



Development Control Committee

21st May 2009

Report of Head of Planning and Building Control, Regeneration

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10	97	08/1914/FL	FORMER LIBRARY, BRICKILN STREET, WALSALL, WS8 6AU	Erection of 5 x 3 bed terraced houses, parking and new vehicle access into Short Street	Grant Subject to conditions

**To: DEVELOPMENT CONTROL
COMMITTEE****Report of Head of Planning and
Building Control, Regeneration
Directorate on 21 May 2009****REASON FOR BRINGING TO COMMITTEE: Major Application****Application Number:** 08/0432/FL
Application Type: Full application
Applicant: WH Marren Ltd**Case Officer:** Karon Hulse
Telephone Number: 01922 652492
Agent: Frank Humphreys Chartered
Architects
Location: W H MARREN LTD,
TEMPLE BAR, WILLENHALL, WEST
MIDLANDS, WV13 1SD**Proposal:** Redevelopment of site to include new buildings, modifications to existing buildings, revised access, change of use of Jackdaw Works building and land at rear of 10/11 Thompson Street to extend scrap yard, change of use to offices (Orion House), closure of part of Calves Croft footpath, landscaping and boundary treatments.**Ward:** Willenhall South**Expired:** 09/07/2008**Recommendation Summary:** Grant Subject to conditions**Crown Copyright.** Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Walsall MBC. Licence Number LA 076414.

Status

This application was submitted in April 2008. Since then there have been several amendments to the scheme resulting in the deposited plans now before you for consideration.

Application and Site Details

This application seeks consent for the overall redevelopment of the Marrens scrap yard site, bringing into that site the former Jackdaw Manufacturing Ltd and the current Orion Works factory which are now all within the ownership of the applicants. Orion Works shares a boundary with the existing scrap yard. Jackdaw Works is separated from it by a public footpath.

The Masterplan proposes a change of use of the former Jackdaw building to be used for some of the existing processes that currently take place outside in the scrap yard and secure storage of some valuable metals.

The Jackdaw site would be incorporated into the Marrens site by closing the existing public footpath, Calves Croft, at the northern boundary of the site .

The redevelopment of site is also to include

1. new buildings,
2. modifications to existing buildings,
3. revised access at the entrance,
4. change of use of the land at rear of 10/11 Thompson Street to extend the scrap yard,
5. change of use to offices (Orion House),
6. landscaping and boundary treatments.

The type of material currently being stored is of a higher value (non ferrous metals such as copper, brass, aluminium etc.) than the usual type of metal associated with scrap yards, this scheme will provide better security for such materials by storing them inside either the existing Jackdaw building which would be refurbished as part of this application or the other new buildings around the perimeter of the site.

Similarly some of those processes which are currently carried out in the open would be relocated to within the building which should reduce noise issues arising from the operations at this site. The existing use of the Jackdaw building is B2, which is general industrial use.

The Masterplan also includes improved access to allow commercial vehicles to pull off the highway fully, even when the gates are shut or access is being controlled. An emergency only access into the site would be provided from Harper Street through the staff car park.

The scheme includes two areas for car parking one within the site adjacent to the entrance and one adjacent to Orion House. These would both be used for visitor and staff parking, other vehicles such as delivery are catered for within the main part of the site.

A number of the new buildings are located around the boundary and this has also been designed to provide a three meter gap between the buildings and the boundary which will be used for additional landscaping. The design of the buildings is to contain noise from the site, and the planting belt is to improve the appearance of the site.

The closure of Calves Croft at the rear of 19, Thompson Close will allow for the existing Calves Croft footpath to become part of the scrap yard.

Relevant Planning History

Marrens scrap yard has been the subject of numerous applications since the site began as a scrap yard in about the 1930s.

There have been numerous complaints from residents to Pollution Control Division, about the site since 1988, mainly from residents of Thomson Street. There have been changes in the nature of the operation since that time (i.e. increases in number of cranes and the weight and quality of scrap items and process methods).

In 1993, a Certificate of Lawfulness (BC38414P) for the use of the site as a scrap yard was confirmed by the Council. This defines that the site is entitled to operate as a scrap yard. (The legal provisions are that such a certificate must be granted if there is evidence, as there was, to support the claim.)

Also in 1993 an application for a large shearing machine (BC39080P) was refused. An appeal to the Secretary of State was dismissed in 1994 (the Inspector concluded that the noise from the machine would increase noise levels on the site and that it offered the possibility of increasing the amount of material handled on the site in any given time period). An Enforcement Notice (ENF/1023/93) was served requiring the removal of the machine. Records indicate it was removed from the site.

In 1994 a Tree Preservation Order was created covering the trees on the eastern boundary. Trees on the west side were not included as they were not considered to warrant protection.

Also, in 1994 Marrens made a planning application (BC41691P) for a noise control fence. There was public opposition and the application was withdrawn.

Abatement Notices (Public Health legislation) were served (1990 and 1996).

In November 1990 a prohibition and abatement notice (Public Health Act 1936) was served on WH Marren in connection with dust deposition outside the curtilage of their premises. The notice required the company to stop such deposition and gave them several options.

The company chose to repair and/or replace fencing and relocate material within the site that they believed was the cause of the dust problem.

Based on dust monitoring undertaken by Council officers dust continued to emanate from the site but not at a level considered to constitute a nuisance that breached the notice.

In September 1996 an abatement notice (Environmental Protection Act 1990) was served on WH Marren requiring them to abate noise nuisance generated by the handling of scrap metal, including associated activities.

The company appealed the notice, which resulted in the appeal hearing being heard at Walsall Magistrates Court. In February 1997 the Court upheld the abatement notice, but allowed the company a period of 9 months to comply with the requirements. Measures were undertaken such as relocation of noisy activities, use better equipment maintenance, implement better operating practices. Further noise monitoring indicated that the changes implemented confirmed that noise levels had reduced such that a noise nuisance no longer existed.

In 2002 an application for new and replacement buildings for storage of valuable scrap was approved (02/0101/FL/W5). There would be no change to the mechanical handling of scrap metals.

In 2004 (18/8/2004) the erection of an additional metal store/warehouse was approved. This also included the creation of a noise barrier (a fence made of sleepers) and the identification of specific materials handling areas.

Since then the site has been subject to the following applications:

06/1194/FL/W5 - Retrospective : Erection of a freestanding steel structure. Granted subject to conditions 6th September, 2006

06/1278/FL/W3 - Change of use of no. 3 Harper Street from residential to commercial offices. Granted subject to conditions 1st November, 2008

07/2165/FL/W5 - Car park and fence. Granted subject to conditions 21st November, 2007.

07/2164/FL/W5 - New windows and new roof. Granted subject to conditions 21st November, 2007.

07/1764/FL/W5 - Change of use of former Jackdaw Building to the scrap yard. Refused 10th October, 2007

07/2226/FL/W5 - Erection of 4.9 metre boundary fence along the boundary with properties in Thompson Street. Refused 15th January, 2008

Relevant Planning Policy Summary

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

Unitary Development Plan

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

3.7...proposals for development or redevelopment should protect people from unacceptable noise, pollution and other environmental problems...encourage relocation of bad neighbour uses from residential and other sensitive areas

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

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

ENV14...encourage reclamation and development of derelict and previously developed land where feasible,

4.1...seek to improve the local environment and enhance the image of the area, introduce security improvements to reduce crime and vandalism and create new, and safeguard existing, job opportunities.

4.2...promotes investment and diversification to meet the needs of both inward investors and existing firms

GP1... location of development guided by principles of sustainable development and involve:-

a) Locating facilities where they are accessible to everyone and minimise the need to travel... a sequential approach requiring the location of development.... Development should be of a scale appropriate to the size of the centre

c) A sequential approach maximising re-use of derelict, vacant and underused urban land and buildings ... make best use of urban land and buildings...development proposals should not prejudice beneficial use of any adjoining land or buildings, or other parts of a building (e.g. upper floors above shops).

GP2... expect all developments to make a positive contribution to quality of the environment...development having adverse impact on environment will not be acceptable

GP4...promote and encourage comprehensive local area regeneration initiatives which revitalise local economy, create/ safeguard jobs, protect / enhance natural and built environment, bring forward derelict, vacant or underused land and buildings for new uses.

JP8...Bad Neighbour Industrial Uses. (b) The Council will normally impose conditions on planning permissions covering the following matters:-

- I. Height of open storage.
- II. Location, within the site, of activities with a potentially adverse impact.
- III. Hours of operation.
- IV. Boundary treatment to include fencing of an approved standard, native trees and shrubs, and earth mounding as required.
- V. Proper demarcation of areas for parking, loading and manoeuvring which shall be kept clear of stored material.

Supplementary Planning Documents (SPD)

Designing Walsall SPD

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

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

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

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

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

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

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

DBW10 - new development should make a positive contribution to creating a sustainable environment.

Natural Environment SPD

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

Regional Spatial Strategy for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

Policy UR1 - Urban Renaissance in the Major Urban Areas (MUA's)

Policy QE1 – Environment

Overall, these seek improvements the design and sustainability of the urban areas.

Local Development Framework (LDF)

The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, high quality design etc. are further advanced in the document taking account of recent national and regional planning guidance

National Policy

Planning Policy Statement (PPS) 1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted.” Paragraphs 33 to 39 also state the importance of good design. Supplementary document published on the need to address climate change through the planning system.

PPG4...seeks a positive approach to the location of new business developments and assisting small firms....economic growth and high-quality environment to be pursued together....the importance of industrial and commercial development to be considered with that of maintaining and improving environmental quality.

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

PPS23...aim of planning and pollution control policy is to ensure the sustainable and beneficial use of land...polluting activities that are necessary for society and the economy should be so sited and planned, and subject to such planning conditions, that their adverse effects are minimised and contained to within acceptable limits.

PPG24...advises on noise standards.

Consultations

Transportation – no objections

Pollution Control Division (scientific team) – no objections

Pollution Control (contaminated land) – no objections

Environment Agency – no objections

Fire Service – no objections

Severn Trent Water Ltd. – no objection

Public Participation Responses

The application is subject to reconsultation following the receipt of amended plans, to date six objections have been received in response to this on the grounds of

Adds further metal store units at back of gardens

Poor quality of life
Increased activities, pollution, noise and dirt
Loss of trees
Poor state of roads
Residential area
Lorries parking in Harper Street, congestion
Closure of Calves Croft which is a walkway

In response to the original plans 14 objections were received on the following grounds:-

Dust, noise, pollution and fumes;
Affect privacy, comfort, standard of living;
Existing Orion works is quiet;
Congestion, traffic;
Criminal use of Calves Croft;
Illegal parking, inadequate access – highway safety;
Trees have been cut down, what replacement trees are proposed;
Visual appearance of the fence;
Non conforming use;
The scrap yard should be relocated

A petition with 88 signatures was also received objecting on the grounds of more disturbance, noise, dust and vibration and increase in size detrimental to the character of the area.

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

Determining Issues

- Objective of the application
- Impact on residential amenity/Noise issues
- New buildings
- Jackdaw Buildings
- Orion Works
- Sleeper wall adjacent to Thompson Close
- Diversion of footpath
- Highway issues.

Observations

Objective of the application

Whilst the boundaries of the site are being extended by including the Jackdaw building, Orion works and land at the rear of 10 and 11 Thompson Close, this application states that it is not intended to intensify the use of the site through its operations and processes. Its purpose is to re-organise overall operation and make it more effective, improve security, improve appearance, relocate some of those processes which currently take place in the open into the buildings and for some open storage to also be relocated to within the buildings and address issues of noise which are a concern to local occupiers.

The processes which currently take place outside include stripping, shearing and bailing (and with all of these there is an element of noise). The advantage of moving these processes inside, for residents, is very clear as not only will noise be reduced but also the processes will be moved further away.

Impact on residential amenity/Noise issues

As stated above one of the main issues raised by local occupiers is the level of noise generated by the operations taking place on this site. This has been elevated recently by the introduction of a new baling machine. As part of this application that baler is proposed to be retained in its current position which is centrally located against the boundary with the Calves Croft footpath and at the furthest point away from any of the residential properties around the site. It is also currently partially enclosed by large concrete blocks which reduce any noise omitted by the operation of this baler. The provision of the proposed boundary treatments around the site will further contain any noise and it is also proposed at a later stage to provide additional sound protection by way of enclosing the baler.

The applicants have carried out measures to alleviate some of the noise issues such as lining the inside of the hopper where the scrap material is dropped into the baler. The Pollution Control Division have carried out a noise monitoring exercise, the results indicated that a statutory nuisance existed. Historically, Local Authorities have been the regulatory body concerning the emission of noise from scrap yards and in the past the Local Authority has served an Abatement Notice on the scrap yard such a statutory nuisance had been established. However, the Environmental Permitting Regulations 2007 (EPR), that came into force on 1 April 2008, moved such enforcement action to the Environment Agency where noise could be regulated via an Environmental Permit. The matter has since been referred to the Environment Agency for their action. However Pollution Control officers and the applicants have recognised that it will be appropriate that the application, if approved, should be subject to conditions controlling their operation. The recommendation includes limits on working in the open, noise levels, and hours of operation for example. These should satisfactorily control the operations and achieve considerable gains in environmental terms.

New buildings

The application proposes a number of new buildings around the perimeter of the site along the boundaries shared with properties in Harper Street and , Thompson Street. The new buildings are intended to be a noise barrier, and this requires that they be between the activity in the yard and the adjoining occupiers. Given this necessity, they have been designed with the minimum height and with sloping roofs, to have the minimum impact on the surrounding residents. They have been sited so as to provide a three metre wide landscaping strip between the rear of the buildings and the boundary. The walls of the buildings which would be on those boundaries would have a maximum height of 2.5 metres on the boundary, this then increases to the elevation onto the yard, to an approximate height of 8 metres (the roof slope rises away from the boundaries thereby reducing the overall appearance and impact on those boundaries).

Jackdaw Building

The previous application for a change of use of the Jackdaw building for use by Marrens was refused on the grounds that the application failed to demonstrate there was no intensification of the overall site as a result of it being increased in size.

This application now includes information which demonstrates how the site currently operates and that whilst the overall size of the site will be increased it will not intensify its operations only how the site is organised and managed.

This building is currently vacant and in a poor condition following a fire. The external walls of the building remain and it is intended that these would remain with a new roof being all that is necessary to bring the building back into operation. No alterations to the exterior or interior construction of the buildings are proposed.

This part of the site's expansion would mostly accommodate storage of metals and some of those processes that currently take place outdoors. It is anticipated that this will help reduce noise levels. The site was previously used for manufacturing, and it is considered that the level of noise generated by operations such as bailing, stripping and shearing is not too dissimilar to the buildings previous uses which involved heavy machinery and presswork.

Orion Works

The Orion Works building which previously extended into the middle of the scrap yard site and was in a poor condition has now been demolished. This opens up the Marrens site, allows better manoeuvrability but also provides for the construction of a new smaller building which would house the existing two smaller balers.

The new building will be constructed of block work up to its eaves with internal acoustic cladding on the roof. This will reduce any potential noise from the operations on the site and within the new buildings.

This new building also provides the best position within the site for such equipment as again it is the farthest distance away from all residential properties including those in Templars Walk and Thompson Close.

Orion House, which fronts onto Harper Street is proposed to be converted and used as additional offices, amenities for employees and car parking.

Highway issues

The proposals include a revised entrance to the site, the existing gates would be moved further into the site to allow for vehicles to pull clear of the highway, it would also be widened to allow two vehicles to pass side by side, this is an improvement to the existing situation. The revised yard design should also make it easier for lorries to turn inside the site.

Local occupiers have expressed fears that more traffic will be generated by the use. It is not proposed to increase the operations on site, therefore the proposal would not produce an increase in traffic. In addition, it must be borne in mind that if the currently unused Jackdaw site or the Orion Works site were brought back into commercial/manufacturing

use they could potentially generate comparable amounts of traffic. Transportation have not raised any objections.

Sleeper wall adjacent to Thompson Close

The existing sleeper wall at the end of Thompson Close is currently on the boundary of Marrens scrap yard and is very visible from Thompson Close. The concept of a wall was approved by a previous planning permission which gave consent for the erection of a 4 metre high barrier in order to reduce the impact from noise emanating from the scrap yard operations. The details of the present installation have never been approved and this application provides an opportunity to improve the visual aspect of the application site from Thompson Close. The existing sleeper wall has been covered with camouflage netting this has improved the impact of the wall however it is felt that it could be further improved by requiring the wall to be relocated. Therefore a condition should require the barrier to be dismantled and reinstated 3 metres into the site, this will then allow for additional landscaping of that area.

Closure of footpath

There is a history of anti-social behaviour associated with this footpath.

The proposed closure of Calves Croft where it passes through the site is a positive improvement particularly for the existing occupiers in Thompson Close. The footpath will only give access between Wednesfield Road and Park Road and will be closed off at the rear of no. 19 Thompson Close by a security gate which will allow access for the occupiers of the church who have a right of access across that land. A security fence will also be erected at the rear of 31 Thompson Close which will further secure the scrap yard and the adjacent R and K Transport to the east.

As part of this application, which will be secured by way of a planning condition to be imposed on any planning approval, improvements will be required to the remaining existing Calves Croft footpath. Details of the security gate to be provided, details of resurfacing and new lighting for the footpath will be required to be provided by the applicants.

Clearly the closure of the footpath will have environmental benefits to both those residents and commercial occupiers which currently experience security problems from the footpath. Furthermore, the current conflict which exists between users of the right of way and vehicular traffic where they meet at the entrance to Marren's site would be eliminated by the closure.

The part closure of this footpath controls the timing of this scheme being progressed. No development can be commenced until such time that the closure has been confirmed and put into place. The time scales for this could be anything between 8 months and 18 months.

Conclusion

The use of the site benefits from an established use certificate and has no planning controls over its operations. This application however provides an opportunity to ensure that the site continues to operate but with minimum impact on the amenities of surrounding

residential occupiers. It will allow the Local Planning Authority to impose conditions which can regulate its operations without being so onerous that they affect the continued use of the business and without being reliant upon other regulatory bodies.

Summary of Reasons for Granting Planning Permission

The proposed scheme will allow for the continued use of this site whilst providing opportunities for environmental benefits such as reducing noise from the site and its physical appearance within the environment. All issues raised by local residents such as poor quality of life, increased activities, noise, dust and dirt, loss of trees, pollution, increased traffic and congestion, closure of Calves Croft, impact on privacy, inadequate access, highway safety, visual appearance of the fence and non conforming use have been fully addressed and on the basis that the proposals provide an opportunity to control the use of the site, improve its appearance through new landscaping and planting of trees, new boundary treatments, reduce noise pollution, improve vehicular access at the entrance to the site thereby improving road safety and improved security by the closure of Calves Croft and on balance the development proposals are considered to comply with the policies of the development plan, in particular policies 3.6, 3.7, 3.16, ENV14, 4.1, 4.2, GP1, GP2 And GP4 Of Walsall's Unitary Development Plan and Designing Walsall Supplementary Planning Document, Regional Spatial Strategy for the West Midlands and National Policy Planning Policy Guidance 4.

Recommendation: Grant Subject to conditions

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

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

2. Prior to any development commencing on the site, in connection with this permission, details of proposed refuse facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use, and shall be thereafter retained.

Reason: To prevent congestion on site to the potential detriment of highway safety and to ensure the satisfactory appearance and functioning of the development

3. No industrial process, including the following, shall take place in the open on part of the site which is within a distance of 5 metres from the position of the relocated sleeper fence adjacent to Thompson Close:-

- ground fires;
- oxy-acetylene cutting or other thermal cutting operations
- fragmentising;
- drop-balling

Reason: To safeguard the amenities of the occupiers of adjoining and nearby residential premises

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, there shall be no vehicular access to the site other than through the access shown on the deposited plan, without the prior submission and approval of a planning application. The gates provided as emergency gates off Harper Street shall only be for use by the emergency services and no other purpose.

Reason: To ensure the satisfactory functioning of the development and in the interests of highway safety.

5. All loading and unloading of goods shall take place within the curtilage of the site and only during permitted operating hours.

Reason: To ensure the satisfactory functioning of the development and in the interests of highway safety.

6. No amplification equipment shall be installed in or on the premises until details of the equipment and any necessary soundproofing have been submitted to and approved in writing by the Local Planning Authority. The approved soundproofing works shall be carried out before the amplification is brought into use and thereafter retained.

Reason: To safeguard the amenities of the occupiers of adjoining and nearby residential premises.

7. No materials, goods or refuse shall be stored or deposited in the open on any part of the site to a height greater than 4 metres.

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

8. Following demolition and prior to built development commencing additional investigation and assessment of ground contamination and landfill gas shall be undertaken to the satisfaction of the Local Planning Authority. A copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority within 1 month of completion.

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

9. None of the development hereby approved shall be commenced until 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 have been submitted to and agreed in writing with the Local Planning Authority.

Reason : To ensure the satisfactory development of the site.

10. Agreed remedial measures shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to

and accepted in writing by the Local Planning Authority prior to the development being brought into use.

Reason : To ensure the satisfactory development of the site.

11. None of the development hereby approved shall be commenced until details of arrangements to be made for the satisfactory drainage of the site shall have been submitted to and approved in writing by the Local Planning Authority. The details shall include sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, the approved details shall be implemented fully.

Reason: To ensure that the development permitted is provided with a satisfactory means of drainage.

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

Reason: To safeguard the amenities of the occupiers of adjoining and nearby residential premises and in the interests of highway safety.

13. No vehicle horns shall be sounded except for emergency purposes.

Reason: To safeguard the amenities of the occupiers of adjoining and nearby residential premises

14. All motorised plant, machinery and equipment shall be maintained and serviced in accordance with the manufacturer's and/or supplier's recommendations, instructions and schedules.

Reason: To ensure all machinery is maintained in a good working order thereby ensuring noise and pollution is maintained at its lowest level to safeguard the amenities of the occupiers of adjoining and nearby residential premises

15. No development shall take place until a scheme of noise and vibration mitigation measures have been submitted to and approved in writing by the local planning authority. Approved noise mitigation measures shall be completed before the development is brought into use and retained thereafter.

Reason: To safeguard the amenities of the occupiers of adjoining and nearby residential premises

16. Noise attributable to operations and activities taking place on the development shall not give rise to a noise rating exceeding +5 dB as determined in accordance with British Standard BS 4142: 1997 'Method for rating industrial noise affecting mixed residential and industrial areas'.

Reason: To safeguard the amenities of the occupiers of adjoining and nearby residential premises

17. Levels of ground vibration transmitted to occupied buildings emanating from activities taking place on the development shall not exceed a Peak Particle Velocity (PPV) of 0.56 mms⁻¹.

Reason: To safeguard the amenities of the occupiers of adjoining and nearby residential premises

18. None of the development hereby approved shall be commenced until a noise management plan has been submitted to and approved in writing by the local planning authority. The approved noise management plan shall thereafter be implemented and maintained within three months of any development being commenced.

Reason: To safeguard the amenities of the occupiers of adjoining and nearby residential premises

19. The permitted operating hours, including collections, deliveries and despatches shall be: 07.30 to 17.30 weekdays excluding Bank Holidays and Public Holidays; 08.00 to 13.00 (mid-day) Saturdays; and at no time on any Sunday, Bank Holiday or Public Holiday unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery, goods vehicles or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: To safeguard the amenities of the occupiers of adjoining and nearby residential premises

20. None of the development hereby approved shall be carried out until a detailed landscaping scheme for the site, (including any necessary phasing of implementation), has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with any agreed phasing or within one year of any part of the development being brought into use or such other period of time as may be agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

21. None of the development hereby approved shall be carried out until full details of the proposed boundary treatment of the site to include repairs to perimeter fencing and gates, where necessary, have been approved in writing by the Local Planning Authority. The submitted scheme shall include any internal site divisions. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

Reason: To ensure the satisfactory appearance of the development.

22. None of the development hereby approved shall be commenced until the existing boundary sleeper wall erected adjacent to 31 Thompson Close is dismantled and reinstated along a line three metres into the site in a southerly direction.

Reason : To ensure the satisfactory appearance of the development and to safeguard the amenities of the occupants.

23. None of the development hereby approved shall commence until details of phasing of the development have been submitted to and approved in writing by the Local Planning Authority. The phasing details shall include a specific timetable for each element of the development including implementation, the details shall be developed in accordance with the approved timetable.

Reason : To ensure the satisfactory development of the site and safeguard the amenity of the area and nearby residential occupiers, in the interests of highway safety and to ensure the satisfactory development of the site.

24. None of the development hereby approved shall be commenced until a Staff Travel Plan to promote sustainable travel to and from the development has been submitted to and approved in writing by the Local Planning Authority. For further information on such initiatives contact Walsall Council's Business Travel Advisor, on 01922 652 561. The approved Travel Plan shall be implemented during the first six months following any part of this permission being commenced. Following the expiry of this period of time, a review of the Plan shall be submitted to, and agreed in writing by, the Local Planning Authority. This will identify any refinements and clarifications deemed necessary to the Plan. The approved, revised plan shall thereafter be implemented in conjunction with the development subject to this permission, unless otherwise agreed in writing by the Local Planning Authority

Reason : To maximise accessibility to the site and give choice of alternative travel modes.

25. None of the development hereby approved shall begin until details of the proposed security gate to be erected to the rear of no. 19 Thompson Close across Calves Croft footpath, have been submitted to and approved in writing by the Local Planning Authority. The details shall include measures to allow access for occupiers who have a right of access along Calves Croft. The approved scheme shall be implemented fully in accordance with the agreed details and thereafter retained.

Reason : To ensure that access is maintained for those who exercise a right of access across Calves Croft.

26. None of the development hereby approved shall be carried out until full details of existing and proposed levels of the site, accessway and floor levels, in relation to land adjoining the site, have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site or adjoining land.

Reason: To ensure the satisfactory appearance of the development.

27. None of the development hereby approved shall be brought into use before the accessways, vehicle parking and manoeuvring areas shown on the approved plans have been hardsurfaced in materials to be agreed in writing by the Local Planning Authority. The areas shall thereafter be retained and used for no other purpose. The parking spaces shall have been clearly marked out.

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

28. The existing access shall be improved in accordance with the approved plans and the work shall be carried out before the premises are first occupied, or at such later date as may be agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory functioning of the development and in the interests of highway safety.

**To: DEVELOPMENT CONTROL
COMMITTEE**

**Report of Head of Planning and
Building Control, Regeneration
Directorate on 21 May 2009**

REASON FOR BRINGING TO COMMITTEE: Major application

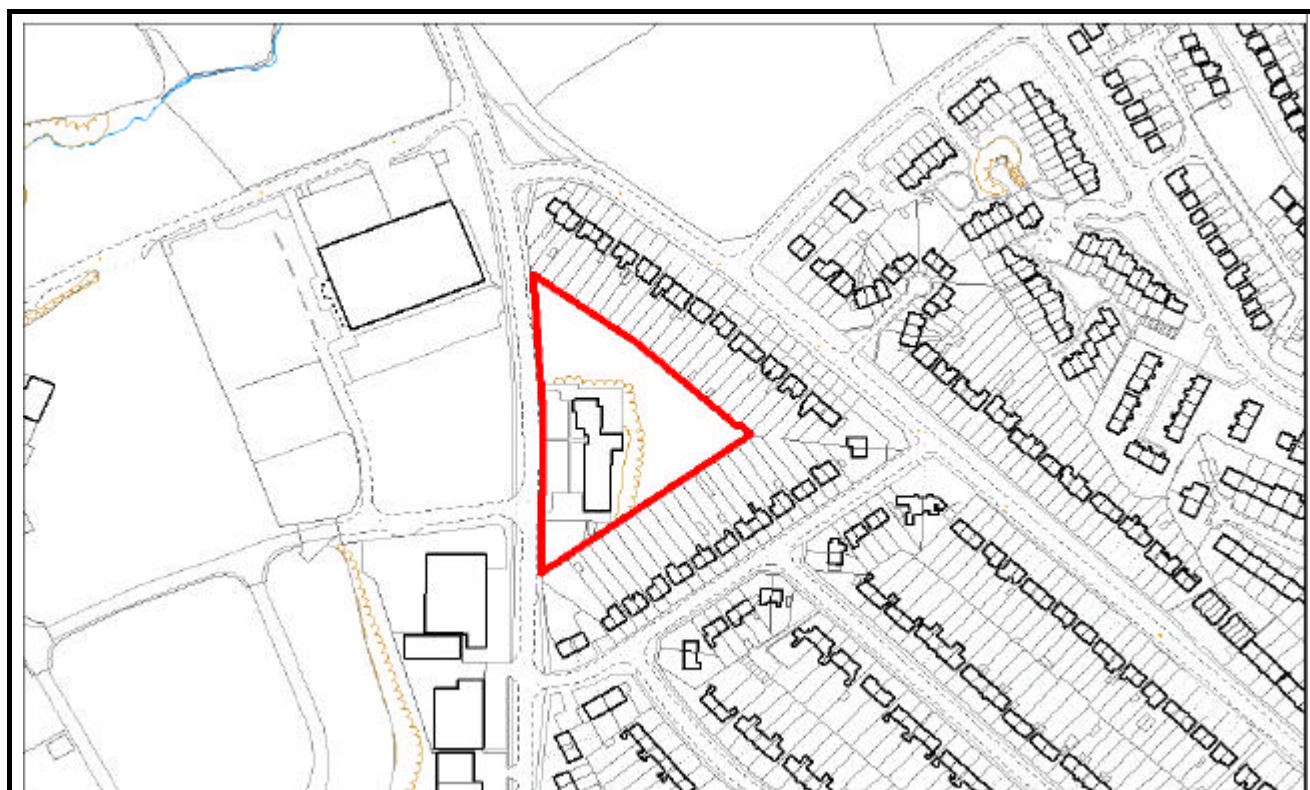
Application Number: 09/0342/FL
Application Type: Full application
Applicant: Inspace Partnerships Ltd
Proposal: Amendments to Permission
07/2644/FL/E12 for 53 Extra Care Apartments,
communal facilities, day-care centre parking
and associated landscaping. Changes to
footprint, location of building, parking,
landscaping and building fenestration.

Ward: Aldridge/Central & South

Case Officer: Devinder Matharu
Telephone Number: 01922 652487
Agent: Calfordseaden LLP
Location: NORTHGATE
REHABILITATION CENTRE,
NORTHGATE, WALSALL WS9 8JT

Expired: 16/06/2009

Recommendation Summary: Grant subject to conditions based on the conditions set out below providing that no further representations on new material planning grounds are received.



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Application and Site Details

A conditional planning permission for 53 extra care apartments was granted in February 2008.

Development has taken place which is not in accordance with the approved plans. This revised application has been submitted to address the amendments to the scheme. These amendments are as follows:

- **The building has been repositioned** 0.7m closer to the rear boundaries of the properties in Walsall Wood Road and has been built 1.4m lower than the approved scheme
- **Windows and door ways have been amended** to provide: additional vertical landing and stairwell windows in the rear and side elevations, secondary habitable room windows on the side elevations facing the rear gardens of houses in both Walsall Wood Road and Walton Road; new windows on the front elevation; new ground floor doors and windows on the rear elevation.
- **The roof has been lowered overall & fill in** on the side elevation nearest the properties on Walton Road
- **Site frontage changes include** : provision of turning heads at both ends of the site frontage; widening and minor realignment of the access; provision of a footway; erection of a sub station; car parking re-arrangement.
- **The bin store** has been made larger.

There have also been alterations to the location of facilities within the building.

Prior to the submission of this revised planning application the architects undertook a 3 week public consultation exercise with the adjoining residential occupiers on Walsall Wood Road and Walton Road. The outcome of this consultation was that residents adjoining the site object to the amendments to the scheme.

Extra care provides affordable housing for older people through independent living with care support, tailored to meet individual needs, to enable the residents to stay in their own home for as long as possible, as an alternative to residential care.

The development forms part of Housing 21's partnership scheme with The Council for the re-provision of residential and day care facilities for older people in Walsall, split over 5 strategic sites to provide 322 residential units and 125 day care places. The main criterion for site selection has been the transfer of residents from existing locations to new sites within reasonable distance, to minimise disruption.

The site lies on Northgate the main road from Aldridge to Walsall Wood. To the north, east and south of the site there are semi detached residential properties that front onto Walton Road and Walsall Wood Road benefiting from in excess of 30m rear gardens. The

site is situated approx 80 metres away from the junction of Walton Road and Northgate. Opposite the application is an area of disused land that has been allocated as a new employment site in the Unitary Development Plan.

The development includes 28 x 1 bed and 25 x 2 bed apartments split up into 25% shared ownership for independent living, communal restaurant and lounge facilities, day care centre, hobby room, well being suite, hairdressers, shop, a staff welfare area, care office, court manager room, electric buggy store, laundry and plant room, as well as night staff accommodation and a visitors suite.

These facilities are accommodated within a three storey 7.2m deep rectangular building. The amended access points onto Northgate will be utilised. The proposed building would extend along the frontage of Northgate and would be set back into the site to provide car parking to the front of the site. A total of 26 car parking spaces would be provided including 3 disabled spaces.

The rear amenity area will accommodate a terraced area and a gazebo with a seating area for residents. The existing crazy golf course has been retained.

All communal facilities shown on the amended scheme would still be provided on the ground floor just inside the main entrance door of the southern wing of the building, with a progressive privacy scheme provided from the 'public' area to the private apartment area, to ensure security for the residents. Staffing levels for the facility would be approx 17, including a court manager, care manager, care staff, administrator, catering staff and cleaning staff.

Thirteen trees at the front of the site have been removed to accommodate the proposed scheme. However trees and shrubs will be planted within the rear private amenity area and along the Northgate frontage of the site.

The site area is 0.847 hectares which provides a density of 45 dwellings per hectare.

The design of the building is traditional with a hipped roof; gable and arch features which incorporate bay windows, Juliet balconies have also been included. The mass of the building will be broken up by the incorporation of different materials those being brick and render and timber cladding.

The application has been accompanied by a Design and Access Statement.

Relevant Planning History

07/2644/FL/E12 53 extra care apartments with communal facilities, day care centre, parking and associated landscaping. Northgate Rehabilitation Centre, Northgate, Aldridge. Granted subject to conditions 29 February 2008.

Relevant Planning Policy Summary

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

Policies GP1 and 2.1 seeks sustainable development and urban regeneration.

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

Policy GP3 (a) planning obligations will be used, as appropriate, to secure the provision of any on or off site infrastructure, facilities, services or mitigating measures made necessary by a development. Such obligations will be used to secure additional or improved public open space, affordable housing provision, education facilities and health care facilities.

Policy GP7 seeks to design out crime.

Policy ENV11 refers to lighting.

Policy ENV14 encourages the reclamation and development of previously developed land.

Policies ENV17 and ENV18 encourages new planting as part of landscape design and protecting existing trees on site.

Policies 3.16, ENV32, H10 and 3.116 states the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted, particularly in locations such as visually prominent sites.

Policies 3.117 and ENV33 refer to landscape design and opportunities to create and enhance environmental quality.

Policies 3.17, 3.18 and ENV39 states proposals for the development of renewable energy sources and for the efficient use of energy will be encouraged provided that they would not have a detrimental effect on the character, quality and amenity of the surrounding area. Appropriate measures might include the siting, orientation, design, the recycling of waste heat, and the use of landscaping and building layout to reduce energy loss.

Policy H3 encourages the provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved.

Policy H4 25% of total dwellings shall be affordable homes.

Policy H5 promotes and encourages the provision of housing for people with special needs, including single people, the elderly etc.

Policy H9 states that densities exceeding 50 dwellings per hectare will be encouraged for the provision of small units for single people or the elderly.

Policies 7.5, 7.52 and 7.36 PPG13 parking policies should be used to promote sustainable transport choices.

Policy T7 (b) states that all development should satisfy the car parking standards set out in Policy T13.

Policy T13 car parking standards

Flats with communal parking spaces	1.5 spaces per unit
Residential care homes	1 space per 3 beds
Nursing Homes	1 space per 2 beds

Policy 7.63 indicates that if housing schemes are to be occupied by a greater proportion of non car users than average (eg affordable housing or elderly accommodation) then a lower level of parking provision may be appropriate.

Designing a Better Walsall SPD (2008)

Policy DW1 meet environmental, economic and community needs without compromising the needs of future generations.

Policy DW3 'Character' all new development must be designed to respect and enhance local identity.

Policy DW4 new development must give consideration to common building lines and how the development will give definition to streets and spaces to reinforce existing urban structure and give significance to important streets and spaces.

A clear distinction between public and private space should be inherent.

Policy DW6 all development to make a positive contribution to identity of an area in which it is located and to contribute to a legible environment.

Policy DW9 new development must seek to ensure it creates places with attractive environmental quality.

Policy DW10 new development must make a positive contribution to creating a comfortable, adaptable and sustainable built environment.

Annexe E refers to numerical guidelines for residential development

- 24m separation between habitable room windows in two storeys
- 13m separation between habitable windows and blank walls exceeding 3m in height
- 45 degree code
- garden dimensions -12m in length or a minimum area of 68 square metres.

National Policy

Planning Policy Statement 1: Delivering sustainable development in paragraphs 3, 33, 34, 35 and 36 makes reference to sustainable development and that good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.

It also states that developments should create safe and accessible environments where crime and disorder or fear of crime does not undermine quality of life or community cohesion.

PPG3: Housing, key objectives:

- Increase the design and environment standards of new homes and neighbourhoods in order to move towards zero carbon development
- Deliver more affordable homes
- To secure good design

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

Consultations

Transportation – No Objection to the current proposal subject to conditions relating to access, layout and age restriction:

Pollution Control – Contaminated Land Team – No objection subject to previous planning conditions on 07/2644/FL/E12.

Regeneration – Landscape – No objection

Urban Designer – No objection

Environmental Health – No objection

Highways Agency – No comment

Fire Service – No objection

Arboricultural Officer – No objection.

Lichfield District Council – No comment

Environment Agency – No Objection.

Representations

Four letters have been received objecting to the amended siting, layout and design on the following grounds:

- There is no point in making comments as the amendments have been carried out without planning permission: objections are futile, and planning permission will be granted-
- The building is closer to 382, 384 and 388 Walsall Wood Road
- Severe overshadowing will result
- Loss of privacy
- No site visit has taken place from 386 Walsall Wood Road.

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

Determining Issues

- Principle of residential development
- Access and parking
- Design
- Impact on the surrounding occupiers
- living environment for occupiers
- Landscape
- Public Open Space, Healthcare and Affordable Housing provision

Observations

Principle of development

The principle of this housing development has already been accepted through the approval of the original scheme last year.

The site satisfies the objectives of UDP policies for 'windfall sites' and the development of derelict and previously used land. It is situated in a sustainable location, on a District Distributor, well served by bus routes in close proximity to Aldridge District Centre.

Access and parking

The approved scheme provided 26 parking spaces, including 3 disabled bays and provision for secure cycle storage and electric buggies. The amended scheme still seeks to provide this level of car parking in a different layout than the approved scheme.

Transportation considers that the application is acceptable subject to the imposition of the proposed planning conditions.

The scheme utilises the two existing access points and would involve the increase in the width of one of the access points, closest to Walsall Wood Road.

The car parking has been re-arranged at the front of the site to provide pedestrian access into the site from Northgate as required as part of a planning condition under the previously approved scheme. The inclusion of this feature has resulted in the realignment of the access points and the re-arrangement of the car parking along the frontage of the site. The existing access point closest to the junction with Walsall Wood Road has been widened to 5m. These alterations are acceptable as they do not significantly alter the appearance of the scheme. Furthermore, landscaping has been proposed in front of the car parking area, which will help to provide screening and an attractive frontage along this part of Northgate.

Turning heads at either end of the building have been proposed, which increases the amount of hard surfacing along this part of the scheme. The proposed additional landscaping will help to screen these features from Northgate.

Design

The building runs almost the entire frontage of this site along Northgate, being set off the boundary either side, away from the rear garden boundaries with the residential properties on Walsall Wood Road and Walton Road.

The building design still retains the original approved features, with minor alterations to the elevations. These minor amendments would enhance the overall appearance of the scheme and add interest to the main Northgate elevation.

The inclusion of vertical window panels on the rear and side elevation serving the stairwell and landing areas will enhance the building by breaking up the otherwise featureless elevation with glazing.

The height of the building is 1.4m lower than that shown on the approved drawings. It is considered that the reduction in the height of the roof would mean that the building would not be as prominent but still stand out as a feature along this busy section of the highway. Furthermore, the reduction in the height of the roof would reduce the visual impact for local residents.

The internal alterations that are proposed are acceptable.

Impact on surrounding occupiers

The application site is triangular in shape. The rear gardens of adjoining houses are in excess of 30 metres in length and form the boundary with the rear of the application site.

Secondary habitable room windows are proposed on the side elevations. Given that the distance between these windows and the rear elevation of the properties along Walsall Wood Road and Walton Road exceed normal standards, satisfactory levels of privacy would be maintained.

On the northern side elevation, the secondary habitable room windows are in line with 392 Walsall Wood Road, a separation distance of some 45m and on the southern side elevation the secondary room windows sit in line with the rear boundary of 31 Walton Road. The separation between the rear elevation of 31 Walton Road and these proposed secondary room windows is 38.7m,

It is considered that the extra side facing windows to serve the stairwells and landings would not lead to loss of privacy, as views would only be available of the bottom edge of the gardens.

The outlook from the rear of the building would be to the end of the rear gardens. Because of the length of the gardens and the siting and layout of the building, a satisfactory relationship would be maintained with adjacent houses avoiding any direct overlooking or loss of privacy.

Objectors at 382 and 388 Walsall Wood Road have raised concerns with regard to overlooking and loss of privacy.

The rear of 382 Walsall Wood Road faces the private amenity area, not the rear of the building. The windows on the rear elevation of the building also face the amenity area and not the adjacent houses. It is considered that there is very little potential for overlooking and loss of privacy for this occupier.

With regard to 388 Walsall Wood Road, the rear garden to this property extends to the rear corner of the proposed building. A vertical window panel is now proposed in this part of the elevation to serve the stairwell. This would not result in any significant loss of amenity to the occupier of 388 Walsall Wood Road.

The inclusion of doors and windows on the ground floor rear elevation is considered acceptable as they would improve the functioning and appearance of the building.

Whilst a small roof section on the southern elevation has been raised slightly, it is considered that the lower building level, generally reducing its height by 1.4m, would overall reduce any visual impact for the occupiers on Walton Road. There would be no greater impact in terms of shadowing than the previously approved scheme, as the overall height of the building has been reduced. The building would have some shadowing impact on neighbouring properties during the late evening in the winter months. This previously accepted level of shadowing would not unduly impact on the amenity of these residential occupiers.

The building has been sited 0.7m closer to the rear boundaries of the properties on Walsall Wood Road. This slight realignment does not effect the street scene. There is still 35m between the rear elevation of 388 Walsall Wood Road and the rear corner of the proposed building. The approved separation distance has not been compromised by the 0.7m reduction and appropriate amenity levels remain.

The proposed building is still set off the boundary with the rear gardens of the properties on Walsall Wood Road and Walton Road and landscaping is proposed within this space to give a visual break between the site and the neighbouring properties.

The increased in size of the bin store and the proposed turning head for refuse vehicles adjacent the rear boundaries of 33 – 39 Walton Road, would not result in any noise disturbance if an acoustic fence was erected on the boundary. Details of the fence can be secured by a planning condition.

The objectors raised concerns about devaluation of their property is not a material planning consideration.

Living environment for occupiers

The revised scheme would not alter the level of amenity that would be available for occupiers. The inclusion of secondary habitable room windows for those flats on the northern and southern elevation would allow for additional light to be provided for these occupiers.

The scheme would provide a high standard of living for occupiers of this scheme. A large private amenity area will be provided for residents along with shared communal facilities which would encourage interaction with other residents. The scheme would provide a number of facilities such as a day care centre, a communal restaurant, a shop, hairdressing facilities within the scheme which residents would be able to utilise without leaving the premises. For those residents who have mobility problems electric buggies will be provided on site.

Landscape and boundary treatments

Following consultation with the local residents, the residents have been offered additional landscaping along the boundaries to break up the visual impact of the building.

The Landscape Officer and Arboricultural Officer have no objection to overall landscaping and boundary treatments on site. To ensure the development is completed with the submitted plan, a planning condition has been attached ensuring the landscaping is undertaken and the trees shown on the landscaping plan are retained.

No details of the height and the external finish of the fence or metal gate have been provided, however these details can be secured by way of a condition.

Thirteen trees have been removed from the front of the site to accommodate the proposal. This is in accordance with the approved scheme. Planting within the whole scheme would compensate for the loss of these trees.

Public Open Space, Healthcare and Affordable Housing provision

A residential scheme of this size would normally require contributions secured through a Section 106 towards: Public Open Space, Healthcare and Affordable Housing. No contributions were considered appropriate when the scheme was originally approved.

Housing 21, the Council's partner in this scheme are a registered social landlord housing association and a 'not for profit' organisation. The scheme would provide part of the re-provision of accommodation for the elderly on behalf of Walsall Council and would be funded through public monies which have been specifically approved and ringed fenced for this purpose only and include Supporting People Funding, Housing Corporation Grant, funding from the PCT and Central Government grant. The site is owned by the Council and will be the subject of 125 year lease and a restricted covenant as to the use.

The scheme provides 100% affordable housing (22 x 1 bed and 18 x 2 bed rented and 6 x 1 bed and 7 x 2 bed shared ownership), and more than adequate amenity space for residents within the site. The scheme provides its own care provision for residents and would therefore have no additional impact on local facilities.

Conclusion

The amended scheme would have no materially greater impact on the amenity of adjacent residents than that associated with the approved scheme. The enhanced planting and fencing provision would ensure that the development maintains a good relationship with its neighbours. The additional windows will improve the function and appearance of the building and the site frontage changes will assist the operational success of the scheme. The public participation period expires on the 22 May 2009, the day after the Committee meeting. Therefore the recommendation is to grant planning permission, based on the conditions set out below, providing that no further representations on new material planning grounds are received.

Summary of reasons for granting planning permission

The principle of development has already been accepted through the approval of a residential scheme under planning application 07/2644/FL/E12 for 53 extra care apartments including a day centre and associated car parking and landscaping. Secondary habitable room windows are proposed on the side elevations, however given the distance between these windows and the rear elevation of the properties along Walsall Wood Road and Walton Road these windows would not result in any loss of privacy for neighbouring residents. The separation distance between the rear habitable rooms of the properties at Walsall Wood Road and Walton Road exceed the minimum separation distance as set out in Annexe E of the Designing Walsall Supplementary Planning Document.

The extra side windows would not affect anyone, as they look side ways at the bottom edge of the gardens and furthermore, these windows belong to the stairwell and landing of the development.

Objectors at 382, 384 and 388 Walsall Wood Road have raised concerns with regards to overlooking and loss of privacy. The rear of 382 Walsall Wood Road faces the rear private amenity area that has been allocated for the retirement scheme. Furthermore, the windows on the rear elevation face the rear amenity area and with the positioning of the houses on Walsall Wood Road and the parallel position of the building to Northgate, it is considered that there is very little potential for overlooking and loss of privacy for this occupier.

With regards to 388 Walsall Wood Road, the rear garden to this property extends to the rear corner of the proposed building. In this part of the elevation for the proposed scheme, a vertical window panel has been included, which serves the stairwell. The existing vertical window panel was approved under planning reference 07/2644/FL/E12. It is considered that as this window panel serves the stairwell and not a habitable room, which would be used more frequently, and as such the proposal would not result in any significant loss of amenity to the occupier of 388 Walsall Wood Road.

The proposed building has been built 1.4m lower at 12.3m than the approved scheme at 13.7m under planning reference 07/2644/FL/E12 though a small section on the southern elevation has been raised slightly. It is considered that the lower building level, by reducing the height by 1.4m would reduce any visual impact for the occupiers on Walton Road.

The building has moved 0.7m closer to the rear boundaries of the properties on Walsall Wood Road. It is considered that this slight realignment would not affect the design or setting of the overall building in the street scene. The proposal still provides a separation distance of 35m between the rear elevation of 388 Walsall Wood Road and the rear corner of the proposed building. It is considered that the separation distance is sufficient and exceeds the 13m blank wall separation distance as quoted in Annexe E of the Designing Walsall SPD.

The inclusion of vertical window panels on the rear and side elevation serving the stairwell and landing areas within the building is considered to be an attractive feature that enhance the overall appearance of the site and also break up the solid elevation with glazing. These additions would meets the aims and objectives of Policies GP2, 3.116, 3.16 and ENV32 of the UDP which aim to provide good design features.

The Highway Officer and Landscape Officer have no objection to the scheme subject to the inclusion of planning conditions relating to parking and landscaping.

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies 2.2, 3.6, GP2, GP7,H4, H5, H9, 8.9, T13, 7.63, ENV11, ENV14, ENV17, ENV18, ENV32, ENV33, 3.16, 3.116, 3.117, 3.17, 3.18, ENV39, 7.2, 7.52, T7, 7.63 and H10 of Walsall's Unitary Development Plan, Policies DW1, DW3, DW4, DW6, DW9 and DW10 of the Designing Walsall SPD and the advice given in

Summary of Reasons for Granting Planning Permission

The principle of development has already been accepted through the approval of a residential scheme under planning application 07/2644/FL/E12 for 53 extra care apartments including a day centre and associated car parking and landscaping. Secondary habitable room windows are proposed on the side elevations, however given the distance between these windows and the rear elevation of the properties along Walsall Wood Road and Walton Road these windows would not result in any loss of privacy for neighbouring residents. The separation distance between the rear habitable rooms of the properties at Walsall Wood Road and Walton Road exceed the minimum separation distance as set out in Annexe E of the Designing Walsall Supplementary Planning Document.

The extra side windows would not affect anyone, as they look side ways at the bottom edge of the gardens and furthermore, these windows belong to the stairwell and landing of the development.

Objectors at 382, 384 and 388 Walsall Wood Road have raised concerns with regards to overlooking and loss of privacy. The rear of 382 Walsall Wood Road faces the rear private amenity area that has been allocated for the retirement scheme. Furthermore, the windows on the rear elevation face the rear amenity area and with the positioning of the houses on Walsall Wood Road and the parallel position of the building to Northgate, it is considered that there is very little potential for overlooking and loss of privacy for this occupier.

With regards to 388 Walsall Wood Road, the rear garden to this property extends to the rear corner of the proposed building. In this part of the elevation for the proposed scheme, a vertical window panel has been included, which serves the stairwell. The existing vertical window panel was approved under planning reference 07/2644/FL/E12. It is considered that as this window panel serves the stairwell and not a habitable room, which would be used more frequently, and as such the proposal would not result in any significant loss of amenity to the occupier of 388 Walsall Wood Road.

The proposed building has been built 1.4m lower at 12.3m than the approved scheme at 13.7m under planning reference 07/2644/FL/E12 though a small section on the southern elevation has been raised slightly. It is considered that the lower building level, by reducing the height by 1.4m would reduce any visual impact for the occupiers on Walton Road.

The building has moved 0.7m closer to the rear boundaries of the properties on Walsall Wood Road. It is considered that this slight realignment would not affect the design or setting of the overall building in the street scene. The proposal still provides a separation distance of 35m between the rear elevation of 388 Walsall Wood Road and the rear corner of the proposed building. It is considered that the separation distance is sufficient and exceeds the 13m blank wall separation distance as quoted in Annexe E of the Designing Walsall SPD.

The inclusion of vertical window panels on the rear and side elevation serving the stairwell and landing areas within the building is considered to be an attractive feature that enhance the overall appearance of the site and also break up the solid elevation with glazing. These additions would meet the aims and objectives of Policies GP2, 3.116, 3.16 and ENV32 of the UDP which aim to provide good design features.

The Highway Officer and Landscape Officer have no objection to the scheme subject to the inclusion of planning conditions relating to parking and landscaping.

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies 2.2, 3.6, GP2, GP7, H4, H5, H9, 8.9, T13, 7.63, ENV11, ENV14, ENV17, ENV18, ENV32, ENV33, 3.16, 3.116, 3.117, 3.17, 3.18, ENV39, 7.2, 7.52, T7, 7.63 and H10 of Walsall's Unitary Development Plan, Policies DW1, DW3, DW4, DW6, DW9 and DW10 of the Designing Walsall SPD and the advice given in Planning Policy Statement 1, Planning Policy Statement 3 and Planning Policy Guidance Note 13.

Recommendation: Grant subject to conditions based on the conditions set out below providing that no further representations on new material planning grounds are received.

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

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

2) The works hereby approved shall only be carried out as shown on drawing number B/07/0009/1000/K, B/07/0009/2000/J, B/07/0009/1010/E, B/07/0009/2200/K submitted on 16th March 2009, B070009/8100, B070009/8103, B070009/8101, B070009/8102 submitted on 20th March 2009 and the shadowing plans submitted on 27 March 2009.

Reason: To define the permission.

3) The development shall only be carried out in the following materials:

- Main wall brick – Red Mere Blend EH Smith
- Wall detail brick – Yellow Prairie Gold EH Smith
- Wall below DPC Blue 2B16 EH Smith
- Timber – Red Thermowood Sharvatt Woolwich Ltd
- Roof Tile – Russell's Pennine Tile – Peat Brown or Rustic Peat
- Render – Cream Parex Lanko Sable 0.10.

Unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory development of the site.

4) The extra care apartments hereby approved with the exception of the guest suite shall be occupied solely by persons of 60 years of age and over.

Reason: To ensure functioning of the site in the provision of reduced car parking for the apartment block.

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

Reason: To safeguard the visual amenities of the area.

6) Within two months of the date of this permission of works hereby approved the following details shall be submitted to and approved in writing by the Local Planning Authority.

- surface materials of the proposed car parking area to the front of the site
- Any alterations to the vehicle access shall be constructed to a specification to be approved in writing by the Local Planning Authority, and meet all statutory requirements.

Reason: To ensure the satisfactory development of the site and in the interests of highway safety to meet the requirements of the Highways Act 1980.

7) The development shall be completed in accordance with drawing number B/07/0009/1000/K submitted on 16th March 2009, which illustrates a pedestrian footway into the site from Northgate, the turning heads and re-arrangement of the car parking along the front of the site unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory development of the site and in the interests of highway safety to meet the requirements of the Highways Act 1980.

8) Prior to the development being brought into use, the parking bays shall be clearly demarcated on the ground. The disabled bays shall be marked out in accordance with Department of Transport, Inclusive Mobility, Best Practice guidelines. All bays shall be thereafter retained for this purpose.

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

9) The development shall be constructed in accordance with the Code of Sustainable Homes (April 2007) 3 stars standard relating to energy efficiency / CO₂, water efficiency, surface water management, site waste management, household waste management and use of materials, unless otherwise agreed in writing with the local planning authority.

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

10) The landscaping scheme as shown on drawing number 888.NC.01A submitted on 9th April 2009 shall be carried out prior to the occupation of any part of the development or such other period as may be agreed in writing by the Local Planning Authority. Any trees or plants, which within a period of five years of the commencement of any works in pursuance of the development die, are removed, or become seriously damaged or diseased, shall be replaced as soon as practicable with others of similar size and species, following consultation with the Local Planning Authority, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the satisfactory appearance of the development.

- 11) Within two months of the date of this permission of works hereby approved
- (a) No retained tree as shown on plan number 888.NC.01A submitted on 9th April 2009 shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping shall be carried out in accordance with British Standard 3998 (tree work) and in accordance with any supplied arboricultural method statement.
 - (b) If any retained tree as shown on plan number 888.NC.01A submitted on 9th April 2009 is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
 - (c) Following the completion of any arboricultural works but before any equipment, materials or machinery are brought onto the site in connection with the development, protective fencing and ground protection such as geomembrane or scaffold boards shall be installed around all retained trees as shown on plan number 888.NC.01A submitted on 9th April 2009 in accordance with details that first shall be submitted to and agreed in writing by the Local Planning Authority. Such protection shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition nor shall any fires be started, no tipping, refuelling, disposal of solvents or cement mixing carried out and ground levels within those areas shall not be altered, nor shall any excavation or vehicular access be made, without the written consent of the Local Planning Authority
 - (d) Prior to the commencement of works on site and after the installation of the tree protection in accordance with (c) above the Council's arboricultural officer shall be notified to allow a full inspection of the protection measures.

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

12) Prior to the development being occupied details of the boundary fence shall be submitted to and approved in writing. The details shall include details of an acoustic type fence. The development shall be completed with the approved details and retained and maintained at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the neighbouring residential occupiers on Walsall Wood Road and Walton Road.

13) Within two months of the date of this permission of works hereby approved details of protective fences to be erected around the trees to be retained and shown on plan number 888.NC.01A submitted 9th April 2009 in accordance with BS:5837 2005 shall be submitted to and approved in writing by the Local Planning Authority. The approved protective fence shall remain on site until the building works have been completed.

Reason: To protect the existing trees on the site.

14) Within two months of the date of this permission of works hereby approved details of the height and external colour finish of the metal fence and gate hereby approved on the northern boundary of the site between the building and the rear of 388 and 390 Walsall Wood Road shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

15) Prior to occupation of the development an intrusive site investigation and assessment of ground contamination and ground gas as set out in Report "Phase 1 Desk Study Report for the Northgate Centre, Aldridge, GS166-03/NJS/HB/GP" shall be undertaken to the satisfaction of the Local Planning Authority. A copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority within 1 month of completion.

Reason: To prevent the possibility of surface and/or groundwater pollution.

16) No occupation of the development shall occur until 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 are submitted to and agreed in writing with the Local Planning Authority. Agreed remedial measures shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use.

Reason: To prevent the possibility of surface and/or groundwater pollution.

17) No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: To safeguard the amenity of occupiers of premises within the vicinity.

18) Prior to development commencing on site, a noise survey shall be undertaken to the written satisfaction of the local planning authority. The results of this survey, including details of all instrumentation used, prevailing weather conditions and traceable calibration tests shall be submitted to the local planning authority within 2 months of completion.

Reason: In order to safeguard the amenities of residential occupiers in the vicinity and future occupiers of the premises.

19) Within two months of the date of this permission of works hereby approved suitable noise mitigation measures to protect internal areas shall have been agreed in writing with the local planning authority, and the development shall not be occupied until such measures have been fully implemented.

Reason: In order to safeguard the amenities of residential occupiers in the vicinity and future occupiers of the premises.

Notes for applicant

1) When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

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

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

4) With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

- a). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level, $L_{Aeq(8 \text{ hours})}$, of 35 dB together with a maximum instantaneous level of 45 dB L_{AFmax} , between the hours 23.00 to 07.00;
- b). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level, $L_{Aeq(16 \text{ hours})}$, of 45 dB between the hours 07.00 to 23.00.

Sound level measuring instrumentation shall conform to either 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level meters' and/or BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' and/or Class 2 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications (or any superseding standards as applicable) which shall have been verified in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' within a preceding 2 year period.

Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:

Planning Policy Guidance Note PPG 24 'Planning and Noise'. 1994;

Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005

British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise".

British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures;

British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use

British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits.

British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas

Calculation of Road Traffic Noise, 1988

Calculation of Railway Noise, 1995

This is not an exhaustive list.

Noise surveys should adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation points, and may also need to take account of changes in noise levels on account of height above ground floor level. Additionally, a noise survey may have to take into consideration changes in a noise climate between normal weekdays and weekends, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys will be required by the local planning authority in some instances to corroborate a continuous single noise survey.

Submitted noise measurement data must include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of verification checks pursuant to British Standard BS 7580 Part 1: 1997 Specification for The verification of sound level meters Part 1 Comprehensive procedure conducted within the previous 12 month period, and recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum.

**To: DEVELOPMENT CONTROL
COMMITTEE**

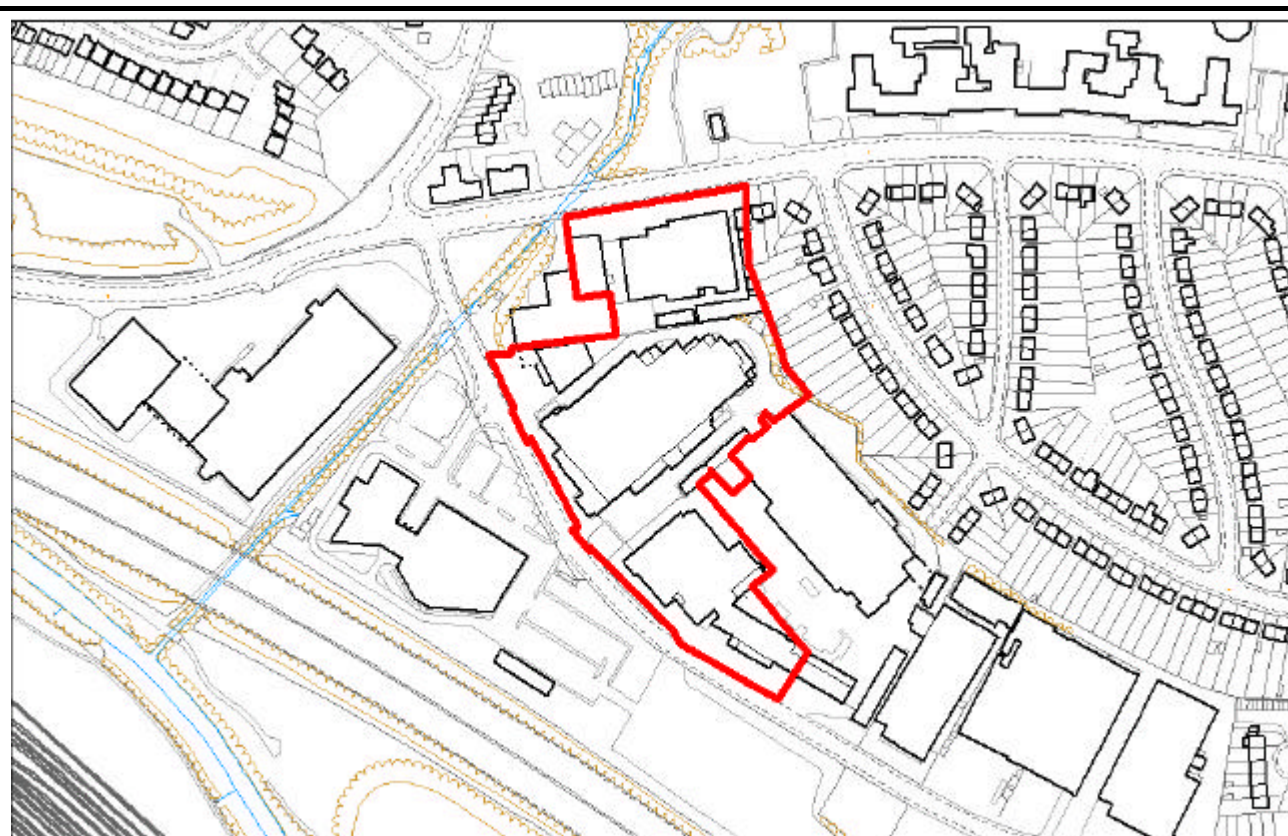
**Report of Head of Planning and
Building Control, Regeneration
Directorate on 21 May 2009**

REASON FOR BRINGING TO COMMITTEE: Major Application

Application Number: 09/0379/FL
Application Type: Full application
Applicant: Brothers Group Holdings Ltd
Proposal: Removal of condition 16 (Code for sustainable homes) on planning consent 07/2000/OL/W5 for outline residential development.
Ward: Palfrey
Recommendation Summary: Grant

Case Officer: Karon Hulse
Telephone Number: 01922 652492
Agent: Mr Jonathan Stackhouse
Location: LAND C/O BROCKHURST
CRESCENT/WALSTEAD ROAD
WEST, WALSALL

Expired: 23/06/2009



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Application and Site Details

This application is a resubmission of a previously refused planning application which seeks to remove a condition which requires the development to be constructed in accordance with the Code of Sustainable Homes (April 2007) 3 stars 'very good' standard relating to energy efficiency / CO2, water efficiency, surface water management, site waste management, household waste management and use of materials, unless otherwise agreed in writing with the local planning authority.

The applicants are seeking to remove condition 16 of the planning approval on the grounds that any requirement to construct to a higher standard than the current Building Regulations will significantly increase the build costs which along with the other financial contributions required by the associated section 106 obligation would render the development unviable.

(The applicants are also seeking to reduce the affordable housing element from 20% to 10%. This would be secured by a variation of the existing Section 106 Agreement, and that is the subject of a separate report on this agenda.)

Relevant Planning History

07/2000/OL/W5 - Outline: Planning Application For Residential Development. Granted Subject to Conditions and a section 106 Agreement 15/11/07.

08/1008/FL – Removal of condition 16. Refused 17th September, 2008 for the following reasons :

"Based on the appraisal submitted by the applicants the District Valuer has concluded there would appear to be considerable lee-way to include more affordable housing than the figure presently being offered of 5%, therefore the appraisal fails to support the view of the applicants that condition 16 is either unnecessary or will render the development of the site unviable as approved by outline planning consent reference number 07/2000/OL/W5 dated 15th November, 2007.

Furthermore, the Local Planning Authority also considers that this application is premature in the absence of any reserved matters approvals or date of commencement for any development of the site. It considers that an appraisal should be undertaken nearer to the start of any development commencing in order to ascertain the then prevailing market conditions and when it might be compelling."

Relevant Planning Policy Summary

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

Unitary Development Plan (UDP)

GP1: Supports the sustainable location of development.

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

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

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments

ENV39: The Council will encourage proposals for the development of renewable energy resources and for efficient use of energy.

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

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

Designing Walsall SPD

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

DBW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

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

Regional Spatial Strategy for the West Midlands (PPS 11)

Promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development.

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

CF1: focus new home building in the Major Urban Areas. In Walsall the MUA is limited to the built-up areas and excludes the Green Belt.

CF3: A - make adequate provision for additional house building as per Table 1; B iii - maximise use of previously-developed land; C - make the most efficient use of land within the Major Urban Areas.

CF5: deliver affordable housing.

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

National Policy

PPS1 on delivering sustainable development and good design.

PPS 3: Encourages reuse of previously-developed land for housing. Paragraph 10 indicates that housing policy objectives provide the context for planning for housing

through development plans and planning decisions. Some of the specific outcomes that the planning system should deliver are:

1. High quality housing that is well-designed and built to a high standard.

Consultations

District Valuer – concludes that the revised offer of affordable housing together with the removal of condition is acceptable.

Social Care and Inclusion (Strategic Housing) – no objections

Pollution Control (Contaminated Land) – no objections

Pollution Control (Scientific Team) – no objections

Centro – no objection

Fire Service - no objection

National grid – no objections

Environment Agency – no objections

Environmental Health – no objections

British Waterways – no objection

Inland Waterways – no objection

Public Participation Responses

None

Determining Issues

- Would compliance with the Code Standard make the development unviable?
- Appropriateness of the condition

Observations

Would compliance with the Code Standard make the development unviable?

The applicants seek approval to remove condition 16 of outline planning permission 07/2000/OL which requires the development to be constructed to Code of Sustainable Homes 3 stars 'very good' standard.

The development appraisal outlines the construction costs based on a basic build cost which would result in the development being constructed in line with the current minimum building regulations and NHBC standard requirements. The District Valuer has stated that the suggested construction costs are a fair overall figure and take into account the cost of

remediation necessary. The District Valuer also considers that the projected profit margins as indicated in the development appraisal and based on the proposed standard of construction together with the reduced affordable housing provision, will be below the normal acceptable commercial margins.

On this basis therefore, the increased construction costs through code 3 compliance (together with the requirement for more affordable housing on the site) would render the site unviable. It follows that approval of this application is appropriate.

Appropriateness of the condition

The condition requires the development to be constructed in accordance with the Code of Sustainable Homes 3 stars 'very good' standard.

The Code for Sustainable Homes offers a number of benefits and has been developed to enable a step change in sustainable building practice for new homes. It is a single national standard to guide industry in the design and construction of sustainable homes. It aims to reduce greenhouse gas emissions, better adaptation to climate change and reduced impact on the environment overall. It has benefits for home builders, for social housing by providing lower running costs, improved comfort and satisfaction and raised sustainability credentials and finally it has benefits for consumers by assisting choice, reducing the environmental 'footprint', lower running costs and improved well-being of occupiers.

The applicants have suggested that the condition is not necessary in light of the standards required by Building Control and furthermore that there may be potential in the forthcoming amendments of the Building Regulations in 2010 for higher levels of the standards to be required i.e. all new houses to be built at no lower than level 3 if they are to obtain a completion certificate, although this is still to be confirmed.

However, on the basis that standard the standard level of construction usually achieved through the Building Control process which is very near to or does achieve level 3 in terms of the construction of dwellings, it is not considered necessary to impose such a condition and that other elements of achieving code level three i.e. drying areas, bin storage areas, cycle storage etc. can be achieved by the imposition of other appropriate planning conditions.

Summary of Reasons for Granting Planning Permission

The applicants have provided sufficient evidence to allow the Council to agree to the removal of condition 16. The development appraisal satisfactorily concludes that the indicated construction costs are fair and that the projected profit margins, based on the proposed standard of construction together with the reduced affordable housing provision, will be below the normal acceptable commercial margins. On this basis the current outline planning permission is restrictive and currently renders the site unviable, and the removal of the condition is justified.

Recommendation: Grant

1. This permission hereby grants the removal of planning condition 16 of the outline approval reference number 07/2000/OL/W5 to require the development to be constructed in accordance with the Code of Sustainable Homes (April 2007) 3 stars 'very good' standard relating to energy efficiency / CO2, water efficiency, surface water management, site waste management, household waste management and use of materials, unless otherwise agreed in writing with the local planning authority. All other conditions imposed by outline consent 07/2000/OL remain relevant.

Reason: To define the permission.

**To: DEVELOPMENT CONTROL
COMMITTEE**

**Report of Head of Planning and
Building Control, Regeneration
Directorate on 21 May 2009**

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 08/0520/FL

Application Type: Full application

Applicant: Hydesville Tower School

Proposal: A) Extension to Art and Technology
Building

B) change of use of 33 Broadway North to part
of school (years 1 and 2)

C) Use of vacated year 1 and 2 for nursery
provision

Ward: St. Matthews

Case Officer: Jan Scrivens

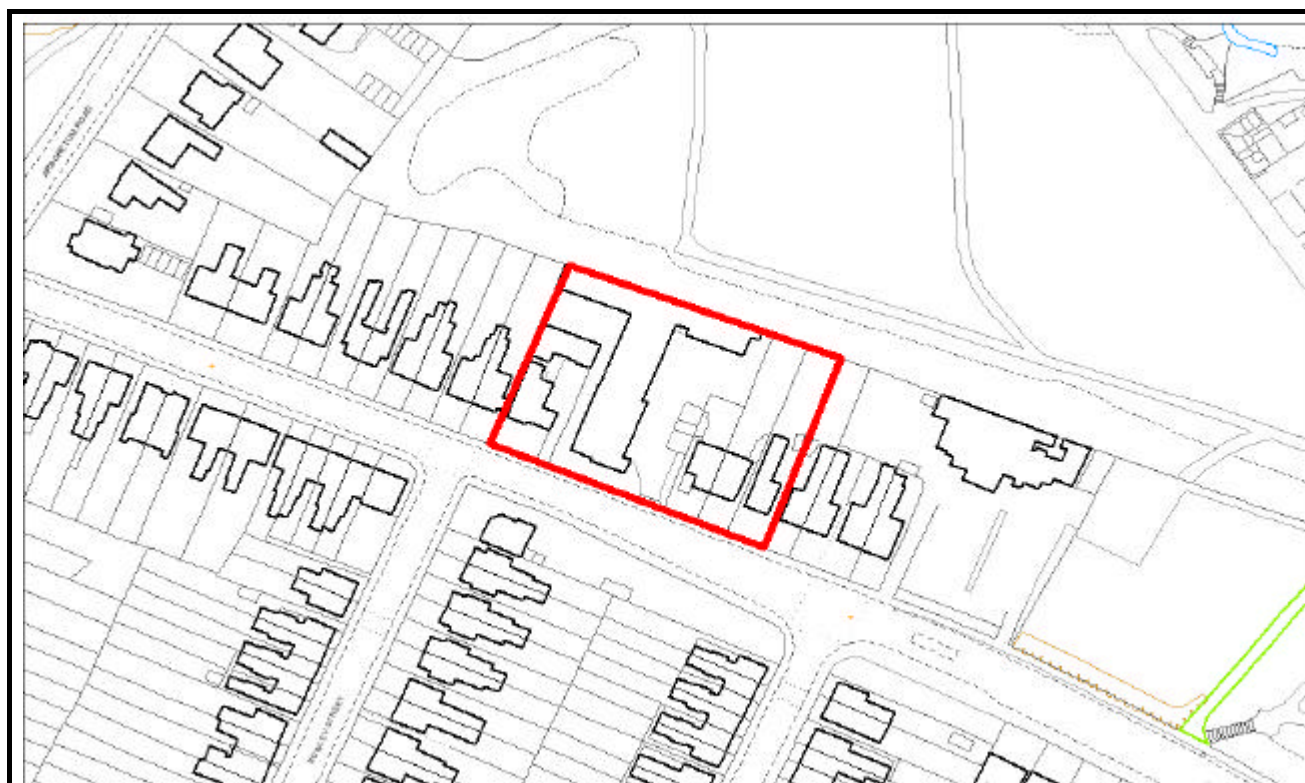
Telephone Number: 01922 652436

Agent: Broadway Malyan

Location: Hydesville Tower School, 25
Broadway North, Walsall, WS1 2QG

Expired: 21/05/2008

Recommendation Summary: Refuse, unless a binding arrangement can be
demonstrated to allow the school suitable use of the public house car park nearby



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Application and Site Details

The school has been in place many years. There is parking on the site for 4 cars and 2 mini-buses. A Traffic Regulation Order (TRO) applies to the road outside the site (double yellow lines). A residents' parking scheme is in place in the side streets opposite.

The Council is promoting red route designation for Broadway North. The critical element of this, in relation to the present application, is a prohibition on stopping at any time outside this school, and the likely enforcement of the new designation more stringently than is currently the case with the existing TRO.

The school is open between the hours of 7.30 a.m. and 6.30 p.m. This includes before and after school activities. The school is in the Arboretum Conservation Area.

The key element of the application is the change of use of a house (No. 33) to part of the school. No. 33 is to provide 4 classrooms for the relocation of years 1 and 2 (5 to 6 year olds) into 33. The house shares a driveway with No. 35, a house which is owned by the school and occupied by the headmaster. The two houses have frontage parking and a garage at the rear. The drive would be gated between the buildings.

This application:-

- Shows the existing parking for the school to be 4 spaces although two minibuses are also parked at the rear of the Art and Technology building.
- Proposed parking is 6 spaces retaining four on the current school site (the 2 minibus spaces are lost to the extension) plus parking on No. 33 (1 space on the forecourt, and one in the garage at the rear of no.33).
- No pupils will be allowed to access the school via No. 33 direct from the street
- The rear of No. 33 is shown to be slightly modified by the removal of steps from the house onto rear garden and provision of a ramp – it follows that use of the garden by children is proposed (though it is not specified)
- Use of vacated year 1 / 2 space in the existing school buildings for a nursery
- The nursery expands from the present 2 rooms to 6 (ignoring the combining of two rooms into one, for this purpose).
- The reception class moves to a different part of the existing building, and increases in area.
- A 94 sq.m extension to the Art and Technology building is proposed.
- School had 35 nursery pupils in 2008 and 36 the previous year.
- Maximum increase in nursery pupils is 19.
- Maximum school roll currently is 383 increasing to 415 as a result of the present application.
- School capacity is stated to be 450 and to have been so for many years.
- No change is intended to school capacity.
- The school uses a coach to transport pupils to playing fields etc.

- The school proposes to use a bus drop off area 150 metres from the school on Broadway North which is being created as part of the Red Route proposals. This is consistent with the red route scheme but would be shared with the Arboretum and the general public.
- The school also proposes to use a car drop off area for 16 cars, 200 metres from the school on Broadway North, which is being created as part of the Red Route scheme. This would also be shared with the Arboretum and general public.

There is a temporary building within the school grounds (to the rear of the building which would form the nursery). The planning permission for this has expired. The applicants have been advised of this and have indicated that they wish to retain it. It has not however been included within this application nor has a separate application been submitted, to date.

The application as originally submitted proposed that the school minibuses would operate a park and ride scheme for the children, based upon Ward Street car park. This has now been deleted from the scheme following detailed consideration of the proposal by officers. There have also been investigations with the applicants into alternative sites for a school park and ride but these have been unsuccessful.

The application is not supported by a Travel Plan, the original Travel Plan having been deleted. The school are currently preparing their own Travel Plan but this is not yet sufficiently far advanced to form part of this application.

The school also has the use of the car park of the Park Tavern public house, Broadway North, though the legal basis for this arrangement is not clear. Previously, the school's agents have advised that this use is by an agreement which can be terminated by two weeks notice. However, in the course of the current application they have advised that an agreement is being negotiated, but will not be in place until the application has been determined.

If / when it is available, the pub car park may provide 30 spaces for parents to park, between 8.15a.m. and 9.15a.m. and 3.15p.m and 4.15p.m, Monday to Friday in term times. Parents do not get priority over customers or a guarantee of a space.

Relevant Planning History

The school was created in the mid-1950s, and there is a history of gradual expansion since then. Not all of the extensions to the school site or the buildings appear to have been given permission, though some were approved retrospectively. Some elements are now lawful as a result of the passage of time. Overall, the school as it exists is lawful.

No 29 Broadway North became part of the school in 1982 (BC4389P). No. 31 was added in 2001 (BC62951P/C). At that time, there were objections to use of the rear garden of the house for parking (though this was not part of the proposal). Conditions require the rear garden to be kept as open amenity space, and that the accommodation only to be used as detailed on plans (study and practise rooms, not to be converted to class rooms). The applicant said that 385 pupils was the maximum capacity for the school, and that there were only 352 on roll at that time.

In 2003 application 03/1957/FL/E6 was approved for 5 years. The permission was for the retention of a temporary classroom in the north-west corner of the site. It had been retained on temporary permissions since 1989 (it had been a retrospective application at that time). This most recent renewal has now expired, and the school need to remove it or make a further renewal application.

In January 2008, application 07/1476/FL/W3, for an essentially similar proposal to that which is now before you (the key difference was the location of the nursery in No. 33), was refused on the basis of:-

- insufficient parking to meet its own needs
- parking area in front of no. 33 Broadway North unsuitable for use by the proposed nursery
- the change of use of no.33 to a nursery as proposed would deprive no. 35 of some of its parking
- off-site parking provision (it was proposed to share the car park of the nearby Park Tavern – this is not part of the present application) is not secured by any long term agreement and is inadequate in terms of numbers
- the increase in numbers of children attending the school, without any corresponding increase in parking is unacceptable
- proposed use of no. 33 would have an adverse effect on the adjacent house no. 35 due to increased activity, loss of privacy and the restriction on the use of the shared area between the two properties

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

Unitary Development Plan

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

GP2 and 3.6 require new development to contribute to the improvement of the environment.

ENV29 requires the effect of development on a Conservation Area to be considered.

ENV32 requires the design of proposals to take account their context or surroundings

H10 requires residential development to provide a high quality living environment.

Residential Development Standards, which were adopted on 25.4.05 support this principle.

T4 defines Broadway North as part of the Strategic Highway Network. Street parking and direct access will be kept to a minimum and priority will be given to measures which assist traffic flow.

T7 and T13 relate to car parking. Development is required to demonstrate that it will provide adequate off-street car parking to meet its own needs and that there will be no adverse effect on highway safety and the environment. Car parking standards for schools are two parking spaces per classroom / 4 bike lockers for every parking space and taxi facilities.

8.7 supports the enhancement of existing and provision of new facilities for education.

National Policy

PPS1: Delivering sustainable development emphasis the need to reject poor design and the need for sustainable development.

PPG13: Transport, promotes more sustainable patterns of development for housing development and encourages assessment of the location and accessibility of jobs, services and transport choices and to reduce travel, especially by car.

Consultations

Transportation: Object on the basis of the under provision of car parking to serve the proposed development, and provision for mini bus parking to serve the school:

- Prior to any approval being granted details should be submitted of an agreement between Hydesville Tower School and the Park Tavern Public House with regard to the use of the pub car park.
- There is no parking capacity in adjoining side streets, due to the resident parking scheme.
- The use of the pub car park needs to be an integral part of the schools parking arrangements, and to ensure the safe and free use of the highway there would need to be a formal agreement submitted, in the interest of highway safety.
- In the absence of an agreement with the Park Tavern, the applicant has failed to demonstrate that the under provision of parking within the school site has been accommodated to meet its own needs.
- Broadway North is part of the Strategic Highway Network,
- The limited options proposed to deal with parent traffic do not provide sufficient measures to satisfy the Highways Authority. Therefore the current application would be contrary to the interests of highway safety.
- The applicant has failed to provide parking for the school mini buses.
- The agents state that there are to be 400 pupils, although there is capacity for 450.
- This would suggest the minimum of classrooms to serve the school would be 20, and the UDP parking standard for schools is 2 spaces per class room
- The maximum parking standard to serve the entire site would be 40 spaces though the agents have referred to 33 classrooms, which would require a maximum standard of 66 spaces.
- The agents state there are seven spaces, and they do not propose to provide any additional parking within the site.
- On the most recent drawing revision only six spaces are shown
- The school are prepared to encourage and promote sustainable travel options and create an environment for modal change through the implementation of a Travel Plan to help mitigate the gross under provision of parking.
- The originally submitted Travel Plan failed in many respects, but in particular, that the majority of the traffic generated to and from the school was from parents. The Travel Plan failed in that it did not even attempt to survey the parents to look to start to address this issue.
- The school have now worked with officers to prepare an acceptable Travel Plan in accordance with current guidance.

- With the agreement of the school, the current number of pupils is not to exceed 400 until Travel Plan measures and targets are set within the Travel Plan, and have been met.
- Children attending the nursery travel almost entirely by car.
- No provision is shown for construction vehicles.
- The Highways Authority considers that the proposal does not meet the following UDP policies: Policy GP2, T4, T7, and T13.
- The control of development likely to cause interference with the flow of traffic is an essential instrument which must be used relating to national and local policies. All development of land adjoining main traffic routes is therefore strictly controlled. The effects of traffic flow and road safety are always taken into account, and weighed with other relevant considerations. The more important the road, the greater the weight attached to these factors.
- The effect and ensuing results of the Travel Plan which is in the course of preparation cannot, as yet be determined.
- With the granting of permission the school would have capacity for increasing pupil numbers by an additional 50, and without the public house car park it is inevitable that the traffic activity would increase at this location, without any contingency measures to accommodate for this.
- It is one of the duties of the Highways Authority to protect strategic roads from proposals which will impair their traffic efficiency and increase danger to road users.

Centro – no objection in principle to the original scheme, but

- Bus services to site are limited
- Travel plan does not appear to have been written in consultation with WMBC
- Travel plan needs to be personalised for school

Environmental Health No adverse comments

Regeneration – Conservation – some concerns

- Unaltered access welcomed as not disturbing front wall
- Conditions should protect the wall though
- Art / technology extension OK though should have timber windows
- Objects to bricking up of openings in 33 – never works well – should be panelled instead so could be re-opened if needed

Pollution Control (Contaminated Land): No specific contaminated land requirements

Environment Agency – low environmental risk

Fire Service: No objection

Representations

Three objections were received to the original submission which included the park and ride scheme:-

- Welcome amendments since refusal but still issues of concern

- School site is growing in area by taking in No. 33 which is presently a house – this is cause for concern
- School capacity is stated to be 450, but roll is only 399 at present – there is considerable scope for expansion, more pupils, more teachers, more traffic
- Welcome intentions of travel plan
- Interested to see if park and ride idea works
- School has not been consulting neighbours about their plans
- After school club means resident's garden (no.19) is unpleasant and noisy until 1730 most weekday evenings.
- Parking problems (despite residential permit scheme) at beginning and end of school day
- Danger from parking problems
- Traffic problems range from parking on double yellow lines to teachers parking in residential roads
- Parking and safety problems will intensify with growth of school
- Committee should make an unannounced visit to see traffic problems caused by parents

Reconsultation following the deletion of the park and ride element from the application produced three further objections on the following grounds:

- concern about the school purchasing houses before making a planning application, using the property as a headmaster's house and then including it within the school and then purchasing the next house for the headmaster, expanding the school incrementally in this way
- the use of buildings in the Arboretum Conservation Area should be protected as well as the buildings themselves
- an increase in over 10% to 450 pupils and the extra staff to cope with them is not acceptable in a residential area; it will generate more traffic
- residents often have difficulty parking their cars; they have to use Rowley Street which is also used by staff of the school; this is inconsiderate when parking is at a premium and should be addressed in the application
- residents have never been consulted by the school over anything which affects them.
- The after school club makes it very noisy in no.19's garden until around 5.30 on most weekday evenings.
- The occupiers of no.19 would not wish any part of the proposed building to overlook their garden
- the school should create better parking facilities for parents and staff which would ease the burden on residents and be safer for the children who are dropped off.
- one writer expresses concern that the problems which the school creates are not being addressed.

The previous application for an essentially similar proposal attracted objections from residents. It is unusual to take material into account from previous objections, but it is seen as important as a source of information.

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

Determining Issues

- the Arboretum Conservation Area
- amenity
- parking/highway safety

Observations

The Arboretum Conservation Area

The proposed extensions to the school and no. 33 would be to the rear of both buildings and would have no adverse impact on the visual amenity of the Arboretum Conservation Area. Conservation officers seek revisions to the techniques to be used for filling windows. These can be achieved by condition.

Amenity

The proposal would have the potential to have an adverse impact on the amenities of the Headmaster's house due to increased activity, and loss of privacy. The occupation of no. 35 by the Headmaster should not result in a different view being taken in respect of loss of amenity.

From an amenity point of view the current site boundary, to the north west of no. 33, which is a detached house that is turned away from the site, is preferable to a school boundary which falls between 33 and 35, as now proposed. However this could be ameliorated to some extent by conditions requiring a substantial boundary treatment between nos. 33 and 35 and by requiring the rear garden area of no.33 to remain as garden (rather than, for example, becoming a playground). Suitable boundary treatment should overcome overlooking on the ground floor of no.35, although the side facing windows in no.33 would have to be obscure glazed for this problem to be overcome completely. This is not supported, as the effects are similar to the overlooking that would occur from use as a house.

The occupier of no.19 is concerned about potential overlooking of that property. This application does not propose any alterations to the existing windows nearest this property. They also express concern about extra noise from the use of the temporary building in the evening. This will not alter as a result of this proposal but the matter can be considered in the future in the context of any subsequent planning application (or enforcement action).

Parking/highway safety

The UDP parking standards require 2 parking spaces per classroom, plus 4 cycle lockers per car space. The number of classrooms or rooms available for teaching has been given as 33 but was stated in the previous application (07/1476/FL/W3) to be 35, which excludes library, dining and music practise rooms. This latter figure would result in a parking requirement in accordance with UDP maximum standards of 70 spaces for the existing school plus eight additional spaces for the application proposal.

There is a significant shortfall in the parking available for the site. As part of previous representations to 07/1476/FL/W3 residents have highlighted the difficulties of parking in the vicinity of their homes and also that parents park on street and across driveways. The

Park Tavern car park is said to be well used but with occasional queues to exit onto Broadway. Despite this provision, parents regularly drop off children outside the school.

Eight spaces are required for this proposal. One space, on the frontage of no.33 could be used by the school but this would have to be restricted to a particular user within the school to avoid competition for the space with an adverse effect upon highway safety.

It is only appropriate to consider increased demand for parking **as a result of this proposal**, but the significant shortfall in parking for the site as a whole is clearly relevant to the present decision. The proposed changes would worsen the parking situation for the school which is already unsatisfactory. In addition to increased numbers of children the application proposes the increase to take place in the nursery. Children of this age are the most likely to be brought to school by car and cannot just be dropped off. These children are likely to require longer stay parking than more independent older children and could reduce the availability of spaces for shorter stays.

Objectors are concerned that some parents park in an inconsiderate or illegal manner and other parents or staff occupy on-street parking that is needed by residents of the area who have no alternative parking. Broadway North is likely to become a red route and the streets opposite the school have restricted parking and many of the houses have no alternative but to park on-street. Parking derived from the red route scheme cannot be counted as these are essentially for public use.

Residents indicate that parents and staff parking compete with residents for parking space. The lack of a defined parking area for the school will result in parents and staff dropping children off in unsuitable locations, parking illegally or manoeuvring in proximity to the red route and narrow residential streets, to the detriment of highway safety.

Given these circumstances it is not considered that this development, which would increase the parking requirement of the school with a detrimental effect upon highway safety, could be approved on its face value.

However, the school has been working on a Travel Plan with the assistance of the Council. In order to effectively support the application, the Plan need only make modest improvements in travel patterns, sufficient to compensate for the 8 extra car spaces created by the application. It is likely that such improvements could be achieved in other parts of the school, not the nursery.

The Travel Plan would need to be required by condition.

There would need to be penalties set out in the Plan, to encourage compliance / delivery. If these were included in the Plan (e.g. school intake to be reduced by 5% in any year following a year when car sharing does not increase by (say) 5%), the likely gains to the area / road system could outweigh the immediate added impact. The growth in the size of the school should be linked to a target for reduced car use in the Travel Plan.

It would be appropriate to support the application, in parking terms, subject to further work on a travel plan. This can be delivered by a condition.

However, Transportation have identified that for any arrangement to be acceptable, it needs to include the use of the pub car park. Until that can be delivered, they advise the scheme must be opposed. The recommendation reflects this, but recognises that the school have been working on this aspect of the matter. A solution could come forward in the near future. If not, a refusal can be issued.

On a more modest issue, there are two car spaces within no.33, but one of these spaces (to the rear of the building) could not properly be used without affecting the amenity of no. 35.

The proposal would also effectively lose one space within the curtilage of no.35 (again at the rear of the building) since it would be hazardous to the schoolchildren in no.33 if it was to be used during school time. This would reduce the parking available to this dwelling to one space on the frontage; which is below the Council's maximum standard of three spaces for a four bed dwelling. The area of the presently shared drive could be used to provide replacement parking. As 33 and 35 are both in the ownership of the school, it would be possible to condition this, even if the school subsequently sells the property.

RECOMMENDATION Refuse, unless a binding arrangement can be demonstrated to allow the school suitable use of the public house car park nearby.

1. (A) A school of this size should provide a significant number of parking spaces, to meet the standards expected in the Unitary Development Plan. There is a significant shortfall in the parking available for the site. Eight additional spaces are required for this proposal. While it is only appropriate to consider increased demand for parking as a result of this proposal, the proposed changes would worsen the parking situation for the school, which is already unsatisfactory. In addition to increased numbers of children the application proposes the increase to take place in the nursery. Children of this age are the most likely to be brought to school by car and cannot just be dropped off.

Objectors are concerned that some parents, at present, park in an inconsiderate or illegal manner and other parents or staff occupy on-street parking that is needed by residents of the area who have no alternative parking.

Although the school has been working on a Travel Plan, no such Plan is yet in place. However, any acceptable arrangement for the school needs to include use of the nearby pub car park, as envisaged by the school. Until; that can be delivered and be permanently available for school use, the scheme must be opposed.

(B) The proposal would effectively lose one space within the curtilage of no.35 (at the rear of the building) since it would be hazardous to the schoolchildren in no.33 if it was to be used during school time. This would reduce the parking available to this dwelling to one space on the frontage; which is below the Council's maximum standard of three spaces for a four bed dwelling.

(C) As a result, the proposal does not meet the requirements of Unitary Development Plan policies GP2, T4, T7, and T13.

**To: DEVELOPMENT CONTROL
COMMITTEE**

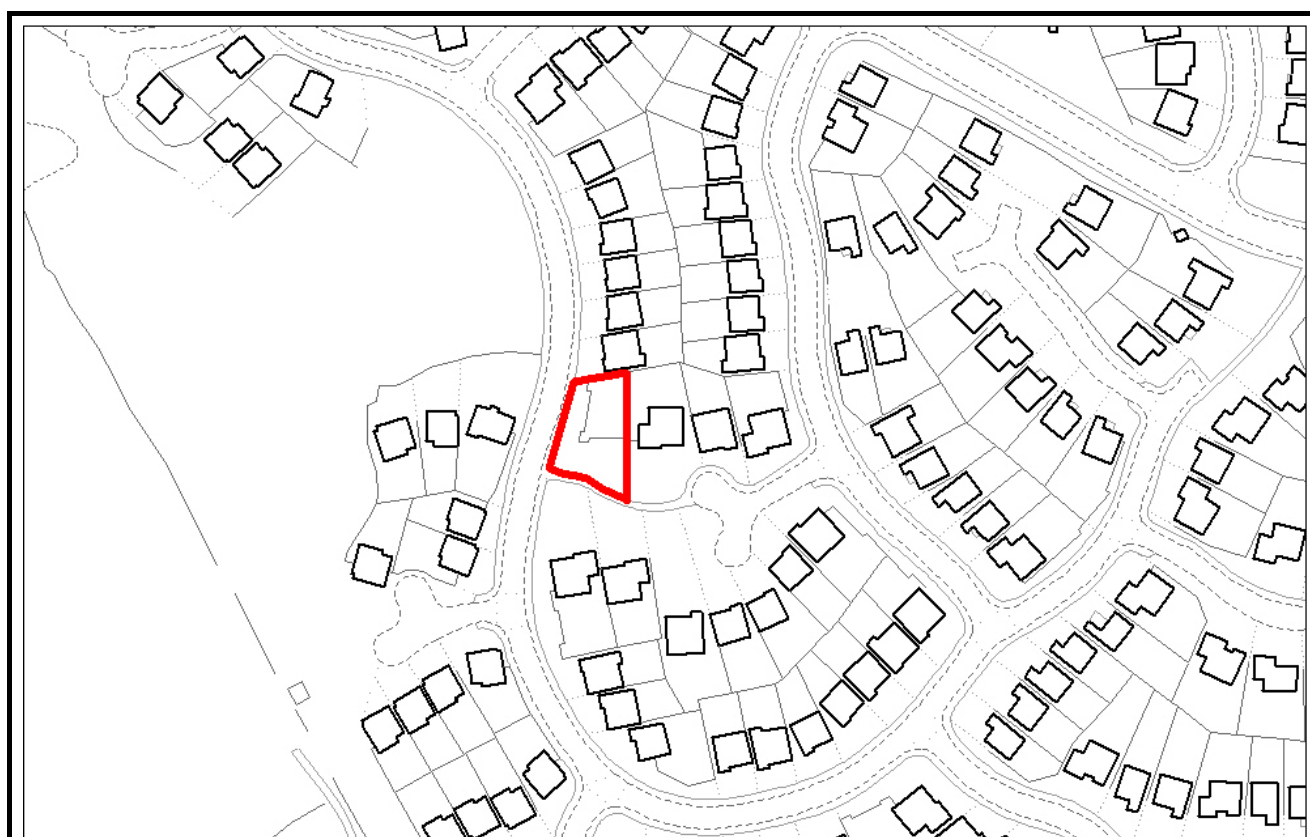
**Report of Head of Planning and
Building Control, Regeneration
Directorate on 21 May 2009**

REASON FOR BRINGING TO COMMITTEE: Significant community interest

Application Number: 07/2391/FL/E12
Application Type: Full application
Applicant: Mr. S. Mercy
Proposal: Erection of Detached House

Case Officer: Devinder Matharu
Telephone Number: 01922 652487
Agent: Paul Clifton Associates
Location: 24 ALNWICK
ROAD, BLOXWICH, WALSALL, WS3
3XD
Expired: 25/12/2007

Ward: Bloxwich West
Recommendation Summary: Refuse



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Current Status

As members will recall, this application was withdrawn from the 21st April development control committee agenda because of late comments received from our landscape/ecologist. Officers needed time to review and consider these comments and the report has been updated to reflect this. As a consequence the recommendation is now to refuse planning permission.

Application and Site Details

Number 24 Alnwick Road is a detached property situated at the end of a row of three properties off Alnwick Road cul-de-sac. The area is residential in character with detached dwellings which sit in spacious plots.

The application is to erect a 3 bedroom detached house with a single integral garage on land adjacent number 24 Alnwick Road. The land is presently part of the side garden of number 24.

The existing garden of no.24 is partly enclosed by a brick boundary wall but there are extensive areas visible within the street scene facing the public footpath linking Alnwick Road with Ganton Road and within Ganton Road itself. There is a low hedge around the perimeter of the site that follows the boundary of the footpath and returns along the Ganton Road frontage, behind which there are grassed areas with several mature trees. This gives an attractive spacious setting to the surrounding context and pedestrian footpath. There are two detached houses on the opposite side of the footpath which similarly have a spacious character with low railings at the back of footpath.

The proposed plot is created by subdividing the garden of 24 Alnwick Road by installing a new boundary treatment set 2m away from the garage parallel to the side elevation of the existing dwelling. This leaves a private rear garden for 24 Alnwick Road in excess of 120sqm and allows a private garden for the proposed new dwelling in excess of 110sqm.

The proposed dwelling is positioned approximately 2.0 metres forward of the existing dwelling at number 24 yet it is turned 90⁰ to face Ganton Road. There are also windows included in the southern elevation facing Alnwick Road. A new vehicular access drive will be created off Ganton Road. Part of the existing fence and wall together with the existing hedge on Ganton Road frontage will be retained. The existing low hedge along the boundary with the public footpath facing Alnwick Road will also be retained. Five replacement trees are proposed in total, three within the Alnwick Road frontage and two within the proposed rear garden of the new dwelling.

A Design and Access Statement and Arboricultural Impact Assessment have been submitted in support of the application.

The site area is 0.4 hectares, giving a density of 2.5 dwellings per hectare on this site.

Relevant Planning History

06/1724/FL/E11 - Erection of a detached 4 bedroom house on land adjacent to 24 Alnwick Road - Refused 23 November 2007 for three reasons broadly relating to (1) projection of the building footprint and boundary wall and enclosure of the space adjacent to the public footpath that would be obvious and obtrusive within the street scene and have an adverse impact on the outlook of surrounding properties and upon the character and visual amenities of the surrounding area; (2) proposed layout would not contribute to maximising surveillance and good urban design and would be out of character with the surrounding area as it presents a blank inactive frontage to the public realm; (3) unacceptable adverse impact on the visual amenities and character of the area due to the loss of trees of high amenity value which are protected by Tree Preservation Orders, loss of the open aspect adjacent to the public footpath and proximity of the built structures to the footpath creating a cramped appearance out of character with the surrounding context.

Tree Preservation Orders 7/1987 and 29/2006 apply to the site.

06/1011/TR/T3 - Fell 1 Oak Tree in Rear Garden - Granted 01/08/06

Relevant Planning Policy Summary

Walsall Unitary Development Plan

Policy GP1: Supports the sustainable location of development.

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

Policy GP7: Development is expected to design out crime, through maximising surveillance of public areas, maximising defensible space, care in design and layout to avoid hiding places for criminals, measures to combat crime need to maintain good urban design.

Policies ENV17, ENV18, 3.64 encourage new planting as part of landscape design and seeks to protect existing vegetation.

Policies 3.16, ENV32, H10 and 3.116 seek the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted, particularly in locations such as visually prominent sites.

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

Para 3.115: The design of buildings and structures together with landscape design has a major role to play in the creation of an environment which is distinctive, creates a sense of place.

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

Policies 6.3 and H3 – encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

Policy H9 – net density of residential development should be at least 30 dwellings per hectare. Densities below 30 dwellings per hectare may exceptionally be justified to provide larger houses to support urban regeneration.

Policy T4 (b) Street parking and direct frontage access will be strictly regulated.

Policy T7 (b) states that all development should satisfy the car parking standards set out in Policy T13.

Policy T13 car parking standards
1, 2 and 3 bedroom houses 2 spaces per unit

Supplementary Planning Document: Designing Walsall

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

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

Policy DW2: Safe and Welcoming Places - refers to all new development contributing towards creating places that feel safe, secure and welcoming for everyone.

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

- Development proposals must evaluate and understand positive characteristics of the area and its location within to create or contribute to a distinctive sense of place in creating new designs.

Policy DW6: Legibility - new developments should contribute to creating a place that has a clear image and identity and is easy to understand.

- All new development is expected to make a positive contribution to the identity of the area

Appendix E: Numerical Guidelines for Residential Development - Refers to space and separation distances.

- 24 metres separation between habitable rooms in two storeys and above developments. This standard will be applied more robustly at the rear than across roads at the front
- 13m separation between habitable rooms and blank walls exceeding 3m in height
- Garden dimensions 12m in length or a minimum of 68 square metres

Regional Policy

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

National Policy

PPS1: Delivering Sustainable Development - emphasises the need to reject poor design and the need for sustainable development.

PPS3: Housing - states that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed. However, when identifying previously developed land, sustainability will need to be considered as some sites will not necessarily be suitable for housing. It also replicates the advice given in PPS1 regarding good design and design which is inappropriate in its context, or which fails to take opportunities available for improving the character and quality of an area and the way it functions.

PPG13: Transport - promotes sustainable patterns of development, which reduce the need to travel, especially by car.

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

Consultations

Transportation – No objections subject to conditions relating to access and visibility. The UDP car parking standard for a new 3 bedroom dwelling is a maximum of 2 spaces and the application meets this requirement. The proposed dwelling will have a negligible impact on Ganton Road in terms of traffic generation and a proposed condition relating to the reduction in height of the front boundary hedge will improve pedestrian/ vehicle intervisibility at the access point.

Pollution Control - Contamination Team– No objections. The property is located in an area previously subject to mineral extraction and subsequent filling that may present Health and Safety implications. Recommend a note to the applicant.

Pollution Control - Scientific Team – No objection provided measures are put in place to address noise issues during construction.

Fire Officer – No objections. There is satisfactory access for fire appliances.

Arboricultural Officer – No objections subject to five replacement trees as detailed on plan 12B and provided the advice and guidelines within the supplied arboricultural report is followed.

Landscaping/Ecology – Recommend refusal as the proposals would have an unacceptable adverse impact on the visual amenity and character of the area due to the loss of trees protected by Tree Preservation Orders.

The original layout of this housing estate allowed for the retention of existing trees. Some of these trees, within and adjacent to the current application site are protected by Tree Preservation Orders and provide an attractive setting to the original housing development whilst allowing room for trees to grow without causing nuisance to nearby residents. The trees contribute to the visual amenity of Ganton Road as well as the setting of the footpath route from Alnwick Road into Ganton Road. The line of trees within the application site also has a nature conservation value as habitat for birds and invertebrates and possibly as foraging areas for bats and their position close to the Natsfield Farm Site of Local Importance for Nature Conservation enhances the nature conservation value of this tree line.

It is considered that the arboricultural officer's consultation response takes little or no account of the landscape and amenity value of the trees. However, removal of many of these trees would have an unacceptable adverse impact on the visual amenities and character of the area due to loss of trees of high amenity value. This was one of the reasons for refusing a previous application to build a house on the application site (application 06/1724/FL - refused on 23 November 2007) and is equally applicable to the current proposals.

Visually, the best trees on the site are birch which appear healthy well-formed trees. However, all three of these would be lost if development of the site is allowed. The applicant's tree report could equally be used to justify the gradual managed replacement of the trees allowed for under the Tree Preservation Order legislation without the development.

The building of a new house surrounded on all but the east side with trees is likely to result in a house and garden which are very shaded. There is a strong risk that either the council has to accept ultimately small species for any replacement trees which will have considerably less amenity value than the trees currently growing, or, larger species will be planted that will have to be removed once they grow beyond a certain size.

The planning application proposes tree replacement on a 'one for one basis' yet policy NE9 of the SPD: Natural Environment states the level of compensatory planting should be commensurate with that lost and should be provided at a ratio of between 2 for 1 and 5 for 1 depending on the size and visual importance of trees lost. However, the author of the tree report recognises that there is no room for replacement planting at more than a one for one ratio. The landscape officer questions whether there is room for replacement planting of a similar ultimate size and visual impact to that lost, in the reduced area available for tree planting.

The existing hedge on the Ganton Road frontage will have to be reduced to a height of 600 mm to accommodate visibility splays for the new driveway and the planting in front of the current garden wall will also be lost if the development is permitted. This will also be detrimental to the visual amenity of the neighbourhood.

Public Rights of Way Officer – No objections. Proposals do not change the line of the adopted footpath. The developer must not obstruct, cause damage or try to build on any part of the footpath.

Representations

Twenty individual letters have been received from 7 residents and a petition with 28 signatories objecting to the proposal. These are summarised below:

- Previous refusal reasons quoted (*but no explanation as to why the objector considers they still apply*)
- Loss of mature TPO trees with inadequate replacement trees detrimental to visual amenities, privacy, water levels and the environment
- Loss of landscaping and open plan character
- Potential traffic hazard caused by further vehicular access onto Ganton Road and increased traffic congestion and air pollution in the area
- New dwelling should be accessed and face Alnwick Road rather than Ganton Road
- Pedestrian hazard, conflict between proposed access and adjacent footpath and driveways, retained hedge obscures the visibility from the footpath
- Lack of housing market
- Loss of daylight, sunlight to surrounding properties due to increased height of roof and ground level differences
- Potential damage to private drive at 30 Ganton Road from construction traffic
- Overlooking the garden of 28 Ganton Road
- Orientation, position and appearance of proposed dwelling obtrusive and out of keeping
- Loss of property value (*not a material planning consideration*)
- Proposed study could be used as a fourth bedroom
- Personal circumstances referred to by the applicant should not influence the decision
- Only cosmetic changes are proposed to the house that do not address previous grounds for refusal

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

Determining Issues

The determining issues are whether this re-submission overcomes the reasons for refusal on the previous scheme in respect of:

- Design and Layout
- Loss of trees and landscaping
- Impact of the development on the amenity of the surrounding occupiers
- Access and Parking

Observations

Design and Layout

The proposed new dwelling has been positioned so that it now only projects 2m forward of the existing dwelling at 24 Alnwick Road rather than the 9m projection identified in the earlier refusal. This stagger in the building line reflects the remainder of the street scene in Alnwick Road and as there are secondary windows to the lounge and bedroom in the

eastern elevation, a bay window to the lounge plus first floor study and bedroom windows in the southern elevation this will provide natural surveillance of the street scene and present an active frontage. It is accepted that there will be increased surveillance of the public footpath from the new dwelling that could contribute towards improving security. The above changes partly address earlier reasons for refusal where the building would have projected significantly beyond the front elevation of 24 Alnwick Road and where this part of the site was to have been enclosed by a brick wall to create a private garden area that would have presented a blank frontage to the footpath.

The area to the south of the proposed dwelling fronting the public footpath will be retained as grass and the existing hedge at the back of footpath will also be retained (albeit partly reduced in height to provide visibility splays to the driveway). Whilst this does maintain an open landscaped aspect in part, inevitably the presence of the dwelling and parked vehicles on the proposed driveway greatly reduces the extent of the openness. In addition the closeness of the proposed replacement tree planting to the dwelling has a more cramped overall appearance than the original spacious plot.

With regard to the objector's concerns about a new house on this plot, in principle the erection of a house is not unacceptable but in this case the scheme cannot be supported because of the impact on trees.

Loss of trees and landscaping

There are two Tree Preservation Orders (TPO's) on this site. An Oak tree within the rear garden of the existing dwelling has already been removed with TPO consent subject to planting replacement trees. The proposals are for removal of a further five TPO trees (T49-T53) comprising two Alder and three Silver Birch located to the side of the existing dwelling across the centre of the site. It is proposed to plant five replacement trees within the application site comprising two Fastigate Oak, and one each of Norway Maple, Variegated Norway Maple and River Birch. Three trees are located along the frontage with the public footpath and two within the rear garden of the proposed dwelling. The replacements are all to be 16-18cm girth.

The Arboricultural officer is satisfied that the proposal to remove the additional five protected trees to accommodate the new dwelling is acceptable subject to their replacement with five trees of the size and species as referred to above. He also accepts that there is a lack of space for a greater number of replacement trees to develop into good specimens. Notwithstanding these comments it is considered that the Landscape Officer's comments should take precedence. The existing trees offer a greater landscape and amenity value than referred to in the developer's arboricultural impact assessment and that their loss would be detrimental to the character and visual amenities of the area as the proposed replacements would ultimately be a smaller species that would have less amenity value than the trees currently on site. The proposed replacement trees would also be likely to create shade to the proposed new dwelling and garden that could also eventually lead to pressure for their removal by future occupiers thereby losing further amenity value.

The proposals include retention of the majority of the hedge around the perimeter of the plot with the exception of the section of hedge that will need to be removed to accommodate the driveway and crossover fronting Ganton Road (4m wide approx). It also includes retention of two TPO trees along the Ganton Road frontage. Nevertheless reduction in the height of the hedge and loss of planting in front of the current garden wall would also be detrimental to the visual amenities of the neighbourhood.

Objections have been received relating to loss of mature trees, loss of the open aspect and disputing the weight attached to the amenity value of the trees as referred to in the supporting Arboricultural Impact Assessment. Despite the proposed retention of trees along Ganton Road, retention of the perimeter hedge and provision of five replacement trees it is considered for the reasons given above that the loss of trees would harm the visual amenities in the surrounding area, the replacement species would not have the same immediate effect and if larger species were proposed they would create overshadowing and lead to pressure for their removal from future occupiers of the proposed dwelling.

The open aspect to the junction of Alnwick Road and Ganton Road will be greatly reduced, as the proposed dwelling and driveway would occupy the land and inevitably reduce the openness and be more obtrusive in the street scene.

The author of the developer's arboricultural impact assessment considers the trees to be removed do not contribute to the street scene and refers to there being limited views of them along Ganton Road. However, officers consider that the trees do contribute to the visual amenity of not only Ganton Road but the setting of the footpath route from Alnwick Road into Ganton Road and have been retained within the original housing development site from the outset as a place for significant tree planting. For these reasons the loss of trees is considered to harm the visual amenities and character of the surrounding area.

Impact of the development on the amenity of the surrounding occupiers

The proposed dwelling is positioned 3m to the west of the single storey attached garage at 24 Alnwick Road and there are no main habitable room windows in the gable wall of the dwelling beyond this that overlook the site. Although the proposed dwelling projects 2m in front of the main facing elevation of 24 Alnwick Road this causes no harm to the privacy or daylight for the existing dwelling as the proposals comply with 45 degree code guidelines.

In addition the footpath lies between the proposed dwelling and 39/41 Ganton Road. In the circumstances, potential for overlooking existing houses is no worse from the proposed dwelling than it would be from pedestrians using the adopted footpath. There is a separation distance of 18 metres between the proposed new dwelling and the gable wall of 28 Ganton Road opposite. As this exceeds the recommended separation distance of 13m the proposals will therefore have no adverse effect upon the living conditions of the occupiers of 28 Ganton Road.

The detached house at 37 Ganton Road has a gable elevation facing the proposed garden of the new dwelling and there are windows in this elevation at ground floor and first floor, all of which are obscure glazed. The separation between the two buildings is 13 metres. Whilst this does not achieve the separation distance recommended in Appendix E of SPD:

Designing Walsall, it is considered that as the first floor windows are obscure glazed and the ground floor windows, also obscure glazed, look onto the existing 2 metre high fencing, the proposed new dwelling would not have any greater impact upon the outlook, daylight or privacy of 37 Ganton Road than the existing dwelling 24 Alnwick Road.

For the above reasons the proposals are considered to have no adverse impact upon residential amenities of surrounding occupiers by reason of overlooking as separation distances are sufficient to prevent any adverse impact upon privacy, daylight, or overlooking. Nevertheless, for the reasons referred to earlier in this report the loss of existing trees of high amenity value would be considered to have an adverse impact upon the outlook and visual amenities of surrounding occupiers.

The neighbour's concern that construction traffic may use the private drive off Ganton Road is not a matter that the local planning authority can control. However, it is unlikely that vehicles would use this private drive as they would have to manoeuvre within it rather than parking on Ganton Road itself.

Access and Parking

The proposals show a new vehicular access off Ganton Road serving the driveway and garage of the proposed new dwelling. The driveway is 7m in length and 5m wide incorporating space for a turning area. This can easily accommodate two off-street parking spaces (3 including the garage space) and achieve turning space within the site. A vehicle crossover 5.4m wide is proposed and the drawings illustrate 3.4m X 2.4m visibility splays. In the circumstances, off-street parking provision meets the criteria specified in policy T13 and the design of the proposed access will maintain pedestrian and vehicle safety.

Despite concerns from third parties that the proposals will increase congestion and create a highway hazard in Ganton Road it is considered that one additional dwelling would have a negligible impact in terms of traffic generation and the design of the access accords with Council standards and is therefore considered acceptable. Pedestrian safety will be maintained by provision of visibility splays and reduction in the height of the hedge to no greater than 600mm at the junction with Ganton Road and the footpath.

The proposals do not indicate provision of a secondary vehicular access off Alnwick Road so the objectors concerns appear unsubstantiated. As the main entrance and access to the dwelling is in Ganton Road presumably it would have a postal address in Ganton Road hence there would be no logic to create a vehicle access off Alnwick Road. In any case there are protected trees in this area that would preclude creation of a driveway.

Recommendation: Refuse

1. The proposed development would have an unacceptable adverse impact on the visual amenities and character of the area due to the loss of trees of high amenity value which are protected by Tree Preservation Orders and the loss of the open aspect of this corner position. Furthermore, the level of proposed compensatory tree planting would not be commensurate with that lost given the visual importance of existing trees and would not provide the same level of amenity. The proposals are therefore contrary to Policies GP2, ENV18, ENV32 and H10 of the Walsall

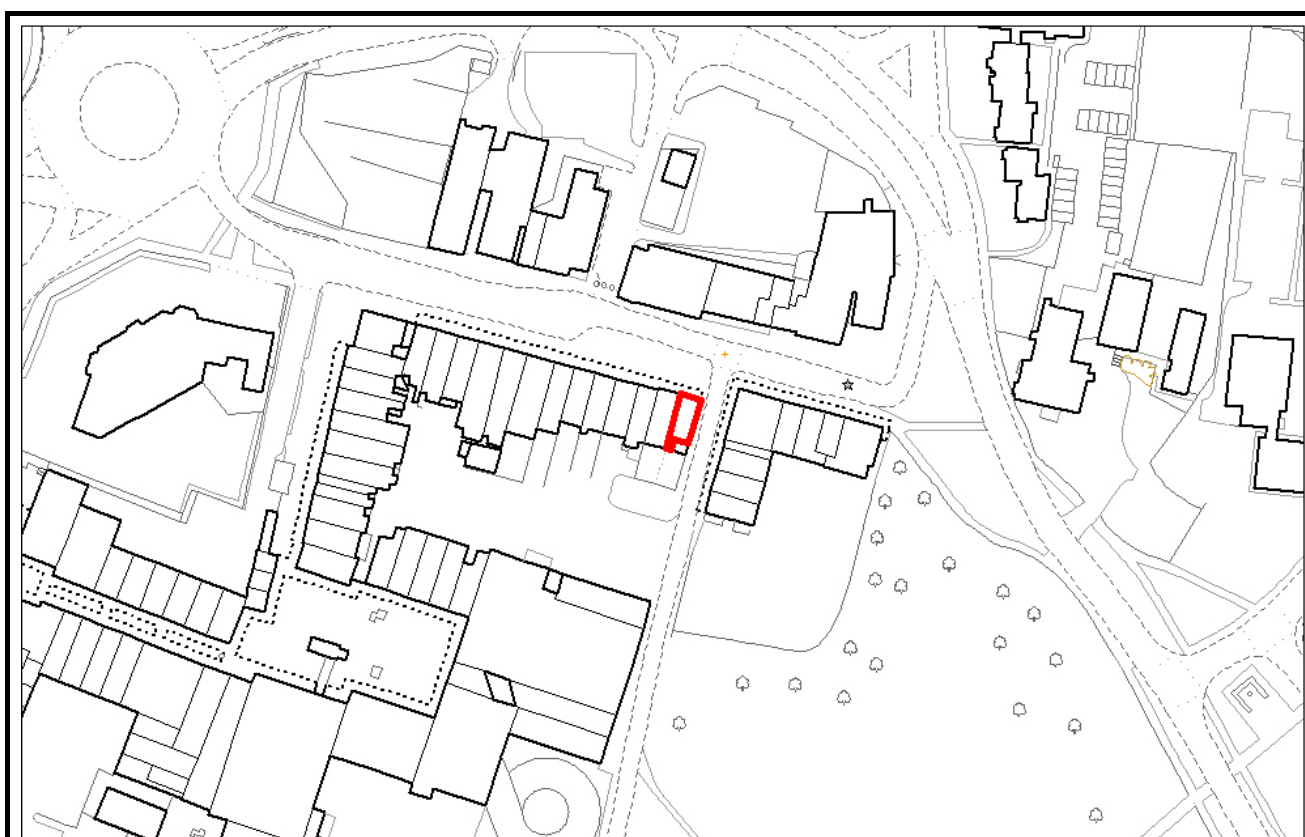
**To: DEVELOPMENT CONTROL
COMMITTEE**

**Report of Head of Planning and
Building Control, Regeneration
Directorate on 21 May 2009**

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 09/0355/FL
Application Type: Full application
Applicant: Lexton Investments Ltd
Proposal: Change of use only at ground floor
from use class A2 employment agency to use
class A3 restaurant or A5 hot food take away.
Ward: Aldridge/Central & South
Recommendation Summary: Grant Subject to conditions

Case Officer: Andrew White (E10)
Telephone Number: 01922 652429
Agent: Mrs Altine Topping
Location: 31 HIGH
STREET,ALDRIDGE,WALSALL,WS9
8LX
Expired: 14/05/2009



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Application and Site Details

The site comprises a vacant employment agency (planning class use A2) at ground floor with two storey commercial accommodation above at the corner of High Street and Rookery Lane. The application site is situated on the southern side of High Street within a run of 14 shops/restaurants of post war design. The site is situated within Aldridge District centre and the Aldridge Conservation Area. This part of Aldridge District Centre benefits from a mix of retail units, banks, offices, restaurants, takeaways, social club and some upper floor residential accommodation accessed from the rear service yard and car park.

Pedestrian access to the ground floor unit is from High Street with servicing and vehicular parking accessed from Rookery Lane at the rear. The pedestrian access to the units above the ground floor unit is from Rookery Lane. On street parking adjacent to the application site is controlled by double yellow lines. The wider centre benefits from short term parking in High Street and a selection of public car parks that serve the wider centre. Aldridge District Centre also benefits from good public transport links to the wider community of Aldridge and beyond.

The application is for the change of use of the ground floor from A2 offices to A3 restaurant or A5 hot food takeaway. The opening hours requested are 0900 – 2300 hours Mondays – Sundays. No alterations are proposed to the existing shopfront and no details for the installation of fume extraction equipment and ducting have been provided although the agent has indicated the flue would exit the building at the rear of the property.

Relevant Planning History

05/1223/FL/E3- change of use of the first floor from B1(a) offices to D2 ladies gymnasium, approved subject to conditions 20-09-05.

Adjacent properties:-

33 High Street (opposite corner to the current application site)

BC58661P- change of use from A1 retail to A3 restaurant, approved subject to conditions March 1999.

03/2465/FL/E5- variation of opening hours to 0800 –2300 Monday to Sunday, approved subject to conditions 15/12/03

19 High Street

02/0275/FL/E4, Application to extend A1 retail use to include A2 offices and A3 restaurant.

Opening hours 0700- 2300 Monday to Sunday, approved subject to conditions 25/03/02.

18 High Street

07/2479/FL/E6, change of use from A1 retail to A3 restaurant. Opening hours 0800-1800 Monday to Friday, 0800- 2300 Saturday, approved subject to conditions 13/12/07

Relevant Planning Policy Summary

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

Walsall's Unitary Development Plan (2005)

GP2: The Council will expect all developments to make a positive contribution to the quality of the environment and the principles of sustainable development, and will not permit development which would have an unacceptable adverse impact on the environment.

Policy S1: Definition of Town Centre Uses

(a) town centre uses comprise the following:-

Retailing of all kinds, including not only convenience and comparison goods shops, Class A2 (financial, professional and other services) offices.

Class B1(a) offices.

Class A3 food and drink uses and public houses (include all uses in Class A3 (Restaurants and Cafes), in Class A4 (Pubs and Bars) and Class A5 (Hot Food Take-Aways))

Hotels, entertainment, leisure, indoor sports, health and fitness centres and other Class C1 and D2 and 'sui generis' uses which attract a significant number of trips.

Public service, cultural, community and health facilities in Class D1 which serve more than local needs in accordance with Policy S6.

Higher, further and adult education facilities.

S2: The Hierarchy of Centres

(b) District Centres - Aldridge, Bloxwich, Brownhills, Darlaston and Willenhall...

are smaller than Walsall Town Centre and serve more localised roles... they do provide substantial retail, service and other facilities and could be considered as town centres in their own right. Their main role is to meet the needs of their districts for convenience goods, local services and community facilities, although they all have some importance for comparison shopping.

Policy AL1: Primary Shopping Area

(a) This consists of the Precinct with its frontages to the High Street, Anchor Road and Croft Parade, plus existing shopping areas at the northern end of Anchor Road, along the High Street and at the northern end of Rookery Lane. New retail development and investment will be concentrated within this area and the Precinct is identified as an opportunity for new investment.

S10: Hot Food Takeaways, Restaurants and Other A3 (Food and Drink)

These uses will be appropriate in the Town, District and Local Centres subject to the following considerations:-

- I. The use proposed must not adversely affect the amenities of the existing or proposed dwellings by reason of noise, smell, disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on residential amenity.
- II. Where the Council is minded to grant planning permission, the closing time for hot food takeaways will be considered in relation to the amenities of nearby dwellings. Conditions can be imposed on the permission stating opening and closing times
- III. Permission will not be granted where the absence of adequate off street parking would be likely to lead to on street parking in a hazardous location.
- IV. Permission will only be granted where ventilation and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour

nuisance for nearby occupiers and the equipment would not be detrimental to visual amenity.

Policy ENV29: Conservation Areas

The Council will determine whether a development preserves or enhances the character and appearance of a Conservation Area.

T13 Parking Standards

Hot food takeaways - 4 car park spaces for establishments with a gross floor space up to 50sqm

Consultations

Transportation - No objections. The proposed use would require 5 parking spaces and the present A2 use requires 3 spaces. The applicant does not provide off-street parking, although there is a small shared private car park to the rear and the site is located in Aldridge District Centre where there is both public and private car parking and limited on street parking in the High Street.

Environmental Health – No Objections subject to safeguarding conditions including details of fume extraction with the termination of the flue at least one metre above the upper roof level.

Fire Officer – Satisfactory for fire service access.

West Midlands Police – No objections in principal to the change of use.

Drainage – No objections

Strategic Policy- No objections.

Public Participation

Five letters of concern have been received raising a number of issues which are summarised as;

- Noise, smell and litter
- Safety and security & anti-social behaviour
- Increased vehicular and pedestrian traffic on High Street
- Insufficient parking & problems with deliveries
- No need for another food outlet: 50% of shops sell hot food
- Existing businesses feeling the recession -which food group will go into the unit, have menu's been requested numbers of seats for the restaurant (*Not a material consideration*)

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

Determining Issues

- The appropriateness of the use in a district centre
- The impact on the amenities of surrounding occupiers
- Parking and highway safety

Observations

The appropriateness of the use in a district centre

The application site is situated at the corner of High Street and Rookery Lane within the Aldridge District Centre, within a block of 14 commercial units.

The proposed change of use of the existing vacant employment agency, to either a restaurant or a take away would add to the centres vitality and viability by increasing activity and foot fall in the High Street in accordance with UDP policy S10. The principle of the proposed use is considered appropriate in this location.

Neighbours have raised the issue of the number of existing hot food uses in the area, there are two other hot food uses within the block of 14 shops on this side of High Street. Looking at High Street as a whole there are 5 hot food uses including the social club out of 27 shops. The cumulative impact of hot food uses is not considered to impact on vitality and viability of the High Street in this instance.

There are no UDP policies restricting the number of restaurants or take-aways within town centres, so whether there is a need for the use is based on market forces.

The impact on the amenities of surrounding occupiers.

There are residential units above the shops. Aldridge High Street, is a busy road providing access to nearby businesses at all times of the day into the late evening. There are restaurants, take-aways, social club and a fitness centre in close proximity to the application site open into the evenings. The district centre is considered a busy, active and vibrant location.

The application proposes opening hours of 0900 – 2300 hours Mondays – Sundays which is within the opening hours recommended in Policy S10 to restrict opening and ensure no adverse impact on the amenities of surrounding occupiers. The proposed hours accord with other similar uses nearby that have gained planning approval, including the restaurant on the opposite corner to the application site. It is considered that the proposed hours would have no greater impact on neighbours amenities beyond what would be currently experienced in this busy town centre, with other restaurant and hot food premises

Parking for the shops is situated on street within High Street and car parks in and around the centre which is unlikely to have any additional adverse impact on the amenities of the neighbours above the adjacent shops in terms of noise, disturbance of traffic or late night opening over and above the existing situation. The additional activity of people coming and going can assist in providing natural surveillance and thereby increasing safety for the locality.

The application does not include details of extract ducting and fume extraction equipment, although the agent has indicated it will be via the rear elevation of the property. Environmental Health have raised no objections to the application and consider the proposals would have no adverse impact on the surrounding occupiers. Environmental Health have requested a safeguarding condition that details of the extraction system and sound reduction be provided and that the flue termination vent be one metre above the upper roof level thereby reducing the risk of any odour nuisance to the neighbours. The flue would have to exit the building via the rear elevation and then extend to the roof to mitigate any potential noise and smell issues. To prevent harm to the visual amenity the flue should be clad in materials to match the building. The flue can be sited so it does not block any of the windows on the rear elevation.

Objectors have expressed concerns about the number of youths who already congregate particularly in the evening, which they consider would be exacerbated by the proposed use. It is difficult to say whether the proposed use would make this any worse. Legitimate customers visiting the premises may act as a capable guardian, providing a deterrent for unruly or anti social behaviour, by their presence. West Midlands Police have no objections to the principal of the change of use.

The Police consider this part of the town does not benefit from enough natural surveillance which can be an attracter for youths to congregate. The unit is currently vacant, providing no natural surveillance of the frontage. Use of the premises, especially in the evening may deter further anti social behaviour through natural surveillance and the comings and goings of customers.

A balanced judgement needs to be made. Successful centres can accommodate well managed hot food takeaways and can bring a level of activity in the evening that can deter anti social behaviour.

Neighbours are concerned about the potential of additional litter outside the premises. At the corner of High Street and Rookery Lane there is currently a litter bin. This issue can be further addressed by effective site management by the food outlet operator

Parking and highway safety

On street parking is provided in High Street with additional car parks nearby, for the use of customers to the shops. The existing office use would require 3 car parking spaces (non food) and the proposed use would require up to 5 spaces for the take away.

Transportation raise no objections to the proposals and it is considered that the proposals would not have a significant impact on the operation of the local highway network given the availability of parking and access to public transport.

The vacant unit is part of a thriving town centre and could open either as an office (planning class A2) or a retail unit (planning class use A1) without any further planning permission, both of these could potentially have deliveries to them. It is considered that the proposed use would not differ significantly from the current permitted situation.

Summary of Reasons for Granting Planning Permission

The proposed use is one that should be located in a town/district and local centres such as Aldridge and the consequences of the proposed use such as noise, smell, litter, increased pedestrian, vehicular movements, parking and delivery issues are within the normal characteristics of a use in a district centre. Noise and smell from the cooking function can be controlled by suitable extraction equipment terminating above the roof. Residents and users of neighbouring businesses in the area may be affected by such uses, but that is a consequence of the presence of housing and businesses in a thriving district centre, and the choices made by people living, working and visiting such locations. The effect of the proposal on visual amenity has been assessed and subject to the flue extraction system being shrouded it is considered that the use would have no greater impact than the existing permitted uses of the property. Neighbours concerns regarding safety and security have been assessed and one result of the property coming back into use, would be to provide additional passive security to the location.

As such the proposals are considered to accord with the aims and objectives of the development plan, in particular policies GP2, S1, S2, AL1, S10, ENV29 and T13 of Walsall's Unitary Development Plan (2005).

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As the application is approved by the Development Control Committee, the report can be viewed on the Council's web site at www.walsall.gov.uk

Recommendation: Grant Subject to conditions

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

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

2. No development shall be carried out until details of the ventilation equipment and fume control measures including its siting (not blocking windows on the rear elevation and the termination vent to be at least one metre above the upper part of the roof), design and appearance (to include details of a shroud or cladding that encloses the extraction equipment) have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before this development is brought into use and thereafter retained in working order.

Reason: To safeguard the amenities of the occupiers of nearby adjoining residential premises and Aldridge Conservation Area.

3. No development shall commence until details of a method to prevent greases entering the drainage system have been submitted to and approved in writing by the Local Planning Authority. The premises shall not be open for business until this approval has been given and approved details have been fully implemented. The approved equipment shall thereafter be retained and maintained in accordance with the manufacturer's or installer's requirement.

Reason: To prevent grease entering into the drainage system in the interests of the free flow, capacity and the prevention of pollution of the system.

4. The premises shall not be open for business outside the hours of 09.00 to 23.00 Mondays to Sundays.

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

**To: DEVELOPMENT CONTROL
COMMITTEE**

**Report of Head of Planning and
Building Control, Regeneration
Directorate on 21 May 2009**

**REASON FOR BRINGING TO COMMITTEE: Significant community interest and
requiring a balanced judgement**

Application Number: 09/0223/FL

Application Type: Full application

Applicant: Mr Geoff Stanton

Proposal: Re-submission of 07/2266/FL/E6 for
a two bedroom detached dwelling

Ward: Brownhills

Recommendation Summary: Grant Subject to conditions

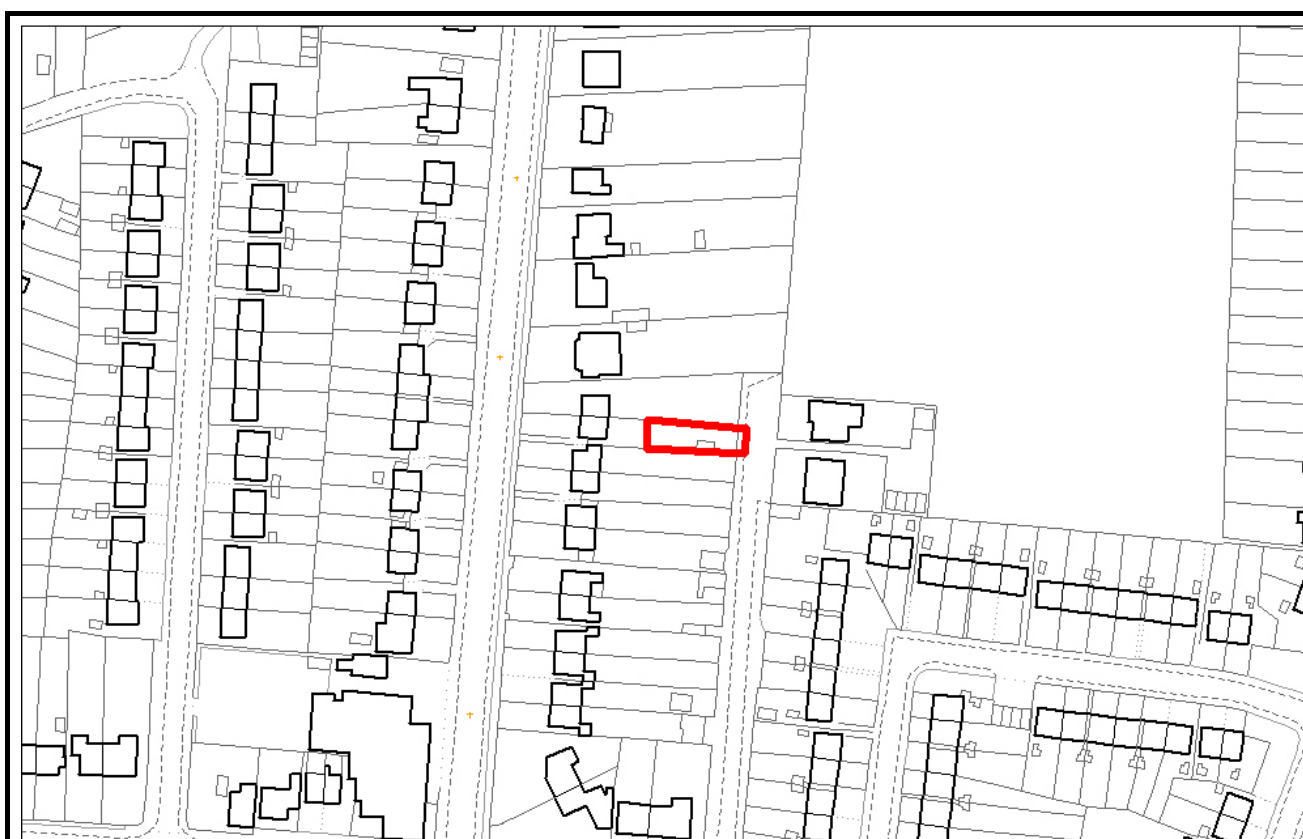
Case Officer: Paul Hinton

Telephone Number: 01922 652420

Agent: Mr Karl Grace

Location: 182 OGLEY
ROAD, WALSALL, WS8 6AN

Expired: 24/04/2009



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Current status

This application was withdrawn from the 31st March committee agenda to enable Transportation Officers to revisit the site to examine the Highways Authority's position relating to the general rule that no more than 5 dwellings should be allowed off a shared driveway and whether the existence of other existing accesses onto the driveway could be a material factor in considering this case. Transportation's comments are updated within the report.

Application and Site Details

This application is a re-submission of an identical application refused in December 2007 and follows the planning inspector's decision to uphold an appeal for two similar dwellings at the rear of 164 and 166 Ogley Road.

The proposed dwelling at the rear of 182 Ogley Road would have its access from Furst Street, which at this point is a private road providing vehicle access to two dwellings, numbers 10 and 12 Furst Street, (which are directly opposite the application site) and the urban open space of Bradbury Park.

The dwelling would appear as single storey to Furst Street, with the kitchen window, front door and garage door, with a sloping roof up to a ridge line of 6.3m. The rear of the property facing no. 182 would appear as two storey, 4.7m to the eaves. The application includes two parking spaces in an integral garage assessed from Furst Street. The plot width is the same as 182 Ogley Road at 7m.

The application site is surrounded by residential properties, with semi-detached fronting Ogley Road and bungalows on Furst Street. Furst Street is an L shape, with semi-detached properties to the south along the adopted part of the Street. The private part of the street has no footpath or streetlights and only provides access to numbers 10 and 12 Furst Street and access to garages and vehicle hard standings to the rear of 12 properties of both Ogley Road and Cedar Avenue. The rest of the street is characterised by the rear boundary fences.

The garden of 182 has access from Furst Street. The part of the garden subject to the application is mainly hardstanding with one large wooden shed and two small wooden sheds. These are proposed to be demolished.

Relevant Planning History

Application site

07/2266/FL/E6 – Erection of 1 no. 2 bedroom dwelling. Refuse for the following reasons 11/12/2007:

1. The proposed backland development fails to take account of the context of the area, appearing as an isolated development, creating a poor quality living environment which would not integrate into its surroundings. The contrived design is inappropriate in its context creating a poor visual relationship with the surrounding neighbourhood. The proposed development would therefore be contrary to policies 3.16, GP2, ENV32 and

H10 of Walsall Unitary Development Plan and guidance given in Planning Policy Statements 1 and 3.

2. The proposal fails to provide the required size garage to accommodate two parking spaces needed to adequately serve the proposed development. It has also not been demonstrated that adequate pedestrian and vehicle visibility can be provided in either direction across land which the applicant has control. The application also fails to provide adequate access for the fire services or puts forward an alternative method to combat potential fires. The proposal is therefore contrary to the aims and objectives of policies GP2, ENV32, T7 and T13 of the Walsall Unitary Development Plan.

Rear of 164 to 166 Ogley Road

07/1977/FL/E6 – Erection of two 2 no. bed semi-detached dwellings. Allowed at appeal 7/8/2008. In making his decision the inspector made the following comments:

- The two bungalows adjoining the park show that the road's essentially back street character is no barrier to the successful insertion of a pocket of frontage housing. New houses on the appeal site could also integrate reasonably well, even though not typical of the general pattern of development in the area.
- As the road is different in character from the more conventional surrounding roads, it would not be inappropriate for the design of the new housing to be different from surrounding houses.
- The absence of street lighting could be mitigated by security lighting to the front.
- The geometry of the access appears no worse than very many suburban driveways, which also face the risk of obstructions being placed on adjoining land. The absence of a dedicated footway would add a slight extra risk in the current case, but, given the probable low volume of vehicular and pedestrian traffic on the road, the access should not be unduly hazardous.

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

Unitary Development Plan

GP1: Supports the sustainable location of development.

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

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

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

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

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

H9: Housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites.

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

T13: car parking standards

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

Designing Walsall SPD

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

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

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

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

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

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

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

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

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Regional Spatial Strategy for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

Policy QE1 - Environment

Overall, these seek improvements the design and sustainability of the urban areas.

National Policy

Planning Policy Statement 1: Creating Sustainable Communities a key principle is that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted. Design which is inappropriate in its context, or which

fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.

Planning Policy Statement 3 Housing: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes. Is well integrated with, and complements, the neighbouring buildings and the local area more generally in terms of scale, density, layout and access, takes a design-led approach to the provision of car-parking space that is well-integrated with a high quality public realm and streets that are pedestrian, cycle and vehicle friendly.

Consultations

Transportation – no objection. The applicant looks to provide two parking spaces in accordance with the UDP policy. A visibility splay can be achieved albeit over land which is not in control of the applicant or Highway Authority. A pedestrian visibility splay cannot be achieved, while desirable, it is not a necessity as there is no footway immediately fronting the site. The 2m verge is considered adequate segregation as in all likelihood pedestrians will walk on the access road rather than the verge. The proposal if approved would be the fifth dwelling accessed from the unadopted road which does not exceed the guidelines.

Pollution Control (Scientific Team) – no objection.

Pollution Control (Contaminated Land) – no objection.

Environmental Health – no objection.

Landscape – no objection.

Tree Officer – no objection.

Police Architectural Liaison Officer – no objection. The application site is located in a relatively secluded area on a beat with a high crime rate. Security measures are recommended.

Centro – no objection.

Severn Trent – no objection subject to the use of recommended conditions.

Fire Services – objects. There is no turning circle therefore fire rescue vehicles would have to reverse more than 20m which is unacceptable.

Public Participation Responses

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

- Not safe to allow any further traffic
- There is no footpath so the many pedestrians that use this road (as access to Bradbury Park) have to walk on the road
- Would overlook neighbouring properties

- Extra traffic uses the lane when a football match at the park takes place and block existing access to properties, this would increase when visitors and refuse collection try to get to the proposed new development
- In the current housing market if the property were built it would undoubtedly be left unoccupied for some time.

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

Determining Issues

- Whether it overcomes previous reasons for refusal
- Impact upon residential amenity

Observations

Whether it overcomes previous reasons for refusal

The previous application was refused on two grounds, firstly being out of character with the context of the area, isolated and having a contrived design, and secondly on grounds of unacceptable pedestrian and vehicle visibility. The application makes no changes to the proposal. The allowed appeal at the rear of 164 and 166 Ogley Road is a new material consideration.

The appeal was at a site 55m from this application site. The application at 164 and 166 Ogley Road was refused for reasons similar to the 2007 refusal at this site and therefore significant weight is attached to the outcome of the appeal.

On the grounds that the proposal was considered out of character by virtue of a backland development within the context of rear garages and secured parking areas the Inspector considered that the road's essentially back street character is no barrier to successful insertion and that new houses would integrate reasonably well. The character of the area can no longer be used as a reason to refuse this application.

On design the Inspector judged the road is different in character from the surrounding roads and would not be inappropriate for new housing. On this basis a further house in a very similar design is considered acceptable in the circumstances.

The previous application was refused as garage size and the lack of adequate pedestrian and vehicle visibility. In light of the Inspector's comments on the appeal site, which was originally refused on the same concerns, Transportation no longer object to the application and consider that the garage can adequately accommodate two vehicles. The required vehicle visibility splay can be achieved, albeit over land which is not in control of the applicant or Highway Authority. A pedestrian visibility splay cannot be achieved, while desirable, it is not a necessity as there is no footway immediately fronting the site. The 2m verge is considered adequate segregation as in all likelihood pedestrians will walk on the access road rather than the verge. The Inspector commented that vehicles emerging from the garages would have to proceed with caution. Consequently it is considered that the same view must be taken on this application.

The proposal, if approved, would mean that this dwelling would be the fifth directly onto the shared drive – there are two existing dwellings and the two recently allowed on appeal – and therefore it does not in itself exceed the guidelines. There are a number of other accesses also onto the shared drive which are predominantly all rear accesses - none of which are considered primary accesses, with the exception of the park entrance. The '5 dwelling restriction' rule relates to the servicing issues whereby statutory undertakers prefer not to lay their apparatus on land that does not form part of the adopted highway as this may place restrictions on access to their plant for maintenance purposes. In this case servicing would not be an issue as there are already two existing dwellings at the end of the shared drive which are likely to be serviced along the shared drive. The properties with rear access are unlikely to be serviced from the rear and therefore it is the Highway Authority's view that the additional accesses would not be a material consideration in this case.

One letter of objection refers to extra traffic using Furst Street when a football match at the Bradbury Park takes place and blocks existing access to properties. The neighbour considers this would increase when visitors and refuse collections need to get to the proposed new development. The application provides two off-street parking spaces which meets the requirement of the UDP and a condition is recommended to ensure that the garage is retained. Therefore the proposal would have appropriate provision to avoid occupiers of the property having to park in Furst Street. It is inevitable that visitors would park on the grass verge like other vehicles to the existing properties backing onto the street and it is considered that this small occasional increase should not cause an obstruction if parked correctly. Any vehicles blocking existing accesses would be a matter for the police to resolve.

The previous application was also refused as the application failed to provide adequate access for the fire services or put forward an alternative method to combat potential fires. The applicant now proposes to install a residential sprinkler system. West Midlands Fire Services still object to the application as there is no turning circle and therefore fire rescue vehicles would have to reverse more than 20m which is unacceptable. The proposal is not desirable on these grounds, however the use of sprinklers which can be secured by condition and that there are two existing properties at the end of Furst Street directly opposite the application site would make it difficult to refuse the application on these grounds alone.

Impact upon residential amenity

The proposed detached property would be directly to the rear of 182 Ogley Road. At ground floor there would be a separation of 23.4m between the windows of 182 and the proposal. Designing Walsall SPD guides 24m between habitable windows, however it is considered that the separation distances maintain an acceptable level of amenity.

The front of the proposal contains one kitchen window at ground floor; this fronts onto Furst Street and looks across the access track towards numbers 10 and 12 Furst Street. Due to the public nature of the access track, it is not considered that the proposal would unduly impact upon privacy. Permitted development rights for roof lights or dormers are recommended to be removed as per the inspectors decision to ensure protection of neighbours' living conditions.

It is considered that the additional dwelling would provide greater surveillance of 10 and 12 Furst Street and the access to Bradbury Park and its users, therefore increasing community safety.

The rear private amenity space length of 11.9m and an area of 77m² provides an acceptable environment to future occupiers. While the rear length is just short of the requirements of the SPD, the area is in excess of the guidance.

Neighbours concerns that in the current housing market if the property were built it would be left unoccupied for some time is not a material planning consideration.

Summary of Reasons for Granting Planning Permission

The proposed dwelling is identical to the previous refusal, however since this refusal an appeal at the rear of 164 and 166 Ogley Road, 55m from this application site for a pair of semi-detached houses of a similar design and layout of this application has been allowed. Consequently this material consideration determined that the back street character of the street is no barrier to the successful insertion of frontage housing and due to the difference in character from the more conventional surrounding road it would not be inappropriate for the design of the new housing to be different from surrounding houses. As a result, this proposal is now considered acceptable.

Consultation concerns about increase in traffic and blocking access have been considered. Transportation raise no objection as an appropriate amount of off-street parking spaces would be provided and any visitors parking given the availability of the grass verge which is currently used in part for parking would not necessarily cause any further obstructions. Vehicle visibility splays have been demonstrated, albeit over land outside the control of the applicant where vehicles emerging from the garage would proceed with caution. Due to the public nature of the access track, it is not considered that the proposal would unduly impact upon adjacent privacy of 10 and 12 Furst Street. Objections from Fire Services are balanced by the use of domestic sprinklers and that dwellings already exist at the end of Furst Street.

Consultations and all material considerations have been considered and addressed in the report. Accordingly the proposal meets the aims and objectives of the Unitary Development Plan policies 3.6, GP2, GP7, ENV32, H10 and T13, the aims and objectives of Supplementary Planning Document Designing Walsall and Planning Policy Statement 3: Housing.

Recommendation: Grant Subject to conditions

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

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

2. No development shall take place until details of the materials to be used in the construction of the external walls and roof of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the development.

3. No development shall take place until full details of boundary treatments to be erected have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments, which shall be carried out in accordance with the approved details, shall be completed before the development is brought into use and shall thereafter be retained unless agreed in writing with the Local Planning Authority. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls other than those approved shall be erected without the prior approval of the Local Planning Authority.

Reason: In the interests of community safety, visual amenity and to safeguard the amenity of occupants of adjoining premises.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows or door openings other than those approved by this permission, and no enlargements, additions or other alterations to the roofs, as defined by Classes A to C of Part 1 of Schedule 2 of the Order, shall be constructed without the prior approval in writing of the Local Planning Authority.

Reason: In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

5. The garages hereby permitted shall each be kept available for the parking of two cars at all times.

Reason: To ensure the satisfactory provision of off-street parking.

6. No development shall take place until full details of security lighting to the front of the dwelling hereby approved has been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved and maintained thereafter.

Reason: In the interests of community safety.

7. No development shall commence until details of a domestic sprinkler system have been submitted to and approved in writing by the Local Planning Authority; and the dwelling hereby permitted shall not be occupied until the sprinkler system has been constructed in accordance with the approved details. The sprinkler system shall be retained as such thereafter.

Reason: To ensure the satisfactory functioning of the development.

Note for applicant

Police Architectural Liaison Officer – Due to the relatively secluded area it is recommended that the doors and windows installed should comply to the standards of PAS24 and BS7950 respectfully.

**To: DEVELOPMENT CONTROL
COMMITTEE**

**Report of Head of Planning and
Building Control, Regeneration
Directorate on 21 May 2009**

REASON FOR BRINGING TO COMMITTEE: Requiring delicate judgement

Application Number: 09/0161/FL
Application Type: Full application
Applicant: Mr R Rowan
Proposal: Proposed new three bedroom
dwelling
Ward: Aldridge North and Walsall Wood
Recommendation Summary: Grant Subject to conditions

Case Officer: Paul Hinton
Telephone Number: 01922 652420
Agent:
Location: LAND BETWEEN 20 & 22
CASTLE ROAD, WALSALL, WS9 9BY
Expired: 01/05/2009



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Application and Site Details

The application site is within a residential area characterised by detached and semi detached properties. To the rear of the site are open fields forming part of the Green Belt. Castle Road drops down in height from the east towards Salters Road in the west, with number 22 higher than number 20.

This application seeks planning permission for a three-bedroom house between 20 and 22 Castle Road in place of the existing double garage at number 22. It will have a hipped roof, a double bay window to the front and a drive for two vehicles. The proposal would have a width of 5.9m within a plot width of 7m, a depth of 11.1m with the roof height 7.3m. As a result of the loss of the garage to number 22, two parking spaces are proposed directly in front of the house which would require the removal of the existing hedge. The rear garden of number 22 would be subdivided.

Relevant Planning History

05/0862/FL/E2 – Erection of single detached dwelling. Refused for the following reason 2nd September 2005:

The proposed development is out of character with adjacent properties and constitutes over development of the site. As such it is contrary to Development Plan policy G2, 3.6, ENV32 and H10.

Land to the rear of 10 to 52 Castle Road

BC39464P – Erection of 44 dwellings. Granted at appeal 21st December 1994.

In upholding the appeal the Planning Inspector deemed that the development over the Vigo Fault would be acceptable through the use of appropriate foundations.

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

Unitary Development Plan

SPS 2.1 and 2.2 define the aims of sustainable development, urban regeneration, & environmental improvement are identified.

Policy GP1: sustainable location of development. This supports developments which maximise the re-use of vacant urban land.

Policy GP2 requires all developments to make a positive contribution to the quality of the environment and the principles of sustainable development.

Policy GP7 considers Community Safety implications of development proposals. Proposals should have regard for the objective of designing out crime.

Para 3.113, 3.114 & 3.115 Seek good design and high quality architectural and landscape design to improve access, discourage crime and create a distinctive environment.

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

Para 3.16 The Council will consider development in relation to its setting.

Para 6.3: Housing should be in locations that have good accessibility and are well related to local facilities, such as town, district and local centres.

Policy H3: Windfall Sites and Conversion of Existing Buildings

(a) The Council will encourage the provision of additional housing through the re-use of brownfield windfall sites and through the conversion of existing buildings.

Policy H9 gives advice about housing densities. This supports developments in the range of 30 -50 dwellings per hectare on most sites.

Policy H10 is about layout, design and dwelling mix of housing. The Council will expect the design of residential developments to create a high quality living environment, well-integrated with surrounding land uses and local character, and in accordance with the principles of good design, provide adequate open space, or improvements to existing open space.

ENV3 need to assess proposals for their impact on the Green Belt in terms of layout, siting and design.

ENV14: Development of previously developed land and 3.9 The Council will encourage the reclamation and development of derelict and previously developed land.

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

3.17, 3.18, ENV39 and ENV40 seek to encourage the efficient use of energy and the conservation, protection and use of water resources.

T7: Car Parking

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

T13: Parking Provision

Up to 3 bedroom houses and above 2 spaces per unit

Regional Spatial Strategy for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

Policy QE1 - Environment

Overall, these seek improvements the design and sustainability of the urban areas.

National Policy

Planning Policy Statement 1: Delivering Sustainable Development, emphasises need to reject poor design and the need for sustainable development.

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes.

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

PPG14: Development on Unstable Land – The responsibility for determining whether land is suitable for a particular purpose rests primarily with the developer. Where development is proposed on land which the planning authority knows is unstable or potentially unstable, it should ensure that the capability of the land to be developed is properly assessed. It is the function of the Building Regulations to determine whether detailed design of buildings and their foundations will allow the buildings to be constructed and used safely.

Consultations

Transportation – no objection subject to the use of recommended conditions relating to demonstration of pedestrian visibility splays and driveway construction material details.

Strategic Policy – no objection.

Pollution Control (Scientific Team) – no objection subject to the use of a recommended condition in relation to controlling construction hours.

Pollution Control (Contaminated Land) – no objection.

Natural Environment – no objection subject to the use of a recommended condition for the erection of bat roosting boxes and a note for applicant about care during site clearance in regards of potential bat roosts.

Landscape – no objection.

Environmental Health – no objection.

Severn Trent – no objection subject to the use of a recommended condition requiring drainage details.

Fire Services – no objection.

Public Participation Responses

Two letters have been received objecting on the following grounds:

- Proposal not sympathetic to surrounding homes
- Land allocated for proposed building is too small
- The proposal will most likely be a rental property causing noise, regular vehicle movements, thoughtless parking of visitors and overgrown garden and front hedge

- Wall of proposed building will be 2ft from joint sewer of number 18 and 20 Castle Road
- House values will decrease
- The land has a history of being unstable
- Telegraph pole would have to be moved
- Light would be restricted to the landing and kitchen wall of the new building
- During building work security of rear of number 20 would be affected
- Due to the close proximity of building work, the garage at the rear of number 20 would be inaccessible
- Noise, dust and disruption during construction
- Space between number 22 and the proposal needs to be adequate for two separate passages each a minimum of a metre in width
- Internal room measurements will be very tiny and also lacking in daylight
- Any maintenance necessary to the side of the proposal would need access from adjoining properties
- Proposal would considerably impose on the adjoining buildings

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

Determining Issues

- Principle of residential development
- Need to overcome previous reason for refusal
- Impact on residential amenity
- Parking and access
- Other issues raised by neighbours

Observations

Principle of residential development

The application site comprises a double garage and garden to number 22 Castle Road. The proposed development would therefore satisfy the objectives of policies 3.9 and ENV14 of the UDP which encourage the development of previously developed land. Policy H3 further encourages the provision of additional housing through the reuse of previously developed windfall sites and PPS 3 – Housing, encourages development of brownfield sites for residential purposes.

Need to overcome previous reason for refusal

The proposal is different, having a hipped roof design rather than gable ends, with the use of a double bay window to the front. The design changes are acceptable to ensure that the proposal integrates into the existing character of the area which has a strong character of hipped roof dwellings with bay window features. The proposal follows the established building line.

The proposal occupies 84% of the plot width; while this is virtually identical to the previous refusal it is considered that the proposal is not overdevelopment as it would fit comfortably on the plot. The separation of 0.8m and 0.2m from the adjacent boundaries to the proposed dwelling is comparable with the pattern of development within the vicinity and therefore the proposal would be in character.

Impact on residential amenity

The side elevation of number 20 has a kitchen door and secondary window adjacent to a 1.8m high close boarded fence. On the first floor there is a landing window. The side elevation of the proposed house would be 2.6m from the side elevation of number 20.

While there would be loss of light to the windows both the ground and first floor openings are to non-habitable rooms and the ground floor is already restricted by the existing fence and to a lesser degree the garage. The rear elevation of the proposal would project 1.5m further to the rear than number 20. This would provide a good relationship and would not breach the 45° measurement from adjacent rear windows. It is considered that the proposal would not have a significant impact upon the residential amenity of number 20.

Number 22 has a side ground floor window to the porch and a secondary window to the dining room. The side elevation of the proposal would be 1.5m from these non-habitable windows which would not have a significant impact upon the amenity of the occupiers of number 22.

The ground floor toilet window to the boundary with number 20 and the first floor bathroom window to the boundary with number 22 would not unduly impact upon adjacent residential amenity.

The rear private amenity space length of 16.5m and an area of 110m² provides an acceptable environment for future occupiers.

The proposal would have no further impact upon the openness of the green belt to the rear of the site than the existing properties to Castle Road

Parking and access

Transportation do not object to the application subject to the use of conditions requiring details on visibility splays and materials. The applicant looks to construct a new 3 bed dwelling in places of the existing detached double garage. In terms of car parking the proposal looks to provide 2 spaces for the new dwelling and 2 spaces for the existing dwelling. This meets UDP car parking standards.

Other issues raised by neighbours

Neighbours have objected to the proposal on the grounds that it will most likely be a rental property causing noise, regular vehicle movements, thoughtless parking of visitors and overgrown garden and front hedge. This is not a material planning consideration nor is the impact upon property values. Noise, dust and disruption are to some extent an inevitable result of any development and any nuisance which may arise is covered by other legislation. Pollution Control recommends a condition to control working hours to minimise disruption to reasonable times of the day.

One letter raises concern about the proximity of the proposal to a joint sewer of number 18 and 20 Castle Road. Severn Trent raise no objection to the proposal.

Concern has also been raised about the land having a history of being unstable. The Vigo Fault line is shown (approximately) to run between open space of 24 and 30 Castle Road. The issue of the fault line was considered by the Planning Inspector in upholding the appeal for 44 dwellings to the rear of the application site. The Inspector considered that the technical evidence produced indicated that issues of stability could be dealt with by appropriate foundations. In this case the fault line is shown to be away from the application site. There is no longer mining in the vicinity of this fault line. No evidence is available to suggest that the land is unstable. In the circumstances it is considered that any localised stability will be appropriately assessed under the Building Regulations.

The existing telegraph pole would not necessarily have to be moved to accommodate the new vehicle access to number 22, however should this be the case then appropriate consultation between the applicant and the utilities company would need to take place.

Concern about access for maintenance from adjoining properties would need to be agreed between the relevant parties, restricted access would not be a reason to refuse the planning application. The access to the existing garage of number 20 need not be compromised as it is within the control of number 20. The applicants would have a duty of care to ensure security to adjacent properties is not affected during building work. The access to the side of the property at 0.8m is contrived, but not impassable. Rooms each have their own windows and therefore would not lack daylight.

Summary of Reasons for Granting Planning Permission

The proposed dwelling is considered to overcome the previous reason for refusal of planning application 05/0862/FL/E2. The design now makes reference to the character of the area and has a plot ratio which is compatible with its surroundings; following the existing building line. There have been no objections from statutory consultees.

Neighbour concerns about proximity and loss of light to windows have been considered, but regard is made to the kitchen door and secondary window and landing window being non-habitable. No evidence is available to suggest that the land is unstable. Access to the approved dwelling for maintenance would be a private matter. Hours of operation to minimise disturbance have been conditioned. Accordingly the proposal accords with the aims and objectives of the Unitary Development Plan policies GP2, 3.6, 3.16, 3.17, 3.18, ENV14, ENV32, ENV39, ENV40, H3, H9, H10 and T13 and Supplementary Planning Document Designing Walsall, Planning Policy Statement 1 and Planning Policy Statement 3.

Recommendation: Grant Subject to conditions

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

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

2. No development shall take place until details of the materials to be used in the construction of the external walls and roof of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the development.

3. No development shall commence until details for the car parking area have been submitted to and approved in writing by the Local Planning Authority. The parking area shall be either hard surfaced in porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse. The parking area shall be implemented in accordance with the approved details and shall be retained thereafter.

Reason: To ensure the satisfactory provision of parking, appropriately drained, for the approved dwelling.

4. Development shall not begin until drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development (unless otherwise agreed in writing by the Local Planning Authority), have been submitted to and approved by the Local Planning Authority, and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed/occupied.

Reason: To ensure that the development is provide 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.

5. No development shall be carried out until full details of the proposed boundary treatment of the site have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

Reason: To ensure the satisfactory appearance of the development and to safeguard the amenities of occupants of nearby properties.

6. No development shall commence until a revised plan has been submitted to and approved in writing by the Local Planning Authority demonstrating pedestrian visibility splay measuring 2.4m x 3.4m either side of the vehicle access points. Nothing shall be planted or allowed to grow or any structure erected in the said splays exceeding 600mm in height above ground level. The pedestrian visibility splay shall thereafter be retained.

Reason: In the interests of vehicle/pedestrian intervisibility and highway safety.

7. No development of the dwelling hereby approved shall commence until the two car parking spaces fronting the existing dwelling shown on the submitted plan have been fully consolidated, surfaced, drained and brought into use. The parking spaces shall thereafter be retained for this purpose.

Reason: To compensate for the existing off-street parking for the existing dwelling lost as a result of the construction of the new dwelling and to prevent displacement of parking onto the public highway.

8. No development shall commence until a scheme for the erection of bat roosting boxes (including full details of the design and siting) have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be incorporated into the proposed development and retained thereafter.

Reason: To provide opportunities for bat roosting sites to help conserve local bat populations.

9. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: In the interests of adjacent residential occupiers

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows or door openings other than those approved by this permission shall be installed in any part of this development without the prior approval of a planning application.

Reason: In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

11. The dwelling shall achieve Code Level Three in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measure of sustainability for house design that replaces that scheme). No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that Code Level Three has been achieved.

Reason: In order to provide a high performance sustainable home and to protect the environment in accordance with strategic policy aims 2.1, 2.2, 3.17 and 3.18 and policies GP2 and ENV39 of the Walsall Unitary Development Plan and policies DW1 and DW10 of Designing Walsall Supplementary Planning Document.

12. The side facing ground floor and first floor windows shall be obscure glazed and retained thereafter.

Reason: In the interests of residential amenity.

Note for applicant

Although the application site does not require a formal bat survey, there is always a risk that bats may be using the existing building for roosting. It is therefore important that you are satisfied that there are no bats using the buildings affected by the development before work is carried out. Any damage or disturbance to bats roosts is a criminal offence. Care should be taken during site clearance and if any bats or evidence of bats is discovered work should stop and advice should be sought from Natural England. They can be contacted on Tel: 0845 6014523 or e-mail: wildlife@naturalengland.org.uk

**To: DEVELOPMENT CONTROL
COMMITTEE**

**Report of Head of Planning and
Building Control, Regeneration
Directorate on 21 May 2009**

REASON FOR BRINGING TO COMMITTEE: Significant community interest

Application Number: 09/0266/FL
Application Type: Full application
Applicant: Whetstone Field Primary School
Proposal: Retrospective application for two
canopies 5m x 5m x 4.7m high

Case Officer: Andrew White (E10)
Telephone Number: 01922 652429
Agent: Mr R McGrath
Location: WHETSTONE FIELD
PRIMARY SCHOOL, BEAUFORT
WAY, WALSALL,
Expired: 06/05/2009

Ward: Aldridge/Central & South

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

Whetstone Fields Primary School is located within a predominately residential area to the south of Aldridge District Centre. The building is generally of single storey 1960's design and build. The school grounds are generally flat with a number of small structures and play equipment set out within the grounds. The western side of the school building is generally hard surfaced play area. The eastern side of the school is used for car parking and the small area to the south of the school appears to accommodate a play area for the younger members of the school.

The school is bounded on each side by residential properties. The northern boundary of the school has a small copse of mature trees and the land falls away from the school. The eastern boundary of the school also falls away from the school. To the southern boundary of the school rises towards the residential properties. Beyond the western boundary the land falls towards the residential properties. Majority of the schools boundary benefits from a hedge.

The application is retrospective for the retrospective installation of two canopies each 5 metres X 5 metres and 4.7 metres tall. The canopies are orange with blue steel work supports. The schools supporting documents comment that the governing body, installing the canopies, are employing health and safety strategies to protect pupils from ultra violet rays to keep children safe from sun damage to their skin. The canopies also allow parents and children to be protected from the rain.

Relevant Planning History

None

Relevant Planning Policy Summary

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

Unitary Development Plan

GP2 states that the council will not permit development that would have an unacceptable adverse impact on the environment. It states that visual appearance, the effect on overlooking, privacy, and the effect on daylight and sunlight received by nearby property, and hours of operation will be considered.

Policy GP6: Disabled People

Workplaces; homes; shops and services; schools; leisure, recreation and community facilities; and any other developments to which the public will have access will only be permitted if designed to provide good access for disabled people.

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

3.16 consider development in relation to its setting, and will require high quality built design.

ENV32 poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. The council will consider the appearance, scale, mass, materials, and integration with existing environment of the proposal.

8.7 The enhancement of existing, and the provision of new, facilities for education, health and other community needs will be encouraged

National Policy

Planning Policy Statement 1: Creating Sustainable Communities both emphasises the need for good design and development which is sustainable.

Planning Policy Guidance Note 17 - Planning for open space, sport and recreation states that - Open spaces, sport and recreation all underpin people's quality of life. Well designed and implemented planning policies for open space, sport and recreation are therefore fundamental to delivering broader Government objectives.

Consultations

Transportation - No objections.

Environmental Health – No Objections.

Fire Officer – Satisfactory for fire service access.

Tree Officer – No objections

Public Participation

Four letters of concern have been received raising a number of issues which are summarised as;

- Orange structure is at odds with its surroundings, canopy may not be so bad if green instead of orange
- Lack of consultation by the school, objected to the school and the school have said they will plant conifers to obscure the view
- Could have positioned the structure to not overlook, be less obtrusive, dominates view, eyesore and visible from houses
- Why so tall,
- Closeness to houses in Beaufort Way that have small gardens and are higher than the school, breach of minimum distances at only 16metres from rear elevation
- Not sure what the canopy is used for

One letter of support

- The canopies are not ugly and do not interfere with sun light

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

Determining Issues

- Impact on the character and appearance of the surrounding area
- Impact on the amenities of surrounding occupiers
- Loss of play areas

Observations

Impact on the character and appearance of the surrounding area

The two orange and blue canopies are within the existing play area of the primary school. The school has a number of free standing structures and play equipment within the grounds. These include wooden canopies, folding awning, raised walkways, large tyres set into the ground, play houses and pre-formed canopies of similar construction and materials as the current two canopies being considered as part of this application. All of these structures are visible from surrounding properties. It is considered that the canopies do not adversely impact on the character and appearance of the surrounding area as they are seen within the context of the primary school and its grounds.

Impact on the amenities of surrounding occupiers.

The canopies are located in the north western and south western corners of the school grounds. Concern has been raised regarding the location of these canopies. The school need the canopies to provide sun shade for the children and it is considered that the location of the two canopies is probably the best position as it allows the school to maximise the rest of their reasonably small play area. The south western canopy is directly against part of the play area that also has a change in ground levels further minimising the impact on the flat play area.

The canopy in the south western corner, adjacent to the houses in Beaufort Way, is located on ground lower than the houses themselves. The separation from the rear elevation of the houses to the canopy varies between 16.6 metres at its closest to 18metres. The canopy is also adjacent to a dwelling in Whetstone Lane with a separation of 24.2 metres. The Council's Design SPD does not comment on minimum separation distances between canopies and rear facing windows. Designing Walsall's nearest reference would be the 13metres from window to gable wall. The separation distances are greater than the 13 metres and the school boundary has a hedge that interrupts the view. Whilst the canopies are visible from the first floor rear windows of Beaufort Way, the canopies are seen within the setting and context of the school and its grounds. Views from ground floor windows and gardens are much more limited because of the hedge along the boundary, allowing only a small portion of the top of the canopy to be visible. A condition to enhance the boundary treatment can contribute to improving the immediate environment for neighbours. It is considered that the location of the south western canopy is acceptable and can not be considered to be a dominating feature. The views from Whetstone Lane towards the south western canopy are equally interrupted by the boundary treatment and residents are looking upwards towards the canopy, therefore it is considered that the impact on the neighbouring amenity is limited.

In relation to the views from Whetstone Lane towards the north western canopy, because of the fall of the land and a separation of 30metres plus the boundary hedge interrupting the views of the canopy, it is considered to have limited impact on residential amenity.

Height of the canopies and their use

The overall span of the canopies, its general design and the need for adults to be able to walk below them safely governs the height of the canopies. It is considered that in this instance the canopies size is acceptable.

According to the school the canopies is to afford protection to the children from ultra violet sun light whilst they are playing outside. The school also state that the canopies can also be used by adults and children to shelter from rain.

A number of schools are currently installing canopies within their grounds and generally suggest that they can also be used to teach children outside, making more flexible use of the schools grounds than they currently do.

Loss of play area

Both canopies are sited at the extreme corners of the school along the western boundary of the school. Both canopies cover some of the external hard play space. Given the location of each of the canopies, it is considered that the canopies limited impact on the provision of external play space and in fact can make the play space more flexible to allow external learning possible.

Summary of Reasons for Granting Planning Permission

The use of canopies within school grounds is increasing as schools explore opportunities for flexible teaching. Schools also have to consider health and safety risks of ultra violet light protection for children. Neighbours have experienced some impacts from the installation and continued use of the canopies, but it is considered to be no greater than existing impacts that neighbours of schools currently experience. Issues relating to size, obtrusiveness, dominating feature, nearness to houses and the colour were reviewed in the determination of this application. Given the planting along the boundaries of the school, ground differences and separation distances from windows to the canopies, on balance it is considered that the canopies are not too big, obtrusive or dominant in this instance and some additional works to the hedge can further minimise impacts to amenity. The colour of the canopies is consistent with what would be expected in a primary school setting and does not adversely affect the amenity of neighbouring residents.

As such the proposals are considered to accord with the aims and objectives of the development plan, in particular policies GP2, GP6, 3.6, 3.16, ENV32 and 8.7 of Walsall's Unitary Development Plan (2005). The proposals are also considered to accord with the aims and objectives of the national Planning Policy Statement 1 and Planning Policy Guidance 17.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As the application is approved by the Development Control Committee, the report can be viewed on the Council's web site at www.walsall.gov.uk

Recommendation: Grant Subject to conditions

1. Within 2 months of the approval of this planning application a landscaping scheme to improve the boundaries of the school adjacent to the canopies shall be submitted to and approved by the local planning authority. The approved scheme shall be implemented within the first planting season of the landscaping scheme being agreed and thereafter maintained.

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

**To: DEVELOPMENT CONTROL
COMMITTEE**

**Report of Head of Planning and
Building Control, Regeneration
Directorate on 21 May 2009**

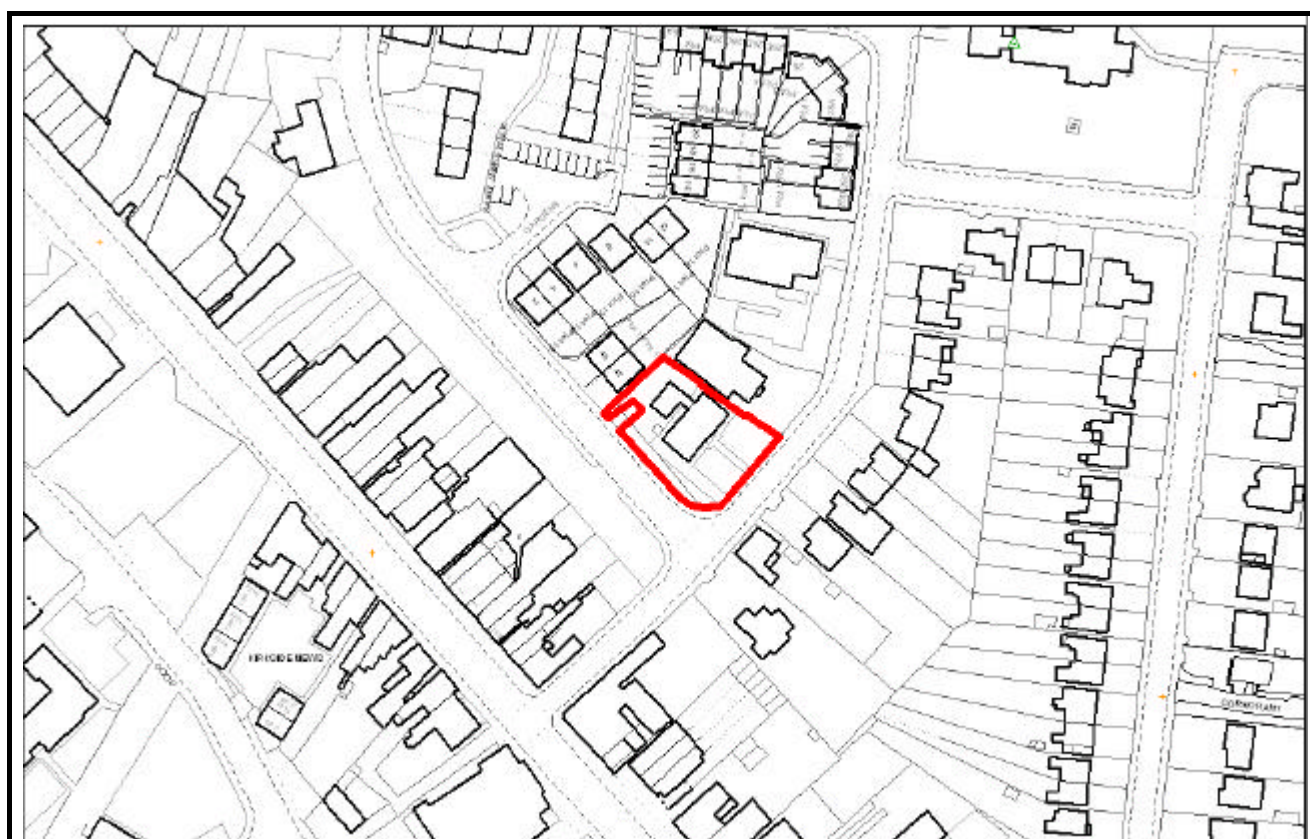
REASON FOR BRINGING TO COMMITTEE: Disposal of Council Land

Application Number: 08/1914/FL
Application Type: Full application
Applicant: Bridgeview Properties
Proposal: Erection of 5 x 3 bed terraced
houses, parking and new vehicle access into
Short Street

Ward: Brownhills

Recommendation Summary: Grant Subject to conditions

Case Officer: Barbara Toy
Telephone Number: 01922 652429
Agent: Staien A & P
Location: FORMER
LIBRARY, BRICKILN
STREET, WALSALL, WS8 6AU
Expired: 11/05/2009



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Application and Site Details

The application is for demolition of the former library at the junction of Short Street and Brickiln Street, Brownhills and erection of 5 x 3 bed terraced houses. The layout includes 10 parking spaces (2 for each property) 6 set to the rear within a parking courtyard accessed off Short Street and 4 situated on the frontage of 4 of the properties. This is a revised application following a previous refusal for 4 x 3 bed houses, 1 x 1 bed apartment and 1 x 2 bed apartment.

The site lies to the rear of properties on High Street, Brownhills, just beyond the primary shopping area of the Brownhills District Centre. There is a single storey church building to the north, two storey dwellings opposite in Brickiln Street and adjoining the north-west boundary along Short Street, a veterinary surgery premises opposite the junction of Short Street and Brickiln Street and a public car park in Short Street that runs parallel with the rear of the High Street shops. There is also an MEB sub station adjoining the north-west boundary of the site in Short Street. There are double yellow lines on street around the perimeter of the site.

Plots 1-4 would comprise three storeys high with the second floor rooms set within the roof space and are set back 2.8m from the Brickiln Street frontage and have 1 recessed parking space on the frontage adjacent to the front door, which is set at an angle. Plot 5 would be situated on the corner and comprise of a two storey house set further back from the Brickiln Street frontage with corner window features to address the corner. The gated parking courtyard accessed off Short Street to the rear of the houses would provide the second parking spaces for plots 1 – 4 and 2 parking spaces for plot 5. There are proposed upper terraces at first floor level at the rear of plots 1 - 4, leading off the lounges, with spiral staircases down to ground level garden area.

A palette of materials including facing brickwork, blue brick string course, render, cedar boarding and slate tiles are proposed.

The site is rectangular and has a frontage of 24m to Brickiln Street and 36m to Short Street, giving a site area of 885m² (0.08 hectares). The proposals would provide a density of 62 dwellings per hectare.

The site is currently owned by the Council. The former library has been moved into the Park View Centre, Chester Road North just beyond the High Street, Brownhills, in a sustainable location. In the circumstances, the proposals to redevelop the site for residential purposes do not involve loss of a local community facility as this has been replaced elsewhere and the principle of redevelopment complies with Policy LC8. In light of this a Development Brief for redevelopment of this former library site has been prepared by the Council encouraging a high quality residential scheme by development of houses or flats/apartments, 2 or 3 bed units and between 2 and 4 dwellings. Policies GP4 and ENV14 also encourage local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses. The principle of redevelopment of the site by a development of houses is therefore acceptable and did not form part of the previous reason for refusal.

Relevant Planning History

08/0517/FL, erection of 4 x 3 bed terraced houses, 1 x 1 bed apartment, 1 x 2 bed apartment, associated parking and new vehicle access onto Short Street. Refused 28-08-08 for the following reasons:

1. The proposed development would be out of keeping with the surrounding properties and character of the street scene due to the:
 - scale and massing of the building
 - the design fails to provide adequate surveillance of the street scene due to the lack of facing windows and recessed elevations
 - a building design that inappropriately addresses the junction.

For these reasons the proposals do not make a positive contribution to the quality of the environment or create a high quality living environment that is well integrated with surrounding land uses and local character to the detriment of the visual quality of the townscape. It also fails to properly take account of the surrounding context, maximising surveillance and designing out crime contrary to policies 2.2, 3.6, 3.7, GP2, 3.16, GP7, ENV32, 3.116, 6.3, H3 and H10 of the UDP and to policies DW2, DW3, DW4, DW6 and DW9 of SPD: Designing Walsall.

2. The proposed design and layout of the buildings creates an unsatisfactory relationship between the proposed properties due to the:
 - potential for overlooking from the first floor rear terraces of plots 1-4;
 - potential overshadowing of ground floor windows by the first floor terraces;
 - poor quality shared private amenity space for the apartments due to overlooking from adjacent properties and proximity to the vehicular access;
 - proximity between bedrooms and kitchens within different plots leading to potential for noise and disturbance.

For these reasons the proposals have a detrimental impact on the residential amenities of potential occupiers contrary to policies 3.7, GP2, 3.16, ENV32, 3.116, H3 and H10 of the UDP and to policies DW2, DW3, DW4, DW6 and DW9 of SPD: Designing Walsall.

Relevant Planning Policy Summary

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

Walsall Unitary Development Plan March 2005

GP1: Supports the sustainable location of development.

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

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

ENV14: encourages the development of derelict and previously developed land.

ENV17, ENV18, 3.64: encourages new planting as part of landscape design, seeks to protect existing vegetation and does not permit development where it would damage or destroy trees protected by Tree Preservation Order.

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

ENV39: The Council will encourage proposals for the development of renewable energy resources and for efficient use of energy.

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

H9: net density of residential development should be at least 30 dwellings per hectare.

Densities exceeding 50 dwellings per hectare will be encouraged on sites located at major transport corridors.

7.5, 7.52 and 7.36, PPG13: parking policies should be used to promote sustainable transport choices and reduce the reliance on the car by improving public transport.

T7: states that all development should satisfy the car parking standards set out in Policy T13.

T13: car parking standards

1, 2, 3 bedroom houses – 2 spaces per unit

8.7 States land or premises surplus to requirements of the education, health and other community services will be considered for suitable alternative uses.

LC8: Proposals involving loss of local community facilities will only be permitted if, amongst other matters, it can be demonstrated that a replacement facility could be provided

Supplementary Planning Document: Designing Walsall (February 2008) Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

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

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

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

DW4: Continuity – attractive spaces within new development should be defined or enclosed by buildings, structures and/or landscape

DW6: Legibility – new development should contribute to creating a place that has a clear image and identity and is easy to understand

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

DW10: New development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Regional Spatial Strategy

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

National Policy

PPS1 Delivering Sustainable Development – Emphasises the need to reject poor design and the need for sustainable development.

PPS3 Housing - Promotes sustainable development and the efficient use of previously developed land. It promotes the need for well designed new housing developments.

Consideration of design and layout must be formed by the wider context.

PPG13 Transport - Promotes sustainable patterns of development, which reduce the need to travel, especially by car.

Other relevant policies include PPS24 Planning and Noise, 'By Design' companion to PPG's, Urban Design Compendium, Safer Places- The Planning System & Crime Prevention.

Consultations

Transportation – No objections in principle subject to conditions regarding the width of the access drive to the parking area, pedestrian and vehicle visibility splays, provision of footway crossings and marking of parking spaces.

Pollution Control (Scientific Team) – No objections in principle. Measures should be put in place to address potential and/or actual issues arising in relation to impacts on surrounding residential development during construction – conditions are recommended.

Pollution Control (Contaminated Land) – No objections subject to conditions requiring a site survey to identify any potential hazardous materials.

Environmental Health – No objections.

Landscape – No objections, detailed landscaping required.

Fire Service – No objections – satisfactory access for fire service access.

West Midlands Police – No objections however crime prevention is not mentioned in the design and access statement. The layout of the buildings provides good levels of surveillance of both the front and rear of the properties.

Public Participation

Two letters received, 1 supporting the redevelopment of the site for housing and 1 raising objections.

Objections:

- The first floor terrace at Plot 1 is adjacent to the church next door and overlooks the church
- The garden of plot 1 is adjacent to the church and be a source of noise that could disrupt church services, or privacy of residents affected by the church activities
- Double yellow lines now in Brickiln St, parking for the new plots will create parking hazards and safety issues
- Too many properties for the site.

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

Determining Issues

Whether the proposals overcome the previous reasons for refusal in terms of:

- Character of the Area
- Design and Layout

Observations

Character of the Area

The amended design of the properties includes significant alterations to the appearance of the proposals within the street scene, in order to overcome reason for refusal 1. The height of plots 1 – 4 has been reduced by 0.7m and would present a traditional front to back pitched roof incorporating feature windows to the frontage projecting up into the roof plane, which has reduced the overall scale and mass of the building. The design features now included reflect those found in the existing properties in the area, both traditional and modern.

Plot 5 now provides a single 3 bed two storey house in place of two apartments within a three storey building and incorporates feature windows which turn the corner and address both Brickiln Street and Short Street, providing surveillance of the street. Whilst Plot 5 sits forward of the main building line of Short Street, the building line is interrupted already by the electricity substation and it is considered that the reduced height (two storey only) and positioning of plot 5 addresses the corner well and assists in preventing full views from the street of the rear of plots 1 – 4. It's set back position from Brickiln Street provides appropriate visibility to the Short Street junction and some relief to the built form at the corner.

The revised internal layout of the properties would provide a high quality living environment for the future residents and the amended design would integrate well with the surrounding land uses and the visual quality of the area.

Design and Layout

The revised layout overcomes the previous concerns regarding the design and layout of the properties contained within reason for refusal 2. The first floor terraces to plots 1 - 4 to the rear have been reduced in size, and whilst overlooking of the neighbours garden area may still be an issue this would only impact on other properties within the development and not properties outside of the site. The closest garden to the rear (47 Short Street) would be 24m from the terraces, complying with the separation distance contained within Appendix E of Designing Walsall. Whilst there is still a kitchen window at ground floor to the rear below the terrace, the ground floor now comprises one large kitchen/dining area which would be dual aspect with a large window to the frontage, improving the light to the room. The proposals no longer include any apartments and each house has its own private amenity space. Plots 1 - 4 would have an amenity space of 68sqm, with plot 5 having 53sqm, slightly below the requirement in Appendix E, but is considered satisfactory in this case, in a location so close to the district centre. The internal layout of the houses has been amended to ensure no noise conflict between bedrooms and kitchens, between the plots. The proposals would provide a high quality residential environment for the future occupiers.

Use of a parking courtyard to the rear of the properties to accommodate some of the parking ensures no over dominance of parking on the frontage within the general street scene, but ensures an appropriate level of parking to comply with T13. The parking court would be gated and overlooked from the rear of plots 1 – 4, providing security and surveillance.

Summary of Reasons for Granting Planning Permission

This amended scheme overcomes the previous reasons for refusal in terms of layout and design and impact on the character and appearance of the development within the general street scene. The proposals would have no adverse impact on the amenities of the surrounding occupiers. The revised design and layout would provide a high quality living environment for future residents and would integrate well into the surrounding land uses and street scene, whilst acknowledging designing out crime and maximising surveillance of both the general street scene and the on site car parking.

The proposed development would therefore have no adverse impact on the character and appearance of the area or the amenities of surrounding residential occupiers and is considered to accord with the aims and objectives of the development plan, in particular policies GP1, 2.2, 3.6, 3.7, GP2, GP4, GP7, 3.16, ENV14, ENV32, ENV33, ENV39, H3, H9, H10, 3.116, 6.3, 8.7, LC8 and T13 of Walsall's Unitary Development Plan (2005) and Supplementary Planning Document – Designing Walsall (2008).

Recommendation: Grant Subject to conditions

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

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

2. No development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

Reason: To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

3. Development shall not begin until drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been submitted to and approved by the Local Planning Authority, and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed/occupied.

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

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

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

5. No development shall commence on site until details of a landscaping scheme, including hard surface materials, boundary treatment, spatial arrangement of proposed soft landscaping, including species, numbers and size of all shrubs and trees, topsoil depths and specifications and staking details of proposed trees as well as any necessary phasing of implementation, are submitted to and approved by the Local Planning Authority. The scheme shall be completed in accordance with the approved details before the development is occupied, unless otherwise agreed in writing with the local planning authority, and retained as such. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which die, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to safeguard the visual amenity and natural environment of the area.

6. Prior to the first occupation of the development the existing vehicular footway crossing made redundant by the development hereby approved shall be reinstated back to verge and full height kerbed footway to a specification to be approved and agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements.

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

7. Prior to the first occupation of the dwelling hereby approved, the proposed vehicular footway crossings to serve the site shown on the submitted plan shall be constructed to a specification to be approved and agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements.

Reason: In the interests of the satisfactory operation of the site and compliance with the requirements of the Highways Act 1980.

8. Prior to commencement of any development on site, details of boundary treatment to Brickiln Street, the corner and Short Street elevations shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include the boundary treatment to the frontage of Plot 5, which shall be no higher than 600mm. The approved details shall be fully implemented prior to first occupation of any dwelling hereby approved and thereafter retained.

Reason: In order to ensure the satisfactory appearance of the development.

9. Prior to commencement of any development on site, details of the vehicle access gates and control system for the vehicle access shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained thereafter in working order.

Reason: In the interests of securing the site.

10. Prior to commencement of any development on site a revised plan shall be submitted demonstrating pedestrian visibility splays measuring 2.4m x 3.4m at each driveway, shall be submitted to and approved in writing by the Local Planning Authority. Nothing shall be planted or allowed to grow or any structure erected in the said splays exceeding 600mm in height above ground level.

Reason: In the interests of vehicle/pedestrian intervisibility and highway safety.

11. Prior to commencement of any development on site a revised plan shall be submitted demonstrating a 2m x 25m visibility splays in a northerly direction along Brickiln Street at the access drive to plot 1. Nothing shall be planted or allowed to grow or any structure erected in the said splays exceeding 600mm in height above ground level on land that is within the control of the applicant.

Reason: In the interests of vehicle/pedestrian intervisibility and highway safety.

12. Prior to the first occupation of the any dwelling hereby approved the parking areas shown on the approved plans shall be fully consolidated, surfaced and drained and the bays clearly demarcated on the ground.

Reason: To ensure the satisfactory completion of the development and to prevent indiscriminate parking on the highway.

13. Prior to demolition, a site survey to identify any potential hazardous materials shall be carried out and a Method Statement produced detailing actions and timescale to be taken to prevent localised contamination shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the possibility of surface and/or groundwater pollution.

14. Following demolition and removal of the building a validation report shall be provided to and approved in writing by the Local Planning Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials and the building.

Reason: To prevent the possibility of surface and/or groundwater pollution.

15. The dwelling shall achieve a Code Level Three in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measure of sustainability for house design that replaces that scheme), unless otherwise agreed in writing by the Local Planning Authority. No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that Code Level Three has been achieved.

Reason: In order to provide high performance sustainable homes/buildings and to protect the environment in accordance with strategic policy aims 2.1, 2.2, 3.17 and 3.18 and policies GP2 and ENV39 of the Walsall Unitary Development Plan and policies DW1 and DW10 of Designing Walsall Supplementary Planning Document.

16. No demolition, engineering or construction works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours of 0700 to 1800 weekdays and 0800 to 1400 hours Saturdays, unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: To safeguard the amenity of occupiers of premises within the vicinity.