) PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted." Paragraphs 33 to 39 also state the importance of good design.

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes. Applications for residential on employment land should be given favourable consideration, subject to criteria.

Paragraph 10 of PPS3 indicates that new developments should be for high quality housing that is well-designed and built to a high standard; a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas; a sufficient quantity of housing taking into account need and demand and seeking to improve choice; and housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure. In considering high quality design, PPS3 (paragraph 16) guides that proposed development should be well integrated with, and complement, the neighbouring buildings and the local area more generally in terms of scale, density, layout and access and creates a distinctive character that relates well to the surroundings and supports a sense of local pride and civic identity.

PPG13, promotes development accessible transport locations, reducing the need to travel by car and promoting walking, cycling and public transport. This is supported by Manual for Streets (published May 2007) which promotes a flexible approach to design and materials that build a high quality environment

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

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



## **Consultations**

**Transportation** – No Objection to the current proposal subject to conditions 4, 5, 6, 7, 8, 9, 11, 12 of existing approval 07/2228/FL/W7 being included or discharged.

### **Pollution Control (Scientific Team) –**

No objection to this proposal with the proviso that measures are put in place to address issues arising concerning noise and the location of the electricity substation. Conditions have been recommended to this end.

### **Pollution Control (Contaminated Land) -**

No objection subject to appropriate remedial measures being implemented to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site.

**Environment Agency** - Object to this application in the absence of any evidence to demonstrate that the flood risk Sequential Test has been applied as required in line with Planning Policy Statement 25 – Development and Flood Risk. The information submitted within the FRA does not agree with information held by the Environment Agency, specifically the flood levels provided within this report do not appear to be accurate.

**Centro** - Given the nature of the development, it is likely that some residents would want to take advantage of the Ring and Ride service provided by West Midlands Special Needs Transport Ltd. It should be ensured therefore that the final design for the site access and road geometry allows for easy accessibility by Ring and Ride vehicles and includes the provision of an appropriate turning facility. Also, the car parking for the development should be sufficient to ensure that any Ring and Ride service is not hindered by illegal parking whilst being in compliance with PPG 13 parking standards

**Built Environment Team** – No objection

**Land Drainage** – No objection

## **Public Participation Responses**

None

## **Determining Issues**

- Principle of the use
- Inclusive communal facilities
- Design and layout
- Impact of Alterations to the approved scheme
- Environment Agency Objection
- Deed of Variation

## **Observations**

### **Principle of the use**

The site is allocated within the Unitary Development Plan as “Employment Land with Planning Permission” however the principle of alternative uses on the site, namely a care home, has been established by planning permission reference 04/2377/OL/W3 which was granted just after the adoption of the Unitary Development Plan.

The application site is not in an allocated Core Employment Area and therefore the proposals are not a Departure from the Development Plan and are acceptable in principle.

### **Inclusive communal facilities**

The proposals include communal facilities, including a restaurant, village hall, bar, fitness suite, health centre and spa, hair and beauty area, IT facilities and a small convenience shop (measuring approximately 15sq.m.). All these facilities are accessed off a central market place and will be available to the surrounding community. The area is managed and overseen by a centralised reception area.

Entrances to the bedrooms and individual units will be secure from the main reception and communal facilities.

It is considered that the proposed communal facilities allow for a sense of community to develop within the development and to combine with the wider area. The proposed facilities for hair and beauty and small convenience shop are not of sufficient size to generate competition for nearby shops and facilities and therefore it is likely that these shops and facilities will benefit from the new residents. It is therefore considered that there is no policy objection to the communal facilities.

### **Design and Layout**

The design is contemporary, bright and lively and is centred on the core communal facilities and the landscaped garden area. The proposals allow for private and communal amenity space with balconies for each unit. The proposals create a sense of place and enclosure that will allow for a buffer from the Black Country Route and for satisfactory residential environment to develop.

The proposals will include corridors to create an internal buffer to the Black Country Route whilst being designed in an attractive manner to ensure that the proposals present an interesting façade treatment to the Black Country Route.

The landscape scheme employed also ensures that a high quality area of open space is created. The inclusion of this internal courtyard as a central feature will aid the development create a sense of place and ensure a high quality living environment.

Whilst the development density is high and the number of one bedroom units is also high, the proposed end user as a retirement village and the level of communal facilities (approx 1,400 square metres in total) proposed is noted. This would encourage the use of communal facilities and promote a sense of community whilst providing all the necessary facilities within each unit. Storage facilities for wheelchairs, etc. would be located in a variety of locations within the development.

There would be two types of one bedroom units each having a bedroom, bathroom, kitchen, living room and store. These would measure 50.01sqm or 57.21sqm. The two bedroom units would measure 60.16sqm or 70.01sqm with the extra space being used for the additional bedroom. It should be noted that the above measurements do not include the external balconies and that ground floor units will have their own patio.

### **Impact of Alterations to the approved scheme**

The proposals are a result of the applicant now being allowed to move the existing substation which fronts Bentley Road North. The additional four units are located within the space where the substation is located. The four units would follow the approved

design and layout matching those already approved under 07/2228/FL/W7. The electricity sub-station would be moved to another part of the site.

### **Environment Agency Objection**

The Environment Agency state that the application site lies in part within Flood Zone 3a defined by Planning Policy Statement 25 as having a high probability of flooding. Paragraph D5 of PPS25 requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a 'Sequential Test'. In this instance no evidence has been provided to indicate that this test has been carried out.

The Agency asks to be reconsulted with the results of the Sequential Test. Their objection will remain until a Sequential Test to demonstrate that there are no reasonably available alternative sites in areas with a lower probability of flooding that would be appropriate for the type of development proposed.

There are several issues to note in this regard. Firstly the land has been the subject of several permissions since 2002, all have which have had regard to flood risk and indeed resulted in the land being allocated for development in the current Unitary Development Plan. The land is also previously developed land. No regard to extant permissions or allocations within the UDP has been given by the Environment Agency. The Environment Agency also failed to comment on the previous application under application reference 07/2228/FL/W7, a point that they do not dispute.

The floodplain relates to the River Tame and covers a total area of 850sqm of the application site in the southwestern corner of the application site. The approximately 10% of the total site area and a majority of this area would be car parking or associated landscaping. The floodplain principally relates to land to the west with the River Tame being 116m from the closest boundary of the application site.

The applicant, as part of their submission, has included a flood risk and includes sustainable drainage methods, including rainwater harvesting, within their proposed design. The proposals will meet a high sustainable construction standard.

It is also noteworthy that none of the additional units lie in the floodplain. The principle of development has already been established through numerous planning permissions and allocated in the Adopted Unitary Development Plan.

The aims and purposes of PPS25 and the sequential test is not to prevent comprehensive regeneration or redevelopment of existing previously developed land or application sites.

It is also noted that the proposals meet the criteria for the exception test in that:

- a) the development as part of a wider development of a site wider sustainability benefits in terms of development of previously developed land, regeneration and job creation to the community that outweigh flood risk informed by the Allocation within the Unitary Development Plan.
- b) the development is on previously developed land and forms part of a larger more comprehensive site that is outside the area at risk of flooding.
- c) an Flood Risk Assessment has been submitted by the applicant that shows that the development will be safe, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

The objection of the Environment Agency needs to be satisfied prior to the issuing of a decision. However, Officers are confident, that in discussion with the applicant and the

Environment Agency, the requirements detailed in the objection to the proposals can be overcome. The applicant has been informed of and is reviewing the objection and the Environment Agency have been sent a copy of this Report for review. A satisfactory conclusion is expected. Once the removal of the objection is received, Officers will proceed to issue the decision.

### **Deed of Variation**

The provision of tenure and type has been agreed with Housing Strategy and will provide a mix of shared equity and social rented accommodation. The provision proposed would equate to the provision of 25% shared equity housing and as such is in line with the Adopted SPD and is supported by Housing Strategy Officers.

Education Walsall confirm as this development is specifically targeted at retired owners over the age of 55 and that it would not be appropriate to seek a contribution for this development.

The applicant has submitted a financial viability assessment under application reference 07/2228/FL/W7 showing low levels of profitability for the development and requesting that healthcare and open space contributions be waived.

On the basis of negotiations the applicant agreed to contribute £72,000 towards Open Space and Healthcare. Divided equally (£36,000 to each) this equates to 50% of the Healthcare contribution and 28% of the Open Space requirement.

It is noted in this context that communal health and fitness facilities will be incorporated into the scheme and therefore it is considered that the proposals will provide an element of Healthcare.

The existing completed S106 will require updating to reflect the current proposals. The existing levels of contribution would not be offered and it is not considered that increasing the level of development by 4 flats will significantly alter the development viability to seek additional S106 contributions and therefore this will stay at the agreed level.

### **Conclusion**

The proposals would add a high quality scheme in keeping with the area. The proposals would develop an awkward site to a high standard and not cause material harm to the amenities of nearby residents.

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

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

The application is an amendment to the existing application. The proposals offer a high quality design solution with satisfactory car parking and amenity space provided as part of the plans.

The proposals are of a high level of sustainable construction and include significant measures to reduce the level of energy consumption and rainwater harvesting. As such,

the proposed development, having considered all relevant public participation responses and consultation comments is considered to comply with the relevant policies of the Development Plan (namely Walsall Unitary Development Plan and the Regional Spatial Strategy for the West Midlands) and national planning guidance and best practice guidance. In particular policies GP1, GP2, GP3, GP4, GP5, GP6, GP7, T1, T2, T3, T4, T5, T6, T7, T8, T9, T10, T11, T12, T13, ENV9, ENV10, ENV11, ENV13, ENV32, ENV33, ENV34, ENV35, ENV39, JP2, JP3, JP7(d), S1, S2, S3, S7, H3, H9, H10, LC1, LC2, LC6, LC7, LC8 and paragraphs 4.6, 4.13 and 4.14 of Walsall Unitary Development Plan, March 2005; Policies PA1, PA2, PA3, PA4, PA5, PA6, PA10, PA11, UR1, UR3, UR4, QE1, QE2, QE3, QE4, QE5, QE7, EN1, EN2, T1, T2, T3, T4, T5, T7, T8, T9, CF1, CF4, and CF6 of the Regional Spatial Strategy for the West Midlands (RSS11); Adopted Supplementary Planning Documents including Designing Walsall SPD, on balance, the proposal is acceptable.

**Recommendation: GRANT SUBJECT TO RESOLVING THE ENVIRONMENT  
AGENCY OBJECTION, AND A PLANNING OBLIGATION**

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. Unless otherwise agreed in writing by the Local Planning Authority, this development shall be carried out in accordance with the samples of facing materials submitted as part of the application and shown on the approved plans.

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

3. At all times residents shall be of an age 55 years old or over; in accordance with the planning submission, unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* In order to ensure satisfactory functioning of the development and to ensure that the development meets the housing need of the area.

4. Prior to the commencement of any works, confirmation shall be submitted to, and approved in writing by the Local Planning Authority to demonstrate the right of access in perpetuity across the land that forms the access and egress from the service road into the site, and all necessary turning areas.

*Reason:* In the interests of highway safety.

5. The proposed vehicle access from Bentley Road North shall be "entry only". Prior to the commencement of development, details of measures to prevent egress from the site onto Bentley Road North shall be submitted to and approved in writing to the Local Planning Authority. The measures shall be implemented prior to the first occupation of the building and thereafter maintained unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* In the interests of highway safety.

6. Prior to the first occupation of the building, all car parking areas shall be surfaced and drained, with all parking spaces being demarcated on the ground with 10% of

parking spaces designed for disabled users and marked accordingly. All spaces shall be thereafter maintained.

*Reason:* In order to ensure satisfactory appearance and functioning of the development and to ensure access for all.

7. Prior to the first occupation of the development motorcycle parking bays shall be demarcated accordingly with a bay size of 2.0m x 0.8m with a securing rail 0.6m high at the front of each bay. The scheme shall be implemented prior to the first occupation of the development in accordance with the approved details and thereafter maintained.

*Reason:* In order to ensure satisfactory appearance and functioning of the development and to ensure access for all.

8 Prior to the first occupation of development secure covered cycle storage should be provided for staff and residents.

*Reason:* In order to ensure satisfactory appearance of the development and to ensure access for all.

9. Before the development is brought into use, a parking strategy and management plan shall be provided, detailing the allocation of those units that will be provided with parking spaces, to minimise the risk of overspill of vehicles parking on the adopted highway; in the interest of highway safety.

*Reason:* In order to ensure satisfactory functioning of the development.

10. A Residential and Staff Travel Plan, based on the draft Travel Plan submitted as part of the current application shall be submitted and approved in writing by the Local Planning Authority within six months of the proposed development being brought into use. The approved details shall be implemented and used by the occupiers of the premises.

*Reason:* In order to promote sustainable and alternative modes of transport.

11. Vehicular access for construction traffic to the development shall be from the industrial estate via Marshland Way only.

*Reason:* In the interests of highway safety.

12. Unless otherwise agreed in writing by the Local Planning Authority, the development shall not begin until parking for site operatives and visitors associated with construction works, has been provided within the site, in the form of a temporary car park, to prevent indiscriminate parking of site vehicles on the highway, or obstruct existing businesses or residents vehicle movement, in accordance with details to be submitted to and approved by the Local Planning Authority.

*Reason:* In the interests of highway safety.

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

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

14. The boundary treatment shown on the approved plans shall be carried out before this development is brought into use and shall be thereafter retained.

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

15. The development shall be constructed in accordance with the Code of Sustainable Homes (April 2007) 3 stars standard relating to energy efficiency / CO<sub>2</sub>, water efficiency, surface water management, site waste management, household waste management and use of materials, unless otherwise agreed in writing with the local planning authority.

*Reason:* In order to provide high performance sustainable homes and protect the environment in accordance with policy aims 3.17 and 3.18 and policy ENV39 of the Walsall Unitary Development Plan

16. Prior to the commencement of development, drainage details, incorporating sustainable development principles and an assessment of hydrological and hydrogeological context of the development, have been submitted to and approved in writing by the Local Planning Authority, and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

*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.

17. No buildings shall be erected or trees planted within 5.0 (300 FWS, 600 SWS) metres public sewers which cross the site. The applicant may wish to apply to Seven Trent Water to divert the sewer in accordance with Section 185 of the Water Industry Act 1991.

*Reason:* In order to ensure satisfactory development of the site.

18. Prior to the first occupation of the development, a management plan for the communal restaurant, bar and fitness facilities, hereby approved, to allow the local community to use the facilities shall be submitted to and approved in writing by the Local Planning Authority.

*Reason:* In order to ensure satisfactory functioning of the development.

19. Prior to built development commencing additional investigation and assessment of ground contamination and ground gas shall be undertaken with details agreed in writing by the Local Planning Authority. A copy of the findings of the ground contamination investigation and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or landfill gas shall be forwarded to the Local Planning Authority within 1 month of completion.

*Reason:* In order to ensure satisfactory development of the site.

20. Prior to built development commencing 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 with the Local Planning Authority.

*Reason:* In order to ensure satisfactory development of the site.

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

*Reason:* In order to ensure satisfactory development of the site.

22. No occupancy shall take place until suitable noise mitigation measures have been implemented to the satisfaction of the local planning authority for all habitable rooms in close proximity to noise sources identified in condition 3. Such measures shall take into account the guidance and criteria contained in British Standard BS 8233:1999 '*Sound Insulation and Noise Reduction for Buildings - Code of Practice*' and World Health Organisation '*Guidelines for Community Noise 2000*' and shall be completed prior to the development coming into use.

*Reason:* To ensure the satisfactory condition of the site, for future occupation, and to protect the local environment.

23. Unless otherwise agreed in writing by the Local Planning Authority, no development shall be carried out until details of security oriented design measures and physical security measures for all buildings and public spaces have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented concurrently with the relevant element of the development, and thereafter retained.

*Reason:* To ensure the safety of the occupiers and users of the development.

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

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

25. Prior to the commencement of development details shall be submitted to and approved in writing demonstrating that electromagnetic fields are in accordance with guidelines published by the International Commission on Non-Ionising Radiation Protection, (ICNIRP)."

*Reason:* To ensure the safety of the occupiers and users of the development.



#### NOTES FOR APPLICANT:

- A) Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.
- B) When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.
- C) Party wall and floor structures should have reasonable resistance to airborne and impact sound in accordance with Approved Document E of the Building Regulations 2000, (As Amended).
- D) The site is adjacent to a bus shelter, which is shown to be retained in its existing location. If this is not possible and the bus shelter must be relocated the applicant and/or Council should liaise with Julie Smithers, Centro Bus Infrastructure Manager on telephone number (0121) 214 7123.
- E) If the developer requires any advice on Travel Plans they should contact Louisa Stebbings, Walsall Metropolitan Borough Council’s Business Travel Advisor, on 01922 652 561. Kerry Slater, Centro’s TravelWise Officer, can also advise on public transport promotion initiatives and journey planning, and she can be contacted on (0121) 214 7409.
- F) The Council consider the scheme should meet the terms of the Secured by Design concept, and will expect the submissions under Condition 23 to meet that concept, or provide compelling justification for not doing so.
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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
05 Nov 2009

**REASON FOR BRINGING TO COMMITTEE: Major waste application**

**Application Number:** 09/0979/FL

**Application Type:** Waste Application

**Applicant:** Watling Waste Services

**Proposal:** Change of use to allow for the storage of waste asbestos prior to disposal elsewhere, plus removal of existing porch and replacement of existing roller shutter door with a larger one and addition of a smaller roller shutter door and UPVC window and door on the western side of the building

**Ward:** Brownhills

**Recommendation Summary:** Grant Subject to conditions

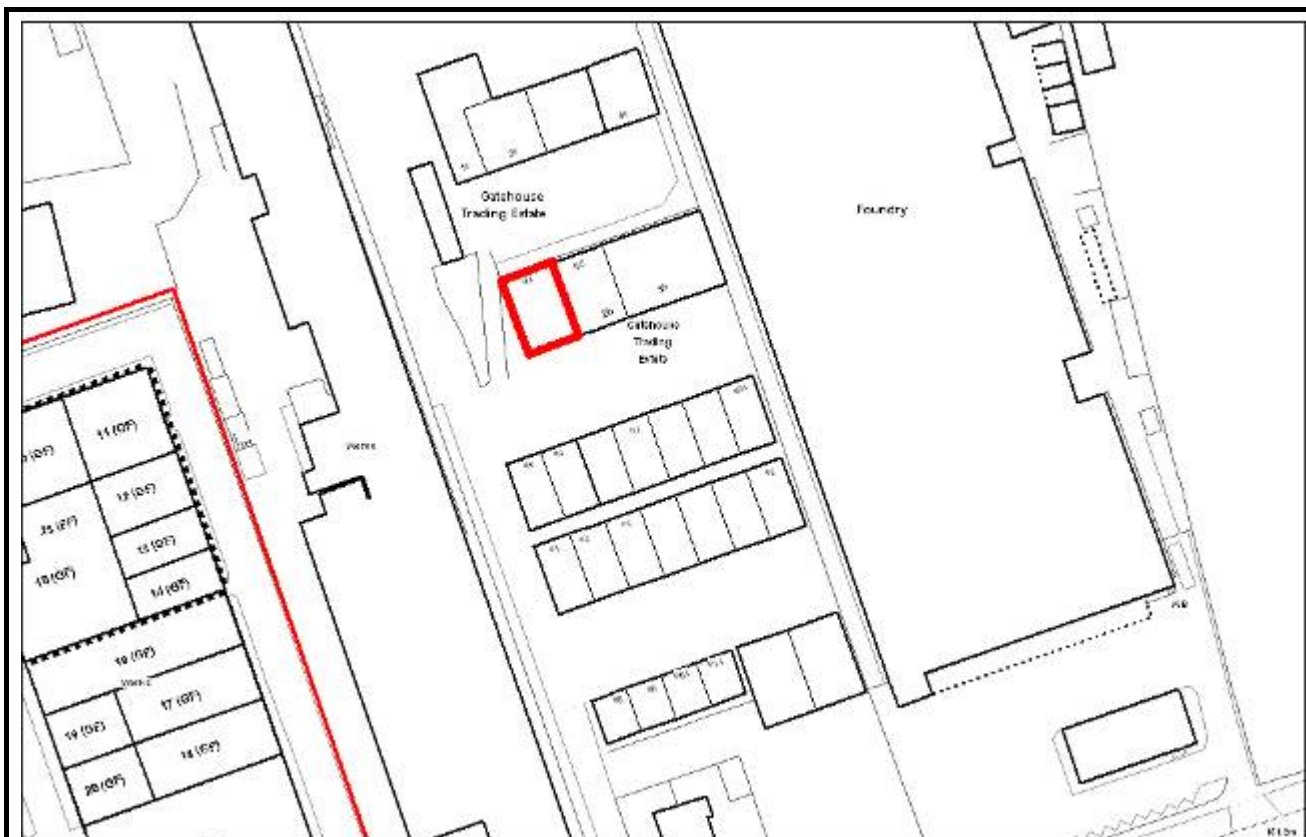
**Case Officer:** Devinder Matharu

**Telephone Number:** 01922 652487

**Agent:** Blendcheck Ltd

**Location:** UNIT 1B, GATEHOUSE  
TRADING ESTATE, LICHFIELD  
ROAD, WALSALL, WS8 6JZ

**Expired:** 05/11/2009



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### **Application and Site Details**

The application proposes the storage of waste asbestos prior to disposal elsewhere, plus changes to the building.

The unit is located within the Gatehouse Industrial Estate core employment area towards the rear of the site. To the rear of the unit is a scrap yard and the front of the site is an open area, where there are car parking facilities. At the side of the unit is an access to other units set further back than the application site.

The storage of the waste would be undertaken within the building with no open storage and the waste would be sealed in bags.

The replacement roller shutter door on the front elevation of the unit would take up the whole front elevation of the premises.

A Design and Access Statement has been submitted. A supporting statement has been submitted which states that the applicant already runs an asbestos removal company from Gatehouse Industrial Estate and wants to include a small facility for the storage of asbestos waste in another building within the trading estate. It further explains that because there are a lack of local storage facilities for asbestos waste, at present small amounts of asbestos waste are taken directly to landfill creating an unnecessarily large number of vehicle journeys. The use of this building would save vehicle movements reducing their impact on the environment. The activities on site would be regulated by an Environment Agency Standard Rules Environmental Permit.

### **Relevant Planning History**

BC39473P Retrospective: Erection of Industrial Units. Gatehouse Industrial Units -. Granted Subject to Conditions 1994

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

### **Unitary Development Plan (UDP)**

Policy GP2 expects all development to make a positive contribution to the quality of the environment and to consider the storage of hazardous toxic or noxious substances, and any danger to health or the environment arising from this

Policies 3.16, 3.116, ENV32 and ENV35 requires design to make a positive contribution to the environment.

Policies 4.4, 4.33 & 4.34 Core employment uses are defined as industry and distribution in Classes B1b, B1c, B2 and B8 of the Use Classes Order. Core employment areas are locations of strategic importance and good accessibility which contain major concentrations of these uses, together with better quality buildings and/or development opportunities - referred to as best quality sites. Core employment areas and best quality sites are identified in Policies JP5 and JP6 and will be safeguarded for core employment uses.

Policy JP5 – (a) Core Employment Area will be safeguarded for such uses, permissions for which may be subject to conditions prohibit change to other uses, such as Class B1

(a) offices. Proposals for other uses will only be permitted where it can be demonstrated that:

- i) A need would be met which could not be satisfied elsewhere: or
- ii) The range and quality of employment opportunities would be significantly increased.

(b) When windfall sites or buildings in core employment areas come forward or reuse or redevelopment they will normally be safeguarded for Core Employment Uses.

Policy JP7 lists uses that would normally be acceptable at core employment sites; it excludes B1 uses and at (d) makes an exception for windfall buildings that come forward for reuse. Any alternative uses must not constrain the operation of adjacent businesses.

#### Policy JP8: Bad Neighbour Industrial Uses

(a) The location of potentially bad neighbour uses will be given very careful consideration taking into account the particular environmental implications of individual proposals, which must satisfy all of the following criteria:-

I. Such uses should be within an existing employment area, but not in a core employment Area, and should not have a detrimental effect on the environmental quality of employment areas.

II. Uses should not have an adverse, or potentially adverse, environmental impact on housing, schools, facilities for sport and recreation, or other sensitive land uses.

III. Sites should be capable of providing satisfactory screening and landscaping.

IV. Uses that are unsightly and cannot be screened satisfactorily will not be permitted in prominent or visually sensitive locations (such as next to a main road, railway or canal).

V. Sites must be subject to stringent operational control to minimise disturbance to nearby firms or other uses.

VI. Proposals should be acceptable in terms of the criteria set out in Policy GP2.

(b) The Council will normally impose conditions on planning permissions covering hours of operation.

Paragraph 10.9: In May 2000, the Government published the Waste Strategy 2000 for England and Wales. This seeks to curb the growth in waste produced and to recognise it as a resource and recover more value from it. The Strategy sets national targets (see paragraph 10.16) and looks to the Regional Technical Advisory Bodies to devise more specific targets for their regions. Further guidance on how the planning system can contribute to these objectives is also given in PPG10: Planning and Waste Management (September, 1999). European guidance is also given in the EC Framework Directive on Waste and the Community Waste Management Strategy.

Paragraph 10.10: From April 1996, the Environment Agency has had responsibility for waste regulation (issuing authorisations for waste management disposal, or exemptions).

#### Policy WM1: Consideration of Proposals for Waste Management Activities

(a) Proposals for the establishment or extension of waste management facilities, including recycling sites, local transfer stations, pre-treatment plants, incineration facilities and landfill sites will be permitted if:-

I. The proposal can be demonstrated to be the best practicable environmental option for the achievement of the Council's strategy for waste management, and

II. There will be no unacceptable adverse impact on the environment, amenities or health of the area in terms of the criteria in Policies GP2 and JP8.

(b) Wherever reasonably practicable, waste management activities other than landfill should be contained within buildings rather than carried out in the open air.

(d) Permitted waste management facilities will be protected from inappropriate development in the vicinity which would impose constraints on the operation of the facility.

#### **Policy WM3: Special Wastes**

Applications for new or expanded facilities for the treatment of special wastes (also known as hazardous or toxic wastes), will be required to demonstrate that they can operate successfully without detriment to the environment or the health, safety, general well being and amenity of local people and wildlife.

Paragraph 10.29: The terms “special”, “hazardous” or “toxic” apply to wastes which, by virtue of their composition, present some risk in their treatment or disposal, if handled improperly. The risk may be to the health of humans or animals, the pollution of watercourses or an otherwise unacceptable environment impact.

Policy T13:1 car park space per 50 square metres of gross floor space up to 250 square metres.

#### **Regional Spatial Strategy / Core Strategy**

Policy QE3 – incorporate sustainable considerations such as use of recycled materials and minimisation of waste.

Policy WD3 – consider small scale waste management facilities.

#### **National Policy Guidance**

Planning Policy Statement 1: Delivering sustainable development in paragraphs 3, 33, 34, 35 and 36 makes reference to sustainable development and that good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.

PPS10 Planning for Sustainable Waste Management - The main focus should be on whether the development is an acceptable use of the land and the impacts of those uses on the development and the use of the land.

Planning Policy Guidance 13 refers to sustainable transportation associated with major development.

#### **Consultations**

**Transportation** – No objection

**Pollution Control Scientific Team** – No objection. This activity is controlled by Environment Agency.

**Pollution Control Contaminated Land Team** – No objections subject to user note.

**Fire Service** – No objection.

**Police** – No objection. Comments also made regarding the security of the roller shutter and potential alarm system.

**Environmental Health** – No objections.

**Environment Agency** –No Objection, the proposal would require an Environmental Permit under the Environmental Permitting Regulations 2007 from the Environment Agency.

**Strategic Policy** - No objection in principle provided there would be no unacceptable risk to adjoining users. The Environment Agency and Pollution Control will advise on potential risks.

### **Public Participation Responses**

None.

### **Determining Issues**

- Whether the waste handling use within the core employment area would be acceptable
- Whether the proposal would impact on the health or amenity of other users of the industrial estate.
- Design
- Access and parking

### **Observations**

#### **Whether a sui generis use within the core employment area would be acceptable**

At present there are no licensed or permitted asbestos transfer stations operating anywhere in the Borough and therefore there is a shortage of such facilities in the area. From the regional survey of waste management facilities 2009 there are currently two existing licensed waste management facilities on Gatehouse Trading Estate, those being JW Skip Hire and Brownhills Motor Spares.

Paragraph 4.4 and Policy JP5 seek to retain core employment uses for B1b, B1c, B2 and B8 uses and if units become available in core employment areas they should be retained for those purposes only. Normally a waste transfer station would not be considered acceptable in a core employment area, however, in this case the applicant Watling Waste Services currently operate from unit 8B on the same estate. In this case it is considered that the application for the storage of waste asbestos is akin to a B8 use for storage and the use would be ancillary or complementary to the development of the existing business on the estate therefore the use is acceptable in principle. The proposal would also reduce the number of HGV movements to and from the site. The proposal would assist in regeneration of the industrial estate by bringing a vacant unit back into use and providing employment in the area.

#### **Whether the proposal would impact on the health or amenity of other users of the industrial estate.**

The site would be regulated by the Environment Agency through a permit, which would ensure that working standards and appropriate measures are taken. It is considered that the proposal would not affect the health of those working in the vicinity, as Environment Agency regulations on waste asbestos will need to be adhered to by the applicant. Neither Pollution Control nor the Environment Agency object to the proposal and the matter of whether the workings on site meet the environmental permit is an issue for the Environment Agency to pursue under their regulations. Given the use would be contained within the building there is no requirement for any landscaping or screening of the site. There is no need to control the hours of use of the site, as the unit is within an established

industrial area. There is a residential property at the top of the site known as The Gatehouse, but the separation distance between the residential property and the industrial unit is 80 metres and this will ensure the level of amenity for the occupiers of this property is still protected.

### **Design**

The proposed alterations to the industrial unit are considered acceptable, as there are a number of small units within this estate that have already removed porches and replaced them with large roller shutter doors. This alteration would be in keeping with these other units in the industrial estate and is acceptable as the front elevation of the unit would not be seen outside the industrial estate.

The door, window and smaller roller shutter door on the side elevation are considered acceptable and would not impact on the other units in the estate.

### **Access and Parking**

The proposals indicate there will be an extra 4 heavy good vehicles movements per week plus lighter vans. It is considered that these extra vehicle trips are unlikely to have any significant detrimental impact on the surrounding highway network. The unit is located over 100 metres from the nearest public highway on a large industrial estate where there is adequate service vehicle access and manoeuvring space.

The four car parking spaces will be retained, which is considered satisfactory to serve the 3 employees who will be working at the site.

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

The proposed use will be ancillary to an existing use at the Gatehouse Industrial Estate. There are no licensed or permitted asbestos transfer stations in the Borough and there is a shortage of these facilities in the area. The proposal would not affect the operation of other units on the site and neither would it impact on the amenity of the adjoining occupiers of the industrial unit as the use would be controlled through the Environment Agency permit. The proposed storage facility would reduce the number of vehicle movements in the area improving the local environment. The alterations to the building are acceptable and in keeping with the other smaller units on the site and do not adversely affect visual amenities.

For the above reasons the proposal complies with policies GP2, 3.16, 3.116, ENV32, ENV35, 4.33, 4.4, JP5, 4.34, JP7, JP8, 10.9, 10.10, WM1, WM3, 10.29, and T13 of the Walsall Unitary Development Plan, Policies QE3 and WD3 of the Regional Spatial Strategy and the advice given in PPS1, PPS10 and PPG13.

### **Recommendation: Grant Subject to conditions**

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

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

2. The proposed development hereby approved shall not be used in any other manner other than as a facility for the storage of asbestos waste prior to disposal elsewhere.



Reason: Occupation of the unit by other waste uses would require a full justification to ensure that there is no conflict with Development Plan Policies.

3. The roller shutter doors hereby approved shall be externally finished to match with the other roller shutter doors on the estate.

Reason: In the visual amenities of the area.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
05 Nov 2009

**REASON FOR BRINGING TO COMMITTEE:** Deferred from Previous Meeting

**Application Number:** 07/1878/FL/E10

**Application Type:** Full application

**Applicant:** Mrs Josephine Doherty

**Proposal:** Change of use for stationing one residential caravan for one gypsy family.

**Case Officer:** Barbara Toy

**Telephone Number:** 01922 652429

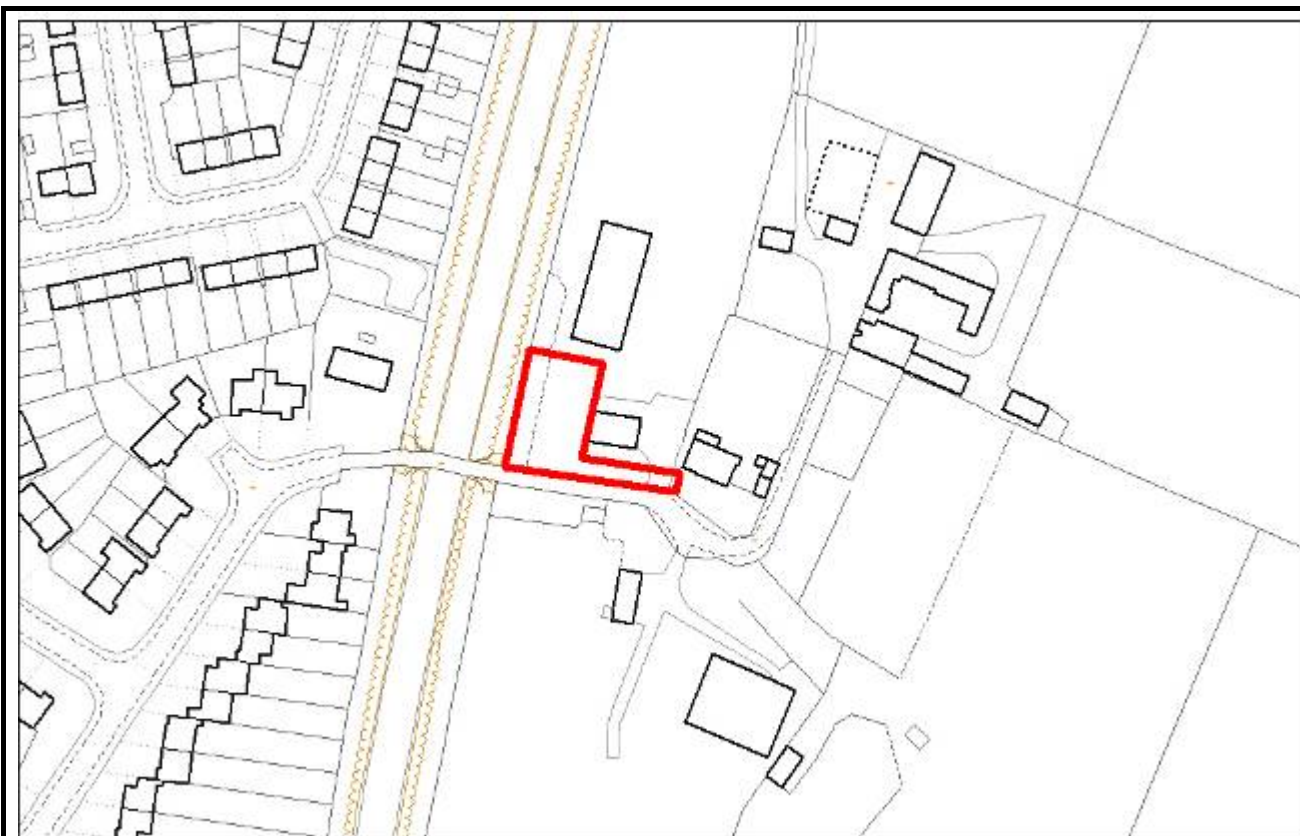
**Agent:** Green Planning Solutions LLP

**Location:** Railswood  
Nurseries, Railswood Drive, Pelsall, WS3  
4BE

**Ward:** Pelsall

**Expired:** 21/01/2008

**Recommendation Summary:** Grant Subject to conditions



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### **Current Status**

This planning application was reported to committee on 10<sup>th</sup> September 2009 when members resolved:

*That planning application 07/1878/FL/E10 be deferred pending confirmation from the Gypsy Council and any other evidence that may be available to demonstrate that the applicant had Gypsy Status.*

Paragraph 15 of Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites, provides the following definition of gypsies and travellers:

‘Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependant’s educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members or an organised group of travelling show people or circus people travelling together as such.’

The Circular goes on to state that

‘... traditional patterns of work are, however, changing and the community has generally become more settled.’

And

‘A more settled existence can prove beneficial to some gypsies and travellers in terms of access to health and education services, and employment, and can contribute to greater integration and social inclusion within local communities. Nevertheless the ability to travel remains important part of gypsy and traveller culture.’

The Parliament website states that the definition of a Gypsy or Traveller is far from clear cut. Access to services and education have affected Gypsy and Traveller patterns of travelling.

Despite written requests, emails and telephone calls to the Gypsy Council, no contact has been established and no response received to the consultation request.

The following evidence has however been put forward on behalf of the applicant: (It should be noted that the applicant is not the person who spoke at the September meeting)

**1. The planning statement submitted with the application** states that the applicant has gypsy status and complies with the description in paragraph 15 of Circular 01/1006 (above). ‘The applicant comes from a well established gypsy family and fits the description of a gypsy lifestyle.’

**2. A Statutory Declaration** submitted by the applicant states:

‘I and my partner George are both born and bred Gypsy Travellers whose families have lived in and around Walsall for nearly 100 years. We were both born in caravans and save for the last three years we have always lived in caravans which have usually parked on wasteland in the area.’

**3. A letter from Walsall NHS Teaching Primary Car Trust**, confirms that Mr Finney (applicant’s partner) suffers from depression and angina and that the Finneys would like to stay on their own land, ‘so that their children can develop self care skills within their own environment, guidance, stimulation through access to health and education.’

**4. A supplementary statement from the applicant's agent.** This confirms that  
'As a family they travel for cultural reasons and Mr Finney travels for work purposes.'  
And

'...given the extent of their travelling and given the necessity of educating their children, in my opinion they clearly comply with the definition at paragraph 15 of Circular 01/06.'

**5. A letter from the Consultant Teacher for Travellers, Gypsies and Showman's Guild, Walsall Children's Services (Serco),** provides confirmation that the Finney family currently residing at Railswood Drive are known to be members of the Romany Gypsy community here in Walsall by both Children's Services and the school that the children attend. The extended family has a long history and connection with Walsall and they are well known locally in both the Gypsy and non Gypsy community. 'Their children, along with other Romany Gypsy children in the area bring a rich vibrancy and wealth of experiences from their heritage to their school life. They understand much about Gypsy history and culture, speak Romanes and are confident, happy and proud. Both parents engage well with the school and its staff...'.  
'They evidence a strong commitment to the children's primary education and make efforts to fit the family business and work patterns around their children's education.'

**6. Mr Finney has also provided extract copies from two books on Gypsy's,** which include photographs of Mr Finney's family (father, grand father, great grandfather and aunts of the applicant's partner) and a tribute to George Finney (grandfather) who died in his caravan in Long Lane, Walsall in 1971. The tribute goes on to say that George Finney (grandfather) was a Gypsy, and a travelling man, who helped to establish and mature educational opportunities for travelling children in the West Midlands. (Books – Gypsy May by Fred Price and The Gypsies Then & Now by John McKale (2009).

The following report remains essentially the same as that considered by committee in September with the same recommendation, any changes are shown in italics including amendments to the proposed conditions.

### **Application and site details**

#### **Site**

The site is situated at the eastern end of Railswood Drive (beyond the railway bridge – the railway has gone and is now a public walkway, in a cutting). The adopted highway ends at the railway bridge, with an unadopted access drive running beyond.

The site is part of the former Railswood Nurseries site, and is situated within the Green Belt. The Railswood Nursery site no longer operates as a nursery. Historically, the nursery complex comprised a bungalow and caravan, both at the southern end of the site, with 2 no. nursery poly tunnels, a green house and storage buildings situated to the north.

The application site itself does not incorporate the whole of what was historically the nursery complex. The application site comprises land to the south and west of the bungalow, (approx 643sqm), on which previously a caravan was situated. The applicant advises that the previous caravan was used as ancillary accommodation to the bungalow and was occupied by a member of the nursery owners family and was connected to all services.

#### **Surrounding Area**

Railswood Drive west of the railway bridge comprises semi detached two storey houses, with a block of four flats at the end of the drive adjacent to the railway bridge.

Immediately to the east of the nursery site are other residential properties, known as Laburnum Cottage and Railswood Farm. To the west is a disused railway line in a cutting, now a public footpath. An existing caravan storage facility is situated to the south east of the site which has planning consent to store up to 60 caravans.

#### The Application

The application proposes the change of use of land for the stationing of one residential caravan for one gypsy family. It also shows the site access from the unadopted section of Railswood Drive, sharing the existing access to the bungalow and the former nursery.

The mobile home would replace the caravan previously on the site, and would be occupied independently of the existing bungalow, by the applicant, her partner and four children, who have gypsy status. The proposal would create a separate planning unit for residential accommodation, independent of the remainder of the former Railswood Nursery site.

The submitted plans show a single storey pitched roof mobile home (5.8m x 11m x 5m maximum height), approx 63.8 sqm floor area, situated to the west of and at right angles to the bungalow. A mobile home of these dimensions would comprise a caravan for the purposes of the relevant legislation. An enclosed garden area (165sqm) is shown to the north of the mobile home, enclosed by a 1.8m high timber fence. In addition, a separate patio area and two dog kennels are shown to the west of the unit.

The proposed development has been implemented. Since the registration of the application in November 2007:-

- additional information has been requested and submitted,
- the original caravan has been removed from the site,
- a mobile home delivered to the site (different in size and design to the submitted plans),
- the mobile home sited (in a different position to that shown on the submitted plans),
- the land purchased by the applicant and/or her partner,
- a new vehicle access created off Railswood Drive (adjacent to the bridge), and
- the applicant and her family have moved into the unit.
- A boundary wall and vehicle access gates have been erected

The mobile home installed on the site measures 6.1m (wide) x 7.78m (length) and maximum 3.2m high, providing a floor area of 47.5 sqm approx 16.3 sqm smaller than the details submitted. This unit, although different to that on the submitted plans, also satisfies the statutory criteria.

The unit is situated 16.6m set back into the site from Railswood Drive, with a new independent access created off Railswood Drive which now has a boundary wall and recessed double vehicle access gates. A raised patio has been created to the frontage of the unit.

#### **Relevant Planning History**

#### **The Railswood Nursery Site**

EA5451, erection of a bungalow, approved subject to conditions 1966. Condition to restrict to agricultural use (see BC60205P)

BC60205P, Removal of condition on EA5451, which restricted the occupancy of the dwelling to persons employed or last employed locally in agriculture or forestry or dependents of such persons, approved 1999.

#### Railswood Caravan Storage Site, Railswood Drive

BC37446P, change of use to storage of caravans approved 1993, a temporary 5 year consent.

BC54249P, full consent sought for caravan storage site, approved subject to conditions 1998. Condition restricted to 60 caravans to be stored at any one time, with hours of movement restricted. 5 year temporary consent granted.

03/2287/FL/E6, permanent retention of caravan storage facility, granted subject to conditions 2004, restriction to 60 caravans.

03/2279/PT/E5, 12.5m high timber monopole telecoms mast with 2 transmission dishes, 3 antenna (total height 15m), equipment cabinet and ancillary development. Refused 2004. Subsequent appeal allowed 2004.

#### 56 Cartbridge Lane

06/1386/FL/E11, permanent retention of residential gypsy caravan site, following temporary consent granted on appeal. Refused 02-07-2007.

Subsequent appeal allowed 10-02-2009. Conditions imposed by the Inspector to personalise the consent to the applicants and the immediate family, a restriction on the number of caravans on the site and a temporary 4 year consent to allow for the completion of the Land Allocations DPD.

### **Relevant Planning Policy Summary**

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

### **Walsall's Unitary Development Plan 2005**

Policy 2.1 and 2.2(d) identifies social inclusion as one of the main aims of the UDP's policies, providing the right number, type and distribution of homes.

Policies 3.6 and 3.7 states that development should help to improve the environment of the Borough whilst seeking to protect people from environmental problems.

#### **GP2: Environmental Protection**

Development should be sustainable and contribute to environmental improvement and have no adverse effect on the countryside and the Green Belt.

#### **GP5: Equal Opportunities**

The needs of all sections of the community should be taken account of with no discrimination against any individual or group, particular attention will be given to the needs of people who are in any way disadvantaged in order to maximise equality of opportunity engender greater social inclusion.

Policy 3.3 states that the character and function of the Greenbelt will continue to be safeguarded, as part of the wider West Midlands Green Belt. Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

Policy 3.23 states that the Green Belt has a positive role to play in terms of retaining attractive landscapes.

Para 3.21 and ENV 1: defines the purpose of the Green Belt.

ENV2: Control of Development in the Green Belt

In the Green Belt there will be a presumption against new buildings except in very special circumstances. Where development is acceptable in principle the siting, design, form, scale and appearance should be compatible with the surrounding area and careful consideration of the openness and character of the Green Belt.

ENV32: Design and Development Proposals

States that poorly designed proposals which fail to take account of the context or surroundings will not be permitted. This is particularly significant within or adjacent to Green Belt, agricultural or open land.

Policy 6.3: In identifying opportunities for new housing emphasis will be on a sequential approach which maximises the re-use of previously developed land and buildings within the urban area before the use of greenfield land.

Policy 6.5: In considering proposals for housing development, the Council will take into account the needs and characteristics of the Boroughs population, including the particular requirements of certain groups.

## **Regional Policy**

### **The Regional Spatial Strategy (RSS 1)**

This was issued in Jan 2008 and replaces the former RPG 11. Policy CF5 F of RSS 1 states that development plans should ensure that adequate provision is made for suitable sites to accommodate gypsies and other travellers. Phase 3 (RSS 3) includes a review of provision for gypsies and travellers, consultation on the options for the various topics in Phase 3 is currently underway (29-06-09 – 14-08-09). This consultation concerns how the results of the Black Country GTA (below) for pitches and plots are to be split between the various authorities.

### **Joint Core Strategy**

This is being prepared by the four Black Country Local Authorities. It is intended to publish the Joint Core Strategy (JCS) in Autumn 2009, prior to submitting to the Secretary of State in Spring 2010, after which examination in public will follow. The JCS does not seek to allocate sites or locations; this will be done through Development Plan Documents (DPD) prepared by the individual authorities. Work on Walsall's Land Allocations DPD started in July 2009, with adoption likely in September 2012. To inform this Land Allocations DPD and assist with the evidence base for the JCS, the Council has commissioned a Strategic Housing Land Availability Assessment (SHLAA) which is expected to be completed by the end of Sept 2009 with publication approx 2 months later. Amongst other possible housing sites the SHLAA is intended to identify sites that might be suitable for sites for gypsies, traveller and travelling show people.

### **The Black Country Gypsy and Traveller Accommodation Needs Assessment (GTAA) (Sept 2008)**

This identified a need for:

- 30 permanent residential site pitches for 2008 – 2013 within Walsall
- with a further 9 pitches from 2013 – 2018 within Walsall
- a total of 98 pitches over the next 10 years in the Black Country as a whole

The 39 pitches in Walsall includes 6 further planned pitches within Phase 3 at the Council's Willenhall Lane site resulting in a requirement for 33 pitches in Walsall.

## **National Policy**

### **PPS1: Delivering Sustainable Development**



Promotes sustainable and inclusive patterns of urban and rural development and emphasises the need to reject poor design.

### **PPG2: Green Belts**

Advises on the control of development in the Green Belt. Paragraph 3.1 states there will be a general presumption against inappropriate development except in very special circumstances. Para 3.2 states that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. New gypsy and traveller sites in the Green Belt are normally inappropriate development. PPG 2 applies equally to applications for planning permission from gypsies and travellers and the settled population at large.

### **PPS3: Housing**

Seeks to achieve a wide choice of high quality homes and mixed housing to support a wide variety of households in all areas and provide a sufficient quantity of housing taking into account need and demand.

### **Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites**

The main aims of the Circular are to:

- create and support sustainable, respectful, inclusive communities
- where Gypsies and Travellers have fair access to suitable accommodation, education, health and welfare provision;
- reduce the number of unauthorised encampments;
- increase the number of gypsy and traveller sites to address under-provision;
- recognise, protect and facilitate the traditional travelling way of life of Gypsies and Travellers, whilst respecting the interests of the settled community;
- promote private Gypsy and Traveller provision
- help to avoid Gypsy and Travellers becoming homeless through eviction from unauthorised sites without an alternative to go to.

Paragraphs 41-46 give advice on transitional arrangements to be used where site allocation development plan documents are in the course of preparation.

Paragraph 49 recognises the presumption against inappropriate development in the Green Belt as new gypsy and traveller sites in the Green Belt are normally inappropriate development as defined by PPG 2.

### **Other Legislation**

#### **Caravan Sites & Control of Development Act 1960, Section 29;**

This provides that a 'caravan' means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted.

#### **Caravan Sites Act 1968, Section 13;**

This expands the definition of a caravan stating that it must be composed of not more than two sections separately constructed and assembled on site by bolts, clamps or other devices; and when assembled, physically capable of being moved by road from one place to another, and not to exceed any of the following limits-

- (a) length (exclusive of any drawbar): [65.616] feet ([20] metres);
- (b) width: [22.309] feet ([6.8] metres);
- (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): [10.006] feet ([3.05] metres)."

**Human Rights Act 1998** - Article 8 of the European Convention on Human Rights provides that everybody has the right to respect for his private and family life and his home, and there should be no interference by a public authority with the exercise of this right, except where that interference is (amongst other considerations) in accordance with the law and is necessary in a democratic society for the protection of rights and freedoms of others.

### **Circular 11/1995 The Use of Conditions in Planning Permission**

Paragraph 110 of the circular advises that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of a period of the temporary permission. Where there is unmet need but no available alternative gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet the need, local planning authorities should give consideration to granting temporary permission for such uses.

### **Consultations**

**Transportation** – no objections.

**Strategic Policy** – The development represents inappropriate development in the Green Belt and is therefore contrary to ENV2 and PPG 2. However it is clear from the GTAA that there is currently a shortfall of pitches for gypsies and travellers in Walsall and throughout the West Midlands Region. This shortfall is unlikely to be addressed until the development plan process has been completed down to the 'site allocations' level. Note should be taken of the recent appeal decision at 56 Cartbridge Lane, where the Inspector granted a temporary consent pending the outcome of the development plan process.

**Housing Standards and Improvement** – following the granting of any planning permission the owner will be required to apply for a site licence under the Caravan Sites Control of Development Act 1960. Any licence will have conditions attached to it, based on the Model Standards 2008 for caravan sites in England.

**Gypsy & Travellers Officer** – Undertook a needs assessment with the applicant and her family in October 2008.

The Council has an authorised Gypsy site at Willenhall Lane, which is currently undergoing a phased refurbishment to provide a total of 19 plots. 15 plots are currently completed and occupied with all the remaining plots allocated and accepted and awaiting completion. Accordingly, there are no vacant/available plots at the site (July 2009).

**Fire Service** – satisfactory for fire service access

**Landscape Officer** – no objections. The site is well screened by mature trees and hedging and cannot easily be seen from nearby housing or publicly accessible areas. The siting of the caravan would not appear to affect any trees although the front hedge has been removed to create a new access. The removal of this hedge would however have little to no visual impact beyond the immediate confines of the site. It is not considered that the caravan situated alongside the existing bungalow would be prominent such as to affect the openness of the surrounding Green Belt landscape

**West Midlands Police** – The police have been called to the site 3 times in the last 12 months. Two of the visits related to 25<sup>th</sup> February when a mobile home was being delivered and blocked the access bridge.

**The Gypsy Council** – Awaiting a response. Three letters have been sent seeking their views, but there has been no reply.

### **Public Participation**

48 Individual letters of objection (some anonymous) and a petition containing 1115 signatures have been received objecting to the development, following the original consultation.

The petition objects to the development on the grounds of Green Belt policy issues, the presumption against residential development in the Green Belt, fear of an increase in crime and anti social behaviour, and concern that increased activity at the site will have a negative impact on the existing amenity of neighbouring properties.

Objections raised in the 48 letters:

- Increase in vehicles using Railswood Drive, HGV's, tractors, caravans, horse boxes, scrap lorries etc
- Rubbish and scrap littering the area with environmental impacts
- Development in the Green Belt unacceptable
- Railswood Drive once a quite residential street, not any more
- Likely to result in other uses on the site, possible vehicle repairs and scrap business
- It wont stop at 1 caravan as this is a large area of land, it will be the thin end of the wedge
- Set a precedent
- Possibility of an extension of access to the side of the unit to allow further access to the rest of the site.
- access route over the bridge unsuitable for more traffic
- property devaluation
- fear of crime
- anti social behaviour
- Already a large number of caravans use the access for the caravan storage
- Site is a nursery and should be used for no other purpose
- Will they pay council tax?
- Have they paid income tax on the income they have bought the land with?
- Insufficient information re gypsy status, are they travellers or currently settled in the area?
- There are other gypsy sites in the Borough, consideration of vacancies should take place
- Noise and disturbance from activities on the site
- Not in keeping with the area
- Fears of similar situation as evidenced in a newspaper article of a case in Essex.

Following the receipt of additional information and clarification of the development description neighbours were re-consulted on the proposals. This re-consultation has resulted in a further 16 letters of objection (some anonymous and 1 with 13 signatures) and 1 letter of comment, querying whether a 2 bed unit is large enough for a family with 3 children.

Objections:

- Limited access over the bridge
- Land should be for nursery use only and not for any other use, including the tractor business now operating
- Potential for a lot of different uses
- Will open the floodgates to more families and caravans
- The definition of '1 family' is ambiguous, this could mean a lot more caravans for extended family etc
- Anti social behaviour
- Property devaluation
- Increase in commercial traffic in Railswood Drive
- Increase in traffic, litter and noise and disturbance
- Green belt land that should stay that way, the proposals conflict with Green Belt policy
- Change in Railswood Drive, previously a quiet residential street now a busy through route
- Applicants already have a permanent home locally so refusal of proposals would not make them homeless
- Feeling of vulnerability and safety and security issues.
- Set a precedent
- Would this mean the site would be residential only for gypsies and no commercial activity?
- Similar situation to Lime Lane (just outside Walsall) where the original consent was for 2 caravans and now a full gypsy site.
- Chalet style mobile home not a caravan has already on site with disregard for the planning process
- The unit is now on site and is in occupation and a new access drive created, which is not in accordance with the plans and in contravention of planning regulations.

*One further letter of objections received since original report, objections:*

*What has happened to their bungalow at 60 Norton Rd?*

*Making a lot of money to be able to buy the land*

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

**Determining issues**

The development comprises inappropriate development which is by definition harmful to the Green Belt. Therefore for permission to be granted it is necessary for the appellant to demonstrate that very special circumstances exist which outweigh the harm caused by reason of the development being inappropriate in the Green Belt, and any other harm.

- What is the application for?
- Whether very special circumstances exist to outweigh the harm from inappropriate development in the Green Belt
- In this case, the very special circumstances the applicant relies on are;
  - The applicant's gypsy status,
  - The applicant's personal need for a site,
  - The need for further site provision in the area,
  - The fact that the unit would replace an existing caravan on the site
  - Concerns raised by objectors

## **Observations**

### **What is the application for?**

Some of the objectors point to the structure on the site not matching what is set out in the application documents.

The application is for a change of use. It is not for a specific structure. All that is necessary, if permission is given, is that the site should be used to accommodate the stationing of one residential caravan for one gypsy family. Any caravan, meeting the legal definition of a caravan, can be on the site, in any location, and meet that definition.

It is open to the Council, if permission is given, to restrict the position within the site where a caravan can be sited in order to protect the safe functioning of the site and restrict views from the green belt.

### **Whether very special circumstances exist to outweigh the harm from inappropriate development in the Green Belt**

The site is situated in the Green Belt. The development by definition, is inappropriateness, which is harmful to the Green Belt.

PPG 2 indicates a general presumption against inappropriate development within the Green Belt and such inappropriate development should not be approved except in very special circumstances where those circumstances outweigh the harm of inappropriateness and any other harm.

The site sits within but on the edge of a large area of Green Belt (which stretches to the north, east and south of the site).

Whilst Circular 01/2006 (Planning for Gypsies and Travellers Caravan Sites) is a material consideration, it should not be considered in isolation. Indeed, paragraph 49 of the circular states 'New gypsy and traveller sites in the Green Belt are normally inappropriate development as defined in PPG 2: Green Belts.' However, the circular also states its aim to create and support sustainable, respectful, inclusive communities where Gypsies and Travellers have fair access to suitable accommodation, education, health and welfare provision, whilst respecting the interests of the settled community, to promote private Gypsy and Traveller provision and help to avoid Gypsy and Travellers becoming homeless through eviction from unauthorised sites without an alternative to go to.

With appropriate justification, the proposal could be approved, as a justified departure from Green Belt policy presumptions. The applicant's stated reasons for seeking exception from the requirements of Green Belt policy are assessed individually, below.

### **The applicant's Gypsy Status**

Mrs Doherty (the applicant) in her statutory declaration states that she comes from a well established local gypsy family, and save for the last 3 years she, her partner and children have lived in caravans. Nevertheless, for the last 3 years they have lived in a house, to provide a fixed base to allow their children to receive "meaningful education".

However this has proved too expensive so for large parts of the year the house has lain empty as the applicant and her family travel for work. The house was put on the market but did not sell, it is now let out.

The family are known to the Gypsy Liaison Officer and it is accepted that they have Gypsy Status.

The applicant's personal need for a pitch

Whilst it is a general principle that Gypsies and Travellers should not become homeless through eviction from unauthorised sites, without an alternative site to move to (Circular 01/2006 para 12i), this principle must be seen in the context of harm to the Green Belt.

Paragraph 61 of Circular 01/2006 states that any facts that may be relevant should be established and considered in determination of a planning application. A needs assessment to establish the personal circumstances of the applicant and her family has therefore been undertaken by the Council's Gypsy and Travellers Officer. This confirms that the family have lived in the mobile home since October 2008 and that 3 out of the 4 children of the family attend a local school in Pelsall and are settled (the 4<sup>th</sup> child is only a few months old). The family are registered at Rushall Medical Centre. Until 2004 the applicant lived at 56 Cartbridge Lane gypsy site with her husband's family, but moved to 60 Norton Road, Pelsall to live in a house. The applicant found it very difficult to live in a house and sought to find alternative accommodation in the area so that the children could remain at the same school and not disturb their education. The family wish to "live on their own land, in their own culture and allow their children access to education and health".

Willenhall Lane provides the Council's only site for Gypsies and Travellers. The site has been undergoing a phased refurbishment since 2006, and the works are still ongoing with no date for final completion at this time. The works will result in a total of 19 plots, with 15 already occupied and the remaining plots already allocated and accepted, awaiting a completion date. Consequently, there are no vacant/available plots at the site and the Council is not in a position to offer the applicants alternative accommodation within the Borough.

It is clear that the applicant has a personal need for a caravan site. However, this does not, in itself, provide any exemption from Green Belt policy.

The need for further pitch provision in the area

The Black Country GTAA identifies the need in Walsall for 30 permanent residential site pitches for 2008 – 2013 and a further 9 from 2013 – 2018, although the planned Phase 3 development of the Council's Willenhall Lane site would provide 6 of these further pitches, this still demonstrates a significant unmet need for additional sites in Walsall.

Circular 01/2006 says that data collected through the GTAA process will inform an overall assessment at regional level and the preparation of the development plan documents, to identify land to meet needs. In Walsall the Land Allocations DPD will be informed by the Strategic Housing Land Availability Assessment (SHLAA), currently being undertaken on behalf of the Council by consultants and due for publication November 2009. Whilst this may identify suitable sites, it will feed into the Land Allocations DPD which is due for adoption in September 2012.

The very recent appeal decision at 56 Cartbridge Lane (10-02-09) for the retention of a residential gypsy caravan site is relevant to this case. In the Cartbridge Lane matter, the Inspector concluded that whilst the development was inappropriate within the Green Belt, very special circumstances existed sufficient to justify a further 4 year temporary consent to await the completion of the Land Allocations DPD to identify additional sites to meet the needs of Gypsies and Travellers in Walsall identified in the GTAA.

In view of the personal circumstances of those living at the site and the absence of suitable alternative sites at the present time the Inspector restricted the use to the named occupiers of the site, providing they continued to fall within the definition of Gypsies and placed a restriction on the number of caravans on the site to 6, with no more than 4 as residential (as opposed to touring caravans), at any one time. In granting a temporary permission the Inspector referred to Circular 11/1995, the use of conditions and Circular 01/2006 paragraphs 45 and 46 relating to a situation where a local authority is preparing the Land Allocations DPD.

It is clear that there is an un-met need in Walsall. The evidence of the Cartbridge Lane decision is that this can amount to justification for a Green Belt exception, albeit only for a temporary period while the Development Plan process moves to its conclusions.

The fact that the unit would replace an existing caravan on the site

The applicant, in her statutory declaration states that:

- this piece of land (the subject of the application) has for several years been used for residential purposes,
- they brought the land in the belief that it had planning permission as the land has been used for the siting of a caravan for about 8 years.

The agent for the application, in the planning statement submitted with the application states that

'there is a mobile home on the site which has to-date been used as ancillary accommodation for the bungalow. The site is connected to main water and electricity and mains sewer'

and further confirmed that they were unaware of when the existing mobile home was put on the site, but understood it had been used as additional accommodation for the bungalow.

Since the submission of the application the applicant has completed a Needs Assessment in conjunction with the Council's Gypsy Liaison Officer. In this the applicant states that '...the piece of land had always had a chalet on it, all they had done was remove the old chalet and put a new chalet in its place.... There has always been someone living here in a chalet, for over 10 years....'

Whilst the applicant states that the caravan was in situ for several years, the Council has no planning records which confirm its siting. Aerial photographs dating back to 2003 show the caravan in situ, to the north west of the bungalow and to the south of one of the nursery polytunnels. In the photographs the caravan appears to be situated in the position now occupied by the current mobile home.

The caravan was in situ when the application was first submitted and during the initial site visits by planning officers. The caravan measured 9.5m x 3.6m providing a footprint of 34.2sqm. It had a small garden area immediately outside together with paving to both doorways.

The mobile home now in situ occupies a very similar position to the previous caravan, to allow use of the existing connections to services. It measures 6.1m x 7.78m, a footprint of 47.45sqm, 13.25sqm larger than the original caravan. This is, as already noted, a larger unit than that depicted in the planning application.

Apparently due to the increased depth of the new mobile home, the poly-tunnel to the rear of it has been removed (being redundant as no longer in use for the nursery). The position

of the new unit within the site, set back 16.6m from Railswood Drive, means that it is set towards the rear of the application site, (as already set out, this is not shown on the deposited plans). The change means that the rear private amenity space shown on the deposited plans does not exist. However the applicant has created a raised patio area on the frontage of the unit, 7.6m in depth, the width of the unit, with an angled corner and steps up to it in order to provide access. This provides approx 55sqm of amenity space. This is a satisfactory arrangement for the amenity space for the unit.

The patio area is independent of the mobile home and provides no support for it; the mobile home sits on its own wheels and legs on a concrete base remaining transportable and satisfying the definition of a caravan (as detailed above). The remainder of the frontage (approx 126sqm) provides parking for two vehicles, further play area for the children and flower beds set against the western, tree lined boundary. The applicant has recently erected a boundary wall and gates set back from Railswood Drive to secure the site, so that the children can play safely on the frontage.

In summary, the new mobile home is set in broadly the same position as the original caravan, has a slightly larger footprint (13.25sqm) and is of a similar height to the caravan it replaces. In this context, it should also be noted that the introduction of the new mobile home has led to the removal of one of the poly tunnels that previously stood on site. As such, it is considered that the new unit would have no material additional adverse impact on the openness and character of the Green Belt over and above that of the previous caravan. The site is screened from the adopted section of Railswood Drive (to the west) by a band of trees along the former railway embankment, is screened from the Green Belt (to the north) by existing trees and the existing structures on the Railswood Nurseries site and from the east by the existing Railswood bungalow and Laburnum Cottage. It is not considered that the mobile home in its current position would interrupt any long views into or from the Green Belt, or would adversely impact the visual amenity of the Green Belt.

Green Belt policy is unusual, in planning, in that it is, by definition fundamentally wrong to put inappropriate development in the Green Belt. However, in this case, the practical conclusion is that this development has little or no effect on the Green Belt characteristics which are to be defended. It follows that, in practise, there is no demonstrable harm from the development.

### **Concerns Raised by Objectors**

#### **'Increased vehicles in Railswood Drive'**

The use for which permission is sought is for the stationing of one caravan for one gypsy family. This is unlikely to generate significant traffic movements over and above that from the previous siting of a static caravan. The unadopted section of Railswood Drive also provides access to the Nursery site, Laburnum Cottage, Railswood Farm and caravan storage field (consent for up to 60 caravans to be stored), which all generate their own traffic.

#### **'Rubbish and scrap materials, detrimental to the environment'**

The application site is now occupied by one family and is clean and tidy now all the work is completed.

#### **'It won't stop at one caravan, likely to become a gypsy encampment'**

The application site is 643sqm in total and it is conceivable that more than one caravan could be accommodated on it. However, when the area of the caravan/ amenity/ spaces for parking are taken into account, the site is not considered to be particularly large.



If permission is given, it is open to the Council to condition that the site shall not be used for more than one caravan to accommodate one gypsy family.

'Set a precedent'

Each application is dealt with on its own merits

'New access'

A new access from Railswood Drive has been created to provide independent access to the application site, rather than sharing the access to the Railswood bungalow. Further access gates have been installed to the rear of the site to land at the rear, (outside of the red line of the application site), and does not form part of this application.

'Council Tax, Income Tax and Property Devaluation'

These are not material planning considerations

'Noise and disturbance'

It is considered that the proposed use of the site is unlikely to generate any additional noise and disturbance over and above that of the previous caravan located at the site.

**Conclusion**

Whilst it is recognised that the proposals are, as a matter of principle inappropriate development in the Green Belt it is considered that:

- at the present time, very special circumstances exist to justify the granting of planning permission
- there is significant effect on the character of the Green Belt arising from this development.

The applicants benefit from Gypsy status and therefore the guidance contained in Circular 01/2006 is a material consideration. The applicant and her family are now settled in the Pelsall area (since Jan 2004), with their children attending a local school. The Council are not in a position to provide alternative accommodation in the near future, as all 19 pitches at Willenhall Lane are already occupied or allocated. In addition, there are no other private sites available. Whilst the SHLAA is now underway and may identify suitable sites for Gypsies and Travellers, this is only the start of the development plan process and the Land Allocations DPD is not due for adoption until September 2012. Eviction from the site would therefore render the applicant and her family with no pitch on which to pursue their way of life.

The mobile home on site (although different in certain respects from that identified in the planning application) replaces a caravan (and poly tunnel) that was previously occupied independently to the Railswood nursery bungalow and had been in situ for at least 6 years. The new unit, whilst approx 13sqm larger footprint than the previous caravan, is approximately the same height, is situated in the same position on the site (to utilise the existing connections to services) and is considered to have no materially additional adverse impact on the openness and character of the Green Belt over and above that caused by the original caravan. The unit is well screened by existing trees and buildings and does not interrupt views into or from the Green Belt and does not harm the visual amenity of the Green Belt.

Overall this recommendation for a permanent permission for a caravan site is warranted in this instance.

As it does not raise issues striking at the principles of the Development Plan (because of the absence of impact on the characteristics of the Green Belt) it does not have to be referred to the Secretary of State.

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

Whilst it is recognised that the proposals are inappropriate development in the Green Belt it is considered that, at the present time, very special circumstances exist to justify the development and outweigh the harm.

The applicants benefit from Gypsy status and therefore the guidance contained in Circular 01/2006 is a material consideration. The applicant and her family are now settled in the Pelsall area (since Jan 2004), with their children attending a local school. The Council are not in a position to provide alternative accommodation in the near future, as all 19 pitches at Willenhall Lane are already occupied or allocated. In addition, there are no other private sites available. Whilst the SHLAA is now underway and may identify suitable sites for Gypsies and Travellers, this is only the start of the development plan process and the Land Allocations DPD is not due for adoption until September 2012. Eviction from the site would therefore render the applicant and her family with no pitch on which to pursue their way of life.

The unit installed falls within the definition of a caravan within the relevant legislation and replaces a previous caravan that was previously in situ for a minimum of 6 years. The new unit, whilst approx 13sqm larger footprint than the previous caravan, is approximately the same height, is situated in the same position on the site (to utilise the existing connections to services) and is considered to have no additional adverse impact on the openness and character of the Green Belt than the original caravan. The site is well screened by existing trees and buildings and therefore does not interrupt views into or from the Green Belt and does not harm the visual amenity of the Green Belt.

It is considered that the proposed single caravan for a single gypsy family there is very special circumstances exist to justify the development and outweigh the harm to the character and appearance of the Green Belt and is considered to accord with the aims and objectives of the development plan, in particular policies 2.1, 2.2(d), 3.6, 3.7, GP2, GP5, 3.23, 3.21, ENV1, ENV2, ENV32, 6.3, 6.5 and T13 of Walsall's Unitary Development Plan (2005) and National Planning Guidance PPG2: Green Belts and Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites.

### **Recommendation: Grant Subject to conditions**

1. There shall only be one caravan (*as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968*) on site at any one time and shall be used for residential purposes only for one gypsy family, *the applicant, Josephine Doherty her partner George Finney and their dependant children only.*

*Reason:* In order to define the permission and safeguard the amenities of the surrounding occupiers and the character, openness and appearance of the Green Belt.

2. *No commercial activities shall take place on the land, including the storage of materials.*

*Reason:* In order to define the permission and safeguard the amenities of the surrounding occupiers and the character, openness and appearance of the Green Belt.

3. Neither the caravan, nor any ancillary building (eg. dog kennels and storage buildings) shall be sited between the southern elevation of the adjoining Railswood Bungalow and the access road to the south.

*Reason:* In order to define the permission and to safeguard the appearance of the Green Belt.

4. There shall be no more than one dog kennel and one storage building on the site at any one time, and it/they shall only be used for purposes ancillary to the residential caravan.

*Reason:* In order to define the permission and to safeguard the appearance of the Green Belt.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
05 Nov 2009

## **6 Applications at the same site to be considered**

### **REASON FOR BRINGING TO COMMITTEE: Requires delicate judgement**

**Application Number:** 09/1086/FL  
**Application Type:** Full application  
**Applicant:** Walsall Council  
**Proposal:** Proposed demolition of single storey buildings & erection of new visitor centre.  
**Ward:** St. Matthews  
**Recommendation Summary:** Delegate to Head of Planning and Building Control

**Case Officer:** Jan Scrivens  
**Telephone Number:** 01922 652436  
**Agent:** Brownhill Hayward Brown  
**Location:** WALSALL ARBORETUM, LICHFIELD STREET, WALSALL  
**Expired:** 05/11/2009

**Application Number:** 09/1172/CC  
**Application Type:** Conservation Area  
**Applicant:** Walsall Council  
**Proposal:** Proposed demolition of single storey buildings & erection of new visitor centre  
**Ward:** St. Matthews  
**Recommendation Summary:** Delegate to Head of Planning and Building Control

**Case Officer:** Jan Scrivens  
**Telephone Number:** 01922 652436  
**Agent:** Brownhill Hayward Brown  
**Location:** WALSALL ARBORETUM, LICHFIELD STREET, WALSALL  
**Expired:** 05/11/2009

**Application Number:** 09/0168/CC  
**Application Type:** Conservation Area  
**Applicant:** Walsall Council  
**Proposal:** Demolition of toilet blocks, gazebo, shelters and shed at various locations (including one structure adjoining a public footpath).  
**Ward:** St. Matthews  
**Recommendation Summary:** Delegate to Head of Planning and Building Control

**Case Officer:** Jan Scrivens  
**Telephone Number:** 01922 652436  
**Agent:** Brownhill Hayward Brown  
**Location:** WALSALL ARBORETUM, LICHFIELD STREET, WALSALL  
**Expired:** 05/11/2009

**Application Number:** 09/0171/LB  
**Application Type:** Listed Building  
**Applicant:** Walsall Council  
**Proposal:** Repairs, including structural, and replacement of roof tiles.  
**Ward:** St. Matthews  
**Recommendation Summary:** Delegate to Head of Planning and Building Control

**Case Officer:** Jan Scrivens  
**Telephone Number:** 01922 652436  
**Agent:** Brownhill Hayward Brown  
**Location:** BOAT HOUSE, ARBORETUM, LICHFIELD STREET, WALSALL, WS4 2BU  
**Expired:** 05/11/2009

**Application Number:** 09/0172/FL  
**Application Type:** Full application  
**Applicant:** Walsall Council  
**Proposal:** Repairs and reinstatement, replacement of roof materials.

**Ward:** St. Matthews

**Recommendation Summary:** Delegate to Head of Planning and Building Control

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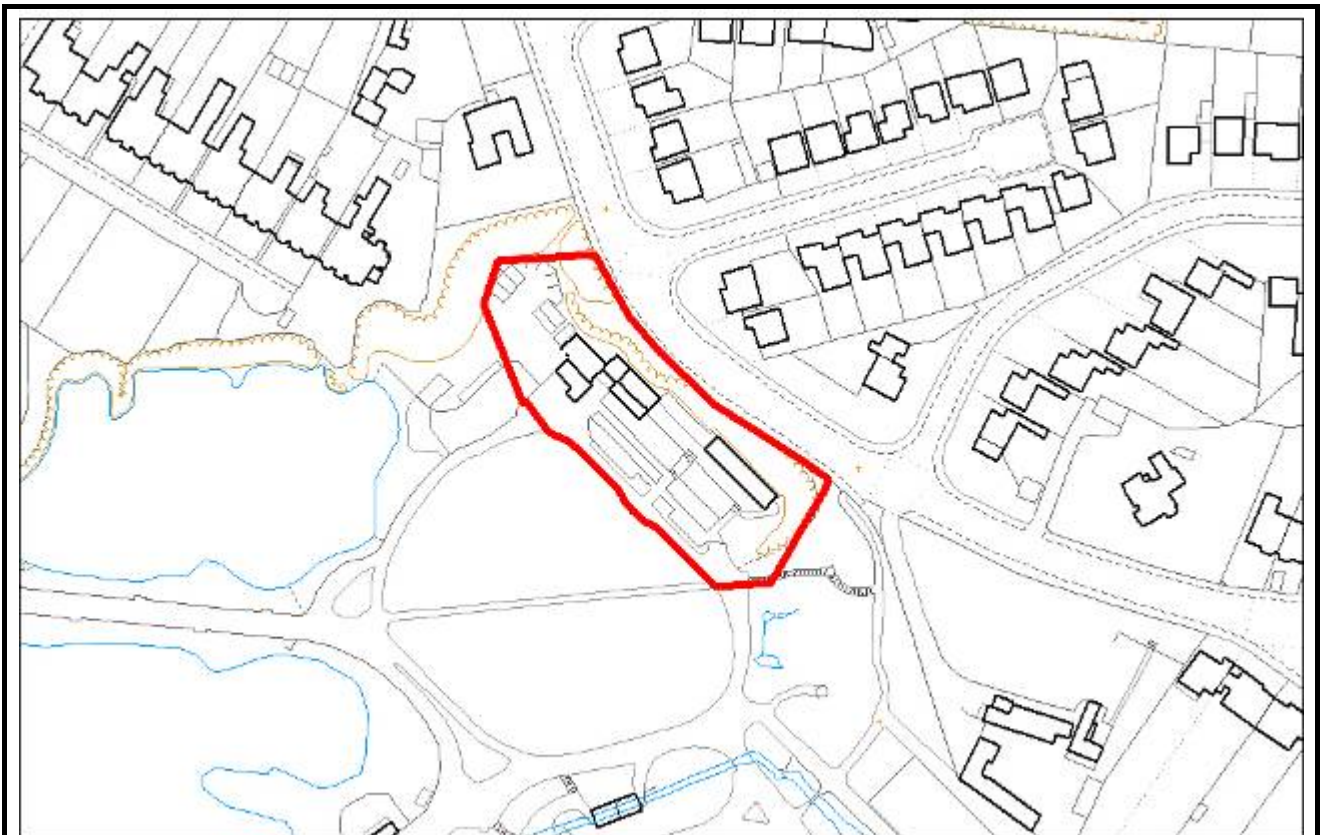
**Case Officer:** Jan Scrivens  
**Telephone Number:** 01922 652436  
**Agent:** Brownhill Hayward Brown  
**Location:** BANDSTAND, ARBORETUM, LICHFIELD STREET, WALSALL, WS4 2BU  
**Expired:** 05/11/2009

**Application Number:** 09/0170/FL  
**Application Type:** Full application  
**Applicant:** Walsall Council  
**Proposal:** Partial demolition/conversion to open sided shelter.

**Ward:** St. Matthews

**Recommendation Summary:** Delegate to Head of Planning and Building Control

**Case Officer:** Jan Scrivens  
**Telephone Number:** 01922 652436  
**Agent:** Brownhill Hayward Brown  
**Location:** LAKESIDE CAFE, ARBORETUM, LICHFIELD STREET, WALSALL, WS4 2BU  
**Expired:** 05/11/2009



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## **Application and Site Details**

These applications propose:

### **09/1086/FL**

A planning application for the erection of a new visitor centre (with a brick storage structure retained as part of the building) and the former Palm House recreated (in part) with the metal cladding removed and the roof raised.

The new visitor centre will provide educational facilities (in the Palm House area), changing rooms, meeting room, visitor café and toilets and staff facilities. The building would be of modern design and aims to enhance the Arboretum's historic buildings such as the boathouse and bandstand by providing a contrast. The building has also been designed to incorporate energy saving technologies as well as being constructed from sustainable materials. The building will provide disabled access throughout.

The intention is not to bring vehicles into the Arboretum due to the detrimental effect which it would have on pedestrians but the scheme includes three parking spaces for disabled users outside the building and for school minibuses to improve access to the new facility for these groups.

### **09/1172/CC**

A Conservation Area Consent application for the demolition of various single storey buildings (sheds, garage and stores) on the northern side of the Arboretum, adjacent to Buchanan Avenue

### **09/0168/CC**

A Conservation Area Consent application for the demolition of various structures, such as toilet blocks, gazebo, shelters and a shed, including one structure adjacent to the public footpath linking Broadway North with Buchanan Avenue

### **09/0171/LB**

Restoration of the Grade II listed boathouse building including structural repairs and replacement of roof tiles.

### **09/0172/FL**

A Conservation Area Consent application for the repair and restoration of the bandstand, including restoring its original features and materials

### **09/0170/FL**

A Conservation Area Consent application for partial demolition of the lakeside café and conversion of the remainder to an open sided shelter.

The applications are accompanied by Design and Access Statements, a Flood Risk Assessment, Arboricultural Assessments, Habitat and Botanical Surveys, Aquatic Invertebrate Surveys, Water Vole Surveys, White Clawed Crayfish Surveys and Bat Surveys. These show, in brief, that no plant species of national scarcity were recorded and the habitats/species are typical of a semi-formal amenity/recreational facility. No water voles were recorded but white-clawed crayfish and Bullhead fish were found to be present. The bat survey work is incomplete.

The buildings are within the Arboretum Conservation Area, the boathouse is a Grade II

listed building and the Arboretum is a Registered Park and Garden (Grade II).

### **Relevant Planning History**

None

### **Relevant Planning Policy Summary**

#### **Development Plan**

GP2 and 3.6 require new development to make a positive contribution to the quality of the environment and the principles of sustainable development.

GP6 requires new development to be designed to provide good access for disabled people

GP7 requires development to 'design out crime'

ENV18 relates to the protection of trees within Conservation Areas

ENV23 requires new development to take account of the natural environment and nature conservation opportunities.

ENV29 requires development to preserve or enhance the character of a Conservation Area

ENV30 seeks to protect the Borough's Registered Parks and Gardens of Special historical Interest from the effects of inappropriate built development and insensitive alteration.

ENV32 requires new development to take account of its context or surroundings

ENV33 supports good landscape design

LC1 proposes the enhancement of urban open spaces

Conserving Walsall's Natural Environment Supplementary Planning Document adopted 16.4.2008

DW3 of designing Walsall Supplementary Planning Document

Arboretum Conservation Area Appraisal and Management Plan 2007

#### **National Policy**

Planning Policy Guidance Note 9: Nature Conservation and Geodiversity

Circular 06/2005 Biodiversity and Geological Conservation- statutory obligations and their impact within the planning system

Planning Policy Guidance Note 15: Planning and the Historic Environment, paragraph 4.14

### **Consultations**

**Transportation:** No objection

**English Heritage:** No objection

**Conservation Officer:** No objection

09/1172/CC and 09/1086/FL (demolition of single storey buildings and erection of visitor centre respectively)

There is no objection to the proposed demolition. The new build is purposely a contemporary contrast to that of the retained Victorian structure; this is welcomed. The new build generally follows the same form and scale as that of the retained structure



whilst allowing the historic section to remain as the main focal point from many views within the park. The glass section allows a neutral transition from the traditional and contemporary aspects. The use of glass also maintains the overall openness in relation to the whole park.

09/0168/CC (demolition of various structures such as toilet blocks, gazebo, shelters and a shed)

The structures to be demolished are not of significant quality and the removal of unnecessary clutter will enable better views over the parkland.

09/0170/FL (partial demolition of lakeside café)

The removal of the cladding, a later addition, is fine as it does not contribute positively to the overall integrity of the structure.

09/0171/LB (restoration of boathouse)

The replacement of the boathouse's concrete roof tiles with clay tiles is welcomed. The replacement of the vertical timber panelling with like for like is acceptable.

09/0172/FL (repair and restoration of bandstand)

The proposed works would restore original features and materials and the integrity of the bandstand.

**Severn Trent:** No objection .. Recommend conditions requiring drainage details to be submitted.

**Drainage:** No objection..

#### **Pollution Control**

**Contaminated Land Team:** No objection. Recommends a condition requiring a site investigation and remediation if appropriate.

**Scientific Team :** No objection.. Recommends a condition restricting hours of working.

**Environmental Health:** No objection.

**Fire Service:** No objection.

**Police Architectural Liaison Officer:** No objection. Recommendations made for improvements to security in respect of 09/1086/FL (the visitor centre). The applicant should be encouraged to achieve Secured by Design accreditation.

**Landscape:** No objection but conditions need to be imposed relating to hard and soft landscaping.

**Tree Officer:** No objection. Conditions will be required to ensure tree protection.

**Natural England:** Objects to applications 09/0168/CC, 09/0170/FL, 09/0171/LB and 09/0172/FL due to insufficient survey information being submitted to demonstrate whether the development would have an adverse effect on legally protected species. The concerns relate specifically to bats. Any comments received in respect of the application for the visitor centre and its related demolition application will be reported to the meeting.

**Natural Environment Officer:** Objects to 09/0168/CC, 09/0170/FL, 09/0171/LB,

09/0172/FL and 09/1086/FL. since there is insufficient information to determine whether the structures for demolition are used by bats or not.

**Birmingham and Black Country Wildlife Trust:** in relation to 09/0171/LB - no objection. Recommends further bat survey work. A planning consent would need to be conditioned to ensure that any works were carried out outside the bird breeding season (March-October) to protect the breeding birds identified in the survey work

**Centro:** No objection.. Recommend, in connection with 09/1086/FL, that a Travel Plan is undertaken to ensure that the site promotes public transport

**Structures:** No objection.

**Building Control:** No objection. Notice of intention to demolish should be given at least 6 weeks before commencement.

### **Representations**

One letter has been received from a neighbour in Glen Close which is on the opposite side of Buchanan Avenue to the proposed visitor centre, concerned that Buchanan Ave. is already full of parked cars belonging to town centre workers and visitors to the Arboretum. Visitors to the properties in Buchanan Avenue find it difficult to park and that the culs-de-sac off Buchanan Avenue are narrow and not designed for extensive parking other than their own visitors. There is the threat that these roads will become dangerously clogged with longer term parking.

One writer has enquired whether alternative provision will be made available during/following the demolition of the toilet blocks.

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

### **Determining Issues**

- Benefits to the Conservation Area, Listed Building and Registered Park and Garden, trees and protected species
- parking

### **Observations**

#### **Benefits to the Conservation Area, Listed Building and Registered Park and Garden, trees and protected species**

The demolition of the structures proposed in these applications would remove buildings which have been added to the Arboretum over the years, none of which are of any particular merit and some of which are in a poor condition. The removal of these features would be of benefit to the appearance of the Arboretum Conservation Area and Registered Park and Garden.

The proposals to renovate the listed boathouse and the bandstand are to be welcomed as restoring the original appearance of the buildings, Together with the proposal to convert the café building these alterations would represent a considerable improvement.

The proposed visitor centre, which would offer replacement café/toilet / educational

facilities, would incorporate an attractive Victorian building and add a modern surround.

The applications have the potential to affect trees and species identified in the various surveys but this can be addressed if appropriate protection measures and method statements for the demolition and other works are secured. This can be done by condition.

The main concern with all of the applications is their potential to affect bats, which are a European protected species. Some survey work has been carried out but further work is required to establish whether bat populations are present in relation to the proposed works, and whether any bat populations present would be at risk from the proposals. Unless this information is supplied, and it is demonstrated that there is no risk to bats, it would not be possible to recommend any of these applications for approval

The applicant has been requested to provide additional supporting information concerning bats. The recommendation is to delegate the determination of the applications. On present information, approvals are envisaged, subject to resolving the issue of bats.

### **Parking**

Apart from the three disabled parking spaces and the proposals to allow minibuses to park outside the visitor centre, there is no intention to provide additional parking. To do so in this location would be detrimental to the character of the Arboretum and potentially affect the safety of its users.

A neighbour has expressed concern about parking on Buchanan Avenue and in the culs-de-sac to the north of it and the possibility that this would prevent visitors to the houses parking on street. There is however no automatic entitlement for anyone to park on the highway. The demolition and refurbishment proposals will not affect this situation. The visitor centre has some potential for such effects, but much of the use centre will be formal e.g. by school, and parking for such users is part of the scheme. Overall, the likelihood of parking problems as a result of this scheme is minimal.

The Arboretum is in a central location, within easy walking distance of some of its visitors and well served by bus routes. Parking is also available in the Arboretum extension and on Broadway itself for people who wish to come by car but the central location of the Arboretum makes any further provision unnecessary.

### **Conclusion**

These applications are satisfactory and can be approved provided that evidence is provided that the proposals will not cause harm to bats. The recommendation in each case is therefore to delegate the decision on these applications so that this outstanding issue can be resolved.





To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
05 Nov 2009

**REASON FOR BRINGING TO COMMITTEE: Contrary to Policy**

**Application Number:** 09/1133/FL

**Application Type:** Full application

**Applicant:** St. Peters Surgery

**Proposal:** Two storey rear extensions to provide GP trainer and trainee rooms & training/seminar room. Single storey front extension to increase existing waiting area.

**Ward:** Blakenall

**Recommendation Summary:** Grant Subject to conditions

**Case Officer:** Barbara Toy

**Telephone Number:** 01922 652429

**Agent:** Gould Singleton Architects

**Location:** 51 Leckie Road, Walsall, WS2 8DA

**Expired:** 03/11/2009



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### **Application and Site Details**

The site is situated on the corner of Leckie Road and Proffitt Street and comprises a part two storey and part single storey purpose built, well established doctors surgery with retail pharmacy and car park to the rear for 21 cars.

Leckie Road is a cul de sac providing access to residential properties, public open space and the surgery. Immediately to the west of the site is the former Walsall MBC neighbourhood office building (now vacant) with public open space beyond to the west and north, fronting Proffitt Street and Stafford Street. On the opposite side of Leckie Road (to the east) are residential properties and to the south on the opposite side of Proffitt Street are further residential properties.

The site is in walking distance of a large number of residential properties in a sustainable location not far from Walsall Town Centre and Stafford Street local centre and with good public transport links.

The application proposes a part two storey and part ground floor extension to the rear of the existing surgery providing two additional GP training consulting rooms at ground floor and a training/seminar room and admin room at first floor above. Further internal alterations would provide space for a new Phlebotomy room (blood tests) at ground floor. A further small single storey extension is proposed on the frontage of the building to provide an extension to the existing patient waiting room.

The proposed extension is the subject of a bid for funding from the Strategic Health Authority for GP Training facilities, which has tight timescales for securing the funds.

St Peter's surgery is already a training practice with two GP Registrars. The proposals would allow two further Registrars to work at the surgery. The practicing GP's give up their normal surgery time to oversee the Registrars appointments with their patients. There would therefore be no increase in the numbers of consultations being undertaken at the practice and no increase in patient numbers. Surgeries and services at the practice are already managed to distribute them as evenly as possible throughout the week.

The practice currently operates with 5 GPs, 2 GP Registrars, 4 nurses, 1 Health Care Assistant, 1 manager, 6 reception staff, 6 admin staff and 2 domestic staff. The proposals would result in 2 additional GP Registrars.

The proposals do not include any alterations to the existing car park at this time. Vehicle and pedestrian access to the site would remain unaffected.

### **Relevant Planning History**

BC37248P, demolition of existing club, erection of doctors surgery and dispensary, alterations to vehicle access to Leckie Rd and associated car parking and landscaping. Granted subject to conditions 29-12-92.

BC38209P, demolition of existing club, erection of doctors surgery and dispensary, first floor flat, alterations to vehicle access to Leckie Rd and associated car parking and landscaping. Granted subject to conditions 23-06-93.

BC51170P, extension and alterations to doctors surgery (including use of flat as part of the surgery). Granted subject to conditions 18-03-98.

05/1753/FL/E5, two storey extension to surgery, ground floor consulting rooms, waiting area, office space, library/training room at first floor level. Granted subject to conditions 25-10-05.

### **Relevant Planning Policy Summary**

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

#### **Walsall's Unitary Development Plan 2005**

GP1: The Sustainable Location of Development

Location of development will be guided by the principles of sustainable development and should make efficient use of existing infrastructure, including community facilities to minimise the need to provide additional facilities.

GP2: Environmental Protection

Seeks to ensure all development makes a positive contribution to the quality of the environment. Considerations to be taken into account in the assessment of development proposals include:

i. Visual appearance

vi. The adequacy of parking facilities

3.6 Development should help to improve the environment of the Borough.

ENV32: Design and Development Proposals and Policy 3.16.

Considers development in relation to its setting with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

ENV35: Appearance of Commercial Buildings

The design of frontages should be appropriate to their setting and sympathetic to the building on which they are situated.

8.7 The enhancement of existing, and the provision of new facilities for health will be encouraged. Particular emphasis will be placed on locations which are accessible to all sections of the community by a choice of means of transport.

Policy T7 says all development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision for Cars, Cycles & Taxis

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. For this type of development 4 car park spaces per consulting room. 1 bike stand for every 10 car parking spaces, with an absolute minimum of 2 bike stands. Taxi facilities.

#### **Designing Walsall SPD**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. Ground floor activity and natural surveillance will be maximised and blank walls avoided.

#### **National Policy**

PPS 1: Delivering Sustainable Development

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

PPG13: Transport

Promotes sustainable patterns of development which reduce the need to travel, especially by car. Local Authorities should not require developers to provide more spaces than they themselves wish, other than in exceptional circumstances, for example where there are

significant implications for road safety which cannot be resolved through on-street parking controls.

### **Consultations**

**Transportation** – no objection subject to conditions to provide a revised layout plan to show 2 disabled parking spaces and cycle storage facilities. The UDP parking standard for surgeries is based upon 4 spaces per consulting room which equates to a maximum of 28 spaces for the current use. The site presently has parking for 21 cars in the car park to the rear of the building. There will be no additional parking provided as part of this application. The proposals look to increase the number of consulting rooms by 2 which would require a further 8 spaces and a maximum provision to comply with T13 of 36 spaces. Evidence suggests that the existing car parking provision of 21 spaces is inadequate and results in on-street parking in Leckie Road. The applicant states no increase in patient numbers as a result of the proposals but staff numbers will increase by 2. The applicant has recognised that parking is an issue at the site and are actively looking to acquire adjacent land to increase parking provision nearer to the T13 guidance, which is welcomed.. In consideration of the proposals the nature of Leckie Rd as a cul de sac has been taken into account. The street is fronted roughly equally by houses and POS and has no parking restrictions which prohibit on-street parking. On balance it is considered that the application is acceptable but would welcome the continued pursuit by the applicant of acquiring land to extend the existing car park.

**Pollution Control Contaminated Land Team** – no objections, however the property is located in an area that was historically utilised as a factory/works that may have resulted in localised ground contamination that may present Health and Safety implications for persons undertaking ground works. A note to the applicant is therefore recommended.

**Pollution Control Scientific Team** – no objections

**Environmental Health and Consumer Services** –no objections

**Landscape Officer** – no objections, subject to landscaping condition.

**Fire Service** – satisfactory access for fire appliances.

### **Public Participation Responses**

Concern has been expressed by Councillor Robertson regarding the existing parking situation and he has requested consideration of the use of adjacent land for additional car parking.

Two letters of objection received.

Objections:

- Surgery busier than previously, more patients = more cars
- Car park insufficient size and leads to on street parking which has caused problems to residents including damage to a resident's car.
- Car park needs to be extended
- On street parking blocks access for emergency services.



## **Determining Issues**

- Design and Layout of the Extensions
- Impact on amenities of the surrounding occupiers
- Parking and Highway Safety

## **Observations**

### **Design and Layout**

The original surgery was approved in 1993. Two further extensions have been approved and built since.

The proposed extension to the rear would provide a two storey and first floor extension above an existing ground floor element, infilling a courtyard area between the existing building (pharmacy) and the boundary of the site (to the west). The proposed extension to the Proffitt Street elevation would provide a small single storey extension to the existing waiting room and would not project forward of the two storey element of the building. The rear extension would be visible from the open space to the west and north of the site, but it will be seen against the backdrop of the existing building and would be of a similar design and it is considered that it would not dominate or adversely affect the open space. The proposed waiting room extension would be fully visible from the street, but again the design is considered appropriate, matching the existing building, it would not involve the loss of any trees and would have no adverse impact on the street scene.

The design of both extensions would match the existing building in terms of brickwork, detailing, roof tiles, windows etc and would fit well with the existing building.

### **Impact on amenities of the surrounding occupiers**

The rear extension would sit adjacent to the boundary with the former neighbourhood office building to the west. The extension would project beyond the single storey neighbourhood office building by approx 9.5m, but the former office building has no windows to the rear elevation, therefore the proposals would have no adverse impact on the amenities of any future occupiers of the premises.

The proposed extensions are set away from any of the surrounding residential properties and would therefore have no adverse impact on the amenities of the surrounding residential occupiers from traffic or activity levels.

### **Parking and highway safety**

The existing car park provides spaces for 21 cars and the proposals involve no alterations to the current parking provision.

In order to comply with Policy T13 the existing site would require a maximum of 28 off street parking spaces and the proposals would increase this by 8 spaces to 36.

The surgery does however recognise that there are existing parking issues at the site, which leads to on street parking in Leckie Road at certain times. The practice have tried to manage their surgeries to spread them throughout the week to best serve the patients and the local community.

The surgery has approached the Councils Property Services Manager to acquire additional land to the north of the existing car park, in order to provide an extension to the existing car park. However because of the strict timescales for the funding for the extensions for

trainee doctors the surgery has been forced to submit their application now before they have resolved the additional parking provision. The practice manager has confirmed that due to the external funding for the training extension, the surgery will be able to fund an extension to the car park.

However the proposals would not result in any additional patients and no additional consultations with patients at any one time, as the trainees would see the existing doctors patients, under supervision. The only additional people at the surgery at any one time will therefore be the two new trainees, which is unlikely to have a significant impact on the existing parking situation. Leckie Road is a cul de sac fronted roughly equally by houses and POS and has no parking restrictions which prohibit on-street parking. In addition the practice has agreed to undertake and implement a Travel Plan for both staff and patients and an appropriate condition is attached to this end.

Transportation recognise the existing parking situation falls below the maximum parking standards required by Policy T13 and results in on-street parking in Leckie Road but envisage that the proposals would be unlikely to increase parking demand at the site and on balance consider that the proposals are acceptable. The applicants are however currently pursuing an extension to the existing car park.

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

The extensions to the surgery would provide improved facilities for staff and patients; two new trainee rooms and seminar room for the practice's commitment to assist the training of medical students. There have been no objections from statutory consultees. The proposal would have a minimal impact upon visual amenity subject to the use of matching materials and would have no adverse impact on the amenities of the surrounding occupiers from traffic or activity levels.

The existing parking problems at the site are recognised and the practice is currently working on acquiring additional land to extend the existing car park to provide additional spaces. The current proposals would not result in any increase in patient numbers or any increase in the number of patients visiting the surgery at any one time, therefore the proposals would not have a significant impact on the existing parking situation. The site is situated in a sustainable location within walking distance of a large number of residential properties and close to good public transport links. The surgery will submit and implement a staff and patient Travel Plan.

The Local Planning Authority is of the opinion that the proposed development gives rise to no material harm. There are no material considerations that indicate that the decision should be made otherwise. Accordingly the proposal accords with the aims and objectives of the Unitary Development Plan policies GP1, GP2, 2.2, 3.6, ENV32, ENV35, 8.7 and T7, Supplementary Planning Document Designing Walsall and PPS 1: Delivering Sustainable Development and PPG 13: Transport.

### **Recommendation: Grant Subject to conditions**

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

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

2. Prior to the commencement of any development on site a revised layout plan to identify

two parking spaces dedicated to disabled users situated in a suitable location near to the building entrance and showing a covered, secure and illuminated cycle storage facility to accommodate at least 2 bicycles shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the approved extension is brought into use and retained thereafter.

*Reason:* In order to ensure satisfactory parking for disabled persons and cycle storage facilities.

3. Within 3 months of the occupation of the extension hereby approved of this application a Travel Plan for staff and patients shall be drawn up in conjunction with the Council's Sustainable Travel Officer, and shall be submitted for approval in writing by the Local Planning Authority and then implemented in accordance with the agreed details.

*Reason:* To ensure the satisfactory development of the site and encourage sustainable travel alternatives.

4. The walls and roofs of the extensions hereby approved shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise agreed in writing by the Local Planning Authority.

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

5. This permission relates to drawing Nos.2693/01, 2693/01B, 2693/03B, 2693/05, 2693/06, 2693/07, 2693/08, 2693/09, 2693/14 and Design and Access Statement submitted on 24<sup>th</sup> August 2009 and Amended drawing 2693/02C submitted on 21<sup>st</sup> October 2009.

*Reason:* In order to define the permission.

#### **Note to Applicant**

The area of this proposed development has historically been utilised as a factory/works that may have resulted in localised ground contamination that may present Health and Safety implications for persons undertaking ground works. No specific detail of ground conditions in the area is available other than that obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking construction work at the site of the proposed development.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on

05 Nov 2009

**REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Ahmed**

**Application Number:** 09/0778/FL

**Application Type:** Full application

**Applicant:** Mr T. Mahmood

**Proposal:** Change of use to wedding hall  
and function room

**Ward:** Pleck

**Case Officer:** Andrew Thompson

**Telephone Number:** 01922 652403

**Agent:**

**Location:** ABLEY MOTORS, ST.  
JOHNS ROAD, WALSALL, WS2 9TT

**Expired:** 25/11/2009

**Recommendation Summary:** REFUSE unless additional information not considered in the committee report is received within the consultation period



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### **Status**

Cllr Ahmed has called in the application on the grounds of significant community interest. Wedding Halls/Centres are in short supply in Walsall as many people have to travel to Birmingham to hire the venue. This takes money out of the local economy. Cllr Arif also supports the application. Cllr Anson objects to the application.

### **Application and Site Details**

The application relates to the re-use of the former Hertz Rent-a-car building (called Abley Motors by the applicant) and its associated car park.

The proposals comprise

On the ground floor:

Wedding Hall – approximately 325sqm (25m by 13m)

Function Room – approximately 342.5sqm (21.75m by 15.75m)

Other ancillary facilities include a soft drinks area, kitchen, reception hall, toilets and a store.

On the first floor

A gallery to the wedding hall – approximately 84.5sqm (13m by 6.5m)

Also included on the first floor are additional storerooms, changing rooms and further toilets.

This would give a total function area of 752sqm with ancillary accommodation totalling approximately 250sqm.

The proposed car parking layout shows 28 car parking spaces of which 8 are tandem parking. The applicant shows 2 spaces as disabled parking. Entrance to the site would be from St Johns Road with the exit onto Scarborough Road. The application forms also indicate 5 cycle spaces will be provided, however details are not provided of these locations.

In support of the proposals the applicant has submitted the following statement:

- The site is in a mixed use area with commercial developments to the rear and on Pleck Road
- The principle use would be to provide a local wedding hall however the applicant also proposes to use the building as a function hall when not being used for weddings.
- In Walsall the Asian community have primarily used venues such as local schools, community rooms, or the Town Hall for functions
- Other than the above, the community currently travels to dedicated wedding halls in Birmingham and Wolverhampton.
- The application site is located within walking distance of Pleck, Palfrey and Caldmore.
- The proposals are for two halls of sufficient size that they can allow for segregation of males and females as may be required for certain faith groups.
- provides car parking for those guests attending from different towns and a site that is easily accessible by car
- low rent and cost implications
  - In justifying the consideration of policy the applicant considers that Policy S1 is not applicable as the town centre is for retail use and that Wedding Hall and Function Room uses are not commonly found in traditional centres.

In terms of meeting local needs the applicant states:-

- a) The proposal is for a small scale wedding hall and function room to meet a local need

- b) There are no suitable sites in nearby centres, which could benefit from the proposed investment, as demonstrated by the site search exercise carried out by the applicant.
- c) The proposed use is specialised and would not detract from the vitality and viability of existing centres
- d) There will be no impact on existing local provision
- e) The proposal will improve accessibility to a local facility particularly by walking
- f) As a consequence of the proposal local residents will have a nearby facility rather than travelling to similar venues in Birmingham and Wolverhampton
- g) The proposal would improve amenity of local residents as a community related use will have considerably less impact on amenity than the present and previous commercial/industrial uses
- h) There is ample service and parking space for the proposals and there would be no impact on amenity or highway safety.

In terms of the sequential approach the applicant states the following:

- It is evident that that people are using facilities outside Walsall. The applicant is submitting a petition (now received) which is signed by local residents expressing a need and support for the proposed use.
- The applicant has considered various sites in Pleck Local Centre, Palfrey Local Centre, Caldmore Local Centre, Darlaston District Centre, and in Walsall the former Woolworths, Mellish Road Church, and Floors to go Premises. The applicant has eliminated all the sites and locations as not suitable.
- The applicant states that the proposal would have no impact on the vitality and viability of local centres.

An additional statement re-iterating the above points has been submitted that states the following:

- The building will cater for a maximum of 400 people however the applicant anticipates that there would never be this many people within the building at one given time as Asian Weddings are typically staged over 4-5hour period.
- Adjoining land and land on M&T cash and carry on the opposite side of the road could be made available for parking
- The catchment area is Pleck, Palfrey and parts of St Matthews
- The proposal is a small-scale use and comply with planning policy for local needs.

### **Relevant Planning History**

#### **On the site**

BC52980P – Extension creating workshop and demolition of existing disused house – Granted 17<sup>th</sup> December 1998 – Condition added restricting operating hours from 07.00 to 19.00.

08/0822/FL - Change of use of former car repair and hire centre to place of worship (Mosque), with changes to building elevations (including erection of minaret and dome) and new car parking layout. Refused 28<sup>th</sup> August 2008.

Three reasons for refusal –

1. The proposals failed to undertake a full and proper sequential search under the terms of policy S7 for what is a development of more than local significance, proposed in an out-of-centre location. In addition the proposal would not offer genuine access by public transport to its stated catchment.
2. The proposals, by reason of early morning activity would create noise and disturbance

and would have an adverse impact on the amenities of neighbouring and nearby residents.

3. The developer failed to demonstrate that the development will provide adequate on site parking to meet the needs of the development and that there will be no adverse impact on highway safety in an area that already suffers from congestion caused by on street parking.

#### **Near the site**

07/0377/FL/W7 – Manor Industrial Estate, Pleck Road. Permission granted for a 1,000 seat venue. Officers took the same approach as this application, however it was resolved that local need was a relevant determining factor. The degree to which local need would be met by this facility would need to be considered.

#### **Relevant Planning Policy Summary**

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

#### **Unitary Development Plan.**

Policy GP1 relates to sustainable development - the location of facilities where they are accessible to everyone and minimise the need to travel

Policy GP2 expects all development to make a positive contribution to the quality of the environment.

Paragraph 4.5 states that employment areas (which are not included in Core Employment Areas or are best quality sites) should retain their overall industrial character, subject to Policy JP7.

Policy JP7 defines the uses suitable to employment areas. Places of worship (D1) uses are not acceptable unless a purely local need can be demonstrated.

Policy S1 defines uses which are appropriate to Town centres. This includes uses falling within Class D1 which serve more than local needs.

Policy S6 identifies that some areas are without local facilities such as shops, health, community and local education facilities. New small scale local facilities can be considered acceptable provided that they meet specific criteria relating to scale, location, impact on other centres and facilities, travel and amenity.

Policy S7 considers that  
Policy T13 relates to car parking standards.

Paragraph 8.7 supports the provision of new community facilities, including those for religious groups

#### **Designing Walsall Supplementary Planning Document (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;

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



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

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

### **Regional Spatial Strategy for the West Midlands (RSS11)**

Promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

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

### **National Policy**

Planning Policy Statement (PPS) 1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted.”

Paragraphs 33 to 39 also state the importance of good design. Supplementary document published on the need to address climate change through the planning system.

PPS6 seeks to direct high traffic generating uses in town centres and guides on the sequential test criteria

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

### **Consultations**

**Walsall Regeneration Company** – Object. The siting of the proposals do not align with the wider regeneration objectives proposed for Walsall, particularly in respect of the potential provision of high quality conference and leisure facilities within the town boundary (e.g. at Walsall Waterfront).

**Transportation** – Object on the following grounds:

- The overall gross floor area of the building exceeds 500m<sup>2</sup> but is less than 1500m<sup>2</sup> therefore in accordance with Department for Transport Guidance on Transport Assessment the applicant must submit a Transport Statement.
- The plans as shown are inaccurate and do not represent the actual situation, such that car parking is shown where there are buildings/fire escapes actually on site.
- Areas of the car parking layout do not meet the correct criteria in terms of required sizes. Car parking bays must be 2.5 x 4.8 metres with a parking aisle width of 6 metres, in accordance with UDP policy T13.
- The plans do not show the access location and whether the appropriate visibility splays can be achieved i.e. 2.4 x 43 metres vehicular splay and 2.4 x 3.4 metre pedestrian splay.

### **Pollution Control**

**Contaminated Land Team:** No comments to make in this regard.

**Scientific Team:** Recommend that Environmental Health are consulted

**Environmental Health: Object.**

The property is located in a mainly residential area with limited parking at the venue. The nearest residential property is 30 metres away.

No details of odour control for the kitchen have been submitted with the application. The minimum requirement for the odour arrestment plant for this particular premises would need to incorporate the following;

- filtration (carbon filters rated with a 0.4 – 0.8 second residence time)
- fine filtration or ESP followed by carbon filtration and by counteractant / neutralising system to achieve the same as level 1.
- fine filtration or ESP followed by UV ozone system to achieve the same as level 1.
- fine filtration or ESP followed by wet scrubbing to achieve the same level as 1.

Maintenance must be carried out to ensure these performance levels are always achieved

The development would be used for restaurant and banqueting facilities, including wedding parties. Entertainment will consist of electronic amplified music and acoustic equipment such as drums. Noise limiters will not control acoustic equipment, and noise emanating from the activities will rely on the insulation properties of the structure. Such entertainment noise would be created during the day, evening and in to the early hours of the morning. Experience of similar events has revealed loud noise evident at several hundred meters distance. The nearest residential premises are in St Johns Road, Scarborough Road, Flaxhall Street, and Reservoir Street, the nearest being just 30 m away in Scarborough Road.

Other noise may include;

- plant / equipment such as fans or air conditioning units,
- delivery vehicles,
- coaches/taxis dropping patrons to the venue, and
- Patrons themselves entering and leaving the venue.

Noise amounting to a nuisance may be generated and affect nearby residents.

**Tree Officer** – No objection subject to appropriate conditions.

**Fire Service** – No objection

**British Waterways** – No comments.

**Inland Waterways Association** – No comments

**Public Participation Responses**

The applicant has submitted 6 letters from local Muslim organisations in support of the proposals and a petition of support with 546 signatures. There has been one additional letter of support to the application from a local resident. The supporters are of the opinion that there is no building of this type in Walsall and is much needed by the local community.

Cllr Anson objects to the proposal on the grounds of the proposals being out of the town centre, impact on highway safety and the impact on local residents.

There have been 14 letters of objection and a petition of 351 signatures against the proposal from local residents (including former Mayor Norman Matthews) and the Pleck Working Men's Club objecting to the proposal on grounds that there would be an adverse impact on residential amenity, high level of traffic, existing facilities available at the Church and Working Men's Club, lack of car parking and the narrowness of St Johns Road and the loss of jobs.

In addition a letter has been received from the Chair of a public meeting, held at St Johns Church Hall on 19<sup>th</sup> October 2009, which was held to discuss the views of the community to the application. It is understood that this meeting was well attended. It is stressed that all members of the community were invited to the meeting but concerns have been raised as to the appropriateness of the behaviour of persons supporting the application in trying to intimidate those raising concerns to the application.

### **Determining Issues**

- The principle of the use and the need to retain the building in industrial/commercial use
- The scale and catchment for the development
- The need for development and the sequential approach
- The impact of the development on highway safety
- The impact on the amenity of neighbouring residents
- The proposed layout
- The existing building and need to create a high quality environment
- Need for a Transport Assessment

### **Observations**

#### **The principle of the use and the need to retain the building in industrial/commercial use**

Policy JP7(d) states "*When windfall sites or buildings come forward for reuse or redevelopment in these areas they will normally be safeguarded for appropriate employment uses as specified in the above policy. It is, however, recognised that there may sometimes be exceptional circumstances in which it will be more appropriate to consider other uses, such as housing, due to the relationship of the site to surrounding land uses or because the site is not well located to meet the needs of modern industry. Any alternative uses must satisfy other relevant policies of this Plan and must not have the potential to constrain the operation of neighbouring businesses, or appropriate future commercial investment.*"

Having considered the above policy, the principle of the the loss of the industrial units in this instance would not be inappropriate, despite the units being occupied at present. The replacement of the industrial units should meet the other tests within the UDP. These are detailed below.

#### **The scale and catchment for the development**

One of the key questions is whether the scale of the development relates to a need for a local facility. Whilst reasonably located for the Pleck community, the Palfrey and Caldmore community are a significant distance from the site. In their additional statement the applicant highlights that the catchment is Pleck, Palfrey and parts of St Matthews and accommodating 400 people. The applicant also highlights that the existing facilities are too small to cater for the needs of the local community. It is also noted from that the petition in support of the application, that the community interested in the proposal would come from all over Walsall.

Irrespective of the perceived community need, the size and quantum of development is far in excess of local needs, more significant than that refused under the mosque application. Palfrey is a significant distance from the application site and St Matthews is closely related to the town centre. In addition it is noted that relatives and users of the facility would travel to the site from outside the Borough, as Walsall residents travel to Birmingham and Wolverhampton.

As such, officers are of the opinion that the use should be located within the principal town centre or district centre in the first instance.

### **The need for the development and the sequential approach**

Some residents have objected on the grounds that there are "sufficient" facilities in the area already.

This is also a key aspect of the sequential approach as to whether there is a sufficient local community to justify the position outside a centre and whether a full assessment of existing and proposed facilities that are suitable, available and viable in a reasonable time period has been undertaken.

With regard to the applicant's statement, officers note the applicant considers that the facility would be for local need. However, as the applicant highlights, there are a number of facilities in the area to meet local need.

The only reason why this type of use could be an exception is if it had a purely local catchment (i.e. Pleck/Alumwell only). Policy S6 states that new small-scale local facilities, or extensions to existing facilities, will be permitted if it can be shown that all of the following requirements will be met:-

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

The submitted statement shows that the applicant has considered areas beyond the locality, i.e. Darlaston and Walsall although the former was dismissed due to the distance from the proposed catchment. It is also noted that the size of the premises would far exceed the size of other facilities. The working men's club and St Johns Church already provide for local needs, in addition to local schools and facilities are also available to the local community which the applicant also notes. The proposed development would therefore be of significant size and should be located in the town centre, could be better met in terms of being centrally located for the catchment by being in the Town Centre and the proposals would have an adverse impact on local facilities and proposed and existing town centre sites.

In Walsall town centre the following sequentially preferable sites should be noted and considered for Leisure, function facilities and Wedding Hall uses.

1. The Town Hall
2. Walsall Waterfront (approved and future phases)
3. Midland Road – a significant banqueting facility has been approved under application 09/0442/FL (total floorspace of 1,100sqm)
4. In Town – the former Casino and Rileys Snooker Hall and vacant land
5. Conference facilities associated with Walsall Gigaport application.
6. Future phases of the St Matthews Quarter redevelopment.
7. Land between the Waterfront South development and Bridgeman Street (c.4.2ha of land)
8. Station Street development (permission for a minimum of 1,115sqm of commercial floorspace).

With the exception of a brief reference to the Town Hall, the applicant has not considered any of the above sites but it is noteworthy that these are all in-centre locations and sites on the edge of the town centre would also be sequentially preferable to the current proposal.

It is also noted that a significant wedding hall facility (accommodating up to 1,000 people), closer to the town centre, under planning permission 07/0377/FL/W7 has already been approved by members on Pleck Road opposite Manor Hospital. This permission is extant and the issue of whether local need is satisfied by this approval also needs to be considered. It is the view of officers that this facility would add to the case that there are existing facilities that could be used to

As such it is considered that the proposals fail to take account of Policies S1, S2, S3 and S6 of the Unitary Development Plan and has failed to demonstrate that the proposals are located in the most sequentially preferable location or that the proposal meets a local need in accordance with Policy S7.

### **The impact of the development on highway safety**

This has been a key issue for residents.

The proposed car parking layout shows 28 car parking spaces of which 8 are tandem parking. The applicant shows 3 spaces as disabled parking however these would not be readily accessible for disabled persons as they do not meet the extra space requirements for disabled car parking.

Entrance to the site would be from St Johns Road with the exit onto Scarborough Road.

Policy T13 of the Unitary Development plan seeks 1 space per 22 square metres, plus appropriate provision for taxis and cycle parking. This would equate to 46 car parking spaces for the proposal.

Objectors have indicated that on-street parking takes place on St Johns Road and Scarborough Road in particular, causing congestion on narrow roads and that this problem caused the former occupier to vacate the premises.

Officers note the comments of Transportation Officers on the lack of information supporting the application and the lack justification for the level of car parking would lead

to the assumption that the level of car parking has not been adequately justified. Therefore Officers consider the level of parking, in combination with how it is laid out, discussed later in this report, would not be satisfactory.

In addition in considering the highway capacity it is noted that the former use (currently operating once more on a short term lease), however problematic the use was/is, used this junction and the local highway network. It is considered that the proposals would not intensify the use significantly to cause a detrimental impact on the highway in itself.

The availability of public transport is considered salient in this regard. The late night activity would be car based and it is this failure to adequately link the proposals with public transport that cause officers the most concern.

### **Impact on amenity of neighbouring residents**

The operating hours of the original factory were restricted by condition to between 0700 and 1900 and therefore the material difference between this application and the approved application is that evening work cannot have taken place under the former use and deliveries and shift changes should not have occurred at unsocial hours.

Officers are particularly concerned with regard to the late evening activity and the movement of cars, opening and closing of doors, general conversations and congregating of persons and general noise, particularly taking into account the neighbouring residents.

The applicant notes that Asian weddings take place over a number of hours and that comings and goings are commonplace rather than spending the whole time in the venue. This adds to officer's concern with regard to the congregation and activity immediately outside the premises and the proximity to local residents, particularly late at night due to the proximity to residential properties and the narrowness of the road. There is also a likelihood that overspill car parking in the area and pedestrian movement away from the venue will cause disturbance to neighbouring and nearby residents. This issue could not be reasonably controlled through a planning condition.

In addition the comments of Environmental Health are also noted in that entertainment will consist of electronic amplified music and acoustic equipment such as drums. It is noted that it is the view of Environmental Health Officers that noise limiters will not control acoustic equipment and noise emanating from the activities will rely on the insulation properties of the structure. Such entertainment noise would be created during the day, evening and in to the early hours of the morning.

The experience of similar events by Environmental Health Officers has revealed loud noise evident at several hundred meters distance. The nearest residential premises are in St Johns Road, Scarborough Road, Flaxhall Street, and Reservoir Street, the nearest being just 30 m away in Scarborough Road.

In the view of Officers but activity after 2100 hours would have an impact on amenity. The applicant also highlights that the existing use is a bad neighbour use. Officers note the comments of Environmental Health and that the proposed use does not offer an improvement in this regard.

Officers consider that the activity proposed would be inappropriate in this location and that this use would be an equally bad neighbour use in terms of its relationship to residential properties.

### **The proposed layout**

The key issues to consider under this aspect are the car parking layout and its ability to improve the environment through landscaping and improvements to the environment. These issues are important to consider as the proposal would be a public venue which would need to promote Walsall and build an attractive environment for users of the facility.

In terms of the proposed car parking the applicant has shown 28 spaces as detailed above.

In assessing this, spaces 13-17 and the 3 disabled spaces are not the correct size nor, in relation to spaces 13-17, can adequate distance be achieved to allow movement out of the proposed spaces. Spaces 18-21 also have insufficient space to achieve satisfactory movement into or out of the spaces and would conflict with existing fire escape arrangements. For these reasons the proposed layout is considered unacceptable.

In addition to the above there are several issues that the layout fails to address. This includes the level changes, fire access arrangements to neighbouring buildings and landscaping and would therefore the development would not be an attractive venue or location to promote the area or Walsall, it would retain an industrial and rundown feel. Parking as a result of failing to consider the above would be difficult and manoeuvring around the site and into some parking spaces would not be possible. As discussed in more detail below, the proposed building, as a destination for weddings and celebrations would be the principal location and venue for visitors to Walsall. The proposed layout fails to propose or allow for a high quality environment or promote a quality landscaping scheme that would act as a destination for the proposals.

### **The existing building and need to create a high quality environment**

The existing building meets the need for industrial users in a basic, but functional commercial unit.

Notwithstanding the above discussions on the location of the use, the proposed use would need to be attractive to users and should promote a high quality product, especially when catering for weddings.

It is considered that the building is not of sufficient quality in its current physical form to act as a venue for such facilities and that without significant improvement the building would be a poor addition to the conference and banqueting facilities offered in the town centre. In order to improve this building will require significant expense. This investment would, in the view of officers be better spent on developing higher quality developments in the town centre that would be accessible and attractive to the whole community.

### **Need for a Transport Assessment**

This additional information was requested when the application was submitted and whilst some information has been provided, the applicant considers the Transport Statement as unnecessary due to the "small scale" of the development.

The Department for Transport Guidance, and the council's Transportation officers advice is clear, developments of over 500sqm require a Transport Assessment. It is the view of officers that without this information, the impact on the capacity and safety of the highway junctions and the operations of the proposed use, in particular taking into account the narrowness of St Johns Road cannot be satisfactorily taken into assessed.

**Recommendation: REFUSE unless additional information not considered in the committee report is received within the consultation period**

1. The proposals have failed to undertake a full and proper sequential search under the terms of policy S7 for what is a development of more than local significance, proposed in an out-of-centre location. In addition the proposal would not offer genuine access by public transport to its stated catchment. It is considered that such a development, given its particular and currently unique nature in the Borough as highlighted in the application submission, should be located in Walsall Town Centre. Therefore the proposals conflicts with Policies GP2VII, S1, S7, T1, T2, T8, T9 and T11 of the Walsall Unitary Development Plan 2005; Policies UR1A, UR2, UR3 and UR4 of the Regional Spatial Strategy for the West Midlands; and the aims and objectives of Planning Policy Statement 6 in relation to the sequential approach and maintaining the vitality and viability of town centres.
  2. The developer has failed to demonstrate that the development will provide adequate on site parking to meet the needs of the development and that there will be no adverse impact on highway safety in an area that already suffers from congestion caused by on street parking. Therefore the proposals are contrary to Policy T13 A I of Walsall Unitary Development Plan 2005.
  3. The proposed car parking and servicing layout would be inadequate to serve the proposed use and would lead to potential conflict between users and neighbouring residential occupiers. As such the proposals would compromise highway safety, lead to additional traffic and road safety problems on St Johns Road and Pleck Road and create additional noise and disturbance to neighbouring residential occupiers and compromise the safety of such users. As such the proposals are contrary policies T4(a) and (b), T7(a) and (b), T13(A) and GP2 VII of Walsall Unitary Development Plan (March 2005)
  4. The use of the existing building and proposed layout for leisure use would not be capable of creating a high quality environment. As such the proposals would be contrary to Policies GP2 (XIX and XX), Env10, Env32 and Env33 of the Walsall Unitary Development Plan (March 2005).
  5. The application proposals has not taken into account the existing structures and fire escapes in and adjacent to the proposed car parking provision, as such the proposals will compromise access from the site and not provide an adequately laid out car park. As such the proposals will be contrary to policies GP1 (b), GP2 (I, II, III and XX), Env10, Env32, T7(a) of the Walsall Unitary Development Plan (March 2005).
  6. The proposals, by reason of late evening activity, additional comings and goings, congregation outside the building, and noise from entertainment would create noise and disturbance and would have an adverse impact on the amenities of neighbouring and nearby residents. As such the proposals would be contrary to Policies GP2 II, XIX and XX and Env10 of Walsall Unitary Development Plan 2005.
-





To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
05 Nov 2009

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

**Application Number:** 09/0901/OL

**Application Type:** Outline Application

**Applicant:** R Jackson Builders Ltd

**Proposal:** Outline: Erection detached dwelling (layout and access to be considered)

**Ward:** Darlaston South

**Recommendation Summary:** Grant Subject to conditions

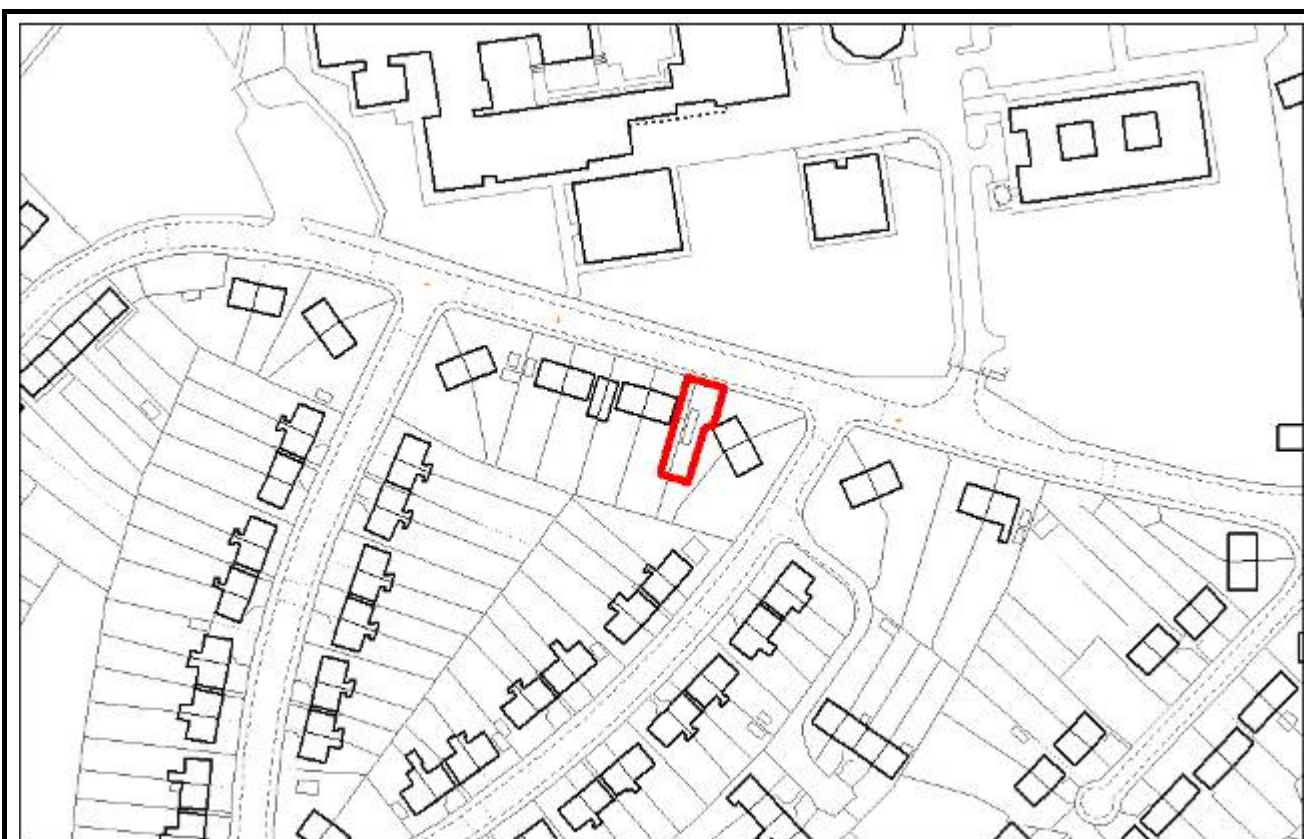
**Case Officer:** Jan Scrivens

**Telephone Number:** 01922 652436

**Agent:** Mr Christopher Timothy

**Location:** LAND BETWEEN 4 & 5  
HERBERTS PARK ROAD,  
WEDNESBURY, WS10 8QN

**Expired:** 16/10/2009



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### **Application and site details**

This application is submitted in outline with layout and access to be considered at this stage.

The application proposes the erection of a detached house between 4 and 5 Herberts Park Road, which are both semi detached dwellings. The house would occupy part of the driveway of no.5 and the site of a large garage within the curtilage of no.4. One parking space would be provided for the proposed dwelling. There is no parking shown for no.5 but one space is shown for no.4. Both of these properties are within the ownership of the applicant.

The front elevation of the proposed dwelling would be approximately in line with its neighbour at no.5. Its rear garden would be some 14m in length and 70 square metres in area. The rear gardens remaining to nos. 4 and 5 would be 15m and 14 m respectively and each approximately 98sq.m in area.

The same applicant has also applied in outline (09/ 0904/OL) for the erection of a dwelling between nos. 2 and 4 Wells Avenue. Both application sites, together with the properties at 4 and 5 Herberts Park Road and 2 Wells Avenue were formerly one application site on which it was proposed, on two occasions in 2008 and 2009, to erect 10 flats.

The surrounding area is predominantly residential, though it is opposite a comprehensive school.

### **Relevant Planning Policy Summary**

GP1 supports development in sustainable locations

GP2 and 3.6 expect all development to contribute to the improvement of the environment.

ENV32 requires development to take account of its context and surroundings

H3 supports the re-use of previously developed sites for housing

H9 sets out desirable minimum densities for development

H10 requires the design of residential development to create a high quality living environment

T7 and T13 relate to car parking

DW3 of the adopted Designing Walsall Supplementary Planning Document requires new development to respect local identity

### **National Policy**

PPS1 seeks sustainable development and good design

PPS3 seeks high quality housing in suitable locations with good access to facilities and well related to neighbouring buildings

PPG13 seeks to minimise the use of the private car.

### **Relevant Planning History**

07/499/OL/W3 Outline: Erection of 10 apartments. Refused 28.9.07 due to lack of parking, problems of highway safety, unsatisfactory amenity for future occupiers, overdevelopment of the site detrimental to adjacent neighbours and out of character with the surrounding area.

08/0220/OL Outline: Erection of 10 apartments. Refused 27.3.08 due to insufficient and unsatisfactory parking layout; overdevelopment of the site providing an unsatisfactory layout to the detriment of future occupiers and detrimental to the amenity of adjacent occupiers. Appeal dismissed 10.10.08

## **Consultations**

**Transportation:** No objection

### **Pollution Control**

**Scientific Team** has no objection but recommends a condition restricting hours of working. **Contaminated Land Team:** No objection

**Fire Service:** No objection

## **Representations**

Letters have been received from 5 addresses in Wells Avenue, objecting to the proposal on the following grounds:

- the applicant's existing properties are a disgrace, the proposed houses may be treated the same way, deteriorating into a wasteland; if the applicant is unwilling/unable to tend to the existing land and properties then he shouldn't be allowed to create more; people bought their homes and spent money on them when the adjacent properties were well maintained
- there is insufficient land to build new dwellings
- it would infringe privacy of the dwellings immediately adjacent
- loss of trees, resulting in loss of privacy to gardens
- there is enough traffic and parking at the end of Wells Avenue; the school opposite makes parking a nightmare; access to residential property is problematic due to school parking; any additional property would exacerbate this problem
- access has been a major issue in all previous planning applications
- continual applications over the past few years are adversely affecting health; approving the applications would make everyone who lives at the north end of Wells Avenue very unhappy
- the cramped appearance of the proposed dwelling between two others would be obvious and not in line with the present open aspect
- a new build would be aesthetically out of character with the 1930's houses surrounding it
- the gardens of the existing homes will be significantly smaller and not to the original plans for the area

## **Determining Issues**

- principle of the use
- parking/highway safety
- amenity of future occupiers
- amenity of the area

## **Observations**

### **Principle of the use**

The re-use of previously developed sites for residential purposes is supported by both development plan and national policy where this would create a satisfactory residential environment.

### **Parking/highway safety**

Residents are concerned about parking problems in the area, particularly at school times.

The Inspector in the appeal into the refusal of 08/0220/OL took the view that a development of 10 flats with only one parking space each would be unlikely to lead to such an increase in on street parking that significant implications for highway safety would result.

The application proposes one parking space for this dwelling; this would meet Council standards for a two bedroom dwelling. Though the application is not specific about the size of the proposed dwelling any permission could be restricted by condition to a two bed dwelling.

The application plans show no parking proposed for no.5 Herberts Park Road, the existing driveway for this property being lost to the development. This is unacceptable since the application proposal would worsen the existing situation, though the same comments about the appeal decision apply. This property is however within the applicant's ownership and the creation of one parking space, on the front, could be required by condition.

No.4 Herberts Park Road is shown to retain one parking space but lose its large garage to the application site. There is however a greater area of hardstanding available to this property than the submitted plans indicate; it would be necessary to require further details of the parking for this dwelling to ensure that a satisfactory and safe parking layout was achieved. Again, this could be required by condition.

### **Amenity of future occupiers**

The proposed rear garden for this dwelling would meet the 68 square metre and length standards set out in Appendix E of Designing Walsall Supplementary Planning Document. There is the potential for overlooking between no.4 Herberts Park Road and the rear garden of the proposed dwelling. The area immediately outside the rear of the proposed house would however be obscured from the ground floor view by fencing and from the first floor the view would be oblique and comparable to that from two houses side by side. On balance this is considered acceptable.

### **Amenity of the area**

Residents are concerned that the proposed house would look 'shoehorned' into the street. The site is marginally narrower than other house plots in the street and there is a regular pattern to the layout of the houses which would make this effect a possibility. However the proposed dwelling would only be as wide as the garage that is there at present and because of the location of the dwelling, between two houses, the proposed house would not be particularly prominent in the street scene.

The proposed dwelling could be designed to resemble the adjoining houses.

The distance between the rear elevation of the proposed dwelling and the side boundary of no.4 Wells Avenue's garden would be some 23 metres, which is sufficient to protect privacy. If planning application 09/0904/OL (which appears elsewhere on this agenda) is

approved then there would be an intervening garden between the proposed house and no.4 Wells Avenue. The gardens of the new dwelling proposed under this application and under 09/0904/OL would be at right angles to one another and there would be no overlooking between the houses.

At 14 metres, there would be sufficient garden length between the dwelling proposed in this application and that proposed under 09/0904/ OL.

One resident mentioned loss of trees as part of this proposal but these are within the other application site, 09/0904/OL

The new dwelling would be at the side of no.5 Herberts Park Road and would have no effect on the amenity of that dwelling. Its rear elevation would be in line with that of no.5 and although no.4 would be angled towards it this property has an open aspect and is unlikely to be affected by the proposed dwelling in its proposed form. There would however be the possibility of future extensions to the proposed dwelling which could affect the amenity of no.4 but these could be controlled by planning condition in the interests of the amenity of no.4's occupiers.

On balance the erection of a new dwelling between nos. 4 and 5 Herberts Park Road is acceptable provided that the layout of car parking space for both of the existing dwellings is controlled by condition to ensure that it functions properly and does not overwhelm the appearance of their front gardens to the detriment of the amenity of the area.

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

The proposed development would be acceptable in principle in this sustainable residential location. The position of the access is acceptable and the single parking space is sufficient for the needs of a small dwelling. The application would also retain parking for no.4 Herberts Park Road and is capable of being provided on the frontage of The proposed development would be acceptable in principle in this sustainable no.5. The proposal would not significantly worsen the parking situation on Herberts Park Road. The dwelling would have sufficient private amenity space to meet Council standards and would not significantly overlook its neighbours. The development of a small house would not, in this location between two others and with the submission of an appropriate design at the reserved matters stage, have an adverse effect on the visual amenity of the area. The dwelling would not have an adverse effect upon the amenity of neighbours; there would be sufficient distance between properties to avoid significant overlooking and provided that any future extensions to the property are controlled, this should remain the case. The approval of this application would therefore be consistent with policies GP1, GP2, 3.6, ENV32, H3, H9, H10, T7 and T13 of Walsall's adopted Unitary Development Plan and to policy DW3 and appendix E of the adopted Designing Walsall Supplementary Planning Document.

### **Recommendation: Grant Subject to conditions**

1. Application for approval of the Reserved Matters shall be made within 3 years of the date of this decision. The development must be begun not later than:

- i) 5 years from the date of decision.
- ii) 2 years from the approval of the Reserved Matters or in

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

2. This development shall not be commenced until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- a) The design of the building(s);
- b) The external appearance
- c) The landscaping of the site

*Reason:* Pursuant to Article 3 (i) of the Town & Country Planning (General Development Procedure) Order 1995

3. No development shall be carried out until full details of the proposed levels of the site, access and floor levels have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site or adjoining land. The development shall be carried out in accordance with the approved levels.

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

4. No development shall be carried out until full details of the proposed boundary treatment of the site have been approved in writing by the Local Planning Authority. The submitted scheme shall include any internal site divisions. The approved scheme shall be implemented prior to the occupation of the dwelling and shall be thereafter retained.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises and the future occupiers of the dwelling, and in the interests of the amenity of the area.

5. Notwithstanding the details shown on the submitted plan, no development shall be carried out until details of the proposed accesses, parking, surfacing and boundary treatments for nos.4 and 5 Herberts Park Road have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of the development approved under this permission and thereafter retained. At no time shall there be any extension of the surfaced areas approved under this condition without the prior written consent of the Local Planning Authority.

*Reason:* To ensure the satisfactory provision of off-street parking and its functioning without detriment to highway safety and to ensure the complementary appearance of the development and that of nos.4 and 5 Herberts Park Road in the interests of the visual amenity of the area.

6. No development shall be carried out until a detailed landscaping scheme for the site has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 12 months of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority. The scheme shall be maintained for a period of five years from its completion.

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

7. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday and such works shall only take place between the hours of

07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. Bank and Public Holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.

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

8. The dwelling shall not be occupied until its parking space has been hardsurfaced in materials to have been previously agreed in writing by the Local Planning Authority. At no time shall there be any extension to this hardsurfaced parking space without the prior written consent of the Local Planning Authority.

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

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, the dwelling hereby permitted shall not be altered or enlarged so as to deprive it of its drive or parking area as approved and first constructed, except with the express permission of the Local Planning Authority.

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

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or succeeding Orders, the proposed dwelling shall not be extended without the prior approval of a planning permission.

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

11. No side facing windows, other than as approved as part of a reserved matters application, shall be installed in the first floor of the elevation facing no.4 Herberts Park Road.

*Reason:* In the interests of the privacy of the occupiers of no.4 Herberts Park Road.

12. This permission grants consent for a two bedroom dwelling only.

*Reason:* To ensure that the demand for parking is related to the amount provided and to control the extent of hardsurfacing on the frontage of the site in the interests of the visual amenity of the area .

13. This permission grants consent for the erection of a dwelling between nos. 4 and 5 Herberts Park Road only.

*Reason:* To define the permission since the submitted plan shows a proposed dwelling between nos. 2 and 4 Wells Avenue which is part of a separate application.







To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
05 Nov 2009

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

**Application Number:** 09/0904/OL

**Application Type:** Outline Application

**Applicant:** R Jackson Builders Ltd

**Proposal:** Erection of detached dwelling  
(layout and access to be considered).

**Case Officer:** Jan Scrivens

**Telephone Number:** 01922 652436

**Agent:** CT Planning

**Location:** LAND BETWEEN 2 & 4  
WELL AVENUE, WEDNESBURY,  
WALSALL, WS10 8QN

**Ward:** Darlaston South

**Expired:** 04/09/2009

**Recommendation Summary:** Grant Subject to conditions



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## **Application and Site Details**

This application is submitted in outline with layout and access to be considered at this stage.

The application proposes the erection of a detached dwelling between nos. 2 and 4 Wells Avenue, Darlaston. The dwelling would be to the side of no.4, with no.4 angled towards the rear garden of the proposed dwelling; no.2, as a corner property, would be angled away from it with its garden adjoining the side of the proposed dwelling.

The proposed dwelling would have a rear garden of 17 metres in length and approximately 136 square metres in area.

The proposed dwelling would have a single garage and driveway with access to Wells Avenue, approximately opposite Glebe Place, which is a cul-de-sac of eight dwellings.

The same applicant has also applied in outline (09/0901/OL) for the erection of a detached dwelling between nos. 4 and 5 Herberts Park Road. Both application sites, together with the properties at 4 and 5 Herberts Park Road and at 2 Wells Avenue were formerly one application site on which it was proposed, on two occasions in 2008 and 2009, to erect 10 flats.

## **Relevant Planning History**

05/1611/OL/W3 Outline erection of a single dwelling. Refused 3.10.05 due to inadequate rear garden length and conflict of traffic movements close to a junction.

07/1499/OL/W3 Outline: Erection of 10 apartments. Refused 28.9.07 due to lack of parking, problems of highway safety, unsatisfactory amenity for future occupiers, overdevelopment of the site detrimental to adjacent neighbours and out of character with the surrounding area.

08/0220/OL Outline: Erection of 10 apartments. Refused 27.3.08 due to insufficient and unsatisfactory parking layout; overdevelopment of the site providing an unsatisfactory layout to the detriment of future occupiers and detrimental to the amenity of adjacent occupiers. Appeal dismissed 10.10.08

09/0901/OL Outline: Erection of one detached dwelling between nos. 4 and 5 Herberts Park Road. Application appears elsewhere on the plans list.

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

### **Development Plan**

GP1 supports development in sustainable locations

GP2 and 3.6 expect all development to contribute to the improvement of the environment.

ENV32 requires development to take account of its context and surroundings

H3 supports the re-use of previously developed sites for housing

H9 sets out desirable minimum densities for development

H10 requires the design of residential development to create a high quality living environment

T7 and T13 relate to car parking

DW3 of the adopted Designing Walsall Supplementary Planning Document requires new development to respect local identity and appendix E sets out numerical standards for private amenity space and distances between windows.

### **National Policy**

PPS1 seeks sustainable development and good design

PPS3 seeks high quality housing in suitable locations with good access to facilities and well related to neighbouring buildings

PPG13 seeks to minimise the use of the private car.

### **Consultations**

**Transportation:** No objection

#### **Pollution Control:**

**Scientific Team** has no objection but recommends a condition restricting hours of working. **Contaminated Land Team:** No objection

**Fire Service:** No objection

### **Representations**

Letters have been received from 5 addresses in Wells Avenue, objecting to the proposal on the following grounds:

- the applicant's existing properties are a disgrace, the proposed houses may be treated the same way, deteriorating into a wasteland; if the applicant is unwilling/unable to tend to the existing land and properties then he shouldn't be allowed to create more; people bought their homes and spent money on them when the adjacent properties were well maintained
- there is insufficient land to build new dwellings
- it would infringe privacy of the dwellings immediately adjacent
- loss of trees, resulting in loss of privacy to gardens
- there is enough traffic and parking at the end of Wells Avenue; the school opposite makes parking a nightmare; access to residential property is problematic due to school parking; any additional property would exacerbate this problem
- access has been a major issue in all previous planning applications
- continual applications over the past few years are adversely affecting health; approving the applications would make everyone who lives at the north end of Wells Avenue very unhappy
- the cramped appearance of the proposed dwelling between two others would be obvious and not in line with the present open aspect
- a new build would be aesthetically out of character with the 1930's houses surrounding it
- the gardens of the existing homes will be significantly smaller and not to the original plans for the area

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

### **Determining Issues**

- principle of the use
- parking/highway safety
- amenity of future occupiers

- amenity of the area

## **Observations**

### **Principle of the use**

The re-use of previously developed sites for residential purposes is supported by both development plan and national policy

### **Parking/highway safety**

Planning permission has previously been refused for the erection of a dwelling in this location, partly due to concerns about traffic manoeuvring in the vicinity of a junction. A subsequent application for the erection of 10 flats (on a larger site) with the access in this position was dismissed at appeal but the Inspector raised no concerns about the position of the access or the volume of traffic which it would handle. The proposed access to this dwelling must therefore be considered acceptable.

The application proposes a single garage and a driveway for this dwelling which is sufficient to comply with Council expectations for a three bedroom dwelling. The proposal would not therefore worsen the parking situation in the vicinity of the site. The Inspector in the appeal referred to above also took the view that there was not a particular parking problem in the area outside of school collection times.

The application plans show no.2 Wells Avenue to be provided with one parking space, which would be an improvement since it currently has no parking. This provision would be outside the application site and the arrangement shown is not ideal. A redesigned layout could however be required to be provided by condition since the adjacent land is within the applicant's control.

### **Amenity of future occupiers**

The proposed dwelling would have sufficient rear amenity space to meet the standards set out in appendix E of Designing Walsall Supplementary Planning Document. Because of the relationship between the existing dwelling at no.4 Wells Avenue and the proposed dwelling the latter's rear garden would be slightly overlooked by no.4. This would not however be any worse than if the dwellings were side by side and would not be sufficient to support the refusal of the application.

### **Amenity of the area**

Residents are concerned that the proposed dwelling would present a cramped appearance in the street scene and that its design would not be in keeping with the rest of the area. The application site is however a reasonable width, at 7 metres, and could accommodate a dwelling in accordance with Council standards. Provided that the design of the dwelling relates to its surroundings it should be possible to develop the site without detriment to the visual amenity of the area.

The new dwelling would have no effect on the amenity of 4 Wells Avenue since it would be to one side and not project further forward or to the rear of that property. There would be no significant overlooking between the new dwelling and the garden of no.4. Neighbours have expressed concern that trees on the site would be lost, affecting privacy. There is sufficient distance between the existing and proposed dwellings to maintain privacy. The trees do not make a contribution to the visual amenity of the area viewed from outside the site.

No. 2 Wells Avenue would lose some of its garden to the application site but would be left

with a rear garden area which complies with the standard set out in appendix E of Designing Walsall Supplementary Planning Document plus substantial front and side gardens.

The rear garden of no.2 would back onto the side of the proposed house and may experience some loss of sunlight but the house itself, being at an angle to the proposed dwelling would not experience this to any significant extent.

On balance the erection of a new dwelling between nos. 2 and 4 Wells Avenue is acceptable provided that parking for no.2 is controlled by condition to ensure that the frontage functions properly and has a satisfactory appearance. Although the appearance of the existing properties owned by the applicant gives rise to concern this is not sufficiently bad to consider taking action at the moment. The addition of another house and the alterations which would be needed to the boundaries and frontage of no.2 Wells Avenue may resolve this situation in any case.

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

The proposed development would be acceptable in principle in this sustainable residential location. The position of the access has previously been considered acceptable for ten dwellings by the Planning Inspectorate and is therefore suitable for one property. The number of parking spaces proposed is sufficient to meet the needs of the development and the expectations of the Local Planning Authority; the development would not therefore worsen the parking situation in the vicinity of the site. The application also indicates that parking would be provided for no.2 Wells Avenue, which currently has none. The dwelling would have sufficient private amenity space to meet Council standards and would not be significantly overlooked by neighbouring properties. The width of the plot is comparable to others in the area and, with the submission of an appropriate design at the reserved matters stage, the site is capable of development without detriment to the visual amenity of the area. The dwelling would not have an adverse effect upon the amenity of its neighbours; there would be sufficient distance between properties to avoid significant overlooking or overshadowing and the development of the site would improve its appearance and that of the area. The approval of this application would therefore be consistent with policies GP1, GP2, 3.6, ENV32, H3, H9, H10, T7 and T13 of Walsall's Unitary Development Plan and to policy DW3 and Appendix E of the adopted Designing Walsall Supplementary Planning Document.

### **Recommendation: Grant Subject to conditions**

1. Application for the approval of the Reserved Matters shall be made within 3 years of the date of this decision. The development must be begun not later than:
  - (i) 5 years from the date of decision
  - (ii) 2 years from the approval of the Reserved Matters or in the case of approval on different dates the approval of the last reserved matter

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

2. This development shall not be commenced until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- (a) The design of the building(s)
- (b) The external appearance of the building(s)
- (c) The landscaping of the site

*Reason:* Pursuant to Article 3 (1) of the Town and Country Planning (General Permitted Development) Order 1995.

3. No development shall be carried out until details of the proposed levels of the site, access and floor levels have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site or adjoining land. The development shall be carried out in accordance with the approved levels.

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

4. No development shall be carried out until details of the proposed boundary treatment of the site have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the occupation of the dwelling and thereafter retained.

*Reason:* To safeguard the amenity of the occupiers of adjacent premises and the future occupiers of the dwelling, and in the interests of the amenity of the area

5. Notwithstanding the details shown on the submitted plan no development shall be carried out until details of the proposed access, parking, surfacing for the parking and driveway and boundary treatment for no.2 Wells Avenue have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of the dwelling approved under this permission and thereafter retained.

*Reason:* To ensure the satisfactory provision of off-street parking without obstructing visibility to the detriment of highway safety; to ensure that the development of the site is complementary with the adjoining dwellings and the visual amenity of the area.

6. No development shall be carried out until a detailed landscape scheme for the site has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 12 months of the development being brought into use or such other period as may be agreed in writing with the Local Planning Authority. The scheme shall be maintained for a period of five years from its completion.

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

7. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.

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

8. The dwelling shall not be occupied until the proposed driveway has been hardsurfaced in materials to have been previously agreed in writing by the Local Planning Authority.

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

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development ) Order 1995, or succeeding Orders, the dwelling hereby permitted shall not be altered or enlarged so as to deprive it of an existing garage or its drive or parking area as approved and first constructed, except with the written consent of the Local planning Authority.

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

10. No side facing windows, other than approved as part of a reserved matters application, shall be installed in the northern elevation of this dwelling without the prior written consent of the Local Planning Authority.

*Reason:* In the interests of the privacy of the occupiers of no.2 Wells Avenue.

11. This permission grants consent for the erection of a dwelling between nos. 2 and 4 Wells Avenue only.

*Reason:* To define the permission since the submitted plan shows a proposed dwelling between nos. 4 and 5 Herberts Park Road which is part of a separate planning application.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on

05 Nov 2009

**REASON FOR BRINGING TO COMMITTEE: Requiring delicate judgement**

**Application Number:** 09/1126/FL

**Application Type:** Full application

**Applicant:** The Oaks Medical Practice

**Proposal:** Re-submission of 09/0447/FL for extension of ground & first floors to the Oaks Medical Practice.

**Ward:** Streetly

**Recommendation Summary:** Grant Subject to conditions

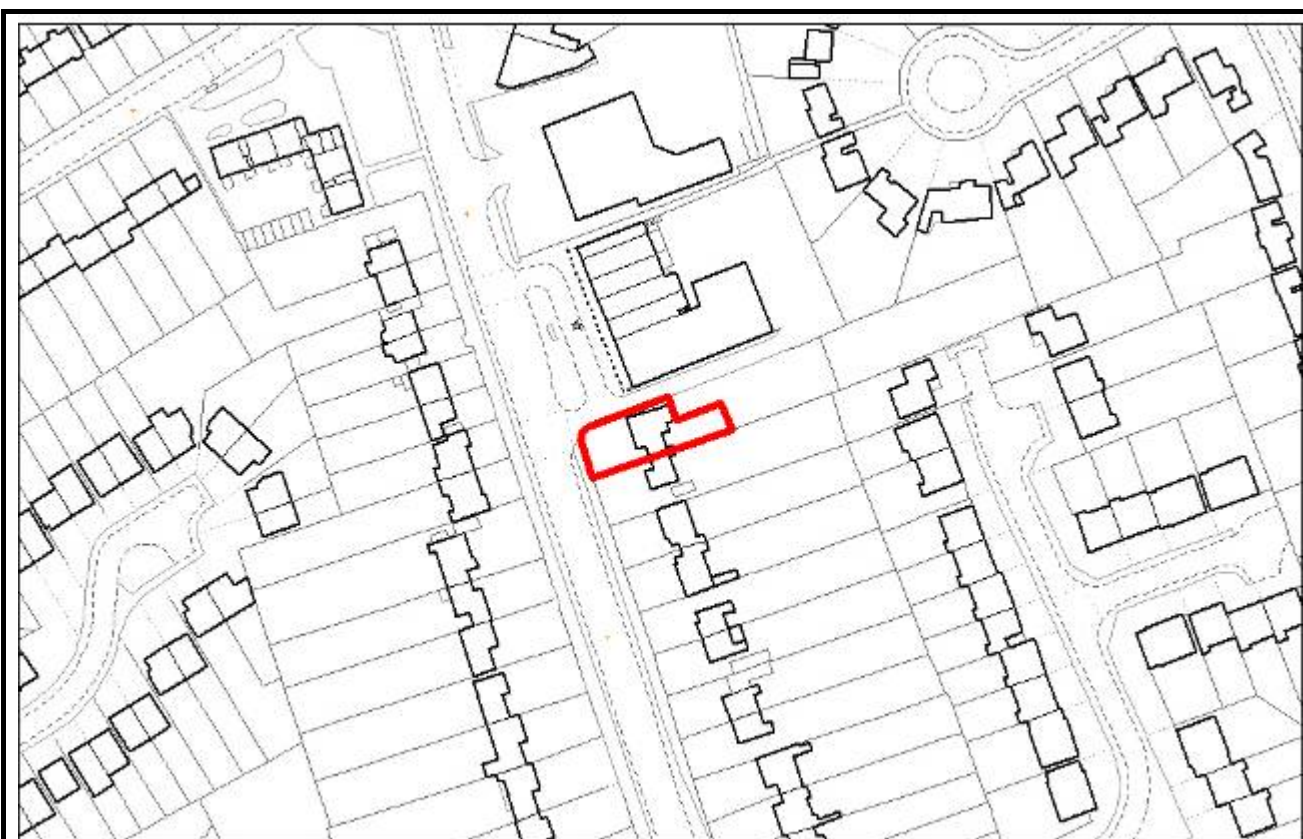
**Case Officer:** Paul Hinton

**Telephone Number:** 01922 652420

**Agent:** Gould Singleton Architects

**Location:** 119 CHESTER  
ROAD, STREETLY, B74 2HE

**Expired:** 15/10/2009



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## **Application and Site Details**

The application seeks planning permission for a ground floor rear extension, a first floor side extension and a detached store in the rear garden of the Oaks Medical Practice. The extensions would provide for a trainee room, seminar room, improved toilet facilities and an internal lift. In the Design and Access Statement submitted with the application it states that the number of doctors would remain at three, but the expansion would be to accommodate training of final year medical students.

A supporting statement submitted with the application confirms that the seminar room is for the practice's use only and would not be let out to any other organisation, company or third party. There will be no more than one GP and three Registrars at any one time using the seminar room for training purposes. It is intended to be used outside Surgery hours, which is 3pm onwards. It is not intended to have the seminar room in use beyond the practice closing time (i.e. 6pm). The stand-alone storage building would be used for storage of medical records.

The first floor side extension would be built above the previous ground floor extension having a hipped roof and a ridge height the same as the main ridge of the building and windows on the front and rear elevations. The rear ground floor extension would bring the rear of the building in line with the previous extension and would extend a further 0.95m than the existing outhouse at the boundary with number 117 Chester Road and introduce a further window to the rear elevation. The extension also includes a rear gable wall with a central window. The proposed store measures 4.8m by 2.4m with a pitched roof height of 3.4m and would be positioned 9.8m from the revised rear elevation of the medical practice.

The application site is within Streetly Local Centre and was originally one of a pair of semi detached houses. To the one side of the Medical Centre is an access road which leads to the car park and service area for the adjacent supermarket. To the other side is an adjoining house. To the rear of the site is a yard area which was most recently used for the storage of cars in association with the Audi car showroom within the Local Centre.

The medical practice is located on the strategic highway of Chester Road with its own car park (without line markings) for four/five vehicles on the frontage but with access from the service road to the side. The application seeks to formalise the parking by marking four parking spaces, including one disabled space. A staff cycle store is proposed to the rear of the site.

A bat survey has been submitted with the application which explains that there is no evidence of bats present within the building, but the proposal offers the opportunity for habitat enhancement. A travel report has also been submitted which concludes that due to the nature of the extension the existing travel and parking arrangements would continue to serve the needs of the staff and patients.

## **Relevant Planning History**

BC15529 – Change of use to doctor's surgery. Granted 3/7/1980.

BC19556P - Extension to Doctor's surgery and construction of parking area. Granted subject to conditions 19/5/1987.

BC21515P - Extension to Doctor's surgery and construction of parking area (amendment to BC19556P). Granted subject to conditions 8/12/1987.

09/0447/FL – Extension of ground and first floor and erection of single storey pitched roof store in rear garden. Withdrawn 15<sup>th</sup> June 2009.

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

### **Unitary Development Plan March 2005**

GP2 seeks to ensure all development makes a positive contribution to the quality of the environment. Considerations to be taken into account in the assessment of development proposals include:

i. Visual appearance

vi. The adequacy of parking facilities

2.2 The Council will seek in permitting development creating, sustaining and enhancing a high quality natural and built environment throughout the Borough, including a high standard of design.

3.6 Development should help to improve the environment of the Borough.

ENV23: Nature Conservation and New Development – The Council will require the layout of all new development to take full account of existing features of value for wildlife or geology.

ENV32 states poorly designed development which fails to take into account the context or surroundings will not be permitted.

ENV35 seeks to ensure the appearance of commercial buildings should be appropriate to their setting and sympathetic to the building on which they are situated.

Policy 5.2 the prime concern will be to sustain and enhance the vitality and viability of the local centres, and to assist these centres to meet the needs of residents, workers and visitors.

S1 defines a town centre use to include:

- Health facilities

S2 (c) The local centre's function is to meet the day to day convenience shopping and local service needs for their communities.

S5 The boundaries of the Local Centre are drawn tightly to concentrate investment and within these areas, retention, enhancement and further development of shops, services and other town centre uses will be encouraged.

8.7 The enhancement of existing, and the provision of new facilities for health will be encouraged. Particular emphasis will be placed on locations which are accessible to all sections of the community by a choice of means of transport.

T4 – The Strategic Highway Network is for long distance strategic traffic. Street parking and direct frontage access will be kept to a minimum.

T7 says all development should satisfy the car parking standards set out in Policy T13.

T13 for this type of development 4 car park spaces per consulting room. 1 bike stand for every 10 car parking spaces, with an absolute minimum of 2 bike stands. Taxi facilities.

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

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. Ground floor activity and natural surveillance will be maximised and blank walls avoided.

### **Conserving Walsall's Natural Environment SPD (April 2008)**

Defines the criteria in which a detailed bat survey/impact assessment should be submitted before a planning application can be approved: Which includes:

- If the application site lies within a neighbourhood characterised by large mature gardens.

### **National Policy**

PPS 1 encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

PPS9 on biodiversity and geological conservation says that the aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. If significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.

### **Consultations**

**Transportation** – no objection subject to the use of recommended conditions. The proposal looks to retain the same number of consulting rooms as existing (3) but add a new trainee facility, store and other alterations. The UDP parking standard requires 4 spaces per consulting room which equates to a maximum of 12 spaces. The site presently has parking for 4/5 spaces on the frontage which will be retained. There will be no additional parking provided as part of this application.

A Travel Report has been submitted which clarifies staff numbers, shift patterns etc. There are two full time doctors and one part-time doctor plus five other health care professionals which visit once or twice weekly and two receptionists. The staff operate a rota system and this together with the travel patterns of the patients off sets the under provision of parking. The practice is currently a training practice for final year medical students and the extended facility will accommodate Firm 1 students (years 1 -4) so although there will be an increase in trainees it is anticipated that there will be no increases in staff or patient numbers.

Overall, the measures the applicant is to implement, such as cycle storage facilities and sustainable travel information for staff /patients, plus clarification on the staff numbers and travel/rota patterns and how the proposed development will operate, are considered sufficient. The Highway Authority considers that the development is unlikely to contribute significantly, if at all, to the parking problems in the locality and is therefore acceptable subject to recommended conditions.

**Pollution Control Contaminated Land Team** – no objection.

**Pollution Control Scientific Team** – no objection.

**Strategic Policy** – no objection, site is located within Streetly Local Centre.

**Natural Environment** – no objection subject to condition.

**Environmental Health and Consumer Services** – no objections.

**Landscape Officer** – no objections.

**Police Architectural Liaison Officer** – no objection. Makes recommendations with regards to internal and external security measures. This can be referred to as a note for applicant.

**Fire Service** – satisfactory access for fire appliances.

### **Public Participation Responses**

None received.

### **Determining Issues**

- Principle of use
- Impact on the character of the area
- Impact on highway safety
- Impact on amenities of nearby residents
- Impact upon protected species

### **Observations**

#### **Principle of use**

The principle of an extension to an existing medical practice within a Local Centre is supported by policies S1, S5 and 8.7 of the Unitary Development Plan subject to other criteria of the plan being satisfied.

#### **Impact on the character of the area**

Numbers 117 and 119 Chester Road were originally a pair of semi-detached houses, with 119 being granted planning permission for a doctor's surgery in 1980. The proposal would extend above the existing ground floor extension of the medical practice which would help balance the semi-detached buildings. It is proposed to use matching materials. The proposed storage building would have a minimal impact appearing no different than many urban situations with storage sheds in rear gardens.

The side elevation of the first floor extension is shown to be render to match that used on the original part of the building with a diamond brickwork pattern to break up the elevation. The diamond brickwork pattern is considered acceptable, providing relief to the proposed first floor elevation.

#### **Impact on highway safety**

Transportation do not object to the proposal. While there is an existing shortfall of parking spaces required by UDP policy T13 (for three consultation rooms 12 parking spaces would be required), the proposal would not have any further impact. A condition to restrict the number of consulting rooms to 3 is recommended.

#### **Impact on amenities of nearby residents**

The extension would extend a further 0.95m than the existing outhouse along the boundary with number 117 Chester Road at a height of 2.8m. The extension would comply with the 45° code normally applied to residential extensions. The proposal would have no impact upon the amenity and outlook of number 117.

#### **Impact upon protected species**

A bat survey has been submitted with the application which raises no objections from Natural Environment subject to the use of recommended conditions.

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

The extension to the medical practice would provide improved access arrangements; a new trainee room and seminar room for the practice's commitment to assist the training of medical students. There have been no objections from statutory consultees or adjacent occupiers. The proposal would have a minimal impact upon visual amenity subject to the use of matching materials. The proposal would have no significant impact upon the amenity and outlook of neighbouring occupiers.

Staff and public cycle store facilities and demarcation of the car park will be provided and no more than the existing three consulting rooms shall be created in the interests of highway safety, by controlling the demand for parking. The proposals would result in no harm to protected species, providing habitat enhancement through artificial bat roosting features are provided.

The Local Planning Authority is of the opinion that the proposed development gives rise to no material harm, is in accordance with the Unitary Development Plan and that there are no material considerations that indicate that the decision should be made otherwise. Accordingly the proposal accords with the aims and objectives of the Unitary Development Plan policies GP2, 2.2, 3.6, ENV23, ENV32, ENV35, S1, S2, S5, 5.2, 8.7, T4, T7 and T13, Supplementary Planning Documents Designing Walsall and Conserving Walsall's Natural Environment, Planning Policy Statement 1 and Planning Policy Statement 9.

### **Recommendation: Grant Subject to conditions**

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

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

2. No development shall commence until full details of the staff cycle storage facility and two cycle stands to be located at the front of the property have been submitted to and approved in writing by the Local Planning Authority. The cycle storage facilities shall be installed in accordance with the approved details prior to the extension being brought into use and shall be retained and maintained thereafter.

*Reason:* In the interests of sustainable travel, visual amenity and to define the permission.

3. No development shall commence until proposals to incorporate bat roosting features into the proposed building have been submitted to and approved in writing by the Local Planning Authority. The proposals may provide access to bats under roof tiles and/or incorporating purpose made Schegler-type roosting boxes into the fabric of the building. The approved scheme shall be incorporated into the development before any part is brought into use and retained thereafter.

*Reason:* To conserve and enhance local bat populations.

4. Prior to the development first coming into use, the parking bays shown on the approved plan 2657-03A received by the Local Planning Authority on 20<sup>th</sup> August 2009 shall be clearly demarcated on the ground and retained thereafter.

*Reason:* In the interests of highway safety.

5. The walls and roof of the extension hereby approved shall comprise of facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise agreed in writing by the Local Planning Authority.

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

6. The extension hereby approved shall include the use of diamond brickwork pattern shown on the side elevation on drawing 2657-02E submitted on 21<sup>st</sup> October 2009, unless otherwise agreed in writing by the Local Planning Authority.

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

7. There shall be no more than three consultation rooms as shown on approved drawing 2657-02D submitted on 21<sup>st</sup> October 2009.

*Reason:* In the interests of highway safety and to define the permission.

8. This permission relates to drawing Nos.2657-01A, 2657-03A, Design and Access Statement and Travel Report submitted on 20<sup>th</sup> August 2009, amended drawing No 2657 – 02E submitted on 21<sup>st</sup> October 2009 and Bat Survey Report submitted on 16<sup>th</sup> September 2009.

*Reason:* In order to define the permission.

**Note for applicant**

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

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on

05 Nov 2009

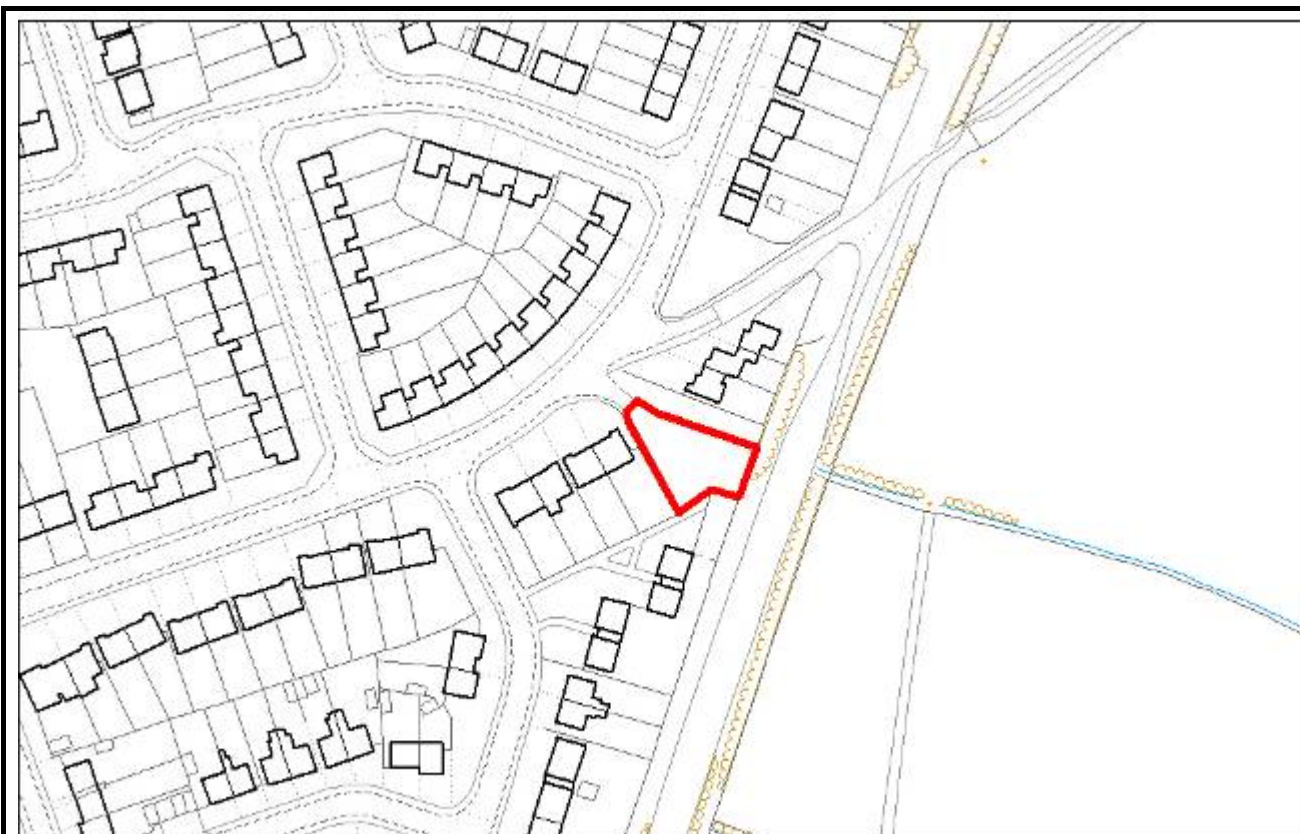
**REASON FOR BRINGING TO COMMITTEE: Council land sale**

**Application Number:** 09/1084/FL  
**Application Type:** Full application  
**Applicant:** Miss K. Smith  
**Proposal:** Proposed 4 bedroom house

**Case Officer:** Andrew White  
**Telephone Number:** 01922 652429  
**Agent:** Mr N. Danks  
**Location:** Land Between 47-55 Ryders  
Hayes Lane, Pelsall, Walsall  
**Expired:** 24/11/2009

**Ward:** Pelsall

**Recommendation Summary:** Granting Subject to Conditions



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## **Application and site details**

This application seeks planning permission for the erection of a four bedroom two storey detached house of a simple design with the main pitch of the house being from the front to the back. The house also has a front two storey gable feature projecting 3.5 metres with an additional ground floor gable feature extending a further 1.2 metres forming the double garage. The first floor consists of four double bedrooms with the two rear bedrooms having access to a balcony (left two thirds of the rear elevation), bathroom and ensuite. Ground floor consists of lounge, dining room, kitchen, laundry, conservatory, toilet and garage. The conservatory extends 4.1 metres from the bulk of the proposed house into the amenity space. The development provides 299 square metres of private amenity space and three off road parking spaces including the garage. Vehicular access to the house re-uses the existing access point.

The site is currently a former hard surfaced and relatively level parking court. The narrowest point of the site fronts Ryders Hayes Lane. The immediate vicinity of Ryders Hayes Lane, is characterised by two storey simply designed houses ranging in age from the 1950's to the 1980's. There is a footpath leading from Ryders Hayes Lane between the adjoining housing across the former rail line to neighbouring fields. Running the length of the site from Ryders Hayes Lane to the former rail line at the rear of the site, is a very overgrown gated access point in the ownership of Railswood Farm. The boundary with the disused rail line, the widest part of the site, is a mix of close boarded fence and palisade fencing. Beyond the boundary are bushes the former rail line (at a higher level), trees and fields beyond. The boundary with 47 Ryders Hayes Lane is a mix of brick wall for their car port/garage, fencing and foliage. Shireview to the south of the site, there is a mix of two and three storey flats and two storey houses. From Shireview there is a surfaced and lit footpath that leads to the rear of the application site.

## **Relevant Planning history**

BC48261P – Land adjoining 47 Ryders Hayes Lane – Outline, residential development. Approved 24/11/1997.

BC60489P- Land adjoining 47 Ryders Hayes Lane- Single detached house with garage - Approved 20/04/2000

BC63431P- Land adjoining 47 Ryders Hayes Lane- Detached house with garage (amendment to BC 60489P)- approved 31/05/2001

## **Relevant Planning Policy Summary**

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

## **Unitary Development Plan**

SPS 2.1 and 2.2 define the aims of sustainable development, urban regeneration, & environmental improvement are identified.

Policy GP1: sustainable location of development. This supports developments which maximise the re-use of vacant urban land.

Policy GP2 requires all developments to make a positive contribution to the quality of the environment and the principles of sustainable development.

Policy GP7 considers Community Safety implications of development proposals. Proposals should have regard for the objective of designing out crime.

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

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

Para 6.3: Housing should be in locations that have good accessibility and are well related to local facilities, such as town, district and local centres.

Policy H3: Windfall Sites and Conversion of Existing Buildings

(a) The Council will encourage the provision of additional housing through the re-use of brown field windfall sites and through the conversion of existing buildings.

Policy H10 is about layout, design and dwelling mix of housing. The Council will expect the design of residential developments to create a high quality living environment, well-integrated with surrounding land uses and local character, and in accordance with the principles of good design, provide adequate open space, or improvements to existing open space.

ENV14: Development of previously developed land and 3.9 The Council will encourage the reclamation and development of derelict and previously developed land.

ENV18: The Council will ensure the protection, positive management and enhancement of existing trees and hedgerows.

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

T7: Car Parking

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

T13: Parking Provision

4 bedroom houses and above                      3 spaces per unit

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

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

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

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

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

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

DW5: Ease of Movement – connections to existing routes

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

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.

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

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/index/environment/planning/planning\\_advice/45\\_degree\\_code](http://www.walsall.gov.uk/index/environment/planning/planning_advice/45_degree_code))

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

Policy QE1 - Environment

Overall, these seek improvements the design and sustainability of the urban areas.

### **National Policy**

Planning Policy Statement 1: Delivering Sustainable Development emphasises need to reject poor design and the need for sustainable development.

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes.

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

### **Consultations**

**Transportation** – No objections subject to safeguarding conditions.

**Pollution Control (Contaminated Land)** – no specific contaminated land requirements

**Pollution Control (Scientific Team)** – no objections subject to conditions

**Environmental Health** – no adverse comments.

**Landscape** – no objections subject to planting amendment from proposed tree *Platanus hispanica* to London plane tree (*this can be secured via a safeguarding condition*).

**Arboricultural Officer** – no objections.

**Fire Service** – satisfactory.

**Police Architectural Liaison Officer-** No objections subject to conditions

### **Public Participation**

Two letters received from neighbours raising the following points;

- why can't the house be built into the triangle
- proximity of proposal adjacent to the boundary will block out light
- the access is highways land
- highway safety
- parking in Ryders Hayes Lane
- no frontage its highway land
- retain building line with 55

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

### **Determining Issues**

- principle of residential development
- the impact on the character of the area
- the amenities of nearby residents
- parking and access

### **Observations**

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

The application site was a former hard surfaced parking court which has been vacant and unused for many years. The site is in a residential area where new housing is appropriate, UDP (Policy H3) encourages housing through brown field windfall opportunities and re-using derelict land. The Council has previously accepted the principle of housing at the site with three previous planning approvals for single detached dwellings. The proposed position of the house towards the front of the site, meets the Council's Designing Walsall SPD policies for making places feel safe and continuity, by adding to the continuity of street scene between 47 and 55 Ryders Hayes Lane, rather than setting the property away from the frontage, which would reduce surveillance and overlooking of the public realm. If the proposed house is set back into the site, there would be a greater impact on the adjoining property 47, from loss of light.

#### **Impact on the character of the area**

The proposal is set back from the edge of the carriageway by 13.8 metres and combined with the angle the house is set at and the adjacent trees along the farm track would ensure that the proposal fits comfortably within its setting.

The design of the building has simple lines reflecting the neighbouring houses with front to back ridge lines similar to Ryders Hayes Lane and Shireview. It is considered that redevelopment of the vacant parking court would have a positive impact on the area by removing a site that has attracted anti-social behaviour over past years, replacing the vacant site with a new building that would bring natural surveillance and activity which would improve the security for the adjacent neighbours and immediate vicinity.

Currently the side and rear boundaries of the site adjacent the disused rail line, footpath from Shire View and the adjacent flats, consists of two metre palisade fencing, close boarded fence and small retaining wall. For safety and security, a condition could be

imposed to provide a 1.8 metre high brick wall with 0.3 metre high trellis on top, to create a robust secure boundary and provide a more attractive appearance.

### **Amenities of nearby residents**

The new house is sited adjacent to the boundary with 47 Ryders Hayes Lane. A gap of 1.4 metres is proposed between the proposed side elevation of the new house and the boundary fence. The nearest rear facing habitable room window of number 47, is 5.9 metres from the boundary fence. Using the Council's 45 degree code, the new house does not breach the code. The existing boundary fence and foliage and the new house being to the north of the neighbour and that the applicant has amended the proposed removing the originally proposed conservatory, it is considered that the new house would have a limited impact on the amenity of the occupiers of 47 Ryders Hayes Lane.

The proposal includes a first floor rear balcony across two thirds of the rear of the house. The balcony would be 5.2 metres from the boundary of 47 Ryders Hayes Lane. Because the position of the proposed house, it is considered that views of the rear of the neighbouring house would be limited; however, there would be views across at least the lower half of number 47's garden. In order to mitigate, this it is suggested that an obscurely glazed screen is erected at the end of the balcony nearest to 47. This would control overlooking of the neighbour's garden whilst allowing light through. This can be secured via a condition.

The proposal includes a large side facing window to the stair well which could cause overlooking. Obscure glazing to the window would remove the potential for overlooking the neighbouring property and can be secured via a condition.

The proposal creates a small amount of shadowing of 47 Ryders Hayes Lane especially early morning in the winter months, because the new house is positioned north-north east of number 47. This shadowing is limited to a small portion of the garden behind the garage/car port of number 47. This would not cover the whole garden. This level of shadowing is acceptable in this instance.

### **Parking and access**

Transportation raises no objections to the development subject to the garage having roller shutter doors. This can be secured through a condition. The application provides enough parking spaces to comply with UDP policy. Additional conditions are recommended to ensure the garage is retained for its use. The issue of whether the access is highway land or not, is not for the planning system to resolve. Appropriate ownership certificates have been served to allow the local planning authority to deal with the planning application.

Residents have concern about the bend in the road, the new access for the proposed house and the adjacent access to the farm. The proposed house has been assessed with the farm access in situ and is considered there would be no detrimental vehicular conflict to raise concerns about highway safety. It is considered that the road layout allows for good visibility along the street. Replacing the parking court with a single dwelling reduces traffic usage which would contribute to highway safety. The adjacent farm access is overgrown and appears to have limited use.

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

The principle of residential development of the site is acceptable as it re-uses vacant, derelict land and makes efficient use of the existing infrastructure. The proposal reflects the local character of building design and the proposal is set to the front of the site

reflecting the local street pattern, providing continuity and surveillance of the public realm. It is considered that the house would make a positive contribution to the immediate character of the area, removing a location for anti-social behaviour, and improving security of neighbouring properties. In addition to this, a new brick boundary wall improves the security of the site from the disused rail line.

Issues regarding overlooking from the stair well and side conservatory window are overcome by obscurely glazing these windows. The overlooking from the balcony can be dealt with a vanity screen being installed at the end of the balcony. This would protect the neighbours privacy and amenity.

Whilst there may be some limited shadowing of the neighbours property in the early morning during winter months, it is considered that due to the orientation, this is not enough to refuse the planning application.

Highways have no objections to the proposal subject the frontage being hard surfaced and the garage doors being a roller shutter. Land ownership issues are not for the planning system to resolve as appropriate ownership certificates have been served allowing the local planning authority to determine the planning application. The proposed house has been considered with the adjacent farm track in situ, allowing for the bend in the road and that the site was a former parking court. It is considered that the new house would have no impact on highway safety.

For the above reasons the proposals are considered to comply with policies 2.1, 2.2, GP1, GP2, GP7, 3.113, 3.114, 3.115, 3.16, 6.3, ENV14, ENV18, ENV32, H3, H10, T7 and T13 of Walsall Unitary Development Plan, Supplementary Planning Document: Designing Walsall and the Regional Spatial Strategy for the West Midlands (RSS), Planning Policy Statement 1 General Principles, Planning Policy Statement 3 Housing and Planning Policy Guidance 13 Transportation.

### **Recommendation: Granting 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. Prior to commencement of the development a schedule of facing materials to be used in external walls, roofs, balcony, driveway/parking area and boundary fencing has been submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be retained and maintained unless otherwise agreed in writing.

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

3. Prior to commencement of the development details of an obscurely glazed vanity screen to meet Pilkington level four privacy glass or equivalent, to be at least the depth of the balcony and 2.0 metres high, placed at the end of the balcony nearest to the neighbouring property of 47 Ryders Hayes Lane shall be submitted to and agreed in writing with the Local Planning Authority. The agreed details shall be implemented, retained and maintained there-after.

*Reason:* In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

4. Prior to commencement of the development details of the garage doors, which shall be roller shutter style, shall be submitted to and agreed in writing with the Local Planning Authority. The agreed details shall be implemented, retained and maintained there after.

*Reason:* In the interests of highway safety to ensure there is adequate space to park a vehicle off the public highway.

5. Before the development is brought into use the car parking area, shown on additional plan, 'extent of parking' submitted on the 21<sup>st</sup> October 2009 shall have been hard-surfaced in tarmacadam or similar impervious material and retained thereafter.

*Reason:* To ensure the satisfactory provision of parking for proposed house.

6. 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 without the prior approval of a planning application.

*Reason:* In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, the dwelling hereby permitted shall not be altered or enlarged so as to deprive it of an existing garage or its drive or parking area as approved and first constructed, except with the express permission of the Local Planning Authority.

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

8. The side facing bathroom, garage and stair well windows facing number 47 Ryders Hayes Lane as shown on elevation drawing (amended) 23<sup>rd</sup> October 2009, ground floor plan (amended) 23<sup>rd</sup> October 2009 and first floor plan Dwg No 09/8/2/2 received on 10<sup>th</sup> August 2009 shall be obscure glazed to at least Pilkington level four privacy glass or equivalent and retained there-after.

*Reason:* In the interests of residential amenity.

9. The proposed boundary between the application site and the disused rail line to the east shall be a 1.8 metre high brick wall, materials to match the proposed dwelling, with the addition of 0.3 metre wooden trellis on top, unless other wise agreed in writing.

*Reason:* In the interests of safety and security

10. As a minimum level of security all doors shall meet PAS24 and windows conform to BS7950 and the performance standard relevant to the material of their construction unless other wise agreed in writing.

*Reason:* In the interests of safety and security

11. The proposed tree *Platanus hispanica* as illustrated on the site layout plan submitted on the 10<sup>th</sup> August 2009 shall be replaced with a London plane tree.



*Reason:* In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

12. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

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

13. This development shall not be carried out in conformity with the following approved plans and documents except in so far as may be otherwise be required by conditions:-  
Proposed Elevations (Amended) submitted on 23rd October 2009  
Proposed Site Plan (Amended) submitted 23rd October 2009  
Proposed Ground Floor Plan (Amended) submitted 23rd October 2009  
Proposed First Floor Plan submitted 10th August 2009  
Design and Access Statement submitted 10th August 2009

*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).

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on

05 Nov 2009

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

**Application Number:** 09/1241/FL

**Application Type:** Full application

**Applicant:** Mr & Mrs Malcolm Stevens

**Proposal:** Construction of 2 storey dwelling

**Case Officer:** Andrew White

**Telephone Number:** 01922 652429

**Agent:** Paul Clifton Associates

**Location:** LAND ADJACENT TO 9  
HILARY

DRIVE, ALDRIDGE, WALSALL, WS9 0DE

**Expired:** 17/11/2009

**Ward:** Aldridge/Central & South

**Recommendation Summary:** Granting Subject to Conditions



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### **Application and site details**

This application seeks planning permission for the erection of a two bedroom two storey detached house of simple design with the main pitch of the house being from the front to the back. The house also has a small single storey porch projecting 1 metre from the main front elevation of the house. The first floor consists of two bedrooms and a bathroom. Ground floor consists of lounge, kitchen, utility, study and cloakroom. At the rear of the house, the ground floor lounge extends 3.3 metres from the bulk of the proposed house into the amenity space. The development provides 154 square metres of private amenity space and two off road parking spaces including a car turntable. Vehicular access to the house shares the existing access point to the adjacent house.

The site is within Hilary Drive off Station Road which is residential with a range of differing age and design properties from Victorian to late 20<sup>th</sup> century. The site is currently the side garden of the applicants property, assembled from the long rear gardens of houses in Station Road. There are a number of limited quality trees within the site and a tree impact assessment has been submitted as part of the application. The access from the highway to the site shares the neighbours (applicants) access. The proposal includes two off road parking spaces for the applicant's house. The immediate vicinity of Hilary Drive, is characterised as two storey simple, designed 1980's house types within a small cul-de-sac development originally created from rear garden land.

### **Relevant Planning history**

None.

### **Relevant Planning Policy Summary**

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

### **Unitary Development Plan**

SPS 2.1 and 2.2 define the aims of sustainable development, urban regeneration, & environmental improvement are identified.

Policy GP1: sustainable location of development. This supports developments which maximise the re-use of vacant urban land.

Policy GP2 requires all developments to make a positive contribution to the quality of the environment and the principles of sustainable development.

Policy GP7 considers Community Safety implications of development proposals. Proposals should have regard for the objective of designing out crime.

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

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

Para 6.3: Housing should be in locations that have good accessibility and are well related to local facilities, such as town, district and local centres.

Policy H3: Windfall Sites and Conversion of Existing Buildings

- (a) The Council will encourage the provision of additional housing through the re-use of brownfield windfall sites and through the conversion of existing buildings.

Policy H9 gives advice about housing densities. This supports developments in the range of 30 -50 dwellings per hectare on most sites.

Policy H10 is about layout, design and dwelling mix of housing. The Council will expect the design of residential developments to create a high quality living environment, well-integrated with surrounding land uses and local character, and in accordance with the principles of good design, provide adequate open space, or improvements to existing open space.

ENV18: The Council will ensure the protection, positive management and enhancement of existing trees and hedgerows.

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

#### T7: Car Parking

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

#### T13: Parking Provision

4 bedroom houses and above                      3 spaces per unit

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

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

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

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

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

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

DW5: Ease of Movement – connections to existing routes

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

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.

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

be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

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

Policy QE1 - Environment

Overall, these seek improvements the design and sustainability of the urban areas.

### **National Policy**

Planning Policy Statement 1: Delivering Sustainable Development, emphasises need to reject poor design and the need for sustainable development.

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes.

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

### **Consultations**

**Transportation** – No objections subject to conditions

**Pollution Control (Contaminated Land)** – no specific contaminated land requirements

**Pollution Control (Scientific Team)** – no objections subject to conditions

**Environmental Health** – no adverse comments.

**Severn Trent**- No objections subject to conditions

**Landscape** – no objections.

Ecology- **No objections**

**Arboricultural Officer** – No objections subject to conditions.

**Fire Service** – satisfactory.

### **Public Participation**

Four letters have been received, objecting on the following grounds:

- Size, depth, width, height & mass impacts on amenity of neighbours
- Overlooking and loss of privacy
- loss of daylight/sunshine
- layout and density
- visually overbearing
- ruin outlook
- increased traffic, noise & vehicular pollution

- parking limited in vicinity
- house numbers inaccurate on plans
- plans inaccurate, site borders 97 not 95
- previously approached by builders to buy gardens but didn't sell (*not material planning consideration*)

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

### **Determining Issues**

- Principle of residential development
- The impact on the character of the area
- The amenities of nearby residents
- Parking and access
- Neighbour comments

### **Observations**

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

The application for a new house on former garden land within a residential area is acceptable and meets with the aims and objectives of the UDP (Policy H3) which encourages housing through windfall opportunities. The position of the house towards the front of the site, meets the Council's Designing Walsall SPD policies by providing continuity of street scene, rather than setting the property away from the frontage, also contributing to the provision of surveillance and overlooking of the public realm. It is considered a single dwelling added to an existing residential area would have a limited impact on the density of the locality that would not warrant the refusal of the planning application.

#### **Impact on the character of the area**

The design of the building has simple lines with front to back ridge lines reflecting the neighbouring two storey properties in Hilary Drive. It is considered redevelopment of the garden land would sit comfortably at the end of the block of houses this side of Hilary Drive and not impact on the local character of area bringing additional natural surveillance and activity to the street improving the security for the adjacent neighbours and immediate vicinity. The scale and mass of the proposed dwelling reflects the existing properties within Hilary Drive. It is considered that the development would fit comfortably within the street scene relating comfortably with the surrounding properties without being overbearing.

Whilst the development would remove some trees including a line of leylandii, the rear gardens of neighbouring properties do benefit from a number of semi mature trees. The new house would be in this setting which partly screen the house from the wider area and minimising the inter-visibility between the new house and the existing houses on Station Road. Notwithstanding this, it is considered that even without the existence of the trees, the separation distance between the proposed house and the existing houses is acceptable in this instance.

#### **Amenities of nearby residents**

Residents have raised issues of overlooking and loss of privacy from the new house and loss of sunlight/daylight in relation to the houses in Station Road. The separation distance at first floor to the rear wing of the nearest house in Station Road is 38 metres exceeding minimum separation standards of 24 metres. In addition there are trees/bushes within the

rear gardens of the nearest houses in Station Road which break up the inter-visibility and outlook between the new and the existing houses, further safeguarding privacy.

The direct 44 metre separation distance between the rear first floor windows of the proposed house and the properties in Oakley Avenue is acceptable in this instance. The existing mature boundary treatment breaks up the inter-visibility between the two properties and safeguards privacy.

Shadowing and loss of sunlight to adjacent gardens from the new house is considered to be limited to the early evening because of the orientation of the gardens to the new house. The adjacent gardens are to the east of the new house, the same as the existing situation. The new house is proposed adjacent to an existing house which currently shadows adjacent gardens in the early evening.

### **Parking and access**

The proposal provides enough parking spaces to comply with UDP policy for the existing and proposed dwelling. The applicants have proposed a vehicular turntable to be installed to ensure that vehicles can leave the application site in a forward gear. Issues of vehicles parked in the street blocking residents drive ways is not a matter for the planning system, but for the police or the parking enforcement team. Issues relating to increased traffic, noise and vehicular pollution are difficult to substantiate over and above the existing situation as the application is for a single dwelling in an existing residential area.

### **Neighbour comment**

Comments about the plans submitted not reflecting the numbering of the houses in the vicinity and that the proposed house would be adjacent to the garden of number 95, not number 97 have been noted. Whilst the applicant has submitted plans, the case officer has made a visit to the site and also referred to ordnance survey plans to check details of the site and the surrounding location. It is considered the anomalies in the applicant's submission do not alter the recommendation of this report.

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

The principle of residential development is considered to meet the aims and objectives of development plan policies encouraging housing through windfall opportunities. The house would provide continuity of street scene, surveillance and overlooking of the public realm. It is considered a single dwelling added to an existing cul-de-sac would not impact on the density of the locality.

The simple design of the building reflects the neighbouring properties in Hilary Drive. It is considered the development of garden land sits comfortably at the end of the existing houses in the street scene of Hilary Drive not impacting on the area by way of over-bearing, scale and mass. The proposed house brings additional natural surveillance and activity to the street improving the security of the vicinity.

The development removes some trees of limited arboricultural significance, leaving the rear gardens of neighbouring properties with a number of semi mature trees. Notwithstanding this it is considered the inter-visibility between the new and existing houses on Station Road is acceptable.

The separation distance at first floor to the rear wing of the nearest house in Station Road is 38 metres exceeds the Council's minimum separation which is considered acceptable



in this instance. In addition there are trees/bushes within the rear gardens of the nearest houses in Station Road which break up the inter-visibility and outlook between the new and the existing houses.

The direct separation distance of 44 metres between the rear first floor windows of the proposed house and the properties in Oakley Avenue is exceeds minimum separation of 24 metres and is considered acceptable, with existing mature boundary treatment breaking up the inter-visibility and outlook between the new and the existing houses.

Shadowing and loss of sunlight to adjacent gardens from the new house is considered to be limited to the early evening because of the orientation of the gardens to the east of the new house, the same as the existing situation and is considered acceptable.

The proposal provides adequate parking spaces reflecting UDP policy for the existing and proposed dwelling. The proposed vehicular turntable ensures that vehicles can leave the application site in a forward gear. Issues of vehicles parked in the street blocking residents drive ways are for the police or the parking enforcement team. Issues relating to increased traffic, noise and vehicular pollution are difficult to substantiate over and above the existing situation.

Comments about the plans submitted not reflecting the numbering of the houses in the vicinity and the proposed house adjacent to the garden of number 95 not number 97 have been noted. The case officer has made a visit to the site and also referred to ordnance survey plans to check details of the site and the surrounding location. It is considered the anomalies in the applicant's submission do not alter the recommendation of this report.

For the above reasons the proposals are considered to comply with the aims and objectives of policies 2.1, 2.2, GP1, GP2, GP7, 3.16, 3.113, 3.114, 3.115, ENV18, ENV32, 6.3, H3, H9, H10, T7 and T13 of Walsall Unitary Development Plan, Supplementary Planning Document: Designing Walsall, the Regional Spatial Strategy for the West Midlands (RSS), PPS1 Delivering Sustainable Development, PPS3 Housing, PPG13 Transportation.

### **Recommendation:**

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 until a schedule of facing materials to be used in external walls, roofs, driveways and boundary fences has been approved in writing by the Local Planning Authority. The approved details shall be implemented retained and maintained there after.

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

3. Prior to commencement of the development, drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing with the Local Planning Authority. The approved scheme shall be implemented before the development is first brought into use and retained and maintained there after.

*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.

4. Prior to the first occupation of the dwelling the access drive and parking area shall be fully consolidated, surfaced and drained and the vehicle turntable shall be properly installed and fully operational and shall thereafter be retained for this purpose.

*Reason:* To ensure the satisfactory provision of parking for proposed dwelling.

5. Prior to the first occupation of the dwelling the extended vehicular footway crossing, to serve the realigned and extended driveway, shall be constructed to a specification to be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented and retained thereafter.

*Reason:* To ensure the satisfactory highway safety.

6. 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 without the prior approval of a planning application.

*Reason:* In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, the dwelling hereby permitted shall not be altered or enlarged so as to deprive it of its drive or parking area as approved and first constructed, except with the express permission of the Local Planning Authority.

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

8. The approved tree protection measures and fencing detailed in the Arboricultural Report dated 17 September 2009 shall be fully implemented prior to the commencement of any works 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, as laid out in British Standard 5837:2005.

*Reason:* To safeguard the trees on and adjacent to the site.

9. During site preparation and building operations no storage of materials, equipment or waste, nor passage of vehicles, nor lighting of fires shall take place beneath the canopy of any tree to be retained.

*Reason:* To safeguard the trees on and adjacent to the site.

10. No digging of trenches or changes in ground level shall be undertaken within the canopy of any tree to be retained on the site without the written approval of the Local Planning Authority.

*Reason:* To safeguard the trees on and adjacent to the site.

11. The side facing bathroom windows as shown on drawing numbers 9082-01 received by the Local Planning Authority on 14<sup>th</sup> September 2009 shall be obscure glazed to at least Pilkington level four privacy glass or equivalent and retained there-after.

*Reason:* In the interests of residential amenity.

12. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

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

13. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no extensions or alterations to the dwelling or the erection of buildings within the curtilage of the site, as defined in Classes A, B, C and E of the Order, shall be constructed without the prior submission and approval of a planning application.

*Reason:* To ensure the Local Planning Authority has control over the development and in the interests of the occupiers of adjacent dwellings.





To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
05 Nov 2009

**REASON FOR BRINGING TO COMMITTEE: Sale Of Council Owned Land**

**Application Number:** 09/0927/FL

**Application Type:** Full application

**Applicant:** Kean Properties

**Proposal:** Proposed 2 bedroom 2 storey dwelling and access road junction and demolition of existing outbuilding.

**Ward:** Short Heath

**Recommendation Summary:** Grant Subject to conditions

**Case Officer:** Karon Hulse

**Telephone Number:** 01922 652492

**Agent:** Graham Durrant Designs

**Location:** LAND ADJ. 1 HALEY STREET, WILLENHALL, WALSALL, WV12 4JU

**Expired:** 03/09/2009



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## **Application and Site Details**

This application seeks consent for the siting of an additional two storey, two bedroom dwelling at the end of a row of existing terraces, on land adjacent to no. 1 Hayley Street, Willenhall. This would in effect create a row of six terraced dwellings where there are currently 5.

The plans indicate the provision of a new private road entrance off Mill Lane although it does not indicate what purpose this is for other than it will give access to two proposed car parking spaces at the rear of the new dwelling.

The area is currently open grassed verge within the councils ownership. There is a larger mature tree located within the adjacent footpath. The access leads across this site, into land at the rear. This was the location of a commercial operation, but the site has been cleared. It can be expected to be the subject of future development.

## **Relevant Planning History**

04/0238/FL/W3 – Change of use and refurbishment of offices/dwelling to five dwellings. Grant Subject to Conditions 21<sup>st</sup> April, 2004.

## **Relevant Planning Policy Summary**

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

## **Unitary Development Plan (UDP)**

GP1: Supports the sustainable location of development.

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

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

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

3.16: The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

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

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

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

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

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

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

T13: sets maximum car parking standards, account should be taken of the location of development in relation to local facilities and public transport and unless demonstrated 1, 2 & 3 bedroom houses – 2 spaces per unit

LC1: seeks to retain and enhance existing urban open spaces and readdress any deficiencies in the provision or accessibility of these. 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.

### **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. Submission to the Secretary of State is anticipated in October/November 2008 following a further period of public consultation. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of recent national and regional planning guidance

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

#### **Designing Walsall SPD**

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

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

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

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

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

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

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

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

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

#### **Natural Environment SPD**

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

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

The Regional Spatial Strategy seeks to provide broad regional directives and recognises the role of the regeneration of the Black Country to the overall performance of the West Midlands Region. The focus for the Black Country policies are to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

Overall the strategy promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

### **National Policy**

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

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

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

### **Consultations**

**Transportation** – no objections

**Pollution Control (Contaminated Land and Scientific Team)** – no objections

**Severn Trent Water** – no objections

**Regeneration (trees)** – concerns regarding possible loss of tree

**Regeneration (landscape)** – no objections

### **Public Participation Responses**

None

### **Determining Issues**



- Principle of development
- Visual impact and Impact on residential amenity
- Potential loss of tree
- Proposed access

## **Observations**

### **Principle of development**

The site is surrounded mainly by residential, the proposed development would therefore be consistent with the prevailing character of the area.

The creation of the access is unusual in isolation. However, it is clearly intended to facilitate a future development of the land at the rear. That is commendable in principle, as it promotes the development of the urban area, and the re-use of previously developed land. Residential development can be anticipated, although its permitted use for light industrial could continue, and the location of the proposed access makes sense in design terms, given the land boundaries.

### **Visual impact and impact on residential amenity**

The proposed dwelling will simply continue the line of the existing row of five small terraced properties, it will therefore appear as part of the row and will be in-keeping with the existing properties.

The proposed dwelling will have a total of 45 square metres of private amenity space which includes a rear car parking space to be constructed out of grasscrete or similar permeable material. Whilst the size is less than the Designing Walsall Supplementary Planning Document expects (65 sq.m.) it is in-keeping with the adjoining properties rear amenity area and therefore in character with the local area and properties.

The size of the rear garden also offers choice to those who do not necessarily choose to have large rear amenity areas this would in contrast be in accordance with national policy

### **Potential loss of tree**

The plans have been amended since submission and now show a slight reduction in the dwelling size which moves it back from the nearby tree in the highway footpath. That distance has therefore been increased to 6.5 metres, the proposed boundary fence along the side access path would approx 5.5 metres away from the existing tree

To secure the health of this tree approval should be subject to conditions requiring details of proposed service depths and installation methods, grasscrete car parking space construction in relation to existing and proposed ground levels, tree protection details prior to any development on site, and a replacement condition, should that become necessary over the coming years.

### **Proposed access**

The application includes details of a new vehicular access off Mill Lane, this has been designed to a high standard and will provide access into the land at the rear of the application site. It will also be utilised by the application site to gain access to the rear car parking spaces included in this application.

There is no indication as to what the future use of the land to the rear will be however it has no bearing on the determination of this current planning application other than it allows access for vehicles using the dwelling which is subject to this planning application.

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

The site is predominantly surrounded by residential (with the exception to light industrial at the rear), the proposed design of the development replicates that of the adjoining row of houses in so far as the scale and size of building and associated amenity area is similar to those of the terraced dwellings, it would therefore be consistent with the prevailing character of the area. Notwithstanding the above, the amended scheme increases the distance between the proposed development and the existing highway tree thereby reducing any potential impact on the long-term health, condition and stability of the existing Sycamore tree located in the public footpath from excavations and services required by the new dwelling. The proposed access facilitates future development of adjoining land, and is necessary to provide the parking for the present scheme. The proposed development is therefore in accordance with policies GP1, 2.2, 3.6, 3.7, & GP2, GP3, GP4, 3.16, ENV10, ENV14, 3.16, GP7, ENV32, H10, ENV33, ENV40, 6.3 and H3, H9, 7.1, T7, T13, LC1 and 8.8 of the Unitary Development Plan and Designing Walsall Supplementary Planning Document.

### **Recommendation: Grant Subject to conditions**

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

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

2. No development shall take place until full details of both hard and soft landscaping works have been submitted to and approved in writing by the Council and these works shall be carried out as approved. The details shall include details of the method of construction of the patio and car park spaces in relation to existing and proposed ground levels, an indication of all hard surfaces, walls, fences, access features, the existing trees and hedges to be retained, together with the new planting to be carried out, and details of the measures to be taken to protect existing features (tree protective fencing) during the construction of the development.

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

3. No development shall take place until full details of the method of installation, including excavation depths, for the proposed surface water services on the south side of the dwelling have been submitted to, and approved in writing by the Council. Development shall be carried out in accordance with the approved details.

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

4. In this condition 'retained tree' means an existing tree or hedge which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the first occupation of the development.

(a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping shall be carried out in accordance with British Standard 3998 (tree work) and in accordance with any supplied arboricultural method statement.

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Borough Council.

(c) Following the completion of any arboricultural works but before any equipment, materials or machinery are brought onto the site in connection with the development, protective fencing and ground protection such as geomembrane or scaffold boards shall be installed around all retained trees in accordance with details that first shall be submitted to and agreed in writing by the borough council. Such protection shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition nor shall any fires be started, no tipping, refuelling, disposal of solvents or cement mixing carried out and ground levels within those areas shall not be altered, nor shall any excavation or vehicular access be made, without the written consent of the Borough Council

(d) Prior to the commencement of works on site and after the installation of the tree protection in accordance with (c) above the Council's arboricultural officer shall be notified to allow a full inspection of the protection measures.

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

5. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

*Reason :* to protect the amenity of neighbouring occupiers

6. No development shall begin until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

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

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

8. The boundary treatment shown on the approved plans shall be carried out before this development is first occupied and shall be thereafter retained.

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

9. The new access from off Mill Lane shall be implemented in accordance with the approved plans and the work shall be carried out before the premises are first occupied, or at such later date as may be agreed in writing by the Local Planning Authority. The use of this access road shall only be used in association with the dwelling which is the subject of this planning permission.

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

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
05 Nov 2009

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

**Application Number:** 09/0999/FL

**Application Type:** Full application

**Applicant:** Mr Bobby Verma

**Proposal:** Re-submission of refused  
application 08/0757/FL for replacement 6  
bedroom dwelling

**Ward:** Paddock

**Recommendation Summary:** Grant Subject to conditions

**Case Officer:** Paul Hinton

**Telephone Number:** 01922 652420

**Agent:** Integrated Designs &  
Associated Ltd

**Location:** 27 GILLITY  
AVENUE, WALSALL, WS5 3PJ

**Expired:** 16/09/2009



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**Application and Site Details**

This application follows a recent refusal for a replacement dwelling and has been submitted in response to the refusal. It seeks to replace a three bedroom house with a six bedroom house. The site is in a predominantly residential area. No 2 Gillity Close comprises a bungalow (next door) which sits on a corner plot and fronts onto Gillity Close. No 2 has a small rear garden, with a recently built brick outbuilding at the far end. There are other bungalows within the first part of the Close. A house with a prominent front gable which is very similar in design to the application site sits to the adjacent boundary. Gillity Avenue comprises detached dwellings of differing designs, characterised by ridgelines running across the plot widths, with a mix of front gables, hipped and catslide roofs having clearly defined space between adjacent first floors.

The proposed house has a front gable with front to back ridgeline and a garage to the boundary with 2 Gillity Close. In comparison with the existing house the proposal would create a full first floor and roof by creating a ridgeline across the building and having a wider first floor than the existing. The ridgeline is the same height as 29 and 31 Gillity Avenue. At first floor the proposal would be set in 1.7m from both neighbouring boundaries and at ground floor would be set in 1.7m at the boundary with 2 Gillity Close. Two dormer windows are proposed to both the front and rear elevations. With the exception of the front porch projecting 1m, the proposal follows the common building line. At the rear the proposal would project a further 3.2m from the existing footprint.

A 1.4m high wall and 2m high gates exist to the front of the property which do not have the benefit of planning permission. The submitted plans show the wall and gates to be reduced to no greater than 1m in height and confirm upon the determination of the application the wall will be reduced to this level.

A bat survey has been submitted with the application.

### **Relevant Planning History**

08/0757/FL – Replacement dwelling. Refused 28/8/2008 for the following summarised reasons:

1. Scale and massing represented cramped development of the site, appearing incongruous and unrelated to the surrounding development;
2. Scale and mass in close proximity to the boundary with 2 Gillity Close would reduce the amount of daylight and sunlight available to the rear private amenity space;
3. Failed to demonstrate that the proposed development would not have an adverse impact on bats; and
4. Insufficient information provided to make a full assessment of highway safety implications.

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

### **Unitary Development Plan (UDP) (March 2005)**

SPS 2.1 and 2.2 define the aims of sustainable development, urban regeneration, & environmental improvements are identified.

GP1: sustainable location of development. This supports developments which maximise the re-use of vacant urban land.

GP2: Environmental Protection and Policy 3.6, requires new development to contribute to the improvement of the environment.

Policy 3.17, 3.18 and ENV39 development proposals must take account of the need to reduce the consumption of energy and water.

Para 3.113, 3.114, 3.115 and ENV32 Seek good design and high quality architectural and landscape design to improve access, discourage crime and create a distinctive environment.

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

H9 gives advice about housing densities. This supports developments in the range of 30 - 50 dwellings per hectare on most sites.

H10 is about layout, design and dwelling mix of housing. The Council will expect the design of residential developments to create a high quality living environment, well-integrated with surrounding land uses and local character, and in accordance with the principles of good design, provide adequate open space, or improvements to existing open space.

ENV14: Development of previously developed land and 3.9 The Council will encourage the reclamation and development of derelict and previously developed land.

ENV23: Nature Conservation and New Development – The Council will require the layout of all new development to take full account of existing features of value for wildlife or geology.

T7: Car Parking

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

T13: Parking Provision

4 bedroom houses and above                      3 spaces per unit

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

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

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

DW3 – all new development must be designed to respect and enhance local identity

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

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

DW9 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, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

**Conserving Walsall's Natural Environment SPD (April 2008)** - advises on the information requirements and survey standards for protected species to accompany planning applications.



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

Policy QE1 - Environment

Overall, these seek improvements the design and sustainability of the urban areas.

### **National Policy**

PPS 1: Delivering Sustainable Development, emphasises need to reject poor design and the need for sustainable development.

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes.

PPS9 biodiversity and geological conservation says that the aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. If significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.

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

### **Consultations**

**Transportation** – no objection.

**Natural Environment** – no objection. Conditions are recommended.

**Pollution Control Scientific Team** – no objection subject to conditions

**Pollution Control Contaminated Land Team** – no objection.

**Environmental Health** – no objection.

**Tree Officer** – no objection.

**Landscape** – no objection.

**Building Control** – no objection. Note for applicant

**Fire Service** – satisfactory access for fire appliances.

### **Public Participation Responses**

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

- Further alteration to this recently altered property is not necessary (*not a material consideration*).
- Loss of privacy – direct views of rear bedrooms of 2 Gillity Close.
- Out of scale with the adjacent bungalows in Gillity Close.
- Impact upon property values (*not a material consideration*).
- Loss of sunlight to 2 Gillity Close.
- Concern about the amount of paving replacing front gardens in the area (*not a material consideration of this application*).
- Existing brick building in the rear garden is a breach of planning regulations.

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

### **Determining Issues**

- Whether it overcomes previous reasons for refusal in respect of:
  - o impact on the character of the area
  - o amenities of nearby residents
  - o parking and access
  - o protected species

### **Observations**

#### **Impact on the character of the area**

There is a mixed design and type of properties within the area though they share a characteristic that defines the immediate area by having space between dwellings at first floor. The existing house has a front to back ridgeline and garage to the side which creates an open aspect within the streetscene. The previous application was refused as it eliminated this spaciousness and would have appeared overdominant within the streetscene.

The current proposal has addressed this by having a gap of 1.7m between the first floor and the site boundaries to both sides. A hipped roof further ensures the characteristic of space between dwellings is retained. The design is centred around a projecting front gable which helps reflect the gable of the existing bungalow. The height of the proposal is identical to 39 Gillity Avenue. The height of the proposal would however be 2m higher than 2 Gillity Close but is positioned 11.5m apart. This increase in height is considered appropriate due to the separation distance. The architecture ensures that the dwelling now appears balanced and appropriate to its surroundings.

The relationship of a 2 storey dwelling to a bungalow is a characteristic of the area, with examples at the corner of Gillity Avenue and Cornwall Road and the corner of Elizabeth Road. The increase in the roof mass would be noticeable above the lower dwelling 2 Gillity Close but the use of a hipped roof and varied roof height would ensure that this would not present a large blank feature in the street.

Gillity Avenue has a mix of designs of houses and bungalows and the proposal would add to this mix without appearing out of character. The use of materials similar to those used within the vicinity would ensure the proposal integrates into its setting. This is recommended as a condition.

#### **Amenities of nearby residents**

The previous application was also refused as the mass of the proposal would have created significant shading to the shallow private amenity space of 2 Gillity Close which has a conservatory adjoining the boundary and no windows at first floor. The mass of the proposed house has been reduced and set 1.7m from the boundary. A shading diagram has been included showing the existing shadowing and the result of the proposal at noon in June and December. In summer the proposal is shown to have no further shading of the garden than the existing dwelling.

Due to its orientation, the boundary fence and its own conservatory part of the shallow garden of 2 Gillity Close is shaded by the existing dwelling, which lies to the south. In the

winter the proposal would, in part, increase the shading of part of the garden at midday. This part of the garden would have direct sunlight during the mornings. The area of garden to the east of 2 Gillity Close is shown to be free from shading throughout most of the day.

While the proposal would increase the shading to part of the shallow garden of 2 Gillity Close, this would not be significant with a large proportion of the garden receiving sunlight during most of the year. On balance it is considered that the amenity of the occupiers would not be affected to a level that would justify refusing the application.

The proposal would extend 3.2m further to the rear than the present house; however it would not impact upon 29 Gillity Avenue which already has its garage 1m further to the rear at the boundary with the existing property and the main rear elevation 3m further to the rear of the existing house. The side facing windows proposed to serve the non-habitable en-suites and the rear projection would not breach the Council's 45° code. The rear windows of the proposal are in excess of 24m away from the windows of the bungalow at 4 Gillity Close and therefore meet the guidance in Designing Walsall SPD.

An objection from the occupier of the bungalow 2 Gillity Close has been made on the grounds of the proposal having direct views into its rear bedrooms. The two dwellings would be set at right angles to one another and therefore there would be no direct views into the bedroom windows. The proposal would not impact upon privacy.

Objection letters also comment about the brick building at the end of the rear garden. The building has been assessed and is permitted development (ie it was given planning permission by legislation and was entitled to be built).

### **Parking and access**

The previous application was also refused because no details of the proposed parking and driveway arrangements or the proposed treatment of the front boundaries were provided. The application now shows the details of a revised front wall. A 1.4m high wall and 2m high gates to the front of the existing house have been built (since the refusal) without the required planning permission. The applicant has been advised that this wall would have highway safety implications as it would interfere with visibility splays and that the height of the wall is out of character with the largely open plan and dwarf wall estate. A wall and gates of 1m have been proposed with the existing wall and gates to be reduced in height after the determination of the application. This is acceptable on visual grounds and transportation consider that the revisions would provide adequate pedestrian visibility.

Transportation raise no objections as the proposal meets the UDP requirement for off-street parking.

### **Protected species**

The previous application was refused as insufficient information was evidenced in the bat survey submitted. The application has been supported by an appropriate bat survey which concludes no there is evidence of bats roosting on the site, but notes that there could be single or small numbers of bats using the roost opportunity beneath the dormer window on an infrequent basis. This should not rule out the development of the property so long as a suitable method of working is adopted by all contractors on site. Natural Environment raise no objection to the application subject to conditions. It is considered that the previous reason for refusal has been overcome.

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

The design is appropriate and takes account of the context and character of the area, retaining space between first floors and relating well to the local height and building line characteristics. Neighbour concerns about loss of sunlight have been considered, but the proposal, while increasing shadowing to the garden of 2 Gillity Close would not significantly increase shadowing nor leave the occupiers without an area in the garden that would be receiving sunlight throughout the day. The proposal including the 1m high wall is acceptable in terms of highway safety. The proposals would result in no harm to protected species, providing care is taken during the dismantling of the existing roof and cavity walls and bat roosting features are provided.

Accordingly the proposal accords with the aims and objectives of the Unitary Development Plan policies GP2, 3.6, 3.16, ENV32, ENV39, H10, T7, T13 and Supplementary Planning Document Designing Walsall, Planning Policy Statement 1 and Planning Policy Statement 3.

## **Recommendation: Grant Subject to conditions**

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

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

2. No development shall take place until details of the materials to be used in the construction of the external walls and roof of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

3. No development shall commence until a method statement for dismantling the roof and any cavity walls has been submitted to and approved in writing by the Local Planning Authority. The method statement shall stipulate that alterations to the roof and cavity walls of the existing house shall be carried out by hand. Roof tiles to be removed shall be carefully stripped by hand. Tiles shall be lifted vertically and inspected below for signs of bats or droppings. Any soffits proposed for removal shall be dismantled carefully by hand. The proposals described in the method statement shall be followed exactly during building works. If bats are found either prior or during development, Natural England (Birmingham Office 0121 233 0399) must be contacted, work must cease and it may be necessary to apply for a European Protected Species licence from Natural England.

*Reason:* To conserve local bat populations.

4. No development shall commence until proposals to incorporate bat roosting features into the proposed buildings have been submitted to and approved in writing by the Local Planning Authority. The proposals may provide access for bats to cavity walls or under roof tiles and/or incorporate purpose made Schegler-type roosting boxes into the fabric of the building. The approved scheme shall be incorporated into the development before any part is brought into use and retained thereafter.

*Reason:* To conserve and enhance local bat populations.

5. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

*Reason:* In the interests of adjacent residential occupiers

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows or door openings other than those approved by this permission shall be installed in any part of this development without the prior approval of a planning application.

*Reason:* In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

7. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no extensions or alterations to the dwelling or the erection of buildings within the curtilage of the site, as defined in Schedule 2, Part 1, Classes A and E of the Order, shall be constructed without the prior submission and approval of a planning application.

*Reason:* To ensure the Local Planning Authority has control over the development and in the interests of the occupiers of adjacent dwellings.

8. The dwelling shall achieve Code Level Three in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measure of sustainability for house design as may replace that scheme). No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that Code Level Three has been achieved.

*Reason:* In order to provide a high performance sustainable home and to protect the environment in accordance with strategic policy aims 2.1, 2.2, 3.17 and 3.18 and policies GP2 and ENV39 of the Walsall Unitary Development Plan and policies DW1 and DW10 of Designing Walsall Supplementary Planning Document.

9. The side facing first floor windows shall be obscure glazed to at least Pilkington level four privacy glass or equivalent and retained there-after.

*Reason:* In the interests of residential amenity.

10. The dwelling hereby permitted, including the front wall, shall be built in accordance with the approved drawing number AL/115/01 Revision 005 received by the Local Planning Authority on 30<sup>th</sup> September 2009.

*Reason:* To define the permission.

Note for applicant

*Planning Services* – This planning permission does not grant consent for the retention of the wall which existed at the time the application was submitted.

*Building Control* – It will be necessary for you to notify Building Control Services of your intention to demolish (Section 80 of the Building Act 1984). This should be done as soon as possible but not less than 6 weeks before commencement of the demolition work. Helpline number 01922 652408.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on

05 Nov 2009

**REASON FOR BRINGING TO COMMITTEE: Delicate Judgement Required**

**Application Number:** 09/1128/FL

**Application Type:** Full application

**Applicant:** Miss Nahida Kausar

**Proposal:** Proposed extensions and alterations to convert existing garage to dining room and first floor bedroom extension.

**Ward:** Palfrey

**Recommendation Summary:** Grant Subject to conditions

**Case Officer:** Helen Smith

**Telephone Number:** 01922 652486

**Agent:**

**Location:** 76 DELVES GREEN  
ROAD, WALSALL, WS5 4LP

**Expired:** 20/10/2009



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## **Application and Site Details**

This application is for a first floor extension to a traditional detached house and the conversion of an existing garage to a dining room. This proposal includes internal alterations to enlarge an existing kitchen and the total number of bedrooms will increase from three to four. The application house has an existing single storey side and rear extension.

The proposed first floor side extension was originally to have a gable roof design and amended plans have been received changing this to a hipped roof. This part of the proposal will be built above the existing garage and will be set back 0.4 metres from the original front elevation. The proposed rear elevation will lie 1.8 metres forward of the original rear elevation. This part of the proposal will lie on the opposite side to house number 74, which, is in line with the application house.

The proposed side elevation will lie next to the boundary with house number 78. Number 78 occupies a corner position in the street at an oblique angle to the application house. The rear elevation of 78 has rear a ground and first floor habitable windows which are not directly facing the application house. There is a separation distance of approximately 8 metres between these habitable windows in the rear of 78 and the original two storey side elevation of the application house measured at an obscure angle.

The rear elevation of 64 Delves Crescent, the other semi to number 78 Delves Green Road, is angled towards the rear of 76 and has rear facing habitable windows, as has 66 Delves Crescent which lies at right angles to the application house. The rear of this proposal will face across the rear gardens of 66 and 68 Delves Crescent.

The conversion of the garage to a dining room will replace the existing garage door with a window and brickwork. An existing utility room window in the existing side elevation will now serve a kitchen and will face the rear of number 78. This is a high level window and was included as part of an earlier planning permission and was required to be obscure glazing.

## **Relevant Planning History**

BC20997P – Erection of utility room and W.C. – granted permission subject to conditions on 23 August 1988.

BC28700P – Porch, canopy and garage extension – granted permission subject to conditions on 6 March 1990.

A planning application for 66 Delves Crescent which included a two storey side extension was refused planning permission in 2008. This was on the grounds that the proposal represented poor design as there was a false pitch and flat roof at first floor level and also the potential for creating a terracing effect in the street.

Numbers 81 Delves Green Road and 62 Delves Crescent occupy the opposite corner position in the street and have a similar relationship to the application house and 78 Delves Green Road. There is a side facing kitchen window in 62. Numbers 62 and 81 both have two storey side extensions which lie at an oblique angles with the side elevations angled together at the rear. It was considered that neither extension would have an over-dominating affect on the other property.



## **Relevant Planning Policy Summary**

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

Unitary Development Plan Policies

GP2: Environmental Protection

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal. This policy will be applied to all development but will be particularly significant in the following locations:-

- On a visually prominent site

(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.
- The effect on the local character of the area.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Documents relating to residential design.

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 |

Supplementary Planning Documents

### Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E 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. Appendix E includes:

- 24 metre separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front.
- 13 metre separation between habitable room windows and blank walls exceeding 3 metres in height.
- 45 degree code : particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk))

### National Policies

#### PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

### **Consultation Replies**

**Pollution Control** – No objections

### **Public Participation Responses**

None

### **Determining Issues**

- Design of Extension and Impact on Character of Area
- Impact on Amenity of Nearby Residents
- Parking

### **Observations**

#### **Design of Extension and Impact on Character of Area**

The design of this proposal with a hipped roof will be in keeping with the existing house. The proposed first floor side extension will appear subservient to the original dwelling as this will be set back from the original front elevation and will integrate well with the existing house.

The oblique relationship between number 78 and the application house will avoid any potential for terracing between these two houses. There are also similar two storey extensions to the side of 64 Delves Crescent and 64, 67, 71, 75, 79 and 81 Delves Green Road and it is considered that this proposal will not harm the character of the area.

### **Impact on Amenity of Nearby Residents**

The rear elevation of number 78 lies at an oblique angle to the side elevation of 76 and the habitable room windows in the rear elevation of 78 do not directly face the side of number 76. The rear windows in 78 serve a dining room with a bedroom and bathroom above. The dining room and bedroom window in 78 will have a separation distance of approximately 5.4 metres to the proposed first floor blank side elevation of the extension when measured at an oblique angle. This distance will be 7.6 metres less than the minimum recommended separation distance of 13 metres referred to by policy although these windows do not directly face 76.

The existing separation distance between the windows in 78 and the original two storey elevation in 76 is only approximately 8 metres. The first floor bathroom (non-habitable room) window in the rear of 78 will lie 4 metres from the proposal at an oblique angle. The existing separation distance between this window and the original house is only 6.6 metres. It is considered that the northern position of the application house, existing minimal separation distances and the oblique angle between the two properties will result in this proposal having an acceptable impact on the daylight available to the occupiers of 78

The extension will lie on the opposite side to house number 74 and as this house is in line with the application house the proposal will not be visible from this house and will have little impact on the daylight received by this house.

The rear elevation of 64 Delves Crescent faces away from the rear of the application house and as this house lies to the south west of 76 it is considered that this proposal will have minimal impact on this house. Number 66 lies at right angles to the application house and as the proposed rear habitable room window lies further forward than existing habitable room windows and will have little impact on the privacy enjoyed by the occupiers of this house or the users of gardens to the rear of 76.

### **Parking**

The existing garage is too narrow to provide a modern parking space of 2.4 metres by 4.8 metres. Whilst the conversion of the garage to a dining room will result in the loss of a garage there is adequate space on the frontage to provide the three parking spaces required to serve a four bedroom house.

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

The proposed development is considered to accord with the aims and objectives of Walsall's Unitary Development Plan, in particular policies GP2, ENV32, H10, T7 and T13, and the Supplementary Planning Document "Designing Walsall", and other material planning considerations, as follows:

The design is in keeping with the existing house and its surroundings. The position of this extension will have an acceptable level of impact on the privacy, daylight and sunlight received by nearby properties.

The separation distance between number 78's rear ground floor habitable window and the proposed blank first floor side elevation will be less than the Council's minimum recommended 13 metre separation distance measured at an oblique angle. Number 76 lies to the north of number 78 and as these windows do not directly face 76 and the existing separation distances between the rear of 76 and 78 are already less than policy it

is considered that this proposal is acceptable in this instance and is considered unreasonable to refuse permission on this basis.

There is sufficient space within the curtilage of the application property to provide three parking spaces required to serve the increase from three to four bedrooms.

**Recommendation: Grant Subject to conditions**

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

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

2: The walls and roof of the extension shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise previously agreed in writing by the local planning authority.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

3: 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 without the prior approval of a planning application.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

4: Before the development is brought into use, the front driveway shall be enlarged and hard-surfaced to provide a total of at least 3 car parking spaces, each measuring at least 2.4 by 4.8 metres. Drainage from the spaces shall be to a permeable or porous area or surface within the curtilage of the dwelling house, unless otherwise agreed in writing by the local planning authority. The spaces and drainage shall thereafter be retained as such.

Reason: To ensure the satisfactory provision of off street parking and in accordance with T13 of Walsall's Unitary Development Plan.

5: This permission relates to the following plans DRG02 & DRG05 – deposited 20/8/09, DRG07A – deposited 6/10/09, DRG06B & DRG03A – deposited 14/10/09,

Reason: To define the permission.

**NOTE FOR APPLICANT**

**Please note that planning permission reference BC20997P had a condition attached to it requiring the ground floor, high-level window facing the rear elevation of 78 Delves Green Road to be obscure glazing and retained thereafter. This planning permission was granted subject to conditions in 1988 and still applies.**



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on

05 Nov 2009

**REASON FOR BRINGING TO COMMITTEE: Contrary to Policy**

**Application Number:** 09/1148/FL

**Application Type:** Full application

**Applicant:** Mr VJ Paul

**Proposal:** Single storey front and rear  
extensions and two storey side and rear  
extension

**Ward:** Short Heath

**Recommendation Summary:** Grant Subject to conditions

**Case Officer:** Helen Smith

**Telephone Number:** 01922 652486

**Agent:** Mr Tony Paul

**Location:** 62 FURZEBANK  
WAY, WILLENHALL, WV12 4BG

**Expired:** 22/10/2009



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## **Application and Site Details**

This application is for single storey front and rear extensions plus a two storey extension to the side and rear of a modern semi-detached house. These extensions are to reposition an existing kitchen and provide an additional living area, porch, disabled access bathroom with a first floor bedroom and en suite. This proposal will replace an existing attached garage, storage room and conservatory. The total number of bedrooms will remain at three as the existing smaller bedroom is to be converted to a study.

The proposed ground floor front extension and porch was to project 1.3 metres next to house number 60. Amended plans have been received and this will now be in line with the original house. The proposed porch will project 1.3 metres. A replacement canopy has been proposed which will project 1.3 metres in place of the existing canopy which projects 0.6 metres.

The proposed two storey side extension will be set back 0.6 metres from the original front elevation and the rear elevation will project 0.9 metres further back than the original rear elevation. The proposed first floor rear window will serve a non-habitable room. This proposal will be 2.4 metres wide and amended plans were submitted to remove a side roof fascia and show a dry verge as this part of the proposal will be next to the boundary with house number 60 which has a side facing landing window. The application house is in line with the houses to either side and number 60 has front and rear facing habitable room windows

The proposed single storey rear extension will be across the full width of the application house and originally was to project 4 metres. Amended plans have been received reducing this projection to 3.5 metres. This part of the proposal is to have a pitched roof which is between 2.6 and 3.5 metres high. House number 60 has a utility room window close to the rear garden boundary with 62 and a rear single storey projection of approximately 1.5 metres in line with a similar existing projection at 62. Number 60 has a kitchen window in the original rear elevation with a bathroom above and a rear conservatory which projects approximately 4 metres.

House number 64 has front and rear facing habitable room windows close to the application house. The proposed ground floor rear habitable room windows will face first floor habitable room windows in the rear of 19 and 21 Roebuck Glade across a separation distance of 17.1 metres. House number 19 has a rear conservatory which projects approximately 3 metres.

## **Relevant Planning History**

None

## **Relevant Planning Policy Summary**

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

Unitary Development Plan Policies

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable

adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

(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 integration and co-ordination of buildings and external space.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Documents relating to residential design.

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 |

Supplementary Planning Documents

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E 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. Appendix E includes:

- 24 metre separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front.
- 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))

National Policies

#### PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

### **Consultation Replies**

#### **Pollution Control**

Contaminated Land Team– No objections

Scientific Team - No objections

**Centro** – No objections

### **Public Participation Responses**

None

### **Determining Issues**

- Design of Extension and Impact on Character of Area
- Impact on Amenity of Nearby Residents
- Parking

### **Observations**

#### **Design of Extension and Impact on Character of Area**

The design of the extension with a gable roof will be in keeping with the existing dwelling.

The street is a mix of detached, semi detached house and terraced houses of the same age and similar design with gaps of varying width. A number of houses have similar porches and canopies. There are two storey side extensions to house numbers 52, 56, 64 and 72 and it is considered that this proposal will integrate into the existing diverse street scene and will not harm the character of the area. The proposed first floor set back to the front will avoid the appearance of terracing should a similar extension be proposed at number 60.

#### **Impact on Amenity of Nearby Residents**

The proposed porch will replace an existing porch and will only increase the existing projection by only 0.4 metres. The proposed canopy will project 0.7 metres further than the existing canopy and will be supported by a slender post next to 60. The proposed porch and canopy will lie to the north of house number 64 and it is considered that this part of the proposal will have little additional impact on the daylight available to the front habitable window in 64. The canopy also complies with the 45 degree code in relation to the front habitable window in 64.



The proposed canopy will lie next to the boundary with house number 60 which has a recessed habitable window which is shaded below a projecting flat roof canopy at 60 which projects in line with the original front elevation of the application house. Whilst the canopy projection will increase by 0.7 metres next to number 60 it is considered that this increase will not significantly worsen the existing situation and will have an acceptable impact on the daylight available to this window.

The two storey side extension will lie on the opposite side of the application house to house number 64. The only part of this part of the proposal that will be visible from 64 is the rear projection but as there will be a gap of 5 metres from this section and the rear garden boundary with 64 it is considered this part of the proposal will have little additional impact on the daylight available to the occupiers of 64.

The proposed front elevation of the two storey side extension will lie further back than the front habitable room windows in number 60. The rear projection of 0.9 metres will lie across a gap of 2.6 metres and it is considered that as this is a small projection this part of the proposal will have little impact on the daylight available to 60. This part of the proposal also complies with the 45 degree code in relation to the ground floor kitchen window.

The proposed single storey rear extension will only project 3.5 metres from the original house and will replace an existing conservatory which projects 2.2 metres. This part of the proposal will lie to the north of house number 64 and it is considered that this orientation will result in this section having an acceptable impact on the daylight and amenity enjoyed by the occupiers of 64. This section will only project approximately 2 metres further back than the single storey rear utility room extension at 60 and this proposal will have an acceptable impact on the daylight available to the rear of 60.

The separation distance between the habitable windows in the proposed single storey rear extension and the first floor facing habitable in the rear of 19 and 21 Roebuck Glade, at 17.1 metres, will be 6.9 metres less than the recommended minimum separation distance of 24 metres referred to by policy. The separation distance between the original two storey rear elevation of the application house and 19 and 21 Roebuck Glade is only approximately 20.6 metres.

The application house has an existing conservatory which has reduced this separation distance to 17.4 metres and 19 Roebuck Grove has a conservatory which reduces this distance to 17.6 metres. In addition the conservatory at 60 Furzebank Way reduces the same distance to 17.8 metres. The Councils records do not show any planning permissions for these conservatories but they may have been built under permitted development allowances or have become exempt over time. The proposed first floor rear window will serve a non-habitable room. It is therefore considered that as the single storey rear extension is repeating an existing pattern and this proposal will not significantly worsen the amenity enjoyed by numbers 19 and 21 Roebuck Grove and will achieve the objectives of policy.

### **Parking**

The total number of bedrooms will not increase as a result of this proposal and the existing driveway already has adequate space for two parking spaces.

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

The proposed development is considered to accord with the aims and objectives of Walsall's Unitary Development Plan, in particular policies GP2, ENV32, H10, T7 and T13, and the Supplementary Planning Document "Designing Walsall", and other material planning considerations, as follows:

The design is in keeping with its surroundings. The position of this extension will have little impact on the privacy, daylight and sunlight received by nearby properties.

Whilst the separation distance between the proposed rear single storey extension at the application house and the first floor windows in 19 and 21 Roebuck Grove will be 6.9 metres less than the Council's minimum recommended separation distance of 24 metres. It is considered, this repeats an existing pattern between these two rows of houses this proposal would not be significantly worse than the existing privacy enjoyed by the occupiers of the application house and neighbouring houses.

There is no requirement for the provision of any additional parking provision as the number of bedrooms is unchanged.

### **Recommendation: Grant Subject to conditions**

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

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

2: The walls and roof of the extension shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise previously agreed in writing by the local planning authority.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

3: 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 without the prior approval of a planning application.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

4. A total of at least 2 parking spaces, each hard surfaced, measuring at least 2.4 x 4.8 metres and with access from the highway, shall be retained at all times within the curtilage of the dwelling.

Reason: To ensure the satisfactory provision of off-street parking, and in accordance with policies T7 and T13 of Walsall's Unitary Development Plan.

5: The first floor window in the rear extension facing 19 and 21 Roebuck Glade shall comprise opaque glazing, details of which shall be submitted to and approved in writing by the local planning authority before construction commences,

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.

6: This permission relates to the amended plans deposited on 20 October 2009.

Reason: To define the permission.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
05 Nov 2009

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

**Application Number:** 09/1170/FL

**Application Type:** Full application

**Applicant:** Mr & Mrs A. Osborne

**Proposal:** Two storey side & rear  
extension & alterations

**Case Officer:** Claire Murphy

**Telephone Number:** 01922 652485

**Agent:** Mr Nick Massey

**Location:** 34 MOUNTFORD  
CRESCENT, ALDRIDGE, WALSALL, WS9  
8LD

**Ward:** Aldridge North and Walsall Wood

**Expired:** 05/11/2009

**Recommendation Summary:** Grant Subject to conditions



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## **Application and Site Details**

This application is for a two storey side and rear extension to a detached house. The property has a pitched gable roof. The proposed extension would enclose the gap to the side of the house, adjacent the shared side boundary with number 32. The extension would be 2.95 metres wide and would run the length of the existing house and project a further 3.8 metres beyond the original rear elevation to the house, and wrapping around from the rear elevation would increase in width to 3.85 metres. The front elevation of the extension would be level with the front elevation of the house at ground floor level, with the first floor to be set 2.0 metres back.

The extension would have a pitched roof to match the original house. The ridge to the side extension would be 0.9 metres lower in height than the ridge to the main roof, and the ridge to the rear extension to be 1.4 metres lower in height than the ridge to the main roof. A hipped roof is proposed above the single storey front section.

The single storey extension to the rear of the house, would project 3.3 metres by 3.2 metres wide, and would adjoin the proposed two storey extension to the side / rear of the property, with a pitched roof 3.5 metres high. The side elevation facing number 36 Mountford Crescent would be set 4.3 metres away from the shared side boundary.

The extension would provide a kitchen / diner room and dining room at ground floor level, with one bedroom, with an en-suite and dressing area at first floor level. The numbers of bedrooms would be increased from three to four in total.

The extension would lie along the shared side boundary with number 32 which is sited 2.9m off the boundary. The front elevation of No34 is in line with the original front elevation to number 34. The original rear elevation to number 32 projects beyond the rear of number 34 by approximately 1.4 metres. There is a single storey extension across the rear elevation to number 32 projecting 3.0 metres, an overall projection of 4.4 metres in relation to number 34.

Neighbouring property number 36 is a semi-detached house. It has a garage extension projecting 1.1 metres beyond the rear elevation of number 34. There is a 1.2m gap along the side boundary with number 34. There is a single storey extension to the rear of number 36 projecting between 2.6 metres and 3.7 metres overall.

There is an existing detached brick built converted garage within the rear garden to number 34, which is set 5.3 metres back from the existing rear elevation to the application property, which is to be demolished. The garage lies along a detached garage at number 32.

There are semi-detached bungalows on the opposite side of the road, facing number 34 Mountford Crescent.

The plans submitted with the application indicate a low level boundary wall to be erected along the shared side boundaries with both neighbouring properties numbers 32 and 36, however, no specific height has been provided.

## **Relevant Planning History**

09/0747/FL: Two storey side and rear extensions and alterations. Refused permission August 2009 for the following reason:

*'The design of the extension, with the first floor front elevation to be level with the original first floor front elevation, would by closing the gap to the boundary with the adjacent house number 32, create a potential terracing effect and would cause the loss of the original deep soffits, which is characteristic to the roof shape to the property. This together with the addition of an extended canopy roof adjacent to the existing single storey front extension represents poor design and would be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the and the Supplementary Planning Document, Designing Walsall.'*

The first floor front elevation of this application was proposed to be level with the original first floor front elevation to the application property, with a hipped canopy roof to be erected to the front of the two storey extension. The two storey extension proposed to the rear would have projected 2.8 metres at first floor level beyond the original rear elevation to the property, continuing a further 2.1 metres at ground floor level.

The single storey extension proposed to the rear of the property, as outlined within the current application, did not form part of the previous application.

## **Relevant Policies**

***(note the full text version of the UDP is available from First Stop Shop in the Civic Centre and on the Council's web site)***

Unitary Development Plan Policies

GP2: Environmental Protection

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Documents relating to residential design.

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 |

#### Supplementary Planning Documents

##### DESIGNING WALSALL

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E 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.

- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character
- 45 degree code: particularly where new development impacts on existing
- 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

#### National Policies

##### PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

#### **Consultation Replies**

None

#### **Public Participation Responses**

Representations have been received from the occupiers of numbers 28, 30, 32, and 36 Mountford Crescent, 19 Birch Croft and 23 Woodacre Road, objecting to the proposed extensions As follows:

- No other properties extended within the street, approval would set precedent in the street and alter the existing character and street scene, which consists mainly of semi-detached bungalows;
- could lead to a terracing effect if other properties also extended;
- Any closing of the gap between properties, particularly by two storey extensions would be detrimental to the existing desirable, spacious character of the estate;
- Existing parking is along the side of the house, which would be lost by the extension, with only one space remaining for a four bedroom house. To achieve parking by paving over the existing front garden would result in an environmentally unattractive solution, causing the loss of tree and landscaping;

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- Potential devaluation to the neighbouring properties;
- bungalows opposite would lose the open aspect;
- The property has already been extended at the front which is beyond the building line;
- The overdevelopment of the site would result in a loss of privacy for the two bungalows at the rear of the property that would be overlooked by the proximity of the proposed extension.
- The size and height of the extension is excessively large in relation to the plot. The extension wall will be only a little over 2 metres from No 32 and as the application property is already higher, will have a visually overbearing impact. The wall extending from the rear building line could be stepped in to reduce this effect;
- proposed bathroom window will be closer to boundary and reduce privacy at No32;
- Concerned that the single storey extension to the rear would overlook No 36 due to the height difference between 34/36;
- The low level wall will make it difficult for occupiers of No 36 getting in and out of their car when removing it from their garage. The properties were originally built with "open plan" gardens;

### **Determining Issues**

- Whether the proposals overcome the reasons for refusal to the previous application, relating to the design of the extension, and the potential terracing effect.
- Impact on Amenity of Nearby Residents

### **Observations**

#### **Design**

Mountford Crescent consists mainly of bungalows, with three pairs of semi-detached houses and two detached houses. The applicants property is one of the detached houses, and is positioned between two pairs of semi's.

The side extension would be level with the original front elevation to the property at ground floor level and set back by 2.0 metres at the first floor. It is considered that this set back would overcome any potential for a terracing effect in this instance. The ground floor section would have a hipped roof which is an acceptable improvement to the previously proposed canopy. In terms of setting a precedent, every application is determined upon its own merits.

The house and both neighbouring pairs of semi-detached houses have pitched gable roofs, with deep soffits overhanging the elevations to the houses. The two storey extension replicates the eaves and deep soffit features. This is in keeping with its original appearance and would not be out of character within the wider area. It is considered therefore that the current application has overcome the previous reasons for refusal.

#### **Impact on Amenity of Nearby Residents**

The original first floor rear elevation and single storey rear extension to neighbouring property number 32 currently projects beyond the original rear elevation to number 34, by approximately 1.4 metres at first floor level and a further 3.0 metres with the ground floor rear extension.

The current proposals would not breach the 45 degree line in relation to the closest habitable room window. The extension would not project beyond the rear elevation in relation to the single storey extension to number 32. The window proposed at first floor level facing number 32 is shown as obscure glazed and fixed, would serve a non-habitable room and overcomes any potential for overlooking.

There are non habitable room windows at both ground and first floor level at the neighbouring property. The kitchen / dining room window within the side elevation of the proposed extension is a secondary window which would have a satisfactory relationship with the neighbouring property.

The ground level of the application property is slightly higher than number 34, by approximately 0.4 metres however the rear extensions face south-east, with number 32 on the south-west side. They would not extend beyond the rear of number 32. The extension would not cause any shadowing impact.

The proposed extensions would be set over 7.0 metres away from the shared side boundary with number 36 Mountford Crescent. There are no windows proposed within the first floor side elevation facing number 36. There are no significant differences to the ground levels between both properties, which would cause any over looking between taking into account the position of the 1.8 metre high boundary wall along the shared boundary, there should be little detrimental impact upon their amenities.

The existing rear elevation of number 34 faces the rear elevations to number 18 and 19 Birch Croft, with a minimum separation distance of approximately 29.0 metres in-between the respective facing elevations. The proposed two storey extension would reduce this current distance to approximately 25.0 meters, which would be 1.0 meter in excess of the minimum separation distance of 24.0 metres as referred to within the Supplementary Planning Documents, and would not cause any detrimental impact on their amenities.

The proposed two storey extension would not project forward of the property, it would respect the character of the area and would appear acceptable in the street scene, having no undue impact on properties opposite.

The possible impact on property values and sales is not a material planning consideration.

### **Parking**

The increased number of bedrooms would require an additional parking space. Existing parking space at the side of the house would be lost by the proposed extension.

The remaining driveway, together with the existing lawn area to the front garden, would provide space for three vehicles. A condition would need to be imposed within any approval given to ensure that the lawn area is hard-surfaced. This would cause the loss of the lawn and a tree within the front garden, however it is not considered that this would cause any significant detrimental impact upon the character of the wider area, in this instance.

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

The appearance of the proposal is acceptable in the street scene, takes account of its surroundings and would not set a precedent. The loss of lawn and tree to the front

garden would not harm the appearance of the property or have any significant detrimental impact upon the character of the wider area.

The position of the extension in relation to the adjoining dwellings means that it will cause no unacceptable overlooking, loss of privacy, or loss of daylight or sunlight to these properties.

The difference in height between the application house and neighbouring properties are minor and is considered not to cause any unreasonable overlooking, loss of privacy, or loss of daylight or sunlight to these properties.

It will comply with the numerical guidelines in the SPD. There would be no undue impact on the amenity of neighbouring residents or character of the wider area.

There is space to the front and side of the property to accommodate three vehicles to meet policy requirements.

The application is therefore considered to comply with Walsall's Unitary Development Plan, in particular policies GP2, ENV32, H10, and T7 and T13 and the Supplementary Planning Documents "Designing Walsall" and other material planning considerations.

**Recommendation: Grant Subject to conditions**

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

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

2: The walls and roof of the extension shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise previously agreed in writing by the local planning authority.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

3. This development shall not be brought into use until the driveway has been enlarged to provide a total of at least 3 parking spaces, measuring at least 2.4 x 4.8 metres. The hard-surface shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area of surface within the curtilage of the property. The spaces shall thereafter be retained as such.

Reason: To ensure the satisfactory provision of off-street parking and in accordance with policies T7 and T13 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 side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

5: Notwithstanding the information contained within the submitted plans, the height of the proposed low shared side boundary walls with numbers 32 and 36 Mountford Crescent

shall not exceed 600mm in height. Before commencement, details indicating materials to be used in the construction of the wall shall be submitted to and approved in writing by the Local Planning Authority, and shall be thereafter retained.

Reason: To ensure the satisfactory appearance of the development and in the interests of highway safety and to comply with policy ENV32 and T7 of Walsall's Unitary Development Plan.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on

05 Nov 2009

**REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Yasin**

**Application Number:** 09/1156/FL

**Application Type:** Full application

**Applicant:** Mr Hussain

**Proposal:** Two storey side extension and  
single storey rear extension

**Ward:** Aldridge North and Walsall Wood

**Recommendation Summary:** Refuse

**Case Officer:** Stuart Crossen

**Telephone Number:** 01922 652486

**Agent:**

**Location:** 100 BROADWAY WEST,  
WALSALL, WS1 4DN

**Expired:** 16/11/2009



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## **Background**

Councillor Yasin has called the application before committee because he considers the roof height has been reduced. As these properties are detached it will not create a terracing effect.

## **Application and Site Details**

This application is a resubmission for an extension to a traditional and simply styled 1930's detached house with single front projecting gable, pitched roof and flat roof over bay windows. This application proposes to add a ground floor front projection and porch, a shower room, study room, and enlarged kitchen on the ground floor, and 4<sup>th</sup> and 5<sup>th</sup> bedrooms on the first floor. The first floor side part of the extension will be built above an existing flat roof ground floor extension that lies between the side of the existing house and number 102.

The character of this side of Broadway West, from Lord Street including the first 23 houses, is defined by semi-detached and detached traditionally styled properties, some of these properties have been extended to the boundaries with neighbouring properties which has created a terracing effect. Number 100 is within a row of 23 properties, where only nine have been built up to the boundary, of these nine properties only three have created a terracing effect, also the application house is within a row of five detached houses, of which only one has a first floor side extension. The neighbouring houses either side have not extended up to their boundaries at first floor level. The houses on the opposite side of the road are all semi-detached, many of which have been extended to the side, creating a terracing effect. The rear of 100 Broadway faces the rear of the houses on Lord Street.

The front of the ground floor extension and porch is to project 1.4 metres in front of the existing house, and it will have a pitched roof, with a projecting gable feature above the front door.

The front of the first floor of the extension is to be set back 500mm from the front of the existing first floor with a small gable proposed above the window.

The main roof is pitched and approximately in line with the neighbouring houses, the application proposes to widen the roof to the boundary with number 102 and raise the roof 600mm. The roof would be hipped, and would have a flat central section. The rear of the first floor is to be in line with the rear of the existing first floor.

The rear ground floor extension is proposed to project 3.5 metres out across the full width of the house and would have a sloping roof 3.4 metres to the highest point. The garage at number 102 extends up to the boundary and is linked with the existing ground floor side projection of the application house. Number 102 has an 800mm rear projection with a flat roof.

Number 106 has no rear extensions. The neighbouring houses are approximately in line with each other and at the same ground level. Within the site of the application house, at the bottom of the garden a large breeze-block building is under construction, which is being built under the permitted development rights.

The rear garden of the application house is approximately 10 metres long and is angled at 45 degrees to meet the rear gardens of the house on Lord Street, the garden slopes up away from the rear of the property.

### **Relevant Planning History**

09/0525/FL - First Floor Side and Single-Storey Rear Extension with Canopy and Porch to Front at 100 Broadway West, Walsall – Refused 10/06/09

### **Relevant Policies**

***(note the full text version of the UDP is available from First Stop Shop in the Civic Centre and on the Council's web site)***

Unitary Development Plan Policies

GP2: Environmental Protection

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. This policy will be applied to all development but will be particularly significant in the following locations:-

- On a visually prominent site.
- Within or adjacent to transport corridors, including canals, railways, motorways and major roads.
- Areas with a special character arising from the homogeneity of existing development in the neighbourhood.

(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 integration and co-ordination of buildings and external space.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.
- The integration of existing natural and built features of value.
- The maintenance requirements of the development.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Documents relating to residential design.

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

Supplementary Planning Document

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E 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.

- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character.

National Policies

PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

### **Consultation Replies**

None

### **Public Participation Responses**

Two Objections received:

The owner of number 96 Lord Street has objected and states that the proposal:

- Would look like a bricked area which is not environmental to nature, already too much ground has been covered with brick building



- Would impact on their garden and overlook their bedroom and kitchen.

The occupier at number 102 has objected on the grounds that:

- The roof would be larger and higher which is out of character and would have a detrimental effect on the street scene,
- That the proposal would involve work with an existing shared wall,
- Be built near to the neighbouring boundary and near the foundations,
- That the rear extensions would be built over the existing drains which would prevent maintenance. Furthermore that this proposal and recent redevelopment at 96 Broadway West and 98B Lord Street is having a detrimental effect on the area.

### **Consultations**

None

### **Determining Issues**

- Design of Extension and Impact on Character of Area
- Impact on Amenity of Nearby Residents
- Parking.

### **Observations**

#### **Design of Extension and Impact on Character of Area**

The proposed hipped roof would extend 600mm higher than the existing roof and rather than the existing pitch, would have a flat central section. The proposed roof therefore would integrate very poorly with the existing roof. The occupier of number 102 has also objected to the proposed roof which is they consider to be large and out of keeping with the area.

The small first floor gable to the front of the side extension would be an unusual feature on a traditional styled detached house, where a single front projecting gable is more normal.

The gable over the porch is also a feature which does not reflect the original simple 1930's character of the house which would have had a flat roof canopy. Although the porch itself is built from materials which have a poor visual relationship with the original house, the flat roof of the existing porch and the flat roof above the existing bay windows reflect the original character of the house which maximised the main gable. Introducing a porch gable would look overcomplicated, integrating poorly with the existing house.

Houses on the opposite side of Broadway West and nearer to Bescot Crescent, have some terracing, however the application house is within a part of Broadway West which is different in character with just three cases of terracing within a row of twenty three houses. Also the application house is within a row of five individual, traditional styled detached houses leading to Lord Street, only one of these has a first floor side extension to the neighbouring boundary and it is considered that further erosion of the spaces

between properties along this part of Broadway West would have a significant impact on the area. The Designing Walsall SPD sets out minimum distances to avoid the terracing effect which should be respected in this instance.

Residents comments that the proposal makes the area look like a bricked area and that there is already too much ground which been covered with brick building is noted. The application is for an extension to an existing house within a residential area which predominantly comprises of development, it is considered that brick buildings are compatible with the area subject to their design.

The design of the extension with large hipped roof and the two front gables would not integrate with the nearby houses, is not a feature seen along this area of Broadway West and would not reflect the character of the area.

### **Impact on Amenity of Nearby Residents**

The first floor part of the proposal would be built nearest to number 102 which has a side elevation window which is obscure glazed and does not serve a habitable room. This window would be separated from the extension by the garage at 102 and faces east. The first floor extension is considered acceptable.

The rear extension would project 3.5 metres from the rear elevation of the property, have no side facing windows and would extend near to the boundaries with numbers 102 and 98. Both neighbouring houses are approximately in line with the application house. Although number 98 has no rear extensions the boundary with number 98 is defined by an established hedge and the depth of the projection is considered acceptable in relation to this property.

Number 102 has a small rear projection and the house is set away from the boundary to number 100 by virtue of the adjoining garage to the side, the boundary here is defined by a 1.8 metre fence. In relation to this property the proposal is considered acceptable.

The houses to the rear along Lord Street are on higher ground and the proposal would be largely screened by the rear boundary fence and part built detached storage building. Number 96 Lord Street has objected on the grounds that the proposal would create overlooking issues, however the separation distance between number 96 and the application house is approximately 30 metres and the development would have not significantly worsen the existing situation.

The occupier at 102 also objected to any development over the drains to the rear. This matter would be considered in a Building Regulations application.

The owner of 102 has also raised concerns that work will be undertaken to a shared wall. Also the applicant has stated that the proposal would be built on land belonging to number 100. These issues are a civil matter between the owners, not a material planning consideration.

Other issues, raised by the owner of number 102, about previous nearby developments, are not relevant to this planning application.

### **Parking**

There is currently space for two off street parking spaces at the property. Should the application be otherwise acceptable, the property has a wide frontage and there would be

room to provide additional spaces, the Walsall UDP 2005 states that 4 bedroom properties and above should provide 3 off-road car-parking spaces.

### **Refusal Reason**

The design of the proposal features a large roof with a gable, and a large roof over the proposed ground floor front extension. These features would integrate poorly with the design of the existing house. As a result, the proposal would be prominent and incongruous in its location, having a detrimental effect on the street-scene. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document "Designing Walsall".

### **Recommendation: Refuse**

1. The design of the proposal features a large roof with a gable, and a large roof over the proposed ground floor front extension. These features would integrate poorly with the design of the existing house. As a result, the proposal would be prominent and incongruous in its location, having a detrimental effect on the street-scene. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document "Designing Walsall".

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on

05 Nov 2009

**REASON FOR BRINGING TO COMMITTEE: Requires delicate judgement**

**Application Number:** 09/1195/FL

**Application Type:** Full application

**Applicant:** Mr Clayton

**Proposal:** Conservatory to rear of property

**Case Officer:** Jenny Townsend

**Telephone Number:** 01922 652485

**Agent:** Planning Application Services

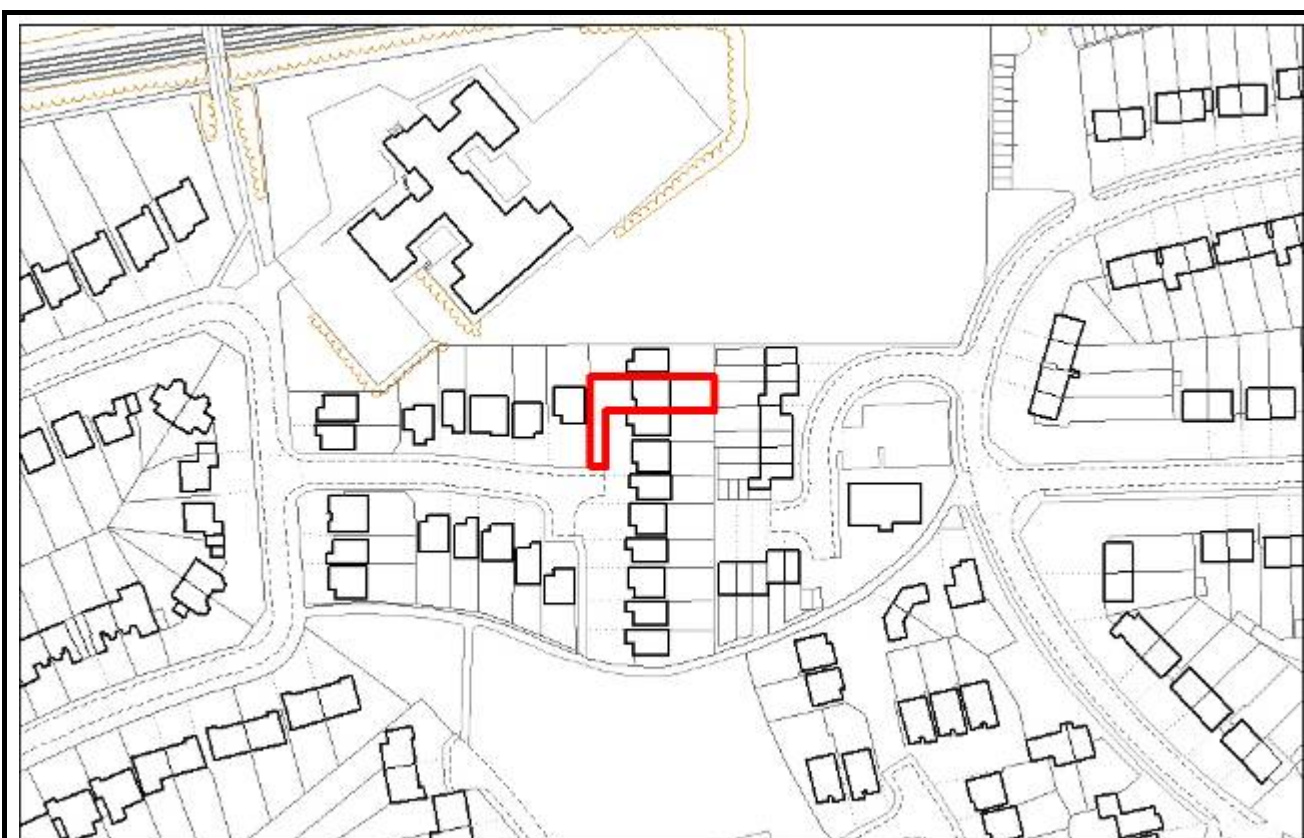
**Location:** 15 LINLEY

CLOSE, WALSALL, WS9 0ES

**Expired:** 23/11/2009

**Ward:** Aldridge/Central & South

**Recommendation Summary:** Grant Subject to conditions



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## **Application and Site Details**

This application seeks to add a conservatory to the rear of a modern detached house.

The conservatory would project 3.4 metres from the rear of the house, would be 4.3 metres wide and have a pitched roof. It would be positioned on the side of the house nearest to number 11, the neighbour to the north.

Number 11 is in line at the rear with the application house and has a conservatory to the rear which projects 3.5 metres beyond the rear of the houses. The side elevation nearest to the application house has obscure glazed panels. There is a fence on the boundary which is between 1.7 and 1.8 metres high.

The conservatory would comprise glazed panels above a low wall (0.8 metres high). The elevation facing towards the boundary with number 17, the neighbour to the south, would have double doors.

Number 17 is built right to the boundary and in line at the rear with the application house. There is a 1.8 metre high fence on the boundary between the houses which provides a screen between the rear gardens..

Numbers 23, 24 and 25 High Ridge Close lie to the rear of the application house and its neighbours and have bedroom windows at first floor level facing back towards the rear of numbers 11, 15 and 17. The distance between the rear of the houses is approximately 24.5 metres. There are tall trees and 1.8 metre high fences on the boundary between the houses which screen the rear windows from each other except for a gap of approximately 3 metres wide which allows an uninterrupted view from the rear of the application house to the first floor window of number 24 and visa versa.

## **Relevant Planning History**

Planning permission for the original estate development removed permitted development rights for extensions.

## **Relevant Planning Policy Summary**

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

### **PLANNING POLICY STATEMENT 1**

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

### **Unitary Development Plan Policies**

#### **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.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

Designing Walsall – Supplementary Planning Document

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E 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.

### **Consultations**

None.

### **Public Participation Response**

None.

### **Determining Issues**

- Impact on Amenity of Nearby Residents

### **Observations**

#### **Impact on Amenity of Nearby Residents**

The conservatory would be approximately in line with the rear of the conservatory belonging to number 11. The obscure glazing in the side elevation of the conservatory at number 11 and the existing boundary fence means that there would be little potential for overlooking between the conservatories and there would be little impact on the amenity of the occupiers of number 11 from the proposal.

The double doors proposed in the other side elevation would be over 3.5 metres from the boundary with number 17 and would be screened from the rear of 17 by the existing boundary fence, which would continue to provide a screen to prevent overlooking between the houses.

The distance between the rear of the conservatory and the rear of number 23 and 24 High Ridge Close would be reduced to approximately 21 metres. This is 3m less than the minimum normally required by policy. The ground floor windows at numbers 23 and 24 would be screened by the existing boundary fence however the gap in the line of trees along the rear boundary allows a clear sight of the first floor windows.

If trees of a 'selected standard' size (usually between 3 and 3.5 metres high) were planted in the gap, the tree screen would be complete and this would protect the amenity of the occupiers of both properties and avoid the loss of privacy which might otherwise arise due to the shortfall in the separation distance between the facing habitable windows,.

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

The proposal will not significantly increase overlooking to either of the neighbouring houses (numbers 11 and 17) and with planting in place on the rear boundary, this would protect the amenity of the occupiers of numbers 23 and 24 High Ridge and the application house and overcome the shortfall in separation between the houses, which is less than is normally allowed. The conservatory is in keeping with the design of the house and would have a satisfactory relationship with the adjacent houses.

The proposed development is considered to comply with Walsall's Unitary Development Plan, in particular policies GP2, ENV32, H10, and the Supplementary Planning Document "Designing Walsall" and other material planning considerations.

### **Recommendation: Grant Subject to conditions**

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

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

2: The facing bricks of the conservatory shall match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the conservatory, unless otherwise previously agreed in writing by the local planning authority.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

3: Before the extension is brought into use, a *Sorbus aucuparia* (Rowan or Mountain Ash) tree of selected standard planting size (between 3 and 3.5 metres high) is to be planted in the middle of the existing gap in the trees adjacent the rear boundary of the application house and numbers 23 and 24 High Ridge. If the tree dies or becomes seriously diseased, damaged or is removed, it shall be replaced within 3 months with a tree of the same or similar species and size.



Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building  
Control, Regeneration Directorate on  
05 Nov 2009

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

**Application Number:** 08/1603/FL

**Application Type:** Full application

**Applicant:** A F Blakemore & Son Ltd

**Proposal:** Change of use to lorry parking ( to include an additional maximum 10 HGV's) acoustic fencing and landscaping.

**Ward:** Bentley & Darlaston North

**Recommendation Summary:** Grant Subject to conditions

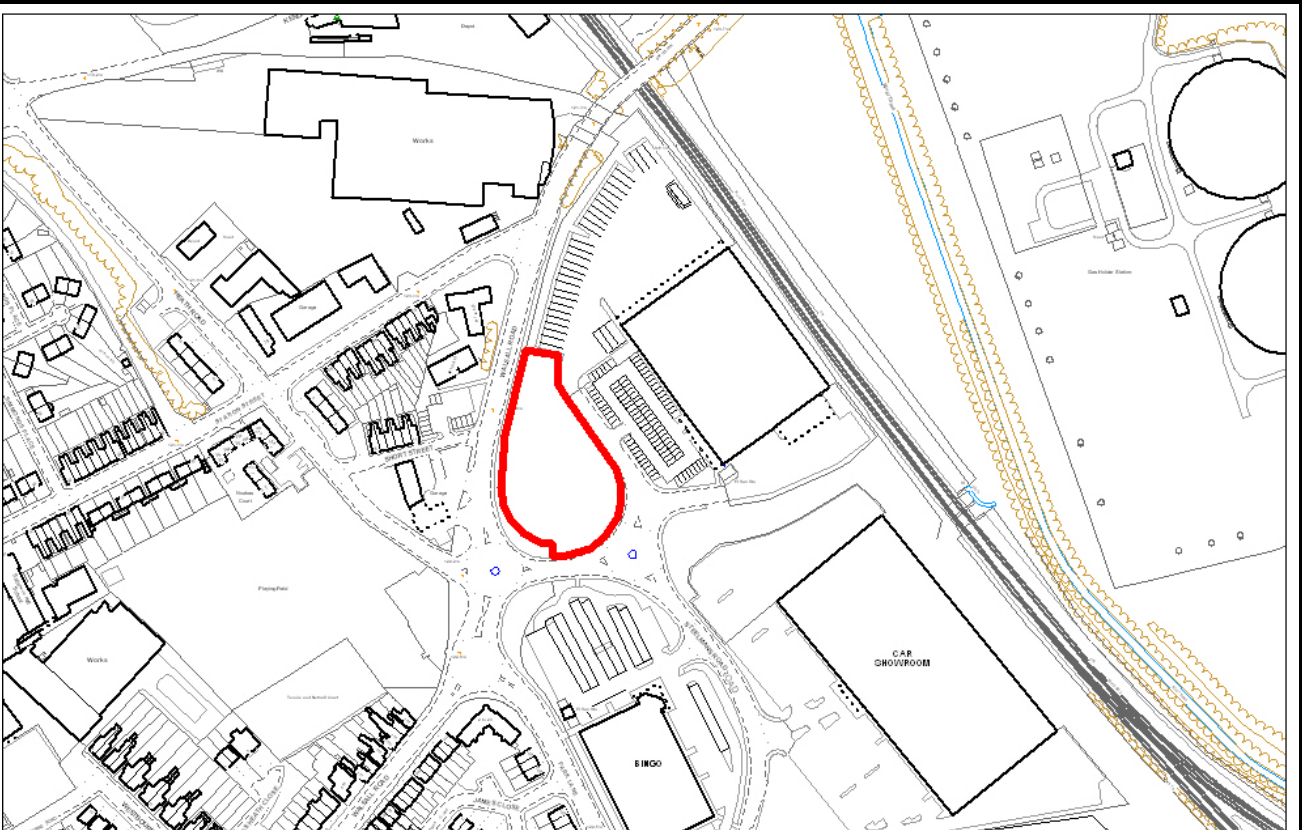
**Case Officer:** Marilyn Kowalski

**Telephone Number:** 01922 652492

**Agent:** DTZ

**Location:** LAND AT JUNCTION OF  
WALSALL ROAD AND STEELMANS  
ROAD

**Expired:** 12/01/2009



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## **Status**

The application was presented to Development Control Committee on 6<sup>th</sup> January 2009. It was deferred in order to receive further technical information on the noise report. This information has now been received.

Since the application was presented to committee the Design and Access Statement has been amended. It states that the supporting noise assessment demonstrates that the installation of an acoustic fence would reduce lorry manoeuvres and docked lorry noise levels to below the existing noise climate and also below the local authority NR46 criteria at the residential façade.

The Design and Access statement says that there will be no more than 10 additional HGV's accommodated on the site (when you previously considered the application, no increase in vehicles was envisaged), It goes on to say that the proposal is primarily required to alleviate existing parking and servicing deficiencies on the main part of the site and therefore, in real terms, there is unlikely to be any significant increase in traffic movements, (they propose no more than 20 extra and off peak trips per day.)

## **Application and Site Details**

The proposal is for the change of use of the site, which is currently vacant land, to form a lorry/car park. This would be in connection with Blakemore & Son Ltd. distribution depot which occupies the warehouse opposite the site. The proposed development comprises the creation of an area of hard standing to accommodate 24 HGV parking spaces in the wider southern part of the site, and 19 car parking spaces in the northern part of the site.

The part of the site which will be used for the car and lorry park is broadly level, however, the edge of the site running from north to south forms a bund that rises from approx. 0.8 m above the site to 2.7m above the site. existing iron railings run along the crest of the bund. There is an area of landscaping between the boundary fence and the highway.

The proposal includes landscaping around the boundary of the site fronting Walsall Road together with a timber acoustic fence to a maximum height of 4.0m on the Walsall Road frontage which will be lowered in height to 3.5m where it turns the corner into Steelmans Road. The acoustic fence will replace the existing railings which are to be relocated to the Steelmans Road frontage of the site. The applicant has suggested that the external face of the acoustic fence could provide a potential area for a Community Art project.

The Design and Access Statement submitted with the application explains that the business has expanded to the point where existing arrangements are fully utilised and the provision of additional parking will alleviate existing problems.

Access to the site will be from Steelmans Road (there is currently no access point to the site).

The surrounding area comprises commercial and industrial uses predominantly to the east of the site and to the north west of Station Road. West of the site on the opposite side of Walsall Road is an area of housing.

The planning application is accompanied by a Noise Assessment. This has been amended to take account of further technical information which has been received since the application was presented to committee earlier this year. This concludes that there is a positive indication that complaints are unlikely and there would be no increase in existing ambient noise levels during the day or night time periods.

## **Relevant Planning History**

The larger area of which this site is part has been given permissions for leisure uses, together with industrial and warehouse units, over the period 1995 to 1999. The leisure use has been built as a bingo hall. Other employment uses share the larger area. This is the last prominent site to be developed.

Recent history includes:

03/0412/OL/W2 Outline: Development of site for B1 (b & c) (research and development and light industrial) B2 (general industrial) and/or B8 (warehousing) uses Grant subject to conditions on 6<sup>th</sup> April 2004.

05/0251/FL/W2 Change of use from vacant land to lorry/car park refused 12<sup>th</sup> April 2005 for the following reasons:-

1. The proposal would bring a noise generating use into close proximity with nearby residential properties to the detriment of the residential amenities which the occupiers of these properties could reasonably expect to continue to enjoy. The proposal is therefore contrary to Unitary Development Plan policies 3.7 and ENV10.
2. The use of this prominent site for the parking of lorries would have an adverse visual impact on the area, contrary to the environmental objectives of policies 2.1, 2.2, GP2 and 3.6 of the Development Plan. The approval of this use on this main road frontage would prejudice the aims of the Council, Walsall Wolverhampton and South Staffordshire Regeneration Zone and the Walsall Regeneration Company for the Darlaston Strategic Development Area. These aims are to create a modern industrial area which will have a significant impact on the promotion of the economy of the borough.

06/1586/FL/W2 Extension of warehouse for forklift storage to the existing distribution warehouse Grant Subject to Conditions 15/11/06

## **Relevant Planning Policy Summary**

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

## **Unitary Development Plan (UDP)**

2.1 and 2.2 define the overall strategy of the plan,  
GP1 and 3.1 seek sustainable development, urban regeneration, & environmental improvement are identified

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.

3.16: The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

ENV32 seeks to create high quality 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.

S5 defines the Woodlands Centre as a local centre at which the existing convenience shopping function should be retained and if possible enhanced, although the buildings may be redeveloped.

GP7 - improve the environment of the Borough

7.4, and T1 support ease of movement and accessibility for pedestrians.

T7: All development should satisfy the car parking standards set out in Policy T13 sets maximum car parking standards and account should be taken of the location of development in relation to local facilities and public transport.

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

### **Designing Walsall SPD**

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

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

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

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

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

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

Appendix D: Public Art Guidelines: Art features should champion local distinctiveness and make a difference to the quality of the built environment. T

### **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. Submission to the Secretary of State is anticipated in October/November 2008 following a further period of public consultation. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of recent national and regional planning guidance

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

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

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

Overall the strategy promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

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

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

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

## **National Policy**

Planning Policy Statement (PPS) 1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. A Supplementary document has been published on the need to address climate change through the planning system.

PPG13 on transportation seeks to minimise the use of the car by the sustainable location of development. It promotes development at accessible transport locations, reducing the need to travel by car and promoting walking, cycling and public transport. This is supported by Manual for Streets (published May 2007) which promotes a flexible approach to design and materials that build a high quality environment.

## **Consultations**

**Transportation** – No Objection subject to conditions relating to layout, access and operation and number of commercial vehicles to be limited to 84. The applicant looks to create an additional lorry and car parking facility in order to improve the present unsatisfactory parking and manoeuvring operational arrangements within the existing site as well as an increase in the number of HGV's operating from the site. The site presently operates 74 HGV's. The original scheme did not propose to significantly increase the number of vehicular HGV/car trips as it was to be primarily used as an overspill for the existing parking arrangements. Subsequently the applicant sought permission to operate an additional 6 HGV's from the site and has now asked for permission to operate a further 4 HGV's which will increase the total number of HGV's operating from the site by 10 to 84. In considering whether the proposed increase in operating vehicles is acceptable the Highway Authority has taken the following factors into account:-

- Walsall Road (A4038) and Park Lane (B4200) are both part of the Strategic Highway Network and have sufficient additional capacity to accommodate the additional trips.
- There are no recorded accidents involving HGV's entering or leaving the site in the last 5 years.
- The Gross Floor Area of the existing premises remains unchanged
- The parking level required to serve the current operation of the site.

Although there is a proposed increase in commercial vehicles, information has been submitted by the applicant to demonstrate that the proposal will improve safety for internal manoeuvres with the site. The percentage increase of commercial vehicles in the opinion of the Highway Authority is not significant and is therefore unlikely to have a major impact on the surrounding highway network and is considered acceptable. However, any further increase in the number of commercial vehicles operating from the site over and above the 84 permitted will require detailed consideration by the Highway Authority and therefore an appropriate Condition should be imposed in this respect.

**Pollution Control (Contaminated Land)** – No objections. Part of the property is located in an area previously utilised for metal casting/foundry that may have resulted in localised ground contamination that may present Health and Safety implications for persons undertaking ground works. Recommend that a note is attached to any planning approval issued .

**Pollution Control Scientific Team** - No objection. Conditions have been recommended however to address issues of noise that arise due to the proximity of residential accommodation.

**Fire officer** - No objection

**Crime Reduction/ Architectural Liaison Officer** - This site is situated in a High Crime area mainly relating to vehicle crime and burglary. The proposed use of this site will provide the opportunity to commit crime. Main concerns are security of the site itself. There are no references

made to security measures within this application therefore initial comments are based on no additional security measures being in place. The site itself will have poor natural surveillance particularly to the sides and rear where there are no houses only industrial premises and car parking. In conjunction with the easy access to the perimeter of the site due to the open plan nature of the surroundings with various escape routes including the nearby railway line, the need for appropriate security is crucial.

The perimeter needs to be secured with secure by design approved fencing such as 'Expamet', this should have a security topping such as 'Razor Spike' which is again secure by design. The use of timber fencing particularly along the rear of the site would not serve any security purpose in its own right at all as it would be easily scaled or broken through. If wooden fencing is the only option a monitored micro wave alarm system should be installed along the inner perimeter along with monitored CCTV. Lighting will need to be appropriate and parking areas defined to allow for maximum CCTV coverage around the vehicles.

**Drainage** – No objection

**Environment Agency** – Low environmental risk.

**Network Rail** – No objections

### **Public Participation Responses**

Four letters of objection were received to the application and a further letter containing 17 signatures. The grounds of objection are as follows:-

- Close proximity of the development to residential properties;
- there is another overnight lorry park next door to this site, the council has had to equip a flat on Walsall Road with intake fans to allow ventilation without noise;
- there is already one lorry park in Bentley Mill Way (unauthorised) which visually spoils the area; *(the owner has been contacted and matters are progressing)*
- Increase in traffic on road system leading to damage to roads and accidents particularly to the historic aqueduct on Bentley Mill Way;
- Increased pollution;
- Increase in noise especially at night and particularly from refrigeration units;
- The area already copes with excess noise pollution from main road why should residents have to invest in extra sound proofing for their properties;
- will put lives at risk and there are 5 schools nearby;
- Intensification of the use as a food distribution depot which is a 7day 24 hour operation;
- if there is any money for landscaping the local park should be considered;
- Are power posts to be used for charging refrigeration units?
- Will acoustic fencing be high enough to stop noise to second and third floor flats opposite
- Concerns about the visual appearance of a 4m high fence
- Nearby properties received secondary glazing to bedrooms when the depot was originally built but these measures do not adequately protect from existing noise;
- Increased light pollution;
- Noise level readings are dubious as only one environmental noise survey was undertaken this year there must have been an increase since the survey was undertaken.

A further 2 letters of objection have been received in response to the revised acoustic report and the additional number of HGV's, on the following grounds:-

- Concerns about increase in traffic, noise and appearance of 4m high fencing;
- The area already copes with excess noise pollution from main road why should residents have to invest in extra sound proofing for their properties;

- The site was built the wrong way round - the building should shield the surrounding residential properties from noise;
- Top flats on Walsall Road will not be protected from noise and vibration;
- Bridge on Bentley Mill Way has been damaged by tall lorries if this is further damaged everyone will be plunged into chaos again (Bentley Road South is already shut for a year)
- 10 HGV's hold 40 tons each, therefore up to 40 or 50 additional HGV's (if not full every time) will need to arrive at the site to fill up the additional vehicles;
- Additional noise from electricity points or noisy diesel motors.

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

### **Determining Issues**

The determining issues are amenity of surrounding residents; visual amenity; traffic implications and security issues.

### **Observations**

#### **Amenity of surrounding residents**

In order to consider the issues it is necessary to understand the history of surrounding sites.

In 1999 planning permission was granted for a food distribution warehouse (BC53124P), now occupied by Blakemore's. The boundary of the site, at that time, included the application site now under consideration for a distribution unit. However, the detailed proposal excluded this land. As part of the Blakemore application there was a payment under a S106 Agreement, to the council to allow for the installation of "acoustic attenuation measures" this comprised sealed secondary glazing with Venetian blinds in the glazing gap, associated control gear and acoustic ventilation to the bedroom windows of nos. 401, 403, 409, 411, 417, 419, 423, 425, 427, 431 and 433 Walsall Road (then Council owned flats).

Members raised concerns over the reserved matters application for the Bingo Hall, BCW514, in 1995, due to the location of the service yard, bin stores, substation and chiller unit. It was felt that they would cause unnecessarily high levels of nuisance for residents in the vicinity of Park Road. It was also felt that the appearance of the building was unacceptable in the location. The application was approved by the Black Country Development Corporation.

The outline application for research and development and light industrial, general industrial and/or warehousing on the current application site ref no. 03/0412/OL/W2 which was granted in April 2004 was carefully deliberated at the time because of the proximity of housing. This led to the proposition that a similar Section 106 Agreement to the Blakemore application, to allow for the installation of "acoustic attenuation measures", should be entered into. However, instead a condition was agreed with the proposed applicant which restricted noise levels at the boundary of nearby residential properties at defined times during the day and night. The permission was not implemented

Planning application ref: 05/0251/FL/W2 for a lorry/car park was refused in April 2005. Refusal reason one related to the amenity of nearby residential properties due to the proximity of a noise generating use. Pollution Control were concerned about the proximity of nearby houses at the time. The provision of an acoustic barrier and/or a landscape screen was discussed, however, the agent did not provide any information on these matters despite requests from Pollution Control, and no firm conclusions were reached on whether it would have eliminated noise problems for residents



Regarding the current application, the applicant has provided information regarding operations on the site. A total of 74 vehicles operate from the existing yard. Throughout the day and night vehicles are loaded and then parked ready for dispatch the following day. Within the existing yard vehicles have to be moved two to three times a day in order to create sufficient space to allow empty vehicles to access the loading bays creating unnecessary noise. Vehicles have to be double parked causing congestion and creating potential health and safety risks.

The residents who have responded to the consultation raise concerns over noise emissions from the site due to lorry maneuvering and refrigeration units.

The Design and Access statement says that there will be no more than 10 additional HGV's accommodated on the site. It goes on to say that it is primarily required to alleviate existing parking and servicing deficiencies and therefore, in real terms, there is unlikely to be any significant increase in traffic movements, i.e. no more than 20 off peak trips per day. Transportation officers agree that this small increase in HGV's can be accommodated.

The agent has stated that the proposed development will enable Blakemores to reduce the noise as well as reducing potential health risks associated with the level of movements, and allow the business to operate more effectively within the site both now and in the future. As part of the noise mitigation measures provided with the current application a 4.0m (maximum) high acoustic fence is proposed on the boundary closest to the nearby residential properties. The noise survey submitted with the application concludes that this is necessary to mitigate against possible noise disturbance to surrounding residential properties and their upper windows. A topographical survey covering the residential properties on the northern side of Walsall Road was commissioned in order to inform the required height. Extensive negotiations have taken place between the applicant and the Local Authority regarding noise emissions from the site. The scientific pollution control officer is now satisfied that the revised acoustic report overcomes previous concerns. To ensure however that the design, layout and operational proposals for the lorry park meet Pollution requirements in respect of noise conditions have been suggested regarding the erection and maintenance of the acoustic barrier and restriction of vehicle movements

With these measures in place there should be no need for extra sound proofing to surrounding properties.

It is felt that the development will be satisfactory in terms of residential amenity and that refusal reason one of Planning application ref: 05/0251/FL/W2 is capable of being overcome subject to Pollution Control conditions.

### **Visual Amenity**

Refusal reason two of planning application ref: 05/0251/FL/W2 related to the proposal having a detrimental visual impact on the area. In the current application an acoustic barrier and a strengthened landscape scheme are proposed along the Walsall Road frontage. The site has been vacant for a considerable period of time and it is clear that Blakemores have reached capacity in terms of parking, there is therefore a compelling case for supporting the application. However, the necessary acoustic barrier will need to be 4.0 metres high approx. for a length of around 94 metres. Because of this expanse of plain relatively high fencing the applicant has identified the potential for a community Art project. A condition has been suggested.

It is felt that, on balance, this offers a good compromise, which allows the land to be developed to reduce noise currently created from unnecessary manoeuvring on site which would allow Blakemores the expansion needed to retain the industry and jobs in the area. It can also provide

an interesting art feature which can champion local distinctiveness and make a difference to the quality of the built environment. The proposal would therefore overcome refusal reason two of planning application ref: 05/0251/FL/W2.

### **Traffic implications**

The transportation officer has not raised any objections regarding the proposal nor to the additional 10 HGV's to be accommodated on the site. Policy T13 states that parking standards for Class B8 uses require 1 space per 50 sq. m. of gross floorspace up to 250 sq. m. then 1 space for per 100 sq m. up to 2,500 sq m and then 1 space for every 500 sq. m. of gross floorspace. The proposed development will provide an additional 19 car parking spaces for the existing depot providing 120 spaces overall, which is considered to be in accordance with Walsall Unitary Development Plan policy. Conditions are suggested regarding layout, access and operation and number of commercial vehicles to be limited to 84 as recommended by the transportation officer.

### **Security Issues**

The police liaison officer has raised concerns about vehicle crime and burglary. The main concerns relate to security of the site itself. However, it is felt that there are adequate fences of sufficient height around the site to maintain security. The applicant has confirmed that manually controlled gates will be provided to secure the application site. The gates will match the style, height and colour of the proposed fencing. The site is managed by 24 hour security staff, who will also have the duty of tending to the application site.

The liaison officer has stated that if wooden fencing is the only option, a monitored micro wave alarm system should be installed along the inner perimeter along with monitored CCTV, and parking areas defined to allow for maximum CCTV coverage around the vehicles, a condition to this effect is suggested.

The existing lorry yard is lit by lamp post type lighting. It is accepted that lighting will need to be installed on the new area should permission be granted. This will be appropriate to the location, a condition requiring suitable lighting has been suggested. This will ensure that there will be no light spillage from the development.

### **Conclusion**

The proposed scheme is intended to alleviate existing parking and servicing deficiencies which will reduce noise as well as reducing potential health risks associated with the current level of movements. It will allow the business to operate more effectively within the site. The 4.0m (maximum) high acoustic fence is necessary to mitigate against possible noise disturbance to surrounding residential properties. The community art project proposed for the fence will provide an interesting feature which can champion local distinctiveness and make a difference to the quality of the built environment. Security issues may be dealt with by condition

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

The proposed scheme proposes an increase of 10 HGVs, and as a result, a condition restricts the numbers of HGVs allowed to operate from the site.. The development is likely to alleviate existing parking and servicing deficiencies and reduce noise and potential health risks associated with the current level of movements. It will allow the business to operate more effectively within the site. The 4.0m high acoustic fence is necessary to mitigate against possible noise disturbance to surrounding residential properties. The community art project proposed for the fence will provide

an interesting feature which can champion local distinctiveness and make a difference to the quality of the built environment. Security issues may be dealt with by condition. Any new lighting will be controlled by the Local Authority. It is therefore felt that the neighbour objections will be overcome.

The proposed development is considered to comply with the relevant policies of the development plan, in particular 2.1, 2.2, GP1, GP2, GP7, 3.1, 3.6, 3.7, 3.16, ENV32, 7.4, T1, T7, and T13 of Walsall Unitary Development Plan on balance, having taken into account all material planning considerations, the proposal is acceptable.

**Recommendation: Grant Subject to conditions**

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

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

2. Development shall not begin until details of a scheme for the provision of public art, to meet the needs of the development in accordance with Unitary Development Plan policies GP3 and ENV34 and Policy DW9 of the Designing Walsall Supplementary Planning Document, has been submitted to and approved in writing by the Local Planning Authority. The details shall include a timetable for the provision to be made and shall then be carried out in accordance with the approved details. The scheme shall be retained and maintained in good order for the duration of the development.

*Reason:* To ensure the appropriate level of infrastructure is secured to meet policy in Supplementary Planning Document Designing Walsall.

3. No development shall be carried out until details of CCTV camera coverage have been submitted to and approved in writing by the Local Planning Office. The approved system shall be installed and retained in good working order for the duration of the development

*Reason:* In the interests of crime prevention

4. No development shall be carried out until a lighting scheme for the car park has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed and maintained in good order for the duration of the development

*Reason:* To secure the safe functioning of the site and to safeguard the amenities of the occupiers of adjoining premises.

The development shall not come into use until the acoustic barrier as detailed in the noise assessment report from NSL Acoustic Consultants Ltd reference 81852/1D (including the revision of page 15 of 38), drawing number 08-29-02 by Bea Landscape Design and the information regarding surface density properties of the barrier from Oakdale Fencing Ltd, has been fully implemented. The barrier shall be maintained thereafter.

No vehicle movements associated with this permission shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such operations or activities shall otherwise only take place between the hours of 05.00 to 20.00 weekdays and 05.00

to 18.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority.

***Note for Applicant***

*(\* 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).*

5. The development hereby approved shall at no time be subdivided to form a separate unit unless otherwise agreed by the submission and approval of a separate planning application.

*Reason:* To define the permission and for the Local Planning Authority to retain effective control over the development.

6. Unless otherwise agreed in writing by the Local Planning Authority, there shall be no more than 84 HGV's accommodated in total on the application site and the main site at any given time.

*Reason:* In the interests of highway safety.

7. Prior to the first operation of the development, all parking areas shown on the approved plan shall be fully consolidated, surfaced and drained, and all parking bays shown on the approved plan shall be clearly demarcated on the ground and thereafter retained for that purpose.

*Reason:* In the interests of highway safety.

8. Before the development hereby permitted is brought into use, manually controlled gates will be provided to secure the application site. The gates will match the style, height and colour of the proposed fencing.

Note for Applicant.

The area of this proposed development has previously been utilised for metal casting/foundry that may have resulted in localised ground contamination that may present Health and Safety implications. This information should be brought to the attention of any builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking construction work at the site of the proposed development.

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