

Development Management - Planning Committee
Report of Head of Planning, Engineering and Transportation, Economy and
Environment Directorate on 12th July 2018

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Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 12-Jul-2018

Plans List Item Number: 1.

Reason for bringing to committee: Section 106 Agreement

Location: SHAH JALAL MOSQUE AND SCHOOL, 32-33, MOUNT STREET, WALSALL, WS1 3PJ

Proposal: REPLACEMENT MOSQUE AND CREATION OF SURFACE LEVEL CAR PARK

Application Number: 17/0180

Applicant: Shah Jalal Jami Masjid

Agent: ZS Partnership Ltd

Application Type: Full Application: Major Use
Class D1 (Non-Residential Institutions)

Case Officer: Mike Brereton

Ward: St Matthews

Expired Date: 11-May-2017

Time Extension Expiry: 31-Jul-2018

Recommendation Summary: Grant Permission Subject to Conditions and a Section 106 Agreement



Proposal

This application proposes a replacement two-storey mosque at the corner of and at back of Mount Street and Hart Street pavements.

The design includes;

- The proposed mosque measures 15.2m wide, 29.5m deep and between 8m high (corner of Mount and Hart Street) and 7.9m high (nearest No.29 Mount Street).
- The replacement mosque would have a footprint of around 448m²
- a flat main roof area including a central dome measuring 5m wide and 3.7m high and 1 x ornate minaret measuring 1.6m wide and 5.5m high.
- The overall design includes a mix of rectangular and lancet arched gothic style windows with decorative panels between ground and first floor windows.
- Marble cladding is proposed to the exterior elevations.
- The replacement mosque includes a total of 4 x classrooms at first floor which the submitted Design and Access Statement explains would be used by up to 160 students between 11 and 16 years of age during the hours of 17:00pm and 20:00pm Monday to Friday.
- Vacant land, west of the existing mosque would accommodate 10 x on-site parking spaces and a cycle stand. The parking spaces would be accessed via the adjoining Hart Street public car park to north. A Section 106 Agreement is required to secure alternative parking in the event that the proposed car park becomes unavailable in future.

The following documents have been submitted in support of the proposal:

- **Design and Access Statement** – Explains how the scheme provides appropriate access and that the building is predominantly of Islamic architecture whilst incorporating local features.
- **Heritage Statement** – Explains the scale and design of replacement mosque reflects the opposite locally listed building No.52 which has been unsympathetically altered, including UPVC windows.
- **Travel Plan** – Sets out existing and proposed travel patterns including proposals for a sustainable Travel Plan to support the development. Explains Friday afternoon is busiest with 75 cars parking in the locality in connection with the existing mosque.
- **Transport Statement** – Explains that nearby public car parks at White Street and Hart Street along with the use of nearby Usman Mosque car park area are used in connection with the application site. Explains the majority of attendees arrive by foot.

Site and Surroundings

The application site is currently occupied by traditional two and three storey terraced properties with pitched and hipped main roofs, arched stonework and banding to the frontages which have been externally painted cream.

The land levels rise from west to east along Mount Street.

The submitted Design and Access Statement explains that the application buildings have been in use as a mosque since 1985.

The existing application buildings have a 414m² footprint, located at the corner of Mount Street and Hart Street and at back of footpath and directly opposite the Locally Listed No.52 Mount Street, a traditional two storey corner building with original timber sash windows and brick and stone detailing.

The immediate surrounding area is a mix of similar two storey traditional terraced Victorian properties at back of footpath, with a public car park to the rear, accessed off Hart Street. Hart Street is a mix of residential and commercial uses. An existing modern two storey flat roof mosque is located to the south west at 63 Brace Street and set back from Mount Street but still visible in the street scene.

The application site includes a vacant parcel of land to the west, which has remained vacant since the demolition of previously numbered 31 – 32 Mount Street which would have formed part of the local terraced pattern of development. The application site is on the edge of Caldmore Local Centre.

Relevant Planning History

None

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

- **NPPF 7 - Requiring good design**
- **NPPF 12 - Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- TRAN2: Managing Transport Impacts of New Development
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations
- GP6: Disabled People
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- S7: Out-of-Centre and Edge-of-Centre Developments
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity

- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points

Consultation Replies (Officer comments in italics)

Access Officer - No comments received.

Community Protection Team – Inaccuracies between submitted plans and supporting statement regarding ramp access and internal lift (*an internal lift has now been included on submitted plans*).

Drainage – No comments received.

Economic Regeneration – No comments received.

Educational Standards and Improvement – No comments received.

Environmental Health – No objection subject to a condition to restrict external amplification equipment.

Fire Authority – No objection subject to water supplies and compliance with Building Regulations (*this can be added as note to applicant*).

Local Highway Authority – Objects to original proposed access off Mount Street on highways safety grounds and originally recommended conditions regarding on-site parking spaces, cycle stand, Travel Plan commitments and Construction Methodology Statement. No comments received on amended access via public car park at rear.

Police – No objection subject to incorporation of CCTV and lighting, building alarm and secure by design measures.

Pollution Control – No objection subject to conditions regarding asbestos, air quality and construction management.

Regeneration and Development – No comments received.

Severn Trent Water – No objection subject to a condition regarding drainage.

Structures – No comments received.

Walsall Children's Services – No comments received.

Walsall Health Authority – No comments received.

Western Power – No comments received.

Ofsted – No comments to make.

Interested Parties

Councillor A Nazir – Supports the proposal on the grounds it would provide improved access for the less-abled, offer increased community engagement and improved vehicle parking.

Councillor K Hussain – Expressed his interest and wish to speak at Planning Committee.

Councillor Nawaz – Expressed his interest.

Representations

Nearby neighbours and occupiers notified and no comments received.

Determining Issues

- Principle of Development
- Design, Character & Appearance
- Heritage
- Amenity
- Highways

Assessment of the Proposal

Principle of Development

The existing mosque within the application site is well established and the proposal would bring forward previously developed land for re-development which is encouraged by NPPF Paragraph 17 and saved UDP Policy ENV14. The principle of a replacement mosque at this location is considered acceptable subject to all other considerations set out in this report.

Design, Character & Appearance

The proposed overall scale and design would reflect the intended use of the site as a public / community building. The proposal also maintains a prominent presence at back of footpath at this corner plot, which is welcomed reflecting the existing application building and wider pattern of development in the area. The proposed modern appearance is considered reflects the nearby existing mosque at Brace Street.

Furthermore, the proposed design of the mosque on this prominent corner plot location is considered has the potential to aid legibility and act as a land mark building helping people to navigate through the locality.

Conditions would be included on any permission to require submission of full details for all external materials and boundary treatment to ensure satisfactory appearance of the development.

The submitted Design and Access Statement refers to the use of solar panels, without further details being submitted as part of this application. A condition can be included seeking the location and details for solar equipment.

The locality is subject to a high proportion of violent crimes and anti-social behaviour. A number of security measures are considered necessary to ensure the safety and security of users of the building including CCTV, intruder alarm, secure glazing and doors and secure locks. These matters would be secured by condition on any permission in line with the recommendations of the Police.

The Community Protection Team raised concerns around access. An internal lift has now been included on submitted plans in addition to the external ramp and this is acceptable.

Overall, the proposal is considered would not result in any significant additional harm to the character or appearance of the area subject to the recommended conditions, whilst contributing to the legibility of the area.

Heritage

Public buildings and community facilities which include prominent design features can help to aid legibility and provide a sense of place. This, when combined with the proposed modern design which does not try to achieve a pastiche, is considered to preserve and not distract from, the features and character of the locally listed building directly opposite (No.52).

In summary, less than significant harm is considered would arise to this locally listed heritage asset. The benefits of the proposed improved replacement mosque building to meet a local need is considered outweighs any harm arising to the non-designated heritage asset in this instance. A refusal would not be warranted.

Amenity

The proposed replacement mosque would bring the two storey application building 1.8m closer to the adjoining residential neighbour's boundary at No.29 leaving a gap of 12m between this neighbour's boundary and proposed side elevations and windows at the mosque.

The proposed replacement mosque would not breach the 45 degree code to any nearest neighbour's habitable windows at No.29.

It is considered the proposal would not result in any significant additional impacts to this neighbour's amenity, or to other nearby occupiers, over and above any already arising from the existing mosque regarding potential overlooking / sense of overlooking, loss of light and shadowing.

A condition would be included to seek details of any external lighting to safeguard neighbours amenity.

Further conditions would be included to prevent any external amplification equipment, to restrict hours of construction and to restrict the use of the proposed living area at first floor as ancillary to the main mosque use (Imam living accommodation) to define the permission and safeguard neighbours amenity.

Highways

The existing mosque has been in operation at the application site since around 1985 with no on-site parking provision, relying on on-street parking and informal parking use of nearby public car parks at White Street and Hart Street along with the Usman Mosque car park area at Brace Street.

This proposal includes 10 x on-site parking spaces along with an 11 x space cycle stand to support the proposed replacement mosque. This additional provision is welcomed and helps provide a local area betterment whilst providing a formalised parking offer for the mosque. Whilst a dedicated hearse parking space has not been provided, this reflects the current situation and the proposed addition of on-site parking is a significant improvement. On balance a refusal would not be warranted on this basis alone.

The applicants have agreed to securing an access license with the Council to allow vehicle access through the Hart Street public car park at rear. This process falls outside of the planning remit and continued access cannot therefore be controlled through this planning application process.

A Section 106 Agreement is required to secure alternative parking in the vicinity, in the event the on-site car park area becomes unavailable in the future. The applicants have agreed to this in principle.

Conditions would be included to secure the on-site parking spaces, cycle stand, Travel Plan commitments and Construction Methodology Statement to ensure the promotion of sustainable modes of transport, to ensure the free flow of the highway and in line with the original Local Highway Authority recommendations.

A further condition would be included to secure 1 x electric vehicle charging point within the car park area to meet the requirements of the Air Quality SPD.

Conclusions and Reasons for Decision

Taking into account national and local planning policy, guidance and consultee responses, it is considered that the proposed replacement mosque would not result in any significant additional harm to the character of the area, or the setting of the opposite locally listed building or to neighbours amenity. The proposal is considered acceptable subject to conditions and a Section 106 Agreement to secure alternative parking if the proposed parking is lost in the future and accords with:

- NPPF 7 & NPPF 12
- BCCS Policies CSP4, TRAN2, ENV2, ENV3 & ENV8
- Saved UDP Policies GP2, GP3, GP6, ENV10, ENV14, ENV32, T7 & T13
- DW1 to DW4, DW6, DW7 & DW10 Designing Walsall SPD
- Type 1, Air Quality SPD

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding design, parking and amenity, amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Grant Planning Permission Subject to Conditions and a Section 106 Agreement

Conditions and Reasons

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

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

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

- Location Plan. Amended deposited 06/06/2018
- Transport Statement. Amended deposited 18/12/2017
- Travel Plan. Amended deposited 18/12/2017
- Heritage Statement. Amended deposited 18/12/2017
- Design and Access Statement. Amended deposited 30/05/2018
- Proposed Ground Floor Plan (ZL-3060/4 Rev C). Amended deposited 30/05/2018
- Proposed First Floor Plan (ZL-3060/5 Rev B). Amended deposited 30/05/2018
- Proposed Site Plan (ZL-3060/0). Amended deposited 06/06/2018
- Proposed Corner Elevation (ZL-3060/10 Rev A). Deposited 11/05/2018
- Proposed Front and Rear Elevations (ZL-3060/8 Rev A). Deposited 11/05/2018
- Proposed Side Elevations (ZL-3060/9 Rev A). Deposited 11/05/2018
- Proposed Roof Plan (ZL-3060/6 Rev B). Amended deposited 30/05/2018

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).

3a. Prior to the commencement of the development, a Construction Methodology Statement shall be submitted to and approved in writing by the Local Planning Authority detailing where the parking and turning facilities for site operatives and construction deliveries will be located and including full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.

3b. The approved details shall be fully implemented and retained during construction period.

Reason: In order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety.

4a. Notwithstanding the submitted details, prior to commencement of development above the damp proof course level the following shall be submitted to and approved in writing by the Local Planning Authority:

- i. a full external materials schedule including the specification, colour, texture, size and thickness of all external materials; and
- ii. a plan to scale showing any boundary treatment to the application site including the proposed materials and finish.

4b. The development shall be constructed in accordance with the approved details and be retained as such.

Reason: To ensure the satisfactory appearance of the development and to comply with Saved policy ENV32 of Walsall's Unitary Development Plan.

5a. Prior to the first occupation of the development hereby approved, the 10 x car park spaces and 11 x cycle stands shown on 'Proposed Site Plan (ZL-3060/0)' deposited 06/06/2018 shall be fully implemented and brought into use including the clear demarcation of the parking bays.

5b. The car parking spaces and cycle stands shall thereafter be retained throughout the life of the development and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with Saved UDP policy GP2, T7 and T13.

6. Prior to the first occupation of the development hereby approved, a minimum of 1 x electric vehicle charging point shall be provided within the car park area as shown on 'Proposed Site Plan (ZL-3060/0)' deposited 06/06/2018 and thereafter retained for the life of the development.

Reason: In the interest of Air Quality and in accordance with Saved UDP Policy ENV10 and Air Quality SPD.

7. Upon the development first coming into use, the commitments, measures and targets to encourage sustainable travel modes to reduce car based trips to the site contained within the submitted ZSP Travel Plan dated 2nd February 2017 shall be implemented, monitored and reviewed for the lifetime of the development in accordance with the approved plan.

Reason: To encourage sustainable travel modes, in accordance with BCCS policy TRAN2 and Saved UDP Policy T10.

8a. Prior to the installation of any external lighting within the application site details shall be submitted to and approved in writing by the Local Planning Authority showing the location of lighting and the full lighting specification details including the levels of illumination.

8b. The external lighting shall be fully implemented in accordance with the approved details and thereafter retained for the life of the development.

Reason: In the interests of residential amenity and community safety and to accord with Saved UDP Policy GP2.

9a. Prior to the installation of any solar or photovoltaic panels/equipment within the application site details shall be submitted to and approved in writing by the Local Planning Authority showing the location of solar or photovoltaic panels/equipment including the specification details.

9b. The solar or photovoltaic panels/equipment shall be fully implemented in accordance with the approved details and thereafter retained for the life of the development.

Reason: To ensure the satisfactory appearance of the development and to comply with Saved policy ENV32 of Walsall's Unitary Development Plan and in the interests of residential amenity.

10. The development shall be constructed to meet the following minimum security measures and thereafter retained as such;

- CCTV and lighting scheme covering all entrances to the site, the car parking area (including cycle storage area) and the exteriors of all entrances. Cameras to be situated to cover the exteriors and interiors of all the entrances to allow for identification of any offenders entering the buildings to provide images of evidential quality. All images should be recorded onto a secured hard drive.
- installation of a 'Police Response Standard' intruder alarm system.
- All ground floor windows and any accessible windows should have at least one pane of 6.4mm laminated glass.
- PAS 24:2012 doors should be on all entrance and exit doors.
- A minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond standard certification should be used on all door locks.
- Where thumb turn locks are to be installed these should be those that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks.

Reason: To ensure the safety and security of the development and its occupiers.

11. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and no works shall take place outside the hours of 08.00 to

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18.00; and 08.00 to 14.00 on Saturdays. Plant, machinery or equipment associated with such works shall not be started up or operational on the development site outside of the hours above.

(* 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 existing local amenity and infrastructure.

12. At no time shall the development include any external amplification equipment.

Reason: To safeguard the amenity of nearby neighbours and occupiers in accordance with Saved UDP Policy GP2.

13. The proposed living area shown on 'Proposed First Floor Plan (ZL-3060/5 Rev B)' deposited 30/05/2018 shall not be used as independent living accommodation and shall only be for the sole use of the Imam and remain ancillary to the hereby approved main mosque use (D1 Use).

Reason: To define the permission and to safeguard the amenity of nearby neighbours and occupiers in accordance with Saved UDP Policy GP2.

Notes for Applicant

Security

http://www.securedbydesign.com/pdfs/SBD_Commercial_2015.pdf

http://www.securedbydesign.com/pdfs/110107_LightingAgainstCrime.pdf

Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 12-Jul-2018

Plans List Item Number: 2.

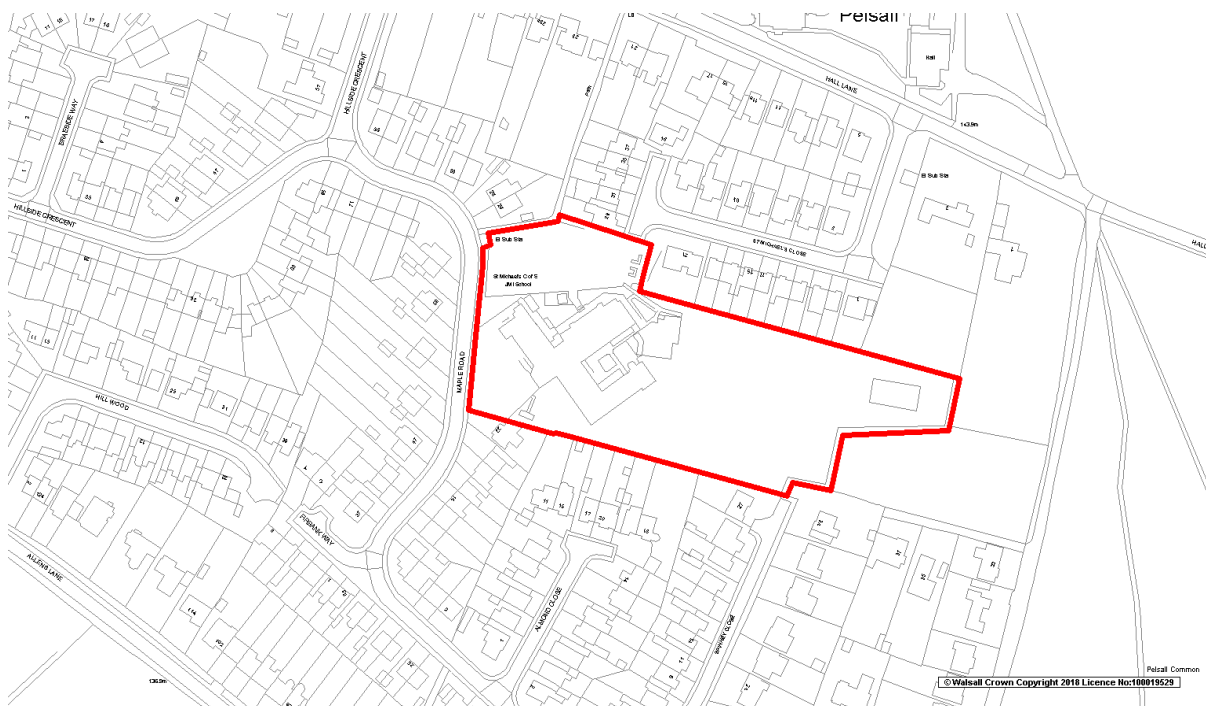
Reason for bringing to committee: Significant Community Interest

Location: ST MICHAELS C OF E SCHOOL, MAPLE ROAD, PELSALL, WALSALL, WS3 4JJ

Proposal: CONSTRUCTION OF A SINGLE STOREY EXTENSION TO THE REAR OF THE SCHOOL COMPRISING TWO CLASSROOMS, A STORE EXTENSION TO THE FRONT OF THE SCHOOL AND EXTERNAL WORKS.

Application Number: 18/0516
Applicant: Walsall Children's Services
Agent: Daniel Bridgewater-Bagnall
Application Type: Regulation 3: Minor Application (SI 1992/1492)

Case Officer: Stuart Crossen
Ward: Pelsall
Expired Date: 28-Jun-2018
Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions

Proposal

The application proposes a single storey extension to provide two large teaching areas, two small classrooms and a hall extension to an existing primary school.

The extension would be located across an existing path along the North elevation of the building and the edge of a playground infilling an L-shaped area and projecting no closer to boundaries than the existing buildings. The ground levels would be altered slightly as the playground is higher than the school.

To facilitate the remaining ground level difference between the playground and the proposed building there would be new external stairs.

The design would include a flat roof and North facing windows and doors.

The application also proposes an area of additional car parking near to the Southern boundary for 14 cars (31 in total).

An Ecological Assessment has been submitted which provides mitigation measures to protect birds, bats, mammals and invertebrates. Mitigation is also proposed in relation to planting and trees. The report also concludes that there is negligible potential for bat roosts.

The Coal Mining Report concludes that the mining risk posed by this site can be mitigated by routinely adopted measures and should not preclude the planning permission being determined.

A Transport Statement has been provided which concludes that there are no residual cumulative impacts in terms of highway safety or the operational capacity of the surrounding transport network and therefore planning permission should not be withheld on transport grounds.

An Arboricultural Statement has been submitted which recommends that measures are taken to minimise impact on trees, including the use of root protection barriers, details of areas for the storage of materials and of hardsurfacing.

Site and Surroundings

The application site is within a residential area and the nearest house to the scheme would be number 29 St Michaels Close, the side elevation of which faces the playground and is 23 metres away.

The nearest house on Maple Road is number 24, the side elevation of which faces the proposal and is 34m.

Relevant Planning History

05/0691/FL/E3. St Michael's School. Improvements to existing car parking and alterations to main entrance access for disabled persons. GSC June 2005

09/0978/FL - Demolition of existing mobile classroom and erection of a new purpose built single storey wraparound building for Extended School services for before and after school

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facilities and community use (incorporating nursery, community room, interview room, toilet facilities, kitchenette and stores). GSC 24/09/09

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

NPPF 1 - Building a strong, competitive economy

- **NPPF 4 - Promoting sustainable transport**
- **NPPF 7 - Requiring good design**
- **NPPF 8 - Promoting healthy communities**

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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can be afforded little weight as a material consideration in the determination of the application.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- HOU5: Education and Health Care Facilities
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV1: The Boundary of the Green Belt
- ENV2: Control of Development in the Green Belt
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV40: Conservation, Protection and Use of Water Resources
- T4: The Highway Network
- T7: Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis
- LC8: Local Community Facilities

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability

- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

The Coal Authority – No objections subject to further survey work.

Transportation – No objection subject to conditions for drainage, consolidated parking and review of school travel plan.

Fire Officer – No objections

Tree Officer – No objections agree with recommendations of tree report

Pollution Control – No objections

Public Rights of Way – No objection

Representations

7 objections have been received on the following grounds:

Would affect the view

Flooding from the car park

Increase traffic, parking congestion

Air pollution

Already parking on grass verge

Parking on the pavement would result in elderly people and mothers walking on the road.

Anti-social behaviour in relation to parking.

Congestion stops emergency vehicles.

Other schools in the area have capacity

Residents have not received adequate information.

Human rights should be respected in a fair and balanced way

Car park is a fire risk

Cars cause noise disruption

Car park previously refused

School border to Almond Close is wrong by approximately 1 metre

Impact on wildlife and protected trees

Car park drawing not accurate and is the same as existing.

Consultation should be wider than just those close to the school.

A petition with 153 signatures has been received objecting to the scheme on the following grounds:

Traffic flow, residents unable to use their drives

Parking on footpaths obstruction

Emergency access between 8.30am and 9.10am and 1.40pm and 3.10pm is restricted.

Staff park on the estate, existing car park not large enough.

Maple Road is a cut through for vehicles to avoid traffic lights at the common.

Alternative solutions have been suggested.

Fire risk assessment required.

In addition Hillside Crescent residents raise the following additional specific concerns

Parking against garden walls

Danger to children running around parked cars

Conflict between parents and residents

16 representations in support of the scheme have been received. One of these were from the chair of governors warning that without expansion there would be a reduction in the existing provision which could result in redundancies. Comments also received state that:

The school is already taking measures to alleviate parking impacts and would work with the Council to do more.

The provisions of the school are high and should be supported.

Determining Issues

- **Coal Mining**
- **Design and Character of the Area**
- **Residents Amenity**
- **Parking**
- **Protected Species**
- **Trees**

Assessment of the Proposal

Coal Mining

The Coal Authority records indicate that the site is in an area of recorded and likely unrecorded coal mine workings at shallow depth.

The planning application is supported by a Coal Mining Risk Assessment, dated 29 November 2017 and prepared by GIP Ltd. This report has been informed by an appropriate range of sources of information.

Having reviewed the available coal mining and geological information the Coal Mining Risk Assessment concludes that there is a potential risks posed to the development by past coal mining activity. The report therefore recommends that intrusive site investigations are carried out on site in order to establish the exact situation in respect of coal mining legacy issues. The Coal Authority considers that due consideration should also be afforded to the potential risk posed by mine gas to the proposed development.

The intrusive site investigations should be designed by a competent person and should ensure that they are adequate to properly assess the ground conditions on the site in order to establish the exaction situation in respect of coal mining legacy and the potential risks

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posed to the development by past coal mining activity. The nature and extent of the intrusive site investigations should be agreed with the Permitting Section of the Coal Authority as part of the permissions process. The findings of the intrusive site investigations should inform any remedial measures which may be required.

Design and Character of the Area

The design would have a flat roof the same as the existing building, matching elevations and similar styled windows to the front.

Residents Amenity

Noise disruption has been raised as a concern, however it is considered that the extension and proposed parking in the context of the existing school site is modest and of the same use which is considered unlikely to cause any significant additional noise. Pollution Control Officers have raised no noise concerns.

Air pollution has been raised as an objection from residents, Pollution Control Officers have raised no concern and there is unlikely to be any significant increase in air pollution as a result of this development which would warrant refusal.

Parking

It is predicted that overall the development will generate an additional 54 two-way vehicle trips to the school when fully occupied.

To mitigate these trips the development would extend staff parking capacity on site by creating an additional 14 spaces taking the site to 31 spaces overall. The extended car park could potentially accommodate further parking if operated in a managed fashion as at present.

Additionally, the Highway Authority is currently consulting on strengthening the existing 'School Keep Clear' parking restrictions by making it a daytime restriction 8:00am – 4:00pm from the present peak time restriction 8.00 – 9:30 & 2:30 – 4.00.

Furthermore, the school is proactive in working with the Council to encourage sustainable travel and reduce trips by car.

St Michael's do not have an official Park & Stride scheme, but use the A*STARS 5 Minute Walk Zone that has been set up or park at least 5 minutes away from the school and walk the remaining part of their journey.

St Michael's have been on the A*STARS programme since 2013 and are proactive, achieving gold award over the last few years.

The school have operated a walking bus since May 2007. The school has recently changed the Walking Bus route so that it now walks a greater distance from the Pelsall Village Centre. There are around 20 children that use the Walking Bus.

Flooding from car park has been raised as an objection. Drainage to the car park would be within the application site.

Objections have been raised that the car park is a fire risk and a fire risk assessment is required, however there are no objections or such requirements made by the Fire Officer.

It has also been commented that the car park drawing is not accurate and is the same as existing. It is not clear what is meant by the comment, the site photos verify the existing situation and the block plan is the proposed parking scheme being considered.

Protected Species

An Ecological Assessment has been submitted which concludes that site clearance should be undertaken outside the bird nesting season where possible or that an experienced ornithologist is present during the clearance of hedgy and ivy growth. A pre-clearance search of all areas of the site, with a qualified ecological scientist. Avoid unnecessary negative impacts of new lighting at night.

The Ecological Assessment also recommends that any steep-sided excavations created during construction, are covered overnight or provided with ramps to prevent any mammals becoming trapped. To create new wildlife habitats appropriate to the site's context, e.g. through the use of log piles, "wild" corners and native planting; install two bird, two bat and two invertebrate boxes (including "bee bricks") of mixed designs, and incorporate these into the project's landscape/building design scheme. Use of native planting (preferably of local origin and reflecting local botany) wherever feasible. Embody Green Infrastructure protocols in landscaping and ensure ecological linkage out from and into the site. Ensure that the "carbon footprint" of all aspects of the project and its future operation is compliant with current best practice. Wherever possible, to retain the broad-leaved trees by designing around them. Protect trees in line with BS5837 and do not remove ivy, mistletoe, standing dead wood, snags or rot unless there is a clear and material safety risk or presence of a serious pathogen.

Trees

The proposal will result in the loss of 2 individual trees and two groups of smaller mixed species vegetation including Guelder Rose, Dogwood, Elder etc. all of which are of low arboricultural value, have little or no public visible amenity and contribute little to the overall landscape character of the area. Consequently, as long as the recommendations and guidelines are adhered to as detailed in the arboricultural survey and impact assessment by Middlemarch Environmental dated January 2018 the Tree Officer is in support of the scheme.

The Tree Officer does not disagree with the conclusions and recommendations as detailed in the Arboricultural Impact Survey and considers the loss of the trees to be acceptable as it is considered that they have limited public visible amenity and do not contribute significantly to the landscape character of the area.

Other Issues Raised Through Consultation

There is no right to a view which most development would impact on and is not a reason to refuse a planning application.

Concerns raised about existing indiscriminate parking which prevent access or existing anti-social issues are matters, parking against garden walls, danger to children running around parked cars and conflicts between parents and residents. These existing concerns are not

planning matters and would be controlled through separate legislation if required. Whether there is sufficient parking to serve the development is a determining issue and is considered elsewhere in the report.

It has been raised that other schools in the area have capacity, however the application is judged on the merits of the submission.

An objection has been raised that residents have not received adequate information. Letters have been sent to residents explaining how to access all of the submitted plans and details as well as a description of the development.

The statement received "human rights should be respected in a fair and balanced way" is noted, however it is not clear why the objector has raised this concern.

One of the objections is that the car park was previously refused. The only recent history of planning applications relating to the car park relate to an approved extension (See 2005 application in history section), any older applications would not be relevant taking account the National and Local policy changes since 2005.

An objection has been raised that the School border to Almond Close is wrong by approximately 1 metre. No evidence has been provided and certificate A has been submitted, however the query has been passed to the applicant to consider.

An objection has been raised that consultation should be wider than just those residents close to the school. There is a statutory requirement for the Council to consult and in this instance the adjoining houses have been consulted and a site notice erected. Comments have been accepted outside of this consultation area.

One of the objections states that Maple Road is a cut through for vehicles to avoid traffic lights at the common. The development considered would have no impact on whether this is occurring.

Conclusions and Reasons for Decision

Coal mining legacy issues can be resolved through additional survey work and any required mitigation which can be conditioned and would comply with planning policy ENV14

The design would match the existing building and neighbouring building having little impact on the character of the area which complies with UDP policy ENV32

The proposed extension and car parking is modest and is not considered to have any significant impact on neighbouring amenity above the existing use and complies with UDP policy GP2 and ENV32.

On balance, the Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with the NPPF in this respect. Conditions suggested regarding the parking surface and drainage and updating the school travel plan can be conditioned.

Provided the guidelines and recommendations are adhered to as detailed in the Ecological Assessment which can be conditioned the proposed development would have little impact on protected species to warrant refusal, is considered acceptable and accords with policy ENV18.

Provided the guidelines and recommendations are adhered to as detailed in the Arboricultural Impact Survey (including the erection of protective fencing) which can be conditioned the proposed loss of trees is considered acceptable and accords with policy ENV18.

Taking into account the above factors it is considered that the application should be approved.

Positive and Proactive Working with the Applicant

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

Grant Permission Subject to Conditions

Conditions and Reasons

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

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

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

Location Plan (OH) 202 revA received 22/02/18

Proposed Site Plan (OH) 202 revA received 22/02/18

Proposed and existing front elevations (OH) 204 revA received 22/02/18

Proposed classroom block elevations (OH) 205 revA received 22/02/18

Proposed floor plan 1 of 3 (OH) 201 revB received 22/02/18

Proposed floor plan 2 of 3 (OH) 202 revB received 22/02/18

Proposed site plan 3 of 3 (OH) 202 revA received 22/02/18

Appendix A received 22/02/18

Design and Access statement received 30/01/18

Transport Planning Statement received 30/01/18

Arboricultural Survey received 30/01/18

Ecology Survey received 30/01/18

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).

3a) Prior to built development commencing a site investigation to assess past coal mining risks, shall be undertaken.

3b) Prior to built development commencing a copy of the findings of the site investigation, together with an assessment of identified and/or potential hazards arising from any past mining activity shall be forwarded to the Local Planning Authority.

3c) Prior to built development commencing a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any past coal mining activity, and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority.

3d) The remedial measures as set out in the 'Remediation Statement' required by part 3c) of this condition shall be fully implemented in accordance with the agreed timetable.

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

4) The recommendations and guidelines as detailed in the Arboricultural Survey and Impact Assessment by Middlemarch Environmental dated January 2018 shall be fully implemented and the tree protection fencing should be erected prior to the commencement of development and maintained throughout until completion.

Reason: To ensure the protection and positive management of trees and to comply with UDP policy ENV18

5) During the clearance of any hedges or ivy there shall be present an experienced ornithologist to identify whether any nests are present and ensure appropriate action is taken.

Reason: In the interests of protected species and to comply with UDP policy ENV23.

6) For the duration of the construction works any excavations will either be covered at night or a ramp will be provided so that should any protected species or wildlife fall in, they can escape. Additionally, pipework left open overnight will be covered to prevent animals entering and getting stuck.

Reason: To mitigate for potential loss of ecology and to comply with UDP policy ENV23.

7a) Notwithstanding the submitted details and prior to the use of the development a landscape plan shall be submitted and approved by the Local Planning Authority, which

includes the enhancements recommended on page 4 of the Baseline Site Ecological Audit prepared by Betts Ecology and Estates and submitted as part of this planning application.

7b) The approved details shall be fully implemented within one planting season.

7c) If within 3 years any approved species of plant dies it shall be replaced by a suitable alternative.

Reason: To mitigate for potential loss of ecology, to ensure the satisfactory appearance of the development and to comply with UDP policies ENV4, ENV23, ENV32 and JP6.

8a) Prior to the development first coming into use, the extended staff car parking area shown on drawing no. (SMP) 2902 Revision B, shall be fully implemented being fully consolidated, hard surfaced and drained, together with the clear demarcation of all parking bays.

8b) The parking spaces shall thereafter be retained and used for no other purpose.

Reason: To accommodate the additional staff parking demand as a result of the development, in accordance with UDP Policy GP2, T7 and T13 and in the interests of highway safety.

9) Upon the completion of the development and upon the first 2 Form Entry intake, the school's existing Travel Plan shall be reviewed and thereafter continuously developed and improved as recommended in the submitted Transport Statement, to reduce car borne trips and promote sustainable travel modes together with continued proactive engagement with the Council's A-Stars initiative for a period of time and to a level to be agreed with the Council's Sustainable and Road Safety Team.

Reason: In order to help mitigate the potential traffic impact on the local streets by the predicted additional vehicle trips to the school by parents and staff as a result of the school expansion, in accordance with BCCS policy TRAN2 and UDP Policy T10.

10a) Notwithstanding the submitted plans and details, and prior to the use of the development details shall be provided to and approved by the Local Planning Authority for two bird, two bat and two invertebrate boxes (including "bee bricks") of mixed designs, to be incorporated into the project's landscape/building design scheme.

10b) The approved details shall be fully implemented and retained thereafter.

Reason: To mitigate for potential loss of ecology and to comply with UDP policy ENV23.

11) Notwithstanding permitted development rights there shall be no external lighting which would increase the illumination of St Michaels Church of England School as a result of the development.

Reason: To mitigate for potential loss of ecology and to comply with UDP policy ENV23.

Notes for Applicant

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

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2. Contaminated Land

CL1

Ground investigation surveys should have regard to current Best Practice and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 Investigation of potentially contaminated sites – Code of Practice; British Standard BS5930: 1999 Code of practice for site investigations; Construction Industry Research and Information Association Assessing risks posed by hazardous ground gasses to buildings (Revised) (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

When making assessments of any contaminants identified as being present upon and within 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.

CL4

The desk study and site reconnaissance shall have regard to previous unknown filled ground and materials used and processes carried on. A further detail on the matters to be addressed is available in Model Procedures for the Management of Contamination (CLR 11, DEFRA/Environment Agency). The results of the desk study and reconnaissance will be used to determine the need for further site investigation and remediation.

3. Water supplies for firefighting should be in accordance with National Guidance Document on the Provision for Fire Fighting published by Local Government Association and WaterUK:

<https://dl.dropboxusercontent.com/u/299993612/Publications/Guidance/Firefighting/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net

Vehicle access route to meet the requirements of ADB Volume 2, Table 20, noting that WMFS appliances require a carrying capacity of 15 tonnes

The approval of Building Control will be required with regard to Part B of the Building Regulations 2010.

4. Bird, bat and invertebrate boxes should be provided at appropriate locations.

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

Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 12-Jul-2018

Plans List Item Number: 3.

Reason for bringing to committee: Significant community interest

Location: CASTLE BUSINESS AND ENTERPRISE COLLEGE, ODELL ROAD, WALSALL, WS3 2ED

Proposal: TWO SINGLE STOREY EXTENSIONS TO EXISTING SCHOOL BUILDING, ONE COMPRISING 3 CLASSROOMS AND ONE COMPRISING 2 CLASSROOMS WITH A RAMPED ACCESS AND COVERED LINK TO THE MAIN SCHOOL BUILDING. A FURTHER EXTENSION WOULD PROVIDE A COVERED LINK BETWEEN EXISTING BUILDINGS AND CREATION OF 26 ADDITIONAL CAR PARKING SPACES WITH NEW ACCESSSES ONTO ODELL ROAD AND ASSOCIATED GATES AND AMENDMENTS TO BOUNDARY TREATMENT.

Application Number: 18/0086

Applicant: Venn

Agent: Daniel Bridgewater-Bagnall

Application Type: Full Application

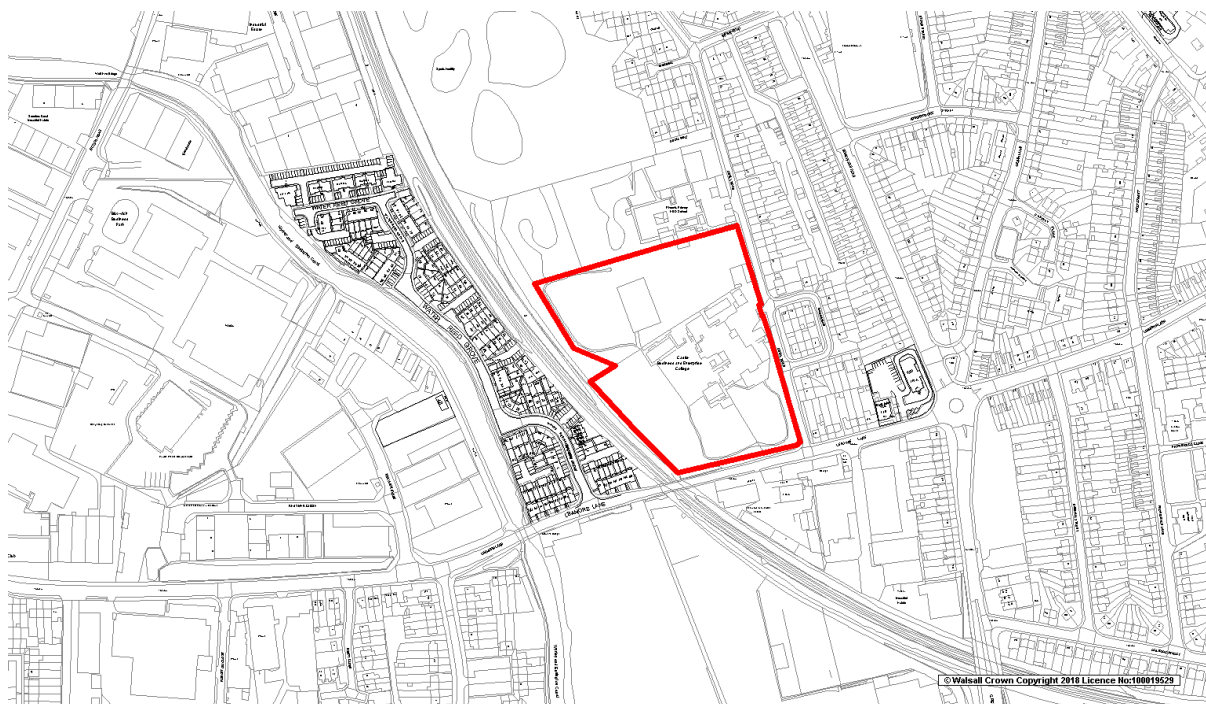
Case Officer: Emma Green

Ward: Birchills Leamore

Expired Date: 10-Apr-2018

Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Proposal

Erection of two single storey extensions to existing school building to facilitate and increase in expected pupil numbers from school year 2018/2019.

The first extension is 212 sqm in size and comprises of three classrooms and toilet facilities located on the southern elevation of the existing building. This is located in part on existing small hard surfaced playground which is to be replaced to the rear of the extension, it will also require the reduction of the tree planting along the boundary with Odell Road.

The second extension is approximately 164 sq.m. to comprise of 2 mobile classrooms with toilets with a ramped access, located at the rear of the building adjacent to an existing detached building and linked to the main school building by a new covered ramped route.

The works also include the creation of a further covered link extension between existing detached buildings at the north of the building and the main school building.

In addition to facilitate the development the works are to include the creation of a new car park for staff to include 26 spaces. This facilitate has been amended during the application process to now include facilities for school bus drop off and pick up facilities for the pupils, within the site and have two new accesses off Odell Road. There has been a further amendment to the car park layout to facilitate the retention of a Sweet Chestnut tree.

The college provides for Primary, Secondary and Post 16 education for children with moderate learning difficulties. The school currently has 134 pupils on roll, which is proposed to increase to 182 pupils facilitated by these extensions. The extensions will also result in 8 additional teaching staff.

The site currently has 50 car parking spaces and 69 members of staff. The proposal is to increase the on-site parking facility to 76 parking space for the proposed 77 full time equivalent staff.

The overall site area is 276ha.

The application is supported by the following documents:

Transport Statement
Design and Access Statement
Coal Mining Risk Assessment
Arboricultural Survey
Ecological Survey
Drainage survey

Site and Surroundings

The application site is a single storey special school, situated on the corner of Odell Road and Leamore Lane. The building is located in the centre of the site with green paying fields and ancillary green spaces to the north west and south of the building. To the east of the building is the staff and visitor car parking facilities. There are a number of individual trees around the site, but not in close proximity to the proposed extensions. There is an immature tree group close to the one extension proposed for removal.

This established school site which has an entrance for pedestrians and vehicles on to Odell Road, opposite Odell Crescent. There are no school markings or parking restriction in Odell road.

During the officer's site visit 5 coaches were seen waiting in Odell Road for pupils to leave the school, there was insufficient space for vehicles to pass the double-parked coaches to exit Odell Road onto Leamore Lane, without utilising the grass verge on the eastern side of Odell Road opposite the school.

To the north of the site is Phoenix Primary School. To the east is residential development with limited off-street parking facilities and commercial uses beyond. To the south is commercial and employment uses. To the west is the railway line and then residential development beyond that.

Relevant Planning History

3rd April 2007 – 07/0114/FL/W3 – Single Storey extension to provide new entrance lobby to main entrance – Granted subject to conditions.

26th June 2009 – 09/0195/FL – Retrospective change of use of caretaker's house to school use – Granted.

10th May 2010 – 09/0464/FL – Additional parking, change to both vehicular and pedestrian access including new boundary fence – Granted subject to conditions.

1st July 2011 – 11/0581/FL – Proposed mobile classroom – Granted subject to conditions.

23rd March 2012 – 12/0143/FL – Proposed mobile classroom and car park extension – Granted subject to conditions

20th August 2012 – 12/0907/MA - Non material amendment to car parking provision of planning application 12/0143/FL –Approved.

17th June 2013 – 13/0587/FL – Addition of mobile classroom – Granted subject to conditions.

15th May 2015 – 15/0249/FL – Proposed polymeric multi use sports pitch with new twin bar rebound fencing – Granted subject to conditions

5th May 2016 – 16/0072 – Single Storey classroom extension – Granted subject to conditions.

9th June 2017 – 17/0417 – Erection of a timber structure to be used as a seating plan – Granted subject to conditions.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

NPPF 4 - Promoting sustainable transport

- **NPPF 7 - Requiring good design**
- **NPPF 8 - Promoting healthy communities**
- **NPPF 11 - Conserving and enhancing the natural environment**

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes

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previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV3: Design Quality
- HOU5: Education and Health Care Facilities

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV17: New Planting
- ENV18: Existing woodlands, trees and hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall (2013) Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

- DW3 Character
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Consultation Replies

Coal Authority: No objections subject to a condition. The site is within a High-Risk area and the accompanying coal mining risk assessment has been reviewed and the coal authority concurs with the recommendations of the assessment that intrusive site investigation works should be undertaken and used to inform any remedial action as necessary. This is to be secured through a condition.

Pollution Control: No objections subject to an advisory note on Acoustic Design of Schools.

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Canal and River Trust: Have no comments to make.

Highways: Comments on the original plan. The Highway Authority raises an objection to the scheme as the proposed school expansion will exacerbate parking issues and school coach parking issues in Odell Road. Requests the applicants considers the provision of collection and drop off for the buses within the school grounds.

Comments on the amended plans. The revised car parking and collection and drop off for school buses are acceptable in principle and will ease highways congestion at busy times. This will need to be carefully managed and a condition for a car park/traffic management statement is required. Also the new accesses will require appropriate signing and lining and one way access and egress. A condition is also necessary for Traffic Regulation Order restriction works along Odell Road to ensure the new buss access and egress points are not obstructed by indiscriminate car parking/

Tree Officer has no objection in principle, however has requested amendments to the layout of the car park to protect T7 a sweet chestnut indicated for removal which is a tree in good condition and instead remove G8 8 trees to Poplar which are species unsuitable for retention in this location and likely to cause future damage. Also recommended conditions to protect the retained trees on site and seek replacement planting to mitigate the loss of trees.

Representations

There have been three letters of objection to the original proposals on the following grounds:

- There is congestion caused by parking of coaches and parents during pick up and drop off.
- No access for emergency vehicles as road often blocked
- Council property is being damaged due to inconsiderate and illegal parking

Following submission of amended plans there have been three further letters of objection on the following grounds:

- The additional classrooms will increase pupil numbers and children and therefore lead to more congestion
- The road is already grid locked at the beginning and end of school day and residents are prevented from accessing or leaving their driveways
- School staff already fail to utilise the school car park and park in the road instead, leaving to parents then parking on the verge and pavements.
- Urge the Council to consider an alternative to further expansion of this school
- The parking situation has led to a number of near miss accidents with pedestrians
- The road is often impassable and dangerous and vehicles get damaged due to the lack of visibility and width.

Determining Issues

Principle of Development
Design

Assessment of the Proposal

Principle of Development

The NPPF is clear that planning has a clear role to facilitate communities. It places great importance to ensuring sufficient choice of school places is available to meet the needs of existing and new communities. Local Authorities need to give great weight to the need to create, expand or alter schools and work with schools to resolve key planning issues.

Policy HOU5 of the BCCS supports facilities to protect and enhance education facilities.

The supporting statement is clear that the Council has identified a need for additional teaching spaces to accommodate an increasing number of pupils joining the school in the forthcoming year, this is part of a wider increase in need across the borough. It should be noted that the Local Authority has a duty to provide sufficient places for school pupils in Walsall who require them. The Council monitors demographic changes, analyses birth rates and assesses parental choice to assist in facilitating getting an overall projection of need in future years to program works to existing school facilities.

On this basis, subject to the detailed issues below, the extensions and alterations to the school are acceptable in principle and meet the wider objectives of planning policy as set out in the Framework and policy HOU5 in the BCCS.

Design

The NPPF attaches great importance to the design of the built environment and is a key aspect of sustainable development. Permission should be refused for development of poor design.

The Black Country Core Strategy in policy CSP4 is clear that development needs to be influenced by its context and enhance the character of the area, respond to needs and create safe and secure places.

The 'saved' policies in the Walsall UDP relating to design is GP2 which relates to visual appearance and links to saved policy ENV32, which states that poorly designed development which fails to take proper account of the context or surroundings will not be permitted. It goes on to give criteria for the assessment of design, including, appearance, height, proportion, scale and mass, materials, integration of buildings and open space, safety and security, impact on character of the area, vehicle and pedestrian circulation, integration with existing natural and built features and maintenance.

The existing school is single storey, and the proposed extensions are also single storey and therefore respect the scale and design of the existing school. There have been a number of additions to the building largely utilising mobile structures. The main building in terms of

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appearance is characterised by wide rectangular windows, some with panels below and a mix of brick and render. The proposed three classroom extension seeks to provide an interpretation of this and has the windows in a similar arrangement with the panel below but includes more brick work between windows, whilst it does not exactly match the existing school, the design is such it will complement the existing appearance and form of the school.

The second extension due to its location in the site near other detached buildings has a different appearance and reflects that of the building it is to be situated against.

The extensions complement the overall building are appropriate in terms of position, scale, mass and appearance and are proportionate additions to the school and therefore accords with the design principles in 'saved' policies GP2 and ENV32 of the Walsall UDP, policy CSP4 of the BCCS and guidance in Designing Walsall SPD and in the NPPF.

The alterations to the new car park and creation of new access points onto Odell Road, will require alterations to the existing boundary treatment. There is no change to the overall height, but at the new access point the fencing will be replaced by a traditional swing gate close to the existing building and a sliding gate to the most northern exit. The scale, design and material of the fencing and gates are to match the existing school boundary treatments and therefore appropriately reflects the context of the site in accordance with saved policies GP2 and ENV32 of the Walsall UDP, policy CSP4 of the BCCS and guidance in NPPF.

Parking and Highways

The National Planning Policy framework relates to sustainable transportation. The designs of development should give priority to pedestrian and cycle movements and access to high quality public transport facilities. Avoid conflicts between traffic and cyclists or pedestrians, consider the needs of people with disabilities and facilitate Travel Plans for developments which generate significant amounts of movements.

The Black Country Core Strategy in policy TRAN 2 is clear that planning permission will not be granted for development proposals that are likely to have significant transportation implications, which are not mitigated through accessibility to all modes of transportation and facilitated through a travel plan. Policy TRAN 5 builds on this to promote and implement measures to reduce the need to travel and shift towards sustainable mode of transport, i.e. Walking, cycling, public transport.

Saved policies T7, T8, T9, T10, T11 and T13 in the UDP seek to ensure appropriate vehicle and pedestrian circulation, ensure that new development have sufficient car parking to address their needs, and ensure there is no adverse effect on highway safety and the environment.

The application is supported by a Transport Assessment to assess the impacts on extending the school to increase pupil numbers up to 182. It concludes that the surrounding pedestrian network is of a very good standard supported by appropriate crossing facilities. The bus service is a short distance from the school entrance and there are a number of routes offering good connection to the wider area. Through the use of the existing travel plan, pupils, parents and staff are encouraged to travel to and from the site by sustainable modes

of travel. The uplift in pupil number and staffing will not generate a significant number of additional trip movements and will have no material impact on the existing highway network.

Officers concur with the findings of the Transport assessment and consider that the school is well placed to offer a range of alternative sustainable modes of transportation for pupils and staff. The existing travel plan helps to facilitate this and is to be carried forward.

The school prior to submitting this application acquired additional land located to the north of the building to assist in providing additional sporting facility for the growing capacity of the school. This has also allowed for the creation of an extension to the car parking arrangements for the school, without resulting in the loss of play space and sports fields.

During the course of the application, the proposed car park layout has been amended, and now includes two new access points onto Odell Road, rather than being accessed through the existing car park. The introduction of these new accesses will assist in also providing a facility for the coaches (which are used by a significant number of pupil attending the school) within the school grounds. This has been provided alongside the new 26 car parking spaces. The layout also creates a pedestrian route from the coach drop off to the building to ensure there is safe access to the school for pupils and minimise conflict with vehicles.

The increased level of car parking not only facilitates the need generated by the proposed level of accommodation but will allow for visitor usage and there should be no need for school staff to utilise the adjacent road for parking purposes. This is to be controlled through a car parking management scheme which is recommended to be imposed by planning condition.

It is considered that the application has been sufficiently amended to address the issues relating to car parking and access as noted by local residents as part of this application. The development therefore accords with planning policies TRAN2 and TRAN3 of the BCCS and 'saved' policies GP2, T7, T11, and T13 of the Walsall UDP and guidance within the NPPF.

Trees, and Ecology

As the site contains a number of trees the application is supported by an Arboricultural Survey and Impact assessment. 'Saved' UDP policy ENV18 of the UDP ensures the protection and positive management of existing trees. It goes on to state that when development will involve the loss of trees, it is required to minimise the loss and provide appropriate replacement planting.

It is noted that none of the trees on site have protection orders. The proposed development will require the removal of one individual tree and two tree groups. The tree officer has requested an amendment to the layout of the car parking arrangement to seek to retain a good Sweet Chestnut (T7), in favour of removal of two poplars (G8) which are considered unsuitable in this location and likely to cause future issues. An amended plan has been received which secures the retention of T7. The other trees for removal are of a limited size and therefore their loss will have minimal detrimental impact on amenity of the area and this loss can be mitigated through replacement planting within the site. It is consider that overall the scheme is acceptable and the loss of trees can be mitigated through replacements. This

is to be controlled through the imposition of a landscaping and replacement tree planting condition in accordance with the requirement of 'saved' policy ENV18 of the Walsall UDP.

As the site has significant areas of open space and trees the application is supported by an ecological assessment. The report concludes that the development can proceed provided the recommendations are met and the proposal is expected to have no or only minor adverse impacts on ecology and some gains. The recommendation of the report is that all trees on site are retained, otherwise if this is not possible then replacement planting is required. As discussed above to facilitate development there will be some tree loss but this is to be mitigated by replacement planting. The ecology report goes on to recommend ecological enhancements in the form of bat, bird and invertebrate boxes, this accords with the requirements of 'saved' UDP Policy ENV23 relating to nature conservation and new development and is therefore recommended to be secured through the imposition of a condition.

Ground Conditions

The application is supported by a coal mining risk assessment as the site is in a high-risk area for coal mining legacy. The report identifies a number of mining related risks that need consideration, these are mine workings, coal mines entries (shafts) and other risks, ground gases. It is therefore recommended that intrusive investigations are undertaken to determine the depth of the coal seam and determine what if any necessary stabilisation techniques are required. This report has been assessed by the Coal Authority, who concur with the findings and recommend that a condition is imposed to secure the intrusive site investigations and submission of report and details of remedial works and implementation of remedial of those remedial works. Officers concur with these recommendation and recommend the imposition of the condition to comply with the requirements of the NPPF to consider ground stability issues.

Conclusions and Reasons for Decision

The proposed development will result in a number of positive impacts, including the creation of additional school places to meet the changing demands of the area and satisfy a duty of the Council, great weight is added to this element in accordance with guidance in the NPPF. The scheme as amended seeks to address an existing issue relating to on street parking and congestion through the provision of additional staff car parking within the site and creation of a coach drop off/collection point within the school grounds, as well as provide parking requirements necessary to facilitate the new development. This is to be balanced against the negative impacts of the need to remove trees to facilitate the development, however it is acknowledged that this harm can be further reduced and mitigated due to a scheme for replacement planting proposals. It is therefore considered on balance, that the positive benefits of the scheme outweigh any detrimental impacts. Accordingly, the development is in compliance with policies TRN2, TRAN3, CPS4, HOU5, ENV1 AND ENV3 OF THE Black Country Core Strategy, saved policies GP2, ENV17, ENV18, ENV23, ENV32, T7, T8, T9, T10, T11 and T13 of the Walsall UDP, supplementary planning document Designing Walsall and National Planning Policy Framework.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and in response to concerns raised traffic management of the site, car parking layout and tree retention and amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Grant Permission Subject to Conditions

Conditions and Reasons

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

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

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

- Location Plan (CBEC) 001 Rev A received 13/2/18
- Block Plan (CBEC) 100 received 13/2/18
- Existing Site Plan DBB received 13/2/18
- Existing Ground Floor Plan (CBEC) 002 CH Rev A received 13/2/18
- Existing Ground Floor Plan (CBEC) 003 CH Rev A received 13/2/18
- Existing Ground Floor Plan (CBEC) 004 CH Rev A received 13/2/18
- Existing Elevations (CBEC) 005 CH Rev A received 13/2/18
- Existing Elevations (CBEC) 006 CH Rev A received 13/2/18
- Topographical Survey No17-2049-DRAFT received 25/1/18
- Proposed Site Plan (CBEC) 102 Rev B received 4/7/18
- Boundary Treatment (CBEC) 303 received 14/6/18
- Utilities and drainage investigation 21063UG-03 received 25/1/18
- Proposed Ground Floor Plan 1 (CBEC) 201 Rev B received 13/2/18
- Proposed Ground Floor Plan (CBEC) 202 Rev B received 13/2/18
- Proposed Ground Floor Plan (CBEC) 204 Rev A received 13/2/18
- Proposed Elevation (CBEC) 302 Rev B received 12/3/18
- Proposed Elevation (CBEC) 301 Rev A received 13/2/18
- Pre-development Arboricultural Survey and Impact Assessment report number RT-MME-126561-01 received 25/1/18
- GIP Coal Mining Risk Assessment Ref SJ/26555 received 13.2.18
- Design and Access Statement received 13.2.18
- Betts Ecology and Estates Baseline Ecological Site Audit Ref S:6636/J000858 received 25.1.18
- Milestone Transport Planning Transport Statement received 25.1.18

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

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which planning permission is granted, (except in so far as other conditions may so require).

- 3a. Prior to the commencement of development the following details shall be submitted to and approved in writing by the Local Planning Authority:
- i. A scheme of intrusive site investigations to address the coal mining legacy on the site to be carried out
 - ii. A report and findings arising from the intrusive site investigations
 - iii. A Scheme of remedial works to address the coal mining legacy on the site for approval
- 3b. The development shall be implemented in accordance with the approved scheme of remedial works.

Reason: To ensure the satisfactory development of the site and address the coal mining legacy on the site. The works are required prior to commencement of the development to ensure the site can be made safe and stable for the proposed development in accordance with guidance in the NPPF.

- 4a. Prior to the commencement of any development an Arboricultural method statement to include the following elements: tree protection measures, site compound details, methodology for no-dig construction of new car parking within RPA's of retained trees, extent of pruning works to retained trees to allow for access, shall be submitted to and approved in writing by the Local Planning Authority.
- 4b. The development shall be implemented in accordance with the approved arboricultural method statement.

Reason: In order to safeguard the visual amenity and natural environment of the area in accordance with 'saved' policy ENV18 of the Walsall UDP.

- 5a. Prior to the commencement of any built development, a detailed replacement tree planting scheme (with a replacement ratio of 3 trees per 1 removed), timetable for planting and maintenance strategy for the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted on a plan to an appropriate scale and shall include where applicable, details of;
- i. Tree planting and staking details which should be ideally shown as standard details and include locally sources species
 - ii. Details of landscape establishment / maintenance proposals to be undertaken during the standard conditioned maintenance period set out below.
- 5b. The scheme shall be completed fully in accordance with the approved scheme prior to the end of the first planting season.
- 5c. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which die, become seriously diseased, damaged or is removed shall be replaced with a tree, shrub or

plant of the same or greater size and same species as the originally required to be planted.

Reason: In order to safeguard the visual amenity and natural environment of the area in accordance with 'saved' policies ENV18 of the Walsall UDP.

- 6a. Prior to the commencement of development above damp-proof level full details of all external facing materials shall be submitted to and agreed in writing by the local planning authority.

- 6b. The development shall be implemented in accordance with the agreed facing materials.

Reason: To ensure the materials throughout the development harmonise with those in the surrounding vicinity in accordance with 'saved' policies GP2, and ENV32 of the Walsall UDP.

7. Prior to the first occupation of any of the extensions, all vehicle hard standing, parking areas and access ways serving the school shall be fully consolidated, hard surfaced, drained so that surface water runoff from these areas does not discharge onto the adoptable or existing highway or any highway drain and brought into use. These areas shall be thereafter retained and used for no other purpose.

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

- 8a. Prior to the first occupation of any of the extensions, a scheme for car park/traffic management shall be submitted to and approved in writing by the Local Planning Authority.

- 8b. The development shall be implemented in perpetuity in accordance with the approved scheme.

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

- 9a. Prior to the new car park first coming into use, a scheme for appropriate signing and lining and as necessary details of a Traffic Regulation Order shall be submitted to and approved in writing by the Local Planning Authority.

- 9b. The development shall be implemented in perpetuity in accordance with the approved details.

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

10. 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 not take place outside the following hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. (*)

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

Reason: To protect the amenities of surrounding occupiers in accordance with 'saved' policy GP2 of the Walsall UDP.

11a. Prior to the commencement of development above damp-proof level, a scheme for the enhancement of the site for biodiversity purposes in accordance with BETTS Ecology and Estates, Baseline Ecological Site Audit dated October 2017, to include bird, bat and invertebrate boxes and timescales for implementation and future management, shall be submitted to and approved in writing by the Local Planning Authority

11b. The approved scheme of enhancements shall be implemented in accordance with the approved details and thereafter so retained.

Reason: To include ecological enhancement to the proposed development in accordance with 'saved' Policy ENV23 of the Walsall UDP and guidance in the NPPF.

Notes for Applicant

With regard to this proposal Pollution Control advise that the acoustic requirement of Building Bulletin 93 – Acoustic Design of Schools is relevant in fulfilment of the requirements of Approved Document E resistance to the Passage of Sound under the Building Regulations. This information should be brought to the attention of the builder to contractor undertaking the development.

Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 12-Jul-2018

Plans List Item Number: 4.

Reason for bringing to committee: Significant Community Interest

Location: ALLOTMENT GARDENS, SLATERS LANE, WALSALL

Proposal: REMOVAL OF HEDGE ALONG SLATERS LANE TO BE REPLACED WITH TWIN WIRE WELDED MESH FENCE 2.4 METERS HIGH, POWDER COATED GREEN IN COLOUR. INCLUDES PEDESTRIAN LOCKABLE ACCESS GATE AND 3.8 METERS WIDE VEHICLE ACCESS GATE.

Application Number: 18/0413

Applicant: Yvonne Wager

Agent:

Application Type: Regulation 3: Minor Application (SI 1992/1492)

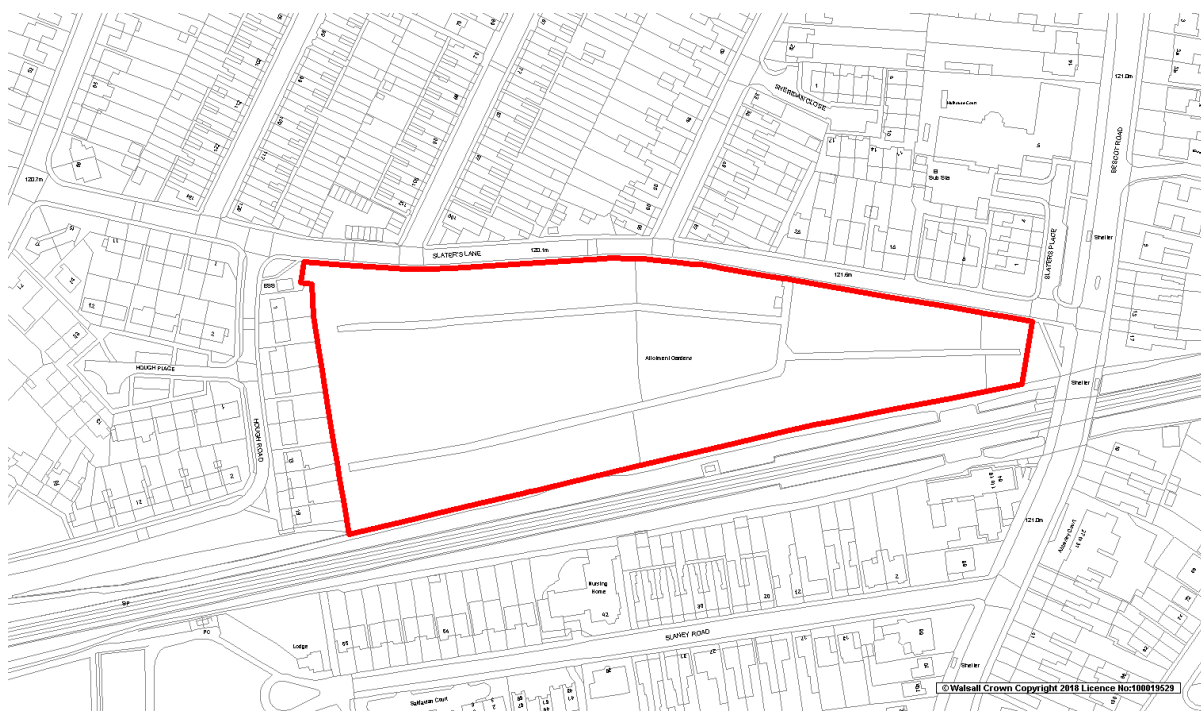
Case Officer: Karon Hulse

Ward: Pleck

Expired Date: 19-Jun-2018

Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Officers Report

Proposal

This application seeks consent to remove an existing 2mt high hedgerow along Slaters Lane allotments which is currently at the back of the pavement which runs from Bescot Road to Hough Road, Walsall.

The fence will be of an open weld mesh type design 2.4mt high and powder coated RAL 6005 green colour. It will include a pedestrian gate made of the same materials and colour finish to match the new fence.

The existing vehicular gates will be retained but colour finish on green to match the new fencing. The vehicular access gate is located opposite no's 24/26 Slaters Lane.

The proposals include the planting of a new hedgerow inside the proposed fence, consisting of mixed native hedge including blackthorn, hawthorn and holly. This will be restricted and maintained at a maximum height of 1.2 mts.

Site and Surroundings

Slaters lane allotments is a horticultural site used for plot holders to grow vegetables and fruit. There are 60 allotment plots on the site.

The site is within a well-established residential area consisting of residential housing of differing ages, types and styles and set in a variety of plot sizes but mostly characterised by rows of Victorian back to back terraces.

Relevant Planning History

None

Relevant Policies

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

National Planning Policy Framework (NPPF) www.gov.uk

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

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

- Enhance and improve the places in which people live their lives;
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;

- Always require high quality design and a good standard of amenity for all existing and future occupants of land and buildings;

Key provisions of the NPPF relevant in this case:

- ***NPPF 7 - Requiring good design***
- ***NPPF8 – Promoting Healthy Communities***
- ***NPPF 11 - Conserving and enhancing the natural environment***

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application

Local Policy

Black Country Core Strategy

- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces
- LC4: Allotment Gardens

Walsall Council Open Space, Sports and Recreational Facilities PPG17 Audit & Assessment (2011) (referred to in this report as PPG17 Study)

Supplementary Planning Document

Conserving Walsall's Natural Environment

- Development with the potential to affect species, habitats or earth heritage features
 - NE1
 - NE2
 - NE3
- The natural environment and new development
 - NE5
 - NE6

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Transportation – no objections

Pollution Control – no objections

Representations

Four letters of representation received objecting on the following grounds:

- See all the sheds, over grown plots and rubbish on the allotments making the view an eye sore.
- over grown plots...vegetation would grow through the fence (*not a material planning consideration*)
- privacy and security would be compromised
- crime would increase in and around the allotments as people can see into and through the fence.
- negative impact upon the aspect and aesthetic and of the locality, essentially de-valuing the properties (*value of property is not a material planning consideration*)
- allotments near to the junction of Bescot road are unkempt and overgrown and in a general state of disrepair and abandonment
- allotments would be visible and in direct view of properties of Slaters Lane
- the local gardener/groundsman who maintained the hedgerow would cost less than the proposed wire mesh fence and removal of the hedgerow (*employing a groundsman or the cost of the proposed fencing are not material planning considerations in this instance*)
- impossible to gain access to the allotments through the hedgerow which is an excellent perimeter defence against intruders
- already an eye sore from our bedroom window
- can see DIY sheds and greenhouses, which are made from recycled materials.
- allotments broken into by arsonists
- existing hedge ok for 35 years

Determining Issues

Security and Design
Residential amenity

Security and design

The applicants have stated that the reason for the removal of the hedgerow to be replaced with the proposed fencing is for security purposes. The proposed fence will be green colour finished and will be of an open weld mesh type design which will allow views into and out of the allotments and considered improving the safety and security of the allotments. The fence at 2.4 mts high reflects the height of the existing hedge which runs along the full length of Slaters Lane.

The existing hedge which has been a feature along Slaters Lane for many years. It is currently not maintained, becoming overgrown, patchy and bare in places, this is a maintenance and cost issue for the Council. It is also considered that its current appearance does not visually enhance the area or Slaters Lane and is visually poor for residents opposite the allotments site.

The removal of the hedge allows for the installation of the new secure fencing and planting of a new hedgerow inside the fence. The proposed design of the fence, colour finished in green is considered not an industrial type security fence, whilst it allowing views in and out of the allotments. The new hedgerow will be maintained at a height of 1.2mt which continues to allow views into and out of the allotments for safety and security, whilst visually softening the boundary. Whilst it is acknowledged the new planting will take time to become established it will ultimately enhance the appearance of this boundary.

It is considered any crime which may have previously taken place within the allotments would benefit from the removal of the hedge as it will allow better and natural surveillance from the public realm. This is considered, contrary to the comments made by an objector that crime would increase.

Residential amenity

Slaters Lane residents are concerned the removal of the hedge will open up views of the allotments, state of disrepair and associated paraphernalia which is already an eyesore. Whilst in the short term this may affect amenity particularly whilst the new hedge planting is establishing itself, this has to be weighed against the improvements to security of the allotments, users of the allotments whilst allowing natural surveillance of Slaters Lane from users of the allotments which also has a security benefit. On this basis it is considered, the security benefits outweighs the short-term visual concerns residents will have until the new hedge is established softening its visual appearance and enhancing the amenity.

Furthermore, the existing hedge is not being maintained and as such is having a negative impact on the appearance of the boundary along Slaters Lane and views from those houses opposite.

The state of the plots and appearance of the plots is an estate management issue, which would need to be addressed by the allotments committee itself.

Any potential devaluation of neighbouring houses and overgrown plots are not material to the determination of a planning application.

Conclusions and Reasons for Decision

The key material planning considerations, neighbour comments and consultee responses have been weighed in assessing the planning application and it is considered that the proposed development accords with the aims and objectives of the National Planning Policy Framework, BCCS policies ENV1, ENV2 and ENV3 and Saved Unitary Development Plan policies GP2, ENV23, ENV32, T7, T13, LC1 and LC4 and on balance is considered to be acceptable.

The proposed removal of the hedge to be replaced with new open weld mesh type design, colour finished in green will enhance the appearance of Slaters Lane whilst allowing natural surveillance and views into and out of the allotments.

The use of safeguarding conditions in respect of materials and planting will ensure that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

Taking into account the above factors, there are no objections from significant consultees or the community, is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

Grant Permission Subject to Conditions

Conditions and Reasons

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

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

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

- location plan (EPMS 4197) received 3/4/18
- Proposed fence details received 3/4/18
- Email from Alison Bate dated 8/6/18 regarding replacement planting
- Photograph of existing vehicular access gates received 24/4/18

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

3a. Within three months of the approved replacement fence having been erected, the existing vehicular palisade gates on Slaters Lane shall be finished with an anti-peel colour in RAL 6005 green.

3b. the vehicular gates shall thereafter be retained and maintained in a good condition.

Reason: To ensure the satisfactory appearance of the development.

4. Within the first planting season following the erection of the approved open mesh weld along Slaters Lane, a new hedgerow shall be planted inside the approved fence and shall consist of a mixed native hedge including blackthorn, hawthorn and holly.

Reason: In order to safeguard and enhance the visual amenities of the locality in accordance with saved Policy ENV18 of the Walsall UDP 2005 and policies NE5 and NE9 of Walsall Council SPD, Conserving Walsall's Natural Environment.

5. The proposed fence materials shall be those indicated on the approved plans only and colour finished in RAL 6005 green.

Reason: To ensure the satisfactory appearance of the development.

Notes for Applicant

To avoid the risk to nesting birds, removal of the hedge and any other dismantling works should be undertaken outside the bird nesting season. The bird nesting season extends between March and September inclusive but is weather dependant and nesting may take place outside this period. If site clearance unavoidably takes place within the nesting season the site shall be checked by a qualified and experienced ecologist immediately prior to works commencing. If nesting birds are discovered then the nest and its surrounds must be left undisturbed until the young have fledged and the nest abandoned. Please note that feral pigeons are protected and destruction of nests could only take place on the grounds of public health or public safety.



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 12-Jul-2018

Plans List Item Number: 5.

Reason for bringing to committee: Called in by Councillor Follows

Location: THE SNEYD, 67, VERNON WAY, BLOXWICH, WALSALL, WS3 2LU

Proposal: PROPOSED RE-DEVELOPMENT OF EXISTING FORMER CAR PARK TO PUBLIC HOUSE TO CONSIST OF THE ERECTION OF 4 NO. 5 BEDROOM DWELLINGS, INSTALLATION OF PUBLIC GREENWAY ROUTE, IMPROVEMENTS TO EXISTING BOUNDARY TREATMENTS AND LANDSCAPE WORKS.

Application Number: 17/0979

Applicant: Parbinder Kang

Agent: Jaspreet Bal

Application Type: Full Application

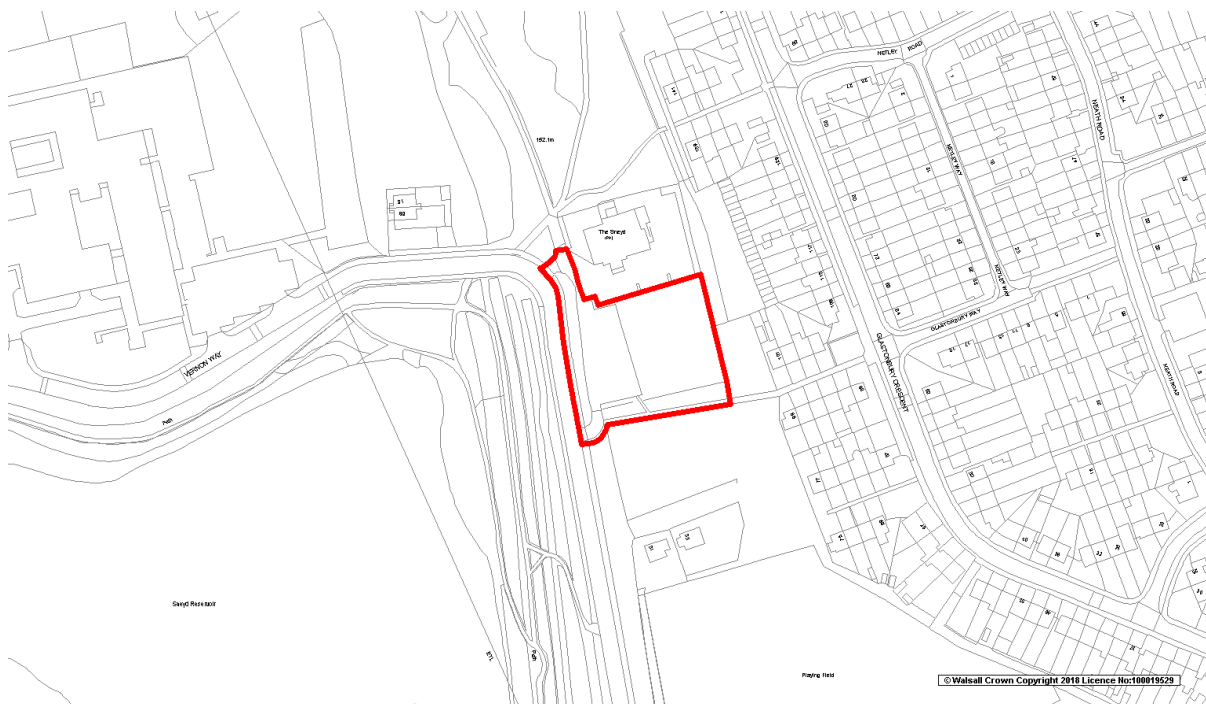
Case Officer: Stuart Crossen

Ward: Bloxwich West

Expired Date: 20-Sep-2017

Time Extension Expiry: 29-Mar-2018

Recommendation Summary: Refuse



Officers Report

Updated Status

A report was published for committee on 7th June 2018 but was withdrawn from the agenda and deferred for consideration at this meeting. The report published on 7th June 2018 now follows without amendments. The recommendation remains to refuse permission and is shown at the end of the original report.

Status

Councillor Follows has called the application in to Committee as it is considered that it is in the public interest to tidy a derelict site that is a nuisance to local residents.

Members resolved at March 22nd Planning Committee that planning application number 17/0979 be deferred for officers to discuss reasons for approval.

An Ecology Report was submitted on the 3rd May 2018 which made the following recommendations:

- Bird and bat boxes should be installed in the buildings.
- Only cowed low lux lighting should be used on site.
- Appropriate precautionary measures are recommended, in case badgers enter the working areas at night.
- To ensure no newts, other amphibians or reptiles are harmed as a result of this development, it is recommended appropriate precautions should be taken during development;
- All retained hedges and trees should be treated in accordance British Standard BS5837 (2012) Trees in Relation to Design, Demolition and Construction – Recommendations, to ensure require adequate root protection fencing.
- Bird breeding season is between mid March and mid August, although certain species can breed outside these months and if breeding birds are found then work should cease and the advice of an ecologist sought. If clearance is undertaken within the bird breeding season then all site features should preferably be checked immediately prior to clearance by a suitably qualified ecologist.
- Following the built development there will be opportunities for enhancement of the site's ecological value by on site landscaping measures designed to encourage wildlife into the site, including native planting, bird and bat boxes on built structures.

An arboriculture assessment has also been submitted which has graded the majority of trees on site as being low quality. It proposes to retain the London Plane and recommends mitigation measures.

Additional Relevant Policies

NPPF Consultation

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it

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can be afforded little weight as a material consideration in the determination of the application.

New Consultation Replies

None – The tree officer will provide comments prior to planning committee.

New Representations

None

Determining Issues

The following determining issues are unchanged from the previous report:

- Principle of residential development and impact on the openness of the Green Belt
- Character and appearance of the surrounding area
- Residential amenity
- Tree Protection
- Access and parking
- Greenway Provision
- Coal mining

Following receipt of an Ecological Report the following determining issue is updated:

- Site of special scientific interest

Assessment of the Proposal

Site of special scientific interest

The Ecological Survey provides details of mitigation for potential loss of habitats as set out in the beginning of the report. ENV23 seeks habitat creation, enhancement and the implementation of other appropriate measures to encourage the conservation of wildlife.

The submitted report recognises the potential harm that the development would have on the SLINC and the countryside character of the area and for these reasons is considered to re-enforce officers concerns that the development would be detrimental to the Sneyd Reservoir SINC. In the absence of any detailed landscape proposals and enhancements the refusal reasons remain the same.

Updated Positive and Proactive Working with the Applicant

Officers have written to the Agent to explain their concerns with the scheme and have offered the opportunity for further information and/or for discussions to take place.

At the time of writing this report the case officer had an extension of time until the 14th June 2018. In the absence of an extended agreement until after the July committee it is considered that the application should be determined on the submitted details.

Recommendation

Refuse

Reasons for Refusal

1. The development due to its location and layout would result in significant harm to the openness of the Green Belt being visually prominent from houses along Glastonbury Crescent in particular to which very special circumstances have not been justified to outweigh any harm to the openness of the Green Belt. For these reasons the proposal would be contrary to the aims and objectives of the National Planning Framework in particular policies 56, 58, 60, 61, 64, 79, 80, 87, 88 and 89, The Black Country Core Strategy policy CSP2, Walsall's Saved Unitary Development Plan policies, in particular GP2, ENV2 and ENV32.

2. The design of the proposal would not integrate with the existing built development due to the higher proposed density which would be at odds with the surrounding built development along Vernon Way, contrary to the expectations of BCCS policy HOU2. For these reasons the proposal would be contrary to the aims and objectives of the National Planning Framework in particular policies 56, 58, 60, 61, 64, 79, 87, 88 and 89, The Black Country Core Strategy, policies CSP4, HOU2 and ENV3, and Walsall's Saved Unitary Development Plan policies, in particular GP2, and ENV32.

3. The application lacks sufficient ecology information to be able to assess the character of the proposed development and its impact on the openness of the Green Belt as follows:

- ecological value of some of the existing features.
- Any proposed effective retention of existing features.
- Any proposed landscape measures.

For these reasons the proposal would be contrary to the aims and objectives of the National Planning Framework in particular policies 56, 58, 60, 61, 64, 79, 87, 88, 89, 109, 111, 118, 123 The Black Country Core Strategy, policy ENV1 and Walsall's Saved Unitary Development Plan policies, in particular ENV23, ENV32, and ENV33 and The Supplementary Planning Document Conserving Walsall's Natural Environment'.

4. In the absence of an arboricultural report to consider the impact of the proposed development on the protected Maple tree, it is considered that the proposed development is contrary to saved UDP policy ENV18: Existing Woodlands, Trees and Hedgerows

5. The proposal fails to include details of the proposed funding, management and maintenance of the greenway contrary to UDP policy LC5 (c) of Walsall's Saved Unitary Development Plan.

Original Report Including Supplementary Updates

The application proposes to use an overspill parking area of an existing public house and replace it with 4 detached houses. A single access point is proposed in the centre of the site with the road extending in front of the proposed houses.

The houses would be two storey traditional hipped roof designs with the loft space used for extra room. Each house would have a projecting front gable and the key measurements are:

- 9 metres wide
- 14.6 metres maximum depth
- 5 metres high to the eaves
- 7.6 metres high

Each house would have:

- Entrance Hall
- Single Garage
- Living Room
- WC
- Kitchen/Dining
- Utility
- 5no. Bedrooms, 2 with En-suite
- Family Bathroom
- Storage

Plots 1 and 4 would have two car parking spaces to the front, plots 2 and 3 have a single space and there are 4 non allocated spaces at the front of the site opposite plots 1 and 4.

Site and Surroundings

The site is situated on the eastern side of Vernon Way near to the bend in the road. The site comprises a modern purpose built vacant public house and car park. The building is part single storey, part two storey with its main entrance on the southern elevation and has planning permission for the conversion into a house. The car park is the location for the proposed 4 houses.

The site is within the Green Belt with public open space to the north and north west, and an isolated pair of semi-detached houses further to the west. Immediately to the north is the former pub, but this does not form part of the site boundary, there are two further isolated houses to the south. To the west on the opposite side of Vernon Way is the Sneyd Reservoir SINC. A vacant unused garage court to houses in Glastonbury Crescent sits to the west of the site.

A design and access statement has been submitted which provided the following key comments:

The current condition of the site is not befitting for a 'Green Belt' site. The derelict and remote nature of the site has provided a neglected site which has been subject to dumping grounds, fly tipping and ASB occurring regularly on the site.

The proposal will encourage and propose openness and elements of public green spaces that will improve connectivity and visual permeability through and around the site. Existing links will be improved to encourage public activity along the greenway.

The locations of the dwellings have been set back toward the eastern edge of the site deliberately to create a focal point to the existing Maple Tree within the site.

In accordance with the Local Authority' vision for the proposed greenway which runs along the western edge of the site (within the former car park area), we have proposed a greenway runs along Vernon Way and connects into the landscape to the north.

Refuse collection will be in the form of wheelie bin collection in accordance with the Local Authority Waste Management Strategy. Residents will place wheelie bins along the footpath to the front edge of each plot for collection by refuse vehicle.

Relevant Planning History

BC24756P, extensions and alterations to pub, flat and car park, GSC 24-04-89

BC28324P, Demolition of existing pub and erection of new pub, flat and car park, GSC 04-04-90

BC28325P, outline for residential development, refused 04-04-90

BC32178P, display of illuminated signs, GSC 19-02-91

17/0152 - First floor extension and change of use of vacant pub to 6 bed dwelling. GSC 12-Apr-2017

Relevant Policies

National Planning Policy Framework (NPPF)

Key provisions of the NPPF relevant in this case:

- **NPPF 4 - Promoting sustainable transport**
- **NPPF 6 - Delivering a wide choice of high quality homes**
- **NPPF 7 - Requiring good design**
- **NPPF 9 - Protecting Green Belt Land**
- **NPPF 10 - Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 11 - Conserving and enhancing the natural environment**
- **NPPF 12 - Conserving and enhancing the historic environment**

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island

Unitary Development Plan

- GP2: Environmental Protection
- ENV1: The Boundary of the Green Belt
- ENV2: Control of Development in the Green Belt
- ENV3: Detailed Evaluation of Proposals within the Green Belt
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV15: Forest of Mercia
- ENV16: Black Country Urban Forest
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T4 - The Highway Network
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis
- LC5: Greenways

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement

- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Strategic Planning Policy – Objection, very special circumstances not demonstrated.

The Coal Authority – No objection subject to conditions for further intrusive site investigation condition.

Transportation – No objections subject to conditions for hard surfacing, footway crossing and dropped kerbs.

Severn Trent – No objections

Public Rights of Way – Details of boundaries, boundary treatment and motorcycle barriers are required.

Representations

None

Determining Issues

- Principle of residential development and impact on the openness of the Green Belt
- Character and appearance of the surrounding area
- Residential amenity
- Tree Protection
- Access and parking
- Greenway Provision
- Coal mining
- Site of special scientific interest

Assessment of the Proposal

Principle of development and impact on the openness of the Green Belt

Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.

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Paragraph 80 of the NPPF sets out the five purposes of the Green Belt, these being:

- to check the unrestricted sprawl of large built-up areas;

The Green Belt here forms a clear boundary to the Mossley Estate

- to prevent neighbouring towns merging into one another;

The Green Belt here separates Bloxwich from New Invention but is only 500m wide, including the motorway corridor, so is highly sensitive to development that might reduce this gap

- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 87 states that inappropriate development should not be approved except in very special circumstances.

Paragraph 89 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt, with a limited list of exceptions. One of these is limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it (as set out in NPPF paragraph 80) than the existing development.

The proposal is to construct 4 new dwellings on the former garden to the pub. As the site is currently not developed, the proposal would have a greater impact on openness of the greenbelt and therefore is in direct conflict with Paragraph 89 of the NPPF and also saved Policy GP2: Environmental Protection of the UDP as it would represent inappropriate development only acceptable if very special circumstances can be proved.

Very special circumstances are, by definition, circumstances that are unusual or which happen rarely. Issues of flytipping and anti-social behaviour whilst undesirable, are not considered to be classified as very special. The majority of existing buildings in the Green Belt are isolated and the converted public house is not particularly remote or different to many other properties on the edge of the urban area. Indeed, there are two other dwellings to the south of the application site on Vernon Way which have been in place for a number of years which have not seen development within their grounds to address the concerns highlighted.

With regard to the reasons put forward by the Councillor, matters of fly-tipping and anti-social behaviour are associated with the visual appearance of the area. Whilst these concerns are noted, the principle of the Green Belt allocation is to focus the location of development into sustainable locations notably within the built up area and to encourage regeneration. It is not a policy which seeks to preserve the attractiveness or character of a location for example like an Area of Natural Beauty or a Conservation Area and accordingly little weight can be given to the arguments in favour of improving the appearance of the site

when considering harm to the Green Belt. The key consideration in this instance is the harm to the openness and whilst fly –tipping is a transitory problem which can be addressed through other legislation to address any short-term harm, the creation of four new dwellings will result in a permanent intrusion to the landscape which will be detrimental to the openness of the Green Belt.

The question of impact on views is not material to the question of whether a proposal is inappropriate in the Green Belt. A development does not even have to be visible to harm openness. There has been recent case law (High Court [R (Boot) v Elmbridge Borough Council [2017] where it was held (in the case of a new sports stadium in the Green Belt) that a development cannot “preserve” the openness of the Green Belt when it causes harm to openness. In this instance the site would be visually prominent being next to a public right of way.

On balance, it is considered that it is not possible to demonstrate very special circumstances in this case, even taking account of the grounds suggested and that such a scheme would not meet any of the exceptions set out in paragraph 89 of the NPPF. Accordingly, no material planning weight can be applied to the proposed very special circumstances. These concerns have been shared with the agent.

Character and appearance of the surrounding area.

The NPPF says that decisions should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new development into the, built environment. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character. Policies CSP4, HOU2, ENV2, ENV3 of the BCCS; GP2, 3,6 and ENV32 of the UDP and Supplementary Planning Document Designing Walsall, require development to be informed/influenced by their context and reinforce locally distinctive elements. Plot sizes and built density will relate to their local context.

The character of the application site is predominantly defined by the existing pub and open space. The public house has been converted into a large single house, however this was a conversion and its appearance or harm to the openness of the Green Belt is not significantly different to the previous pub. This single large property does not define the character of the area which is more rural than urban in form.

Although the proposal would in part be seen against the existing development in Glastonbury Crescent to the rear, the prevailing character is the rural character of Vernon Way. The existing density of Glastonbury Crescent is 47dph, the density of the proposal is 18dph. Although BCCS Policy HOU2 refers to achieving a minimum density of 35dph this is subject to instances where higher densities would prejudice historic character and local distinctiveness. In this instance it is considered the immediate character of Vernon way is defined by free standing properties including the public house, the two dwellings to the south and the property to the west and not clusters of houses which collectively have a density of approximately 1 dwelling per hectare. A higher density would therefore be considered to be inappropriate in this instance.

Residential amenity

The proposed dwellings are approximately 25.0m away from the side elevation of 101 Glastonbury Crescent and approximately 44.0m away from the rear elevation of 109 to 119

Glastonbury Crescent to the rear. The northern plot is also 19.0m away from the public house.

Taking into account the standards in the Council's adopted Design SPD, it is considered that the proposed dwellings will not have an impact on neighbouring amenity levels.

Tree Protection

It is noted that there is a protected London Plane ref 27/2008 to the front of the site. The applicants are proposing to incorporate this into the development, and an arboricultural assessment has now been undertaken. Mitigation measures are proposed and replacement planting, however no landscape details have been provided.

Pollution Control

Pollution Control requires the applicant to undertake appropriate investigation in order to assess the extent of any ground contamination at the site and inform of any remedial measures that may be required.

Concerning air quality, Walsall Council has recently adopted a Supplementary Planning Document (SPD) setting out guidance on minimising air quality impacts, in particular the requirements for promotion of alternative travel choices. As part of Section 5, 'Minimising Unacceptable Air Quality Impacts through Mitigation and Compensation', the SPD states that 'as a minimum, new developments should include the provision of electric vehicle charging points' (Type 1). To allow future residents a readily available infrastructure to switch to environmentally sustainable transport in the future and having regards to the SPD, it is recommended that the Applicant make provision for future electric vehicle charging points. This could be conditioned if the scheme were to be approved.

Conditions could also be used to control construction impacts upon neighbouring residential premises and the highway and are therefore recommended and could be attached if the application was acceptable in all other respects.

Access and parking

Highways Officers have raised no objections but require further details and cross sections of the proposed road and parking areas. It is considered that this information could be conditioned and any required changes would not raise any new material considerations due to the relationship between the development and surrounding development.

The proposed shared drive and parking spaces provide sufficient space to serve the development.

Greenway Provision

The application has raised a number of questions about the relationship between the proposal and the Greenway.

In principal though, the provision on a dedicated strip of land to the front of the site is welcomed in accordance with UDP policy LC5. The route though is severed by the proposed access into the site and, as it runs parallel to the existing pavement, is not considered to offer a substantial benefit to users of the Greenway. Whilst details of boundary treatment, motorcycles barriers and other engineering details could be dealt with by condition provided

the application was acceptable in all other respects, the applicant has not provided details of measures to address part (c) of policy LC5 which seeks to ensure appropriate maintenance arrangements are in place. Accordingly, little or no weight can be given to this aspect of the development.

Coal Mining

The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.

In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

A condition would require prior to the commencement of development:

- * The submission of a scheme of intrusive site investigations for approval;
- * The undertaking of that scheme of intrusive site investigations;
- * The submission of a report of findings arising from the intrusive site investigations;
- * The submission of a scheme of remedial works for approval; and
- * Implementation of those remedial works.

Site of special scientific interest

The land immediately to the east of the site across Vernon Way is identified as the Sneyd Reservoir SINC in the UDP. Policies ENV23: Nature Conservation and New Development and ENV33: Landscape Design requires a landscape plan to be approved prior to determination by virtue of the following locational criteria set out in policy ENV23.

- VIII. Within or adjacent to Local Nature Reserves, Sites of Special Scientific Interest, Sites of Importance of Nature Conservation, parks, cemeteries or public open spaces.
- IX. Within or adjacent to Green Belt, agricultural or open land.

Because changes to the character of the area and the visual impact on the Green Belt are considered to be of significant importance, it is felt that these matters should not be conditioned as they cannot be assessed as part of the application. So that the development minimises any potential impact on the character of the area landscaping is a material consideration and the application fails to demonstrate that the existing countryside character of the area would be retained.

Other matters

The case officer notes the call in reason and would like to clarify that the Council has enforcement powers to minimise any public nuisance at the site and that such issues do not constitute very special circumstances.

Officers have received a complaint with regards to the untidiness and appearance of the site. We have assessed the impacts and consider that there is a detrimental impact on the amenity of the area and the site is in breach of planning control. We have written to the owners to invite voluntary undertake works to tidy up the site and address the breach. If this is not successful then officers would seek to issue a formal notice under S215 to address the condition of the land.

Conclusions and Reasons for Decision

The proposal is contrary to paragraph 89 of the NPPF which regards such development as inappropriate. For the reasons outlined in the assessment the applicant has not provided very special circumstances and is a reason to refuse the application.

The proposed design, scale, density and mass is at odds with the character of the existing development in the area and is contrary to policy HOU2 of the UDP and a reason to refuse the application.

The level of amenity for occupants and its location 18 metres from the converted Public house is sufficient that all residents would receive adequate levels of light and that there would not be an overbearing impact.

Conditions can be attached to incorporate the mitigation and replacement planting proposed in the Arboriculture statement in accordance with Policy ENV18: Existing Woodlands, Trees and Hedgerows.

The access and parking subject to conditions as recommended would ensure satisfactory levels of parking and access for occupants and accords with UDP policies T7 and T13. Although the suggestion of a greenway to the front of the site is welcomed, the absence of any maintenance arrangements results in a conflict with Policy LC5 and therefore little or no weight can be attributed to this aspect of the development.

Conditions can be attached to mitigate for past ground mining works to safeguard the amenities of the area and to comply with UDP policy ENV14.

The potential domestic landscaping would be at odds with the existing open countryside character of the application site and no habitat improvements have been proposed as part of a landscaping plan contrary to the requirements of UDP policy ENV23 and is a reason to refuse the application. The absence of information on the impact on the protected Maple is also noted.

On balance therefore, it is considered that whilst there are some matters in support of the development notably, the delivery of four dwellings, these are significantly outweighed by the harm to the openness to the Green Belt that would be caused by the development for which no material planning grounds have been presented to establish very special circumstances as required by paragraph 89 of the NPPF.

Positive and Proactive Working with the Applicant

The agent has received pre-application advice and has been made aware of the Councils position on the principle of the development, no further justification of very special circumstances has been provided. As there is little if any potential to amend this scheme

satisfactorily no further survey work or information has been requested or is required to make a decision.

Recommendation

Refuse

Conditions and Reasons or Reasons for Refusal

1. The development due to its location and layout would result in significant harm to the openness of the Green Belt being visually prominent from houses along Glastonbury Crescent in particular to which very special circumstances have not been justified to outweigh any harm to the openness of the Green Belt. For these reasons the proposal would be contrary to the aims and objectives of the National Planning Framework in particular policies 56, 58, 60, 61, 64, 79, 80, 87, 88 and 89, The Black Country Core Strategy policy CSP2, Walsall's Saved Unitary Development Plan policies, in particular GP2, ENV2 and ENV32.

2. The design of the proposal would not integrate with the existing built development due to the higher proposed density which would be at odds with the surrounding built development along Vernon Way, contrary to the expectations of BCCS policy HOU2. For these reasons the proposal would be contrary to the aims and objectives of the National Planning Framework in particular policies 56, 58, 60, 61, 64, 79, 87, 88 and 89, The Black Country Core Strategy, policies CSP4, HOU2 and ENV3, and Walsall's Saved Unitary Development Plan policies, in particular GP2, and ENV32.

3. The application lacks sufficient ecology information to be able to assess the character of the proposed development and its impact on the openness of the Green Belt as follows:

- ecological value of some of the existing features.
- Any proposed effective retention of existing features.
- Any proposed landscape measures.

For these reasons the proposal would be contrary to the aims and objectives of the National Planning Framework in particular policies 56, 58, 60, 61, 64, 79, 87, 88, 89, 109, 111, 118, 123 The Black Country Core Strategy, policy ENV1 and Walsall's Saved Unitary Development Plan policies, in particular ENV23, ENV32, and ENV33 and The Supplementary Planning Document Conserving Walsall's Natural Environment'.

4. The proposal fails to include details of the proposed funding, management and maintenance of the greenway contrary to UDP policy LC5 (c) of Walsall's Saved Unitary Development Plan.

Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 12-Jul-2018

Plans List Item Number: 6.

Reason for bringing to committee: Councillor Application

Location: LAND TO THE REAR OF 147, FOLEY ROAD WEST, STREETLY, SUTTON COLDFIELD, B74 3NY

Proposal: NEW TWO STOREY 3 BEDROOM DWELLING AND GARAGE.

Application Number: 16/0524

Applicant: Amers Kudhail

Agent: Spooner Architects

Application Type: Full Application

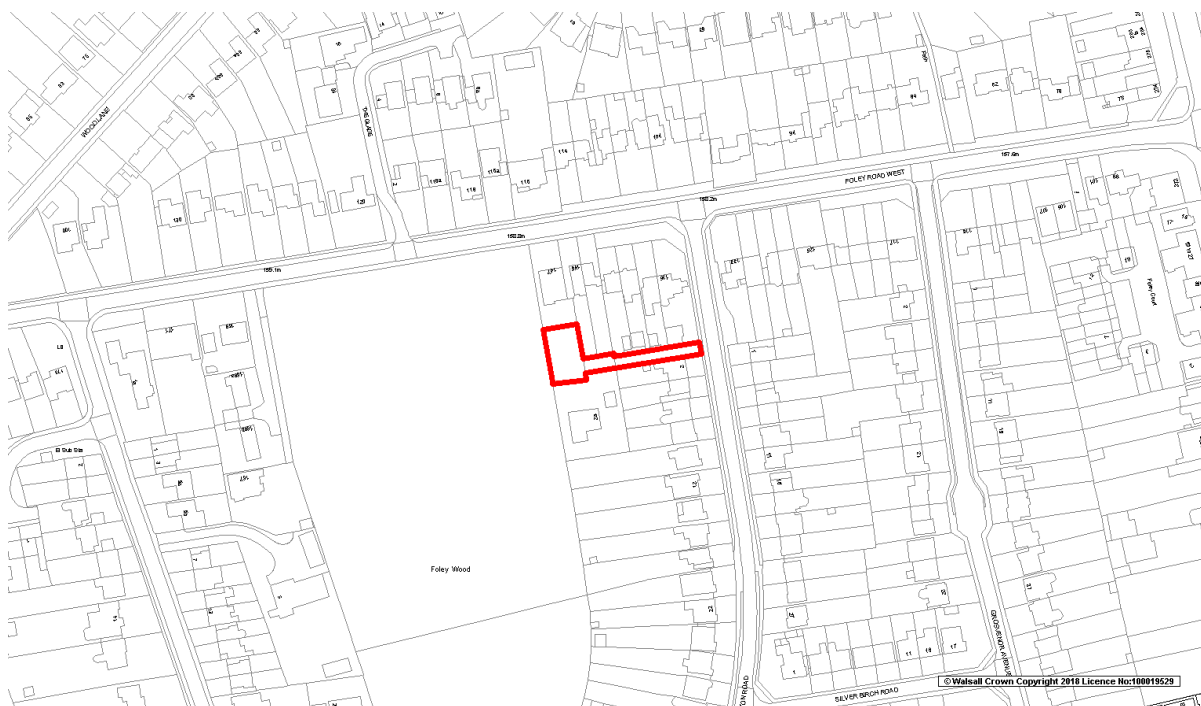
Case Officer: Stuart Crossen

Ward: Streetly

Expired Date: 13-Sep-2016

Time Extension Expiry: 14-Jun-2018

Recommendation Summary: Refuse



Officers Report

Updated Status

A report was published for committee on 7th June 2018 but was withdrawn from the agenda and deferred for consideration at this meeting. The report published on 7th June 2018 now follows without amendments. The recommendation remains to refuse permission and is shown at the end of the original report.

Committee Update

The application was deferred by August 2016 planning committee for the following reasons:

That planning application number 16/0524 be deferred to October Committee to allow the applicant to ascertain ownership of the trees for an assessment to be undertaken of the trees adjacent to the site boundary in Foley Wood.

The Tree Officer provided details to the applicant of capable Tree Specialists who could provide a suitable tree assessment. After this advice was given a number of calls were received from Tree Specialists. As officers were aware of the attempts by the applicant to provide the relevant information more time has been allowed.

Unfortunately progress has halted and there have been reports since of works to the trees adjacent to the application site. A tree survey plan was received by the Council on the 28th May 2018

The recommended reasons for refusal have been revised for clarity.

Additional Relevant Policies

NPPF Consultation

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

New Consultation Replies

None – The tree officer will provide comments prior to planning committee.

New Representations

None

Determining Issues

The following determining issues are unchanged from the previous report:

- Character of the area
- Manoeuvring and turning space within the site

Two additional determining issues are added:

- Tree Report
- Bat Survey

Additional Case Officer comments are provided in response to the tree survey plan for the following determining issues to be considered in conjunction with the original report:

- Residential environment for future occupiers
- Shading and Protected trees

Assessment of the Proposal

Tree Report

The submitted plan is incomplete because a statement on the plan suggests that Trees to be removed due to their condition have already been removed from the drawing, the details of which can be found on drawing TRP02 Rev A. This tree plan has not been received by the Council, but has been requested.

Bat Survey

The proposed development now relies on trees to be removed, which requires a bat survey in accordance with UDP policy ENV23 and Natural Environment SPD.

Residential environment for future occupiers

The plan demonstrates significant shading to the proposed house reinforcing the Council's concerns. Although as the plan suggests there may be trees to be removed this land is outside of the applicants control and the land owner may choose to reinstate the trees. Potential occupiers would have no control over that tree boundary and the proposed orientation of the house means that main habitable room windows would have little light.

Shading and Protected trees

A belt of trees are also shown over the proposed footprint of the house which would need to be removed, although this would be a benefit to the scheme it is considered that the remaining loss of light an overbearing impact of the West boundary trees would still be significant to justify refusal.

Updated Positive and Proactive Working with the Applicant

Officers have liaised with the agent throughout the application seeking details as requested by committee members. Taking account the time taken since the previous committee in August 2016 to provide details on the adjacent trees, officers consider it unlikely that sufficient additional information regarding trees or bats will be submitted to achieve a positive conclusion. The refusal reason would set out clearly to the applicant the issues which would need to be overcome as part of any resubmission.

Recommendation

Refuse as set out in original report, plus the additional of a refusal reason for the lack of a bat survey.

Reasons for Refusal

1. The proposed small backland site would result in a cramped, contrived design with no street presence or identity which is out of keeping with the character of the surrounding area. As such, the proposal represents poor design and is contrary to the aims and objectives of the National Planning Policy Framework and sustainable development, policy CSP4, ENV2 and HOU2 of the Black Country Core Strategy and Saved policies GP2, ENV18, ENV32 and H3 of the Walsall Unitary Development Plan and the Supplementary Planning Documents: Designing Walsall and Conserving Walsall's Natural Environment.
2. The proposed development would not provide a satisfactory residential environment for future occupiers, due to the size of the dwelling in proportion to the size of the plot, limited depth of garden areas and proximity of the dwelling and garden to the boundary with Foley Wood and in the absence of an tree survey to demonstrate that sufficient amenity can be provided without requiring the felling or significant pruning of protected trees, would create overshadowing and be likely to lead to demands from future occupiers for severe pruning or removal of protected trees. As such, the proposal represents poor design and is contrary to the aims and objectives of the National Planning Policy Framework and sustainable development, policy CSP4, ENV2 and HOU2 of the Black Country Core Strategy and Saved policies GP2, ENV18, ENV32 and H3 of the Walsall Unitary Development Plan and the Supplementary Planning Documents: Designing Walsall and Conserving Walsall's Natural Environment.
3. The reduction in depth of the rear garden of number 147 Foley Road West would result in a garden space which would not adequately serve the needs for the occupants of a large detached house and the proximity of the proposed house to this garden space and the main rear windows of number 147 Foley Road West would result in an overbearing impact and unacceptable overlooking of occupants of this house. As such, the proposal represents poor design and is contrary to the aims and objectives of the National Planning Policy Framework and sustainable development, policy CSP4, ENV2 and HOU2 of the Black Country Core Strategy and Saved policies GP2, ENV18, ENV32 and H3 of the Walsall Unitary Development Plan and the Supplementary Planning Document Designing Walsall.

4. The application has failed to include conclusive evidence about the possible presence of bats, which are a protected species, or the impact on their roosts or habitats. The application is therefore contrary to the aims and objectives of the National Planning Framework in particular policies 109, Walsall's Saved Unitary Development Plan policies, in particular ENV23 and the Supplementary Planning Document "Conserving Walsall's Natural Environment".

Original Report including Supplementary Updates

The proposal is for erection of a two storey house on land at the rear of 147 Foley Road West. The former bungalow at number 147 has been demolished and a new 5 bedroom house has been erected following planning permission granted in September 2008. The proposed plot is created using the rear 22m section of the existing garden of 147 Foley Road West and utilising a shared driveway off Egerton Road for access.

The area is predominantly residential comprising a variety of residential properties within generous plots. Foley Wood, protected woodland, adjoins the western boundary of the site. The site is relatively flat.

The proposed application follows a previous refusal for a similar scheme, the differences are the design from a low hipped roof to a two storey gable design, the relocation of the house closer towards 2a Egerton Road (the bungalow at the head of the private access) and further away from 147 Foley Road West, 2m² reduction in the footprint, an increase in plot width coming closer to the rear of number 147 by 2 metres and a detached garage to the front of the proposed house.

The proposed house is "L" shaped and positioned 21m away from the facing elevation of the approved new dwelling at 147 and 14m away from 2a Egerton Road.

On the ground floor would be an open plan lounge and dining room, toilet and kitchen and on the first floor would be a bathroom, 3 bedrooms one with an en-suite and an airing cupboard. The main habitable room windows would be on the front and rear elevations with additional side windows to serve the dining room/ lounge and two of the bedrooms.

The main garden area is on the Eastern side of the house nearest to 147 Foley Road West although other smaller areas are available to the north and south side of the building.

The elevations are brick and the roof incorporates pitch and hipped design. There are dormer windows serving the bedrooms. There is also a chimney serving the lounge.

The main views from the property would be from the access off Egerton Road which is used by up to 8 neighbouring houses and from the rear gardens and windows of houses numbered 137, 139, 141, 143, 145 and 147 Foley Road West and 2, 2a and 4 Egerton Road

A design and access statement has been provided which explains the access from Egerton Road, confirms the garden space to be 137m² in excess of the minimum standard of 68m², that the separation to 2a Egerton Road and 147 Foley Road West is in excess of the minimum standards and that all trees and planting currently on the site would be retained.

Relevant Planning History

Land to the Rear of 147 Foley Road West

13/1488/FL - Erection of a dormer bungalow – refused on the 15/04/14 for the following reasons:

1. The small backland site has resulted in a cramped, contrived design with no street presence or identity which is out of keeping with the character of the surrounding area. It would not provide a satisfactory residential environment for future occupiers, due to the size of the dwelling in proportion to the size of the plot, limited depth of garden areas and proximity of the dwelling and garden to the boundary with Foley Wood which would create overshadowing and be likely to lead to demands from future occupiers for severe pruning or removal of protected trees.
2. The proposed development has failed to demonstrate that there is adequate off street parking and vehicle manoeuvring space within the site curtilage to meet the operational needs of the development.

12/1556/FL- Erection of a dormer bungalow – refused on the 18/04/13 for the following reasons:

1. The small backland site has resulted in a cramped, contrived design with no street presence or identity which is out of keeping with the character of the surrounding area. It would not provide a satisfactory residential environment for future occupiers, due to the size of the dwelling in proportion to the size of the plot, limited depth of garden areas and proximity of the dwelling and garden to the boundary with Foley Wood which would create overshadowing and be likely to lead to demands from future occupiers for severe pruning or removal of protected trees.
2. The proposed development fails to demonstrate adequate manoeuvring, turning and circulation space within the site to enable vehicles to enter and exit the car port and parking space in a satisfactory manner.

147 Foley Road West

BC63597T – Application to fell eight self-set Sycamores within the adjacent woodland – Granted Subject to Conditions 04/07/01

Tree Preservation Orders 10/1964 & 17/2005 relating to the woodland to the west of the site.

08/0306/FL - Demolition of existing bungalow and erection of a 5 bed detached two storey house – Refused 18/04/08 for 3 reasons relating to: 1) the scale, depth, massing and appearance of the building having a cramped and overbearing effect upon the street scene, 2) rear projection and height of the building conflicts with the 45° code adversely affecting the residential amenities of the neighbouring property due to loss of light, outlook and privacy; 3) potential damage to the adjacent trees covered by TPO due to the proximity of the building and potential pressure for future pruning.

08/1288/FL - Demolition of existing bungalow and erection of new five bedroom dwelling and garage. Granted Subject to Conditions 30/09/16

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- find ways to enhance and improve places in which people live their lives
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

- ***NPPF 6 - Delivering a wide choice of high quality homes***
- ***NPPF 7 - Requiring good design***
- ***NPPF 9 - Protecting Green Belt Land***
- ***NPPF 11 - Conserving and enhancing the natural environment***

On **planning conditions** the NPPF says:

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

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

Local Policy

Black Country Core Strategy

www.walsall.gov.uk/ldf_core_strategy

CSP2: Development Outside the Growth Network

- CSP3: Environmental Infrastructure
- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- TRAN1: Priorities for the Development of the Transport Network
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Unitary Development Plan

www.walsall.gov.uk/unitary_development_plan

- GP2: Environmental Protection
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV40: Conservation, Protection and Use of Water Resources
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T4: The Highway Network
- T7: Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Documents (SPD)

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

Designing Walsall SPD

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

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

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

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

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

Annexe D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

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

Conserving Walsall's Natural Environment SPD

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

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

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

It is considered in this case that the relevant provisions of SPD Conserving Walsall's Natural Environment are consistent with the NPPF.

Consultations

Transportation – No objection

Pollution Control– No objection.

Fire Service – No objection

Police – No objection subject to Secure by Design.

Environmental Health – No objection

Severn Trent Water – No objection subject to drainage condition

Arboricultural Officer – Objection, impact of existing protected trees

Public Participation Responses

6 responses have been received from 7 residents objecting to the proposal on the following grounds:

Overlooking and loss of privacy to gardens and windows

Out of character - proportion of house size to garden

Loss of view

Hasn't disclosed he is a Councillor on the application forms (*this has been amended by the agent who submitted the application*)

The applicant has been nibbling away at Foley Wood, felling trees.

Doesn't overcome previous refusal reasons

Larger than previous refused submissions

Not enough space for vehicles to manoeuvre.

Access rights might not be granted (*not a material planning consideration*)

Impact on neighbouring trees

Lack of light for occupiers

Noise and disturbance through construction, with events and issues the owners have had with the recent works next door (*these are not listed as they are not material to the determination of this case*)

Access not suitable for emergency services and sprinkler system not optional.

Loss of neighbouring property value (*not a material planning consideration*)

This application is to try and claim neighbouring land for free (*not a material planning consideration*)

Increase in traffic

Impact on condition of right of way

Impact on wildlife

If the two spaces are filled, how can anyone visit and manoeuvre out of the site.

Determining Issues

Whether the proposal overcomes the previous reasons for refusal in respect of:

- Character of the area
- Residential environment for future occupiers
- Shading and Protected trees
- Manoeuvring and turning space within the site

Observations

Character of the area

Whilst the Council has an adequate 5 year supply of residential land this does not preclude development of windfall sites. Policy ENV14 seeks to bring forward under used land for new uses and policy H3 encourages provision of additional housing through windfall sites provided a satisfactory residential environment can be achieved. Although this site could be considered as underused garden land redevelopment for residential purposes would only be acceptable provided an appropriate layout and design can be achieved. In this instance the constrained site, relationship to surrounding properties and adjacent woodland, and inadequate access are considered unlikely to be able to be addressed by any layout or design.

The character of the area is defined by traditional semi-detached and detached development with direct street frontage. The only exception is 2a Egerton Road which is an existing detached bungalow located at the head of the access.. A single house does not define the character of the area and this is an existing situation which would not be improved by the current proposals which are considered out of character. Objections from residents have been received on this point.

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The relationship between the proposed house and plot is not in character with the wider area, the plot is unusually small in relation to the neighbouring plots and the mass of the house is at odds with this. The density of the existing houses fronting Foley Road West and 2 – 8 Egerton Road is 19 dwellings per hectare whereas the density of the application site would be 29 dwellings per hectare, a significant increase which does not reflect the spacious character of the area.

Although the footprint of the proposal has been reduced by 2m² there would be a significant increase in mass from the previously refused dormer bungalow to a two storey gable roof house. This is considered out of keeping with the existing neighbouring bungalow which although itself is a backland development, is not visible from the street or prominent from neighbouring houses. The proposal due to its excessive mass would be visible from Egerton Road down the shared access and from at least 9 other houses. The layout of the dwelling within the plot is contrived to fit within it and is out of keeping with the surrounding dwellings. This concurs with neighbour objections received who consider the dwelling is “contrived”.

The proposal for the above reasons would have a poor visual relationship with the adjacent houses and street, is out of character contrary to UDP policy ENV32 and does not overcome the 1st refusal reason of planning refusal 13/1488.

Residential environment for future occupiers

The proposed garden would be to the North of the proposed house and just 9.5 metres deep from the side wall of the house which combined with the existing West boundary to the wood, would create significant shading to this amenity area resulting in a poor private amenity space.

The design and access statement explains that the proposed garden exceeds the minimum requirements of Designing Walsall. However it would be expected that these minimum requirements might apply to higher density housing in more densely populated areas rather than this suburban location. The quality of the housing stock in this area which defines the character, already significantly exceeds the minimum requirements of Designing Walsall, which also states that “the requirement to design longer rear gardens to reflect as area’s character is also equally applicable and for these purposes the guidelines below should not be understood by developers to mean the maximum achievable distances for development.” The proposal for these reasons does not accord with Appendix D of Designing Walsall.

The side elevation bedroom windows would be less than 22 metres from the approved rear bedroom windows of number 147 Foley Road West, less than the 24 metres required by Designing Walsall. It might be argued that these windows are secondary, however this position is not supported as the rear window to bedroom one would be 1 metre from the trees of Foley Wood and as such would have no outlook, also bedroom 2 would be 4 metres from the rear side boundary to number 145 Foley Road West which has planting outside of the applicants control which also impact on this window.

The distance between the rear habitable room windows and Foley Wood, the adjacent protected woodland is just 1m and 2m which is likely to lead to overshadowing or calls for severe pruning or felling of the protected trees and is a concern of the Tree officer and neighbouring residents.

There is no distinction along the boundary with the woodland at present and the concern by residents is that further encroachment may occur if the dwelling is granted. The close proximity of the proposed dwelling to the woodland and the tree within an adjacent garden are likely to cause problems of overshadowing and create an unsatisfactory living environment for future occupiers.

For the above reasons the proposed development is cramped and out of keeping with the surrounding area and would have an adverse impact on residential amenities and surrounding trees and woodland contrary to policies GP2, ENV18, ENV32 and H3 and SPD: Designing Walsall, does not overcome the 1st refusal reason of planning refusal 13/1488.

Neighbouring Residents

Existing residents consider the approved new dwelling at 147 Foley Road West to be out of keeping and restrict light to surrounding properties but full consideration of this proposal was made under application 08/1288/FL.

The remaining garden for number 147 is 11m long and gives at least 106m² useable garden area, this reduction to the previous refused scheme is considered insufficient for the remaining 5 bedroom house falling below the minimum standards of Designing Walsall SPD. The relationship to number 147 Foley Road West is considered cramped, the previous relationship was considered acceptable "on balance" and this proposed further reduction in garden length does not provide an acceptable level of amenity for occupiers of number 147 and falls significantly short of what amenities should be expected at a house of this size and of this character along Foley Road West contrary to UDP policies GP2 and ENV32.

There are no side elevation windows on the south elevation so there is no potential overlooking to occupiers of number 2a Egerton Road, the 14.7 metre separation and orientation is also considered acceptable not to result in any significant loss of privacy.

In relation to the other neighbouring houses the new dwelling is considered not to create significant harm to the amenities of adjoining occupiers in terms of loss of privacy, outlook or daylighting.

Shading and Protected trees

The design and layout of the building, in close proximity to a protected mature woodland, indicates a significant conflict will arise from shading, dominance and other tree associated issues (leaves, movement in high winds etc). The Council will be placed under severe pressure to allow the severe pruning or removal of trees within the wooded area to the west (in third party ownership) to the detriment of the amenity value of the area.

There are also other maturing trees in adjacent residential properties which contribute to the natural character of the area. They will have an effect on the proposal through shading, which will increase as the trees mature. They are of good, shape, form and condition and are worthy of retention.

Manoeuvring and turning space within the site

The application differs to the previous refusal and now illustrates parking for 2 cars which accords with T13 parking policy. The access is 4.5m wide increasing to 6m private shared access road off Egerton Road which the Highways Officer considers adequate to provide sufficient space for turning and manoeuvring.

The Highway Authority considers the development will not have severe transportation implications and is acceptable.

For these reasons the proposed parking layout is considered to overcome refusal reason 2 of 13/1488.

Objection has also been raised by a resident that the access not suitable for emergency services and that a sprinkler system is not an optional. West Midlands Fire Service has been consulted on the application and no objections have been raised.

Positive and Proactive Working with the Applicant:

There have been previous applications on this site the decisions of which have provided guidance, further guidance has also been secured through pre-application advice. It is considered that the previous refusal reasons are not overcome and there is little potential for amendments to secure an acceptable design.

Recommendation Refuse.

1. The proposed small backland site would result in a cramped, contrived design with no street presence or identity which is out of keeping with the character of the surrounding area. As such, the proposal represents poor design and is contrary to the aims and objectives of the National Planning Policy Framework and sustainable development, policy CSP4, ENV2 and HOU2 of the Black Country Core Strategy and Saved policies GP2, ENV18, ENV32 and H3 of the Walsall Unitary Development Plan and the Supplementary Planning Documents: Designing Walsall and Conserving Walsall's Natural Environment.

2. The proposed development would not provide a satisfactory residential environment for future occupiers, due to the size of the dwelling in proportion to the size of the plot, limited depth of garden areas and proximity of the dwelling and garden to the boundary with Foley Wood and in the absence of an tree survey to demonstrate that sufficient amenity can be provided without requiring the felling or significant pruning of protected trees, would create overshadowing and be likely to lead to demands from future occupiers for severe pruning or removal of protected trees. As such, the proposal represents poor design and is contrary to the aims and objectives of the National Planning Policy Framework and sustainable development, policy CSP4, ENV2 and HOU2 of the Black Country Core Strategy and Saved policies GP2, ENV18, ENV32 and H3 of the Walsall Unitary Development Plan and the Supplementary Planning Documents: Designing Walsall and Conserving Walsall's Natural Environment.

3. The reduction in depth of the rear garden of number 147 Foley Road West would result in a garden space which would not adequately serve the needs for the occupants of a large detached house and the proximity of the proposed house to this garden space and the main rear windows of number 147 Foley Road West would result in an overbearing impact and unacceptable overlooking of occupants of this house. As such, the proposal represents poor design and is contrary to the aims and objectives of the National Planning Policy Framework and sustainable development, policy CSP4, ENV2 and HOU2 of the Black Country Core Strategy and Saved policies GP2, ENV18, ENV32 and H3 of the Walsall Unitary Development Plan and the Supplementary Planning Document Designing Walsall.

Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 12-Jul-2018

Plans List Item Number: 7.

Reason for bringing to committee: **Called in by Councillor Barker**

Location: 64 , SANDBEDS ROAD, WILLENHALL, WV12 4JQ

Proposal: CHANGE OF USE FROM C3 DWELLING HOUSE TO C2 RESIDENTIAL HOME FOR UP TO 2 YOUNG PEOPLE (ASSESSMENT/RESPIRE/STEPDOWN)

Application Number: 18/0261

Applicant: S TOTT

Agent: Emery Planning

Application Type: Full Application: Change of Use

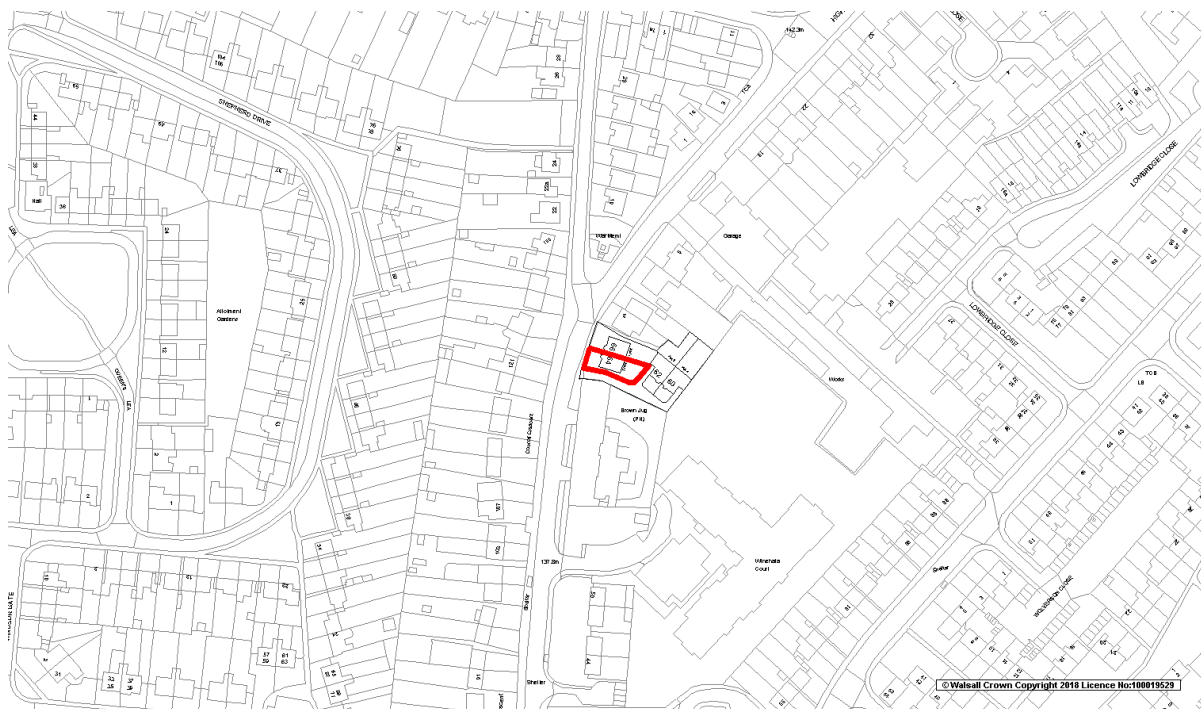
Case Officer: Stuart Crossen

Ward: Short Heath

Expired Date: 14-Jun-2018

Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Officers Report

Proposal

The application proposes the change of use of number 64 Sandbeds Road from a C3 dwellinghouse to a C2 residential care home for up to 2 young people.

No elevation or internal changes are proposed to the property.

A planning statement has been submitted with the following relevant details:

The young people residing in each property would be between the ages of 8 and 17. They would have been taken into care for a variety of reasons. Once they turn 18, it is envisaged that the majority would be able to go on to live independent adult lives, potentially within the local community.

Support to the young persons at each of the homes would be provided by up to 4 members of staff. Staff would work on a shift basis. Up to 4 members of staff in each home would be on duty through the day, with 3 staff on duty during the night.

Staff change-overs would occur at around 10.a.m. 4 members of staff from the day shift would change over to the 3 members of staff working the night shift.

The proposed care homes would aim to provide the young people with an environment as close as possible to a family home. Within each individual care home, they would take meals together, socialise with each other and help with daily chores. They would each have their own bedroom, but would share other facilities in the home.

During week days, within school terms, the young people would attend a school in the local community. It is likely that where required they would be transferred to and from school together by a member of staff.

Site and Surroundings

The application house is one of four semi-detached houses on land adjacent to The Brown Jug Public House.

The application house is one of two which fronts Sandbeds Road. There are two properties to the rear also subject to applications for change of use to be considered at this meeting.

The house has two parking spaces one an integral single garage.

The nearest neighbouring house is number 66 which is the other half of the semi.

Relevant Planning History

07/0285/OL/W7 - Proposed 4 semi detached houses – GSC 09/08/07

10/1148/FL - Erection of 4 houses (amendment to planning permission reference 07/0285/OL/W7). GSC 12/10/10

17/1204 - Non-Material amendment to widen kerb in relation to planning permission

10/1148/FL. Erection of 4 houses (amendment to planning permission reference 07/0285/OL/W7). Approved 29/09/17

18/0262 – 60 Sandbeds Road – Change of Use from C3 dwelling house to C2 Residential Home for up to 3 young people (assessment/respite/stepdown) - Undetermined

18/0263 – 62 Sandbeds Road - Change of Use from C3 dwelling house to C2 Residential Home for up to 3 young people (assessment/respite/stepdown) - Undetermined

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

Key provisions of the NPPF relevant in this case:

- **NPPF 4 - Promoting sustainable transport**
- **NPPF 6 - Delivering a wide choice of high quality homes**
- **NPPF 7 - Requiring good design**
- **NPPF 8 - Promoting healthy communities**

On **planning conditions** the NPPF says:

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

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure

developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

NPPF Consultation

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU5: Education and Health Care Facilities
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- ENV32: Design and Development Proposals
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- H5: Housing for People with Special Needs
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW8 Adaptability

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Transportation – No objections

Police – Makes secure by design recommendations including the installation of improved security measures.

Children’s Commissioning – Confirmed that they have no comments

Representations

4 objections have been received on the following grounds:

Lack of affordable homes for young families

Making a profit from someone’s misfortune

There was no intention of these buildings being used as houses

Creating 3 homes on the same site circumvents Ofsted requirements

Concentration of homes would lead to potential anti-social behaviour (ASB)

Not enough parking

Next to the Brown Jug which is a magnet for ASB

Determining Issues

- Principle of Development
- Amenity of Occupants and Neighbours
- Parking

Assessment of the Proposal

Principle of Development

UDP Policy H5 states “*The Council will promote and encourage the provision of housing for people with special needs, including single people, the elderly, ethnic minorities, people with disabilities and any other groups who require specialist accommodation.*” In this instance it is considered that young people taken into care would be a group which require specialist accommodation.

Policy GP5 states that “*particular attention will be given to the needs of people who are in anyway disadvantaged in order to maximise equality of opportunity and engender greater social inclusion*” The application would provide housing to meet the needs of young people who have been taken into care.

A concern has been raised that there is a lack of affordable housing. In this instance it is considered that the application demonstrates there is also a need for housing young people who have been taken into care. There are no planning reasons why these houses would have to be made available for affordable housing, the original permission had no restrictions and there was no requirement that these be affordable houses.

Amenity of Occupants and Neighbours

The existing building is a house and would continue to be used for living accommodation with the same level of amenity and similar relationship to neighbouring houses as is already the case.

Security

The proposed secure by design measures are considered appropriate to a new development, in this instance the house is built and is not relevant to the proposed development so could not be conditioned. A note for applicant making them aware of potential security improvements can be added to permission if granted.

There is an objection on the grounds that the concentration of homes would lead to potential anti-social behaviour and that its location in relation to the Brown Jug could cause ASB issues. No concerns have been raised by the Police in these regards.

Parking

In T13 parking policy terms, there is little difference in the parking requirement between the existing use and proposed use.

Other Issues Raised by Public Consultation

There is no policy justification or requirement to insist that the house is made available as affordable homes for young families or retained as houses.

The business intentions of the applicant are not a material planning consideration.

Ofsted requirements are a separate matter and not a determining issue of a planning application.

Next to the Brown Jug which is a magnet for ASB

Conclusions and Reasons for Decision

The proposed use is supported by UDP policies GP5 and H5 and is an acceptable use in an existing residential area.

The existing amenities between houses and available to occupants would remain and are considered acceptable to comply with UDP policy GP2.

The application is only for a change of use with no operational development required, the measures requested by the Police are considered to be no more relevant to the proposed use than the existing use and can only be attached as a note for applicant.

The COU will not have severe transportation implications and is acceptable in accordance with NPPF para 32.

Taking into account the above factors it is considered that the application should be approved.

Positive and Proactive Working with the Applicant

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

Grant Permission Subject to Conditions

Conditions and Reasons

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

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

2: The development shall be carried out in accordance with the following plans unless otherwise superseded by condition:

Location plan received 12/04/18

Block plan received 12/04/18

Planning statement received 01/05/18

Reason: To define the permission.

Notes for Applicant

Police:

I would strongly recommend that due to the high overall crime experienced in this area that the developer is made aware of the specifications and guidelines that can help secure this development against future crime and the benefits that can be achieved on this site through adopting the principles of Secure By Design. Information can be found at

<http://www.securedbydesign.com/pdfs/SBDNewHomes2014.pdf>

I recommend the developer seeks the accreditation on the full scheme. If secured by Design is not to be achieved in full on this development I would recommend the following as minimum standards.

All ground floor windows and any accessible windows should be fitted with BS EN 356 grade P1A glass this includes French doors and patio doors and should improve the standard of security to the more vulnerable ground floor windows. The frontages and accessible windows of the ground floor rooms need to have defensible planting under them. This can be created by dense low level shrubbery which should be around 1m in depth. This will assist in stopping unauthorised persons gaining access to vulnerable windows and make it more difficult for persons to peer in through window or have access to the locking mechanisms. The defensible space should overlap the whole length of the window at least. Low level dense shrubbery is the preferred method to create this barrier with a mature

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height of no more than 1m and should be suitable for the light and soil environment at its location.

I recommended the developer to be made aware of and fit the PAS 24:2012 doors on the entrance doors. Where euro profile cylinder locks are proposed in doors, shutters etc. consideration should be given to the ever Increasing trend in lock snapping as a means of forcing entry to a building. To reduce such risk a minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond Standard certification should be used instead of the standard 1 Star cylinder. Also where thumb turn locks are to be installed considerations should be given to the use of the 'BY Pass' method of entry by offenders. There are thumb locks on the market that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks.

I recommend the front entrance doors are fitted with an access control system. This may be a proximity access control system, a door entry phone system and electronic lock release or a combination of these to discourage casual intrusion by non-residents. Entrance and exit doors and frames to the block should be of a robust vandal resistant material, with vandal resistant viewing panels. Entrances should be well lit both internally and externally. There should be some form of access control leading from main entrance to the rest of the building to restrict access of visitors attending the site.

All windows should have restrictors fitted due to the nature of the people using this premises. There also needs to be a door access system attached to the door of the front of the premises. This will allow access and egress to members of the staff who will have a fob to activate the system. But at the same time not allowing egress to the children staying on site. No fob should be left hanging near to the door for ease.

Secured by Design states the safest place to park a vehicle is in a locked driveway in front of the vehicle owner's property. To deter car crime it is important to ensure that all parking places have good natural surveillance and are overlooked by windows from the buildings they serve this appears to be covered by this development as the lobby and side windows overlook the car park.

Most properties are attacked from the rear therefore perimeter security needs to be effective in order to protect the most vulnerable area. I would recommend 2.1m on all rear perimeter fences and should be erected so that the smooth face is always facing outwards so that the frame cannot be used as a climbing aide. This can include 300mm anti-climb (Criss Cross) trellis topping. The trellis should not be of a robust construction as this will create a climbing aid, rather than create a topping that will break, crack, and create noise if climbed, as intended. Where concrete post and panels are to be used the fence panels need to be tied using galvanised metal straps, so that the panels cannot be lifted by offenders as a means of entry. The fencing needs to be treated wood with guarantee life span of 25yrs. All side entry gates should be the same height (2.1m) and be key lockable from both sides. Their design and construction should not provide climbing aides to offenders. If views are needed then I recommend close weld wire mesh as it is aesthetically pleasing and cannot be seen unless up close looking at it. This would also help in keeping the residents safe whilst allowing views of gardens of care home.

If a cycle stand is to be supplied for use by visitors, staff or residents if able, I recommend a Secured by Design cycle stand should be installed. The security anchor for the bike must be

certified to Sold Secure Silver standard or LPS 1175 issue 7:2010 SR1 and be securely fixed to the concrete foundation in accordance with manufacturers specifications.

Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 12-Jul-2018

Plans List Item Number: 8.

Reason for bringing to committee: Significant Community Interest

Location: 60, SANDBEDS ROAD, WILLENHALL, WV12 4EY

Proposal: CHANGE OF USE FROM C3 DWELLING HOUSE TO C2 RESIDENTIAL HOME FOR UP TO 3 YOUNG PEOPLE (ASSESSMENT/RESPITE/STEPDOWN)

Application Number: 18/0262

Applicant: S TOTT

Agent: Emery Planning

Application Type: Full Application

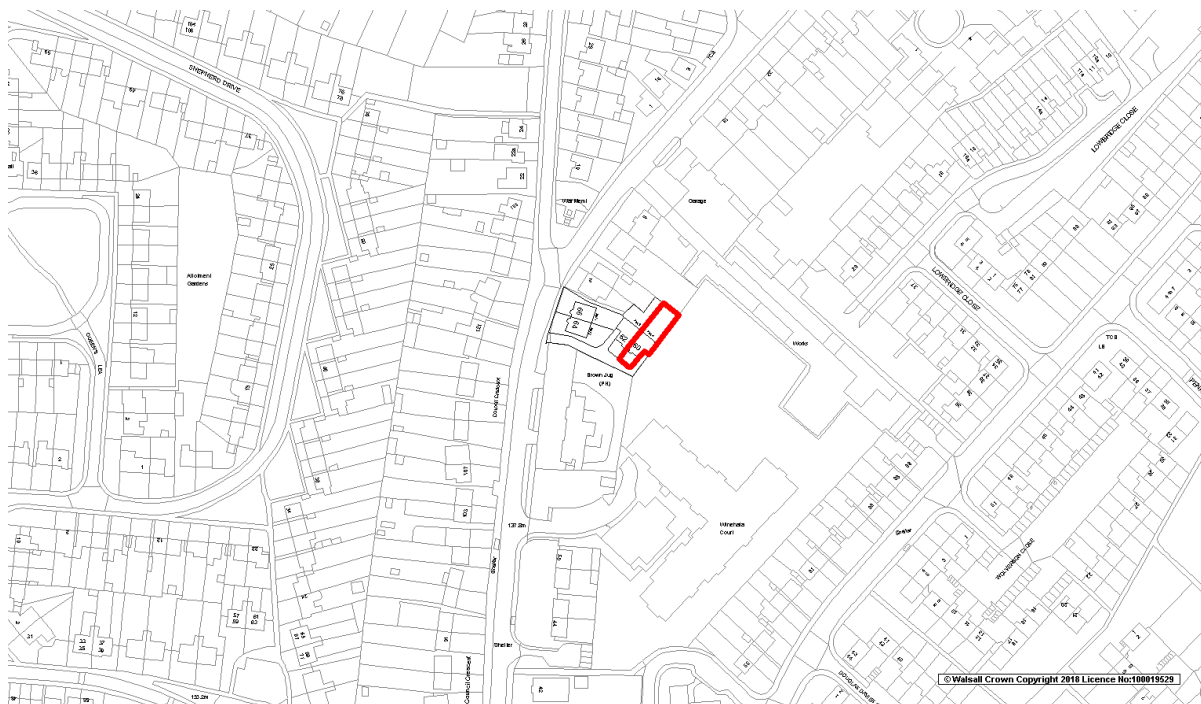
Case Officer: Stuart Crossen

Ward: Short Heath

Expired Date: 13-Jun-2018

Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Officers Report

Proposal

The application proposes the change of use of number 64 Sandbeds Road from a C3 dwellinghouse to a C2 residential care home for up to 2 young people.

No elevation or internal changes are proposed to the property.

A planning statement has been submitted with the following relevant details:

The young people residing in each property would be between the ages of 8 and 17. They would have been taken into care for a variety of reasons. Once they turn 18, it is envisaged that the majority would be able to go on to live independent adult lives, potentially within the local community.

Support to the young persons at each of the homes would be provided by up to 4 members of staff. Staff would work on a shift basis. Up to 4 members of staff in each home would be on duty through the day, with 3 staff on duty during the night.

Staff change-overs would occur at around 10.a.m. 4 members of staff from the day shift would change over to the 3 members of staff working the night shift.

The proposed care homes would aim to provide the young people with an environment as close as possible to a family home. Within each individual care home, they would take meals together, socialise with each other and help with daily chores. They would each have their own bedroom, but would share other facilities in the home.

During week days, within school terms, the young people would attend a school in the local community. It is likely that where required they would be transferred to and from school together by a member of staff.

Site and Surroundings

The application house is one of four semi-detached houses on land adjacent to The Brown Jug Public House.

The application house is one of two which are behind a pair of semi-detached houses on Sandbeds Road and which face the side boundary to The Brown Jug. There are two other applications for changes of use at the adjacent dwellings to be considered at this meeting.

The house has two parking spaces one an integral single garage.

The nearest neighbouring house is number 66 which is the other half of the semi.

Relevant Planning History

07/0285/OL/W7 - Proposed 4 semi detached houses – GSC 09/08/07

10/1148/FL - Erection of 4 houses (amendment to planning permission reference 07/0285/OL/W7). GSC 12/10/10

17/1204 - Non-Material amendment to widen kerb in relation to planning permission

10/1148/FL. Erection of 4 houses (amendment to planning permission reference 07/0285/OL/W7). Approved 29/09/17

18/0261 – 60 Sandbeds Road – Change of Use from C3 dwelling house to C2 Residential Home for up to 2 young people (assessment/respite/stepdown) - Undetermined

18/0263 – 62 Sandbeds Road - Change of Use from C3 dwelling house to C2 Residential Home for up to 3 young people (assessment/respite/stepdown) - Undetermined

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

Key provisions of the NPPF relevant in this case:

- **NPPF 4 - Promoting sustainable transport**
- **NPPF 6 - Delivering a wide choice of high quality homes**
- **NPPF 7 - Requiring good design**
- **NPPF 8 - Promoting healthy communities**

On **planning conditions** the NPPF says:

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

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development

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and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

NPPF Consultation

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU5: Education and Health Care Facilities
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- ENV32: Design and Development Proposals
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- H5: Housing for People with Special Needs
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW8 Adaptability

Air Quality SPD

- ***Section 5 – Mitigation and Compensation:***

- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Transportation – No objections

Police – Makes secure by design recommendations including the installation of improved security measures.

Children’s Commissioning – Confirmed that they have no comments

Representations

3 objections have been received on the following grounds:

Lack of affordable homes for young families

Making a profit from someone’s misfortune

There was no intention of these buildings being used as houses

Creating 3 homes on the same site circumvents Ofsted requirements

Concentration of homes would lead to potential anti-social behaviour (ASB)

Not enough parking

Next to the Brown Jug which is a magnet for ASB

Determining Issues

- Principle of Development
- Amenity of Occupants and Neighbours
- Parking

Assessment of the Proposal

Principle of Development

UDP Policy H5 states “*The Council will promote and encourage the provision of housing for people with special needs, including single people, the elderly, ethnic minorities, people with disabilities and any other groups who require specialist accommodation.*” In this instance it is considered that young people taken into care would be a group which require specialist accommodation.

Policy GP5 states that “*particular attention will be given to the needs of people who are in anyway disadvantaged in order to maximise equality of opportunity and engender greater social inclusion*” The application would provide housing to meet the needs of young people who have been taken into care.

A concern has been raised that there is a lack of affordable housing. In this instance it is considered that the application demonstrates there is also a need for housing young people who have been taken into care. There are no planning reasons why these houses would have to be made available for affordable housing, the original permission had no restrictions and there was no requirement that these be affordable houses.

Amenity of Occupants and Neighbours

The existing building is a house and would continue to be used for living accommodation with the same level of amenity and similar relationship to neighbouring houses as is already the case.

Security

The proposed secure by design measures are considered appropriate to a new development, in this instance the house is built and is not relevant to the proposed development so could not be conditioned. A note for applicant making them aware of potential security improvements can be added to permission if granted.

Parking

In T13 parking policy terms, there is little difference in the parking requirement between the existing use and proposed use.

Other Issues Raised by Public Consultation

There is no policy justification or requirement to insist that the house is made available as affordable homes for young families or retained as houses.

The business intentions of the applicant are not a material planning consideration.

Ofsted requirements are a separate matter and not a determining issue of a planning application.

Next to the Brown Jug which is a magnet for ASB

Conclusions and Reasons for Decision

The proposed use is supported by UDP policies GP5 and H5 and is an acceptable use in an existing residential area.

The existing amenities between houses and available to occupants would remain and are considered acceptable to comply with UDP policy GP2.

The application is only for a change of use with no operational development required, the measures requested by the Police are considered to be no more relevant to the proposed use than the existing use and can only be attached as a note for applicant.

The COU will not have severe transportation implications and is acceptable in accordance with NPPF para 32.

Taking into account the above factors it is considered that the application should be approved.

Positive and Proactive Working with the Applicant

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

Grant Permission Subject to Conditions

Conditions and Reasons

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

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

2: The development shall be carried out in accordance with the following plans unless otherwise superseded by condition:

Location plan received 12/04/18

Block plan received 12/04/18

Planning statement received 01/05/18

Reason: To define the permission.

Notes for Applicant

Police:

I would strongly recommend that due to the high overall crime experienced in this area that the developer is made aware of the specifications and guidelines that can help secure this development against future crime and the benefits that can be achieved on this site through adopting the principles of Secure By Design. Information can be found at

<http://www.securedbydesign.com/pdfs/SBDNewHomes2014.pdf>

I recommend the developer seeks the accreditation on the full scheme.

If secured by Design is not to be achieved in full on this development I would recommend the following as minimum standards.

All ground floor windows and any accessible windows should be fitted with BS EN 356 grade P1A glass this includes French doors and patio doors and should improve the standard of security to the more vulnerable ground floor windows. The frontages and accessible windows of the ground floor rooms need to have defensible planting under them. This can be created by dense low level shrubbery which should be around 1m in depth. This will assist in stopping unauthorised persons gaining access to vulnerable windows and make it more difficult for persons to peer in through window or have access to the locking mechanisms. The defensible space should overlap the whole length of the window at least. Low level dense shrubbery is the preferred method to create this barrier with a mature height of no more than 1m and should be suitable for the light and soil environment at its location.

I recommended the developer to be made aware of and fit the PAS 24:2012 doors on the entrance doors. Where euro profile cylinder locks are proposed in doors, shutters etc. consideration should be given to the ever Increasing trend in lock snapping as a means of forcing entry to a building. To reduce such risk a minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond Standard certification should be used instead of the standard 1 Star cylinder. Also where thumb turn locks are to be installed considerations should be given to the use of the 'BY Pass' method of entry by offenders.

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There are thumb locks on the market that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks.

I recommend the front entrance doors are fitted with an access control system. This may be a proximity access control system, a door entry phone system and electronic lock release or a combination of these to discourage casual intrusion by non-residents. Entrance and exit doors and frames to the block should be of a robust vandal resistant material, with vandal resistant viewing panels. Entrances should be well lit both internally and externally. There should be some form of access control leading from main entrance to the rest of the building to restrict access of visitors attending the site.

All windows should have restrictors fitted due to the nature of the people using this premises. There also needs to be a door access system attached to the door of the front of the premises. This will allow access and egress to members of the staff who will have a fob to activate the system. But at the same time not allowing egress to the children staying on site. No fob should be left hanging near to the door for ease.

Secured by Design states the safest place to park a vehicle is in a locked driveway in front of the vehicle owner's property. To deter car crime it is important to ensure that all parking places have good natural surveillance and are overlooked by windows from the buildings they serve this appears to be covered by this development as the lobby and side windows overlook the car park.

Most properties are attacked from the rear therefore perimeter security needs to be effective in order to protect the most vulnerable area. I would recommend 2.1m on all rear perimeter fences and should be erected so that the smooth face is always facing outwards so that the frame cannot be used as a climbing aide. This can include 300mm anti-climb (Criss Cross) trellis topping. The trellis should not be of a robust construction as this will create a climbing aid, rather than create a topping that will break, crack, and create noise if climbed, as intended. Where concrete post and panels are to be used the fence panels need to be tied using galvanised metal straps, so that the panels cannot be lifted by offenders as a means of entry. The fencing needs to be treated wood with guarantee life span of 25yrs. All side entry gates should be the same height (2.1m) and be key lockable from both sides. Their design and construction should not provide climbing aides to offenders. If views are needed then I recommend close weld wire mesh as it is aesthetically pleasing and cannot be seen unless up close looking at it. This would also help in keeping the residents safe whilst allowing views of gardens of care home.

If a cycle stand is to be supplied for use by visitors, staff or residents if able, I recommend a Secured by Design cycle stand should be installed. The security anchor for the bike must be certified to Sold Secure Silver standard or LPS 1175 issue 7:2010 SR1 and be securely fixed to the concrete foundation in accordance with manufacturers specifications.

Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 12-Jul-2018

Plans List Item Number: 9.

Reason for bringing to committee: Significant Community Interest

Location: 62 , SANDBEDS ROAD, WILLENHALL, WV12 4JQ

Proposal: CHANGE OF USE FROM C3 DWELLING HOUSE TO C2 RESIDENTIAL HOME FOR UP TO 3 YOUNG PEOPLE (ASSESSMENT/RESPITE/STEPDOWN)

Application Number: 18/0263

Applicant: Mrs S Tott

Agent: Paul Forshaw

Application Type: Full Application

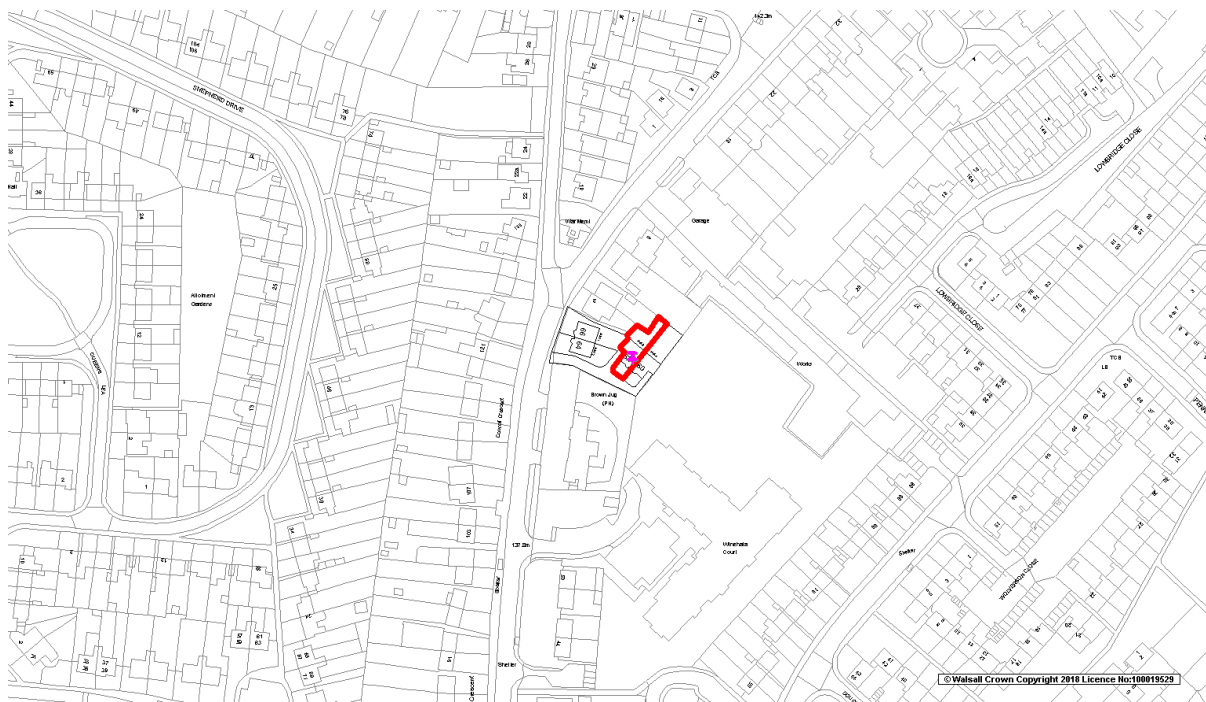
Case Officer: Stuart Crossen

Ward: Short Heath

Expired Date: 13-Jun-2018

Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Officers Report

Proposal

The application proposes the change of use of number 62 Sandbeds Road from a C3 dwellinghouse to a C2 residential care home for up to 3 young people.

No elevation or internal changes are proposed to the property.

A planning statement has been submitted with the following relevant details:

The young people residing in each property would be between the ages of 8 and 17. They would have been taken into care for a variety of reasons. Once they turn 18, it is envisaged that the majority would be able to go on to live independent adult lives, potentially within the local community.

Support to the young persons at each of the homes would be provided by up to 4 members of staff. Staff would work on a shift basis. Up to 4 members of staff in each home would be on duty through the day, with 3 staff on duty during the night.

Staff change-overs would occur at around 10.a.m. 4 members of staff from the day shift would change over to the 3 members of staff working the night shift.

The proposed care homes would aim to provide the young people with an environment as close as possible to a family home. Within each individual care home, they would take meals together, socialise with each other and help with daily chores. They would each have their own bedroom, but would share other facilities in the home.

During week days, within school terms, the young people would attend a school in the local community. It is likely that where required they would be transferred to and from school together by a member of staff.

Site and Surroundings

The application house is one of four semi-detached houses on land adjacent to The Brown Jug Public House.

The application house is one of two which are behind a pair of semi-detached houses on Sandbeds Road and which face the side boundary to The Brown Jug. There are two other applications for changes of use at the adjacent dwellings to be considered at this meeting.

The house has two parking spaces one an integral single garage.

The nearest neighbouring house is number 66 which is the other half of the semi.

Relevant Planning History

07/0285/OL/W7 - Proposed 4 semi detached houses – GSC 09/08/07

10/1148/FL - Erection of 4 houses (amendment to planning permission reference 07/0285/OL/W7). GSC 12/10/10

17/1204 - Non-Material amendment to widen kerb in relation to planning permission

10/1148/FL. Erection of 4 houses (amendment to planning permission reference 07/0285/OL/W7). Approved 29/09/17

18/0261 – 60 Sandbeds Road – Change of Use from C3 dwelling house to C2 Residential Home for up to 2 young people (assessment/respite/stepdown) - Undetermined

18/0262 – 62 Sandbeds Road - Change of Use from C3 dwelling house to C2 Residential Home for up to 3 young people (assessment/respite/stepdown) - Undetermined

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

Key provisions of the NPPF relevant in this case:

NPPF 4 - Promoting sustainable transport

- **NPPF 6 - Delivering a wide choice of high quality homes**
- **NPPF 7 - Requiring good design**
- **NPPF 8 - Promoting healthy communities**

On **planning conditions** the NPPF says:

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

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure

developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

NPPF Consultation

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU5: Education and Health Care Facilities
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- ENV32: Design and Development Proposals
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- H5: Housing for People with Special Needs
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW8 Adaptability

Air Quality SPD

- ***Section 5 – Mitigation and Compensation:***
- Type 1 – Electric Vehicle Charging Points

- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Transportation – No objections

Police – Makes secure by design recommendations including the installation of improved security measures.

Children’s Commissioning – Confirmed that they have no comments

Representations

4 objections have been received on the following grounds:

Lack of affordable homes for young families

Making a profit from someone’s misfortune

There was no intention of these buildings being used as houses

Creating 3 homes on the same site circumvents Ofsted requirements

Concentration of homes would lead to potential anti-social behaviour (ASB)

Not enough parking

Next to the Brown Jug which is a magnet for ASB

Determining Issues

- Principle of Development
- Amenity of Occupants and Neighbours
- Parking

Assessment of the Proposal

Principle of Development

UDP Policy H5 states “*The Council will promote and encourage the provision of housing for people with special needs, including single people, the elderly, ethnic minorities, people with disabilities and any other groups who require specialist accommodation.*” In this instance it is considered that young people taken into care would be a group which require specialist accommodation.

Policy GP5 states that “*particular attention will be given to the needs of people who are in anyway disadvantaged in order to maximise equality of opportunity and engender greater social inclusion*” The application would provide housing to meet the needs of young people who have been taken into care.

A concern has been raised that there is a lack of affordable housing. In this instance it is considered that the application demonstrates there is also a need for housing young people who have been taken into care. There are no planning reasons why these houses would have to be made available for affordable housing, the original permission had no restrictions and there was no requirement that these be affordable houses.

Amenity of Occupants and Neighbours

The existing building is a house and would continue to be used for living accommodation with the same level of amenity and similar relationship to neighbouring houses as is already the case.

Security

The proposed secure by design measures are considered appropriate to a new development, in this instance the house is built and is not relevant to the proposed development so could not be conditioned. A note for applicant making them aware of potential security improvements can be added to permission if granted.

Parking

In T13 parking policy terms, there is little difference in the parking requirement between the existing use and proposed use.

Other Issues Raised by Public Consultation

There is no policy justification or requirement to insist that the house is made available as affordable homes for young families or retained as houses.

The business intentions of the applicant are not a material planning consideration.

Ofsted requirements are a separate matter and not a determining issue of a planning application.

Next to the Brown Jug which is a magnet for ASB

Conclusions and Reasons for Decision

The proposed use is supported by UDP policies GP5 and H5 and is an acceptable use in an existing residential area.

The existing amenities between houses and available to occupants would remain and are considered acceptable to comply with UDP policy GP2.

The application is only for a change of use with no operational development required, the measures requested by the Police are considered to be no more relevant to the proposed use than the existing use and can only be attached as a note for applicant.

The COU will not have severe transportation implications and is acceptable in accordance with NPPF para 32.

Taking into account the above factors it is considered that the application should be approved.

Positive and Proactive Working with the Applicant

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

Grant Permission Subject to Conditions

Conditions and Reasons

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

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

2: The development shall be carried out in accordance with the following plans unless otherwise superseded by condition:

Location plan received 12/04/18

Block plan received 12/04/18

Planning statement received 01/05/18

Reason: To define the permission.

Notes for Applicant

Police:

I would strongly recommend that due to the high overall crime experienced in this area that the developer is made aware of the specifications and guidelines that can help secure this development against future crime and the benefits that can be achieved on this site through adopting the principles of Secure By Design. Information can be found at

<http://www.securedbydesign.com/pdfs/SBDNewHomes2014.pdf>

I recommend the developer seeks the accreditation on the full scheme.

If secured by Design is not to be achieved in full on this development I would recommend the following as minimum standards.

All ground floor windows and any accessible windows should be fitted with BS EN 356 grade P1A glass this includes French doors and patio doors and should improve the standard of security to the more vulnerable ground floor windows. The frontages and accessible windows of the ground floor rooms need to have defensible planting under them. This can be created by dense low level shrubbery which should be around 1m in depth. This will assist in stopping unauthorised persons gaining access to vulnerable windows and make it more difficult for persons to peer in through window or have access to the locking mechanisms. The defensible space should overlap the whole length of the window at least. Low level dense shrubbery is the preferred method to create this barrier with a mature height of no more than 1m and should be suitable for the light and soil environment at its location.

I recommended the developer to be made aware of and fit the PAS 24:2012 doors on the entrance doors. Where euro profile cylinder locks are proposed in doors, shutters etc. consideration should be given to the ever Increasing trend in lock snapping as a means of

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forcing entry to a building. To reduce such risk a minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond Standard certification should be used instead of the standard 1 Star cylinder. Also where thumb turn locks are to be installed considerations should be given to the use of the 'BY Pass' method of entry by offenders. There are thumb locks on the market that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks.

I recommend the front entrance doors are fitted with an access control system. This may be a proximity access control system, a door entry phone system and electronic lock release or a combination of these to discourage casual intrusion by non-residents. Entrance and exit doors and frames to the block should be of a robust vandal resistant material, with vandal resistant viewing panels. Entrances should be well lit both internally and externally. There should be some form of access control leading from main entrance to the rest of the building to restrict access of visitors attending the site.

All windows should have restrictors fitted due to the nature of the people using this premises. There also needs to be a door access system attached to the door of the front of the premises. This will allow access and egress to members of the staff who will have a fob to activate the system. But at the same time not allowing egress to the children staying on site. No fob should be left hanging near to the door for ease.

Secured by Design states the safest place to park a vehicle is in a locked driveway in front of the vehicle owner's property. To deter car crime it is important to ensure that all parking places have good natural surveillance and are overlooked by windows from the buildings they serve this appears to be covered by this development as the lobby and side windows overlook the car park.

Most properties are attacked from the rear therefore perimeter security needs to be effective in order to protect the most vulnerable area. I would recommend 2.1m on all rear perimeter fences and should be erected so that the smooth face is always facing outwards so that the frame cannot be used as a climbing aide. This can include 300mm anti-climb (Criss Cross) trellis topping. The trellis should not be of a robust construction as this will create a climbing aid, rather than create a topping that will break, crack, and create noise if climbed, as intended. Where concrete post and panels are to be used the fence panels need to be tied using galvanised metal straps, so that the panels cannot be lifted by offenders as a means of entry. The fencing needs to be treated wood with guarantee life span of 25yrs. All side entry gates should be the same height (2.1m) and be key lockable from both sides. Their design and construction should not provide climbing aides to offenders. If views are needed then I recommend close weld wire mesh as it is aesthetically pleasing and cannot be seen unless up close looking at it. This would also help in keeping the residents safe whilst allowing views of gardens of care home.

If a cycle stand is to be supplied for use by visitors, staff or residents if able, I recommend a Secured by Design cycle stand should be installed. The security anchor for the bike must be certified to Sold Secure Silver standard or LPS 1175 issue 7:2010 SR1 and be securely fixed to the concrete foundation in accordance with manufacturers specifications.



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 12-Jul-2018

Plans List Item Number: 10.

Reason for bringing to committee: Significant Community Interest

Location: 83, MILTON STREET, WALSALL, WS1 4LA

Proposal: CHANGE OF USE FROM TRAVEL AGENTS TO HOT FOOD TAKEAWY (RE-SUBMISSION OF 17/1634)

Application Number: 18/0398

Applicant: Ali Saqib

Agent: J T Design Partnership LLP

Application Type: Full Application

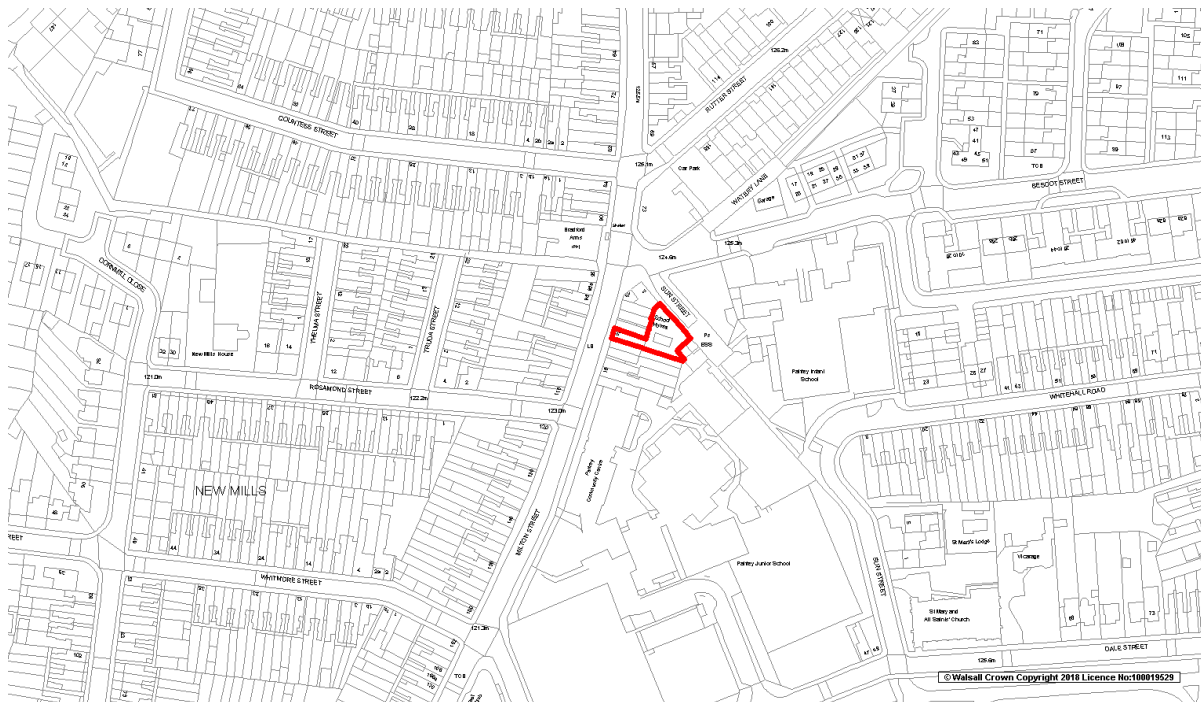
Case Officer: Mike Brereton

Ward: Palfrey

Expired Date: 24-May-2018

Time Extension Expiry: 20-Jul-2018

Recommendation Summary: Refuse



Officers Report

Proposal

This application is a re-submission following a previous refusal to change the use of the application property at ground floor from Travel Agents (A1) to a Hot Food Takeaway (A5).

The opening hours would be 12:00pm to 22:30pm Monday to Saturday.

Site and Surroundings

The application site is a two storey terraced property within Palfrey Local Centre and situated at back of pavement fronting Milton Street. The immediate locality is a mix of small convenience and retail uses along with a Hot Food Takeaway at No.77 (Caspian Pizza). Further hot food takeaways are present along Milton Street at No.73 (Pearl Fish Bar & Kebab House), No.69 (Khans Fish Bar, Pizza & Kebab House) and No.67 (Big Bite, burgers etc). Residential flats exist at first floor above shops and takeaways.

Palfrey Infant School at rear is opposite the application site across Sun Street and Palfrey Community Centre is 20m to the south along Milton Street.

Relevant Planning History

Application Site:

17/1634 - Change of Use from Travel Agents to Hot food takeaway. Refused 23/03/2018 for the following reasons (summarised):

- 1. The addition of a further hot food takeaway in this location has the potential to result in additional harm to the amenities of nearby residents, particularly to those occupying flats above the application site and nearby properties. This application fails to demonstrate any necessary mitigation measures relating to the external extraction equipment and the proposal is considered has the potential to result in cumulative impacts on residents' amenity regarding noise and disturbance.*
- 2. There are a number of hot food takeaways already present within the locality. The proposed addition of a further takeaway in this location is considered would detract from the overall vitality and variety of this Local Centre.*
- 3. The proposed flue would be largely visible in the street scene and would be the only one visible along the roof line in the immediate locality. This is considered would be incongruous and would result in harm to the visual amenity and character of the area.*

No.85 Milton Street:

BC56324P - Change of use to hot food take-away. Refused 07/11/2000 for the following reasons:

For the following reasons:-

- 1 The premises are located on a busy road (that is a bus route) and close to bus stops, a pedestrian crossing and a school. Customers would expect to be able to park close to the door of the takeaway, and no off-street car parking spaces can be provided at the front of the premises for customer use. The proposals will increase the demand for car parking provision at the site. Waiting restrictions exist on Milton Street directly adjacent the premises such that no waiting is allowed between 8am and 6pm. There is a small area of limited waiting (1Hr) on the opposite side of Milton Street but there is already over-demand for these spaces. The proposals are therefore likely to lead to increases in illegal car parking on Milton Street in restricted areas and may also lead to car parking adjacent to bus stops or near to the pedestrian crossing. For the above reasons, it is the view of the Local Planning Authority that the development is likely to be detrimental to the free flow and safety of traffic and pedestrians contrary to policy 7.2 in the adopted Walsall Unitary Development Plan.
- 2 It is the view of the Local Planning Authority that the proposed takeaway would have a significant detrimental environmental impact on nearby flats above the shops (prejudicial to property improvements undertaken under the City Challenge programme), on users of the street, and on the area generally for the following reasons :
 - i) the proposed takeaway would generate noise and disturbance from the arrival and departures of customers during sensitive hours of the day, particularly late in the evening,
 - ii) The use would generate smells and odours from the cooking process which would have a detrimental impact (while the effects can be reduced by filtration equipment etc. they cannot, in the view of the Local Planning Authority, be eliminated).

The proposal is therefore contrary to policies 3.6, 3.7 and S11 of the adopted Walsall Unitary Development Plan.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

Key provisions of the NPPF relevant in this case:

- **NPPF 1 - Building a strong, competitive economy**
- **NPPF 2 - Ensuring the vitality of town centres**
- **NPPF 7 - Requiring good design**

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- CEN5: District and Local Centres
- CEN6: Meeting Local Needs for Shopping and Services
- TRAN2: Managing Transport Impacts of New Development
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV32: Design and Development Proposals
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S5: The Local Centres
- S6: Meeting Local Needs

- S10: Hot Food Take-Aways, Restaurants and Other A3 (Food and Drink) Outlets
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character

Consultation Replies

Pollution Control – Concur with previous recommendations made by Environmental Health.

Environmental Health – No objection subject to conditions regarding extraction details, noise assessment, no deliveries outside of the opening hours, storage/disposal/containment of waste and instillation of a grease trap.

Local Highway Authority – Previously no objection and recommended refuse area at rear and restriction of building at rear not to be used as part of application.

Representations

2 x objections have been received on the following grounds:

- Too many hot food takeaways in area already;
- Fumes, smoke and smells;
- Unhealthy food (*this is not a material planning consideration*); and
- Traffic issues (*this was considered in previous application to be acceptable*);

A further objection was received but the provided address of 101a Milton Street could not be verified despite requests from officers and no further response was received. Limited weight can be given to this objection.

6 x letters of support have also been received from the local community on the following grounds:

- Re-opening a vacant unit is supported; and
- Variety of food choice welcomed (*not a material planning consideration*)

Determining Issues

- Whether this application overcomes previous refusal reasons.

Assessment of the Proposal

Whether this application overcomes previous refusal reasons.

1. The addition of a further hot food takeaway in this location has the potential to result in additional harm to the amenities of nearby residents, particularly to those occupying flats above the application site and nearby properties. This application fails to demonstrate any necessary mitigation measures relating to the external extraction equipment and the proposal is considered has the potential to result in cumulative impacts on residents' amenity regarding noise and disturbance.

a. Further hot food takeaway, result in harm to amenity, particularly flats above and nearby properties

The submitted Planning Statement explains that the nearest hot food takeaway within the existing row of 10 shops is two units away and that a higher level of noise and disturbance is already experienced by nearby residents due to the local centre location.

Whilst it is recognised a higher level of noise and disturbance can be expected in a centre location, the Council's saved UDP Policy S10 specifies that even in a centre location, a hot food takeaway must not result in adverse cumulative impacts on amenities, particularly during late evening.

When taking into account the proximity of other nearby takeaways at No.77 (Caspian Pizza), No.73 (Pearl Fish Bar & Kebab House), No.69 (Khans Fish Bar, Pizza & Kebab House) and No.67 (Big Bite) it remains that this is considered likely to result in cumulative impacts on nearby residents amenity, particularly during the evening.

It is considered, there is no planning reason to set aside the material planning issues in this regard, so this part of the reason for refusal remains.

b. Fails to demonstrate mitigation measures-external extraction

No additional information has been submitted to demonstrate necessary mitigation of the proposed extraction system to minimise harm to nearby neighbours' amenity regarding noise, odour and vibration.

Whilst Environmental Health recommends the use of a condition to assess noise impacts of proposed extraction equipment, it is considered necessary to understand the level of mitigation measures prior to determining this application due to the potential cumulative impacts arising.

Nearby residents objected to noise and odours arising and this has been considered above. It is considered there are no planning reason to set aside the material planning issues in this regard, so this part of the reason for refusal remains.

c. Proposal considered to result in cumulative impacts on residents amenity regarding noise and disturbance

The submitted Planning Statement explains that the nearest hot food takeaway within the existing row of 10 shops is two units away and that a higher level of noise and disturbance is already experienced by nearby residents due to the local centre location.

Whilst it is recognised a higher level of noise and disturbance can be expected in a centre location, the Council's saved UDP Policy S10 specifies that even in a centre location, a hot

food takeaway must not result in adverse cumulative impacts on amenities, particularly during late evening.

When taking into account the proximity of other nearby takeaways at No.77 (Caspian Pizza), No.73 (Pearl Fish Bar & Kebab House), No.69 (Khans Fish Bar, Pizza & Kebab House) and No.67 (Big Bite) it remains that this is considered likely to result in cumulative impacts on nearby residents amenity, particularly during the evening.

It is considered, there is no planning reason to set aside the material planning issues in this regard, so this part of the reason for refusal remains.

Overall and in summary, this application fails to overcome refusal reason 1 and there is no reason to set aside the genuine material planning considerations set out above.

2. There are a number of hot food takeaways already present within the locality. The proposed addition of a further takeaway in this location is considered would detract from the overall vitality and variety of this Local Centre.

The submitted Planning Statement explains that over 50% of the uses within the Local Centre are A1 retail uses, along with a mix of other centre uses and services and that the proposal would enhance, and not have a negative impact on, the vitality and variety of the Local Centre.

On reviewing the local centre, out of 33 commercial properties, 23 are A1 (retail) uses (70%), 4 are A5 hot food takeaway uses (12%) and the remaining 6 properties are a mix of other centre uses (18%).

The addition of a further A5 hot food takeaway use in this local centre would result in the loss of an A1 retail unit and equate to 5 x A5 hot food takeaway uses leaving only 6 x properties of mixed other centre uses. This is considered to tip the balance and has the potential to result in harm to the overall vitality and variety of this Local Centre. Supporters have confirmed they welcome the food choice the proposal may bring. Food choice for take-aways is not a material planning consideration or a justification to outweigh the harm the use would bring. The Council can only determine whether the change of use is acceptable or not and whether it meets the development plan policies.

Furthermore, the proposed opening hours of 12:00pm to 22:30pm Mondays to Saturdays would result in the unit being closed before 12:00pm leaving a closed dead frontage during the morning in the local centre. This has the potential to result in further harm to the overall vitality and variety of this Local Centre.

Nearby residents objected to the number of hot food takeaways in the vicinity and this has been considered above.

In summary, this application fails to overcome refusal reason 1 and there is no reason to set aside the genuine material planning considerations set out above.

3. The proposed flue would be largely visible in the street scene and would be the only one visible along the roof line in the immediate locality. This is considered would be incongruous and would result in harm to the visual amenity and character of the area.

The external extraction flue has been re-positioned from the front to the rear elevation of the application building. Whilst the flue would still be at least 1metre above the highest part of the building and may still be visible in the street, it is considered repositioning from the buildings ridge to the rear of the building, would reduce its prominence. A condition requiring the flue to be finished in black weatherproof material further assists in this instance to reduce its prominence. It is considered the repositioned flue is acceptable and minimises the harm to the character of the area.

In summary, this application has overcome refusal reason 3.

Conclusions and Reasons for Decision

Notwithstanding the letters of support for this application, and whilst some improvements have been made to the extraction flue, it is considered the harm to amenity and the local centre outweighs the re-use of the vacant building in this instance. The supporters have stated they welcome the variety of food this proposal may bring. This is not a material planning matter, the Council can only determine whether the hot food take away is acceptable in the location or not. Consequently, this application fails to overcome the first two refusal reasons and cannot be supported for the following reasons:

1. The addition of a further hot food takeaway in this location has the potential to result in additional harm to the amenities of nearby residents, particularly to those occupying flats above the application site and nearby properties. This application fails to demonstrate any necessary mitigation measures relating to the external extraction equipment and the proposal is considered has the potential to result in cumulative impacts on residents' amenity regarding noise and disturbance. This application is contrary to UDP Policies GP2, ENV10 and S10.
2. There are a number of hot food takeaways already present within the locality. The proposed addition of a further takeaway in this location is considered would detract from the overall vitality and variety of this Local Centre and no clear local need has been demonstrated. This application is contrary to NPPF 2 and UDP Policy S4.

Given that there is no reason to set aside the genuine planning matters it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Refuse

Whilst some improvements have been made, this application fails to overcome all previous refusal reasons and this application cannot be supported.

Recommendation

Refuse

Reasons for Refusal

1. The addition of a further hot food takeaway in this location has the potential to result in additional harm to the amenities of nearby residents, particularly to those occupying flats above the application site and nearby properties. This application fails to demonstrate any necessary mitigation measures relating to the external extraction equipment and the proposal is considered has the potential to result in cumulative impacts on residents' amenity regarding noise and disturbance. This application is contrary to UDP Policies GP2, ENV10 and S10.

2. There are a number of hot food takeaways already present within the locality. The proposed addition of a further takeaway in this location is considered would detract from the overall vitality and variety of this Local Centre and no clear local need has been demonstrated. This application is contrary to NPPF 2 and UDP Policy S4.

Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 12-Jul-2018

Plans List Item Number: 11.

Reason for bringing to committee: **Called in by Councillor Russell**

Location: 8, BURTON FARM ROAD, WALSALL, WS4 2HN

Proposal: FIRST FLOOR EXTENSION TO SIDE ABOVE GARAGE AND DINING ROOM.

Application Number: 18/0193

Applicant: Mrs Alison Oakley

Agent: David Ralph

Application Type: Full Application: Householder

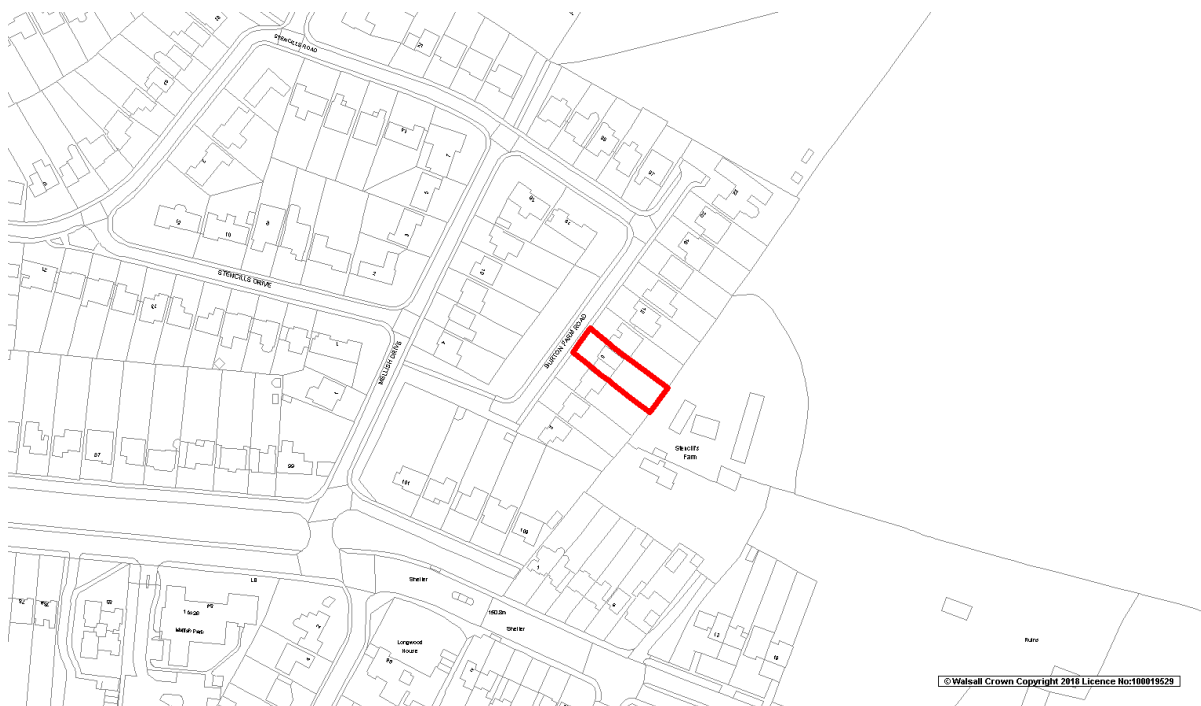
Case Officer: Karon Hulse

Ward: St Matthews

Expired Date: 03-Apr-2018

Time Extension Expiry: 31-Jul-2018

Recommendation Summary: That the Local Planning Authority resolves not to determine the Planning Application



Officers Report

Status

This planning application was to be reported to the 26 April 2018 planning committee. At the request of the applicant via Councillor Russell, the application was deferred for the applicants to meet officers and negotiate. The meeting took place, with officers explaining the planning process. The applicant declined to negotiate. They have subsequently made approaches to officers via other Councillors and the planning process, set out in the report below, has been explained. Officers have also written to the applicant's agent, explaining the planning merits for other planning decisions in the wider vicinity and that the repeat nature of the applicants approach has triggered the Section 70 response set out in the report below.

Proposal

This application is a resubmission following previous refusals for the same proposal at 8 Burton Farm Road, Walsall.

This application, two previously refused applications and subsequent dismissed appeal decision, all relate to an extension to a detached house to provide a fourth bedroom with en-suite with a new family bathroom at first floor level.

The roof above the proposed extension would have a gable along the elevation facing 6 Burton Farm Road.

The key measurements of the proposed first floor side extension are:

- 5.5 m wide
- 9.0 m deep
- 5.2 m to the eaves
- 6.3 m to the ridge (0.3 m below the existing ridge)

The proposed first floor extension would fill the full width of the area above the existing garage, up to the boundary of the property. There would be no gap between the proposed first floor extension and the side of no. 6 Burton Farm Road other than for a 0.9m gap the whole of which would lie within the curtilage of no. 6, which partially accommodates the overhanging eaves of the first floor roof above.

The proposed extension would have a shallower gable roof than the existing roof, at right angles to the existing roof with a new white UPVC window to the front and a white UPVC window and Juliet Balcony to the rear.

Site and Surroundings

The application house is a modern design with a simple gable fronted roof. There is a flat roof garage and porch to the side with a false pitch to the front. The side of the existing garage lies along the boundary with the adjoining house number 6. Number 6 is an identical design and has a 1 metre gap to the side along the boundary. It also has a first floor landing window.

Burton Farm Road is a cul de sac which consists of detached properties with a range of architectural styles including bungalows and two storey dwellings. Most of the houses are of a modern design with a uniform depth at first floor level and simple roofs that slope either from the front to the rear or to either side. The houses with roofs that slope from the front to the rear (numbers 10 to 16) have only limited gaps of 1 to 2 metres between each house at first floor level.

There is a distinctive group of dwellings which includes numbers 2 to 8 (including the application house), which have a wide gap to the side at first floor level that is occupied on the ground floor by the flat-roofed garage and porch. They are of a similar character and appearance.

No 8, the application house, consists of a two storey detached dwelling with a front gable design and a single storey flat-roofed side garage and porch. The application house is similar in scale, form and proportions to nos.4 and 6 with distinctive separation distances between each property at first floor level, despite some differences in the slab levels, fenestration and the roof design of the single storey elements. No.2, whilst comprising of different materials, is also of a similar character. It has been extended above the side garage, occupies the end plot within the road, thus having no impact upon the gap between dwellings.

There are a number of first floor side extensions above garages around this estate. Each has been considered on its own merits in accordance with the relevant national and local policy at that time and against the local circumstances that exist.

Relevant Planning History

07/0778/FL/H4 – Two storey side extension. Refused 27/6/2007 for the following reason:

1. *Most of the houses in Burton Farm Road are a modern design with a uniform depth at first floor level and simple roofs that slope either from the front to the rear or to either side. The latter style, which includes numbers 2 to 8, have a wide gap to the side at first floor level that is occupied on the ground floor by the garage and porch. The proposed extension would result in the width of the house being doubled at first floor, resulting in the loss of the gap to the boundary with the adjoining house number 6, and the addition of the dormer to the front at first floor level would harm this simplicity of roof shape.*

The extension would therefore appear cramped and incongruous, and out of keeping with the design of the existing house and the character of the street, and would be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and

17/0506 – Two storey side extension. Refused for the following reasons:

1. *Most of the houses in Burton Farm Road are a modern design with a uniform depth at first floor level and simple roofs that slope either from the front to the rear or to either side. The latter style, which includes numbers 2 to 8, have a wide gap to the side at first floor level that is occupied on the ground floor by the garage and porch. The proposed extension would result in the width of the house being doubled at first floor, resulting in the loss of the gap to the boundary with the adjoining house number 6, and the addition of the dormer to the front at first floor level would harm this simplicity of roof shape.*

The extension would therefore appear cramped and incongruous, would look disproportionately wide in relation to both the host dwelling and to the other similarly designed detached houses and would therefore be out of keeping with the design of the existing house and the character of the street in this location, as such the proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and Appendix D of Designing Walsall SPD.

Appeal against 17/0506 (APP/V4630/D/17/3181865) - Appeal dismissed on 13th October, 2017 with the Planning Inspector concluding the following:

- *The proportions of the side extension would not be subordinate to the host property*
- *Almost double the width of the property at first floor level*
- *Overall width and scale of the extension together with the depth would be viewed as an incompatible and incongruous addition to the front gable design and proportions of the host dwelling*
- *Resultant loss of space at first floor between no's 6 and 8 would disrupt the distinctive rhythm of the group of properties*
- *Have a harmful effect upon the character and appearance of the host property and the area*
- *The different character and appearance of no.10 and onwards ensures they are visually distinct from the rhythm of the group of properties up to no.8*
- *Other examples of extensions in local area have been based upon different development plan policies which applied at the time*
- *The example given at no.2 Rushall Close clearly illustrates that such extensions are discordant additions which reduce first floor gaps and change the nature of relationships between properties to the detriment of the character of the area*

In the grounds for appeal the appellant identified other similar examples of first floor extensions to the side. The planning inspector commented:

- *First floor extensions in Mellish Drive and Stencils Drive also impact upon the spaces between properties and are not a reason to allow such now.*

In conclusion the planning inspector dismissed the appeal stating that the development would harm the character and appearance of the host property and the area and would therefore be contrary to local and national policies which when taken together the policies seek to ensure high quality design, with regard for local character and distinctiveness.

Relevant Policies

National Planning Policy Framework (NPPF) www.gov.uk

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

- **NPPF 7 - Requiring good design** (Paras 17, 56 and 58 which require high quality design that responds to the character of the area.)

On **planning conditions**, the NPPF says:

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

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

NPPF Consultation

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application

Local Policy

Black Country Core Strategy

- CSP4: Place Making
- ENV3: Design Quality

Saved Unitary Development Plan -http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Town and Country Planning Act 1990 (as amended)

Section 70A gives the local planning authority the power to decline to determine a planning application where the authority think there has been no significant change in the relevant considerations and within the last two years the Secretary of State has dismissed an appeal relating to a similar application or the local authority has refused more than one similar application.

An application for planning permission is to be regarded as similar to another application if (and only if) the local planning authority thinks that the development and the land to which the applications relate are the same or substantially the same.

The applicant has no right of appeal to the Secretary of State where the local planning authority exercises its powers under section 70A. If an applicant thinks that an authority has acted unreasonably in declining to determine a repeat application, he or she is able to seek judicial review of that authority's decision.

The power is not intended to prevent the submission of a similar application which has been altered to address objections to the previous application. If an application has been revised in a genuine attempt to take account of objections to an earlier proposal, the local planning authority should determine it.

Consultation Replies

None

Representations

None

Determining Issues

- Whether this is a repeat application under Section 70A
- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

Assessment of the Proposal

Whether this is a repeat application under Section 70A

It is considered, there is clear evidence of the applicant not addressing either the Council's concerns or the Planning Inspectors decision and this is a repeat application defined by section 70A of the legislation. The current application has not been revised sufficiently since the October 2017 dismissed appeal or the April, 2017 and June 2007 refused applications.

In the planning appeal the Inspector noted that whilst *'the cat slide roof would reduce the perception of terracing, the overall width and scale of the extension together with the depth and angle of the cat slide roof and inclusion of a dormer would be viewed as an incompatible and incongruous addition'*.

The current application shows the removal of the front cat-slide roof and dormer above the garage at first floor level. This is the only change to the design of the proposed first floor extension. The effect is to extend the front wall vertically and to lose the only positive feature identified by the Inspector, the cat slide roof. Whilst the applicant may consider that its removal may improve the design, this cannot be considered as a genuine attempt to take account of either the planning inspector's conclusions or the previous reasons for refusal, both of which cite the overall width and scale of the extension.

The local planning authority considers the extension would need to be reduced to no more than 3 metres wide (measured externally), as well as a set back 2 metres from the existing front elevation of the main house, with a lower ridge height plus a hipped roof, to render it subservient to the main dwelling and to maintain a gap between the dwelling and its

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neighbour,. This would demonstrate the extension has been substantially amended as a genuine attempt to take account of objections to the earlier proposal, the previous reasons for refusal and appeal dismissal. The changes would also make the extension subordinate to the original house, to address the concerns of the local planning authority and the planning inspector.

In the Judicial Review case; *Jeeves and Baker vs Gravesham Borough Council (in regard to a caravan for a Romany gypsy family in the Green Belt)* the Judge found that the planning applications were similar (both applying for permission for a caravan) but the circumstances of the applications (the differences between the status of the occupiers in each application – which is a consideration in Green Belt cases) were different. The difference was material and the Council had not appropriately applied the Circular. The Judge decided that the Council was not entitled to rely on Section 70A and should determine the planning application. ***This is not the case for this current planning application.***

In this instance when testing the current planning application against Section 70a of the legislation, there has been no significant change since the refusal or the appeal dismissal, that can be considered a genuine attempt to take account of objections to address the material matters forming the previous reasons for refusal and subsequent dismissed appeal. The Local Authority should therefore not determine the planning application.

Design of Extension and Character of Area

Since the previous refusal there have been no material changes to the overall proposal or the locality and in particular the row of houses that make up the defining character of this part of Burton Farm Road.

The proposed extension would result in the width of the house being almost doubled at first floor, resulting in the loss of the gap to the boundary to number 6 and would impact and harm the simplicity of roof spacing and rhythm between properties. The extension would appear cramped, incongruous, not subordinate to the host property and out of keeping with the design of the existing house and the character of this part of Burton Farm Road.

In the previous applications and grounds for appeal the applicant made reference to an extension at 6 Rushall Close which they considered identical to the current proposal. Although the character of Rushall Close is similar to Burton Farm Road, the extension to number 6 was approved in 2001 prior to the adoption of the current saved UDP, the Council's Designing Walsall SPD and the Government's NPPF. Both the Council's and national policies now place much greater emphasis on the importance of good design in which development respects its context (NPPF para 17, 56 and 58 requires high quality design that responds to the character of the area). The current proposal and previous submissions fail to do this. In his dismissal of the appeal, the Inspector referred to an extension at no. 2 Rushall Close as clearly illustrating that *"such extensions are discordant additions which reduce first floor gaps and change the nature of relationships between properties to the detriment of the character of the area"*.

The applicant has subsequently referred to other extensions in their appeal and during the processing of the current application. The planning inspector commented *First floor extensions in Mellish Drive and Stencils Drive also impact upon the spaces between properties and are not a reason to allow such now.* The inspector also commented on larger

houses generally requiring gaps to either side boundary in order to provide a “*breathing space*” around the dwelling.

The current and previous proposals depend on the adjoining house retaining a gap on their side to achieve this. In this case, if the extension was to be approved, the gap to no. 6 would be reduced from 5 metres to 0.9mts. The Council has been successful in defending appeals where gaps to boundaries are removed or reduced, even where the position of the adjoining house is away from the boundary so that no terracing would have occurred. The Council has also granted permission for large extensions that, by retaining a gap to the side boundary, have respected the character of the street.

In conclusion the planning inspector dismissed the appeal stating that the development would harm the character and appearance of the host property and the area and would therefore be contrary to local and national policies which when taken together the policies seek to ensure high quality design, with regard for local character and distinctiveness.

In the previous refusal and again in the current case, requests have been made to the applicant, to reduce the width of the proposed extension to retain a gap to the boundary. The applicants have continued to decline to amend the application. The applicants have also stated there are personal reasons for needing the extension at the size as submitted. The Government advice is *‘planning is concerned with land use in the public interest, so the protection of purely private interests, could not be material considerations’*.

Amenity of Nearby Residents

The extension would not project beyond the front or rear of number 6 Burton Farm Road. Although it would block the side-facing landing window in number 6, this window does not serve a habitable room. The Council’s current policies do not afford any protection to non-habitable room windows.

Parking

The application property has a large frontage with sufficient space for three vehicles.

Positive and Proactive Working with the Applicant

In this instance, the current planning application, has had no significant changes that can be considered a genuine attempt to take account of objections to address the material matters forming the previous reasons for refusal and subsequent dismissed appeal. The Local Authority should therefore not determine the planning application.

This application has removed an earlier cat-slide roof and a Juliet balcony, although has not made any other amendments. The applicant and agent, have been asked to amend the proposal to a form that genuinely attempts to take account of objections to address the material planning matters forming the previous planning applications reasons for refusal and the subsequent dismissed appeal by the Planning Inspector, all of which, concluded the proposals would have a detrimental impact upon the existing house and street-scene.

Recommendation

Recommendation: That the Local Planning Authority resolves not to determine the planning application.

Economy and Environment, Development Management**Planning Committee**

Report of Head of Planning, Engineering and Transportation on 12-Jul-2018

Plans List Item Number: 12.

Reason for bringing to committee: Significant Community Interest

Location: 12, STONEY LANE, BLOXWICH, WALSALL, WS3 3RF

Proposal: TWO STOREY SIDE EXTENSION, SINGLE AND TWO STOREY REAR EXTENSIONS.

Application Number: 18/0201

Applicant: Mr Mahabir

Agent: Mr Nirmal Mahabir

Application Type: Full Application: Householder

Case Officer: Jenny Townsend

Ward: Bloxwich East

Expired Date: 23-Apr-2018

Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Officers Report

Proposal

This application is for a two storey side and part two, part single storey extension to the rear of a detached house that would provide a study, laundry room, kitchen and enlarged lounge at ground floor with two new bedrooms, one with en-suite shower room, a new bathroom and an extension to one of the existing bedrooms at first floor level.

The original plans proposed increasing the ridge height of the roof to provide a second storey with two further bedrooms in the loft space. Amended plans have been received which now omit this proposal.

On the front elevation the roof to the original two storey front projection is to be altered to have a shallower pitch away from the boundary with number 14 and the ridge would be lower, 6.6 rather than 7.5 metres high. The main roof is to remain the same height at 7.5 metres but the ridge would be set in further from the boundary with number 14

The ground floor part of the proposed side extension would be in line at the front and rear with the existing house and would be:

- 7.4 metres deep

- 3 metres wide

A window to the study is proposed on the front elevation at ground floor level.

The first floor part of the side extension would be:

- 6 metres deep

- 3 metres wide

- Have a hipped roof that would be 0.6 metres lower at the ridge than the ridge to the existing roof.

A window to the new bathroom is proposed on the front elevation with a window to the enlarged bedroom on the rear.

The proposed rear ground floor extension would be in line with the existing side elevation nearest to number 14, and would be:

- 6.4 metres deep

- 10 metres wide (across the whole of the rear elevation including part of the proposed side extension nearest to number 10)

- Have a sloping roof over the longer section that would be between 2.5 and 3 metres high.

The proposed first floor extension would be built above part of the proposed ground floor and would be:

- 5.5 metres deep

- 7.3 metres wide (in line with the existing two storey part of the house)

- Have a gable roof 7.5 metres high.

On the rear elevations double doors with glazed panels either side are proposed to the new ground floor kitchen and lounge with windows to the two new bedrooms above.

A gap of approximately 0.8 metres is proposed between the side of the two storey side extension and the side wall of number 10..

At the time of the site visit the rear garden had been extensively cleared. Plans have been provided showing a cross section of the garden which state that no alterations in ground level are proposed other than bases for a rear patio and shed adjacent the rear garden boundary with the bungalows in Wallington Close. These bases will not exceed 200mm in height.

Site and Surroundings

The house is in a residential area in a line of detached houses that vary in design. Opposite and to the rear there are bungalows.

The existing house has a two storey front projection with double curved bay windows and a hipped roof over. To the side, the main roof is a gable with a steeply pitched catslide roof sloping down to low eaves over the front porch. There is a conservatory on the rear nearest to number 14, which projects approximately 0.5 metres beyond the rear ground floor of number 14.

Number 14 is to the east, has a gap of 1.0 metre to the side and is 0.5 metres lower in level. At the rear 14 has a conservatory with a window in the side elevation facing number 12 and two further windows and double doors on the rear. The nearest habitable room first floor window is on the opposite side of the house beyond the conservatory.

Number 10 is to the west and in line at the front with the application house. At the rear the first floor parts of the houses are in line and number 10 projects approximately 2.5 metres beyond the rear of number 12. Number 10 has patio doors to a sitting room at ground floor and a bedroom window at first floor closest to the boundary. The two storey side flank wall is blank.

The rear garden slopes down in level to the rear boundary shared with number 5 Wallington Close. The ground level of this property is approximately 1.0 metre higher than that of the garden of number 12.

No details have been provided for the layout of the front driveway.

Relevant Planning History

None.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

Key provisions of the NPPF relevant in this case:

- **NPPF 7 - Requiring good design**

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall and Conserving Walsall's Natural Environment SPD's are consistent with the NPPF.

Consultation Replies

None.

Representations

Emails from four neighbours who raise concerns and objections to the original plans including the loft rooms on the following grounds:

- Impact on light
- Make their conservatory uncomfortable and oppressive
- Devalue their property (*not a material consideration*)
- Invasion of privacy
- No dimensions on plans to see how far the extension will come out at rear
- Attic rooms will infringe on privacy
- Removal of laurel hedge on their property could destabilise garden as the grounds levels are approx. 3 feet different
- The overall finished size and height would reduce sunlight and privacy and will be highly visible from their windows and garden
- Not in keeping with surrounding properties
- Lack of consideration for neighbours during ground works to the front and rear and concerned that any building works will be carried out with the same lack of consideration

One neighbour queries whether any of the trees that have already been removed were protected as they state they have a Preservation Order on a couple of trees at their property.

In relation to the amended plans, two neighbours have commented:

- Whilst they believe that the amended plans are now within the guidelines, having a two storey extension on a rise up against and beyond their conservatory doesn't seem fair
- Wants clarification of where the 45 degree code is measured from for right to light.

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

Assessment of the Proposal

Design of Extension and Character of Area

The design of the extensions as proposed on the amended plans, are considered would be in keeping with the variety of designs of the immediate neighbouring houses and this part of Stoney Lane.

The shape of the main roof would change to a gable with a hipped section to the side but there would be no increase to the ridge height and whilst the two storey front projection would be wider and the roof would have a different pitch, it would remain the main feature of the front of the house.

The proposed two-storey side extension would be set back from the front two-storey projection and would have a lower ridge line which would keep the extension subservient to the existing house.

The gap to the side next to number 10 would be similar to that on the other side of the house next to number 14 and together with the hipped shaped roof would comply with policy to avoid terracing,

The amended proposal is considered would be in keeping with the character of the area and amended plans have improved the design and reduced the size and mass of the roof so that they are considered acceptable.

Amenity of Nearby Residents

The amended plans have omitted a second storey level that was originally proposed and would have resulted in a loss of privacy to the surrounding neighbouring properties. The amended roof would now be no higher than the existing roof.

The proposed side extension would not project beyond number 10 at the front or rear and as number 10 has no side windows, would have little impact on light or outlook of these neighbours. The rear first floor window would serve the enlarged bedroom however the longer single storey section to the rear of number 10 would provide some screening to the patio area of this house and on balance, it is considered that the new window would not significantly worsen the existing situation with regards to overlooking from the first floor bedroom.

The rear extensions would project beyond the rear of number 10 but would comply with the 45 degree code measured from the mid-point of the sitting room doors and the quarter point of the first floor bedroom window on the rear of number 10. This code is used to assess impact on light and outlook of neighbours.

The new bedroom windows in the rear extension would be beyond the patio area of number 10 and are considered would have little impact on the privacy of these neighbours.

On the other side of the house the extensions would comply with the 45 degree code measured from the quarter-point of the rear facing window in the conservatory belonging to number 14 closest to the boundary. The window in the side elevation is considered a secondary window as there are two windows and double doors on the rear elevation of the conservatory that would be the main sources of light and outlook to this room.

It is noted that there is a difference in level between the rear patio areas of the application house and number 14 however on balance and in this context, at 0.4 metres, this is not considered to significantly worsen the situation with regards to either outlook or shading from the proposed extensions.

The extensions would be to the west of number 14 and whilst it is acknowledged that there would be some shading to the rear of 14 as a result of the two storey extension, this would be for a limited part of the day only (late afternoon). Taking into account that the extensions meet with the Council's 45 degree code which is the tool used to measure impact on light and outlook of neighbours, to refuse the application on the basis of loss of light for a limited period is considered would not be sustained should an appeal be made.

The new windows in the rear extensions would be beyond the patio area of number 14 and are considered would have little additional impact on the privacy of the occupiers of this house than the existing rear bedroom windows and conservatory belonging to number 12.

In relation to the neighbour's comments that have not been addressed above and relate to the original plans which included the loft rooms, the Council's tree officer has confirmed that there are no Tree Preservation Orders in the immediate area of the site, including the next door neighbours, details of the 45 degree code have been sent to the neighbour and it is understood that the rear garden boundary has been reinstated and whilst this is not finished yet, subsidence of the neighbour's garden has been prevented. The Right to Light is a private civil matter not covered by Planning legislation.

Parking

There is sufficient space on the frontage to provide three parking spaces to accord with UDP policy for a house with 4 or more bedrooms. A condition for these to be completed prior to the development being brought into use is recommended to prevent on street parking as a result of the proposal.

Conclusions and Reasons for Decision

The design of the proposed two storey side extension and alterations to the existing two storey front projection are considered in keeping with the mixed character of the area and the side extension complies with saved policies GP2 and ENV32 of Walsall's UDP and to prevent terracing in line with Designing Walsall SPD Appendix D.

The proposed rear extensions comply with the aims of Designing Walsall SPD Appendix D in relation to impact on light and outlook of neighbours. The proposal are considered would have little additional impact on the privacy of neighbours and would accord with saved policy ENV32.

There is sufficient space on the frontage to provide three parking spaces to accord with saved policies T7 and T13 of Walsall's UDP.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant and in response to concerns raised regarding design and the roof height, amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Grant Permission Subject to Conditions

Notes for Applicant

- The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.
Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority
This Standing Advice is valid from 1st January 2017 until 31st December 2018