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## Planning Committee

Report of Head of Planning, Engineering and Transportation on 31-Oct-2019

**Plans List Item Number: 1.**

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

**Location:** W H MARREN LTD, TEMPLE BAR, WILLENHALL, WV13 1SD

**Proposal:** ERECTION OF 41 RESIDENTIAL UNITS INCLUDING ACCESS, PARKING AND AMENITY AREAS, AND FOR THE IMPROVEMENT WORKS TO THE PUBLIC RIGHT OF WAY.

**Application Number:** 18/0867

**Applicant:** TATTON HALL HOMES  
(TEMPLE BAR) LTD, C/O AGENT

**Agent:** Otto de weijer

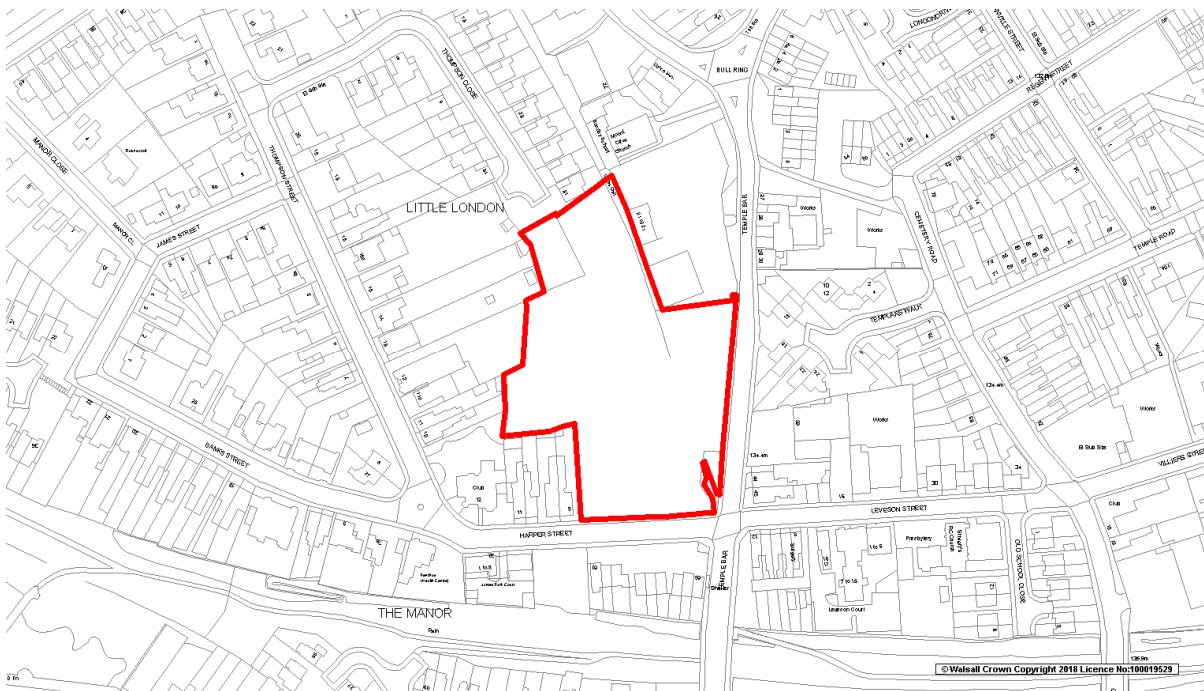
**Application Type:** Full Application: Major  
Use Class C3 (Dwellinghouses)

**Case Officer:** Alison Ives

**Ward:** Willenhall South

**Expired Date:** 26-Sep-2018

**Time Extension Expiry:**



## Recommendation Summary

1. Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and a S106 Agreement to secure Landscape Management and subject to:
  - The amendment and finalising of conditions;
  - No further comments from a statutory consultee raising material planning considerations not previously addressed;

## Current Status

The application was first reported to Planning Committee on 28<sup>th</sup> November 2018 where the committee resolved the following:

*“That the Head of Planning, Engineering and Transportation be delegated authority to grant planning permission in respect of planning application number 18/0867 subject to conditions and a 106 agreement for affordable housing and open space contributions unless a viability assessment demonstrates that the requirements render the scheme unviable, subject to a section 106 agreement for ongoing landscape management and subject to:*

- i. The amendment and finalising of conditions;*
- ii. No further comments from a statutory consultee raising material planning considerations not previously addressed;*
- iii. Overcoming the outstanding objections raised by Tree Officers.”*

Since this consideration the application has been amended and now proposes 41 units instead of 51 units, excludes all land not within the applicant's ownership and maintains the public right of way/bridleway in its existing location. In the circumstances the report that follows is a new report.

## Proposal

The application is to erect 41 dwellings on the site of a former scrap yard at the junction of Harper Street/Temple Bar, Willenhall. All previous structures on the site have been demolished.

The accommodation comprises:

- 13 X 3 bed units
- 20 X 2 bed units
- 8 X 1 bed units (flats)

The layout includes two rows of terraced dwellings along Harper Street, detached dwellings either side of the access off Temple Bar plus a pair of semi-detached houses to the right of the access, a block of 8 flats fronting the new access adjacent to Calves Croft and terraced dwellings on the remainder of the site.

Parking is provided in parking courts and immediately in front of the dwellings with the exception of the detached and semi-detached houses that have garages and/or individual driveways. There are two parking spaces per dwelling throughout the site and one space per flat with 3 visitor spaces.

The plans have been amended to exclude two parcels of unregistered land that does not fall within the applicant's ownership. This is located at the highway junction of Harper Street/Temple Bar and a small area that falls within the garden of plot 5.

Plot 1 is a detached two-storey house with attached garage and individual driveway. It has a pitched roof with projecting front gable and canopy across the front doorway and toilet window. It is located at the junction of Temple Bar and the new access and incorporates a bay window to the dining room facing Temple Bar.

The proposed terraced housing that fronts Harper Street (plots 2-10) is in two blocks, one with a stagger and has lockable pedestrian access between the two blocks to allow residents to access the rear parking areas and for accessing rear gardens for refuse collection.

Plots 2-5 are two-storey terraced properties with pitched roofs and projecting gables to the end plots (2 & 5) and canopies over the front doorways and projecting toilet windows. Plot 2 has a bay window to the dining room that overlooks the highway junction. Plots 6-10 are the same design with gables to end plots (6 & 10) and stagger between plots 7 and 8.

Plots 11-15 back onto plots 6-10 and have a hipped roof with a marginal projecting gable to the central unit (plot 13). Each plot has a canopy over the doors. Plot 11 has a secondary lounge bay window that overlooks the parking area.

Plots 16-21 back onto the rear of 8-11 Harper Street. Plot 16 is a two-storey dwelling with hipped roof, plots 17 and 18 are 3 storey dwellings (accommodation in the loft) with pitched roof and rear dormer windows. Plot 16 has a secondary side facing lounge window overlooking the new highway. Plots 19-21 are two-storey dwellings with hipped roofs. Each plot has canopy over the front door and projecting toilet as before. Plots 22-23 are similar design to plots 19-21 but back onto Thompson Street.

Plots 25-30 back onto the end of Thompson Close. Plots 25 and 26 are two-storey hipped roof properties and plot 27 is a pitched roof 3 storey dwelling (accommodation in the loft) with rear facing dormer. Designs similar to elsewhere on site. Plots 28 is a three storey pitched roof property (accommodation in the loft) with rear facing dormer and plots 29 and 30 are two storey properties with pitched roofs and projecting front gable and secondary dining room bay window to plot 30 facing Temple Bar. Canopies incorporated as elsewhere on site.

Plots 31-38 are a block of 8 back to back 1 bed flats with hipped roof and canopy design as elsewhere on site. Bay windows are included to the four corner plots. Parking, bin and cycle store provision is available in a parking court.

Plots 39-40 are two-storey semi-detached pitch roof dwellings, plot 40 has a projecting gable and attached garage and individual driveway. Plot 41 is the detached house at the junction with Temple Bar and likewise has an attached garage and individual driveway but also has a projecting gable and secondary dining room bay window facing Temple Bar. All properties similar in design to others with canopies.

Boundary walls along private gardens of plots that adjoin the public right of way are to comprise low brick wall with brick piers and close boarded timber panels between at a maximum height of 2m (plot 1, 30 and 39). Other areas exposed to the public right of way are to comprise 1.2m high bow top railings to delineate ownership and allow surveillance. Elsewhere typical garden boundary fences are to comprise gravel boards with close boarded timber panels above, maximum height 2.1m high.

The footpath along Temple Bar is to be widened to 2m and the radius at the junction of Temple Bar/Harper Street sweetened (eased) to 7m. Vehicle tracking for a refuse size vehicle within the cul-de-sac is shown.

The density of development is 46.4 dwellings per hectare.

**A design and access statement** has been submitted with the application which raises the following key points:

- The proposed residential development will make use of a currently vacant and underused land in a sustainable location.
- It will remove an incompatible site use, the former metal reclamation yard, and will replace this with residential houses enhancing the overall visual appearance of the area.
- The scale and overall appearance of the proposed dwellings will complement the existing dwellings
- The houses will have a strong active frontage with private amenity to the rear of the dwellings.
- Being situated within an existing residential area means that there is an existing sustainable infra-structure in place which will ensure that the site is well served by local facilities adding to the good sustainability of the proposal.

**A SUDS and drainage strategy** has been submitted which states that the proposed drainage scheme has been designed to manage water on site for a 1 in 100-year storm event plus 30% climate change effects, with the aim of achieving 30% betterment on the current storm water discharge rate and improving water quality where possible. New areas of open car parking will be constructed using permeable paving, which will help to improve the water quality being discharged from the site.

An **Arboricultural Report** has been submitted which states that 10 individual trees, one group and two hedges were surveyed. The layout has been amended since this was prepared but the layout seeks to respect retention of trees and root protection areas. The report makes recommendations for the undertaking of the works.

A **Transport Statement** has been submitted which concludes, that the development would add 1.6% to existing daily flows on Temple Bar. It is expected that traffic would be divided to routes north and south and have a negligible effect on the road network. Research of personal injury accident statistics reveals details of 4 incidents in the local area. The development would create traffic flows that are comparable with previous activity at the site with a reduction in the movement of heavy goods vehicles. The proposals would increase junction spacing, improve visibility at the site access and adjacent junction of Harper Street and improve the turns from Harper Street to Temple Bar northbound. The project would reduce the road safety risks at this location. Since this report was prepared the number of units has decreased.

An **Archaeology Report** has been provided that concludes that when considering previous development which had previously occupied the site the indication is for negligible and low to medium potential for archaeological remains from the prehistoric to the modern periods to be present on the Site.

An **Environmental Noise Assessment** assessing the impact on noise and vibration from road traffic has been carried out.

A **Remediation Method Statement and Validation Plan** reviews environmental risks.

A **Phase I and II Ground Contamination Report** – reviews ground contamination on site.

A **Landscape Management Plan** is provided detailing a maintenance regime for areas of landscaping throughout the site.

## **Site and Surroundings**

The site is located at the junction of Harper Street and Temple Bar and is approximately 0.88 hectares. It was formerly established as a yard for sorting, cutting and storage of scrap metal by WH Marren Ltd. There is a public right of way (Will 55) that cuts through the site from the road junction in the southern corner to Calves Croft to the north of the site. This is a bridleway.

There is an established commercial premises operating as a transport yard to the east of the site fronting Temple Bar but other than this the predominant character of the surrounding area are residential properties including those in Harper Street, Thompson Street and Thompson Close, Temple Bar and Templars Walk (these have gardens that back onto Temple Bar). There is a mix of house types in the area including 2 and 3 storey terraced, 2 storey detached and semi-detached and a 3 storey apartment block.

The site is approximately 160m to the north of Willenhall District Centre.

## **Relevant Planning History**

Older applications between 2006 and 2008 relating to the former commercial premises at the site.

18/0033 - Prior notification of demolition of former scrap metal warehouse – Refused 19/02/18. The application fails to clarify the location of the demolition or sufficiently demonstrate that the works which would be undertaken would not have a detrimental impact on a public right of way.

18/0513 - Prior Notification of demolition of former offices and storage buildings. Granted 23/05/18

## **Relevant Policies**

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

[www.gov.uk/guidance/national-planning-policy-framework](http://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

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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*”.

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

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **National Planning Policy Guidance**

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

### **Reducing Inequalities**

The Equality Act 2010 (the ‘2010 Act ’) sets out 9 protected characteristics which should be taken into account in all decision making.

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection

- GP3: Planning Obligations
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV25: Archaeology
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- JP8: Bad Neighbour Industrial Uses
- T7 - Car Parking
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces

### **Black Country Core Strategy**

- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

### **Walsall Site Allocation Document 2019**

- HC2: Development of Other Land for Housing
- IND4: Local Industry Consider for Release
- OS1: Open Space, Sport and Recreation
- EN3: Flood Risk
- M1: Safeguarding of Mineral Resources
- T4: The Highway Network
- T5: Highway Improvements

### **Supplementary Planning Document**

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

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
- DW10 Well Designed Sustainable Buildings

### **Open space, sport and recreation**

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value

### **Affordable Housing**

- AH1: Quality of Affordable Housing
- AH2: Tenure Type and Size
- AH3: Abnormal Development Costs
- AH4: Provision Location
- AH5: Off Site Provision

### **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**

**Archaeological Advisor** – No objection subject to submission of a Written Scheme of Investigation as recommended on the Archaeological Assessment. A condition to secure this is recommended.

**Birmingham & Black Country Wildlife Trust** – No ecological assessment has been provided yet existing structures on site may provide suitable habitats for roosting bats.

**Coal Authority** – No objections subject to a condition to secure measures to protect against the coal mining legacy on site.

**Community Safety** – Comments on the need for secure property boundaries and concerns over the vulnerability of plot 30 and bay windows facing the public right of way.

**Environment Agency** – No objections but recommend a condition to secure further contaminated land investigations.

**Fire Service** – Comments on requirements for access for WMFS appliances and need for a water supply.

**Flood Risk Manager** – No objections subject to implementation of flood risk mitigation measures as identified in the Flood Risk Assessment/Drainage Strategy. A condition to secure this is recommended.

**Highways England** – No objections.

**Historic England** – No objections.

**Housing Standards** – No comments.

**Housing Strategy** – No objections but would require provision for affordable housing in accordance with policy. This equates to 10 units, this being 8 social rented and 2 shared ownership units.

**Local Access Forum** – No objections, the bridleway has been maintained along much the same line as previously and will be widened to 2m with inclusion of lighting which is welcomed.

**Natural England** – No comments.

**Network Rail** – No objections.

**Police** – No objections. Prefer to close the Bridleway and direct pedestrians along Temple Bar where they could be afforded a safer environment with natural surveillance from other users. The new residential development increases the potential for crime and designing out crime is recommended. It is noted that side facing windows are incorporated and should assist surveillance. The developer is recommended to achieve Secure by Design accreditation.

**Policy** – No objections.

**Pollution Control** – No objections subject to conditions to secure a Construction Environmental Management Plan and to undertake further contaminated land investigations, remediate the land where necessary and provide precautionary measures for future occupiers. Acoustic glazing, ventilation and fencing are also required to protect residents. Electric vehicle charging points and ultra-low NOx boilers to comply with the Air Quality SPD are also required.

**Public Rights of Way** – Some further clarification as to works to the public right of way requested and conditions to ensure the public right of way is protected.

**Severn Trent Water** – No objections subject to a condition to secure drainage details. A note for applicant is recommended regarding a potential public sewer located within the application site and measures to be taken.

**Sport England** – No comments.

**Transportation** – No objections subject to conditions to secure minor revisions to the layout to ensure accessibility to parking spaces for plots 2 and 6, clear visibility splay at the Harper Street junction and accessible bin collection points. Also to secure consolidation of all parking and access areas to prevent run-off, cycle shelter details, Construction Methodology Statement, maintenance of visibility splays and restriction of the height of boundary treatments.

## Representations

(Officer comments in italics)

### Original Scheme

Seven representations objecting to the original scheme

- Lack of communication from Tatton Homes with residents (*the planning application has been publicised in accordance with statutory procedures*)
- Welcome redevelopment of the area but object to 2 x blocks of apartments
- Apartments overlook Harper Street
- Apartments overbearing
- Social problems with apartments in the area (*not a material planning consideration*)
- Not support apartments as family dwellings required
- Should be more family sized homes
- Overcrowding of homes in the area
- Access on and off the site
- Traffic and parking congestion in the area
- Potential highway safety issues at the junction
- Restricted views at the junction
- Object to re-routing of bridleway as will cause noise and disturbance to neighbours near to the new route
- Possibility of gating Calves Croft?
- Calves Croft should be kept in its entirety as it provides a popular through route
- Concern over access linking to Thompson Close (*this is not proposed*)
- Would welcome restricted construction hours to protect residential amenity (*this is covered by separate legislation*)

### Amended Scheme

One representation as a consequence of the amended plans querying what changes have been made.

## Determining Issues

- Principle of Residential Development
- Layout and Design
- Amenity of occupiers and surrounding occupiers
- Access and Parking
- Public Right of Way
- Archaeology
- Contaminated Land and Air Pollution
- Flood Risk
- Security
- Trees/Ecology
- Mineral Safeguarding
- Provision for Affordable Housing and Open Space
- Landscape Management Plan
- Local Finance Consideration

## **Assessment of the Proposal**

### **Principle of Residential Development**

Residential development of the site is supported in principle. The former scrap yard use has resulted in a number of amenity complaints to the Council for many years and the residential scheme represents the chance to remove a bad neighbour use as identified in policy JP8 of the UDP. The proposed density of 46.6 dwellings per hectare is higher than the density of 35 dph envisaged for this area by BCCS Policy HOU2, however this high density is not reason to refuse a planning application provided a satisfactory design and residential amenity can be achieved. The site lies close to Willenhall District Centre and is on a frequent bus route so is considered to be a sustainable location.

Despite neighbour's concerns that new homes are overcrowding the area this proposal seeks to remove the bad neighbour use and proposes a density that is acceptable in this urban area close to Willenhall district centre.

Policy IND4 identifies the site, together with that of the adjacent transport yard, as Local Industry Consider for Release Site IN70.7. The policy states that redevelopment for housing will be acceptable in principle provided any remaining industry can be relocated to suitable alternative premises, there are no physical constraints that would make the site unsuitable, and other relevant requirements of Walsall's Local Plan are satisfied, notably the need to ensure that any alternative use does not constrain any existing industry.

For these reasons the proposals accord with saved policies GP2, ENV32 and JP8 of Walsall UDP, policy HOU2 of the BCCS and SAD policy IND4.

### **Layout and Design**

The application site boundary has been amended to exclude some areas of unregistered land and proposals amended to retain the public right of way along its existing route. This has resulted in a slight reduction in the site area and as a consequence the need for a re-design of the layout which has resulted in the reduction in the number of units from 51 to 41.

There has been one representation querying what the changes made have been but these are clearly visible by comparing the two site layout drawings.

The layout has reduced the number of flats proposed so there are now only 8 x 1 bed flats proposed in the centre of the site. These have not differed to that approved in principle by Planning Committee on the earlier scheme. Neighbours originally objected to the inclusion of flats on the site as they considered them overbearing and created overlooking of Harper Street as well as having social problems. The layout has changed and the only flats proposed are now located centrally within the site where it is considered that their design and massing is in keeping with the surrounding development and also that the mix of dwelling types is appropriate for the area.

The layout provides a strong built frontage to Harper Street where the positioning of the terraced properties reflects the character of the existing Victorian semi-detached housing. Whilst the Community Safety officer recommends a greater set-back there is a defensible space in front of the dwellings.

All proposed dwellings within the site are designed to address the street with secure back gardens and convenient parking. Properties adjacent to the public right of way (plots 2, 11, 30 & 38) have secondary windows that overlook these areas or main windows overlooking (plots 1 & 39).

The higher density residential development proposed is considered appropriate given the emerging character of the area with a mix of modern house types in this highly sustainable location close to Willenhall District Centre. It provides a transition between the district centre and outlying residential areas.

The design of the proposed dwellings uses a mix of traditional features and materials such as pitched roofs, projecting gables, bay windows, canopies. The variation in the building outline breaks up the massing of the buildings and a palette of materials including render and brickwork is considered appropriate.

On the basis of the above comments the proposals are considered to accord with the provisions of saved UDP policies GP2, ENV32 and HOU2 of the BCCS and SPD Designing Walsall.

### **Amenity of occupiers and surrounding occupiers**

The gardens of the proposed dwellings are considered reasonable sizes and provide useable areas despite some falling below the recommended area in Annex D of SPD Designing Walsall. They are a minimum of 9m in length and 4.5m wide, although narrower gardens are typical of terraced housing. The gardens of properties at the corners of the site are more generous and achieve recommended standards. The spacing between the rear of dwellings on plots 6-10 and 11-15 is 20m which is below that recommended in Annex D but is considered acceptable. A condition to remove permitted development is recommended to protect amenities of future occupiers from future extensions and loft conversions given the shortfall in garden areas. The distance between facing elevations and gable elevations, for example between plots 24 and 25, 16 and 22 achieves at least 13m and accords with the guidance in Annex D and is acceptable.

The dwellings on plots 39-41 back onto the existing transport yard but in line with pollution control advice acoustic mitigation is recommended to protect amenities and will be secured by condition. Other measures recommended across the entire site include those to secure further ground contamination investigations and remediation, noise mitigation to protect from traffic noise amongst other noise and to a Construction Environmental Management Plan. These will be secured by conditions to protect amenity and address comments of pollution control and the Environment Agency.

The layout of the site respects the distance separation between existing dwellings surrounding the site, for example there is at least 24m between the dwellings on plots 17-21 and rear wing of existing dwellings at 8-11 Harper Street. There is 14m between the gable of the proposed dwelling on plot 21 and rear wing of the existing dwelling at 10 Thompson Street. There is in excess of 40m between the premises at 12 Thompson Street and plots 22-24. There is at least 14m between the rear elevation of plots 28-30 and the end property 31 Thompson Close. These distances ensure privacy, outlook and daylight is maintained for existing occupiers.

Given the above it is considered that the proposals accord with saved UDP policies GP2, ENV10 and ENV32 and SPD Designing Walsall.

## **Access and Parking**

The proposal includes introduction of a new cul-de-sac access off Temple Bar. This serves all proposed units including rear parking court for the dwellings that front Harper Street. The submitted drawing demonstrates how a large refuse vehicle can turn within the cul-de-sac within the site.

The Transportation officer has no objections subject to conditions to secure minor revisions to the layout to ensure accessibility to parking spaces for plots 2 and 6, clear visibility splay at the Harper Street junction and accessible bin collection points. Also to secure consolidation of all parking and access areas to prevent run-off, cycle shelter details, Construction Methodology Statement, maintenance of visibility splays and restriction of the height of boundary treatments. This will all be secured by condition.

There is provision for bin and cycle storage proposed for the flats on plots 31-38 but the design of this is to be secured by condition.

The proposal indicates at least 2 parking spaces per dwelling with the exception of the flats which have 1 space per unit plus three visitor spaces, and plots 1, 40 and 41 which have garages with individual driveways providing for 3 off-street parking spaces. This level of parking accords with that recommended in saved UDP policy T13. Most of the parking is located near to the dwelling it serves where it is overlooked so likely to be used. Taking into account the site is within reasonable walking distance of Willenhall Town Centre which has a range of public, community and retail facilities as well as good public transport links, the level of parking is therefore considered acceptable.

Neighbours have expressed concerns about access on and off the site, the visibility at the highway junction, highway safety and potential traffic congestion and parking in the area. However, the access is designed to adoptable standards and the level of parking is sufficient to cater for the development in accordance with policy. Although there is likely to be more trips from the site they will be predominantly domestic vehicles rather than larger commercial vehicles associated with the previous use as a scrap yard. Also the access is relocated from the highway junction of Temple Bar and Harper Street to further away from this junction to provide adequate visibility to ensure highway safety.

The amended layout allows for provision of a highway improvement at the junction of Temple Bar and Harper Street that allows the radius to be sweetened to 7m. This will improve highway safety at this junction.

Whilst full details of adoptable highway works are requested this is a matter for a S38/S278 Highways Act and outside the scope of what is able to be conditioned on a planning application. A note for applicant is recommended.

The Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with NPPF 2018 para 109.

In light of these comments the proposal is considered to accord with the provisions of saved UDP policies T7 and T13, policy TRAN2 of the BCCS and policies T4 and T5 of the SAD.



## **Public Right of Way**

The proposals maintain the public right of way (bridleway) in its existing position with some improvements proposed. The layout has also been arranged to provide surveillance of the route which will improve security. Details of boundary treatments to plots alongside the public right of way are indicated and permitted development will be removed to ensure that no additional boundary treatments or means of enclosure are erected. Measures to protect and enhance the route of the public right of way are recommended including boundary treatments, maintenance of landscaping, lighting, surfacing, cycle barriers, way markers, level inclusive access. These measures coupled with the increased footfall as a consequence of the proposed development should reduce the anti-social behaviour along the route.

The Public Rights of Way officer has sought some further clarification as to works to the public right of way which has been forwarded to the applicant and any response confirmed at committee. There are also requested conditions to ensure the public right of way is protected.

Neighbours have objected to the re-routing of the public right of way as they consider this will cause nuisance to neighbours near the new route. The amended plans no longer propose to re-route the public right of way so this issue is addressed. There are conflicting views from other neighbours as some want the public right of way known as Calves Croft gated off (i.e. closed) and some want it to remain open as it is a popular route through to Willenhall. There are no proposals to close the public right of way as this would be subject to other formal procedures.

Subject to these measures the proposals accord with saved UDP policy GP2 and policy TRAN4 of the BCCS and SAD policies T4 and T5.

## **Archaeology**

An archaeology report has been received. The archaeology officer supports further archaeological investigation in the form of a two staged evaluative works including a review of geo technical data followed by trial trench evaluation with a Written Scheme of Investigation, post submission as a condition to planning consent. These works would be undertaken to determine the presence/absence of archaeological remains and, if present, their character, extent, quality and preservation, and to enable an assessment of their worth in a local, regional, national or international context as appropriate. This would allow for further archaeological investigation if archaeological deposits of significance are found to be present.

This complies with saved UDP policy ENV25.

## **Contaminated Land & Air Pollution**

The ground contamination reports supplied acknowledge that the site is affected by contamination and ground gas. Pollution Control concur with the consultants that there may be further contamination present on the site and recommend that additional investigation work will be required. This will be secured by conditions and appropriate remediation. Again due to the potential for ground gas contamination and appropriate mitigation works that could be affected by future developments it is recommended that permitted development for extensions, garage conversions and garden outbuildings is removed to protect amenities.

In accordance with the SPD on Air Quality the site falls under the Type 1 category which requires installing electric vehicle charging points and low NOx boilers which can be conditioned.

Subject to these measures the proposals accord with saved UDP policies GP2, ENV10 and ENV32, BCCS policy ENV8 and SPD Air Quality.

### **Flood Risk**

A Flood Risk Assessment has been provided and the Flood Risk officer requests a condition to secure the measures recommended to prevent flooding in accordance with policies ENV5 of the BCCS and policy EN3 of the SAD.

### **Security**

The police and community safety teams are aware of existing problems in terms of anti-social behaviour along the public right of way and concerns that dwellings adjacent to it may be vulnerable to crime. Also that the car parking areas are exposed and may require security measures.

The layout has been designed so that there are dwellings that overlook the public right of way to increase surveillance and deter anti-social behaviour. Also that boundaries are defined so there is a distinction between public and private space in a way that does not disrupt this surveillance. In order to maintain surveillance it is recommended that permitted development for new means of enclosure is removed for plots 1, 2, 30, 39, parking area serving plots 2-10 and flats on plots 31-38 and parking area serving those plots to maintain the open aspect.

The police recommend measures to achieve Secure by Design which is added as a note for applicant. This complies with saved UDP policies GP2 and ENV32 and SPD Designing Walsall.

### **Trees/Ecology**

Following consideration of the original scheme by the tree officer the layout in relation to the protected trees along the boundary with Thompson Street/Thompson Close has remained unchanged regarding plots 22-25. The position of the plots allows for adequate root protection areas and removal of permitted development for extensions and outbuildings should protect against encroachment by occupiers in the future.

There are a number of replacement trees shown on the layout plan and these will enhance the area and their long term management will be controlled by the landscape management plan to be secured by a S106 Agreement.

Although the Wildlife Trust are concerned that no ecological assessment has been carried out as all buildings that may have provided suitable habitat for bats have been removed there is no justification for requiring an ecological report. The trees on the periphery of the site may provide suitable habitat but remain unaffected by the proposals.

On balance the proposals are appropriate and accord with saved UDP policies GP2, ENV18, ENV23 and ENV32, BCCS policy ENV1 and SPD Conserving Walsall's Natural Environment.

### **Mineral Safeguarding**

The site is within the mineral safeguarding area but does not exceed the threshold (5 hectares) for requiring supporting evidence to demonstrate how non mineral proposals will safeguard the mineral resource as required by BCCS policy MIN1.

### **Provision for Affordable Housing and Open Space**

In accordance with policies GP3 and LC1 of the UDP, policies DEL1 and HOU3 of the BCCS and SPD's on Affordable Housing and Urban Open Space the proposals trigger a requirement for provision of Affordable Housing and Open Space. This would equate to 25% affordable housing (10 units) requiring 8 social rented and 2 shared ownership units and a contribution of £60,291.00 towards provision of urban open space in the area.

The developer has provided a viability assessment which has been reviewed by the District Valuer and confirms full contributions towards these provisions are not viable and would make the site undevelopable. This was reviewed when there were 51 units so it is considered that now there are only 41 units the viability would not be significantly improved.

In the circumstances it is recommended that these provisions are not required in order to bring forward this reclaimed site for residential development.

### **Landscape Management Plan**

The application includes areas of landscaping which are not associated with any single property. A landscape management plan has been provided that identifies a maintenance programme for existing trees, proposed tree planting, hedge planting, amenity grass and hard surfaces within the public realm. To ensure the future ongoing management of these spaces a section 106 is required to secure this landscape management plan.

### **Local Finance Considerations**

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

This application proposes 41 new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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

## **Conclusions and Reasons for Decision**

The principle of the development has already been accepted by Planning Committee and will bring forward this vacant site for new homes in accordance with saved UDP policies GP2, ENV32 and JP8, policy HOU2 of the BCCS and SAD policy IND4.

The layout of the site has been amended to exclude some areas of unregistered land and to retain the public right of way along its existing route resulting in a reduction in the number of proposed dwellings. All dwellings face the public realm and have secure rear gardens providing an appropriate residential environment.

The mix of dwelling types and their design is considered acceptable in relation to the emerging character of the area and the levels of private garden space and separation between dwellings on site is appropriate to maintain privacy, daylight and outlook for future occupiers. There is also adequate separation between proposed dwellings and those existing dwellings surrounding the site to maintain privacy and aspect distances. On this basis the proposals are considered to accord with the provisions of saved UDP policies GP2, ENV32 and HOU2 of the BCCS and SPD Designing Walsall.

Further ground contamination investigations and remediation, noise mitigation to protect residents from traffic noise and other conditions to protect amenity and address comments of pollution control and the Environment Agency are recommended to accord with saved UDP policies GP2, ENV10 and ENV32 and SPD Designing Walsall.

Permitted development for extensions, loft conversions, outbuildings and boundary treatments is to be removed to protect amenities and protect against ground gas protection measures referred to above.

The access is considered acceptable and the Transportation officer has no objections subject to some minor revisions and conditions to secure consolidation of all parking and access areas to prevent run-off, cycle shelter details, Construction Methodology Statement, maintenance of visibility splays and restriction of the height of boundary treatments. There is adequate parking to cater for the level of development proposed and comply with policy requirements. The Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with NPPF 2018 para 109. In light of these comments the proposal is considered to accord with the provisions of saved UDP policies T7 and T13, policy TRAN2 of the BCCS and policies T4 and T5 of the SAD.

The proposals maintain the public right of way (bridleway) in its existing position with some improvements proposed to widen it. The layout has also been arranged to provide surveillance of the route which will improve security. Measures to protect and enhance the route of the public right of way are recommended. Subject to these measures the proposals accord with saved UDP policy GP2 and policy TRAN4 of the BCCS and SAD policies T4 and T5.

A Written Scheme of Investigation is required to investigate archaeological remains and allow further archaeological investigation if archaeological deposits of significance are found to be present to comply with saved UDP policy ENV25.

The ground contamination reports acknowledge that the site is affected by contamination and ground gas and as there may be further contamination present on the site additional investigation work will be required to be secured by condition. Due to the potential for ground gas contamination and appropriate mitigation works that could be affected by future developments it is recommended that permitted development for extensions, garage conversions and garden outbuildings is removed to protect amenities. A condition to

secure Air Quality measures are recommended. Subject to these measures the proposals accord with saved UDP policies GP2, ENV10 and ENV32, BCCS policy ENV8 and SPD Air Quality.

The key security concerns are the relationship to the public right of way. The layout has been designed so that there are dwellings that overlook the public right of way to increase surveillance and deter anti-social behaviour. Also that boundaries are defined so there is a distinction between public and private space in a way that does not disrupt this surveillance. The police recommend measures to achieve Secure by Design which is added as a note for applicant. This complies with saved UDP policies GP2 and ENV32 and SPD Designing Walsall.

A Flood Risk Assessment has been provided and the Flood Risk officer requests a condition to secure the measures recommended to prevent flooding in accordance with policies ENV5 of the BCCS and policy EN3 of the SAD.

The layout allows for adequate root protection areas around protected trees and removal of permitted development for extensions and outbuildings should protect against encroachment by occupiers in the future. Although the Wildlife Trust are concerned that no ecological assessment has been carried out as all buildings that may have provided suitable habitat for bats have been removed there is no justification for requiring an ecological report. The trees on the periphery of the site may provide suitable habitat but remain unaffected by the proposals. On balance the proposals are appropriate and accord with saved UDP policies GP2, ENV18, ENV23 and ENV32, BCCS policy ENV1 and SPD Conserving Walsall's Natural Environment.

The site is within the mineral safeguarding area but does not exceed the threshold (5 hectares) for requiring supporting evidence to demonstrate how non mineral proposals will safeguard the mineral resource as required by BCCS policy MIN1.

In accordance with policies GP3 and LC1 of the UDP, policies DEL1 and HOU3 of the BCCS and SPD's on Affordable Housing and Urban Open Space the proposals trigger a requirement for provision of Affordable Housing and Open Space. This would equate to 25% affordable housing (10 units) requiring 8 social rented and 2 shared ownership units and a contribution of £60,291.00 towards provision of urban open space in the area. The District Valuer has reviewed the developer's viability assessment and confirms full contributions towards these provisions are not viable and would make the site undevelopable. This was reviewed when there were 51 units so it is considered that now there are only 41 units the viability would not be significantly improved. In the circumstances it is recommended that these provisions are not required in order to bring forward this reclaimed site for residential development.

To ensure the future ongoing management of landscaped areas a section 106 is required to secure this landscape management plan.

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing. This application proposes 41 new homes. The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

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's agent and in response to concerns raised regarding the layout of the site, land ownership and public right of way amended plans have been submitted which enable full support to be given to the scheme.

## **Recommendation**

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and a S106 Agreement to secure Landscape Management and subject to:

- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;

## **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 92 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: -

Site Location Plan (9711/PL01E) received 25/09/19

Site Layout Proposed (9711/PL02O) received 27/09/19

Site Survey (9711/PL03A) received 25/09/19

Plans & Elevations Plot 1 (9711/PL04B) received 25/09/19

Plans & Elevations Plots 2-5 (9711/PL05B) received 25/09/19

Plans & Elevations Plots 6-10 (9711/PL06C) received 25/09/19

Plans & Elevations Plots 11-15 (9711/PL07B) received 25/09/19

Plans & Elevations Plots 16-21 (9711/PL08B) received 25/09/19

Plans & Elevations Plots 22-24 (9711/PL09B) received 25/09/19

Plans & Elevations Plots 25-27 (9711/PL10B) received 25/09/19

Plans & Elevations Plots 28-30 (9711/PL11B) received 25/09/19

Plans & Elevations Plots 31-38 (9711/PL12B) received 25/09/19

Plans & Elevations Plots 39-41 (9711/PL13B) received 25/09/19

Proposed Site Sections & Street Scenes (9711/PL14A) received 25/09/19

Arboricultural Report received 02/08/18

Archaeological Desk Based Assessment received 19/11/18

Environmental Noise Assessment received 08/05/19

SUDS and Drainage Strategy received 22/06/18

Design and Access Statement received 22/06/18

Transport Statement received 22/06/18

Remediation Method Statement and Validation Plan received 18/02/19

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Phase 1 Desk Study Report received 30/10/18

Phase 1 and 2 Ground Contamination Report received 20/02/19

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 development, including demolition shall take place until a Construction Working Plan has been submitted for written approval of the Local Planning Authority. The plan shall include:

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary portacabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

3b. The approved Construction Working Plan shall be implemented upon commencement of works and shall be maintained until the site is completed.

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

4a. Prior to the commencement of the development hereby approved drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

5a. Prior to the commencement of the development hereby approved and notwithstanding the details in the Remediation Method Statement and Validation Plan, by Georisk Management Limited, Ref. 18036/1, August 2018 and the 'Phase I and Phase II Ground Contamination Report' by GIP a desk study and site reconnaissance shall be conducted to identify the potential for contaminants and/or ground gases to present a likely risk to proposed structures or future occupants of the development. Results of the desk study and site reconnaissance shall be submitted to and approved in writing by the Local Planning Authority (see Note for Applicant CL 4).

5b. Prior to the commencement of development, in the event that the desk study and site reconnaissance indicates a potential presence of contamination and/or ground gases on site, a site investigation, ground contamination survey and assessment of ground gas having regard to current best practice shall be undertaken (see Note for Applicant CL1).

5c. Prior to the commencement of development, a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be submitted to and approved in writing by the Local Planning Authority (see Note for Applicant CL2).

5d. Prior to the commencement of development, a Remediation Statement setting out details of remedial measures to deal with identified and potential hazards of any land contamination and/or ground gas present on the site shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Statement shall include a timetable for the carrying out of the remedial measures (see Note for Applicant CL2).

5e. The remedial measures as set out in the Remediation Statement required by condition 5d shall be carried out in accordance with the approved timetable.

5f. If during the carrying out of the remedial works or the construction period ground contamination previously not identified by the site investigation required by condition 5b is discovered, development shall cease until the Remediation Statement required by condition 5c has been amended to address any additional remedial or mitigation works required and submitted to and approved in writing by the Local Planning Authority.

5g. Prior to occupation of the development, a validation report confirming the details of the measures carried out shall be submitted to and approved by the Local Planning Authority (see Note for Applicant CL3).

Reason: To ensure safe development of the site and to protect human health and the environment including controlled waters in accordance with saved UDP policies GP2, ENV10, ENV32 and ENV40.

6a. Prior to the commencement of the development hereby approved a scheme of further intrusive investigations to assess the ground conditions and potential risks posed to the development by past coal mining activities shall be undertaken and a report of the findings arising from the intrusive investigations, including details of any remedial works necessary shall be submitted to and approved in writing by the local planning authority.

6b. The development shall not be carried out otherwise than in accordance with the agreed remedial works.

Reason: To ensure the stability of the land and safety of the development in accordance with saved UDP policies GP2 and ENV10 and paragraphs 178 and 179 of the NPPF.



7a. Prior to commencement of the development hereby approved a written scheme of investigation and a programme of archaeological work in accordance with the written scheme of investigation shall be submitted to and approved in writing by the Local Planning Authority.

7b. No development shall be carried out on site otherwise than in accordance with the approved scheme and programme.

Reason: In order to secure an adequate record of the site's archaeology in accordance with saved policy ENV25 of Walsall's Unitary Development Plan.

8a. Prior to the commencement of the development an Acoustic Mitigation Scheme shall be submitted to and agreed in writing by the Local Planning Authority.

8b. The development shall not be carried out otherwise than in accordance with the agreed acoustic mitigation measures.

8c. Prior to the first occupation of the development a written validation statement shall be submitted to the Local Planning Authority that confirms implementation of the agreed Acoustic Mitigation Scheme.

Reason: to protect the health and amenity of future occupants in accordance with saved UDP policies GP2 and ENV32.

9a. Prior to the commencement of the development an Air Quality Low Emission Scheme to install electric-vehicle charging points and Ultra-Low NOx boilers shall be submitted to the Local Planning Authority for approval in writing.

9b. The development shall not be carried out otherwise than in accordance with the agreed scheme of Air Quality Low Emissions.

9c. Prior to the first occupation of any dwelling a Low Emission Scheme Validation Statement shall be submitted in writing to the Local Planning Authority that demonstrates scheme has been installed as agreed.

Reason: in the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.

10a. Prior to the commencement of the development, the following minor layout revisions shall be submitted to and approved in writing by the Local Planning Authority:-

1. Direct pedestrian access to the rear car park for Plot 2
2. Improved pedestrian access to the car park generally from the gated access between Plots 5 and 6 ( it could be blocked by a vehicle parked in space 6)
3. The rear boundary fence of Plot 1 to include the wedge of land up to the public footpath but kept clear of the 2.4m x 43m visibility splay at the Harper Street junction.
4. Accessible refuse bin collection points for Plots 2 to 30 so that bins are not left out on the property frontages or pavements on collection days.

Reason: To ensure the satisfactory development of the site in the interests of highway safety in accordance with saved UDP policies GP2 and ENV32 and policy TRAN2 of the BCCS.

11a. Prior to the commencement of the development, details of the upgrading of Bridlepath 55 Willenhall shall be submitted to and agreed in writing with the local planning authority. The details shall include sub-base, base or binder course, surface course, edgings, camber for drainage and adjacent ground.

11b. The development shall not be carried out otherwise than in accordance with the agreed details.

Reason: To improve the existing access link in accordance with saved UDP policy T11.

12a. Prior to commencement of development details of the following matters shall be submitted to and approved in writing by the local planning authority:

- (i) A drawing showing the specification and positioning of vehicle barriers and bollards to be provided within Bridlepath 55 Willenhall. This shall include details in relation to the replacement of the current vehicle swing arm barrier and 2 bollards, located at the junction of Bridlepath 55 Willenhall and Park Road.
- (ii) A drawing showing the positioning and specification of public rights of way finger post signs and way marker posts within Bridlepath 55 Willenhall.
- (iii) A drawing showing level inclusive access with dropped kerbs for disabled and cycle access along the route of Bridlepath 55 Willenhall.
- (iv) Details of the street lighting schedule, to include the retained section of Bridlepath 55 Willenhall.

12b. The development shall not be carried out otherwise than in accordance with the agreed details under part (a) of this condition.

Reason: To improve the existing access link in accordance with saved UDP policy T11.

13. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Flood Risk Assessment (FRA)/Drainage Strategy June 2018 Ref 926-01 SUDS RV2 and the following mitigation measures detailed within the FRA:

- I. Limiting the surface water run-off generated by the site to 70% of existing rates for the undeveloped site so that it will not increase the risk of flooding off-site.
- II. Provision of an appropriate calculated volume of attenuation flood storage on the site to a 100year + 30% standard.
- III. Finished floor levels are set no lower than 150mm above local ground level.
- IV. Confirm which responsible body will maintain the surface water system over the lifetime of the development according to an acceptable maintenance schedule and that is achievable.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, reduce the impact of flooding on the proposed development and future occupants and ensure lifetime maintenance of the system to prevent flooding issues in accordance with saved UDP policies GP2 and ENV32, policy ENV5 of the BCCS and policy EN3 of the Site Allocations Document.

14a. Prior to the first occupation of any dwelling on the development, all access ways, pedestrian routes and parking spaces serving that dwelling shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

14b. All parking spaces shall thereafter be retained and used for no other purpose.

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

15a. Prior to the first occupation of the flatted element of the development (Plots 31 to 38), full details of the proposed cycle shelter, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority.

15b. The cycle facility shall not be implemented otherwise than in accordance with the approved details.

15c. The cycle shelter facility shall thereafter be retained and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with UDP policy ENV32 and T13 and Black Country Core Strategy ENV3 and TRAN4.

16. The 2.4m x 51m visibility splays at the new road junction onto Temple Bar and the 2.4m x 43m visibility splay at the Harper Street and Temple Bar junction, shown on drawing no. 9711/PL02 Rev O, shall at all times be kept free of all structures and planting exceeding 600mm in height above carriageway levels.

Reason: In the interests of highway safety in accordance with policy TRAN4 of the BCCS.

17. The front boundary treatment of the flatted element Plots 31-38 shall not exceed 600mm in height above carriageway levels in order to retain forward visibility around the bend in the road.

Reason: In the interests of highway safety in accordance with policy TRAN4 of the BCCS.

18a. Prior to commencement of any building or engineering operations above the damp proof course of the development hereby approved until a schedule of facing materials to be used in external walls and roofs that includes details of the colour, size, texture and specification of the materials shall be submitted to and approved in writing by the Local Planning Authority.

18b. The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 Walsall's Unitary Development Plan.

19. Prior to the first occupation of the development all walls fences gates and other means of enclosure hereby approved as shown on drawing 9711/PL02O (or subsequent amendment to be agreed under condition 10a of this permission) shall be installed and retained for the life of the development.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no extensions or additions as defined by Schedule 2, Part 1 development within the curtilage of a dwelling house;

- Class A (enlargement, improvement or other alterations),
  - Class B (additions to the roof),
  - Class C (other alterations to the roof),
  - Class D (porches),
  - Class E (building incidental to the enjoyment of a dwelling house),
  - Class F (hard surfaces incidental to the enjoyment of a dwelling house),
- shall be installed in any part of this hereby approved development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no extensions or additions as defined by Schedule 2, Part 2 minor operations,

- Class A (gates, fences, walls),
  - Class B (means of access to a highway),
- shall be installed in any part of this hereby approved development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

#### Notes for applicant: Contaminated Land

CL1: Ground investigation surveys should have regard to current Best Practice and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A2:2017 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.

#### Note for applicant: Air Quality SPD

Ultra-Low NO<sub>x</sub> boilers have maximum dry-NO<sub>x</sub> emission no greater than 40 mg/kWh for gas and liquefied petroleum gas (LPG) boilers, and a maximum of 120 mg/kWh for oil-fired boilers.

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),
- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

Ultra-low NO<sub>x</sub> boilers discharge NO<sub>x</sub> at or below 40mg/kWh. The latest models are future-proofed to the European Union's Energy-related Products Directive 2018 NO<sub>x</sub> levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NO<sub>x</sub>, and may be eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

#### Notes for the Applicant: Highways

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to either enter into an agreement under S38/278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.

3. The main access road and associated footways shall be constructed to an adoptable standard and adopted as a publicly maintainable highway. Therefore prior to the commencement of construction of these elements of the development, full engineering details of all adoptable highway works and works within the existing highway including:-

1. the proposed access road, footways and new bellmouth access point onto Temple Bar,
2. the widening of the highway footway along Temple Bar,
3. the reinstatement of all redundant existing vehicle footway crossings along Temple Bar and Harper Street,
4. the modification of the Harper Street northern radius,
5. the installation of a tactile pedestrian crossing point across the Harper Street junction shall be submitted to the Local Planning Authority for technical approval in writing in consultation with the Highway Authority. All adoptable street lighting shall be with the agreement in writing with Walsall Council's street lighting partner Amey.

Prior to the first occupation of any new dwelling on the development or in accordance with a construction phasing agreed in advance with the Highway Authority and Public Rights of Way Officer, the highway infrastructure works detailed above shall be fully implemented in accordance with the approved details and to the satisfaction of the Highway Authority.

#### Notes for applicant: Public Rights of Way

1. The planning decision does not authorise any works to be implemented on the line of the Definitive Public Right of Way recorded as Bridlepath 55 Willenhall and a Stopping up Order must be implemented to enable the approved development to be implemented. Prior to commencement of the development and any works on the line of the public right of way, a separate application must be made to public rights of way for the Stopping up of Bridlepath 55 Willenhall. Please contact Public Rights of Way on 01922 654673 for details on the S257 Application, Stopping up procedure and requirements.
2. Arrangements for the section S.278/ 38 agreement must demonstrate a through route for all path users, which will be on the new footway for pedestrians and the new carriageway for horse riders/ cyclists. It is only the adoption of the estate road and footway which will enable the Section 257 Order to be implemented to permanently stop up the existing route of Bridlepath 55 Willenhall and the proposed planning layout to be implemented.
3. A permit to work and/or temporary prohibition of traffic order may be required prior to commencement of works associated with the development within or adjacent to Bridlepath 55 Willenhall, notwithstanding the temporary closure put into place to enable demolition works. No excavations, scaffolding, hoarding, signage, movement and storage of materials, or other obstructions associated with the proposed development are to be present within the footpath without prior agreement of the highways authority. Prior to commencement the applicant must provide details to highways and apply for any necessary permits and licences for any scaffolding and hoardings required on the footpath as a consequence of the works. Upon completion, the applicant must reinstate the public right of way to its present condition. Please contact Public Rights of Way on 01922 654673 to discuss this.

### Note for applicant: Coal

#### *General Information for the Applicant*

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

<https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

#### *Disclaimer*

The above consultation response is provided by The Coal Authority as a Statutory Consultee and is based upon the latest available data on the date of the response, and electronic consultation records held by The Coal Authority since 1 April 2013. The comments made are also based upon only the information provided to The Coal Authority by the Local Planning Authority and/or has been published on the Council's website for consultation purposes in relation to this specific planning application. The views and conclusions contained in this response may be subject to review and amendment by The Coal Authority if additional or new data/information (such as a revised Coal Mining Risk Assessment) is provided by the Local Planning Authority or the Applicant for consultation purposes.

In formulating this response The Coal Authority has taken full account of the professional conclusions reached by the competent person who has prepared the Coal Mining Risk Assessment or other similar report. In the event that any future claim for liability arises in relation to this development The Coal Authority will take full account of the views, conclusions and mitigation previously expressed by the professional advisers for this development in relation to ground conditions and the acceptability of development.

### Note for applicant: Environment Agency

Please note that comments relate solely to the protection of Controlled Waters. Should the developer wish to discuss any other issue, they should contact the relevant department within the Environment Agency or Local Authority, as appropriate. Also, the Environment Agency has not had any influence or control over the selection of site investigation locations or any aspect of the sampling and analysis undertaken. Therefore, the Environment Agency must assume that the information submitted is both genuine and representative of site conditions and treat it in good faith.

Additionally, it should be noted that in accordance with Government Policy detailed in the National Planning Policy Framework (paragraph 179), *where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner*. Therefore, should any significant contamination, not assessed by virtue of this report / project, subsequently become apparent responsibility remains with these parties.

Note for applicant: Police

The development is suitable for crime prevention and home security through Secured By Design. Please see :

[https://www.securedbydesign.com/images/downloads/HOMES\\_BROCHURE\\_2019\\_NEW\\_version\\_2.pdf](https://www.securedbydesign.com/images/downloads/HOMES_BROCHURE_2019_NEW_version_2.pdf)

Note for applicant: Severn Trent Water

There may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

Please note if you wish to respond to this email please send it to [Planning.apwest@severntrent.co.uk](mailto:Planning.apwest@severntrent.co.uk) where we will look to respond within 10 working days. Alternately you can call the office on 01902 793851.

If your query is regarding drainage proposals, please email to the aforementioned email address and mark for the attention of Rhiannon Thomas (Planning Liaison Technician).

Note for applicant: Fire Service

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes.

Turning facilities should be provided in any dead-end access route that is more than 20m long.

There should be vehicle access for a pump appliance to within 45m of all points within each dwelling, with suitable access door not less than 750mm wide.

Blocks of flats not fitted with fire mains should have vehicle access for a fire appliance not more than 45m from all points within each dwelling, measured on a route suitable for laying hose. The direct distance is reduced to two thirds to allow for internal layout. If this cannot be met a fire main should be provided.

Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 15 and "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](mailto:Water.Officer@wmfs.net)

The approval of Building Control will be required to Part B of the Building Regulations 2010 for the apartments.







## Planning Committee

Report of Head of Planning, Engineering and Transportation on 31-Oct-2019

**Plans List Item Number: 2.**

**Reason for bringing to committee: Significant Community Interest**

**Location:** LAND AT WINTERLEY LANE, RUSHALL

**Proposal:** VARIATION OF CONDITION 24A AND 24B OF 17/0439 TO ALLOW A MAXIMUM OF 1 BURIAL PER DAY.

**Application Number:** 18/1693

**Applicant:** Aldridge Construction  
Engineering Limited

**Agent:** Cemetery Development Services Ltd

**Application Type:** Section 73: Removal or  
Variation of Condition(s)

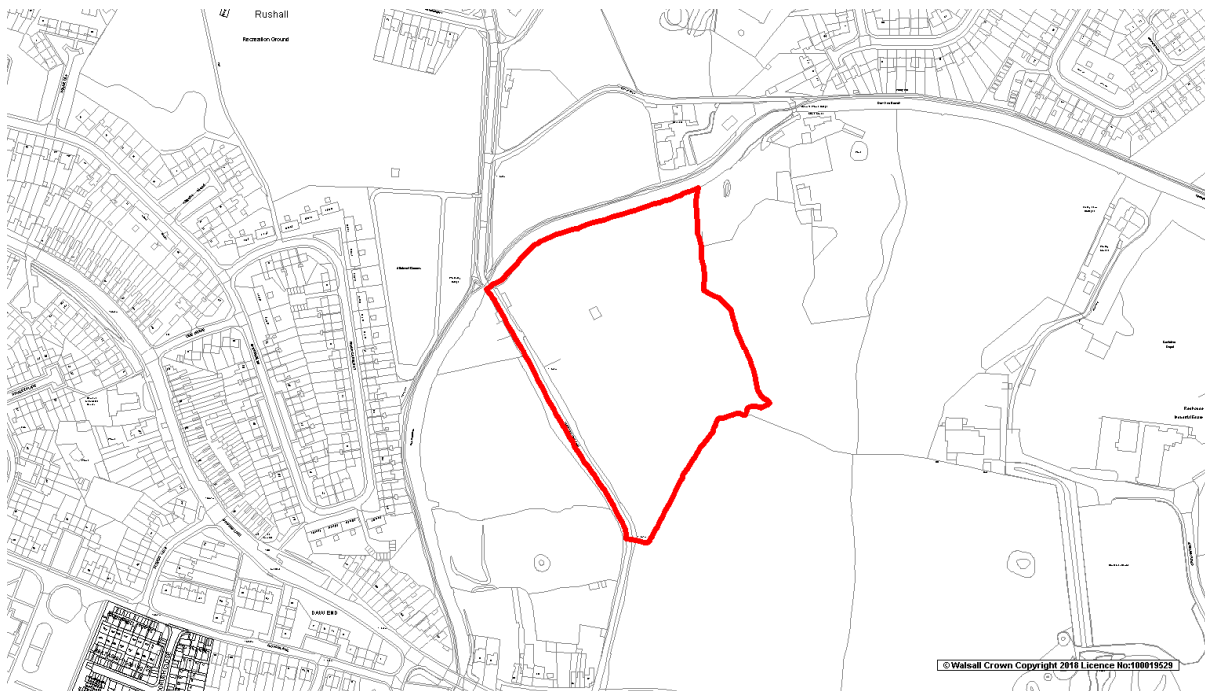
**Case Officer:** Barbara Toy

**Ward:** Rushall-Shelfield

**Expired Date:** 22-Mar-2019

**Time Extension Expiry:** 08-Nov-2019

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



## Proposal

This application proposes the variation of conditions 24a and 24b attached to planning application 17/0439 to allow a maximum of 1 burial per day.

The application has been amended since submission to amend the proposed variation from 2 burials a day to 1 burial a day between 1000 hours and 1500 hours.

The principle of a natural burial ground at the site was approved under the previous application 17/0439. Whilst the number of burials were restricted to 50 per annum, condition 24 of the approval confirmed that the applicant would need to provide an updated Transport Statement and risk modelling to assess the impact on the water environment to justify any increase in burials.

It should be noted that whilst the original condition limited the number of burials that could take place over a year, it did not limit the number of services that could take place in one day nor did it limit the hours between which a burial service may occur.

Original condition 24:

24a) Prior to any increase in burials exceeding 50 per annum a revised transport statement and risk modelling to assess impact on the water environment shall be submitted to and approved in writing by the local planning authority.

24b) Any mitigation measures required by the Transportation Statement or the Environment Agency shall be carried out prior to burials exceeding 50 per annum.

Reason: To minimise the impact on neighbouring amenity, to protect the water environment and to accord with saved UDP policies GP2 and ENV40.

Proposed condition 24:

24a) No more than 1 burial shall take place per day.

24b) No burials shall take place outside the hours of 10am to 3pm Monday to Saturday.

24c) No burials shall take place on Sundays or Bank/Public Holidays

24d) The natural burial site hereby approved shall not be open to visiting members of the public outside the hours of 8am to 5pm Monday to Sunday and shall not be open on Bank Holidays.

Reason: To minimise the impact on neighbouring amenity, to protect the water environment and to accord with saved UDP policies GP2 and ENV40.

Given the restrictions in the above condition this would allow for 304 funerals per annum (52 weeks x 6 days a week – 8 bank holidays = 304), an increase of 254 funerals per annum if one occurred each day. However, there would be no more than one service on any one day. With both the original, as approved application and in the new amended conditions, there are no conditions limiting the number of times people can visit the site.

The applicant has confirmed that the number of burials could be easily monitored to ensure compliance with the proposed condition as all burials have to be registered by law and a record kept on site during the operation period of the burial ground.

All other aspects of the previous approval would remain unaffected by this application. Planning application 17/0439 approved the completion of the infilling of existing mineshafts and for the restoration of the land to provide a natural burial ground cemetery.

The approved cemetery will have a capacity for around 6,450 burial plots. A sculpture garden network of mown paths and hard surfaced paths using crushed stone chippings embedded in a geotextile matrix were also approved. The approved cemetery / natural burial ground will be accessed from Winterley Lane, using the existing access point and a surfaced roadway which connects to the car park, 50 car parking spaces were approved with 2 designated disabled spaces. No changes to these access arrangements are proposed as part of the new application.

The use would have one employee and would be open 08:00 – 17:00 hours Monday to Sunday for visitors and 1000 – 1500 hours Monday to Saturday for burial services.

The following have been submitted in support of this variation of condition application:

**Transport Statement (December 2018)**

This report concludes that the additional traffic movement generated could be comfortably accommodated without significant impact on the safety or capacity of the surrounding transport network and infrastructure. The off peak operation of the site would mean that there would be virtually no impact on existing peak hour flows already occurring along Winterley Lane or the surrounding area. The report includes reference to other burial sites and to an assessment made at an existing large cemetery site.

**Updated Assessment for Winterley Lane Cemetery Proposal by LMB Geosolutions Ltd (Dec 2018) and further update Feb 2019 specifically assessing Ammonium and Nitrate following comments from the Environment Agency**

An updated assessment of the potential pollutant impact of the proposed cemetery based on ground investigation data, literature information and a number of reasonable assumptions.

This concludes that uncertainty and potential impacts on offsite groundwater quality related to Ammonium and Nitrate pollution from the proposed cemetery development could be minimised by applying the following mitigation measures:

- The spacing of burials to maximise dilution over the proposed cemetery
- Application of zeolite layer at the base of proposed burials to significantly increase attenuation and fix contaminant mass
- Remediation of former shafts/min workings by grouting or back filling with clean low permeability materials.

## **Site and Surroundings**

The site area is 3.74 hectares.

The site is located in Rushall, a residential area one mile northeast of Walsall. In the past, the area was widely mined for coal and limestone. The site has also historically been used for horse grazing and latterly inert landfill. A branch of the Wyrley & Essington Canal (The Daw End Branch) bounds the site to the north. The site is located to the east of Lichfield Road (A461) which connects Rushall to Walsall in the South and Lichfield to the Northeast. Winterley Lane is an unclassified road. Between Bosty Lane and the canal

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bridge it has no segregated pedestrian provision and has a 20 mph speed limit with traffic calming measures in the form of speed humps. Winterley Bridge, a narrow bridge over the canal sits to the north west of the site with a 3 tonne weight limit.

The site is in the Green Belt and there is a Tree Preservation Order on trees near the front of the site (AB2/1960).

## **Relevant Planning History**

**17/0439** - To complete the infilling of mineshafts on site and restoration of the land to provide a natural burial ground – GSC 21-11-18.

Condition 24

24a) Prior to any increase in burials exceeding 50 per annum a revised transport statement and risk modelling to assess impact on the water environment shall be submitted to and approved in writing by the local planning authority.

24b) Any mitigation measures required by the Transportation Statement or the Environment Agency shall be carried out prior to burials exceeding 50 per annum.

Reason: To minimise the impact on neighbouring amenity, to protect the water environment and to accord with saved UDP policies GP2 and ENV40.

**16/0769** - Change of use to create a cemetery/natural burial ground – Withdrawn 05/01/17

**14/0191/WA** - Infilling and capping of former limestone mine shafts using on site and imported inert fill processed using a crusher and screen to make engineered infill materials with a reduced scheme to protect the area of the former lime kilns and to restore the ground within 12 months to open space. – GSC 19/05/14

**13/0652/FL** - Fill and cap mine shafts including ancillary aggregate/waste recycling to produce materials suitable for reclamation of the site and treatment of shafts and voids, construct a temporary bund along the canal and restore original land levels to return the site to open grazing. Construction of new access and provision of temporary passing bays on Winterley Lane – Withdrawn 21/11/13.

**09/0695/FL** – Fill and cap collapsed mineshaft and restore original levels to an area in a field which has compressed due to previous mine workings – Granted subject to conditions 31/7/09.

**05/0512/FL/E5** – Proposed alteration/extension to 2 no. Existing stabling units – 1 traditional construction, 1 cladding to existing frame – Withdrawn 20/12/07

## **Relevant Policies**

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

**[www.gov.uk/guidance/national-planning-policy-framework](http://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”.

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

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **consultation** the NPPF makes clear that statutory consultees should provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs. Where statutory consultation is required, statutory consultees are under a duty to respond to consultations within 21 days. Statutory consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice.

### **Reducing Inequalities**

The Equality Act 2010 (the ‘2010 Act’) sets out 9 protected characteristics which should be taken into account in all decision making.

It is considered that the development which takes account of the context of the land designation and past mining activities may not benefit people of all characteristics as set out in the Equalities act, however it is considered that it also does not disadvantage any of these character groups and for this reason is acceptable.

## **Local Policy**

**[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)**

### **Black Country Core Strategy**

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM1: Sustainable Waste and Resource Management
- WM2: Protecting and Enhancing Existing Waste Management Capacity
- WM3: Strategic Waste Management Proposals
- WM4: Locational Considerations for New Waste Management Facilities
- WM5: Resource Management and New Development

### **Saved Unitary Development Plan**

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV2: Control of Development in the Green Belt
- ENV4: Major Developed Sites in the Green Belt
- ENV9: Environmental Improvement Initiatives
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV25: Archaeology
- ENV26: Industrial Archaeology
- ENV32: Design and Development Proposals
- ENV33: Landscape Design

- T1 - Helping People to Get Around
- T2 - Bus Services
- T3 - The Rail and Metro Network
- T4 - The Highway Network
- T5 - Highway Improvements
- T6 - Traffic Calming
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces
- LC8: Local Community Facilities

## **Walsall Site Allocation Document 2019**

GB1: Green Belt Boundary and Control of Development in the Green Belt  
 EN1: Natural Environment Protection, Management and Enhancement

## **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**

**Transportation** – No objections to the amended proposals for a single burial per day. This amendment addresses the fundamental issues that the Highway Authority relating to possible conflicts with funeral traffic arising from two funerals per day.

**Environment Agency** – No objections to the variation of condition 24.

**Bereavement Services** – No objections to the number of burials at this private burial site. Council cemeteries can cater for up to ¾ burials in a day particularly at the 2 busiest sites at Willenhall and Streetly.

Council cemeteries have the following opening hours

January, November, December 8am to 4pm

February, October 8am to 5pm

March, April, September 8am to 6pm

May, June, July, August 8am to 7pm

Throughout the year the opening time is 9am on Saturday, Sunday and Bank Holidays.

Burials are permitted to take place seven days a week – with the exception of Christmas Day.

**Pollution Control** - No objections

## **Representations**

It should be noted that all neighbours notified of the previous application and anyone who commented on the previous application where notified of this current application, in addition a number of site notices were posted within the vicinity of the site.

## **Original submission**

One comment of support and 34 objections received in relation to the original submission for 2 Burials a day, as well notes of public meeting held 12-02-19 sent by Councillor Worrall and a petition of 36 signatures.

## **Amended scheme**

One comment in support and 42 objections received in relation to the amended scheme for 1 burial a day in addition to comments from Wendy Morton MP and Councillor Rattigan on behalf of residents.

## **Objections to the original submission for 2 Burials a day:**

### Environmental and amenity issues

- Impact on health of local residents from increased traffic
- No work on site since approval in Nov 18, site not secure and poor appearance
- Derelict buildings on site set on fire
- 100's of people objected to the proposals, increase to 2 burials a day has aggrieved the local community
- Site target of vandalism
- Remediation works should be started, they wont start if still only 50 burials
- Pollution to water in surrounding areas, canal, lime pits
- Ridley school in close proximity
- Why is a burial site needed? Already 1 in Burntwood, away from the local community, no local need.
- Does this meet EIA Regulations
- Risk of water contamination from rotting bodies
- Risk to wildlife
- Will ground contamination be monitored?
- Always their intent to increase the numbers, will end up with something the size of Streetly Crem
- Was infilling material monitored, rubbish was used for infilling
- Land should be restored to previous
- All for financial gain for developer
- Detrimental impact on local school children
- States local support for burial ground, locals do not want it
- Photos in submission misleading
- Embalming fluids etc leak into water table, massive effect on wildlife
- Proximity to local school, children may see burials
- Already ground collapses in Bosty Lane, large numbers of burials could increase risk of another collapse
- Distress to local residents
- Residential area
- Property devaluation (*not a material planning consideration*)

### Transport and Highway safety

- Increase in traffic in local roads which are already congested
- Concerns for pedestrians
- Narrow lane, single track, not capable for two way traffic, too small for the development
- Lane used as a short cut to Barns Lane
- Vast increase in traffic, the traffic assessment is out of date 2015, new survey needed
- New housing since traffic data
- Danger to pedestrians and route to local school and to bus stops in Bosty Lane

- Canal bridge narrow and weak, increase in traffic will make it worse, existing weight restriction on the bridge
- Increased traffic = increase in pollution
- Blind bend
- No footpath
- Surrounding roads will be affected
- Previous infilling work was a nightmare, mud on the road, large lorries etc
- Increase in traffic at weekends as well
- Insufficient on site parking leading to congestion in Winterley Lane, numbers of mourners under estimated, where will they all park if there's no room on the site? visitors to the site as well as funerals, added impact on the Green Belt
- Accident waiting to happen
- Street lighting?
- Road signs?
- State of the lane, who will fund repairs
- 40 Minute drive, not a local need, this includes Birmingham and Wolverhampton
- Need to investigate actual width of Winterley Lane
- Parking at Streety crem often onto the road
- Vibration from traffic/ vehicles
- Bad junction Bosty Lane/Winterley Lane, with football club opposite, match days very busy, accident waiting to happen.

#### **Support to original scheme**

- Natural burial would be an improvement to the existing eyesore on the site
- But it should be conditioned that Winterley Lane would be widened and re surfaced from Daw End Lane to the entrance.
- Activities on site should be carefully monitored.

#### **Petition**

- Inappropriate use of the land due to surrounding watercourses and flooded limestone workings underneath
- Winterley Lane cannot sustain the increased traffic

#### **Summary of objections raised at public meeting on 12-02-19**

- 2 burials a day would generate 200 plus vehicle movements a day over 70,000 per annum
- Increased traffic from funerals and future visitors adding to environmental and traffic impacts
- Large funerals can include more traffic than predicted and can include coaches, lane too narrow to accommodate
- No restrictions on numbers of vehicle for a funeral, where would additional vehicles park? In the lane?
- No footpath link for pedestrians, blind summit on bridge.
- Traffic figures from 2015, out of date
- Whilst there may be an advisory route from Daw End, there will be nothing to stop vehicles from the residential end of Winterley Lane, over the bridge, adding to existing congestion

- Serious and worsening all day congestion at surrounding road junctions, funerals will increase this and encourage rat runs along other routes, trying to avoid the area
- Existing pedestrians subject to more traffic and increased dangers
- Dangers for existing users of the lane from further infilling work, large vehicles and additional traffic damage to the character of the area
- Decaying corpses will cause contamination of water courses, mine shafts have not been adequately infilled to prevent this
- No evidence that existing infilling has been done safely
- Existence of busy burial ground in close proximity to a school and housing is not acceptable
- No community need for burial ground at this location
- 40 minutes' drive from the site is a big area and massively increases the number of burials
- Increase the saleability and prove of the site
- Applicants track record, destroyed the green belt and environment

### **Objections to amended scheme for 1 Burial a day:**

#### Environmental and amenity issues

- When will the variations end? If approve this they will just come back for more, trying the wear down the planning procedures
- Unacceptable for one burial a week so not acceptable for 1 a day.
- Should be a field for grazing
- More pollution and noise
- Site needs to be returned to how it was, looks awful now
- Company making money from rubbish infill, want to know what was put in there, was this monitored?
- So much opposition to original application, why was it approved?
- Winterley Lane spoilt by all the lorries for the infilling work
- Health and safety implications from increased traffic
- Other sites are more suitable
- Constant fly tipping and anti social behaviour in Winterley Lane
- Residential area, not suitable for burial ground
- More consultation with local residents needed
- No work has started on site since approval
- Environmental impacts
- Site is an eyesore, infilling not completed
- Impact on the canal
- Impact on wildlife
- Not just the funerals there will be visitors to the site following burial
- Surrounding fields prime target for expansion of burial ground
- Increase in burials by 700%
- Natural water springs in the area, concerns about the impact of dead bodies as well as the infilling materials
- Increase in burials will mean an increase in toxicity of the site as bodies decompose and leak into the canal and adjacent land
- Failure to comply with previous approval for completion of infilling
- Should only apply for extra burials once burial ground up and running and a true assessment can be made once infrastructure is in place and infilling complete

- Bank holidays should be deleted, no burials
- Will the site be monitored to ensure full compliance, number of burials etc
- Proximity to local school
- Total disregard to local residents
- Infilled land not appropriate for final resting place

#### Transport and highway safety issues

- Winterley Lane is a single track road with no footpath, not wide enough for two vehicles to pass
- Traffic implications on the main road
- Increase in traffic, impact on local residents
- Winterley Lane is used as a cut through
- The narrow bridge wont be able to cope with the increase in traffic, already damaged, by large vehicles ignoring the weight limit
- Impact on pedestrians, particularly parents with young children using Winterley Lane
- Parking inadequate for funeral cars
- Already a busy road, particularly at school in and out times and peak am and pm times
- The application should include a new bridge
- Transport report out of date, used traffic figures for 2015, significant increase in traffic since then
- Winterley Lane is in a poor state of repair from lorries for infilling and increase in traffic
- 40 minute drive time includes Birmingham, Wolverhampton and Lichfield, not local demand
- No guarantee traffic will come in from Bosty Lane
- If large funeral may be coaches
- Inadequate parking on site

#### Support to amended scheme:

- If it means the site will get cleaned up, give them the go ahead.

#### **Determining Issues**

- **Whether the proposed Variation of the condition 24 is acceptable in terms of highway safety and the water environment.**
- **Objections from neighbours**
- **Changes to the NPPF since previous approval**

#### Determining issues from previous approval (17/0439) that remain unchanged

- **Principle of Development**
- **The Character and Openness of the Green Belt**
- **Neighbouring Amenity**
- **Pollution**
- **Archaeological Considerations**
- **Canal**
- **Land Stability**

- Ecology
- Parking and Access
- Environmental Impact Assessment (EIA) Screening Opinion

## Assessment of the Proposal

### Whether the proposed variation of Condition 24 is acceptable in terms of highway safety

Transportation have confirmed that they agree with the data and findings within the submitted Transport Statement.

The Transport Statement looked at the worst case traffic flows associated with 2 burials per day. The report concludes that the flows generated by the site are likely to be relatively minor compared with the flows already generated by the existing residential areas adjacent to the Winterley Lane site.

Signed access via Bosty Lane only would ensure that additional demand placed on Winterley Bridge to the north west of the site is minimised.

The site is within walking distance of local bus services and whilst this section of Winterley Lane has no designated footpath, the route is already used by pedestrians. The approved scheme does provide for improvements to the verges and carriageway channels that should assist pedestrians choosing to walk this route.

Whilst objectors are concerned about insufficient parking at the site that may result in obstruction of Winterley Lane, Transportation are satisfied that the approved scheme provided sufficient off street parking to meet the needs of the development (50 spaces including 2 disabled spaces), based on the data provided in the Transport Statement from other burial sites in the country.

The restriction of burials to between 1000 and 1500 hours would have no impact on the existing peak hour traffic movements along Winterley Lane.

The report considers data from 12 other existing burial ground sites and a 3 week survey of traffic movements took place at an existing large cemetery site in Hertfordshire.

The Transport Statement looked at the worst case scenario for 2 burials per day, the scheme has now been amended to 1 burial a day (Mon – Sat), resulting in less of an impact.

Whilst objectors are concerned at the 2015 used in the Transport Statement, natural burial grounds are a relatively new concept and therefore there will be little if any trips survey data on the TRIC's database. TRIC's is an industry recognised system of trip generation analysis containing 1000's of transport surveys across over 100 types of developments. It allows users to ascertain potential levels of trip generation across user defined development scenarios. Therefore the Transport Statement utilises their own traffic survey data which, it is accepted, was taken on Winterley Lane in 2015. The Highway Authority considers that any increase traffic on Winterley Lane since 2015, if any, would be minimal and would likely be mainly in peak traffic periods not when the burial ground is operating. Recognising the lack of TRIC's data for robustness, additional survey data from similar

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burial grounds including Welwyn Cemetery was supplied by the applicant to supplement the TRICS data to try to establish the most realistic trip analysis as possible. This was accepted by the Highway Authority. Indeed the additional 2016 actual survey data resulted in an increase in parking provision on site over that on the original submission.

It is considered that in road safety terms one funeral per day within restricted hours would not have unacceptable road safety implications and would not have severe cumulative highway impacts, taking into account trips to and from the site from people arriving by foot, car and public transport.

Para 108 of the NPPF 2018 states specific plans for development should ensure '*safe and suitable access to the site can be achieved for all users*' and that, under para 110, applications for development should '*give priority first to pedestrian and cycle movements, address the needs of people with disabilities and reduced mobility, create places that are safe and secure and attractive which minimise the scope for conflicts between pedestrians, cyclists and vehicle movements, allow for the efficient delivery of goods and access by service and emergency vehicles*'.

Para 109 of the NPPF 2018 states that '*Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*'.

It is considered that the proposals to amend Condition 24 to allow 1 burial a day would comply with the NPPF.

### **Whether the proposed variation of Condition 24 is acceptable in terms of the water environment**

The Environment Agency have confirmed that the detailed quantitative risk assessments undertaken to support the application adequately demonstrates that it is possible to safely accommodate an increase in the number of annual burials on this site.

The modelling undertaken was conservative and the outcome shows there was plenty of pollution attenuation and degradation likely to occur to avoid off-site contamination. In addition to this, the site setting is not highly sensitive, with the adjacent canal not considered in continuity with the groundwater and the underlying aquifer itself being of little value and use (Coal Measures strata).

It is also recognised that green (natural) burials tend to cause less impact to the surrounding environment (no embalming, single depth burial only, low density and vegetation to aid pollution attenuation). The maximum spacing of the burials will further reduce any environmental impacts of the proposals.

The Environment Agency have raised no objections to the proposals in terms of its impact on the water environment.

### **Objections from Neighbours**

A number of the objections raised by neighbours relate to the previous infilling works carried out at the site and the principle of the use of the site as a natural burial ground. The principle of the use has already been established under the previous consent (17/0439) and does not therefore form part of this application, which is for the variation of condition

24 only, to allow for an increase in burials at the site from 50 per annum to 1 a day (Mon – Sat only).

It should be noted that despite the number of objections on any planning application, the Planning Authority are required to determine the proposals based on both National and Local Planning Policy.

Responses to objections relevant to this current application are provided in italics below.

Objectors have concerns about the increased number of funerals and the increase in traffic on the existing lane, which they consider is too narrow – *Transportation are happy with the projected figures on traffic flows provided and the data provided for other burial sites around the Country to be satisfied that the proposals for 1 burial a day within off peak hours would not have unacceptable road safety implications and would not have severe cumulative highway impacts.*

Insufficient parking – *The approved layout includes 50 parking spaces (inc 2 disabled spaces) which is considered appropriate to meet the needs of the development and in line with the data and surveys within the Transport Statement.*

Large funerals may include coaches – *This would be the same for any cemetery site or burial ground, which are unlikely to be able accommodate such a large vehicle. It is considered impractical and unnecessary to design the natural burial ground based around the turning circle of a coach in what is very likely to be a rare occasion if at all. The operators of the cemetery could easily advise funeral organisers that such vehicles should be not be utilised. On the rare occasion this may happen any coach would to reverse into the entrance to drop off and turn to leave in the same direction and collect again after the funeral. This issue was assessed at the time of the original application, the increase in the number of funerals to one a day is unlikely to affect this.*

The resultant increase in traffic will lead to additional pollution and noise and health and safety implications – *The proposals are unlikely to create a significant increase in traffic over the existing traffic volumes at peak times in the surrounding area.*

Appearance of the site and Winterley Lane from the infilling work, vandalism and fly tipping – *If the applicant fails to implement the remainder of the infilling works under consent 17/0439, then the Council has powers to take action against untidy sites where warranted through a Section 215 Notice.*

No work has started on site since the previous approval – *The applicant has three years to implement the consent under 17/0439, which was granted on 21<sup>st</sup> November 2018, they therefore still have just over two years to implement the consent. If this current application is approved, it would sit alongside the existing consent and the developer would have the option to implement either. Condition 2 on 17/0439 requires the developer to complete the infilling works within 48 months from the date of commencement.*

The applicant should only be allowed to have an increase once the burial ground is up and running, when will these variations end? – *The Planning Authority has no control over when an applicant makes an application, but are obliged to determine any application submitted.*



Environmental impacts – *It is considered that the increase in the number of burials proposed would have no additional impact on the local environment, the overall capacity of the site would remain unchanged.*

Monitoring of activities on site – *The applicant is required to keep record of the infilling materials and process and the Environment Agency is responsible for the monitoring of the site during the infilling works.*

Disregard to local residents by developer – *Conditions are included in the previous approval that relate to the management of the site and hours of working on site. The proposed amended condition would restrict the days and hours of burials and times for visitors in order to reduce any impact on local residents.*

The surrounding field's prime target for expansion of the burial ground – *Any further expansion of the burial ground would require planning consent and would be considered under both National and Local Planning Policy.*

### **Changes to the NPPF since previous approval.**

It should be noted that since the previous approval in Nov 2018, the NPPF has been amended (Feb 2019). In the new NPPF Para 146 which defines development that is not inappropriate development in the Green Belt has been amended, part e) now includes cemeteries and burial grounds.

Cemeteries and burial grounds and the buildings that would provide appropriate facilities to serve the use is now not regarded as inappropriate development in the Green Belt providing they preserve the openness and do not conflict with the purpose of including the land within it.

## **Conclusions and Reasons for Decision**

The principle of a natural burial ground at the site was approved under the previous application 17/0439. Whilst the number of burials were restricted to 50 per annum, condition 24 of the approval confirmed that the applicant would need to provide an updated Transport Statement and risk modelling to assess the impact on the water environment to justify any increase in burials.

Having taken into consideration the data provided in the submitted Transport Statement including survey details for other similar burial sites around the Country, it is considered that in road safety terms one funeral per day within restricted off peak hours would not have unacceptable road safety implications and would not have severe cumulative highway impacts over that of the existing consent. The proposals comply with the NPPF and Policy GP2 of the UDP.

The Environment Agency have confirmed that the detailed quantitative risk assessments undertaken to support the application adequately demonstrates that it is possible to safely accommodate an increase in the number of annual burials on this site without any adverse impact on the water environment, in compliance with Policy ENV40 of the UDP.

The submitted data supports the proposals to increase the number of funerals at the natural burial ground from 50 per annum to 1 per day within restricted off peak hours and Monday to Saturday only.

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's agent and in response to concerns raised by Transportation to two burials a day the application has been amended to 1 burial a day to 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 92 of the Town and Country Planning Act, 1990.

2a) The permitted period of time for the infilling operation shall be limited to 48 months from the date of commencement. Written notice of the date of commencement shall be given to the local planning authority within seven days of such commencement.

2b) The mineshaft infilling operation shall be completed prior to the use of the site as a natural burial ground.

Reason: To ensure the works do not continue indefinitely in the interests of neighbouring amenity and to comply with saved UDP policies GP2 and ENV10

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

Location Plan received 30/03/18  
Entrance Detail Plan received 30/03/17  
Drainage Layout Plan received 30/03/17  
Detailed Landscape Proposals received 30/03/17  
Shaft Location Plan received 25/10/17  
Shaft Capping as Built Details received 25/10/17  
Amended General Site Layout (CDS\_DCY\_WIN\_02 rev09) received 16/10/18  
Planning Policy Statement received 18/05/17  
Transport Statement by Alpha Consultants dated December 2018 submitted 27/12/18.  
Supporting Statement received 30/03/17  
Road and Car Park Soakaway Design received 30/03/17  
Pollutant Impact Assessment received 30/03/17

Updated Pollutant Impact Assessment by LMB Geosolutions Ltd dated 18-12-18, submitted 21-12-18  
 Further Comments by LMB Geosolutions Ltd dated 08-02-19, following assessment of 18-12-18, submitted 22-02-19.  
 Planning Statement received 18/05/17  
 Addendum to Planning Statement submitted 21/12/18  
 Outline Landscape Proposal 30/03/17  
 Land Visual Impact Assessment received 04/05/17  
 General Design Statement received 18/05/17  
 Flood Risk Assessment received 30/03/17  
 Extended Phase 1 Habitat Survey received 30/03/17  
 Ecological Assessment received 30/03/17  
 Design and Access Statement received 30/03/17  
 Design and Access Statement and Sustainability Statement received 30/03/18  
 Biodiversity Mitigation Enhancement and Management Plan received 04/05/17  
 Bat Survey received 30/03/17  
 Archaeology Desk based Assessment received 04/05/17  
 Shaft Capping Input log received 25/10/17  
 Imported Material Log received 21/12/17  
 General Site Layout received 30/03/17  
 Tree Plan received 30/03/17  
 Mitigation, enhancement and management plan received 04/04/18.

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).

4a) Prior to the commencement of the development, a Construction Methodology Statement shall be submitted to and approved by the Local Planning Authority with the following details:

- 1) the parking of vehicles of site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development;
- 2) measures to control the emission of dust and dirt during restoration;
- 3) details of protective measures (both physical measures and sensitive working practises) to avoid impacts during restoration;
- 4) A timetable to show phasing of restoration activities to avoid periods of the year when sensitive wildlife could be harmed (such as when badgers, reptiles and amphibians are active and during bird nesting seasons);
- 5) Persons responsible for:
  - i) Compliance with legal consents relating to nature conservation;
  - ii) Compliance with planning conditions relating to nature conservation
  - iii) Installation of physical protection measures during construction;
- 6) Regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction
- 7) Provision of training and information about the importance of Environmental protection measures to all construction personnel on site.
- 8) Details to demonstrate that any proposed earthmoving, excavations, or other operations can be safely carried out without adversely affecting the stability of the adjacent canal.

- 9) Details of the proposed bund to the canal along with associated drainage infrastructure, measures to protect the canal infrastructure including any bank protection, and details on the removal of the bund following completion of the mineshaft infilling works

4b) The works hereby approved shall be completed in accordance with the approved methodology.

Reason: In order to protect the structural stability and water quality of the canal in accordance with Paragraphs 178 & 179 of the NPPF, saved UDP Policy ENV40 of the Walsall UDP and Policy ENV4 of the adopted Black Country Core Strategy

5a) Prior to the development first coming into use, the internal access road and all parking and vehicle manoeuvring areas shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain and the parking bays clearly demarcated on the ground.

5b) These areas shall thereafter be retained and used for no other purpose.

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

6a) Prior to the commencement of the development details of surface water drainage including measures to mitigate water from entering the canal shall be submitted to and agreed in writing by the Local Planning Authority.

6b) The development shall be completed in accordance with the agreed details and maintained thereafter.

Reason: To ensure that surface water from the site is disposed of in a safe and appropriate manner in order to protect the integrity of the waterway structure and water quality in accordance with saved Policy ENV40 of the Walsall UDP and Policy ENV4 of the adopted Black Country Core Strategy.

7a) Prior to commencement the applicant will secure the implementation of a programme of archaeological evaluation in accordance with a Written Scheme of Investigation that has been submitted to and approved in writing by the Local Planning Authority.

7b) Prior to commencement the applicant will secure the implantation of a programme of archaeological mitigation of impact in accordance with a Written Scheme of Investigation that has been submitted to and approved in writing by the Local Planning Authority.

7c) Following completion of archaeological fieldwork a report/reports will be produced in accordance with an approved programme including where appropriate post-excavation assessment, specialist analysis and reports, publication and public engagement.

Reason: To ensure the conservation, protection and enhancement of the archaeological heritage of Walsall and to comply with UDP policy ENV25 and ENV26

8a) Prior to the commencement of any earthworks the methodology detailed in paragraph 4.3.3 of *the Project Design for an Archaeological Watching Brief 2014* shall be carried out.

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8b) The project will be monitored by the Archaeological Officer (AO) on behalf of the Local Planning Authority. (At least five working days notice for the commencement of development will be given to the AO).

8c) A report of the findings will be submitted to and approved by the AO for approval prior to remediation being carried out.

8d) On completion of the remediation work the results and all finds recovered will be analysed and an illustrated report shall be produced to include:

- Location, aims and methodology
- A written summary of the findings together with appropriate illustrations, which should be related to the national grid. Levels should be related to the Ordnance Datum.
- An analytical summary of features and deposits, including an annotated survey plan showing identified geophysical anomalies potentially representative of archaeological features.

8e) Copies of the report shall be presented to the Local Planning Authority and the Walsall Local History Centre. A digital copy will be lodged with the Black Country Sites and Monuments Record. Arrangements for deposition of finds and records will be agreed with Walsall Museum and Walsall Local History Centre and an OASIS record will be completed and a summary report should be sent for publication in West Midlands Archaeology and any other appropriate local or national archaeological journal.

Reason: To ensure the conservation, protection and enhancement of the archaeological heritage of Walsall and to comply with saved UDP policies ENV25 and ENV26

9) The methodology agreed under 14/0191/WA condition 8b for the cleansing of vehicle wheels before they exit onto the highway with the Local Planning Authority, shall be continued and maintained throughout the remaining duration of the infilling and restoration work.

Reason: To protect the adjacent highway and 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 and in accordance with saved UDP policy T4.

10) The advanced site access warning signs on Winterley Lane, agreed under 14/0191/WA condition 11a (iv), shall be retained throughout the remaining duration of the infilling and restoration works and removed thereafter.

Reason: In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development and in accordance with saved UDP policy T4.

11) The location of parking for site operatives and visitors within the application site, agreed under 14/0191/WA, shall be retained, maintained and kept available throughout the remaining duration of the infilling and restoration works.

Reason: To protect the adjacent highway and 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 and in accordance with saved UDP policy T4.

12) The infilling works hereby approved shall not be carried out other than in accordance with the following requirements:

- All records shall be kept strictly in accordance with the original Environarm's Method Statement and Working Plan Ref: EL/MAD/IRWP/1.00/2014
- The applicant shall notify the Local Planning Authority by contacting Engineering and Transportation Services (Mr Mo Rahimi, Tel: 01922 654655, email [mo.rahimi@walsall.gov.uk](mailto:mo.rahimi@walsall.gov.uk)) for arranging an appointment for the inspection of the infilling work, the first of which shall be the starting date for the approved the infilling work. A notice of 24 hours shall be given for the inspection.
- The applicant shall submit quarterly statements from the date of approval for the previous phase to update the Local Planning Authority on the progress of the infilling work. The quarterly statements shall include a summary of the loads imported cross referenced to the source site reports/chemical testing results.
- Stage completion reports shall be submitted at the end of each phase of the work as shown on Drawing ESID 8 of the Enviroarm Method statement
- The applicant shall submit a quarterly statement of monitoring of the settlement of the infill material in the treated shafts

Reason: To ensure the satisfactory stability of land and to accord with saved UDP policies GP2 and ENV14.

13a) Prior to vehicles entering the site to perform the infilling works, details shall be provided to and approved by the Local Planning Authority which demonstrate a sufficient quantity of water is available on-site for suppressing dust and clean vehicle wheels on a daily basis prior to works commencing.

13b) The approved water quantities available for use at the site shall be maintained through the infilling works.

Reason: To ensure the satisfactory completion of the development and protect residential amenities of surrounding occupiers in accordance with the saved UDP policy GP2.

14a) Prior to the creation of any stockpile of material in relation to the infilling works a plan shall be submitted to and approved by the Local Planning Authority of the location.

14b) Material stockpiles shall not exceed 4 metres in height.

Reason: To protect the residential amenities of surrounding occupiers and to comply with saved UDP policy ENV32.

15a) Prior to the development first coming into use, full engineering details of the reconstructed passing bays on Winterley Lane together with the closure of the existing northerly access and conversion into a passing bay shall be submitted to the Local Planning Authority for technical approval in writing. The details shall include layouts and alignments, widths and levels together with all necessary drainage arrangements and run off calculations and details of appropriate Passing Bay signing and lining details.

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15b) Prior to the development first coming into use, the passing highway infrastructure works detailed above shall be fully implemented in accordance with the approved details and to the satisfaction of the Local Highway Authority.

Reason: To ensure the satisfactory completion and operation of the public highway, to improve accessibility to the site and in the interests of highway safety and in accordance with saved UDP policy T4.

16a). Prior to the commencement of the development full details and the locations of traffic warning signs to be installed in Winterley Lane to warn motorists that there may be pedestrians in the road ahead and to be installed at the junction of Winterley Lane and Bosty Lane and Winterley Lane to indicate the main vehicular route to and from the cemetery, shall be submitted to and agreed by the Local Planning Authority.

16b) The approved signage shall be installed prior to the commencement of the natural burial ground use.

Reason: In the interests of highway safety on the grounds that the development may intensify pedestrian movements along Winterley Lane where there is no segregated footway provision and in accordance with saved UDP policy T4.

17) A 2.4m x 25m minimum visibility splay in both directions shall be maintained at all times at the site entrance, within which a visibility envelope of between 600mm and 2000mm above carriageway level shall be kept clear of any structure or vegetation.

Reason: To ensure adequate inter-visibility at the site access based upon a 20mph speed limit, in accordance with saved UDP Policy GP2 and in the interest of highway safety and in accordance with saved UDP policy T4.

18a) The development hereby approved shall not proceed otherwise than in accordance with detailed landscaping plans which have been submitted to and approved in writing by the Local Planning Authority. The details shall provide for planting details and timetable for implementation for planting to the proposed bund to the canal boundary and site following restoration and prior to the commencement of the use as a burial ground.

18b) Any plants which within a period of 5 years die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area and biodiversity of the waterway corridor in accordance with Policy ENV4 of the Black Country Core Strategy.

19) All plant, machinery, hard standings and haul roads which are required for the infilling works and do not form part of the approved details for the natural burial ground, shall be removed from the site within 3 months of the cessation of landfill operations.

Reason: To protect the character and openness of the Green Belt and visual amenities of the area in accordance with saved UDP policies ENV2 and ENV32.

20) No works, (including, land reclamation, stabilisation, preparation, and deliveries etc.), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and Site operations shall not be conducted between the hours 1800 and 0700 Monday to Saturday or after 1300 on Saturdays, with the material processing activities not taking place between 1600 to 0800 Monday to Saturday or after 1200 on Saturdays.

(\* 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 residential amenities of surrounding occupiers in accordance with saved UDP policy GP2.

21) Noise from the application site, either individually or cumulatively, shall not exceed 55 dB (A) LAeq,1h (free field) and 5 dB(A) above background levels 1 metre from nearby sensitive premises.

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

22) No burials shall take place other than in accordance with the following:

- Burials shall be a minimum of 250m from a potable groundwater supply source;
- Burials shall be a minimum of 30m from a watercourse or spring;
- Burials shall be a minimum of 10m from field drains;
- Burials shall have at least 1m of subsoil below the base of the grave
- Burials shall not take place into standing water and the base of the grave must be above the local water table.

Reason: To protect the quality of Controlled Waters in the local area and to comply with saved UDP policy ENV40 and to ensure that the proposed works do not have any adverse impact on the stability of the canal and therefore protect the integrity of the Daw End Canal in accordance with Paragraphs 178 & 179 of the NPPF.

23) The proposed bat and bird boxes, reptile log pile shelters shall be carried out in accordance with the submitted biodiversity, mitigation, enhancement and management plan received in the 04/05/17.

Reason: To ensure the satisfactory restoration of the site in the interests of nature conservation and to comply with saved UDP policy ENV23

24a) No more than 1 burial shall take place per day.

24b) No burials shall take place outside the hours of 10am to 3pm Monday to Saturday.

24c) No burials shall take place on Sundays or Bank/Public Holidays

24d) The natural burial site hereby approved shall not be open to visiting members of the public outside the hours of 8am to 5pm Monday to Sunday.

Reason: To minimise the impact on neighbouring amenity, to protect the water environment and to accord with saved UDP policies GP2 and ENV40.

25) Graves shall only be marked with wooden plaques.



Reason: To minimise the impact on the openness of the green belt and to accord with saved UDP policies ENV2 and ENV32.

#### 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.
2. The applicant will be expected to enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority for all works within the existing public highway.
3. Traffic warning signs shall be in accordance with the Traffic Signs Regulations General Directions 2016

The applicant/developer is advised to contact Works Engineering Team (0303 040 4040) in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust".

The infilling of (flooded) mine entries and workings associated with this development will require an Environmental Permit under the Environmental Permitting Regulations 2010, from the Environment Agency, unless an exemption applies. The applicant is advised to contact the Environment Agency on 03708 506 506 for further advice and to discuss the issues likely to be raised. You should be aware that the permit may not be granted.

Additional 'Environmental Permitting Guidance' can be found at:

<https://www.gov.uk/environmental-permit-check-if-youneed-one>

The Agency needs to compile reports to meet DEFRA high level targets and consequently a copy of the required decision notice should be forwarded following determination of the application.



## Planning Committee

Report of Head of Planning, Engineering and Transportation on 31-Oct-2019

**Plans List Item Number: 3.**

**Reason for bringing to committee: Significant Community Interest**

**Location:** GARAGES ADJACENT TO NO 7, FEREDAY ROAD, WALSALL WOOD

**Proposal:** ERECTION OF 5 NO DWELLINGS (3 TERRACED AND 2 SEMI-DETACHED PROPERTIES).

**Application Number:** 19/0666

**Applicant:** WHG

**Agent:** Ms Izzy Kendrick-Jones

**Application Type:** Full Application: Minor  
Use Class C3 (Dwellinghouses)

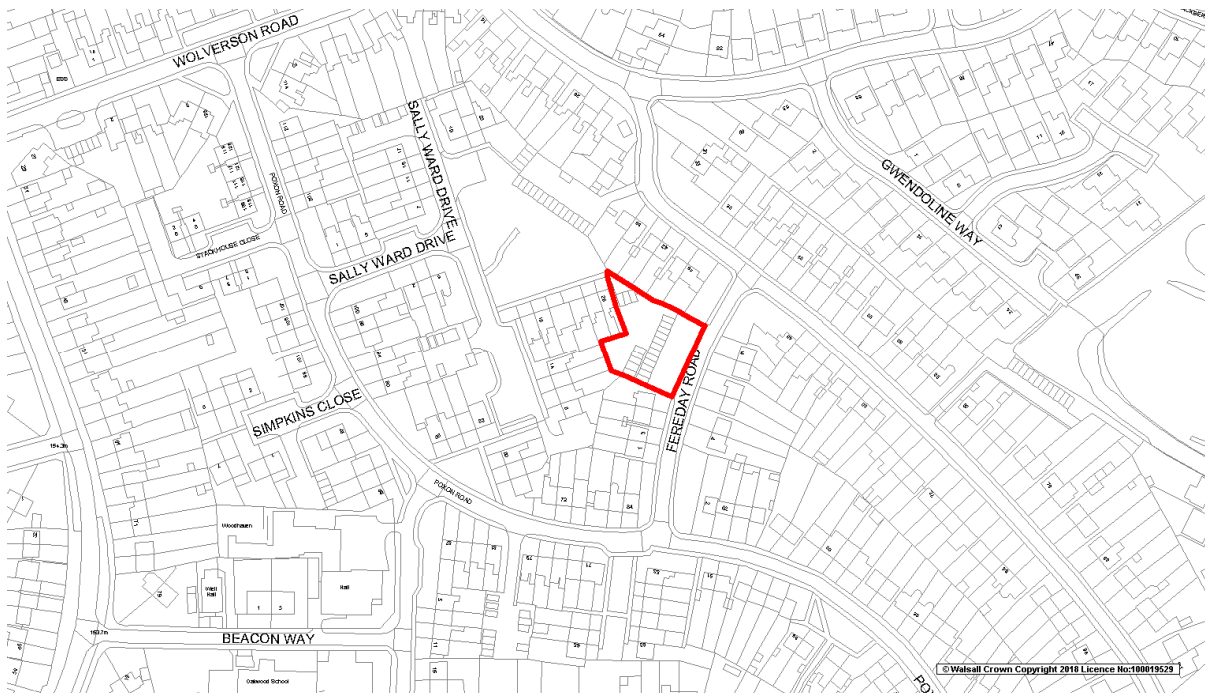
**Case Officer:** Barbara Toy

**Ward:** Aldridge North And Walsall  
Wood

**Expired Date:** 26-Jul-2019

**Time Extension Expiry:** 08-Nov-2019

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



## Current Status

At your meeting on 3<sup>rd</sup> October 2019 Members deferred determination of this application to allow for discussions with the applicant about creating access arrangements for neighbours as part of the development.

The applicants have agreed to provide access to the rear of the properties in Sally Ward Drive that back on to the site. The site layout plan has therefore been amended and now shows the original rear gated access extended all the way round to the south, to a further gated access to the side (south) of Unit 1. This would create a complete looped access to the rear of the proposed houses, gated at the northern and southern ends.

The applicants have confirmed that they will require residents to enter into access agreements and will then be issued with keys to the gates. The access would be managed by the applicants.

Neighbours have been re-consulted on amended plan, the consultation period expires on 29<sup>th</sup> October 2019. Any further comments received from neighbours will be reported in the Supplementary Paper.

The proposed amendments would provide a secure rear access for the 5 new houses and 6 existing houses within Sally Ward Drive that back onto the site.

Condition 2 below has been amended to include the amended Proposed Site Plan

2. The development shall not be carried out otherwise than in accordance with the following approved plan:

Site Location Plan Drawing L(00)001 Rev P2 submitted 31<sup>st</sup> May 2019

Existing Site Plan Drawing L(00)002 Rev P2 submitted 31<sup>st</sup> May 2019

Proposed Site Plan Drawing L(00)101 Rev P5 submitted 15<sup>th</sup> October 2019

Proposed Ground Floor Plan Unit 1 to 5 Drawing L(01)001 Rev P2 submitted 31<sup>st</sup> May 2019

Proposed First Floor Plan Unit 1 to 5 Drawing L(01)002 Rev P2 submitted 31<sup>st</sup> May 2019

Proposed Roof Plan Unit 1 to 5 Drawing L(01)003 Rev P2 submitted 31<sup>st</sup> May 2019

Unit 1 to 5 Elevation A Drawing L(02)001 Rev P2 submitted 31<sup>st</sup> May 2019

Unit 1 to 5 Elevation B Drawing L(02)002 Rev P2 submitted 31<sup>st</sup> May 2019

Unit 1 and 2 Elevation C Drawing L(02)003 Rev P2 submitted 31<sup>st</sup> May 2019

Unit 1 and 2 Elevation A – Colour Render Drawing L(02)004 Rev P2 submitted 31<sup>st</sup> May 2019

Design and Access Statement submitted 31<sup>st</sup> May 2019

Groundsure Screening and Coal Authority Coal Mining Report submitted 31<sup>st</sup> May 2019

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

Minor amended wording to conditions 4, 6 and 8 recommended by Legal Services on the original report have been made in the report below. The recommendation of Grant subject to conditions remain the same.

## Proposal

This application proposes the erection of 5 x 3 bed two storey houses, a pair of semis and 3 terraced houses on the site of 19 former lock up garages.

The houses would be set back from the pavement by 10m, with a small landscaped area and driveway parking for 2 cars and rear private gardens varying in size from 64m<sup>2</sup> to 85m<sup>2</sup>. Bin storage, garden shed and rotary dryers would be provided in each garden.

This site forms part of a large project by the applicant to redevelop former garage courts to provide new homes, utilising the efficiencies and benefits of AMC (Advanced Methods of Construction). This means that the majority of house construction takes place in a factory using a hybrid of pods and panels. The central pods containing the kitchen and bathrooms are structurally formed from LSF (lightweight steel frame) to which a series of LSF panels wrapped in insulating material with the uPVC windows and composite doors inserted in the factory. The entire unit would be wrapped in brick slips, render or cladding, which can be varied to be site specific. On site the central pods would be placed on the foundations and the panels then fixed to the pods to provide the finished house, ready to move in to. The pitched, tiled roofs (with solar panels) would also be brought to site in panels and put together on site.

Each house would have a footprint of 5.2m x 8.9m with a maximum height of 8.5m and would have no side facing windows. At this site the brick slips would be multi red with grey roof tiles.

The existing gated private right of way between Fereday Road and Sally Ward Drive would be retained as part of the development, with an entry provided to the rear of the houses to provide access for bins to the public highway.

The proposals would result in the loss of 3 trees across the centre of the site however at least one tree would be provided in each of the new rear gardens.

The scheme has been amended since submission to remove a proposed play area at the rear of the houses, retain the gates to secure the private right of way, provide an extended rear access and amend the proposed parking layout for each house to ensure a gap between footway crossings.

## Site and Surroundings

The site is situated on the western side of Fereday Road and comprises a former court of 19 lock up garages. The garages have already been demolished and site secured with hoardings. A gated private right of way sits along the northern end of the site.

To the north of the site are semi detached houses fronting Holly Lane, with rear gardens at rights angles to the existing gated private right of way. To the east on the opposite side of Fereday Road are further semi detached houses set back off the road with further semis to the immediate south of the site. To the west of the site are terraced houses in Sally Ward Drive.

The site sits in a long established residential area comprising a mix property styles in both WHG and private ownership.

## **Relevant Planning History**

None

## **Relevant Policies**

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

**[www.gov.uk/guidance/national-planning-policy-framework](http://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*".

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

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **National Planning Policy Guidance**

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

## **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty “PSED” on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

### **Development Plan**

**[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)**

### **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- ENV2: Historic Character and Local Distinctiveness

- ENV3: Design Quality
- ENV8: Air Quality

## **Walsall Site Allocation Document 2019**

HC2: Development of Other Land for Housing

## **Supplementary Planning Document**

### **Designing Walsall**

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

### **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 subject to conditions relating to surfacing and drainage of parking areas and modifications and reconstruction of footway crossings along Fereday Road. The proposals provides 2 off street parking spaces for each dwelling in line with Policy T13.

**Pollution Control** – No objections subject to conditions to ensure compliance with Black County Air Quality SPD, intrusive site investigation to assess potential ground contamination and ground gas and construction management plan.

**Fire Officer** – Requirement to comply with Building Regulations Part B

**West Midlands Police** – No objections to the amended scheme, secured by design recommended.

**Public Rights of Way Officer** – No objections, there is no definitive public right of way across or adjoining the site. The private right of way would benefit from lockable gates to ensure private access and security of the existing and proposed residents.

**Severn Trent Water** - No objections subject to a drainage condition and note to applicant re public sewers

## **Representations**

Five objections received relating to the original scheme and three objections received relating to the amended plans.

Objections to original proposals:

- Loss of pedestrian and vehicle access to the rear of the property since the garages demolished
- A number of houses in Sally Ward Drive have access gates onto the site to rear gardens, since the houses were built, which will be lost, loss of access for bins.
- Removes access for emergency services to the rear of the houses
- Loss of escape route to the rear
- Two storm drains to the rear of existing properties that require access
- Safety and security to surrounding properties will be compromised
- Will existing boundary treatment be retained or replaced?
- No objections to houses being built just to the loss of rear access
- The play area will encourage anti social behaviour, the reason the access was originally gated

Objections to the amended proposals:

- Road not big enough to take extra traffic
- Quiet road everyone knows each other
- There were problems to neighbours when the garages were demolished.
- Revised plans appear to honour existing rear access
- Storms drains within the site which have not been cleared since the site was secured, concern about future maintenance to stop water running into adjacent gardens (photos provided)
- Previous concerns about rear access not resolved, access rights have been altered for some properties in Sally Ward Drive but not No 10, concerns regarding this expressed direct to WHG
- Loss of rear access for bins, repairs and fire safety
- No objections to building of house, but existing rear access rights should be maintained the same as neighbours.
- Who will be living there? (not a material planning consideration)
- Property devaluation (not a material planning consideration)

## **Determining Issues**

- **Principle of the proposed use**
- **Design and Layout**
- **Impact on the amenities of the surrounding occupiers and the street scene**
- **Access and Parking**
- **Local Finance Considerations**

## **Assessment of the Proposal**

**Principle of the proposed use**



The site comprises previously developed land situated in a well-established residential area, within walking distance of the local shops at Streets Corner local centre which is less than 500m from the site. Regular bus service are situated within walking distance of the site. The site is considered to be in a sustainable location.

The principle of the provision of five further residential properties at the site is considered appropriate and in line with both national and local policies.

### **Design and Layout**

The surrounding properties comprise a mix of semi detached and terraced two storey houses in facing brickwork with a mix of both gable and hipped roofs. The proposed houses with a brickwork face and gable roofs would pick up on the characteristics of the properties in the immediate vicinity. The proposed window design would however provide a more modern appearance to the properties which is considered appropriate. The width of the properties and plot sizes are considered appropriate and compatible with the character of the area.

The advanced method of construction proposed would provide modern, efficient, high standard, affordable housing with a short on site construction period.

The houses would be characteristic of others in the area, addressing the street, with front gardens/driveways and private rear gardens. Whilst Plot 3 would have a rear garden of 64m<sup>2</sup>, just below the 68m<sup>2</sup> required by Appendix D of Designing Walsall, the other four plots would have gardens exceeding the 68m<sup>2</sup>. One garden just below the requirement is considered appropriate in this case as it is characteristic of other properties in the area. The layout is considered appropriate for its location.

The amended scheme shows that the existing private gated access would be retained and extended to the rear of the proposed houses, with access rights for surrounding residents secured through WHG. It is considered impractical to provide any further extension to the access due to the length of the route to the public highway. The applicants (WHG) have carried out consultation with the surrounding residents to try and alleviate any concerns and resolve access issues. Whilst the proposals would result in the loss of 3 trees across the centre of the site, at least one tree would be provided in each of the new rear gardens in mitigation.

The design and layout of the development is considered appropriate and in compliance with policy.

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

The proposed layout means that the new houses and gardens would back on to and sit at an angle to the ends of rear gardens of houses in Sally Ward Drive, the houses themselves however would be no closer to the existing properties than the original garages. The relationship between the proposals and the existing houses is considered appropriate and characteristic of other properties within the area.

It is considered that the houses would integrate well into the existing street scene.

The separation distance between the rear of 44 and 46 Holly Lane to the north of the site to the blank side elevation of unit 5 would meet the 13m required by Appendix D of Designing Walsall, with the private gated access set within the gap.

The applicants have been made aware of objectors concerns regarding the future maintenance of the storm drains and a construction management plan is recommended to control disturbance to neighbours during the construction period.

It is considered that the proposals would have no adverse impact on the amenities of the surrounding occupiers.

### **Access and Parking**

The proposals would provide 2 off street parking spaces for each house in compliance with Policy T13. Each property would have its own driveway with new vehicle access and the private gated access to the side and rear of the site would be retained. Transportation have raised no objections to the amended layout that separates the driveways to the houses to allow for pedestrian refuse between each footway crossing.

Whilst the loss of the former garages has reduced the level of parking available for the existing residents, the site has already been cleared and secured, not available for use for some months. A number of the existing properties within the vicinity have their own off street parking facilities and for the remainder there are no parking restrictions within the local streets so on-street parking is available.

### **Local Finance Considerations**

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

This application proposes 5 new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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

## **Conclusions and Reasons for Decision**

This is a previously developed site situated in a residential area in a sustainable location. The principle of residential development of the site is therefore considered appropriate and complies with Policies HOU2 and CSP4 of the BCCS, Policy HC2 of the SAD and H3 and ENV14 of the UDP.

The layout is considered acceptable and in compliance with policies GP2, ENV32 and T13 of the UDP and Appendix D of Designing Walsall.

The design of the new properties is considered appropriate and picks on key characteristics of the surrounding properties and would comfortably fit within the street scene, in compliance with policy ENV32 of the UDP. The advanced method of construction proposed would provide modern, efficient, high standard, affordable housing with a short on site construction period.

Access and parking arrangements would comply with policies GP2 and T13 of the UDP.

It is considered that the development would have no adverse impact on the amenities of the surrounding occupiers in compliance with policies GP2 and ENV32 of the UDP and Appendix D of Designing Walsall.

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's agent and in response to concerns raised regarding the play area, gated access and parking, 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: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall not be carried out otherwise than in accordance with the following approved plan:

Site Location Plan Drawing L(00)001 Rev P2 submitted 31<sup>st</sup> May 2019

Existing Site Plan Drawing L(00)002 Rev P2 submitted 31<sup>st</sup> May 2019

Proposed Site Plan Drawing L(00)101 Rev P3 submitted 19<sup>th</sup> July 2019

Proposed Ground Floor Plan Unit 1 to 5 Drawing L(01)001 Rev P2 submitted 31<sup>st</sup> May 2019

Proposed First Floor Plan Unit 1 to 5 Drawing L(01)002 Rev P2 submitted 31<sup>st</sup> May 2019

Proposed Roof Plan Unit 1 to 5 Drawing L(01)003 Rev P2 submitted 31<sup>st</sup> May 2019

Unit 1 to 5 Elevation A Drawing L(02)001 Rev P2 submitted 31<sup>st</sup> May 2019

Unit 1 to 5 Elevation B Drawing L(02)002 Rev P2 submitted 31<sup>st</sup> May 2019

Unit 1 and 2 Elevation C Drawing L(02)003 Rev P2 submitted 31<sup>st</sup> May 2019

Unit 1 and 2 Elevation A – Colour Render Drawing L(02)004 Rev P2 submitted 31<sup>st</sup> May 2019

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

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

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

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with saved UDP policies GP2, ENV10 and ENV14.

4a. Prior to the commencement of development, including demolition a Construction Working Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary portacabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris

- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
  - xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
  - xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures
- 4b. prior to the commencement of development the approved Construction Working Plan shall be implemented upon commencement of works and shall be maintained until the site is completed.

Reason: To protect the amenities of the surrounding occupiers and minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway due to the access constraints to the site, in the interests of amenity and highway safety in accordance with Policy GP2, ENV32, T7 and T13 of the UDP.

5a. Prior to the commencement of the development hereby approved drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted to and approved in writing by the Local Planning Authority.

5b. The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

6a. Prior to the first occupation of any dwelling on the development, the parking spaces serving that dwelling shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

6b. The parking spaces shall thereafter be retained for the lifetime of the development and used for no other purpose.

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

7. Prior to the first occupation of any dwelling on the development, the required modification of the footway crossings to align with the individual driveways, shall be installed in accordance with the Council's footway crossing specification SD11/8 dated January 2008. All works within the public highway shall be in accordance with all statutory requirements.

Reason: To ensure the satisfactory completion and operation of the access, in accordance with UDP Policy GP2, the Council's footway crossing procedure and in the interests of highway safety.

8a. Prior to the first occupation of any dwelling written details shall be submitted to and approved in writing by the Local Planning Authority demonstrating how the requirements of the Black Country Air Quality SPD will be implemented.

8b. Prior to the first occupation of any dwelling the approved measures shall be implemented and a written validation statement shall be submitted to the Local Planning Authority.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy

### **Notes for Applicant**

#### **Highways**

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to either enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.

#### **Air Quality SPD**

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

The electric vehicle charging point provision for residential premises is a charging point per residential premise or Units with unallocated parking e.g. apartments – 1 charging point per 10 spaces, complying with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw. Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),
- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

Ultra-low NOx boilers discharge NOx at or below 40mg/kWh. The latest models are future-proofed to the European

Union's Energy-related Products Directive 2018 NOx levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NOx, and may be eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

#### **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 2018; British Standard BS10175: 2011+A2:2017 '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.

### **Severn Trent Water**

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn’t permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of

our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

[Planning.apwest@severntrent.co.uk](mailto:Planning.apwest@severntrent.co.uk) where we will look to respond within 10 working days. Alternately you can call the office on 01902 793851.

### **West Midlands Police**

I refer the applicant to crime prevention and home security advice contained within SBD New Homes.

Please see:

[https://www.securedbydesign.com/images/downloads/HOMES\\_BROCHURE\\_2019\\_NEW\\_version\\_2.pdf](https://www.securedbydesign.com/images/downloads/HOMES_BROCHURE_2019_NEW_version_2.pdf)







# Walsall Council

Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning, Engineering and Transportation on 31-Oct-2019

**Plans List Item Number: 4.**

**Reason for bringing to committee: Significant Community Interest**

**Location:** GARAGES, MOSSLEY CLOSE, BLOXWICH

**Proposal:** ERECTION OF A PAIR OF SEMI DETACHED HOUSES AND PROVISION OF NEW CAR PARKING AREA.

**Application Number:** 19/0668

**Applicant:** WHG

**Agent:** Izzy Kendrick-Jones

**Application Type:** Full Application: Minor  
Use Class C3 (Dwellinghouses)

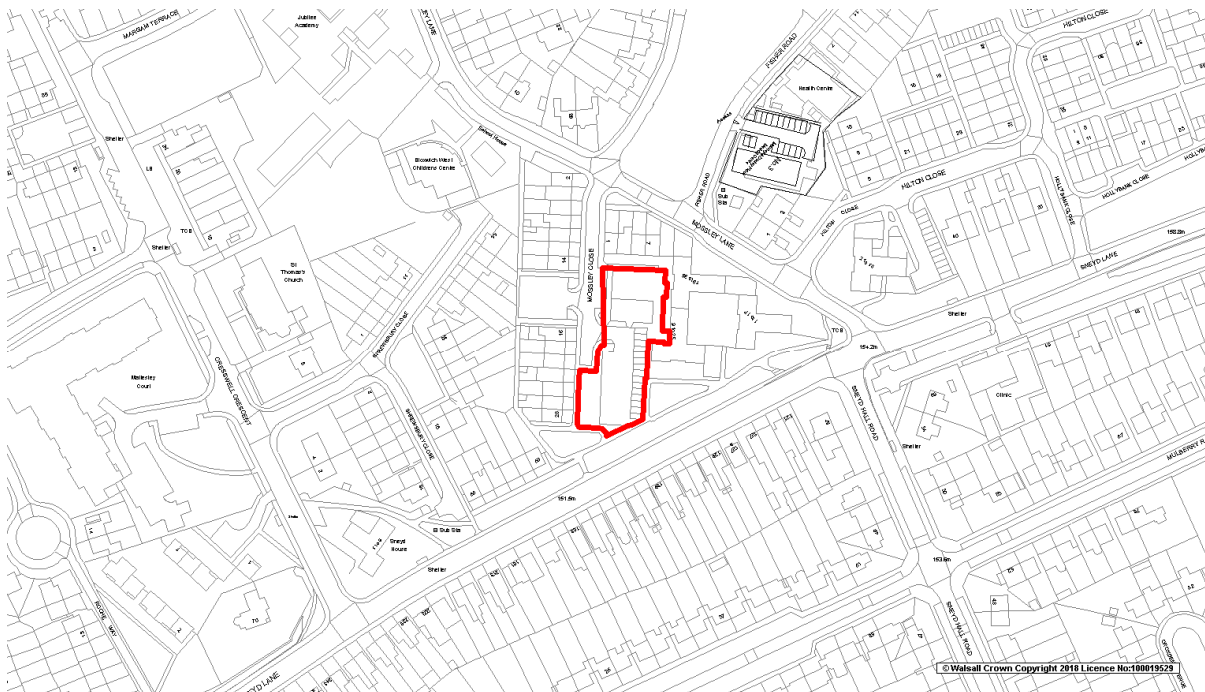
**Case Officer:** Barbara Toy

**Ward:** Bloxwich West

**Expired Date:** 15-Nov-2019

**Time Extension Expiry:**

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



## Proposal

This application proposes the erection of 2 x 3 bed two storey semi-detached house, on the site of 14 former lock up garages and parking spaces.

The proposals also include 23 parking spaces. 20 spaces would be provided on land immediately to the north of the new houses within a formally laid out car park (with a designated pedestrian route through the middle) and 3 spaces directly to the east of the front driveway parking for the new houses.

The houses would face north sitting at right angles to with existing houses and flats, with a small landscaped area and driveway parking for 2 cars and rear private gardens 91m2 and 78m2 respectively. Bin storage, garden shed and rotary dryers would be provided in each garden, with a side entry provided for each house to the frontage.

This site forms part of a large project by the applicant to redevelop former garage courts to provide new homes, utilising the efficiencies and benefits of AMC (Advanced Methods of Construction). This means that the majority of house construction takes place in a factory using a hybrid of pods and panels. The central pods containing the kitchen and bathrooms are structurally formed from LSF (lightweight steel frame) to which a series of LSF panels wrapped in insulating material with the uPVC windows and composite doors inserted in the factory. The entire unit would be wrapped in brick slips, render or cladding, which can be varied to be site specific. On site the central pods would be placed on the foundations and the panels then fixed to the pods to provide the finished house, ready to move in to. The pitched, tiled roofs (with solar panels) would also be brought to site in panels and put together on site.

Each house would have a footprint of 5.2m x 8.9m with a maximum height of 8.5m and would have no side facing windows. At this site the brick slips would be multi red with grey roof tiles.

The scheme has been amended since submission to reduce the number of houses from 3 to 2 and provide the replacement car parking.

A Coal Mining Risk Assessment has been submitted in support of the proposals following an objection from The Coal Authority.

## Site and Surroundings

The site is situated within Mossley Close, and comprises a former block of 14 lock up garages and parking spaces. Whilst the garages have been removed, the slabs remain and the site remains available for parking of up to 26 cars for use by surrounding residents.

Mossley Close is a cul de sac comprising two storey terraced houses and blocks of three storey flats. The three storey flats sit to the east of the site, with houses to the west and north. A car park that provides 14 spaces is situated to the west of the site between two blocks of two storey houses. To the south are grassed areas and trees leading to Sneyd Lane, which sits at a lower level than the site. Footpath links exist between Mossley Close

and Sneyd Lane. An open area sits to the northern end of the site, (in front of the flats) which is partially hard surfaced and partially grassed, and provides pedestrian access to the flats.

The site sits in a long established residential area comprising a mix of property styles in both WHG and private ownership.

## **Relevant Planning History**

None

## **Relevant Policies**

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

[www.gov.uk/guidance/national-planning-policy-framework](http://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*".

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

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **National Planning Policy Guidance**

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

## **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

## **Development Plan**

**[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)**

## **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

- LC1: Urban Open Space

## **Black Country Core Strategy**

- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality

## **Walsall Site Allocation Document 2019**

HC2: Development of Other Land for Housing

## **Supplementary Planning Document**

### **Designing Walsall**

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

### **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 subject to conditions to ensure the implementation of the new car park and pedestrian route prior to the commencement of development, surfacing and drain of parking areas, alterations to the highway and footway crossing. Previous concerns regarding the loss of parking for the existing residents have been addressed in the amended scheme.

**Coal Authority** – Previous objection now withdrawn following the assessment of the submitted Coal Mining Risk Assessment. Conditions recommended to ensure intrusive site investigations take place to identify appropriate remedial and mitigation measures required.

**Pollution Control** – No objections subject to conditions regarding contaminated land and to ensure compliance with Air Quality SPD

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**Strategic Planning Policy** – No objections. In compliance with Para 118d) of the NPPF and Policy HC2 of the SAD.

**Fire Officer** – Proposals should comply with nation guidance and Building Regulations.

**West Midlands Police** – Concerns raised regarding security on the original submission for 3 dwellings.

**Severn Trent Water** – No objections, drainage condition not required, note to applicant.

**Tree Officer** – Concerns raised about the future pressure to prune or remove trees in the immediate area due to shading issues.

## **Representations**

19 objections received in relation to the original scheme and 12 objections and 1 comment of support to the amended scheme.

Objections to original Scheme (3 houses)

- Loss of parking for existing residents, garage site constantly used for parking
- Detrimental to existing residents and will hinder access for any disabled residents
- Already parking issues in area will make worse
- Loss of parking will lead to obstruction of access for emergency services
- Parking wont comply with requirements of Policy T13
- Increase in traffic, 1 way in and 1 way out
- Will cause parking problems in surrounding area, an accident waiting to happen
- Where will trades and carers park?
- Lost our garage for parking, now loosing parking
- Loss of light to residents in flats
- Excessive noise and traffic
- Private driveways are not a character of the area
- Loss of views
- Loss of privacy
- Dominating impact on the right to enjoy property. Human Rights Act, Protocol 1, Article 1
- Loss of light and views, views of a brick wall instead of trees
- Loss of trees
- 3 new houses not needed
- Crammed into a small space
- Number of derelict pubs on the estate, develop these instead
- 16-28 Mossley Close all privately owned
- Council or private?
- Chaos during construction
- Increase in dust, noise and pollution from building site
- Property devaluation (not a material planning consideration)

#### Objections to amended Scheme (2 houses and new car park)

- Loss of light from houses to existing properties
- Loss of privacy from the houses
- Revised plans have made no difference
- Negative impact to existing residents from new car park, loss of amenity
- Proximity of car park to flats, noise and disturbance from vehicles
- Loss of privacy to flats from the car park
- Loss of light to flats if large vehicles park on car park
- Car park will end up being used for lorries and vans
- Loss of green space and childrens play area
- Over development of the land, adverse impact on surrounding residents to provide just 2 new homes
- Create 26 parking spaces to provide just 2 houses, a whole scale redesign of the area
- Existing parking areas area distance from houses and flats
- Dominating impact on the right to enjoy property. Human Rights Act Protocol 1, Article 1
- Overshadowing
- Loss of view from front of house, view of brick wall
- Loss of street/pathway lighting
- No longer putting houses on the actual footprint of the former garages
- Why build here when 2 old pub sites are an eyesore and need developing?
- Noise and disturbance to residents during construction
- Shooehorn houses into such a small space, other better, bigger sites
- Access to large vehicles and emergency services may be compromised
- Parking an issue during construction
- Lack of privacy to new residents
- Lighting required for car park
- Many residents affected for the sake of 2 new homes
- Insufficient parking for existing residents.
- Property devaluation (*not a material planning consideration*)

#### Support to amended scheme

- Additional housing welcomed
- Request that new car park be in place before construction begins

#### **Determining Issues**

- **Principle of the proposed use**
- **Design and Layout**
- **Impact on the amenities of the surrounding occupiers and the street scene**
- **Access and Parking**
- **Land Stability**
- **Human Rights**
- **Local Finance Considerations**



## **Assessment of the Proposal**

### **Principle of the proposed use**

The site comprises previously developed land situated in a well-established residential area, within walking distance of the local shops at South Mossley local centre which is less than 300m from the site. Regular bus services are situated within walking distance of the site along Sneyd Lane. The site is considered to be in a sustainable location.

The advanced method of construction proposed would provide modern, efficient, high standard, affordable housing with a short on site construction period to help meet the growing demand for housing in the Borough.

The principle of the provision of two further residential properties at the site is considered appropriate and in line with both national and local policies, NPPF (paragraph 118d) and Policy HC2 of the SAD.

Whilst objectors have commented on the extent of works required to provide just two houses, the over development of the site whilst there are other bigger and better sites in the area and indeed two derelict pub sites in the locality that should be developed before this site, it should be noted that each application is determined on its own merits and that the applicants (WHG) do not own the other sites referred to but are attempting to maximise the potential of this site whilst providing new homes and creating additional parking for the existing residents.

The proposed new car park would provide compensatory provision of parking for the existing residents within the immediate location that currently use the former garage area to park. The area for the new car park is currently unused hardstanding and a grassed area. Whilst the proposals would result in the loss of an area of open space, (approx. 268m<sup>2</sup>) it is considered that the proposals would comply with Policy LC1 of the UDP (a) XI, achieving local community aspirations. The amended proposals would meet local community aspirations for additional parking for the existing residents. Whilst it is disappointing that some open space would be lost, it should be noted that there is no formal childrens play area at the site. The open space a small area that is not particularly useable due to its undulation and the grassed areas and trees controlled by the applicant surrounding the site would be retained. King George V Memorial Playing Fields, formal open spaces with children's play area, football and rugby pitches is situated within walking distance (600m), providing useable open space for residents.

### **Design and Layout**

The surrounding properties comprise a mix of two storey terraced houses with gable roofs and three storey flats with flat roofs. The proposed houses with a brickwork face and gable roofs would pick up on the characteristics of the properties in the immediate vicinity. The proposed window design would however provide a more modern appearance to the properties which is considered appropriate. Whilst the proposals would provide a pair of semis that would have larger plots than the surrounding properties, the mix of properties would be welcomed in the area.

Both of the new houses would face the public area of Mossley Close with parking on the frontage and enclosed private rear gardens exceeding the 68m<sup>2</sup> required by Appendix D of Designing Walsall. Each house would have its own side entry for access to the rear

garden. Concerns raised by West Midlands Police regarding security on the original submission for 3 houses, have been addressed in the revised submission. The rear access gates and footpaths have been removed, surveillance improved, pedestrian links improved and planting immediately to the outside of the rear garden fences to be provided which would restrict uninvited access and provide additional security to the future residents. The layout is considered appropriate for its location.

The design and layout of the development is considered appropriate and in compliance with policy.

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

The reduction in the number of houses from 3 to 2, increases the separation distance between the existing houses and flats to the proposed houses.

The separation distance of 15m between the houses at 20-24 (even) Mossley Close to the west of the new houses would more than meet the 13m required by Appendix D of Designing Walsall between windowed elevations and a blank gable. The blank side gables to the new houses would ensure no loss of privacy or overlooking to the existing residents.

The amended layout has reduced the scheme from 3 to 2 houses, moving plot 2 further away from the adjacent flats. The relationship between the new houses and the closest block of flats is now significantly better than the original layout. There would now be a separation of 9.5m between the flats and the blank gable of plot 2 and the house would be set back 3m from the elevation of the flats. The previous garages were set within 2m of the flats and extended some 24m beyond the flats. The proposed houses are therefore significantly further away from the existing flats than the previous garages. The separation of approx. 23m on the 45 degree code line from the nearest window on the flats to plot 2 is considered appropriate to ensure no additional loss of light to the occupiers of the flats and no overlooking issues due to the blank gable. The relationship between the existing and proposed dwellings is therefore considered appropriate and in line with policy.

Objectors have raised concerns about noise and disturbance to existing residents during construction, it should be noted that the modular construction of these properties would significantly reduce the on site construction time.

It is considered that the proposals would have no adverse impact on the amenities of the surrounding occupiers.

The proposals would not result in any loss of the existing trees that sit to the east, south and west of the site towards Sneyd Lane. Whilst concerns have been raised by the tree officer that due to overshadowing issues there may be pressure to prune or remove some trees in the future, it is recognised that the trees are not protected, the houses will be occupied by tenants and the applicant has control over the land and the trees and has advised that they will resist any removal of trees and they wish to retain their amenity value.

### **Access and Parking**

The revised proposals now provide 2 off street parking spaces for each of the new houses and 23 replacement parking spaces for the existing residents, together with a designated pedestrian route through the parking area to the adjacent flats.

The proposed car park layout allows for the maximum number of spaces to be provided whilst ensuring a dedicated pedestrian access through the middle to the flats beyond. Grass verges would be retained in front of the houses (1 – 7 odd) to the north and the flats to the east, retaining a separation distance of 7.7m to the front of the houses and 5m in front of the flats. The position of the car park would maximise surveillance and overlooking from the surrounding houses and flats to improve security over the position of the garage area currently used for parking. The proximity of the car park to the existing houses and flats would allow residents to park closer to their properties and in some cases see their parked vehicles from their properties. Whilst the proximity of the car park to the properties may have a slight increase in noise and disturbance to residents these should be offset against the advantages of a formal car park, with pedestrian route through, in closer proximity to properties, with better surveillance and security. It is considered that the proposed separation distance to the existing flats and houses would be sufficient to maintain privacy for residents.

Objectors have raised concerns about the removal of existing lampposts to facilitate the proposed layout and concerns about lighting of the car park. A condition is recommended to ensure that a lighting scheme for the car park is provided for approval prior to installation and use of the car park. Objectors have also made comments about the use of the car park for parking commercial vehicles, this is an issue that would need to be managed by the applicants as the land owner.

The revised layout would provide formal parking for the proposed and existing residents and should not impede access within Mossley Close.

The revised proposals overcome the previous concerns raised by Transportation.

### **Land Stability**

The site is situated in a Development High Risk Area, where records indicate coal mining features and hazards from actual and probable shallow coal mining workings that need to be assessed as part of any application for development. The Coal Authority have now withdrawn their previous objections following the assessment of the submitted Coal Mining Risk Assessment, subject to recommended conditions to ensure intrusive site investigations take place to identify appropriate remedial and mitigation measures required. The Coal Authority considers that the content and conclusions of Coal Mining Risk Assessment Report (7 August 2019, prepared by the commercial arm of The Coal Authority) are sufficient for the purposes of the planning system and meet the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development.

### **Human Rights**

An objector has referred to the Human Rights Act, Legal Services have advised that The Human Rights Act 1998 makes it unlawful for the a Council to act in a way which is incompatible with any of the Convention Rights protected by the Act unless it could have acted otherwise

Article 8 and Article 1 of the first protocol to the Convention on Human Rights state that a person is entitled to the right to respect for private and family life, and the peaceful enjoyment of his/her property. However, these rights are qualified in that they must be set against the general interest and the protection of the rights and freedom of others.

In arriving at the recommendation to grant planning permission subject to conditions, careful consideration has been given to the rights set out in the European Convention on Human Rights including Article 1 of the First Protocol (Protection of property) and Article 8 (Right to respect for private and family life).

Officers have assessed the effect the proposal will have on individuals and are of the opinion that either no such right has been interfered. Officers have also weighed the effects of the proposals against the wider public interest in determining whether the development should be allowed to proceed. In this case, the wider impact of the appearance of the land overrules the owner's right to the peaceful enjoyment of his property.

### **Local Finance Considerations**

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

This application proposes two new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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

## **Conclusions and Reasons for Decision**

This is a previously developed site situated in a residential area in a sustainable location. The principle of residential development of the site is therefore considered appropriate and complies with Policies HOU2 and CSP4 of the BCCS, Policy HC2 of the SAD and H3 and ENV14 of the UDP.

The layout is considered acceptable and in compliance with policies GP2, ENV32 and T13 of the UDP and Appendix D of Designing Walsall.

The design of the new properties is considered appropriate and would sit comfortably within the street scene, in compliance with policy ENV32 of the UDP. The advanced method of construction proposed would provide modern, efficient, high standard, affordable housing with a short on site construction period.

The proposals would provide a new car park for existing residents in mitigation for the loss of the existing former garage/parking area currently used by residents. The layout of the parking and access arrangements are considered appropriate and would comply with policies GP2 and T13 of the UDP.

It is considered that the development would have no adverse impact on the amenities of the surrounding occupiers in compliance with policies GP2 and ENV32 of the UDP and Appendix D of Designing Walsall.

The Coal Authority considers that the content and conclusions of Coal Mining Risk Assessment Report (7 August 2019, prepared by the commercial arm of The Coal Authority) are sufficient for the purposes of the planning system and meet the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development and in compliance with Policy ENV14 of the 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's agent and in response to concerns raised regarding the layout of the site and the loss of parking for existing residents, 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: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall not be carried out otherwise than in accordance with the following approved plan:

2. The development shall not be carried out otherwise than in accordance with the following approved plan:

Site Location Plan Drawing L(00)001 Rev P4 submitted 20<sup>th</sup> September 2019

Existing Site Plan Drawing L(00)002 Rev P4 submitted 20<sup>th</sup> September 2019

Proposed Site Plan Drawing L(00)101 Rev P8 submitted 20<sup>th</sup> September 2019

Proposed Ground Floor Plan Unit 1 and 2 Drawing L(01)001 Rev P3 submitted 20<sup>th</sup> September 2019

Proposed First Floor Plan Unit 1 and 2 Drawing L(01)002 Rev P3 submitted 20<sup>th</sup> September 2019

Proposed Roof Plan Unit 1 and 2 Drawing L(01)003 Rev P3 submitted 20th September 2019

Unit 1 and 2 Elevation A Drawing L(02)001 Rev P3 submitted 20th September 2019

Unit 1 and 2 Elevation B Drawing L(02)002 Rev P3 submitted 20th September 2019

Unit 1 and 2 Elevation C Drawing L(02)003 Rev P3 submitted 20th September 2019

Design and Access Statement submitted 11th October 2019

Coal Authority Coal Mining Report and Coal Mining Risk Assessment submitted 12th September 2019

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

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

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

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with saved UDP policies GP2, ENV10 and ENV14.

4a. Prior to built development commencing a scheme of intrusive site investigations adequate to assess the ground conditions and the potential risks to the development by past shallow coal mining activity shall be undertake.

4b. A report of the findings arising from the intrusive investigations, including any gas monitoring undertaken and a scheme of proposed remedial works shall be submitted to and approved in writing by the Local Planning Authority in conjunction with The Coal Authority.

4c. The approved scheme of remedial works shall be fully implemented.

Reason: In order to ensure the stability and safe development of the site in compliance with Policy ENV14 of the UDP.

5a. Prior to the commencement of development, including demolition a Construction Working Plan shall be submitted for written approval of the Local Planning Authority. The plan shall include:

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary portacabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

5b. The approved Construction Working Plan shall be implemented upon commencement of works and shall be maintained until the site is completed.

Reason: To protect the amenities of the surrounding occupiers and minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway due to the access constraints to the site, in the interests of amenity and highway safety in accordance with Policy GP2, ENV32, T7 and T13 of the UDP.

6. Prior to the commencement of construction works of the new dwellings, including the closing off of the existing garage court area to residents to facilitate the development, the alternative residents car parking area hereby approved shall be fully implemented and brought into use, including the full consolidation of the area, installation of appropriate drainage to prevent surface water from discharging onto the public highway or into any highway drain, together with the clear demarcation of the parking bays and pedestrian routes. The pedestrian routes shall include tactile dropped kerbs crossings where they cross vehicular routes.

Reason: To ensure adequate alternative residents parking is available, in the interests of the free flow of traffic along the public highway and highway safety and in compliance with Policies GP2 and T7 of Walsall's UDP.

7a. Prior to the first occupation of any dwelling on the development, the parking spaces serving that dwelling shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

7b. The parking spaces shall thereafter be retained and used for no other purpose.

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

8. Prior to the new residents car park first coming into use, the full engineering details of the required alterations to the public highway to facilitate access to the new car park, shall be submitted to and approved in writing by the Local Planning Authority and the works fully implemented in accordance with the approved details.

Reason: To ensure the satisfactory completion and operation of the car park in accordance with Policies GP2 and T7 of the UDP.

9a. Prior to the first use of the residents car park hereby approved a scheme to provide lighting to the car park shall be submitted to and approved in writing by the Local Planning Authority.

9b. Prior to first use of the car park the approved scheme shall be fully implemented and thereafter retained and maintained.

Reason: To ensure the safe and satisfactory completion and operation of the car park in accordance with Policies GP2 and ENV32 of the UDP.

10. Prior to the parking spaces for the new dwellings first coming into use, the required modification of the footway crossings to align with the new access, shall be installed in accordance with the Council's footway crossing specification SD11/8 dated January 2008 to the satisfaction of the Highway Authority. All works within the public highway shall be in accordance with all statutory requirements.

Reason: To ensure the satisfactory completion and operation of the access, in accordance with UDP Policy GP2, the Council's footway crossing procedure and in the interests of highway safety.

11a. Prior to the first occupation of the dwelling written details shall be submitted to and approved by the Local Planning Authority on how the requirements of the Black Country Air Quality SPD will be implemented.

11b. The agreed measures shall be implemented prior to occupancy and a written validation statement shall be submitted to the Local Planning Authority.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy

### **Notes for Applicant**

#### **Highways**

1. The removal and relocation of any street lighting column required as a result of the development shall be with the agreement in writing with Walsall Council's street lighting partner AMEY.

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

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3. The applicant will be required to obtain the necessary Road Opening Permit from the Highway Authority or enter into an agreement under S278 of the Highways Act 1980 for the access works within the public highway. For further information please contact the Traffic Management Team on 01922 654675

## **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 2018; British Standard BS10175: 2011+A2:2017 '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.

## **Air Quality SPD**

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

The electric vehicle charging point provision for residential premises is a charging point per residential premise or Units with unallocated parking e.g. apartments – 1 charging point per 10 spaces, complying with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw. Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),
- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

Ultra-low NOx boilers discharge NOx at or below 40mg/kWh. The latest models are future-proofed to the European

Union's Energy-related Products Directive 2018 NOx levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NOx, and may be eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

### **Severn Trent Water**

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.





## Planning Committee

Report of Head of Planning, Engineering and Transportation on 31-Oct-2019

**Plans List Item Number: 5.**

**Reason for bringing to committee: Contrary to consultee advice**

**Location:** 48, REAYMER CLOSE, WALSALL, WS2 7FE

**Proposal:** ERECTION OF A NEW DWELLING

**Application Number:** 19/0606

**Applicant:** Mr and Mrs Williams

**Agent:** Simon Dawes

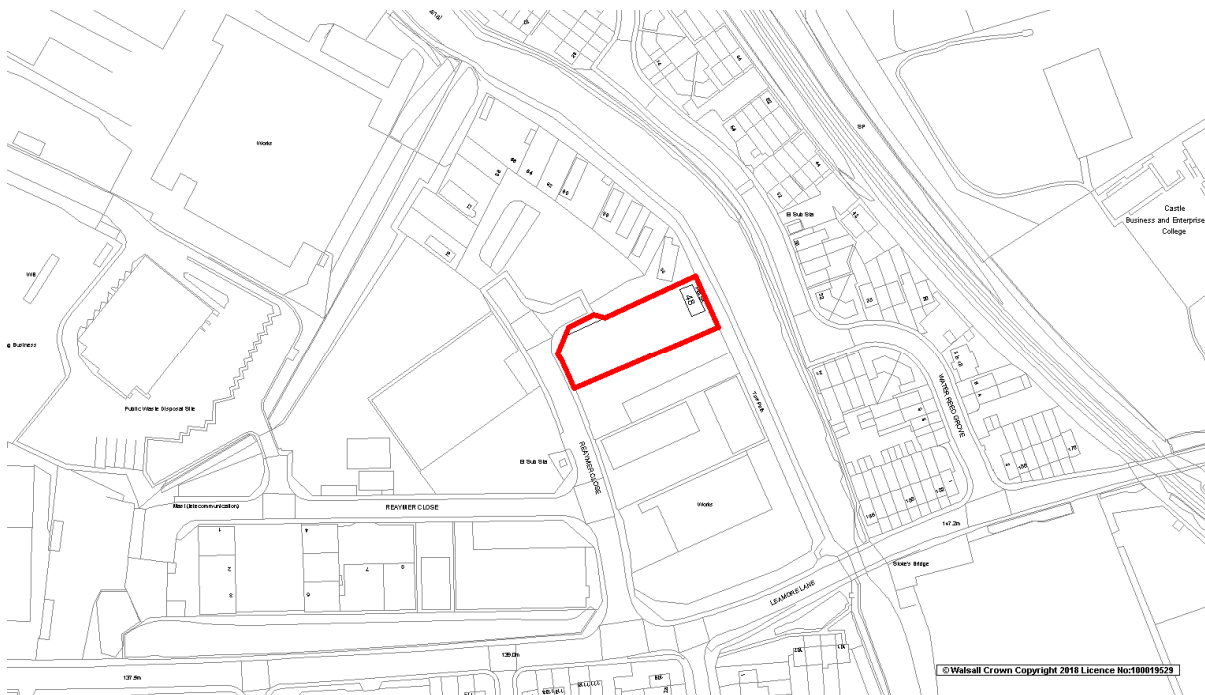
**Application Type:** Full Application: Minor  
Use Class C3 (Dwellinghouses)

**Case Officer:** Devinder Matharu

**Ward:** Birchills Leamore

**Expired Date:** 27-Jun-2019

**Time Extension Expiry:** 05-Nov-2019



## Recommendation Summary

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and subject to:

- Further information being submitted to support the proposal, as requested by consultees
- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;

## Proposal

The application proposes the erection of a four bedroom two storey dwelling that would be 'L' shaped. The proposed dwelling would measure 12.21m in width and has a length varying between 7.8m and 12.8m . The eaves would be 3.8m high and 7.9m to the pitch.

The front and rear elevation would have pitched roof dormers and the main roof would be hipped with a front open gable on the front elevation. The main windows to the habitable rooms would face the front and rear of the premises. The dwelling would be provided with 234 square metres of amenity space to the rear and side of the proposed dwelling.

The proposed dwelling would be set off the rear boundary by 6.8m.

The planning agent has provided the following supporting information:

- The proposed dwelling has been moved forward to prevent conflict with the 45 degree code to the adjacent chalet dwelling on the adjacent site number 50.
- The owner of the site has lived there 20 years and has a young family.
- The owner of the adjacent site is a family member.
- The applicant earns their living as a travelling showman.
- The workshop on the site is for the building and maintenance of the trailers in association of this.
- The wider yard is for the storage of materials and completed trailers and works in progress.
- The owner has had a quote for a report from GIP Ltd and request ground conditions are conditioned.

## Site and Surroundings

The application site is located off the eastern side of Reaymer Close.

To the north of the site are a number of static mobile homes, including number 50, which is set at an angle on the adjacent site.

To the south of the site is a commercial use with a building located in the northern corner of the site and open storage on the rest of the site.

Currently, on the application site is a mobile home positioned at the rear of the site. Towards the rear of the site is a belt of mature trees, which are located along the canal boundary behind the 2m high gravel board fence of the application site.

There is another mobile home located adjacent the boundary with number 50.

Behind the application site is the Wryley and Essington Canal beyond the canal are residential properties off Watermead Close.

Along the canal is the Wryley and Essington site of local importance for nature conservation.

## **Relevant Planning History**

Plot 10 - BC50388P - Change of use to travelling show people's quarters. Grant subject to conditions 1998.

## **Relevant Policies**

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

[www.gov.uk/guidance/national-planning-policy-framework](http://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*".

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

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

## **National Planning Policy Guidance**

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

## **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

## **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New planting
- ENV18 Existing woodlands, trees and hedgerows
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

## **Black Country Core Strategy**

- Vision, Sustainability Principles and Spatial Objectives
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

## **Walsall Site Allocation Document 2019**

HC4: Accommodation for Gypsies and Travellers and Travelling Show People

EN4: Canals

T4: The Highway Network

## **Supplementary Planning Document Designing Walsall**

- DW3 Character

## **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**

Fire Officer – No objection but makes comments on fire access and water supplies for firefighting.

Strategic Policy – No objection

Canal and River Trust – No objection subject to planning conditions relating to drainage, structural stability of the canal, impact upon the quality of the water, contamination, tree survey including landscaping proposals, boundary treatments.

Pollution Control – Objection on the grounds of amenity of residents and no information submitted in respect of contaminated land.

Severn Trent Water – No objection.

Transportation – No objection

## **Representations**

None

## **Determining Issues**

- Principle of development
- Design and character of the area
- Impact upon the neighbouring occupiers
- Impact upon the canal, SLINC and adjacent trees
- Access and parking
- Local Finance Considerations

## **Assessment of the Proposal**

### **Principle of development**

This site lies within the Toberland Travelling Showpeople site which is allocated under SAD Policy HC4 as site GT15. Part a) of the policy states that proposals for the use or development of these existing or proposed sites for any other purpose, including general housing, will be opposed unless it can be demonstrated that the total capacity of Gypsy and Traveller or Travelling Showpeople sites elsewhere in the Borough, either on existing sites and / or other sites that are available for development for these uses, is at least equal to the total number of existing and new pitches/ plots set out in Table HC4b below (66 pitches and 90 plots).



The number of plots for show people in Walsall is currently below this number. Whilst Strategic Policy are currently reviewing the need for show people plots as part of the preparation of the Black Country Plan (which will, once adopted in a few years' time replace the current Black Country Core Strategy that provides the basis for the numbers in the SAD), the loss of this plot would therefore be contrary to the SAD.

The SAD does not specify the standard of living accommodation that should be provided on show people plots and these will be considered below.

There is therefore no objection on strategic planning policy grounds to the current proposal provided the dwelling is only occupied by persons who meet the definition of travelling show people as set out in national policy (currently the 2015 Planning policy for traveller sites).

If planning permission is granted, a planning condition would be attached to ensure the proposed dwelling is only occupied by travelling show people, meaning members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily, but excludes Gypsies and Travellers. The reason for this condition is to satisfy SAD Policy HC4 part a).

Overall, the proposal can be supported in line with the above Development Plan policies.

### **Design and character of the area**

Reaymer Close is dominated by residential and commercial uses. The residential aspect is contained in an area known as Toberland, which accommodates a number of static mobile homes for travelling show people.

Currently on site there is a mobile home that sits on a raised platform, the proposal seeks the removal of this existing mobile home and replacement with a two storey dwelling with dormers. The proposed dwelling would be constructed out of brick and tile.

The design of the proposed dwelling is considered acceptable, although it would be taller than the existing mobile home. The existing mobile home sits on a raised platform. Whilst the proposed dwelling would look out of place in comparison to the existing mobile homes on the site, it is considered that the proposed dwelling would not be visually detrimental sufficient to warrant refusal of the application and is in keeping with the residential character of Toberland.

The existing mobile home sits adjacent the rear boundary of the site. The proposed dwelling would be set away from the boundary providing a rear and side garden area with ample amenity space to comply with the residential standards as set out in Annex D.

The proposed dwelling would be positioned in line with the closest point of the rear elevation of number 50, a mobile static home.

Pollution Control have objected to the proposed dwelling on the grounds of the proposal introduces a sensitive permanent residential development into an industrialised location with the attendant consequences of potentially significant negative impacts both on the development itself and the extant industrial activities and businesses in the area. This amounts to consideration of the 'Agent of Change' Principle, as the extant industry etc. could be subject to future constraints in the event that owners/occupiers of the residential premises have legitimate claims in respect of nuisance. The application site is located in an industrial location at a point where there are also notable vehicle movements, including Heavy Goods Vehicles which access the area.

Pollution Control accept that there is a small pocket of residential units (Toberland) to the north-west of the proposed development, but these appear to be of a temporary/mobile character.

Whilst, there are industrial uses adjacent the application site, the static mobile homes have been there for a number of years. The planning agent states that the applicant has already lived on the site for around 20 years, which means that the environment is no stranger to them, they are fully aware of the industrial uses, the noises and vehicle movements of neighbouring industries with regards to heavy good vehicles.

The application site is located in an industrial location at a point where there are also notable vehicle movements, including Heavy Goods Vehicles which access the area. Pollution Control have concerns that no noise impact assessment have been carried out and it is not known whether sufficient mitigation can be engineered into the design to off-set the impacts of traffic/vehciles movements and neighbouring industries. It stands to reason that this can constrian and/or inhibit future expansion from existing industry, as well as deterring other businesses coming to the locality.

Whilst the applicant has not submitted a noise impact assessment outling any noise mitigation measures, this can be sought by way of planning condiiton. Furthermore, the erection of a dwelling in bricks and mortar would provide more noise protection for the applicant and his family as opposed to a temporary mobile home that is manufactured out of infinite materials and would provided limited noise insultation currently.

Pollution Control also state that the general amenity of residents would be poor at best, and if an acceptable internal amenity could be delivered it would necessitate sealed windows and other elements to reduce noise, and potential odour impacts. Any mechanical ventilation system may thus need to consider the filtration of incoming air to reduce odours and pollutants. Nevertheless it is considered that as the applicant has resided on the site for approximately 20 years, they are used to and accustomed to their environment. The choice should be left with them as to whether or not they require sealed windows, as this environment may be seen as unacceptable. Whilst, Pollution Control have genuine concerns over the welfare and amenity of the proposed occupiers, it is considered that a brick building would provide a better environment for the applicant's and there are potential mitigation measures with regards to noise and sound insultation that can be acheieved. Furthermore, Stategic Policy support the porposals as there is a shortage of travelling show people sites in the Borough and the Council should be supporting existing travelling show people on existing sites, as opposed to penalising them for the environment in which they already live in.

Pollution Control have advised that they hold no information on ground conditions at this site address other than that obtainable from previous land use data and historic mapping. This shows that the site has historically been occupied by an industrial use and car park, and a significant part of the site once formed a canal wharf that would have been infilled. The planning agent has confirmed in writing that they are willing to undertake the necessary contaminated land surveys, should planning permission be granted. Any contamination surveys can be sought as part of a planning condition.

The submitted plans show that the rear garden is to be paved, it is considered some form of soft landscaping should be incorporated into the scheme to enhance the residential environment for occupiers.

Overall, the design of the proposed dwelling is considered acceptable and would not unduly harm the visual amenities of the existing residential/commercial environment of the site.

#### **Impact upon the neighbouring occupiers.**

The nearest static mobile home is number 50. This mobile home is set at an angle within the site with the rear of the static home facing the southern corner of the site. The proposed dwelling has been repositioned to sit in line with the rear corner elevation closest to the application site, to ensure the proposed dwelling does not contravene the Council's 45-degree code on light.

Whilst the proposed dwelling would be higher than the existing mobile home, it is considered that the proposed dwelling would not unduly harm the amenities of these neighbouring occupiers by way of overlooking, loss of privacy or loss of light. Light to the rear habitable room would still be available, as the dwelling is set in line with the rear of the adjacent mobile home to allow light to the rear of number 50.

The proposed dwelling has a side window in the ground floor belonging to a lounge, which would be a secondary window. Any boundary treatment between the application site and existing static mobile at number 50 would provide adequate screening. Boundary treatments can be secured by planning condition.

Overall, the proposed dwelling would not unduly harm the amenities of the neighbouring residential occupiers sufficient to warrant refusal of the application

To the south of the site is a commercial premises, and the application site has two mobile homes which have been used for residential purposes for a number of years. It is considered the proposed dwelling would not unduly harm the amenities of the neighbouring commercial occupiers sufficient to warrant refusal of the application.

Overall, the proposed dwelling would not unduly harm the amenities of the neighbouring occupiers to warrant refusal of the application.

#### **Impact upon the canal, SLINC and adjacent trees**

The Wryley and Essington Canal sits towards the rear of the application site. The application form states that the surface water is to be discharged to the main sewer, although no details have been provided. The Canal and River Trust have concerns that the methods drainage methods for proposed development can have significant impacts on

the quality of the water and biodiversity of the waterway. It is therefore important to ensure surface water is discharged appropriately to prevent contaminants entering the canal and these details can be secured by way of planning condition.

The proposed dwelling is positioned sufficient distance away from the canal to ensure it does not affect the structural stability of the canal.

The site is located at the edge of an industrial area. No details of the contaminants on site have been provided that would affect the canal. A planning condition would be attached to secure mitigation of any potential contamination of the waterway and ground water from wind blow, seepage or spillage at the site.

Adjacent the canal are number of trees, which are located behind a gravel board concrete fence. The tree roots could potential extend across the application site, as such an arboricultural report is sought. Upon submission of this report, further consultation with the Canal and River Trust and Arboricultural Officer shall be undertaken. It is recommended that the outcome of the application is delegated to the Head of Planning, Engineering and Transportation to ensure the proposed dwelling does not unduly harm the adjacent trees and tree roots.

The submitted application does not clearly define the proposed boundary treatments adjacent the canal, as such these details will be secured by way of planning condition.

The proposed application does not define whether any lighting adjacent the canal boundary would be erected. Any proposed lighting may affect foraging bats in the area allocated as a site of local importance for nature conservation in the area along the waterway. As such, lighting details will be secured by planning condition.

### **Access and parking**

The four bedroom house requires 3 off road parking spaces. The submitted plan shows two off road parking spaces. There is ample space within the application site to accommodate three off road parking spaces in accordance with Policy T13 of the UDP.

The Fire Officer has raised concerns over the width of the access for fire appliances. The existing access is 5.2m wide, which would be wide enough for a fire appliance. Furthermore, this issue can be addressed through Building Regulations. The Fire Officer has also raised the issue of adequate water supplies; again this can be addressed at Building Regulations stage.

Overall, the proposed development would not unduly impact upon the safe operation of the highway or impact upon fire appliance access and egress.

### **Local Finance Considerations**

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

This application proposes one new home.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, and a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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

## **Conclusions and Reasons for Decision**

The proposed development is in accordance with the Development Plan policies.

The design is considered acceptable and would not unduly harm the mixed character of the area of residential and commercial.

The proposed development would not unduly harm the amenities of neighbouring residential or commercial occupiers to warrant a refusal of the application.

The proposed development would neither affect the safe operation of the highway network nor fire appliance access.

The proposal complies with policies GP2, ENV14, ENV32, T7 and T13 of the UDP, policy ENV3 of the BCCS, Policies HC4 and T4 of the SAD and Policy DW3 of Designing Walsall 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**

### **Approve**

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

## **Recommendation**

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and subject to:

- Further information being submitted to support the proposal, as requested by consultees
- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;

## Conditions and Reasons

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall not be carried out otherwise than in accordance with the following approved plans:

- Floor plans and elevations plan drawing number 1921-1C submitted on 02-05-19.

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

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

3ii. Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of identified and/or potential hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

3iii. Prior to built development commencing a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

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

3v. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered, development shall cease until the Remediation Statement required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

3vi. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3).

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with saved UDP policies GP2 and ENV10.

4a. Prior to the commencement of development, a desk top study identifying the previous site uses and potential contaminants shall be undertaken. The desktop study shall include a diagrammatical representation (conceptual Model) for the site showing all potential contaminant sources, pathways to the canal and receptors and shall provide details of a site investigation to be undertaken and a detailed risk assessment. The desktop study shall be submitted to and approved in writing by the local planning authority prior to the commencement of development.

4b. The site investigation shall not be undertaken otherwise than in accordance with the approved details.

4c. A method statement detailing the remediation requirements using information obtained from the site investigation shall be submitted to and approved in writing by the local planning authority prior to commencement of the development.

4d. This remediation requirements in the approved method statement shall be not be carried out otherwise than in accordance with the approved details under this condition.

4e. Following completion of the approved remedial requirements a validation report shall be produced which details what remediation was undertaken shall be submitted to and approved in writing by the local planning authority.

4f. Measures to control the emission of dust and dirt during construction and details of protective measures (both physical measures and sensitive working practises) to avoid impacts on the canal during construction shall be submitted to and approved in writing by the local planning authority prior to the commencement of development.

Reason: To safeguard the environment, water quality and safety of waterway users of the Wyrley & Essington Canal in accordance with Policy EN4 of the BCCS and Policy EN4 of the SAD.

5a. Prior to the commencement of the development, drainage plans for the disposal of foul and surface water flows shall be submitted to and approved by the Local Planning Authority.

5b. The scheme approved under part A of this condition shall not be carried out otherwise than in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution and to ensure that surface water from the site is disposed of in a safe and appropriate manner in order to protect the water quality of the Wyrley and Essington Canal in accordance with policies ENV4 Canals and ENV5 Flood Risk, Sustainable Drainage Systems and Urban Heat Island of the adopted Black Country Joint Core Strategy in accordance with Policy ENV40 of the UDP, Policy EN4 of the BCCS and Policy EN4 of the SAD.

6a. Prior to the commencement of the development, including any engineering, site clearance/preparation, and or construction works, a Construction Methodology Statement shall be submitted to and approved by the Local Planning Authority detailing controlling dust, noise, vibration, debris, and drag-out from the site and demonstrate that any proposed earthmoving, excavations, foundation construction or other ground and building operations can be safely carried out without adversely affecting the stability of the land during the period of construction and the management of any materials arising from the works.

6b. The Construction methodology statement shall be implemented upon commencement of any works and shall be maintained until the site is completed.

6c. Levels of structure-borne vibration transmitted to occupied buildings from any stabilisation/piling works shall not exceed specified criteria for low probability of adverse comment, as prescribed within British Standard BS6472-1:2008 Guide to evaluation of human exposure to vibration in buildings – vibration sources other than blasting.

Reason: To ensure safe development of the site and to protect human health and the environment and to minimise the risk of creating land instability arising from any adverse impacts from earthmoving, excavations or other construction works upon the stability of the canal adjacent to the proposed development in accordance with saved UDP policies GP2 and ENV10 and Policy EN4 of the BCCS and Policy EN4 of the SAD.

7a. Prior to the commencement of the development, a noise impact assessment identifying the noise sources of traffic impacts and vehicle movements from adjacent industrial uses shall be submitted to and approved in writing by the local planning authority.

7b. A noise mitigation assessment outlining the measures to be undertaken to provide noise mitigation from the potential noise sources identified as part of the noise assessment under part a of this condition including any sound insulation shall be submitted to and approved in writing by the local planning authority, prior to the commencement of development.

7c. The noise mitigation measures shall be incorporated into the proposed dwelling hereby approved during the construction stage. The dwelling shall not be occupied until all noise mitigation measures identified in part b of this condition have been undertaken.

Reason: To safeguard the amenities of the proposed occupiers adjacent neighbouring industrial uses in accordance with policies GP2, ENV10 and ENV32 of the UDP.

8a. Prior to the commencement of the development an Air Quality Low Emission Scheme to install electric-vehicle charging points and Ultra-Low NOx boilers shall be submitted to the Local Planning Authority for approval in writing.

8b. The development shall not be carried out otherwise than in accordance with the agreed scheme of Air Quality Low Emissions.

8c. Prior to the first occupation of any dwelling a Low Emission Scheme Validation Statement shall be submitted in writing to the Local Planning Authority that demonstrates scheme has been installed as agreed.



Reason: in the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.

9a. Prior to commencement of any building or engineering operations above the damp proof course of the development hereby approved, full details of the buildings facing materials, including bricks, roof tiles, windows, door, rainwater products and soffits, illustrating the colour, size, texture and specification to be used within the development hereby approved shall be submitted to and approved by the local planning authority.

9b. The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

10a. Notwithstanding the hard landscape proposals as shown on drawing number 1921-2D submitted 02-08-19, a revised plan shall be submitted showing soft landscaping within the rear amenity area shall be submitted to and approved in writing by the local planning including:

- detailing planting densities
- planting numbers
- size of plants to be planted
- soil depth and specification

10b. The approved scheme shall be implemented within 12 months of any part of the development being brought into use.

10c. Any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed within the first 5 years shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted.

Reason: Necessary in the visual amenities of the area and the proposed site in accordance with Policies ENV17 and ENV33 of the UDP.

11a. Prior to commencement of any building or engineering operations above the damp proof course of the development hereby approved, details of all existing and proposed boundary treatments around the proposed dwelling shall be submitted to and approved in writing by the local planning authority.

11b. The proposed boundary treatments shall not be undertaken otherwise than in accordance with the approved details under part a of this condition.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

12. This development shall not be occupied otherwise than by travelling showpeople, members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily, but excludes Gypsies and Travellers.

Reason: To safeguard the allocated site for travelling show people in accordance with Policy HC4 of the SAD.

### **Notes for Applicant**

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

The applicant/developer is advised to contact the Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust Code of Practice for Works affecting the Canal & River Trust.

### **Pollution Control**

#### **CL1**

Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A1:2013 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

## CL2

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



## Planning Committee

Report of Head of Planning, Engineering and Transportation on 31-Oct-2019

**Plans List Item Number: 6.**

**Reason for bringing to committee: Significant Community Interest**

**Location:** 12, SKIP LANE, WALSALL, WS5 3LL

**Proposal:** REPLACEMENT DWELLING.

**Application Number:** 18/1288

**Applicant:** Mr Surinder Grewal

**Agent:** Mr G Johal

**Application Type:** Full Application: Minor  
Use Class C3 (Dwellinghouses)

**Case Officer:** Andrew White

**Ward:** Paddock

**Expired Date:** 21-Nov-2018

**Time Extension Expiry:** 18-Jun-2019

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



## Proposal

The 11 July 2019 Planning Committee resolved; *That planning application number 18/1288 be refused against officers recommendations due to the overbearing impact it would have on the neighbouring bungalow by virtue of its massing and the increase in the height of the roof, the loss of the privacy amenity and overbearance to the occupants of the neighbouring bungalow and that it would be an incongruous feature in the street scene.*

Following the planning committee resolution to refuse, unfortunately there was a delay in issuing the decision, occasioned by the shortage of resources in the department. Until the planning decision is physically issued, the Council had only resolved to refuse the planning application, consequently, the agent took the opportunity to amend the planning application. Once these amended plans were received, the Council is duty bound to consider whether the amendments are material and, if so, whether they might lead to a different decision being reached on the application and this accords with the decisions reached by the Courts in *R (Kides) v South Cambridgeshire DC [2002]* and *R (Dry) v West Oxfordshire DC [2010]*.

The applicant has amended the plans,

- Reducing the overall height by 0.75 metres to a total height of 7.15 metres at the central front to rear central ridge

- Reducing each wing either side of the central ridge adjacent to numbers 10 and 14 Skip lane by 1.15 metres to a height of 6.75 metres which would be 4.3metres from the boundary of number 10, with the eaves reduced to 4.3 metres now 2.2 metres from number 10's boundary

- Reduce the depth of the first floor part of the house adjacent to 10 Skip Lane by 4.2 metres to a maximum depth of 9.3 metres, with the rear elevation of number 10 being a further 1 metre beyond, leaving a single storey flat roofed (3.1 metres high) element 4.2 metres deep (from the 2 storey part of the proposed house)

- Remove the side facing habitable room obscurely glazed windows from the rear ground floor snug and first floor rear bedroom that faced 10 Skip Lane

- Increase the gap between the boundary of 10 Skip Lane between 0.7metres and 0.2metres to form a continuous gap of 2.1metres

## Representations following the latest plans received

Officer comments in brackets and italics- Comments reported within the 11 July supplementary paper have been added to the original report below.

The amended plans have been consulted on, with the following summarised comments received from four neighbours;

-substantial increase in the size of the property (*Whilst the proposal is larger than the existing house, the current proposal has reduced compared to the plans presented to the 11/7/19 planning committee*)

-cause over massing effect on the plot, harmful effect on the character of the lane (*The existing house occupies 8.77% of the application plot, whilst considering the house to plot ratios of 2 to 20 Skip Lane range between 8.77% [application site] and 24.46%. The proposed house ratio to the plot size would be 21.33%. Based on this, it is considered the proposed house reflects the character of the this part of Skip lane*)

-height of the proposed property would increase (*Whilst the comments are noted, the existing gable roofed house is 7.35 metres high, 1.4 metres from the boundary of number 10 and the proposed house is 2.2 metres from number 10's boundary with 4.3 metres high eaves and 6.75 metres to the ridge a further 2,1 metres away from number 10*)

-existing property measures 7metres (*Whilst the comments are noted, the existing gable roofed house is 7.35 metres high, 1.4 metres from the boundary of number 10 and the proposed house is 2.2 metres from number 10's boundary with 4.3 metres high eaves and 6.75 metres to the ridge a further 2,1 metres away from number 10*)

-street scene incorrect and attempts to minimise the effect on our property by exaggerating the size of the existing building (*Checking the amended street scene it reflects the proposed elevations*)

-building line will be brought forward by 2.5metres at double storey in front of the single storey porch on the existing property (*Whilst this is noted, the new house will still have between 12 and 14 metres to the public highway, which reflects the street scene*)

-house closer to the road contributing to the overbearing, overlooking, loss of light and privacy issues, blocking morning light and cast a shadow over the front of the property

-ugly and unnecessary mansard roof, not suitable along Skip Lane and opposite a Grade II Listed Registered Park and Garden (*The planning inspector in assessing 14 skip lane redevelopment [a larger proposal than the current one] stated... views of the building from the wider RPG and CA would be very limited, the proposed development would not detract from the way in which the RPG parkland landscape or the CA were experienced as a whole...in conclusion the proposed development would not cause harm to the character or appearance of the adjacent CA, or the setting of the RPG...).*

-Roof could be seen from higher ground within the parkland causing harmful effect to views from the parkland (*The planning inspector in assessing 14 skip lane redevelopment [a larger proposal than the current one] stated... views of the building from the wider RPG and CA would be very limited, the proposed development would not detract from the way in which the RPG parkland landscape or the CA were experienced as a whole...in conclusion the proposed development would not cause harm to the character or appearance of the adjacent CA, or the setting of the RPG...).*

-Roof would be seen from the brow of the hill and properties higher up Skip Lane and approaches to Walsall on A34

-We are told this type of roof is not supported by the local authority as it results bulky proportions

-no other roofs of this type in the vicinity

-previous planning meeting showed other flat roofs designs in area, a small area of lead flashing between two dormers at 8 Skip Lane

-Opposite a registered park and garden, council has a duty protect it and views from it, policies ENV30 and ENV32 *(The proposal is separated from the registered park and gardens by skip lane and the planning inspectors decision at number 14 is a material consideration... views of the building from the wider RPG and CA would be very limited, the proposed development would not detract from the way in which the RPG parkland landscape or the CA were experienced as a whole...in conclusion the proposed development would not cause harm to the character or appearance of the adjacent CA, or the setting of the RPG...).*

-Councils conservation officer had no objections to the proposal as they stated the roof was the same height as the existing. The proposed roof is not the roof stated by the conservation officer and would impact on the character of the lane and local heritage assets

-pre-war property should be retained as it forms part of the character of the area and landscape of the registered great barr park, also protect Merrions Lodge (grade II listed), approximately 80 metres across grazing fields

-TPO oak tree in front of the property and any works to the property should take into account the amenity value of the tree *(The tree is retained as part of the proposal, including conditions to protect the tree)*

-no arboricultural report undertaken against guidelines *(The Council's tree officer has been consulted, subject to retaining the tree and imposing a tree protection condition, they have no objections)*

-we draw your attention to appeal APP/V4630/W/18/3207169 at 14 skip lane next door to the application site and agree with all of the inspectors decision in dismissing the appeal *(The inspectors decision is a material consideration and has been weighed in the planning assessment of the application)*

-Accepted that a replacement dwelling on this site complies with national and local policies, trend in Walsall and many other parts of the country for replacement of existing dwellings with all new *(Noted and as set out in the original report, the dwelling met national and local policies. The amended proposal also meets national and local policies)*

-new dwelling must be considered in its entirety in relation to policy, street scene, neighbours, surrounding land uses and land designations *(This has been weighed in the overall planning balance)*

-redevelopment gives the opportunity for new building to be located in a better position on the plot *(The Council has to consider the application before them)*

-existing 12 skip lane is poorly located on the plot, forward of 10 skip lane and forward of 14 skip lane (*The Council has to consider the application before them*)

-new house foundations would be required to comply with current building regulations (*Not a material planning consideration*)

-relocation could provide a better house for the applicant, alleviate the impact of the new house on the street scene and neighbours (*The Council has to consider the application before them*)

-relocation could correct poor original design and improve skip lane street scene (*The Council has to consider the application before them*)

-application should be deferred for the LPA to negotiate a different location on the plot to improve the street scene and reduce impact on neighbours privacy, amenity and light reception (*The Council has to consider the application before them*)

-if new house moved back and across further away from number 10, it would remove my clients objections, with planning judgements would be confined to height, external appearance, materials and style (*The Council has to consider the application before them*)

-heights are important to my client who live in a bungalow on a lower ground level, any design and position for a new house has the potential to be dominant and over bearing (*Whilst the comments are noted, the existing gable roofed house is 7.35 metres high, 1.4 metres from the boundary of number 10 and the proposed house is 2.2 metres from number 10's boundary with 4.3 metres high eaves and 6.75 metres to the ridge a further 2.1 metres away from number 10*)

-amended design fails to show dimensions for heights or ground level differences and the fall of skip lane highway are more clearly seen on the existing/proposed street scene drawings (*The plans submitted are to a recognised scale allowing the key dimensions to be measured*)

-street scene drawings show imbalance in the existing position of number 12 and number 10 (too close) and number 14 (too far away) (*The layout of the site reflects the existing situation*)

-for heights, revised design shows minor amendments to the west elevation attempting to mitigate impact on 10 skip lane, side projecting chimney and dormer removed, upper roof shape from plain gable to mansard, replace two storey pitched roof projection with single storey flat roof (*Whilst the comments are noted, the existing gable roofed house is 7.35 metres high, 1.4 metres from the boundary of number 10 and the proposed house is 2.2 metres from number 10's boundary with 4.3 metres high eaves and 6.75 metres to the ridge a further 2.1 metres away from number 10, plus the first floor element has been reduced by 4.2 metres. The rear elevation of number 10 is 1 metre beyond the 2 storey part of the proposed house, leaving a single storey flat roofed (3.1 metres high) element 4.2 metres deep extending 3.2 metres beyond the rear elevation of number 10*)

-my client welcomes attempts to mitigate adverse impacts and feel they don't go far enough (*The Council has to consider the application before them*)



-overall depth of house has not been reduced, in absence of dimensions not possible to establish the proposed heights, continue to see a tall long monolithic building dominating their bungalow (*The submitted plans are to scale and the plans can be measured*)

-Skip Lane is undeveloped on one side with the frontages of 10, 12 and 14 overlooking open fields which is currently unspoilt (*The fields opposite are part of the registered park and gardens, conservation area and green belt which is why the land is undeveloped*)

-developed side characterful, range of individual, traditional houses and a bungalow, a valid traditional mixed street scene currently unspoilt (*The street character has evolved over time, the current proposal would just be part of the streets evolution*)

-amended design loses some traditional appearance of earlier design, loss of fancy chimneys not regretted. Sharper central facing gable not as appealing (*Whilst the objectors opinion is noted, the assessment of the planning application against the Council's land use planning policies will be this reports focus*)

-Flat roof dormer windows to upper front are poor and falling back hips are dominant feature for windows on the lane (*These features are part of the wider assessment of the planning application*)

-Roof continues with extensive flat roof hidden by pitched canopy roofs (*As the objector states, the flat roofed element would be hidden behind pitched roofs*)

-Roof has been referred to as mansard but does not comply with the definition. Mansard roof has four sloping sides which meet at a point/short ridge; each slopes has two pitches; lower pitch steeper than upper pitch. No flat roof areas within the mansard design. (*The Council has to consider the application before them*)

-Replacement house includes contrived design for upper floors, flat roof allows lower overall roof heights (*the objector's opinion is noted and will be weighed in the planning balance*)

-Contrived design results in over long ridges, short pitches from eaves to ridge lines (*the objector's opinion is noted and will be weighed in the planning balance*)

-Non-standard roof design impacts on 10 Skip Lane where a single ridge would be seen, from the front of the house to nearly to the rear, roof height and shape not suitable for plan area (*the objector's opinion is noted and will be weighed in the planning balance*)

-correct design for reduction of heights, relating to plan is the existing design for number 12. Upper rooms should be in the roof leading to dormer bungalow style (*Whilst the objectors opinion is noted, the existing number 12 is a two storey house, with rooms in the roof it would form a two and half storey house not a dormer bungalow*)

-Two storey house with roof above forces contrived roof shapes in effort to reduce overall heights, the consequence is bulky, disproportionate plan/roof (*the objector's opinion is noted and will be weighed in the planning balance*)

-Replacement house, better located on plot, easily designed with pitched roof, various heights above two storey, without adverse impact on street scene and neighbours. Dormer bungalow house would be better possibly with rooms in the roof next to number 10, full height two storey next to number 14. *(The Council has to consider the application before them)*

-Design includes hybrid pitched/flat roof arrangements, obvious from public highway, number 10 and 14. Given rise in lane north to south, flat roof would be seen from distance looking north to south

-proposal too large for plot, not in keeping with surrounding properties *(The existing house occupies 8.77% of the application plot, whilst considering the house to plot ratios of 2 to 20 Skip Lane range between 8.77% [application site] and 24.46%. The proposed house ratio to the plot size would be 21.33%. Based on this, it is considered the proposed house reflects the character of the this part of Skip lane)*

-during construction, delivery of materials and workforce will cause an obstruction *(This is outside the scope of the planning legislation and a matter for the local highway authority and the Police)*

-size of property suggests large family, attract numerous cars parked on the road causing an obstruction *(Whether a large family or not live in the new house is not a material planning consideration. The council's policies require 3 off road parking spaces for the development, which can be achieved. Obstruction is outside the scope of the planning legislation and a matter for the local highway authority and the Police)*

-huge over massing of the plot *(The existing house occupies 8.77% of the application plot, whilst considering the house to plot ratios of 2 to 20 Skip Lane range between 8.77% [application site] and 24.46%. The proposed house ratio to the plot size would be 21.33%. Based on this, it is considered the proposed house reflects the character of the this part of Skip lane)*

-overbearing effect on surrounding properties *(The amended proposal is lower than the existing house)*

-Harmful effect on the special character of this area of skip lane *(There are no planning policies or policy assessment of this part of Skip Lane that defines it as a special character)*

-harmful effect on the Great Barr Registered park, Local Nature Reserve, Green belt, Great Barr conservation area and site of importance for nature conservation *(The planning inspector in assessing 14 skip lane redevelopment [a larger proposal than the current one] stated... views of the building from the wider RPG and CA would be very limited, the proposed development would not detract from the way in which the RPG parkland landscape or the CA were experienced as a whole...in conclusion the proposed development would not cause harm to the character or appearance of the adjacent CA, or the setting of the RPG...)*

-increased height of dwelling will cause a jarring effect in the ridge line, dwarfing the bungalow at number 10 which will heighten the effect. Existing property 7 metres at its highest point, proposed property would be 7.35 metres (*Whilst the comments are noted, the existing gable roofed house is 7.35 metres high, 1.4 metres from the boundary of number 10 and the proposed house is 2.2 metres from number 10's boundary with 4.3 metres high eaves and 6.75 metres to the ridge a further 2,1 metres away from number 10*)

-Side elevations show central entrance protruding 2 metres beyond the main part of the building. Main part of the building 2.6 metres beyond the existing property. Results in the whole building moving 4.6 metres in front of the existing building line towards skip lane and registered park and garden (*Whilst the comments are noted, extending beyond building lines are not a reason on its own to justify a refusal. The proposed house continues to be between 12 and 14.6 metres from the highway edge reflecting the wider street scene*)

-Amended plans show mansard roof, which remains incongruous with other arts and crafts properties in the area. Existing properties have hipped or pitched roofs. Amended flat roof would be seen from neighbouring property, the RPG, pedestrians and cars from top of the hill along Skip Lane and approaching Walsall along A34. Out of character and harmful on the street scene character. Walsall do not support this type of design and can find inspectors comments on 11 Greenslade Road. (*Planning Inspector allowed 11 Greenslade Road, notwithstanding the Council's position*)

-proposed dwelling 4.6 metres closer to Skip Lane, causing a jarring effect in the building line having a detrimental and harmful visual impact on the street scene. This has a damaging effect on the root system of the protected oak tree also limiting the provision of sufficient parking (*Building lines are notional and the council does not have a planning policy to protect them. The council's tree officer has asked for planning conditions to protect the tree during demolition and construction. There is sufficient space on the frontage to accommodate the policy requirement for 3 off road parking spaces, which may require the applicant to provide surfacing with a no dig method in the vicinity of the tree*)

-14 Skip Lane appeal was dismissed by the planning inspector on many grounds. Attention should be given to these reasons and used as guidance when considering this application. (*The 14 Skip Lane appeal (for a larger house than currently being assessed) is a material consideration in the determination of this planning application and has been assessed against the current proposal, concluding the current proposal can be recommended for approval*)

-Increase in the size of property, cause an over-massing effect of the plot and harmful effect on the character of the lane (*The existing house occupies 8.77% of the application plot, whilst considering the house to plot ratios of 2 to 20 Skip Lane range between 8.77% [application site] and 24.46%. The proposed house ratio to the plot size would be 21.33%. Based on this, it is considered the proposed house reflects the character of the this part of Skip lane*)

-Height of the property would still increase to 7.35 metres (*Whilst the comments are noted, the existing gable roofed house is 7.35 metres high, 1.4metres from the boundary of number 10 and the proposed house is 2.2 metres from number 10's boundary, 4.3metres high to the eaves and 6.75metres to the ridge a further 2,1 metres away from number 10*)

-building line brought forward by 2.5metres at double storey height in front of single storey porch, house being closer to the road, contributing to overbearing, overlooking, loss of light and privacy issues (*Whilst the proposed house would move forward of the existing house, it would retain between 12 and 14 metres to the public highway reflecting the wider building line. Taking into account the reduced height of the house compared to the existing house, plus the orientation, limits impact on number 10 for loss of light, removing the obscurely glazed side facing habitable room windows removes overlooking and protects privacy*)

-property still shows the ugly, mansard roof, not suitable for the area, because its opposite a Grade II Listed Registered Park and Garden. This roof would be seen from higher ground within the parkland causing a harmful effect to the views from the parkland (*A material consideration is the Inspectors decision for the larger 14 Skip Lane house, in which the inspector stated; The site is adjacent to Great Barr Conservation Area (the CA) and Great Barr Hall Park, a grade II Registered Park and Garden (the RPG). The open land opposite the site is also within the Green Belt. Merriions Wood Local Nature Reserve (LNR) is within part of the Park close to the site, although its boundary is further from Skip Lane....houses on Skip Lane are visible from nearby public footpaths within the RPG and the LNR. However, the stretch of Skip Lane forms a very small part of the extensive boundary of the RPG and CA, and the proposed development would only be seen from a limited range of vantage points within those wider landscapes.... the site is separated from nearby public vantage points to some degree and are screened to some degree by trees and hedges ... the larger building proposed would harm its immediate surroundings and the Skip Lane street scene. However, it would not encroach into the adjacent open land, or beyond the existing residential frontage of which it forms a part. Therefore, and as views of the building from the wider RPG and CA would be very limited, the proposed development would not detract from the way in which the RPG parkland landscape or the CA were experienced as a whole...in conclusion the proposed development would not cause harm to the character or appearance of the adjacent CA, or the setting of the RPG. Nor, for the same reasons, would it harm the character and appearance of the LNR. The site is not within the Green Belt and, for the reasons given, the development would not harm the character of that adjacent open land. Consequently, I also conclude that the proposal would not result in harm to the openness of the Green Belt. Based on the inspector's decision, it is considered the current smaller house would also not detract from the adjacent heritage assets*)

-Disagree with the councils conservation officer comments regarding the height of the proposed house and level of harm (*Whilst the objectors comments are noted, the Councils conservation officer is the councils technical advisor for the boroughs heritage assets*)

-The existing pre-war house should be retained as it forms part of the character of the area and sits harmoniously in the historical landscape of registered great barr park and merriions lodge (grade II listed) approximately 80 metres across fields. (*The Council is required to assess and determine the proposal before it. The application house is not a listed building or within the conservation area and there are no policies to retain this house. The (14 Skip Lane) inspector in considering Merriions Lodge concluded; the proposed development would not harm the character or appearance of the CA or the RPG which form the setting for those listed buildings. Therefore given the degree of separation between the site and those buildings, and as views of the site from those buildings would be limited, I conclude that the proposed development would not result in harm to those*

*nearby listed buildings, their settings, or any features of special architectural or historic interest which they possess)*

-Plans that have been distributed that are misleading. The amended street scene shows a red dotted line outline of the existing property at 7.35metres. This is incorrect and minimises the overbearing effect on the bungalow. As the plans seem to be incorrect and misleading, return them to the applicant and issue a decision notice as you should have done. *(Once the Council has received plans, they have a duty to assess them and cannot just return them to an applicant. The 11/7/19 report to planning committee did include a typographical error stating the existing house was 7 metres tall. The supplementary paper to the same committee, corrected this error confirming the existing house is 7.35metres tall. As the objector states, this does minimise the overbearing effect on the bungalow, given the proposed house is now lower than the original house)*

-mansard roof still prominent incongruous feature of the development, concerned it will viewed easily from lofty position up Skip lane and from RPG. This roof not supported by council as inspectors have criticised the design because it results in developments considerably wider and deeper bulky appearance. This proposal results in this type of unsuitable and unsupported design and unacceptable, cause harm to the RPG and the arts and crafts character of the lane. *(Whilst it is preferred that houses don't have flat roofs, the councils policies do not preclude it. Given the scale of the current house, which is smaller than number 14, as stated by the inspector; the proposed development would not harm the character or appearance of the CA or the RPG which form the setting for those listed buildings. Therefore given the degree of separation between the site and those buildings, and as views of the site from those buildings would be limited, I conclude that the proposed development would not result in harm to those nearby listed buildings, their settings, or any features of special architectural or historic interest which they possess)*

-The proposed property remains 2.5 metres at double storey in front of the single storey cat slide porch roof, impacting on character of the street scene maintaining the overbearing and over shadowing effect on number 10. *(A cat slide roof is an extended roof over two storeys, with lower eaves usually above a ground floor element. Whilst the proposed house does come forwards at two storey's it is replacing an existing two storey house)*

-Residents, Gardens Trust, friends of merrions Wood, Trustees of Merrions Wood, Councillors, MP and planning committee don't like this proposal. It remains an unsuitable flat roof design set amongst traditional arts and crafts style properties that would overshadow number 10. *(In assessing any planning application, comments from residents, consultees, interested parties, councillors and MP's are weighed in the overall planning balance. The conclusion can be different to views of these parties when weighing the materials considerations and the national and local planning policies and guidance. Regarding the comment about planning committee, members of planning committee must attend planning committee with an open mind, listening to all of the views given, the committee report before making a judgement on its own merits. To not do this, the council can be judicially reviewed)*

-The property moving forward and the situation of number 8 places number 10 in a recess position between two larger double storey houses, impacting on the occupiers of number 10 causing an incongruous effect on the character of the street scene *(Taking into account the notional building line between 6 skip lane and 20 skip lane, it is considered that both numbers 10 and 12 skip lane are set back from this and can be considered in urban design terms as out of character with the street scene. The replacement house, would reflect the wider street scene notional building line)*

-Reference is made to previous comments the plans were inaccurate and officers and measuring the plans showed the original house to be 7 metres high. Current amended street scene shows the building at 7.35metres, it is misleading. *(The LPA is required to determine planning applications based on the information submitted. In this instance, officers had questioned the applicant regarding the drawings resulting in a survey of the existing building been undertaken to confirm the actual height of the building and in doing so, plans were changed. The 11/7/19 report to planning committee did include a typographical error stating the existing house was 7 metres tall. The supplementary paper to the same committee, corrected this error confirming the existing house is 7.35metres tall).*

Valerie Vaz MP comments; despite planning committee's refusal, revised plans have been added to the application. The minute's state committee resolved 'that planning application number 18/1288 be refused against officer's recommendations' by a vote of seven to six. It is unclear how this refused application can be amended or reconsidered without an appeal or a new application. Let me know whether; a decision letter has been published, applicants submitted a new application, consultation period commenced Walsall have a procedure for refused applications.

*(The 11/7/19 planning committee resolved; Planning Application number 18/1288 be refused against officers recommendations due to the overbearing impact it would have on the neighbouring bungalow by virtue of its massing and the increase in the height of the roof, the loss of the privacy amenity and overbearance to the occupants of the neighbouring bungalow and that it would be an incongruous feature in the street scene. Following the Committee resolution, there was a short delay in issuing the decision. The agent/applicant listening to Planning Committees debate submitted amended plans. Once these were received, the Council is duty bound to consider whether the amendments are material and, if so, whether they might lead to a different decision being reached on the application. In accordance with Section 70(2) of the Town and Country Planning Act 1990, the Local Planning Authority is under a statutory duty to have regard to the development plan and material considerations when considering any application. New material considerations (or development plan policies for that matter) can arise at any time, up to the point of issue of the decision).*

Councillor Martin on behalf of residents explains that there were inconsistencies with planning and residents expect a consistent approach, there had been a procedure breach following 11/7/19 planning committee's resolution to refuse the planning application and can be considered as maladministration and should be challenged immediately. *(The LPA always endeavours to deliver a consistent approach to advice and decision making, taking into account; the national and local planning legislation, policies and guidance, weighing the individual merits, constraints and characteristics of a particular application site and the comments of interested parties. Planning applications cannot be challenged until the*

*decision has been formally issued. It will be a matter for the residents and the local councillor to decide whether they challenge this decision once it is issued. It may be that in this instance, if planning committee resolve to refuse the application, the applicant will have the right to appeal. Should the appeal be allowed, residents and the councillor will have an opportunity to then challenge the Planning Inspectors decision. As explained at the beginning of the report, following the planning committee resolution to refuse, unfortunately there was a delay in issuing the decision, occasioned by the shortage of resources in the department and the applicant took the opportunity to amend the proposal. Since then, in line with government policy, the LPA has sort further changes to the proposed plans, with interested parties being notified of these)*

## **Consultee Comments**

**Severn Trent-** No drainage plans submitted we have no comment at this time (*Drainage plans can form a planning condition if the house is approved*)

**Historic England-** We do not wish to offer comments and you seek views from your conservation specialist

**Conservation officer-** The main change from the initially submitted designs is the reduced height. Reducing the height of the property the visual impact on the setting of Great Barr Conservation Area and Registered Park and Garden is reduced. There are no objections on heritage grounds

**Tree officer-** Protected oak tree should be retained and a condition for tree protection included in accordance with BS5837:2012

The remaining consultees have continued with their previous comments

## **Material Considerations**

The focus of the this report will be whether the amended proposal overcomes the 11/7/19 planning committees resolution; *That planning application number 18/1288 be refused against officers recommendations due to the overbearing impact it would have on the neighbouring bungalow by virtue of its massing and the increase in the height of the roof, the loss of the privacy amenity and overbearance to the occupants of the neighbouring bungalow and that it would be an incongruous feature in the street scene.* The observations below will break down the committee's resolution down to its constituent parts to weigh the planning merits of the changes

## **Observations**

### ***Overbearing impact on the neighbouring bungalow by virtue of its massing and increase in the height of the roof***

The existing gable roofed house is 7.35 metres high, 1.4 metres from the boundary of number 10. The proposed house would be 2.2 metres from number 10's boundary, 4.3 metres high to the eaves and 6.75metres to the ridge a further 2,1 metres away from number 10. The amended house reduces the depth of the first floor adjacent to number 10 by 4.2 metres deep. The rear elevation of number 10 would be a further 1 metre beyond the proposed two storey part of the proposed house. The ground floor 4.2 metre deep and 3.1 metre high flat roofed part of the house, which would extend 3.2 metres beyond the rear elevation of number 10.

The orientation of the rear elevations of numbers 10, 12 and 14 Skip Lane is north. Consequently, this orientation would mean the immediate rear gardens of each house would have a degree of shadowing from the existing houses on their own gardens. Taking the highest part of the proposed rear central gable at 7.15 metres, 9.8 metres from the boundary of number 10, it is considered it would have a limited impact on number 10. The lower eaves height of the proposed central gable at 4.6 metres high and 7.2 metres from the boundary of number 10, is considered would have limited impact on the occupiers of number 10.

The impact on 10 skip lane would also be limited by the lower and reduced depth two storey wing adjacent to 10 skip lane, 2.1 metres to the boundary as any shadowing would be to the roof of the main roof of number 10 and the roof of number 10's non habitable side passage along the boundary with the application site. In weighing the planning balance, the single storey flat roofed element of the house, has a 2.1 metre gap to the boundary with number 10, plus an existing 1.8 metre high boundary fence. It is considered this minimises any potential impact on number 10 to a point that would be insufficient to sustain a reason for refusal.

The proposed house extends beyond the front of number 10 by 2.2 metres at two storeys height, nearest to number 10 with a 2.1 metre gap to number 10's boundary. Using the Council's 45 degree code, measuring from the nearest quarter point of number 10's front habitable room window. In measuring the position of the 45 degree code across the front of the proposed house, there would be a gap of 3.6 metres between the proposed front elevation and the 45 degree code line, so not breaching the 45 degree code. In addition, the 45 degree code is not breached by the front central gable of the proposed house. Taking into account the orientation of the fronts of the two properties, facing south, whilst there would be a small impact during the early morning sunrise, it is considered the rest of the day, there would be no loss of light or impact on number 10 and their nearest habitable room window that could be sustained at appeal. Taking into account the amended proposed house, it is considered the changes have now overcome the planning committees concerns of overbearing impact by virtue of its massing and increase in roof height, plus the proposal would minimise any impact of loss of light and or shadowing to a point that the council could not sustain a reason for refusal.

### ***Loss of privacy amenity***

The amended house design removes the side facing obscurely glazed habitable room windows that faced number 10. Whilst there will be rear facing habitable room windows in the proposed house which could offer some overlooking, this would be no different to the existing situation. Consequently, it is considered the changes have overcome the planning committees concerns of concerns of loss of privacy to a point that the council could not sustain a reason for refusal.

### ***Overbearance to the occupants of the neighbouring bungalow***

The existing gable roofed house is 7.35 metres high, 1.4metres from the boundary of number 10. The proposed house would be 2.2 metres from number 10's boundary, 4.3 metres high to the eaves and 6.75metres to the ridge a further 2,1 metres away from number 10. The amended house reduces the depth of the first floor adjacent to number 10 to 4.2 metres deep. The rear elevation of number 10 would be a further 1 metre beyond the proposed two storey part of the house.



There is a ground floor 4.2 metre deep and 3.1 metre high flat roofed part of the house, which would extend 3.2 metres beyond the rear elevation of number 10. In weighing the planning balance, the single storey flat roofed element of the house, has a 2.1 metre gap to the boundary with number 10. In weighing the planning balance, the reduced height, reduced first floor depth, increasing the gap to number 10's boundary, is considered has now overcome the planning committees concerns of overbearance to the occupants of the neighbouring bungalow to appoint that the council could not sustain a reason for refusal.

***That it would be an incongruous feature in the street scene***

The positioning of the proposed house on the plot, reflects the wider notional building line, plus the reduced scale of the house, whilst the proposed house retains the arts and crafts style appearance, it is considered the house has overcome the planning committees concerns that it would be an incongruous feature in the street scene sufficient to be able to sustain a reason for refusal.

## **Conclusions**

Weighing the comments of the interested parties, consultees, the national planning legislation, policy, guidance, plus the Council's development plan it is considered that the proposed house design can be recommended for approval subject to the safeguarding conditions set out at the end of the original report. Planning committee's assessment of the scheme before them, will be to assess whether the proposal has overcome their concerns and that they agree with officer's recommendation. If committee believe the proposal has not overcome all or part of the amended proposal, given the reduced scale, mass and height of the current proposal, planning committee will need to clearly define which elements of their 11/7/19 concerns have not been resolved and whether the remaining/outstanding concerns are sufficient to sustain a refusal via a planning appeal.

*Below follows the report presented to the 11/7/19 planning committee, updated to include the 11/7/19 supplementary paper*

## **11/7/19 Status**

The Chair of the 17/6/19 Planning Committee agreed to a request from Valerie Vaz MP to defer this planning application for one cycle to allow time for one of the adjacent neighbours to make representations to planning committee. At the time of publishing this report, no comments had been received from that neighbour. Should the Council receive any comments after the committee agenda has been published, they will summarised and presented in the supplementary paper. Comments received from another resident after the publishing of the last committee agenda have now been incorporated within the report.

## **Proposal**

This application seeks to demolish the existing three bedroom, two storey house at no 12 Skip Lane, replacing with a four bedroom, two and half storey house. The amended application and now propose the following details:

### *The proposed house*

The proposed house will provide; at ground floor a large front porch, gallery, lounge, great room, children's play room / dining room, snug and kitchen. On the first floor there will be four bedrooms (one master en-suite, two double bedrooms each with an en-suite and a double bedroom), family bathroom with a Pyjama lounge within the two storey front gable feature)

There are no windows or openings proposed for the roof space.

The proposed replacement house measurements are:

- 4.3 mts to the eaves along the boundary with no 10 Skip Lane
- 4.9 mts to the eaves along the boundary with no 14 Skip Lane
- 8.0 mts to the ridge which is hipped along each side
- 8.4 mts to the top of the chimney
- 16.3 mts wide
- 18.25 mts deep (including the front two storey gable feature with porch below and a rear two storey gable feature)
- gap of 3.5 metres to the eastern boundary (with no 14 Skip Lane) which also has a gap of 7.5 metres, in total 11mts between the side elevations (at ground and first floor) of the existing application house and no 14 Skip Lane.
- gap of between 1.4 mts and 1.9 mts to no. 10

It is proposed to use the following schedule of materials in the construction of the new house:

- Taylor Maxwell Gormeley Grey facing brickwork,
- Marley Hawkins plain grey clay roof tiles,
- Granny bonnet hip ridge tile
- Aluminium black casement window with stanchion & saddle bars
- Oak framed gable end
- Oak framed mullion and transom
- Plain clay vertical tiles
- Soldier course with one dental course
- Stepped semi-circular arched brick detail surround to oak framed door.
- Herringbone feature brick details

### *Supporting Documents*

#### *Preliminary bat roost assessment*

It concludes that there are some features identified that could potentially be used by bats, including:

- warped wooden cladding on porch;
- dislodged/missing roof tiles;
- gaps under ridge tiles;
- lifted lead flashing around base of chimney; and,
- poorly fitted lead flashing on dormer windows.

The proposed works have the potential to disturb or destroy a bat roost if bats are found to be roosting within the building. Further survey, in the form of a nocturnal emergence or dawn re-entry bat survey, is required to establish the presence/absence of roosting bats within the building.

There is also the potential for any new lighting, either temporary or permanent, at the site to impact foraging and commuting bats. Therefore, a recommendation regarding sensitive lighting is made.

It is understood that the majority of existing trees are to be retained, and therefore the impact on foraging and commuting habitat is likely to be temporary. To increase the value of the site for bats it is recommended that suitable plant species be incorporated into the soft landscaping to attract night flying insects.

### *Heritage Statement*

Concludes that the proposals will replace an existing building with another building whose bulk is of the same order of magnitude. The proposed building being of brick construction will be less dominant than the existing white colour rendered house. The importance and significance of Walsall Lodge will remain the same. The same is also true of both the historic park and the Merrions Wood local nature reserve, Great Barr Conservation Area Conservation Area.

Visibility analysis has been used to establish the extent to which the current and proposed buildings can or cannot be seen due to the topography and the presence of buildings and protected trees. It can be seen the current and proposed buildings are not visible from the vast majority, 99%, of the Conservation Area including the top of Barr Beacon. Within an area of under 4Ha in some locations glimpses of the proposed building's upper storey and roof will be seen through gaps in the tree and leaf cover. The same is true for the historic park with the current and proposed buildings not being visible over 94% of the area. When the true boundary of the park is considered the impact is even less. It is thus suggested that there will be no harm to the way the historic assets are experienced. Indeed it can be argued that the proposals are a conservation positive as the proposed building will not be painted white. The purpose of consulting Historic England and the Gardens Trust is stated on the following Historic England website (<https://historicengland.org.uk/listing/what-isdesignation/registered-parks-and-gardens/pag-faqs/>)

To make sure that local planning authorities have the appropriate professional advice when considering such applications, they are required to consult us where the application affects a Grade I or II\* registered site, and the Gardens Trust on all applications affecting registered sites, regardless of the grade of the site. In the case of Walsall Metropolitan Council they have that expertise in the form of external consultants - Jacobs. It has been stated by the case officer WMC "The Council's Conservation Officer has not objected to the application and has stated that the proposal will have negligible setting impact on the two heritage assets and the proposed style of the new building will not jar with the existing character of the building stock in the area." While the comments of consultees should be considered in relation to their expertise they should follow accepted methodologies. It is noted that external consultees do not have the power of veto over democratically elected Councils.

## **Site and Surroundings**

### *The existing site/house*

The application house (No.12 Skip Lane) is a medium size "Arts and Craft" house of white render finish and roof tiles that have aged to a brown colour.

It is set back from Skip Lane highway edge by 13 metres.

The application plot measures 21.6mts wide by 48 mts long (23.5mt rear garden). There is in excess of 30 mts to the rear elevations of houses along Beacon Road.

This existing main dwelling comprises of three bedrooms and a bathroom at first floor, with ground floor Lounge/dining room, Kitchen, large hall, utility and an integrated double garage. It has a single access/egress point on to Skip Lane. It is of a traditional design incorporating dormer windows in the roof with a cat slide roof in part at the front to create the first floor.

The existing house measurements are:

- 7.35 metres high to the roof ridge
- 4.5 metres high to the eaves
- 2.2mts to the eaves of the cat slide roof above part of the ground floor
- 16 metres wide (including the garage)
- between 6.5mts and 9.3 metres deep
- set 1.5mts in from the boundary with no 10 (to the west)
- set 4.2mts in from the boundary with no 14 (to the east)

The frontage of properties is open with no defining boundary treatment. There is a 2mt high brick wall and gate across the boundary to no 14 which indicates the extent of the ownership of the applicant to that side. There is a levels difference of approximately 2 metres between the application site and no 12 skip lane (east) and one metre between the application site and no 10 (west).

14, Skip Lane – is a two storey detached ‘Arts and Crafts’ style design dwelling incorporating dormer windows in the roof, set back from the main highway (Skip Lane) by 13 metres, the plot measures 24mts wide by 40 mts long. From the existing application house there is a gap of 4.2 metres to the shared boundary between the application house and 14 Skip Lane. In addition, there is an existing gap of 7.5 metres from the shared boundary to the house at 14 Skip Lane, which creates a total of 11.7 mts between the side elevations (at ground and first floor) of the existing application house and no 14 skip lane.

10, Skip Lane –is a bungalow situated at a lower ground level 1metre at the boundary. The front of number 10 is positioned in a similar position to the front elevation of the existing house at the application site. There is a gap of 1.5mts from the side elevation of the existing application house to the shared boundary with number 10. Plus there is a 1.8 metre high close boarded fence defining the shared boundary with number 10 also benefitting from a single storey side extension up to the shared boundary with the application site.

### *The area/streetscene*

The application site is at the edge of a large suburban estate and faces open fields and parkland opposite, known as Merrions Wood local nature reserve (LNR), part of the Great Barr Conservation Area, Great Barr Hall Park, a grade II Registered Park and Garden and further to the south east is the Great Barr golf club.

The immediate area benefits from a mixed character of individually designed detached houses and bungalows many with individual features, with gaps between the houses to create a spacious character.

Skip Lane and nearby streets are generally characterised by large, two-storey detached dwellings, many of which occupy significant proportions of their plot widths, with gaps between their two-storey building frontages.

Most of the houses along Skip Lane are set along a similar building line with mature front gardens and being set in large plots in width and depth. The houses on this part of Skip Lane are also generally laid out with open space or planting to the side of the buildings, or with lower, single storey projections between the two storey parts of the buildings and their side boundaries. This layout maintains the impression of gaps between the individual buildings as they step gradually uphill along this section of Skip Lane. It also allows views between the houses and into their large, landscaped rear gardens. Combined with the soft landscaping and, in some cases, the absence of hard enclosure to front gardens, creating a spacious character to this part of Skip Lane, distinctive from the more regularly-aligned and closely-spaced two-storey building frontages which characterise much of the wider area.

Skip Lane rises from Birmingham Road towards its junction with Woodlands Avenue. The junction with Birmingham Road sits at 138.7mts above sea level whereas at its junction with Woodlands Avenue it is at 155.5 mts above sea level. The rise of Skip Lane over approximately 275 metres is 17 metres.

## **Relevant Planning History**

### *The application site:*

18/0513 – Replacement house. Withdrawn 26/6/18

### *Planning history at 14 Skip Lane:*

17/1638 – Replacement dwelling. Refused 26/1/18 for the following reasons:

1. Proposed house would infill almost the entire width of the house plot, not in keeping with neighbouring properties which are characterised by gaps at first floor level...have a harmful visual appearance on Skip Lane and fails to integrate into the character of the area
2. By virtue of its excessive size, length, height, massing and proximity to neighbouring properties at no. 12 and no.16 Skip Lane, would have an overbearing and dominant impact on their outlook and result in loss of light to those properties. Furthermore, would appear cramped, at odds with the immediate spacious character of Skip Lane... the proposed modern and incongruous design does not reflect any other traditional styled and proportioned houses in Skip Lane.... prominent elevated position above no.10 and 12 Skip Lane, would have a significant impact on the street scene.
3. Unduly prominent development resulting in significant harm to the character of the area, including the local nature reserve and green belt opposite

An appeal was lodged and subsequently dismissed on the 16/1/19 by the planning inspector for the following reasons:

*“....The proposed dwelling would be significantly wider than the existing house at No 14 and the immediate neighbours to either side, and would fill almost the full width of the plot. It would extend significantly further back into the site than the existing building...overall ridge height would be taller...width the house would be a full two-storeys high and third floor of accommodation evident in the top of the front gable.... As a result of its width, depth and height, the proposed house would have a significant scale, mass and bulk, which would not reflect the more modest scale and proportions of the existing building and its neighbours. It would therefore appear as a highly discordant and unduly dominant feature in its context, and would significantly erode the sense of openness and space which characterises this small part of the Skip Lane street scene. Furthermore, the proposed house would appear as an unduly prominent feature in the wider street scene due to the site’s elevated position on this part of the Skip Lane road frontage.*

*The site is adjacent to Great Barr Conservation Area (the CA) and Great Barr Hall Park, a grade II Registered Park and Garden (the RPG). The open land opposite the site is also within the Green Belt. Merrions Wood Local Nature Reserve (LNR) is within part of the Park close to the site, although its boundary is further from Skip Lane....houses on Skip Lane are visible from nearby public footpaths within the RPG and the LNR. However, the stretch of Skip Lane forms a very small part of the extensive boundary of the RPG and CA, and the proposed development would only be seen from a limited range of vantage points within those wider landscapes.... the site is separated from nearby public vantage points to some degree and are screened to some degree by trees and hedges*

*the larger building proposed would harm its immediate surroundings and the Skip Lane street scene. However, it would not encroach into the adjacent open land, or beyond the existing residential frontage of which it forms a part. Therefore, and as views of the building from the wider RPG and CA would be very limited, the proposed development would not detract from the way in which the RPG parkland landscape or the CA were experienced as a whole...in conclusion the proposed development would not cause harm to the character or appearance of the adjacent CA, or the setting of the RPG. Nor, for the same reasons, would it harm the character and appearance of the LNR. The site is not within the Green Belt and, for the reasons given, the development would not harm the character of that adjacent open land. Consequently, I also conclude that the proposal would not result in harm to the openness of the Green Belt.*

*The decision also concluded that the proposed development would not harm the character or appearance of the CA or the RPG which form the setting for those listed buildings identified and given the degree of separation between the site and those buildings, and as views of the site from those buildings would be limited, I conclude that the proposed development would not result in harm to those nearby listed buildings, their settings, or any features of special architectural or historic interest which they possess.*

*The proposed house would be significantly closer to the boundary with No 12 ...as a result of its height in relation to this neighbouring property, its depth, and its proximity to the boundary, it would appear as an unduly dominant and overbearing feature when viewed from the rear garden of that neighbouring property, even if the existing boundary vegetation was retained...would also result in an unacceptable reduction in the amount of sunlight and daylight reaching that neighbouring garden at certain times...In conclusion the proposed development would cause significant harm to the living conditions of existing and future occupants, and to their enjoyment of their private garden area.*

*The proposed house would be slightly further from the boundary with No 16 than the existing. However, the part closest to No 16 would be two storeys high, with further accommodation in its roof space. Its roof would slope away from the boundary with No 16....Given its height, its proximity to the boundary, and the depth of its projection alongside the front garden of No 16, the proposed dwelling would appear as an unduly dominant feature when viewed from the front windows and front garden of that neighbouring house.... result in a reduction in light to the front windows and front garden area of No 16 at certain times of the day. The proposed development would therefore detract significantly from the enjoyment of those spaces by neighbouring occupants.*

*In conclusion the proposed development would have a significant adverse effect on the living conditions of the occupants of 12 Skip Lane and 16 Skip Lane with regard to outlook and light.”*

16/1911 – Construction of a new dwelling. Withdrawn 19/6/17

## **Relevant Policies**

### **National Planning Policy Framework (NPPF) [www.gov.uk](http://www.gov.uk)**

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

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

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions**, the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all

parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.



## **Local Policy**

**[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)**

### **Black Country Core Strategy**

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

**Walsall Site Allocation Document (SAD)** was adopted in January 2019. The policies detailed below have not been replaced by the SAD and full weight can be given to these policies.

### **Saved Unitary Development Plan**

- GP2: Environmental Protection
- ENV8: Great Barr Hall and Estate and St. Margaret's Hospital
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- ENV23: Nature Conservation and New Development
- ENV29: Conservation Areas
- ENV30: Registered Parks and Gardens
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- 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 SAD, Walsall's saved UDP policies and Designing Walsall SPD are consistent with the NPPF.

**Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)**

## **Consultation Replies**

**Transportation** – no objections

**Pollution Control** – no objections

**Seven Trent Water** – no objections

**Police Architectural Liaison Officer** – recommends Secure by Design initiatives

**Gardens Trust** – objects for the following reasons:

- We still have difficulty relating the heights of Nos 10, 12 & 14 Skip Lane as shown in the amended 'Existing and Proposed Street Scene' dated 14.3.19

- height of the bottom of the roof at No 12 in relation to No 14 comes up a short way from the bottom window of No 14. In the amended drawing this comes almost to the top of the same window. Equally, the roof height of No 12 is pretty much level with the bottom of the dormer window in No 14. In the amended drawing it comes halfway up the pointed roof of the dormer.
- clear discrepancy and the amended drawing still exaggerate the height of No 12 compared to No 14.
- scale of amended drawing is also incorrect... new building would be approx. 4m tall and somewhere over 8m wide. That cannot be correct as the amended 'Front and Side Elevations of No 12' clearly shows the height of the new No 12 as being 8m. Using the scale from this drawing the width of the new building will be pretty nearly 16.3m (53') wide, which is extremely large and does not seem to tally with the size of the existing building as seen on Google Street View.
- the footprint of the proposed new house is much larger than the present building in relation to No 10, and especially to the rear of the property, towers over the bungalow at No 10 Skip Lane in height and floor area.
- Appeal decision - concluded that 'the proposed development would not cause harm to ... the setting of the RPG' or the setting of the listed buildings and that a proposed new larger house in this part of Skip Lane, cannot be refused solely on heritage grounds – the Gardens Trust disagree with this.
- appeal refusal reasons should be applied to current application: 'significant adverse effect on the character and appearance of the appeal site and its surroundings', 'the proposed house would result in an unacceptable reduction in the amount of sunlight and daylight reaching neighbouring garden' and '...cause significant harm to living conditions of existing and future occupants, and to their enjoyment of their private garden area.'
- Despite the appeal decision quoted above, the GT maintains its objections to application on heritage grounds

**Tree Officer** - a TPO was made on the semi mature Oak tree at the front of the site in November 2017 (TPO title no. 13/2017). If the entrance to the proposed new dwelling is to remain the same the Oak tree can and should be retained. Adequate protection of the tree in accordance with BS 5837: 20102 can be secured by conditions.

**Conservation Officer** – although the proposed dwelling house is a substantial structure, in terms of heritage impacts on the Great Barr Registered Park and Garden and the Great Barr Conservation Area, replacing one dwelling house with another in this location will have a negligible setting impact on these two landscape scale heritage assets.

The existing building is sited on a large private plot which in my view can accommodate a larger building. The proposed new building is not going to be taller than the existing building and the proposed style of the new building with hipped roofs and timber framed elements will not jar with the existing character of the building stock in the area.

**Strategic Planning Policy, Waste Management (Clean and Green) or Park Hall Residents Association** - No comments received. (NPPG confirms; *'consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice'*, which is the case in this instance.

## Representations

Following the publishing of the 17/6/19 planning committee agenda the following comments were received from the MP and an objector. Officer comments are in italics and brackets;

Valerie Vaz MP (14/6/19) reporting being contacted by constituents regarding the timing of the application to planning committee, residents not having time to consider the report, in particular the residents directly adjacent to the application site due to age and health who are not in a position to make effective representations.

*(The Chair of 17/6/19 planning committee deferred the application for one committee cycle to allow time for the directly adjacent neighbour to make comments)*

They are concerned there are inaccuracies which may influence committee, leading to an overbearing 3 storey house being built next door to their bungalow, exacerbated by the sloping topography, makes the ground level of 12 Skip Lane 1.5metres higher than 10 skip lane.

*(This is noted and discussed in the body of the report below)*

These concerns are shared by other residents of Skip lane and beacon Road, The Friends of Merrions Wood, Merrions Wood Trustees and Historic England's Consultees- The Garden Trust

*(Concerned raised by other residents of Skip lane and beacon Road, The Friends of Merrions Wood, Merrions Wood Trustees and Historic England's Consultees- The Garden Trust have been considered and weighed in the overall planning balance in the body of the report)*

Objection received following the publishing of the 17/6/19 committee agenda stating; The Officer's recommendation to approve this application is contrary to the consultation response given by Historic England in their expert and considered detailed response.

*(Council's are required to weigh all of the material planning considerations of an application against national and local planning policies and guidance, including any relevant appeal decisions, which may lead to a conclusion that does not always accord with a consultee, as is the case here)*

Valerie Vaz MP 4/7/19 wrote requesting a deferment of the planning application as the neighbour believes there are material errors in the report. For example; stated height and the development would extend beyond the building line.

The MP refers to 14 Skip Lane being refused by the Planning Inspectorate on many of the same grounds. The Inspector decided that the development would negatively impact on both the living conditions of neighbour's and character of the street and listed the planning policies which the application contravened. It is unclear how the Planning Officer has come to the opposite conclusion and I note the officer is retiring at the end of the month.

*(The Chair of planning confirmed the application will be presented to the 11/7/19 committee.*

*The height of the existing house is 7.35 metres and the proposed house 8 metres as detailed in the report. The proposed house does extend forward of the existing house and the immediate neighbours and is discussed in the observations of the report.*

*14 Skip Lane was refused by the Council and the Planning Inspectorate as detailed in the report. 14 Skip lane was a larger proposal than currently being presented to planning committee. Any potential impacts the current application may have to neighbours are discussed in the report before committee*

*Each planning application is assessed on its own merits and weighed against the material planning considerations. The case officer retiring is not a material planning matter in the determination of the planning application).*

*The MP continues explaining the neighbour's are elderly and disabled and not in a position to make effective representations in time for the 11/7/19 committee (The planning application was deferred from the 17/6/19 committee to give time to the residents to read the report. They have now had in excess of 4 weeks to read the report and should they wish make further comment to the Council. Whilst the planning authority is sympathetic to the residents personal situation, it is noted that the neighbour has provided written responses each time they have been consulted by the council to changes received from the applicant and another neighbor has registered to speak on their behalf).*

*9/7/19 letter received from Valerie Vaz MP stating; Walsall MBC constitution planning guidance protocols set out a policy that a site visit may take place after a report has been received by the planning committee. My constituents, have requested that a site visit is arranged so the committee are able to see the impact of the proposed development on their property and the street. (Whilst the planning committee has not carried out site visits since 2004, due to the advent of technology being able to present pictures and plans as part of the presentation, the Councils constitution states;*

### **3. PROCEDURES TO BE FOLLOWED ON PLANNING SITE VISITS**

*3.1 A report must be received by Committee before a site visit can take place.*

*3.2 The purpose of the site visit is to inspect the site and its surroundings to enable proper determination of the application. The reason for the particular site visit must be clearly stated and will be recorded in the minutes by the Clerk at the Committee meeting when it is resolved to inspect the site.*

*3.3 The visit will take place at the earliest possible opportunity to avoid any undue delay in determination of the application. It will always take place prior to the next scheduled meeting of the Committee. A time and date for the inspection will be agreed with the Chairman within three working days of the decision to defer the application. Members should make every effort to attend the site visit, though participation in the discussion at the subsequent meeting of the committee that determines the application is not conditional upon having attended the site visit.*

*3.4 If Committee are unable to visit a site as pre-arranged no decision on the application should be made until the visit has been re-arranged and carried out.*

*3.5 The General Manager planning services will notify those parties whose permission will be required to gain access to the site of the time and date of the inspection. Notification of deferral of decision on the application and the intention to inspect the site will be given by the General Manager, Planning Services to all other interested parties.*

*3.6 No decisions can be made during the site inspection: it is not a formal meeting of the Committee and no debate should take place on site. Members should not express any views on the application to any other parties present.*

*3.7 The visit to each site will aim to commence at the allotted time and no earlier: unavoidable delays could take place due to traffic congestion. A Planning Officer will*

*accompany Members on the coach or meet members at the site if coach transport is not arranged.*

*3.8 At each site, the planning officer will summarise the proposals, remind members of the reason for the visit, and point out any features on site of particular relevance. Where the site can be seen from public roads there will be no need to meet any interested party to gain access.*

*3.9 If the site is to be also viewed from adjacent land members should ensure that the inspection arrangements are carried out in full and that all invited parties are present at both the application site and on adjacent land/property, to avoid any claims of bias.*

*3.10 The role of interested parties at the inspection is to allow access and/ or observe proceedings. Whilst Members may acknowledge interested parties, Members should not make any comments on the application or enter into discussion about issues raised by the application. Members may, however, ask questions of those present to obtain clarification in relation to matters of fact. Members should ensure that they remain together as a group throughout the site visit. They should not allow themselves to be addressed separately from the assembled group.*

*3.11 The officer attending the site visit will make a note of the visit that will be placed on the planning application file. The note will record*

- (a) The date and start/ finish time of the visit;*
- (b) Details of those who were informed of the visit*
- (c) Those Members, officers and all other parties present at the visit;*
- (d) Any additional information revealed by the visit*
- (e) The name of the officer who prepared the note, and the date of its preparation.*

*3.12 This note will be submitted to the next meeting of the committee so that the outcome of the site visit can be taken into account when determining the planning application.)*

Valerie Vaz MP. My constituents have engaged a surveyor who is unfortunately not able to provide his report in time for planning committee. I consider this a relevant consideration for planning committee to take account of in making a decision. I would be grateful if you could defer a decision on the planning application.

*(The planning application was deferred from the 17/6/19 committee to give time to the adjacent constituents to read the report. They have now had in excess of 4 weeks to read the report and should they wish make further comment to the Council. Whilst the planning authority is sympathetic to the resident's personal situation, it is noted that the neighbour has provided written responses each time they have been consulted by the council to changes received from the applicant).*

The application site is immediately opposite a Registered Park and Garden, the park is designated Grade II Listed, of equal heritage asset status to Walsall Arboretum, and cited for its Seventeenth Century 'contemporary' Landscape and for providing the setting for Great Barr Hall.

*(Whilst these comments are noted, the planning inspector in determining the appeal at 14 Skip Lane stated;*

*'The site is adjacent to Great Barr Conservation Area (the CA) and Great Barr Hall Park, a grade II Registered Park and Garden (the RPG). The open land opposite the site is also within the Green Belt. Merrions Wood Local Nature Reserve (LNR) is within part of the Park close to the site, although its boundary is further from Skip Lane....houses on Skip Lane are visible from nearby public footpaths within the RPG and the LNR. However, the stretch of Skip Lane forms a very small part of the extensive boundary of the RPG and CA,*

*and the proposed development would only be seen from a limited range of vantage points within those wider landscapes.... the site is separated from nearby public vantage points to some degree and are screened to some degree by trees and hedges... views of the building from the wider RPG and CA would be very limited, the proposed development would not detract from the way in which the RPG parkland landscape or the CA were experienced as a whole...in conclusion the proposed development would not cause harm to the character or appearance of the adjacent CA, or the setting of the RPG. Nor, for the same reasons, would it harm the character and appearance of the LNR').*

This undervalued heritage asset was designed by Humphry Repton, the last great English landscape designer of the eighteenth century, the successor to Capability Brown and Walsall should protect and publicise this heritage jewel – not harm or be ignorant of it. *(Noted, the local planning authority is aware of the heritage asset. The current planning application does not encroach on this heritage asset and as noted above, the planning inspectorate's recent decision at 14 Skip Lane [a material consideration], concluded there was no impact. The matter of publicising the heritage asset is outside the scope of the planning application process)*

The Site is also opposite Merrions Lodge also Grade II Listed, attributed to George Gilbert Scott, now buried in Westminster Abbey and who also designed The Foreign and Commonwealth Office, The Albert Memorial and St Pancras Station in London. Again Walsall Council should preserve and benefit from such unique heritage assets, not harm them.

*(Noted, the local planning authority is aware of the heritage asset. The current planning application does not encroach on this heritage asset and as noted above, the planning inspectorate's recent decision at 14 Skip Lane [a material consideration], concluded there was no impact)*

In view of the above Walsall Council should have undertaken steps to preserve these heritage assets, but for years they have never conducted a Conservation Area Appraisal and therefore are in breach of the Planning (Listed Buildings and Conservation Areas) Act 1990. The significance of these heritage assets is also mysteriously absent in the supplementary planning documentation Designing Walsall. It's scandalous and steps should be taken immediately to rectify this! "without these statutorily required heritage appraisals how can an accurate and appropriate judgement be made that this application does not harm the heritage assets? It can't! and therefore shouldn't!"

*(Whilst the comments are noted, the Local Planning Authority does not create planning policies, guidance or carry out conservation appraisals, it is responsible for determining planning applications based on the national and local planning policies and guidance available at the time of the determination of the planning application. This objection has been forwarded to the Council's regeneration service who manage and create the Council's policies, guidance and undertake conservation appraisals).*

The Gardens Trust who are Historic England's statutory consultees have considered the application in detail and have confirmed their strong objection to the proposal. They state:-  
1. "The footprint of the proposed new house is much larger than the present building in relation to no.10, and especially to the rear of the property, towers over the bungalow at 10 Skip Lane in height and floor area."

2. "Should this application be permitted, there is a danger of a precedent being set and all the houses becoming increasingly inflated in scale which would very much alter the character of the boundary".

3. The Gardens Trust Conservation Officer agrees with a most recent Planning Inspectors Report at no.14 Skip Lane (January 2019) which dismissed the Applicant's appeal and suggests the same mistakes have been repeated by the architect; "significant adverse effect on the living conditions of the occupants (here for the single storey No 10 Skip Lane)...with regard to outlook and light'. The Inspectors comments regarding the 'undesirability of the proposed house (having) a significantly greater presence than the existing building (para 29) and 'the proposed dwelling (appearing) as an unduly dominant feature when viewed from the front windows and garden of...neighbouring house' (para 30) are also relevant here."

4. "The Gardens Trust maintains its objection on heritage grounds as set out in our letter 21.11.18. We also believe there are other grounds for refusal."

*(The proposed replacement house is larger than the one it replaces. Notwithstanding the Gardens Trust comments and the fact that the Gardens Trust have not issued a direction preventing the Council from determining the planning application, the local planning authority has assessed the current scheme against the material considerations [including the planning inspectors decision for 14 Skip Lane], resulting with a recommendation to planning committee as set out in the body of the report)*

The Gardens Trust (GT) Conservation Officer wrote to the Case Officer on 4th January 2019 highlighting that the GT expected an arboricultural report detailing how the root protection zone for a mature oak tree (protected by TPO) in line with BS 5837: 2012. This has not been done!! The root protection area for this tree will fall in the excavation area for the footings especially as the proposal sites the building 2 metres further forward than the existing porch closer to the road and altering the building line.

*(Notwithstanding the Gardens Trust comments, the Council's arboriculturist has inspected both the tree and the proposed plans and concluded that the tree can be protected via imposing condition 3 to implement tree protection measures. Consequently, there is no need for the applicant to provide a tree report).*

The Gardens Trust Conservation Officer wrote to the Case officer 4.1.19 outlining concerns regarding comments by Elli Winterburn, the Council's Historic Buildings Specialist, because she had mistakenly believed the, 'proposed building is not going to be any taller than the existing building...I have no objections to these proposals on heritage grounds'. The proposed building remains 1 metre taller than the existing property!!

*(Whilst these comments are noted, this part of Skip Lane is not part of a conservation area and none of the houses are listed. The planning inspectorate's comments confirmed there were no impacts to the adjacent heritage asset from the proposal at 14 Skip Lane notwithstanding the fact that the proposal at 14 was for a larger house than currently being considered)*

The case officer's report highlights the use of a mansard roof in the proposed design (this is basically a flat roof), "which planning committee have accepted on other properties in the area." What the Case Officer fails to mention in her report is that the Planning Committee accepted this type of roof in a previous application against Case Officer Helen Smith's recommendations and against the concerns raised by a Planning Inspector on previous applications. This is because this style of roof is considered a poor design as it often results in a new dwelling that is considerably wider and deeper than the existing

house and the adjacent houses. To put it into context the flat roof area on the proposed property would be equivalent to the size of half a tennis court.

*(Each application has to be considered on its own planning merits assessed and weighed against all of the material planning considerations as set out in the body of the report)*

The Case Officer's report states that there is 15m separation between the rear habitable room windows (bedrooms) of the bungalow and the proposed new house. The architect has attempted to mitigate this by installing obscured glazing but this is in contravention of Supplementary Planning Document, Designing Walsall Section 7, which clearly states a minimum of 24 metres separation between habitable room windows and that this will be more robustly applied at the rear of a property. Clearly Not in this case! The use of obscure glass should not mitigate for, and in fact highlights, poor design and leaves the elderly occupants of the bungalow fearful that the glass can be changed in the future and destroy the peaceful enjoyment of their home and garden.

*(This is noted and discussed in the body of the report below)*

The Gardens Trust's Historic Landscape Consultant, has prepared a composite plan view taken from the architects drawings to enable the Planning Committee to easily visualise the extent of the alteration in the building line and the incongruous overdeveloped footprint of the proposed dwelling. The existing building (pale red wash) superimposed onto the proposed building. *(Each application has to be considered on its own planning merits assessed and weighed against all of the material planning considerations as set out in the body of the report)*

The failure by the Case Officer to fully consider and accept the consultation response of Historic England, given through the Gardens Trust's experts, is unacceptable and Members should question how an application of this poor quality could be considered acceptable in harming this part of Walsall's heritage. We therefore request that Members seek to require the Council to respect, preserve and publicise its connections to world famous landscape designers and architects and in doing so that they vote to refuse this application.

*(Notwithstanding the objectors comment and the Gardens Trust comments including the fact, the Gardens Trust have not issued a direction preventing the Council from determining the planning application. Having weighed the overall planning balance, taking into account the material considerations [including the planning inspectors decision for 14 Skip Lane], has resulted in a recommendation to planning committee as set out in the body of the report)*

Five letters of objection following re-consultation based on the following grounds:

- new building be visually overbearing and too large for the plot,
- over-massing of site due to excessive length, depth, height and proximity to the neighbouring properties.
- dominant impact on the neighbouring properties in Skip Lane and Beacon Road.
- Massive flat roof area (11m x 9.5m), significant increase of 1.0 metre in height.
- Plans are inaccurate: proposed building – written height of 8000mm, plans are not to scale, as proposed dwelling 7.7 metres. There's a window missing west elevation but shown on plan, all very misleading.
- 4.0 metres in front of the existing building line causing overshadowing and loss of light to no. 10 Skip Lane.



- loss of character to the street scene
- impact on root system of oak tree in front garden protected by a TPO (13/2017),
- impact on the provision for six car parking spaces
- trees root system need to be excavated for a driveway and footings for the large structure of the building
- Root Protection Area required by tree is a minimum of 15 metres... any change to building line would involve excavation for footings in root protection area
- The crown/mansard roof design is out of character with existing properties
- building appears bulky and too large
- flat roof would be size of half a tennis court
- design is incongruous and impacts on street scene and Registered Park and Garden and Merrions Lodge... would have a significant harm to the character of the area, namely the Registered Park and Garden, Green Belt and the nearby Merrions Lodge.
- The site can clearly be seen from both Merrions Lodge and the RPG
- infill almost entire width of house plot... not in keeping with neighbouring properties which are characterised by spacing at first floor level
- harmful visual impact on the appearance of Skip Lane
- fail to integrate into the special character of the area
- increase height have overbearing effect on bungalow (no.10)
- jarring effect of roof lines
- woodland and parkland opposite are important habitats to rare species of bat, birds and other wildlife.
- Planning Appeal Decision APP/V4630/W/18/3207169 at 14 Skip Lane: reasons given by Inspector in dismissing the appeal apply to this application.
- no planting of any new trees and shrubs, existing ones removed contrary to policy ENV17 of the Walsall's saved Unitary Development Plan - *planting scheme could be conditioned*
- discrepancy in council's conservation consultant who wrote "proposed building is not going to be any taller than the existing building, hipped roofs and timber framed will not jar with existing character of the area" –the proposed height is not the same as existing and therefore at odds with the conservation recommendations...roof different to hipped being a large flat or crown which is very untypical of this area

## Determining Issues

- Principle
- Green belt/conservation area/ heritage asset
- Design, Character and appearance of the Area and Streetscene
- Neighbouring Amenity
- Protected species / ecology
- Parking
- Inaccuracy of the drawings

## Assessment of the Proposal

### Principle

The site is situated within an established residential area within walking distance (maximum of 1000m defined in paragraph 7.51 of the UDP) of shops on Birmingham Road to the south (within Birmingham City Council area) and (Park Hall local centre approximately 1km to the north). There are also regular bus services along Birmingham Road. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP.

The principle of a replacement dwelling is considered appropriate in this location, subject to design, character, amenity, ecology, heritage assets and parking.

### Green Belt / Conservation Area / Heritage Asset

Great Barr Hall Park (the Registered Parks and Gardens - RPG) is an 18th century landscape park which is associated with the listed Great Barr Hall. The Great Barr Conservation Area includes the RPG, and both draw their character and significance principally from the open parkland landscape, which is distinct from the residential estates and other developed areas surrounding it.

The Council refused a replacement house at 14 Skip Lane on the 26/1/18 with a subsequent appeal being dismissed on the 16/1/19. This forms a material consideration in the determination of this current planning application. In the summing up the 14 Skip Lane appeal (directly adjacent to the current planning application) the planning inspector made the following comments;

*“...the appeal site and other houses on Skip Lane are visible from nearby public footpaths within the RPG and the LNR. However, the stretch of Skip Lane which includes the appeal site forms a very small part of the extensive boundary of the RPG and CA, and the proposed development would only be seen from a limited range of vantage points within those wider landscapes.*

*Even from the parts of the CA, RPG, Green Belt and LNR closest to Skip Lane, the site is separated from nearby public vantage points to some degree.... public views towards Skip Lane from those points are screened to some degree by trees and hedges within the RPG, even when many of those trees are not in leaf... From those nearby public vantage points, the site is viewed within the context of other suburban houses on Skip Lane, which is one of a number of areas of housing which surround the boundaries of this large, open parkland landscape.”*

Whilst the planning inspector found that the proposed replacement house at no 14 would harm its immediate surroundings and generally the Skip Lane street scene the inspector also concluded that it would not encroach into the adjacent open land, or beyond the existing residential frontage of which it would have formed part of.

In this instance the current proposed dwelling is considered would not appear as dominant, being smaller and a similar width to the existing house compared to 14 Skip Lane proposed house dismissed at appeal. It is considered, the current proposal reflects the character (Arts and Craft) and design of other nearby houses along Skip Lane.

Based on the Council's assessment of the currently proposed house against the material planning comments of the planning inspectorate, views of the proposed building from the wider RPG and CA would be limited, the proposed development would not detract from the way in which the RPG parkland landscape or the CA would be experienced as a whole.

On balance it is concluded that the proposed development would not cause harm to the character or appearance of the adjacent CA, or the setting of the RPG. Nor, for the same reasons, would it harm the character and appearance of the Merrions Wood LNR or the heritage assets.

The site is not within the Green Belt and would not result in harm to the openness of the Green Belt or harm the character of the adjacent open land. Weighing the proposal against the material planning considerations, it is considered in this instance, to recommend a resolution to approve for the proposed replacement house.

### **Design, Character and Appearance of the Area and Streetscene**

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 CPS4, 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.

A common characteristic of the houses on Skip Lane is that they are traditionally styled with feature gables and other architectural elements. The applicant's interpretation of the "arts and craft" design is considered reflects the character of the existing street scene, provides an opportunity to reinforce the overall street scene subject to material finishes.

The applicant has suggested the use of high quality materials which will be sympathetic to its surroundings. Whilst the proposed schedule of materials could be supported the details of the material, texture and colours will be required by a safeguarding condition.

The overall height to the ridge, whilst being one metre higher than the ridge of the existing dwelling, will continue to provide a stepped decrease in height along Skip Lane towards Birmingham Road.

The application proposes a smaller replacement house than that was subject of the appeal at no. 14. The width of the proposed house (16 mts) also reflects a similar width of the existing house (16mts including the ground floor side bay).

Taking on board the planning inspector's comments regarding the larger proposed house at 14 Skip Lane, it is considered the currently proposed replacement house will not cause harm to the character or appearance of the adjacent CA, the setting of the RPG, or harm the character and appearance of the LNR. Based on the scale and mass of the currently proposed house, it is also considered it would have no greater impact on the street scene that would be sufficient to warrant a refusal.

In weighing the material planning consideration, for the above reasons the proposal would not result in significant harm to the character of the area, street scene or local area and as such is considered in accordance with both local and national policy.

### **Neighbouring Amenity**

The rear of the proposed house extends 3.5mts beyond the existing rear elevation of no 10. This part of no 10 consists of a covered entry to the front with what appears to be a utility room with a door to the rear area along the shared boundary with the number 12.

The footprint and layout of the proposed house has been designed so as to comply with the council's 45 degree guidance to both adjacent houses, whilst according with Designing Walsall SPD appendix D.

There will be 11 metres in total between the side elevations of the proposed application house and the existing side elevations of no's 14 and between 1.4mt and 1.9mts to the side of no. 10. The gap to no 10 from the proposal is also assisted by the difference in ground levels (no 10 being approx. 1 to 1.5mts lower). It is considered sufficient to safeguard against future potential adjacent developments which could result in a terracing design being created subject to the gaps being retained.

The proposed rear central two storey projection of the proposed dwelling has full height, side facing windows to habitable rooms (snug and master bedroom). These face towards the side facing habitable room windows of number 10's rear wing with a 15 metre window to window separation. The applicant proposes to obscurely glaze the side facing windows of the proposed two storey rear projection facing no. 10. Given the application house habitable rooms would also be served by rear facing windows, it is considered this is a reasonable compromise which can be secured via a safeguarding condition, requiring the proposed two storey rear projection side facing windows, facing no. 10 to be obscure glazed to Pilkington (or equivalent) privacy level 4 and no opening parts lower than 1.7 metres from the floor level of the rooms they serve at the time of installation. In addition, the land levels and the existing 1.8 mts high boundary fence all serve to assist in protecting the privacy of the neighbour and the occupiers of the replacement house.

The proposed gap of 11 metres facing east towards 14 Skip Lane, is considered does not create any detrimental impact on the amenities of number 14's occupiers, notwithstanding the existing side facing secondary first floor window as side facing windows are one of the characteristics of the locality.

Objectors are concerned the new building will be visually overbearing, over-massing of site due to excessive length, depth, height and proximity to the neighbouring properties and have a dominant impact on the neighbouring properties in Skip Lane and Beacon Road. As set out above the replacement house will occupy a similar footprint to the existing house in terms of width and whilst being higher by approximately one metre at the central ridge, the use of lower hipped roofs either side of the central ridge further reduces any potential impact on the street scene.

Whilst the proposed dwelling includes a mansard roof (with an element of flat roof), it is a design which allows the potential use of the roof space without visually creating a third floor. In this instance, there will be limited views of the flat roof from the street scene, limiting any visual impacts to the detriment of the street scene. The existing dwelling is a

part dormer property, using some of the roof space currently as is the case for some of the other properties in the street. The current application proposal reflects this feature and is considered would reflect the street scene and its local characteristics.

Whilst the depth of the proposed house increases compared to the existing house, the plot depth can sustain the increased depth in this instance whilst according with the 45 degree guidance.

The objectors have commented on the proposed house being 4.0mts in front of the existing house which would cause overshadowing and loss of light to no. 10 Skip Lane. The proposed application house extends forward 2.5 metres of the front elevation of number 10, when measuring from the front elevation of number 10 nearest to the application house. The council utilises the 45 degree code to consider impact to light from nearest habitable room windows. In this instance, the new house complies with the 45 degree code when measured from the nearest front habitable room window of number 10. Whilst number 10 is directly to the west of the application house, it is considered the early morning shadow potentially generated from the application house would have a limited impact on number 10, which would not sustain a refusal.

The proposed house would come forward of the existing front elevation of 14 Skip lane by 5 metres including the front projecting two storey front bay window. From the proposed house to the side of number 14 Skip Lane, there is a gap of 11 metres. The proposed house would be to the west of 14 Skip Lane. It is considered, the gap and the orientation of the houses limits potential overshadowing of the front of 14 Skip Lane, which would not sustain a refusal. Based on the positioning, mass and orientation of the proposed house frontage, it is considered the house will not impact on the amenities of either neighbours.

A two storey feature entrance porch will be forward of the proposed principle front elevation by a further 2 metres, this being centrally located within the plot, it is considered limits any potential detrimental impact on residential amenity of properties on either side given the orientation and the distances to both numbers 10 and 14.

The window to window distance between the rear windows of Beacon Road and those in the proposed house, will exceed 25 metres, which would accord with the Council's Designing Walsall SPD. Consequently, it is considered there are no impacts to the amenity and privacy of the Beacon Road occupiers.

### **Protected Species / Ecology**

A Preliminary bat roost assessment has been carried out, it concludes that whilst no evidence of bats and/or bat usage was found it recommends conditions to be imposed on any planning permission requiring at least three dusk emergence and/or dawn re-entry surveys to be undertaken during the bat emergence/re-entry survey season. This will then confirm whether there is a presence/absence of bats at the application site. It is also recommended that at least two of the surveys to be undertaken between May and August.

An updated bat report required the provision of bat boxes being installed in the building, furthermore, conditions in respect of controlling lighting should also be included. These can be secured by way of appropriate planning conditions should an approval be given.

The semi mature oak tree at the front of the application site benefits from a tree preservation order (TPO title no. 13/2017). It is considered that the oak tree can and should be retained. Adequate protection of the tree in accordance with BS 5837: 2012 can be secured by conditions.

The rear garden has been cleared of existing trees. Whilst this is unfortunate, these were not protected and as such the applicant can remove trees without requiring any consent from the Council. Should the tree removal have displaced any protected species or nesting birds, this would be a separate matter for Natural England to consider whether enforcement action or prosecution is warranted. Details of the boundary treatment to the frontage of the site will be required as a condition of any planning permission, although in this location, it should be either a low wall (no more than 450mm and without gates) or a hedgerow to reflect the local characteristics.

### **Access and Parking**

UDP policy T13 requires three off-street parking spaces for a four bedroom dwelling. The proposals will provide a double width garage and there is ample space at the front of the house to accommodate this level of off road parking. Any frontage boundary treatment would need to be low and provide a pedestrian visibility splay, gates set back 5m from the highway edge, surfacing of drive and retention of the garage are requested to be conditioned. Any planning permission should include conditions requiring details of front boundary and surfacing of the drive. Unless the driveway is proposed to be replaced, then the council would be unable to condition the driveway to be surfaced. The remaining elements can be secured by way of a safeguarding condition.

### **Inaccuracy of the drawings**

Neighbours have objected to the accuracy of the plans and provided annotated measurements on photographs. As part of the Council's ongoing negotiation to amend the proposal, the applicant employed an independent surveyor to carry out measurements of the heights of the existing property. The overall height of the proposed house has been reduced and better reflects the rise along Skip Lane and the relationship with neighbouring houses. Notwithstanding this, objectors are still concerned that this does not accurately portray the existing levels along this part of Skip Lane and in particular the levels and relationship between the application site and the two houses either side. The Gardens Trust has also raised concerns regarding the inaccuracies in the street view plans.

The plans when printed at A3 size show the existing house as being 7.35 mts to the ridge and the proposed house at the central ridge to be 8 mts.. Based on the Council's assessment of the latest submitted plans, it is considered the accuracy of the drawings is sufficient to be able to determine the application as it reflects the street scene.

### **Comments on objections**

- new building be visually overbearing and too large for the plot. *This has been addressed above*
- over-massing of site due to excessive length, depth, height and proximity to the neighbouring properties. *This has been addressed above*
- dominant impact on the neighbouring properties in Skip Lane and Beacon Road. *This has been addressed above*
- Massive flat roof area (11m x 9.5m), significant increase of 1.0 metre in height. *This has been addressed above*

- Plans are inaccurate: proposed building – written height of 8000mm, plans are not to scale, as proposed dwelling 7.7 metres. There's a window missing west elevation but shown on plan, all very misleading. *This has been addressed in the paragraph above*
- 4.0 metres in front of the existing building line causing overshadowing and loss of light to no. 10 Skip Lane. *This has been addressed above*
- loss of character to the street scene *This has been addressed above*
- impact on the provision for six car parking spaces *The Unitary Development Plan policy T13 requires 3 off road parking spaces for this proposed house, not 6 as suggested by the objectors.*
- Impact on root system of oak tree in front garden protected by a TPO (13/2017), trees root system need to be excavated for a driveway and footings for the large structure of the building, Root Protection Area (RPA) required by tree is a minimum of 15 metres... any change to building line would involve excavation for footings in root protection area. *The Council's Arboriculturist is satisfied the tree can be protected and retained. A condition requiring protection measures as part of any planning approval.*
- The crown/mansard roof design is out of character with existing properties. *Whilst this is noted, each proposal is considered on its own merits. In this instance, it is considered the mansard roof has limited impacts on the street scene as there are limited views of the flat roof element*
- building appears bulky and too large, flat roof would be size of half a tennis court. *Whilst this is noted, each proposal is considered on its own merits. In this instance, it is considered the mansard roof has limited impacts on the street scene as there are limited views of the flat roof element*
- design is incongruous and impacts on street scene and Registered Park and Garden and Merrions Lodge... would have a significant harm to the character of the area, namely the Registered Park and Garden, Green Belt and the nearby Merrions Lodge. *This has been addressed above*
- The site can clearly be seen from both Merrions Lodge and the RPG *This is addressed above*
- infill almost entire width of house plot... not in keeping with neighbouring properties which are characterised by spacing at first floor level. *This is addressed above*
- harmful visual impact on the appearance of Skip Lane *This has been addressed above*
- fail to integrate into the special character of the area *This has been addressed above*
- increase height have overbearing effect on bungalow (no.10) *This has been addressed above*
- jarring effect of roof lines *This has been addressed above*
- woodland and parkland opposite are important habitats to rare species of bat, birds and other wildlife. *Whilst this is noted, the application site is across Skip lane and the proposal does not impact on any habitat within the woodland or parkland. A condition requiring further bat surveys will be required.*
- Planning Appeal Decision APP/V4630/W/18/3207169 at 14 Skip Lane: reasons given by Inspector in dismissing the appeal apply to this application. *The assessment of this planning application has weighed in the overall planning balance the planning inspector's conclusions resulting in a resolution to approve being presented to the planning committee.*

- no planting of any new trees and shrubs, existing ones removed contrary to policy ENV17 of the Walsall's saved Unitary Development Plan – *This has been addressed above*
- discrepancy in council's conservation consultant who wrote "proposed building is not going to be any taller than the existing building, hipped roofs and timber framed will not jar with existing character of the area" –the proposed height is not the same as existing and therefore at odds with the conservation recommendations...roof different to hipped being a large flat or crown which is very untypical of this area. *This has been addressed above*

## **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 CSP4, ENV2 and ENV3, Saved Unitary Development Plan policies GP2, ENV8, ENV18, ENV23, ENV29, ENV30, ENV32, ENV33, T13 and Air Quality SPD and Designing Walsall SPD and on balance is considered to be acceptable.

It is considered that the proposals will not cause harm or adversely impact on the character, appearance and identity of the local area, adjacent CA, or the setting of the RPG or LNR. The site is not within the Green Belt and consequently it is also concluded that the proposal would not result in harm to the openness of the Green Belt or character of the adjacent open land. The proposal is considered to be consistent with advice in the NPPF. An appropriate level of private amenity will be retained for all neighbouring occupiers, the development is in accordance with the 45 degree guidance and will continue the character of the street frontage along Skip Lane.

The use of safeguarding conditions in respect of the materials, protected species, construction works and hours, glazing, car parking, security and boundary treatments 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, the objections from consultees and the community, it is considered that the application should be recommended for approval.

## **Positive and Proactive Working with the Applicant**

Following discussions with the applicant amendments have been made to accommodate the following issues;

- Reduction in front gable feature to be reduced in line with the proposed ridge height
- chimney reduced so that the main body is at the same height as the proposed ridge.
- Removal of gable above the right hand side two storey height bay
- The roof hips on either side need to be straight (no upwards kicks)

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



## Recommendation

Grant permission subject to conditions

## Conditions and Reasons

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. This development shall not be carried out otherwise than in accordance with the following approved plans: -

- Location plan & Site plan (P100) received 26/9/18
- Proposed site plan (PP101 Rev C) received 17/9/19
- Proposed Front & Side elevation (PP302 Rev E) received 17/9/19
- Proposed Rear & Side elevation (PP302 Rev F) received 25/9/19
- Proposed GA Floor Plans (PP201 Rev C) received 25/9/19
- Proposed Roof Plan (PP202 Rev E) received 17/9/19
- Streetscene (PP304 Rev E) received 17/9/19

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. No building or engineering operations including demolition of the existing house, site clearance or site preparation for the house hereby approved shall take place until tree protection fencing in accordance with '*BS 5837: 2012 Trees in relation to design, demolition and construction – Recommendations*' shall be erected around the Oak tree at the front of the site, retained and maintained throughout the process until the house is ready for occupation.

3b. The area enclosed by the tree protection fencing shall be kept clear of contractors materials, machinery and be a no dig area at all times.

Reason: To safeguard the semi mature Oak tree at the front of the site adjacent Skip Lane.

4a. No building or engineering operations including demolition of the existing house, site clearance or site preparation for the house hereby approved shall take place until, until at least three dusk emergence and dawn re-entry surveys be undertaken during the bat emergence/re-entry survey season to determine the presence/absence of roosting bats within the building.

4b. The surveys referred to in part a) of this condition shall be carried out in accordance with Bat Surveys: Good Practice Guidelines published by the Bat Conservation Trust

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(Collins, 2016) recommends that for buildings with high bat roosting potential. The bat emergence/re-entry survey season extends from May to September. At least two of the surveys should be undertaken during the peak season for emergence/re-entry surveys between May and August and one of the three surveys should be a dawn re-entry survey. The results of the three dusk emergence and dawn re-entry surveys and proposed bat mitigation including the positions of at least two bat boxes to be installed in the new building and timings for the redevelopment of the house shall be submitted to and agreed in writing by the local planning authority.

4c. The demolition/construct works shall be carried out in accordance with the agreed timings and bat mitigation as agreed in the bat emergence/re-entry survey. If a roost is discovered during these surveys, a Natural England licence application may be required.

- i) Contractors undertaking demolition works shall be made aware that bats may be present and the steps to be taken if bats are discovered.
- ii) All cracks and crevices on the building, under roof tiles, behind stonework etc. shall be dismantled carefully using hand tools.
- iii) If development does not commence within 12 months of the agreed three dusk emergence and dawn re-entry surveys and proposed bat mitigation and timings the submission of an updated bat survey report for approval in writing by the Local Planning Authority before any part of the development commences including site clearance, site preparation and demolition.

4c. If bats or evidence of bats are found once physical work commences on site:

- i) bats should not be handled or touched and the vicinity of any bat roost shall be immediately reinstated.
- ii) no further works shall be carried out to the building until the need for Natural England licence has been established.
- iii) within one week of finding bats or evidence of bats, a written report by the supervising ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation
- iv) No work shall continue on the building otherwise than in accordance in accordance with the approved mitigation measures and the approved timetable and/or in accordance with the terms of any Natural England licence issued.

*Reason:* To conserve local bat populations and in accordance with Conserving Walsall's Natural Environment SPD.

5. Prior to the first occupation of any part of the development hereby approved the two bat roosting boxes shall have been incorporated within the built fabric of the dwelling in accordance with the locations agreed as part of condition 4 and thereafter be retained for the life of the development with access openings maintained free of obstructions at all

times, without direct illumination from any artificial light and at least 4-5 metres above the natural ground level.

*Reason:* To conserve local bat populations and in accordance with UDP saved policy GP2 and ENV23.

6a. Notwithstanding the details submitted and prior to the commencement of any building works above the damp proof course until details of any proposed frontage boundary treatment to the front of the development plot adjacent to Skip Lane including any proposed gates shall be submitted to and approved in writing by the local planning authority to include materials, colour and textures. No boundary treatment between the front of the property and the public highway shall be no greater than 450mm in height and no gates shall be erected nearer to the public highway than 5 metres from the edge of the carriageway/footway.

6b. The development shall be carried out in accordance with the approved details and thereafter retained for the life of the development.

*Reason:* To ensure the satisfactory appearance, functioning of the development and in accordance with UDP saved policy ENV 32.

7a. Notwithstanding the details submitted and prior to the commencement of any works being carried out above ground level, full details of facing materials, including texture, size and colours to be used in the external walls, roofs, windows, doors, rainwater goods and surfacing shall be submitted to and approved in writing by the local planning authority.

7b. The development shall be carried out in accordance with the approved details and thereafter retained for the life of the development.

*Reason:* To ensure the satisfactory appearance, functioning of the development and in accordance with UDP saved policy GP2 and ENV32.

8a. Prior to the commencement of any part of the building works above the damp proof course of the dwelling until details of a type 2 socket wallpod electric vehicle charging point including its location, shall be submitted to and agreed in writing of the Local Planning Authority.

8b. Prior to first occupation of any part of the development hereby approved the agreed electric vehicle charging point shall be installed in accordance with the approved details and shall thereafter be retained and maintained for the life of the development.

*Reason:* In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 and DEL1 of the Black Country Core Strategy

9a. Prior to commencement of any part of the development hereby approved above the damp proof course details of all of the means of enclosure to be erected in or around the development (excluding the front boundaries in the street scene) shall be submitted to and approved in writing by the Local Planning Authority.

9b. The development shall be carried out in accordance with the approved details and thereafter retained for the life of the development..

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan

10a. Prior to the first occupation of any part of the development hereby approved, the frontage parking and vehicle manoeuvring area shall be consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the public highway or into any public highway drain.

10b. The parking and manoeuvring areas shall thereafter be retained and used for no other purpose.

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

11a. Notwithstanding the details as submitted, the development shall not be constructed otherwise than to meet the following minimum security measures and thereafter retained as such;

- 2m high close boarded fence to boundary, constructed so that the smooth face faces outwards, shall include 0.3m high anti-climb (Criss Cross) trellis topping. Where concrete post and panels are to be used the fence panels shall be secured together using galvanised metal straps, so that the panels cannot be lifted. The fencing shall be treated wood with a guaranteed life span of 25yrs;
- All fencing/gates shall be flush with frontages;
- Side access gates shall be self-closing and lockable on both sides;
- 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; and
- The houses shall have a suitable intruder alarm, with a siren box front and back, with dual or quad technology sensors and auto dialler function.

11b. Prior to first occupation of the hereby approved development, a written independent validation report confirming the security measures have been installed throughout the development shall be submitted for the written approval of the local planning authority. The security measures shall thereafter be retained for the life of the development.

Reason: To ensure the safety and security of the development and its occupiers and compliance with saved policy ENV32 of Walsall's Unitary Development Plan.

12. No external lighting scheme shall be installed other than in accordance with the requirements set out below:

- There shall be no direct illumination of the new bat roosts installed or other potential bat access points.

- Any lighting installed shall be low wattage down lights to provide security and safety lighting which will be set no higher than head height.
- Any security lighting shall use PIRs to ensure they turn off automatically once movement has ceased
- Any lighting, either temporary or permanent, along the site boundaries should be kept to a minimum and directed away from the boundary features to maintain dark areas and corridors.
- Lighting should be designed in accordance with the principles of 'Landscape and urban design for bats and biodiversity' as published by the Bat Conservation Trust (Gunnell *et al*, 2012).
- Materials used under lights, such as floor surfaces, should be materials that have a minimum reflective quality to prevent light reflecting upwards into the sky.

The external lighting shall thereafter be retained and maintained for the life of development with the requirements set out above

*Reason:* To conserve local bat populations, ensure bats using the site and surrounding area to roost/forage/commute are not affected by illumination and to limit the impact of light pollution on bats through the careful use of lighting in critical areas only and at a low level with minimum spillage.

13. No boilers shall be installed and used in the dwelling hereby approved, save For:

- Gas and liquefied petroleum gas (LPG) boilers with maximum NOx emissions no greater than 56 mg/kWh
- Oil-fired boilers with maximum NOx emissions no greater than 120 mg/kWh.

*Reason:* To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1

*Reason:* To conserve and enhance the natural environment.

14. The development shall not be constructed otherwise than to provide the disposal of surface water and foul sewage shall be to the main drainage system only.

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

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or succeeding Orders, no additional side facing windows or doors other than those approved by this permission, and no enlargements, additions or other alterations, as defined by Classes A, B, C, D and E of Part 1 of Schedule 2 of the Order, shall be constructed.

*Reason:* In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

### **Notes for Applicant**

**Air Quality SPD** - The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),
- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

**Bats** - In general, bats seek warm places and for this reason boxes should be located where they will receive full/partial sun, although installing boxes in a variety of orientations will provide a range of climatic conditions. Position boxes at least 3 m above ground to prevent disturbance from people and/or predators. The planting of species which attract night flying insects is encouraged as this will be of value to foraging bats, for example: evening primrose *Oenothera biennis*, goldenrod *Solidago virgaurea*, honeysuckle *Lonicera periclymenum* and fleabane *Pulicaria dysenterica*

**Hours of operation** - No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08:00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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





## Planning Committee

Report of Head of Planning, Engineering and Transportation on 31-Oct-2019

**Plans List Item Number: 7.**

**Reason for bringing to committee:** Called in by Cllr Wilson the application requiring delicate judgement.

**Location:** ALDRIDGE AIRPORT, BOSTY LANE, ALDRIDGE

**Proposal:** INSTALLATION OF A PRE-CONSTRUCTED STORAGE UNIT.

**Application Number:** 19/0649

**Applicant:** Mark Travers

**Agent:** G & G Building Consultancy Ltd

**Application Type:** Full Application: Minor  
Use Class Sui Generis

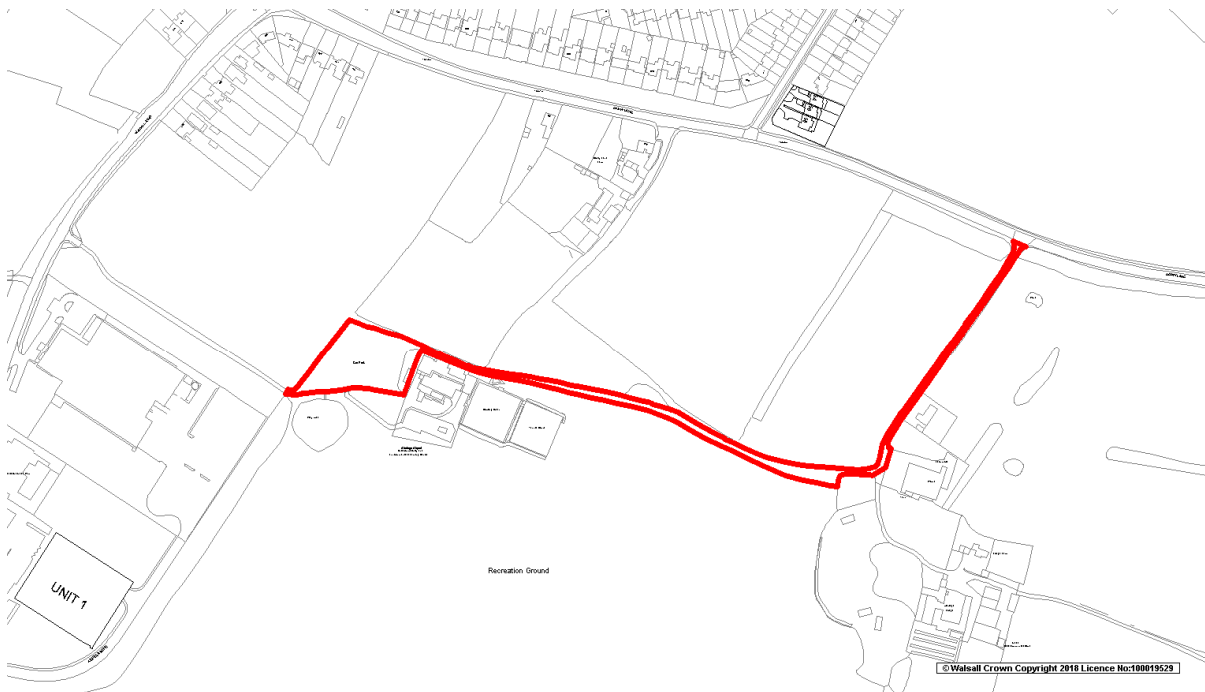
**Case Officer:** Devinder Matharu

**Ward:** Aldridge Central And South

**Expired Date:** 02-Aug-2019

**Time Extension Expiry:** 30-Oct-2019

**Recommendation Summary:** Refuse permission





## Proposal

The application proposes the installation of a pre-constructed storage unit measuring 2.4m wide by 6m in length and 2.4m high and painted green. The storage container will be positioned on the car park to Aldridge Airport along the southern boundary.

The planning agent has submitted the following details in support of the application:

- Greenacres Model Aero Club are the stewards of model aircraft flying in Aldridge Airport.
- The club has some 60 members; seven members form the managing committee.
- As part of their agreement with Walsall MBC they are required to host three free public model flying shows each year.
- The car park is being used by the general public as well as various organisations/football groups and Greenacres Model Aero Club.
- In order to host these events the club house need to store various items of equipment, including large marquees, fencing, boundary stakes, public address equipment, limbo bars and a ride on mower.
- The largest single item to be stored on a regular basis is a mower.
- The orientation of the unit is that the doors face the car park.
- The container will be painted green
- The unit will be accessed at weekends and other times when events are being held.
- The unit needs to be located as close to the ground as practical, subject to the slope of the car park and levelling of the unit, in order to drive the sit on mower in and out.
- The mower is maintained and owned by the club.
- There are several steel storage units on site used by various groups including football changing rooms and toilets.
- The club does not have the means to transport the mower to or from the park, other than to drive it, which they can't do on roads.
- The mower would be used once a month in the Winter and once a week during other times during March to October.
- The facilities to the club are open 7 days a week.
- The club have represented the UK in international competitions.
- New buildings in the green belt are appropriate for the provision of outdoor sport and recreation.
- The proposal constitutes an exception to the very special circumstances.
- The storage unit is an essential element to the club.
- The local authority mow the grass however, the cuttings are left where they are cut and the grass is too high for small wheel aircraft.
- Grass cutting would damage the aircraft wheels.
- There are several areas used for set up, landing, take-off strips

## Site and Surroundings

Aldridge Airport is located off the southern side of Bosty Lane. The site is accessed via a long road from Bosty Lane into the site. At the end of the road is a hard surfaced car park with a number of storage containers to the eastern part of the car park, a further container on the northern corner of the car park and an existing container.

There is an existing building to the east of the car park. To the north, south and west of the car park boundary is open playing fields.

The site is within the West Midlands Green Belt.

## **Relevant Planning History**

BC58351P Retention of existing WC block. Granted subject to conditions 1999.

BC60527P Retention of Existing Club Huts (Continuation of Planning Permission BC58079P). Granted subject to conditions 2000.

## **Relevant Policies**

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

[www.gov.uk/guidance/national-planning-policy-framework](http://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*".

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

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **National Planning Policy Guidance**

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

## **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

## **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Saved Policies of Walsall Unitary Development Plan**

- 3.2 to 3.5 The Countryside and Green Belt
- GP2: Environmental Protection
- ENV7: Countryside Character
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- T7 - Car Parking NOTE
- T13: Parking Provision for Cars, Cycles and Taxis

## **Black Country Core Strategy**

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

## **Walsall Site Allocation Document 2019**

GB1: Green Belt Boundary and Control of Development in the Green Belt

EN1: Natural Environment Protection, Management and Enhancement

T4: The Highway Network

## **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

- DW3 Character

### Consultation Replies

Pollution Control – No objection subject to note for applicant regarding contaminated land.

Strategic Policy – Objection on the grounds of inappropriate development in the Green Belt, contrary to policy.

Transportation – No objection

### Representations

None

### Determining Issues

- Inappropriate development in the Green Belt and harm to the openness of the Green Belt
- Access and parking

### Assessment of the Proposal

#### Inappropriate development in the Greenbelt and harm to the openness of the Green Belt

Aldridge Airport is a site that falls within the West Midlands Green Belt.

NPPF paragraph 145 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

Paragraph 146 states that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are ...e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).

Proposals listed under paragraphs 145 or 146 do not need to demonstrate very special circumstances.

Part of the Aldridge Airport playing fields has been used for the flying of model aircraft. The proposal to install a storage container for the continued use of part of the site for model aircraft is neither the erection of a new building (which might be permissible under paragraph 145) nor a change of use (permissible under 146).

The planning agent states that new buildings in the green belt are appropriate for the provision of outdoor sport and recreation and the proposal constitutes an exception to the very special circumstances. They also state the storage unit is an essential element to the club.

However, given that the appearance of the container would be similar to that of a small building it would be reasonable to apply the same test as if the proposal involved a building. By definition, any building (unless it was to replace an existing one) would have some impact on openness. However, the container would appear to be of an appropriate size in relation to its intended purpose. The applicants have confirmed that the storage container is required to store a sit on mower as well as other related equipment to allow the occupiers of the club to mow the lawn to enable the model aircrafts to be flown across the open grounds.

It is considered that a storage container to store a sit on mower is not classed as very special circumstances to outweigh Green Belt policy; as such, a facility to mow lawn can be brought to site in a large van, opposing the requirement for a further container to be located in the Green Belt.

As such, the proposal represents inappropriate development in the Green Belt and no very special circumstances to justify this inappropriate development have been demonstrated to outweigh policy.

The proposed container would be positioned adjacent an existing container, cumulatively, the installation of a further container on the site would result in harm to the open character and openness of the Green Belt. As such, the proposal is contrary to Green Belt policy.

The planning agent also states the Council mow the grass however, the cuttings are left where they are cut and the grass is too high for small wheel aircraft. The supporting statement also states that the model club have been using the site for a number of years. They fail to demonstrate why the need for a sit on mower has just arisen given that they state the field has been used for the flying of model aircraft for a number of years.

There is no record of any planning permission having been granted for part or all of the much larger playing field to be used for the flying of model aircraft. The location plan only includes the car park within the application site. The site should include the area actually used for model aircraft flying, i.e. the much larger field. Given that, the club have been operating at the Airport for many years. The planning agent was advised either to include the part of the field used for the flying of model aircraft within the red line or to submit a certificate of existing lawful use, if they could demonstrate that the land has been used for the flying of model aircraft for ten years or more. The planning agent has failed to respond to this aspect.

### **Access and parking**

The Highway officer has no objection to the proposed storage container on the car park.

## **Conclusions and Reasons for Decision**

The installation of a storage container represents inappropriate development for which there are no very special circumstances to outweigh Green Belt policy. As such, the proposed development is contrary to the NPPF, policies 3.2 to 3.5, GP2 and ENV7, ENV32 of the UDP, Policies ENV1, ENV2 and ENV3 of the BCCS, Policies GB1 of the SAD.

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

## **Positive and Proactive Working with the Applicant**

### **Refuse**

The application fails to justify any very special circumstances to outweigh inappropriate development in the Green Belt. Furthermore, the use of the land for flying model aircraft has not been confirmed as lawful. If the land has not already been in use for 10 plus years for the flying of model aircraft then the use would not be lawful. The applicant has been advised to submit a certificate of existing lawful development certificate application.

## **Recommendation**

Refuse permission

## **Reasons for Refusal**

1. The installation of a storage container within the car park at Aldridge Airport represents inappropriate development for which there are no very special circumstances to outweigh Green Belt policy. As such, the proposed development is contrary to the NPPF, policies 3.2 to 3.5, GP2 and ENV7, ENV32 of the UDP, Policies ENV1, ENV2 and ENV3 of the BCCS, Policies GB1 of the SAD.





### Planning Committee

Report of Head of Planning, Engineering and Transportation on 31-Oct-2019

**Plans List Item Number: 8.**

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

**Location:** ST PETERS CHURCH, STAFFORD STREET, WALSALL, WS2 8DX

**Proposal:** LISTED BUILDING CONSENT APPLICATION FOR THE DEMOLITION AND REBUILDING OF WEST CHURCHYARD WALL.

**Application Number:** 19/1077

**Applicant:** Walsall Council

**Agent:** Baart Harries Newall

**Application Type:** Listed Building Consent:  
Alter / Extend

**Case Officer:** Devinder Matharu

**Ward:** Birchills Leamore

**Expired Date:** 10-Oct-2019

**Time Extension Expiry:** 05-Nov-2019

**Recommendation Summary:** Grant Listed Building Consent Subject to Conditions





## Proposal

The application proposes the demolition and rebuilding of west churchyard wall.

The planning agent has provided the following supporting information:

- The wall is to be dismantled by hand. The bricks will be cleaned and stacked on pallets, on the site.
- The bricks and copings will be stacked on pallets at the rear of the site and surrounded by Heras fencing pending reconstruction of the wall. The demolition and reconstruction will under a single contract, so there will be no extended period of time when the bricks will be stored.
- The wall will be rebuilt on new footings with additional concrete block retaining construction below ground on the up hillside to the west. The concrete blockwork will be covered over by the surface of the path to the west and will not be visible above ground level.
- The wall will be constructed from reclaimed clay stock brick and Staffordshire blue angle copings.
- The engineers have been instructed to provide a detail for the construction of the buttresses.
- The mortar and pointing will be 3:1 sharp sand:NHL3.5 non-hydraulic lime, laid in accordance with our specification.

A structural report has been submitted which states:

- The wall is approximately 2.2m high from the church side and 1.3 and 1.5m high from the path side and is 230mm thick.
- There are buttress piers throughout the length of the wall and they are approximately 450mm square and terminate at 550mm from the top of the wall.
- The left hand side of the wall is not bonded into the section of wall against the existing building.
- The wall appears to be rotated towards the church side.
- Several buttress piers have lost their bond to the wall.
- There are areas of open bed joints and loose bricks to the top few courses of the wall.
- There are areas of cracking in the wall and to the fourth pier.
- Coping stones to a large section of the wall are missing.
- It is not clear whether the foundations have been exposed.
- The wall is beyond repair and will require demolition and rebuilding.

## Site and Surroundings

St Peters Church is a Grade II listed building situated on the western side of Stafford Road. The church is a brick and slate roof building, with a western tower and lancet window in the western elevation. The tower has angled buttresses at the bottom and octagonal shafts above, which terminate as pinnacles. The nave has seven bays with lancets separated by buttresses.

The church sits at a higher level than the highway on Stafford Street. The church yard is enclosed with 2m high brick walls with the walls having brick buttresses. The existing wall to the front of the church is constructed in a blue brick and is approximately 1.2m high. In the front grounds of the church is a monument, the church grounds are grass.

The church has open space around with residential properties to the rear, numbers 3 to 11 Penkridge Street and the side of number 30 Hall Street. To the northern side of the church is a two storey Victorian industrial premises and a commercial use at the junction of Croft Street and Stafford Road.

To the south of the site is a commercial unit used for used car sales, the church hall and residential properties.

## Relevant Planning History

None

## Relevant Policies

### National Planning Policy Framework (NPPF)

[www.gov.uk/guidance/national-planning-policy-framework](http://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*".

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

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

## **National Planning Policy Guidance**

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

## **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

## **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Saved Policies of Walsall Unitary Development Plan**

- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV25: Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals

## **Black Country Core Strategy**

- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

## **Walsall Site Allocation Document 2019**

T4: The Highway Network

EN1: Natural Environment Protection, Management and Enhancement

## **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**

- DW3 Character
- DW9 High Quality Public Realm

## **Other relevant material considerations**

Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 the local planning authority have a statutory duty to pay special regard to the desirability of preserving the special historic and architectural character of the listed building.

## **Consultation Replies**

Archaeology- No objection subject to planning conditions relating to an archaeological watching brief, use of original bricks and lime mortar. The Archaeology Officer also raises concerns over the use of concrete within the fabric of the proposed brick wall.

Transportation- No objection

Conservation – No objection subject to conditions regarding bricks and mortar details.

Historic England – No objection

## **Representations**

None

## **Determining Issues**

- Demolition, method of construction and design
- Impact upon the setting of the listed building

## **Assessment of the Proposal**

### **Demolition, method of construction and design**

The existing brick wall along the western boundary of St Peter's Church is in a poor state where the wall is leaning into the church grounds and there are loose mortar joints. The existing brick buttresses along the rear section of the wall have lost their bond to the wall, as well the brick wall having open bed joints. The copingstones along part of the wall are missing with some of these copingstones being loose.

The proposal to demolish the wall and rebuild it are considered acceptable. The information within the planning statement refers to the wall being demolished by hand and the bricks and copingstones stacked on pallets at the rear of the site. A planning condition would be attached to ensure the wall is demolished by hand and the existing bricks in the brick wall and brick buttresses are cleaned and stored on the part of the church site, so that they can be reused to construct the new brick wall.

The Archaeology Officer has requested that the existing brick wall is recorded and an archaeological watching brief on any ground works. These details can be sought by way of planning condition.

The planning statement refers to reclaimed clay stock brick and Staffordshire blue angle copingstones. In principle, this would be supported, where reclaimed brickwork is required to complete the length of the wall along the western boundary of the site. The submitted elevation plan of the proposed wall refers to a brick to be used to require a certain strength. This information is contradictory to the planning statement, which refers to the use of historic bricks to be used to complete the full length of the wall. As such, a planning condition will be attached to ensure samples of the proposed reclaimed bricks and copingstones, together with storage of the reclaimed bricks from the existing wall to be used in the rebuilding of the proposed wall are agreed prior to the commencement of any demolition and construction works.

The planning statement refers to mortar and pointing to be 3:1 sharp sand:NHL3.5 non-hydraulic lime. The Conservation Officer has advised that further information regarding the use of the lime based mortar to bond and point the historic brickwork as part of the reconstruction is required, these details will be sought by planning condition.

The planning statement also refers to the wall would be rebuilt on new footings with additional concrete block retaining construction below ground on the up hillside to the west. The concrete blockwork will be covered over by the surface of the path to the west and will not be visible above ground level. From a conservation point of view, this would be considered acceptable, as the concrete blockwork would not be visible above ground level. A planning condition to ensure this concrete blockwork is not visible above ground level will be attached to safeguard the setting to the St Peter's Church, a listed building.

The submitted elevation plan shows a core section of the wall to be concrete, this is contrary to the advice in the planning statement which refers to the wall being reconstructed using historic brickwork. Both the Archaeology and Conservation Officer have raised concerns regarding this aspect of the proposed works. As such, a new elevation drawing will be sought showing the new brick wall being completed solely in historic brickwork prior to the commencement of development.

The planning statement also refers to engineers being instructed to provide details of the brick buttresses. A planning condition will be attached to provide details of the number of brick buttresses that currently exist along the existing brick wall to be replicated in the design of the reconstructed brick wall, together with 1:20 details of the design, and structure of the brick buttresses and how these will be bonded to the main brick wall.

A planning condition will also be attached to seek details as to how the proposed brick wall will be bonded to the existing wall either side of the proposed wall.

In principle, the demolition of the existing brick wall and rebuilding is considered acceptable. Clarification has been sought from the planning agent regarding Annexe A in the structural report, as this does not appear to relate to the proposed development.

### **Impact upon the setting of the listed building**

The demolition and reconstruction of the brick wall to include reclaimed bricks and copingstones and brick buttresses would not unduly harm the setting of St Peter's Church as a listed building. In fact, the reconstruction of the proposed wall would enhance the setting of the Church and its setting as a listed building.

### **Conclusions and Reasons for Decision**

In principle, the demolition of the existing brick wall and rebuilding is considered acceptable. The demolition and reconstruction of the brick wall to include reclaimed bricks and copingstones and brick buttresses would not unduly harm the setting of St Peter's Church as a listed building. In fact, the reconstruction of the proposed wall would enhance the setting of the Church and its setting as a listed building.

The proposal complies with the NPPF, saved policies 3.13 to 3.15, GP2, ENV14, ENV25, ENV27 and ENV32 of the UDP, policies ENV2 and ENV3 of the BCCS, Policies EN1 of the SAD, and policies DW3 and DW9 of Designing Walsall 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**

#### **Approve**

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

### **Recommendation**

Grant listed building consent 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 and to allow the Local Planning Authority to reconsider the desirability of the proposal if it is not carried out within that time.

2. The development hereby approved shall not be carried out otherwise than in accordance with the following plans:

- Location and block plan drawing number 2695.01 submitted 16-08-19
- Photomontage of rear wall drawing number 2695.02 submitted 16-08-19.

Reason: To define the permission

3a. Prior to demolition of the existing brick wall and prior to the commencement of development and notwithstanding details of the proposed retaining wall as shown on drawing number 18-3579-/001/P1 submitted on 16-08-19, the following shall be submitted to and approved in writing by the local planning authority,:

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- i. Full elevation plans showing the rebuilding of the retaining wall in brickwork only including the thickness of the wall at a scale of 1:20 on an A3 plan, including the proposed height of the wall.
- ii. A full elevation plan showing the exact position of the brick buttresses along the existing wall, including the number of brick buttresses.
- iii. Full elevation plans showing the full length of the wall and the position of the proposed brick buttresses to be constructed in the same location as the existing brick buttresses along the existing wall.
- iv. Full details of how the proposed brick buttresses shall be bonded to the main reconstructed brick wall and the existing brick walls either side of the proposed brick wall.
- v. Full elevation drawings at a scale of 1:20 on an A3 plan of the proposed brick buttresses to include the design and thickness.

3b. The development shall not be carried out otherwise than in accordance with the brick wall and brick buttress details approved under part a of this condition.

Reason: To ensure that reconstruction brick wall is sympathetic in design, materials and character to the existing brick wall to safeguard and enhance the setting of the boundary wall and Grade II listed church in accordance with Policies 3.13-3.15, ENV25 and ENV27 of the UDP, Policies ENV2 and ENV3 of the BCCS and Policy DW3 of Designing Walsall SPD and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

4a. Prior to the commencement of demolition, a plan of the site shall be submitted to and approved in writing by the local planning authority showing the exact location of where the bricks and coping stones to be taken down by hand from the existing brick wall will be stored on site and how they would be safeguarded.

4b. The development shall not be carried out otherwise than in accordance with the storage details approved under part a of this condition.

Reason: To ensure that reconstruction brick wall is sympathetic in design, materials and character to the existing brick wall to safeguard and enhance the setting of the existing wall and Grade II listed church in accordance with Policies 3.13-3.15, ENV25 and ENV27 of the UDP, Policies ENV2 and ENV3 of the BCCS and Policy DW3 of Designing Walsall SPD and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

5. Prior to the commencement of demolition, a record of the original wall will be undertaken through photography and measured drawings generated by laser scanning. This record shall be submitted to and agreed in writing by the local planning authority, and the digital archive (including laser scan data) will be deposited with the Archaeology Data Service (or other suitable digital repository) in accordance with their deposition guidelines.

Reason: To ensure a record of the original brick wall remains for archaeological purposes in accordance with Policies 3.13-3.15, ENV25 and ENV27 of the UDP, Policies ENV2 and ENV3 of the BCCS and Policy DW3 of Designing Walsall SPD and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

6a. Prior to the commencement of demolition a programme of archaeological work shall be secured, in accordance with a written scheme of investigation submitted to and approved in writing by the local planning authority. The WSI will include the procedure and methodology for dealing with human remains, should they be present.

6b. During the construction works an archaeological watching brief on any groundworks shall be undertaken in accordance with the WSI submitted under part a of this condition.

Reason: For archaeological purposes in accordance with Policies 3.13-3.15, ENV25 and ENV27 of the UDP, Policies ENV2 and ENV3 of the BCCS and Policy DW3 of Designing Walsall SPD and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

7a. Prior to the commencement of demolition, samples of the reclaimed bricks and coping stones to be used in the construction of the proposed wall shall be submitted to and approved in writing by the local planning authority.

7b. The development shall not be carried out otherwise than in accordance with the sample brick and coping stone details approved under part a of this condition.

Reason: To ensure that reconstruction brick wall is sympathetic in design, materials and character to the existing brick wall to safeguard and enhance the setting of the wall and Grade II listed church in accordance with Policies 3.13-3.15, ENV25 and ENV27 of the UDP, Policies ENV2 and ENV3 of the BCCS and Policy DW3 of Designing Walsall SPD and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

8a. Prior to the commencement of demolition, details of the lime base mortar to be used in the construction of the proposed retaining wall and proposed brick buttresses including details of the bonding and pointing shall be submitted to and approved in writing by the local planning authority.

8b. The development shall not be carried out otherwise than in accordance with the lime mortar details approved under part a of this condition.

Reason: To ensure that reconstruction brick wall is sympathetic in design, materials and character to the existing brick wall to safeguard and enhance the setting of the wall and Grade II listed church in accordance with Policies 3.13-3.15, ENV25 and ENV27 of the UDP, Policies ENV2 and ENV3 of the BCCS and Policy DW3 of Designing Walsall SPD and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

9. The existing brick wall shall be demolished by hand.

Reason: To ensure the existing bricks can be cleaned and reused in the construction of the new wall to safeguard and enhance the setting of the wall and Grade II listed church in accordance with Policies 3.13-3.15, ENV25 and ENV27 of the UDP, Policies ENV2 and ENV3 of the BCCS and Policy DW3 of Designing Walsall SPD and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.



10. The proposed wall hereby approved shall be constructed using the reclaimed bricks and coping stone from the existing wall to be demolished and the approved sample reclaimed brick and copings stones approved under condition 7a above.

Reason: To ensure that reconstruction brick wall is sympathetic in design, materials and character to the existing brick wall to safeguard and enhance the setting of the wall and Grade II listed church in accordance with Policies 3.13-3.15, ENV25 and ENV27 of the UDP, Policies ENV2 and ENV3 of the BCCS and Policy DW3 of Designing Walsall SPD and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

11. The concrete block retaining construction below ground shall not be visible above ground.

Reason: To safeguard and enhance the setting of the wall and Grade II listed church in accordance with Policies 3.13-3.15, ENV25 and ENV27 of the UDP, Policies ENV2 and ENV3 of the BCCS and Policy DW3 of Designing Walsall SPD and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.



# Walsall Council

**Economy and Environment, Development Management**

## Planning Committee

Report of Head of Planning, Engineering and Transportation on 31-Oct-2019

**Plans List Item Number: 9.**

**Reason for bringing to committee: Significant community interest**

**Location:** 22, OLD OAK CLOSE, ALDRIDGE, WALSALL, WS9 8SE

**Proposal:** RETENTION OF SINGLE STOREY REAR EXTENSION AND FENCE.

**Application Number:** 19/0968

**Applicant:** Mr R Dean

**Agent:** Mr S Dean

**Application Type:** Full Application:  
Householder

**Case Officer:** Jenny Townsend

**Ward:** Aldridge Central And South

**Expired Date:** 07-Oct-2019

**Time Extension Expiry:** 08-Nov-2019

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



## Proposal

This application is for a single storey extension to the rear of a detached house that would enlarge the existing kitchen and the erection of a close board fence with gravel boards that would total 2 metres in height alongside the existing fence for the length of the boundary shared with number 24 Old Oak Close.

There is a two storey extension to the side of the house which is under construction. This extension was allowed following an appeal against the Council's decision to refuse. Construction on the extension had not begun when the application was submitted which is why it is not shown on the existing plans however amended plans have been requested to show the extension on the proposed plans as the development was well underway at the time of the site visit.

The proposed rear extension would measure:

- 4 metres deep
- 4.9 metres wide
- Be set in 0.2 metres from the boundary with number 24
- Have a sloping roof between 2.5 and 3.4 metres high
- Have two velux roof lights inserted in the slope of the roof
- Have bi-folding doors in the side elevation facing towards the northern side boundary
- Have a window on the rear facing down the garden
- The side elevation adjacent to the boundary with number 24 would be blank.

## Site and Surroundings

The house is situated on a residential estate and is a modern design with a gable roof, a small apex over the front first floor window with a sloping canopy over the ground floor front window and a gable roof over the porch projection. All of the houses on the estate have similar design features with varying gaps between the houses.

The application site is a corner plot with a private driveway to the side leading to numbers 16, 18 and 20 Old Oak Close. Number 14 Old Oak Close is to the north and faces at right angles to the side of the application house. The main habitable room windows on the front elevation of number 14 face across the driveway to the side and across the rear of the application house. The separation between the front of number 14 and the side of the proposed rear extension would be approximately 20.5 metres

Number 20 is to the north-west of the site with the main elevation facing down the private driveway to the side of the application house. The current separation between the kitchen and bedroom windows on the front of number 20 and the rear of the first floor part of the application house is approximately 15 metres. The houses do not directly face each other but are off-set at an angle of approximately 20 degrees from each other.

Number 26 is to the west and parallel to part of the rear garden boundary of the application house. Number 26 has a single storey garage nearest the boundary with the two storey part of the house set further away. There are no windows in the side of the house facing

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towards the rear of the application house although there are habitable room windows on the rear of this neighbour. There is a 1.8 metre high fence on the boundary which screens the rear gardens from view from each other.

Number 24 is to the south of the site and has a 1.0 metre wide gap to the side of the house next to the boundary. There is a utility room to the rear of the garage nearest the boundary with the kitchen window set in approximately 4.5 metres from the boundary. Number 24 has a conservatory on the rear which has glazed panels in the side elevation facing towards the boundary with the application house.

Currently there is a 1.8 metre high fence on the boundary for a length of 2 metres which then reduces down in height to approximately 1.5 metres high for the remainder of the length of the gardens. The 2 metre high fence is proposed to be erected alongside this existing fence within the garden of the application house. The existing fence is to remain unaltered.

### **Relevant Planning History**

18/0449 Demolition of side garage and erection of a dwelling adjacent 22 Old Oak Close and creation of 2 no parking spaces in front of 22 Old Oak Close. Refused 05/09/18 on the following grounds - *The existing cul de sac is characterised by pockets of open space providing a visual break from the built up development. The proposed development seeks to remove this existing open space at a focal point in the cul de sac by bringing development closer to the highway boundary. The proposed development would be out of character with the existing pattern of development and as such would be visually detrimental resulting in loss of openness and soft landscaping and as such unduly harming the visual amenities of the area. Furthermore the proposed development would bring built development closer to neighbouring properties and as such would have a detrimental impact to the amenities of neighbouring occupiers, in particular number 20 Old Oak Close in terms of outlook.*

Appeal 3214857 Dismissed 04/02/19.

18/1423 Two storey side extension. Refused 01/02/19 on the grounds that *the proposed development would be out of character with the existing pattern of development and as such would be visually detrimental resulting in loss of openness and soft landscaping and as such unduly harming the visual amenities of the area and the proposed development would bring built development closer to neighbouring properties and as such would have a detrimental impact to the amenities of neighbouring occupiers, in particular number 20 Old Oak Close, in terms of outlook.*

Appeal 3225004 Allowed 20/06/19.

### **Relevant Policies**

**National Planning Policy Framework (NPPF)**  
**[www.gov.uk/guidance/national-planning-policy-framework](http://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

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contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

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

- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **consultation** the NPPF makes clear that statutory consultees should provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs. Where statutory consultation is required, statutory consultees are under a duty to respond to consultations within 21 days. Statutory consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice.

### **Reducing Inequalities**

The Equality Act 2010 (the ‘2010 Act’) sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty “PSED” on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

### **Local Policy**

**[www.go.walsall.gov.uk/planning\\_policy](http://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

### **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 SPD are consistent with the NPPF.

## **Consultation Replies**

None.

## **Representations**

Seven objections (three from the same address) from neighbours on the following grounds:

(Note: officer’s comments in italics)

Submitted plans show the house in its original form and do not show the extension which is being constructed – *this has been changed on the amended plans*

Plans should at least be a true representation of how the property will look when completed

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Cumulative impact of the two storey side extension and the proposed rear extension on scale and massing would be significant  
 Combined development would ruin the character of the estate and overwhelm it  
 Proposal contrary to aims of NPPF paragraph 64 (...permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions)  
 Side patio doors would look into their living area and bedroom resulting in an invasion of privacy and outlook  
 Current build is dragging on and on – they fear that this could be the same for the rear extension and they would have to live through the upheaval for an unnecessary length of time – they ask if a deadline for completion could be imposed? *(this is not possible as part of any planning approval)*  
 Increased noise, disturbance, interruptions and reduction in amenity and enjoyment of the residents of numbers 20, 24 and 26  
 Any garden usage by occupiers of number 22 would be closer to no's 20, 24 and 26 as a result of the proposal  
 Proposal reduces separation distances to numbers 20 and 26  
 Due to second class post, the notification letter arrived on 2 September and has resulted in residents not being provided with the stated consultation period of 21 days *(all representations received before determining the application are included in this report)*  
 No consideration for the other residents of the cul-de-sac from the developer as loud building work is starting before 8am, continuing past 6pm and includes weekends, damage neighbouring properties (fence and patio at number 24), persistent dangerous parking of work vans on the corner, impacts on physical and mental health of residents, particularly vulnerable elderly residents, if attempts were made to bully them  
 No details of how vehicles delivering materials will access the site or where workmen's vehicles are to be parked to avoid causing a hazard, danger or significant inconvenience to other residents as this has been an ongoing concern during the construction of the side extension *(not a material planning consideration)*  
 No details of how noise will be controlled to minimise impact on other residents – urge the Council to use its powers to enforce controlled hours of operation that doesn't include weekends or Bank/Public holidays  
 Wants the Council to use its powers to enforce agreed measures to mitigate and clean-up any spread of dust, pollution and refuse cause by building works or workers as they have experienced rubble, refuse and fast food remnants strewn across the cul-de-sac from the on-going works which are a hazard to residents, risk damaging vehicles and create an increased risk of vermin/pests  
 Overlooking and loss of privacy  
 Increase the risk of flooding  
 No details of materials or finish – concerned could cause visual 'jarring' if not in keeping with existing exterior materials in Old Oak Close.

## Determining Issues

- **Design and Character of Area**
- **Amenity of Nearby Residents**

## Assessment of the Proposal

### Design and Character of Area

The design of the extension would be compatible with the existing house and would be to the rear. There would be some view of the extension over the side boundary fence from the road leading to numbers 16, 18 and 20 but this would be limited and is considered would not harm the character of the area.

### Amenity of Nearby Residents

The proposed extension would comply with the 45 degree code measured from the mid-point of the rear kitchen window belonging to number 24. This code is used to assess impact on light and outlook of neighbours. There are no windows proposed in the side elevation nearest to number 24 to overlook this neighbour.

The proposed fence would be alongside this boundary and as it is taller than the existing fence would minimise overlooking between the rear gardens of the application house and number 24 protecting the privacy of both the applicants and this neighbour.

The bi-folding doors would face down the garden towards the blank side walls of number 26. The acute angle between the rear windows of number 26 and the new doors is considered would minimise any overlooking between them. The existing tall boundary fence would continue to provide screening between the gardens of 22 and 26.

The separation between the side doors of the extension and the first floor front habitable room windows of numbers 14 would be approximately 21 metres but there would be the tall boundary fence and the road between them. The Council's separation policy of 24 metres between facing habitable room windows does not apply when there is a road between them and there is already mutual overlooking between the front first floor windows of number 14 and the garden of the application house. The proposed extension is considered would not significantly worsen this existing situation sufficient to warrant refusal of the application for this reason alone.

Front windows generally have less privacy than windows on the rear and as the driveway to numbers 16, 18 and 20 Old Oak Close runs in front of number 14 and is especially close to the front lounge window, the front windows of these houses already have limited privacy.

Number 20 is not directly in line with the rear of the application house and the rear extension is proposed to be situated on the opposite side of the rear elevation at the furthest point from number 20. There is already mutual overlooking from the first floor windows of number 20 and the rear garden/windows of the application house due to the layout of the houses as built and the proposal is considered is not an usual addition as many houses have added similar extensions or conservatories on the rear.

With regard to the neighbour's comments, amended plans have been submitted which show the two storey side extension that is under construction, the proposed extension is to the rear of the house with only a limited view of the top section over the side boundary fence which is considered would not unduly harm the appearance or character of the area and is a unusual sight on residential estates, measures on site to govern working hours, noise, dust and pollution are covered by separate legislation (such as pollution control,



environmental health etc.), the occupiers of the application house can already use the garden area directly adjacent to the neighbouring houses (numbers 20 and 26) so the proposal would not alter this existing situation and the new taller fence would provide more screening than currently exists between the application house and number 24, it is council policy for all correspondence to be sent second class but all representations have been taken into consideration in this report, issues regarding obstruction of the highway are matters for the Police to address, any construction vehicles/materials deliveries would be on site during the day so not to impact significantly upon the access arrangements to neighbouring properties and parking within the street where there are no restrictions is not a material planning consideration. The application form states that the materials are to match the existing house.

Whilst it is accepted that there would be some disturbance for neighbours during construction works it is considered that most house extensions are normally completed in a relatively short time. Excessive noise can be investigated under separate legislation.

### **Conclusions and Reasons for Decision**

The design of the proposed extension is considered compatible to the existing house and as the extension would be to the rear with only a glimpse visible above the side boundary fence, it is considered that the proposal would not harm the appearance or character of the house or the estate. The proposal complies with saved policies GP2 and ENV32 of Walsall's UDP and Designing Walsall SPD.

The proposed extension is considered would have little additional impact on the light, outlook or privacy of neighbours and would meet the aims of saved policy ENV32 of Walsall's UDP and Designing Walsall SPD, Appendix D.

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 regarding the accuracy of the submitted plans, 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: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Location plan deposited 25 July 2019;  
Block plan and details and layout of proposed fence deposited 12 August 2019;  
Existing elevations deposited 25 July 2019;  
Existing ground floor layout plan deposited 25 October 2018;  
Existing first floor layout plan deposited 25 July 2019;  
Proposed elevations deposited 30 September 2019;  
Proposed ground floor layout plan deposited 30 September 2019.

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

3: The walls and roof of the extension shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building and shall be retained as such after completion of the extension.

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

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.





### Planning Committee

Report of Head of Planning, Engineering and Transportation on 31-Oct-2019

**Plans List Item Number: 10.**

**Reason for bringing to committee:** Application called in Councillor Abdus Nazir reason for call being that the councillor does not think that the proposed application will have an adverse impact on any other property, nor would it set a precedent

**Location:** 6, FOLLYHOUSE LANE, WALSALL, WS1 3EL

**Proposal:** RETROSPECTIVE TWO STOREY SIDE AND REAR EXTENSIONS PLUS SINGLE STOREY REAR EXTENSIONS AND LOFT CONVERSION. AMENDMENT TO 18/0140.

**Application Number:** 19/0173

**Applicant:** Mr M Azam

**Agent:**

**Application Type:** Full Application:  
Householder

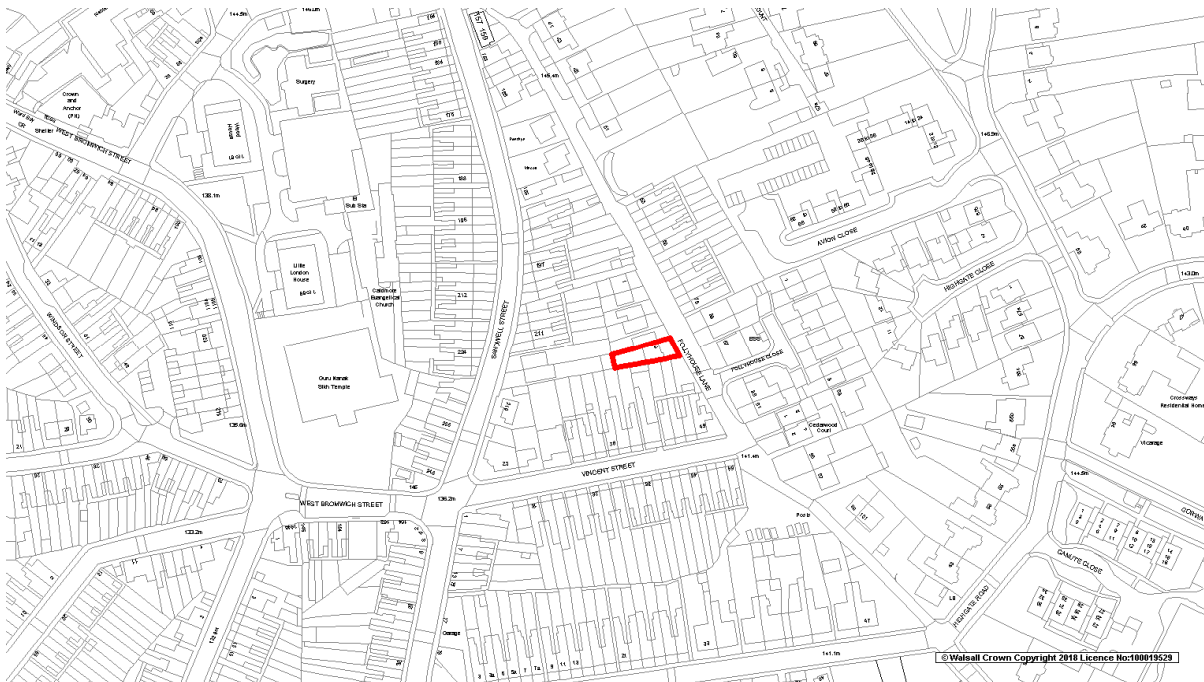
**Case Officer:** Andrew White

**Ward:** St Matthews

**Expired Date:** 01-Apr-2019

**Time Extension Expiry:** 28-May-2019

**Recommendation Summary:** Refuse Permission



## Status

The Chair of the 3<sup>rd</sup> October 2019 planning committee agreed to defer this application one cycle at the request of the applicant

## Proposal

Applicant seeks approval for retrospective two storey side and rear extensions plus single storey rear extensions, application is an amendment to previously approved application 18/0140. The works to the single storey extension have already started and the amendments are to assess the further two storey extension to the side to enlarge 2no bedrooms. Therefore this report would assess the changes to the previous application.

### Two storey rear/ side extension

- Two storey side extension would be 2.6m wide at the front of property and 1.6m to rear following the property boundary.
- Proposed two side extension would not be set back at first floor as per previous application.
- Two storey rear extension would be 3.5m deep, narrowest point being 4.2m wide and 4.7m at the widest point.
- Extension would extend to the side boundary.

## Site and Surroundings

The property in question is a semi- detached dwelling within a residential area. The property is set back from the road with a drive 6m at the deepest point and 4.5m at the narrowest point to the front of the property. The street consists of semi-detached properties of a similar age and style.

The neighbouring houses include:

### 5 Follyhouse Lane

No.5 is located to the north of the application site the proposed changes would be to the opposite side of the application address.

### 87 Follyhouse Lane

No.87 is located to the east of the application address and is located opposite the application address with a separation distance of 22.5m.

### 85 Follyhouse Lane

No.85 is located to the east of the application address and is located opposite the application address with a separation distance of 21m.

### **83 Follyhouse lane**

No.83 is located to the east of the application address and is located opposite the application address with a separation distance of 21m.

### **49 Vincent Street**

No.49 sits to the south of the application address and located to the rear with a separation distance of 17m.

### **47 Vincent Street**

No.47 sits to the south of the application address and located to the rear with a separation distance of 16.5m.

### **45 Vincent Street**

No.45 sits to the south of the application address and located to the rear with a separation distance of 17m.

### **43 Vincent Street**

No.43 sits to the south of the application address and located to the rear with a separation distance of 17m.

### **41 Vincent Street**

No.41 sits to the south of the application address and located to the rear with a separation distance of 10m.

### **39 Vincent Street**

No.39 sits to the south of the application address and located to the rear with a separation distance of 16m.

### **37 Vincent Street**

No.37 sits to the south of the application address and located to the rear with a separation distance of 12m.

## **Relevant Planning History**

18/0140- Granted 21/03/18  
08/0515/TR- Granted 28/04/08  
04/0086/FL- Granted 18/03/04

## **Relevant Policies**

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

[www.gov.uk/guidance/national-planning-policy-framework](http://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*".

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

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly

sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall 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

### **Black Country Core Strategy**

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

**Walsall Site Allocation Document (SAD)** was adopted in January 2019. The policies detailed below have not been replaced by the SAD and full weight can be given to these policies.

### **Supplementary Planning Documents**

#### **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

#### **Designing Walsall**

- DW3 Character



## Consultation Replies

None.

## Representations

Councillor Abdus Nazir called in application reason for call being that the councillor does not think that the proposed application will have an adverse impact on any other property, nor would it set a precedent.

## Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents

## Assessment of the Proposal

### Design of extension and Character of Area

The proposed changes to the roof would be visible from the street and would consist of changing the already approved hipped roof to a gable roof. The application address is part of two semi-detached properties. Therefore, the proposed changes to the roof would not be considered to maintain the character and appearance of the street. The distinctiveness of the area has been maintained with the pairs of semi-detached properties located along Follyhouse Lane, maintaining the symmetry between the pairs.

Notwithstanding the Councillors comments that the extension design would not have an adverse impact on any other property or not set a precedent, it is considered that changing the approved hip roof to a proposed gable would have a detrimental impact on the character and appearance of the street scene. In addition the proposal unbalances the symmetry with the attached semi-detached dwelling, forming an incongruous addition to the street scene, detrimental to local visual amenity. Furthermore it is considered to set a precedence which would further contribute to the detrimentally on the wider character and appearance of the area. The current proposal would also remove the front set back at first floor which would further contribute to the imbalance of the symmetry between the two pairs of semi's, detrimental to the street scene and local visual amenity. Consequently, it would not be in accordance with the Council's SPD guide.

The proposed two storey rear extension would be located to the rear and therefore considered not to have a harmful impact on the street scene due to the size, scale and location. Should planning committee wish to approve the application contrary to officer recommendation, they will need to provide a planning land use reason to approve and without prejudice it is advised that the following planning conditions are also imposed on the development; materials, including re-using the existing roof tiles to the front elevation, no additional windows and doors and the front drive area to provide 2 off road spaces.

### Amenity of nearby residence

The proposed two storey rear extension would extend along the side boundary and would no longer maintain a gap to the boundary at first floor. The propose extension would be

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adjacent to neighbouring gardens 41-47 Vincent Street, the proposal is not considered to have a harmful impact on neighbouring properties due to the size, scale and location. The proposed two storey rear extension would be in accordance with the Council's 45 degree from neighbouring property No. 5 and consequently considered to not have a harmful impact on neighbour amenity.

## **Conclusions and Reasons for Decision**

In weighing the material planning considerations, taking into account the local and national planning guidance, it is considered that the proposed removal of the first floor set back to the front elevation and the changes to roof would unbalance the symmetry between the two pairs of semis and therefore considered to have a detrimental impact on the character and appearance of the local area.

As such the development is considered fails to meet the aims and objectives of the National Planning Policy Framework (paras 133-147), policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

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

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

## **Positive and Proactive Working with the Applicant**

Requests have been made to the applicant to amend the proposal in accordance with the national and local planning policies and requested for proposed first floor extension to be in accordance with the Councils SPD guide maintaining the set back at first floor and maintaining a hipped roof to maintain the symmetry between the pairs of semi-detached properties. Amended plans received however still not in accordance with recommendation made and applicant has requested that the proposal is reverted back to the original scheme and application to be called in by Councillor.

## **Recommendation**

Refuse permission

## **Reasons for Refusal**

The proposed first floor side extension, with a lack of set back from the front elevation combined with the changes to roof would introduce an incongruous feature to the street scene, that would unbalance the symmetry between the pair of semi-detached properties therefore would have a detrimental impact on the character and appearance of the local area to the detrimental impact of local neighbouring visual amenity. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; The Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2 and ENV32.





# Walsall Council

**Economy and Environment, Development Management**

## Planning Committee

Report of Head of Planning, Engineering and Transportation on 31-Oct-2019

**Plans List Item Number: 11.**

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

**Location:** 19, NARROW LANE, BROWNHILLS, WALSALL, WS8 6HX

**Proposal:** SINGLE STOREY REAR EXTENSION

**Application Number:** 19/1155

**Applicant:** Mr and Mrs Craddock

**Agent:** Adam Design

**Application Type:** Full Application:  
Householder

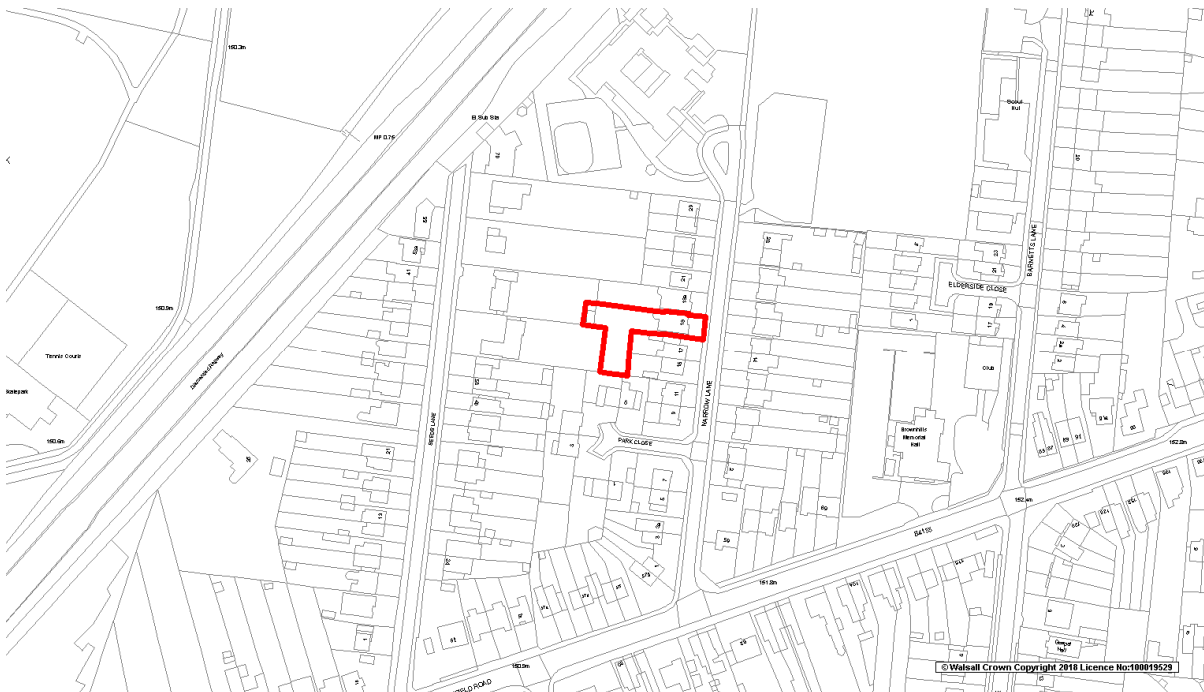
**Case Officer:** Sheila Denison

**Ward:** Brownhills

**Expired Date:** 31-Oct-2019

**Time Extension Expiry:**

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



## Proposal

The application is for a single storey rear extension to create a family room and extended kitchen area.

The dimensions are as follows:

8.2m wide

4.2m deep on the left-hand side with a 650mm angled corner

4.7m deep to the right-hand side

2.9m high to the eaves having a flat roof with a roof lantern 4m wide by 2 deep

There are bi- fold doors proposed facing west onto the rear garden

## Site and Surroundings

The application house is a detached property in a residential area of Walsall. There is hardstanding to the front with parking for at least 3 vehicles

The street scene is a mixture of detached, semi-detached dwellings and bungalows. All the dwellings have driveways for off street parking.

At the end of Narrow Lane is St Bernadette's Primary School so although there is increased traffic there is a turning circle and a carpark

## Relevant Planning History

Application House - None

19a Narrow Lane –None

17 Narrow Lane - None

## Relevant Policies

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

[www.gov.uk/guidance/national-planning-policy-framework](http://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"*.

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

- **NPPF 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable,

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precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **National Planning Policy Guidance**

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

### **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with

protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

### **Local Policy**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Black Country Core Strategy**

- CSP4: Place Making
- 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 SPD is consistent with the NPPF.

### **Consultation Replies**

None

### **Representations**

None

### **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 proposed single storey rear extension is considered to be in keeping with the original design of the original dwelling. It is marginally set back from the boundary with no 19a. This is considered appropriate within the street scene and does not harm the visual amenities of the area and accords with saved UDP policies GP2 and ENV32 and SPD Designing Walsall.

### **Amenity of Nearby Residents**

The proposed single storey rear extension is set slightly back from the boundary with no 19a. The proposed extension is 2.4m deep so would not breach the council's 45-degree guidelines from a habitable room.

### **Parking**

No additional bedrooms are being added by the proposal, so the existing parking is sufficient.

## **Conclusions and Reasons for Decision**

The proposed design is acceptable in relation to the original dwelling and is considered appropriate within the street scene and does not harm the visual amenities of the area and accords with saved UDP policies GP2 and ENV32 and SPD Designing Walsall

The proposal complies with the 45-degree code guidelines in respect of both neighbours and will therefore not significantly harm the outlook, daylight or privacy to habitable rooms of these neighbours and protects residential amenities in accordance with saved UDP policies GP2 and ENV32 and SPD Designing Walsall.

There is adequate off-street parking to accommodate at least 3 vehicles on the frontage in compliance with saved UDP policy T13.

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 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 hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2: This development shall not be carried out otherwise than in conformity with the following approved plans:

- Location and Block Plans – received on the 05/09/2019
- Existing Elevations & Layout – Drawing No: 1 of 2(PLG) Existing Details received 05/09/2019



- Proposed Elevations & Layout – Drawing No: 2 of 2 (PLG) Proposed Details

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

3: The walls and roof of the extension shall not comprise facing materials other than those that match, in size, colour and texture as those which are used in the existing building and shall be retained as such after completion of the extension.

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

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.