



Contents Sheet

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1	1	15/0108/FL	LAND AT 138-140 AND REAR OF 140 WEDNESBURY ROAD, LAND TO THE REAR OF 142-170 AND LAND TO THE SIDE OF 170 WEDNESBURY ROAD. WARD: PALFREY	REMOVAL/DEMOLITION OF EXISTING TEMPORARY BUILDINGS AND THE CHANGE OF USE OF LAND AND BUILDINGS (ORIGINALLY ENGINEERING WORKS) AT THE REAR OF 142-170 WEDNESBURY ROAD TO BOYS AND GIRLS PRIMARY SCHOOL AND FIRST YEAR SECONDARY SCHOOL. USE OF LAND TO THE SIDE OF 170 WEDNESBURY ROAD FOR 57 SPACE CAR PARK TO INCLUDE; 3 DISABLED SPACES, 6 MINI BUS SPACES AND A WASTE RECYCLING COMPOUND. CHANGE OF USE OF EXISTING COMMERCIAL UNIT (FORMER ELECTROLYTIC PLATING COMPANY	Grant planning permission subject to conditions

				<p> BUILDING REAR OF 140 WEDNESBURY ROAD) TOGETHER WITH INSTALLATION OF NEW MEZZANINE FLOOR (ACCESSED VIA THE EMERGENCY ACCESS ROUTE ADJACENT TO 142 WEDNESBURY ROAD), DEMOLITION OF 138-140 WEDNESBURY ROAD AND ERECTION OF THREE STOREY EXTENSION FRONTING WEDNESBURY ROAD TO FORM BOYS AND GIRLS PRIMARY SCHOOL AND FIRST YEAR SECONDARY SCHOOL TO INCLUDE; GROUND FLOOR 15 CLASSROOMS, 2 STAFF ROOMS, CANTEEN, FEMALE PUPIL TOILET AREA, RECEPTION, ADMINISTRATION, PHOTOCOPYING AREAS, FIRST FLOOR MEZZANINE PRAYER AREA, SCHOOL OFFICES AND SECOND FLOOR MEZZANINE OPEN PLAN OFFICES. SCHOOL TO ACCOMMODATE TOTAL OF 270 STUDENTS </p>	
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2	27	18/0072	<p>LAND AT HEATHFIELD LANE WEST, DARLASTON, WEDNESBURY, WEST MIDLANDS</p> <p>WARD: DARLASTON SOUTH</p>	<p>PROPOSED ERECTION OF 207 DWELLINGS, ENGINEERING WORKS, LANDSCAPING, PROVISION OF OPEN SPACE AND ASSOCIATED WORKS AND RE-ROUTING OF PUBLIC RIGHT OF WAY DAR1</p>	<p>Delegate to the Head of Planning, Engineering and Transportation to grant planning permission subject to conditions providing the coal authority objections, ecological issues, highway layout and residential amenity issues have been satisfactorily addressed, including any necessary conditions and subject to a S106 agreement to secure required contributions as informed by the conclusions of the District Valuer and to secure the provisions of an in perpetuity Management Strategy for the areas of open space</p>
3	71	17/0843	<p>BOX POOL, DARLASTON ROAD, WALSALL</p> <p>WARD: PLECK</p>	<p>PROPOSED BUILDERS MERCHANTS TO INCLUDE WAREHOUSE, ANCILLARY STORAGE AND ASSOCIATED WORKS</p>	<p>Grant Planning Permission Subject to Conditions</p>
4	93	17/0855	<p>10, QUEENS PARADE, HIGH STREET, BLOXWICH, WALSALL, WS3 2EX</p> <p>WARD: BLOXWICH WEST</p>	<p>CHANGE OF USE FROM USE CLASS A1 (SHOPS) TO A5 (HOT FOOD TAKEAWAY).</p>	<p>Delegate to the Head of Planning, Engineering and Transportation to grant permission subject to conditions subject to resolution of hours of operation, roller shutters and flue or to refuse</p>

					permission within the agreed extension of time if these matters are not resolved
5	103	18/0014	<p>REAR OF, 33A, PELSALL LANE, RUSHALL, WALSALL, WS4 1NA</p> <p>WARD: RUSHALL-SHELFIELD</p>	DEMOLITION OF THE EXISTING SINGLE STOREY AND TWO STOREY BUILDINGS ON SITE, CHANGE OF USE FROM VACANT BUILDER'S MERCHANTS TO MOT CENTRE AND VEHICLE SERVICING INCLUDING ANCILLARY OFFICE, RECEPTION AND STAFF ROOM AND ERECTION OF A 2.4M HIGH PALISADE FENCE TO THE SOUTH OF THE SITE	Delegate to the Head of Planning, Engineering and Transportation to grant permission subject to conditions subject to new material planning considerations are received in respect of the re-consultation on amended description to include the demolition of the existing buildings, to provide servicing of vehicles and the erection of the 2.4m high palisade fence
6	119	18/0350	<p>74B, PARK ROAD, BLOXWICH, WALSALL, WS3 3SW</p> <p>WARD: BLOXWICH EAST</p>	CHANGE OF USE FROM A1 CLASS RETAIL TO A2 CLASS (FINANCIAL AND PROFESSIONAL SERVICES) GROUND AND FIRST FLOOR.	Grant planning permission subject to conditions
7	125	17/1705	<p>MOUSE HILL STORES, 3, MOUSE HILL, PELSALL, WALSALL, WS3 4JW</p> <p>WARD: PELSALL</p>	SUBDIVISION TO CREATE TWO A1 RETAIL UNITS, AND INSTALLATION OF A NEW SHOP FRONT.	Grant planning permission subject to conditions

8	133	17/1706	<p>MOUSE HILL STORES, 3, MOUSE HILL, PELSALL, WALSALL, WS3 4JW</p> <p>WARD: PELSALL</p>	RETENTION OF 1NO. NON-ILLUMINATED FASICA SIGN	Approve subject to conditions
9	139	17/0732	<p>FERNLEIGH FARM, GOSCOTE LANE, BLOXWICH, WALSALL, WS3 4QQ</p> <p>WARD: BLOXWICH EAST</p>	CHANGE OF USE OF FARM BUILDING TO PET CREMATION SERVICE.	Advise the Planning Inspectorate that the Council would have granted planning permission subject to conditions and subject to a satisfactory response form DEFRA and that the Environmental Impact Assessment Screening Opinion would have determined that an Environmental Impact Assessment was not necessary
10	155	16/1714	<p>83, WALSALL ROAD, DARLASTON, WEDNESBURY, WS10 9JU</p> <p>WARD: BENTLEY AND DARLASTON NORTH</p>	CHANGE OF USE FROM PUBLIC HOUSE TO 7 FLATS WITH EXTERNAL CHANGES AND CREATION OF PARKING AREA.	Grant planning permission subject to conditions

11	169	17/1698	<p>LAND BETWEEN 37 AND 35A, PORTLAND ROAD, ALDRIDGE, WALSALL</p> <p>WARD: ALDRIDGE CENTRAL AND SOUTH</p>	<p>VARIATION OF CONDITION 2 OF PLANNING PERMISSION 16/0169 TO ALLOW THE INCREASE IN WIDTH BY 1.35M OF PLOT 2 AND REPOSITIONING OF PLOT 1 WEST BY 1.35M.</p>	Grant planning permission subject to conditions
12	179	18/0137	<p>FORMER 7, PAULS COPPICE, BROWNHILLS, WALSALL, WS8 7DE</p> <p>WARD: ALDRIDGE NORTH AND WALSALL WOOD</p>	<p>ERECTION OF 3 STOREY BLOCK OF 8 FLATS (4X2 BED & 4X1 BED) WITH AMENITY SPACE & PARKING TO THE REAR. (ADJOINING PUBLIC RIGHT OF WAY BRO36).</p>	Grant planning permission subject to conditions
13	193	17/1259	<p>PROVIDENCE CHAPEL, NEW ROAD, WILLENHALL, WV13 2BG</p> <p>WARD: WILLENHALL SOUTH</p>	<p>CONVERSION OF FORMER CHAPEL TO PROVIDE 8 X 1 BED APARTMENTS WITH ASSOCIATED PARKING AND EXTERNAL AMENITY SPACE</p>	Delegate to the Head of Planning, Engineering & Transportation to grant permission subject to conditions and subject to a S106 Agreement to secure provision for compensatory tree planting
14	211	18/0030	<p>64, WHITEHORSE ROAD, BROWNHILLS, WALSALL, WS8 7PF</p> <p>WARD: BROWNHILLS</p>	<p>ALTERATIONS TO EXISTING HOUSE AT NO 64 AND ERECTION OF A 3 BED DETACHED HOUSE ON LAND ADJACENT</p>	Grant planning permission subject to conditions

15	221	18/0297	74, KING GEORGE CRESCENT, RUSHALL, WALSALL, WS4 1EG WARD: RUSHALL-SHELFIELD	CHANGE OF USE FROM FORMER CARETAKER'S HOUSE TO STANDARD RESIDENTIAL HOUSE.	Grant planning permission subject to conditions
16	227	18/0041	84, BROADWAY WEST, WALSALL, WS1 4DZ WARD: PALFREY	DEMOLITION OF EXISTING REAR SUN ROOM AND ERECTION OF TWO STORY REAR EXTENSION. DEMOLITION OF EXISTING FRONT PORCH AND ERECTION OF A SINGLE STORY FRONT EXTENSION. REMOVAL OF CHIMNEY BREAST'S AND STACKS	Grant planning permission subject to conditions
17	233	18/0291	22, FERNLEIGH ROAD, WALSALL, WS4 2EZ WARD: ST MATTHEWS	SINGLE AND TWO STOREY REAR EXTENSIONS, WIDENING OF EXISTING GARAGE AND SINGLE STUDY FRONT EXTENSION (RESUBMISSION OF 17/0939)	Refuse
18	243	17/0554	263, BROADWAY NORTH, WALSALL, WS1 2PS WARD: PADDOCK	RETROSPECTIVE: PROPOSED FRONT PORCH AND GARAGE EXTENSION ROOF AND TO AMEND CONDITION 4 OF 15/0579/FL TO CHANGE OBSCURE	Grant Planning Permission Subject to Conditions

				GLAZING IN SIDE KITCHEN WINDOWS TO CLEAR GLASS.	
19	253	18/0116	29, RUSHALL MANOR ROAD, WALSALL, WS4 2HD WARD: ST MATTHEWS	TWO STOREY SIDE EXTENSION, SINGLE STOREY REAR EXTENSION, NEW RAISED ROOF TO PROVIDE ACCOMMODATION IN LOFT WITH REAR DORMER.	Refuse



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 1.

Reason for bringing to committee: Major Application

Location: LAND AT 138-140 AND REAR OF 140 WEDNESBURY ROAD, LAND TO THE REAR OF 142-170 AND LAND TO THE SIDE OF 170 WEDNESBURY ROAD.

Proposal: REMOVAL/DEMOLITION OF EXISTING TEMPORARY BUILDINGS AND THE CHANGE OF USE OF LAND AND BUILDINGS (ORIGINALLY ENGINEERING WORKS) AT THE REAR OF 142-170 WEDNESBURY ROAD TO BOYS AND GIRLS PRIMARY SCHOOL AND FIRST YEAR SECONDARY SCHOOL. USE OF LAND TO THE SIDE OF 170 WEDNESBURY ROAD FOR 57 SPACE CAR PARK TO INCLUDE; 3 DISABLED SPACES, 6 MINI BUS SPACES AND A WASTE RECYCLING COMPOUND. CHANGE OF USE OF EXISTING COMMERCIAL UNIT (FORMER ELECTROLYTIC PLATING COMPANY BUILDING REAR OF 140 WEDNESBURY ROAD) TOGETHER WITH INSTALLATION OF NEW MEZZANINE FLOOR (ACCESSED VIA THE EMERGENCY ACCESS ROUTE ADJACENT TO 142 WEDNESBURY ROAD), DEMOLITION OF 138-140 WEDNESBURY ROAD AND ERECTION OF THREE STOREY EXTENSION FRONTING WEDNESBURY ROAD TO FORM BOYS AND GIRLS PRIMARY SCHOOL AND FIRST YEAR SECONDARY SCHOOL TO INCLUDE; GROUND FLOOR 15 CLASSROOMS, 2 STAFF ROOMS, CANTEEN, FEMALE PUPIL TOILET AREA, RECEPTION, ADMINISTRATION, PHOTOCOPYING AREAS, FIRST FLOOR MEZZANINE PRAYER AREA, SCHOOL OFFICES AND SECOND FLOOR MEZZANINE OPEN PLAN OFFICES. SCHOOL TO ACCOMMODATE TOTAL OF 270 STUDENTS

Application Number: 15/0108/FL

Applicant: Abu Bakr Trust

Agent: Mr Stephen Burke

Application Type: Full Application: Major Use Class D2 (Assembly and Leisure)

Case Officer: Paul Hinton

Ward: Palfrey

Expired Date: 07-Jun-2017

Time Extension Expiry: 02-May-2018

Recommendation Summary: Grant planning permission subject to conditions



Proposal

In September 2010 the Planning Committee resolved to take enforcement action against unauthorised change of use to a school if a planning application for its retention was not made within a set timescale. In February 2012 the Committee resolved to postpone enforcement action until June 2012 to enable consideration of planning application 11/0242/FL.

In May 2012 the Planning Committee resolved to grant a temporary retrospective planning permission for five years for the change of use to school and retention of mobile classrooms, prayer hall/recreation room and building lobbies with shared car park for mosque and school. The school explained it had identified long term plans to redevelop the school site and temporary permission was considered acceptable to allow time for the school to prepare an application for a permanent building. The application for a permanent building is considered below.

Site and Surroundings

This application seeks planning permission for the following:

- Removal/demolition of existing temporary buildings and the change of use of land and buildings (originally engineering works) at the rear of 142-170 Wednesbury Road to boys and girls primary school and first year secondary school. The two retained single storey buildings would provide: science lab, resource room, head teachers office, reception, storage, two staffrooms, three classrooms and ablutions. A hardsurfaced playground would be provided in place of the temporary buildings.
- Use of land to the side of 170 Wednesbury Road for 57 space car park, plus 3 disabled spaces, 6 mini bus spaces and a waste recycling compound. Ten spaces are to be dedicated to the children's nursery operated at 150 Wednesbury Road.
- Demolition of 138-140 Wednesbury Road and erection of three storey extension fronting Wednesbury Road (27m wide, 15m projection, 11.4m high dual pitched roof with 10m high eaves) and change of use of existing commercial unit (former Electrolytic Plating Company (EPC) building rear of 140 Wednesbury Road) together with installation of new mezzanine floor (accessed via the emergency access route adjacent to 142 Wednesbury Road) to form boys and girls primary school and first year secondary school to include; ground floor 15 classrooms, 2 staff rooms, canteen, female pupil toilet area, reception, administration, photocopying areas, first floor mezzanine prayer area, school offices and second floor mezzanine open plan offices. The extension would be set back 1.5m from the back of pavement and would have a brick finished ground floor with silver composite cladding to the upper floors and a grey composite roof. The windows would be finished in blue and all existing openings to the north-east elevation facing EPC would be blocked up.
- A landscaping scheme is proposed that includes introducing a boundary hedge and grassed area to the front of the car park and grassed areas to the rear of the car park and rear of the playground along the boundary with Ford Brook. 15 trees are proposed within these grassed areas, 13 grey alders and 2 London planes.

- School to accommodate total of 270 students, boys and girls of primary school age and first year secondary school girls

The application site consists of a former industrial site to the rear of 142-170 Wednesbury Road, two industrial buildings at no. 138-140 and the rear of and an open triangular shaped piece of land used as a car park to the south-west. Ford Brook (Site of Local Importance for Nature Conservation) runs north-south through the site in twin box-culverts. To the north boundary is an open yard used for the storage of aggregate with the railway further to the north. Next to the two industrial buildings is EPC Electrolytic Plating Company who operate a building that adjoins the rear of the industrial building subject to this application (this business is subject to an environmental permit issued by Pollution Control). 154-160 Wednesbury Road is a mosque, no. 150 is currently used as a nursery (planning approval 17/0448) with the rest of the neighbouring terraced properties appearing to be in residential use. These are two storey properties with front facing casement dormer windows in the roof space.

There are two vehicle access points to the site; the northern one is both a pedestrian and emergency vehicle access to the side of no. 142. To the south is a vehicle access to the car park and a separate pedestrian access along the side of no. 170. The industrial building at no. 138-140 (known as Crown Saddletree Works) is locally listed. There is a puffin crossing in front of the site to the north and uncontrolled pedestrian refuge island to the south.

The school's focus is teaching within an Islamic environment. In addition to traditional day-time teaching the school site would be used for evening classes and adult classes at the weekend.

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

Design and Access Statement

- Sole purpose of the application is to obtain full planning for school usage on the whole site and the removal of existing mobile classroom buildings, prayer room/recreation hall and building lobbies to provide more recreation area and improved standard of school facilities in a modern self-contained building unit.
- There are no plans to increase the number of staff.
- The new unit will be accessible to mobility impaired and wheelchair disabled at ground floor and a lift will be provided for access to upper floors.

Transport Statement (includes consideration of nursery assessed under separate planning application)

- School currently has 348 pupils aged 5-16 (126 mixed primary, 222 girls' secondary) and 30 teachers.
- Intention to continue provision of mixed primary school facilities and Year 7 girls Secondary School. This would result in a reduction from 348 to 270 pupils with no plans to increase capacity.
- The school hours are 08:45-15:00 with mosque classes between 17:00-20:00.
- There are 60 parking spaces, with three disabled spaces and six minibus spaces. 10 spaces are to be specifically reserved for the nursery.

- Taking account of the current use and nursery, the proposed use (with a reduction in pupils) would result in a net reduction of trip generation. There would be a reduction of 11 trips in the morning peak and a reduction of 4 trips in the afternoon peak.
- Existing visibility for the car park exceeds Manual for Streets guidance.
- A car park accumulation study has taken place and concludes at its maximum peak time 14:00-15:00 57 parking spaces would be in use.
- Outside of the normal school hours, from 17:00 the car park is available for use by the local mosque and evening school.
- A maximum stay of five minutes is permitted in the mini bus bays.
- All staff and visitors wishing to park in the car park must register their cars with the school.
- Site benefits from excellent pedestrian access, with a number of high frequency bus services within 400m of the site.
- Review of accident records indicated that the proposals will not result in adverse impacts on road safety.
- Access to the site and transport patterns are already established and accommodated within the network.

School Travel Plan

- Appoint a School Travel Champion.
- Brief all new and existing parents through meetings at start of academic year in regard to sustainable travel options.
- Provision of bespoke travel information on school website.
- Travel information leaflet distributed to all pupils and staff will provide a summary of the range of travel options available.
- Promote walking and hold regular walking events.
- Set up a walking bus
- Promote cycling by distributing or displaying promotional materials that outline benefits.
- Hold cycling events.
- Promote car sharing.
- Promote a considerate drivers code of conduct.
- Promotion of the Active Sustainable Travel and Road Safety programme (A*STARS).
- Undertake monitoring and review of School Travel Plan.

Flood warning system (already installed)

- System logs water level every 15mins.
- If water reaches a certain level then a contact at the school is notified.
- Maintenance is undertaken once a year.

Justification for demolition of Locally Listed Building

- Retaining the building would make any design internally very difficult and impractical as there is a difference in floor level of 800mm to 900mm from the building behind which wish to extend forwards. This would restrict the flow of the floors through at the same level causing a problem for wheelchair users.
- Would have problem of satisfying building control in regard to upgrading an old structure's insulation/heat loss, sound transfer etc.
- Most effective and practical way forward is to demolish the existing building and construct from new.

Flood Risk Assessment

- Education buildings are classified as more vulnerable.
- Site lies in Flood Zone 1, 2 and 3.
- Proposal seeks to remove temporary buildings in Flood Zone 2 and relocate classrooms and school facilities to the existing commercial unit and proposed extension which are both located in Flood Zone 1.
- The existing temporary buildings that are to be converted to permanent school buildings are located in Flood Zone 2 and 3. The following mitigation measures will be retrofitted to these existing buildings to ensure that betterment is provided post development:
 - Electrical services will run from ceilings towards sockets.
 - Solid floors where possible
 - Non-return valves on sewers to prevent back flow
 - All plumbing to be of closed-cell design
 - Ground floor levels/threshold of existing buildings to be raised 300mm where possible.
 - Retain existing floor warning scheme.
- To the proposed converted commercial building the following flood resilience measures are to be implemented:
 - Provide a gated 5m wide unobstructed clear working area for the Environment Agency to carry out maintenance work to the culvert.
 - New finished floor level to be 250mm above the main car park.
 - Entrance reception areas and toilets to have tiled floors and tile skirting trim.
 - Main building to have concrete floors
 - All electrical sockets at ground floor to be located a minimum of 500mm above finished floor level.
- Risk of flooding from Ford Brook can be deemed to be relatively low to moderate.
- Risk of flooding from surface water is considered to be moderate.
- Risk of flooding from groundwater is considered to be relatively low.
- No historic records of sewer flooding, therefore relatively low risk.
- Existing pressure transducer/flood board should be retained and maintained.
- Proposed development will not increase flooding elsewhere
- Implementation of permeable grassed areas in the existing car park and adjacent to the playground will provide a decrease in impermeable surface and reduction in surface water run-off.
- Analysis of flood levels show that the topographic site levels are higher than the modelled flood levels.
- A sequential approach to the site layout has been adopted, as the proposed development seeks to remove the temporary buildings located in Flood Zone 2 and relocate classrooms and school facilities to Flood Zone 1.
- Proposed development is considered to be suitable assuming appropriate mitigation can be maintained for its lifetime.

Coal Mining Risk Assessment

- A thin coal seam has been identified but there is no evidence this has been worked.
- No requirement for further investigation

Contamination Report (August 2009)

- Any soft landscaping areas will require capping with 600mm of clean imported soil.
- Assumed structures will be built using 2000 gauge membrane across the cavities and sealed around service entries.
- Removal and off site disposal of contaminated made ground is recommended.

Letter from Chairman of Abu Bakr Trust

- The primary school is mixed school for boys and girls 4-11. In September 2015 Abu Bakr Secondary School moved to Shelley Campus on Scarborough Road.
- Abu Bakr Boys Secondary School is based at Kent Street, boys 11-16.
- Number of pupils at the site will be adjusted through Ofsted's advice. Scarborough Road Secondary School will have 300 students, Wednesbury Road 270.
- The prayer area will only be for the school and will not provide access for adult members of the community to pray at any time during the school hours.
- The Mosque where public have access during the school hours is located at 156 Wednesbury Road (since 1973) and access is through the main road or through the rear gates. The school perimeter is locked during the day.

Noise Report

- Noise sources from traffic along Wednesbury Road and vehicles and machinery associated with the adjoin ECP Electroplating Company. Some noise from children and train horns was also perceptible. Internal noise was primarily from fixed plant for moist of the day which is located in the storage area belonging to ECP which adjoin the building subject to this change of use.
- Recommended that a brick/concrete block cavity construction is built at the full height of the elevation with the adjoining ECP Electroplating storage area due to the ingress of acoustic features.
- A brick/concrete block cavity construction is recommended as an external skin to the commercial building.
- Specified ceiling treatments are required.
- Stud partitions between classrooms and circulation spaces are required.
- Acoustic doors required to teaching spaces.
- Existing doors to the ECP elevation are to be blocked up.
- Recommended glazing is required.
- Considering that the school has existed under temporary planning for a number of years, change of use of the commercial building with appropriate acoustic detailing would provide improved learning accommodation for the school to what currently exists.

Air Quality Assessment

- The use of recommended mitigation measures, as listed, will reduce the impact of construction activities. This includes, regular site inspections, erection of solid screens around dust activities, only use cutting equipment with dust suppression techniques, reuse and recycle waste to reduce dust.
- The vehicle emissions associated with the proposed development would not give rise to air quality grounds for refusal.
- Electric vehicle charging points should be considered to reduce the impact of vehicle emissions associated with the proposed development.

While the application was submitted in January 2015 it was not until March 2017 that sufficient information was provided to make the application valid. During that time officers have worked with the applicant's agent securing a number of technical reports (some that have required revision as a result of consultee replies) to enable the application to reach a position where it can be considered by committee.

Relevant Planning History

BC1763 – Change of use to Mosque (156 Wednesbury Road). GSC 9/4/1975

BC54342P – Change of use to classroom for religious studies - extension to Mosque at 156 Wednesbury Road (154 Wednesbury Road) – granted 3 year temporary permission in June 1999.

02/0902/FL/W4 – Extension to existing car park - Land adjacent 170 Wednesbury Road -

02/0903/FL/W4 – Change of use to religious education (Class D1) associated with Mosque at 154/156 Wednesbury Road (158-160 Wednesbury Road) – granted subject to conditions – August 2002.

02/1472/FL/W4 – Conversion of temporary permission to permanent planning permission for use of classroom for religious studies (154 Wednesbury Road) – granted subject to conditions October 2002.

02/1854/FL/W3 – 4 temporary classrooms (140a Wednesbury Road) – granted subject to conditions January 2003.

03/0168/FL/W4 – Prayer Hall extension to rear – 154-160 Wednesbury Road – granted subject to conditions – January 2004.

05/2235/FL/W7 – Proposed rebuilding of central staircase area and extension to previously approved prayer hall and creation of first floor extension to provide 2 classrooms and male ablutions – granted subject to conditions – August 2006.

07/0511/FL/W7 – Change of use of workshop A & B to classroom teaching areas and extensions – Refused June 2007 for four reasons broadly relating to (1) failure to address Flood Risk (2) failure to demonstrate no adverse impact on the highway network (3) failure to plan for a comprehensive approach to design and layout of the proposals to ensure adequate functioning of the local facility (4) Adverse impact on residential amenities due to intensification of the use.

09/1282/FL – Two storey extension to Women's Centre/Sixth Form Girls School (138-140 Wednesbury Road) – Refused December 2009 as the Sixth Form School and Women's Centre was unauthorised and there was a lack of information to determine whether the proposals were suitable.

10/0516/FL – Construction of main prayer hall on ground floor and women's prayer hall on first floor as an annexe to the rear of existing buildings at 154-160 Wednesbury Road – Refused in August 2010 for two reasons broadly relating to (1) the bulk and mass of the

extension would be unduly dominant in relation to neighbouring houses and would reduce privacy to the detriment of occupiers (2) poor design out of proportion with existing buildings on site.

11/0242/FL - Retrospective change of use to school and retention of mobile classrooms, prayer hall/recreation room and building lobbies with shared car park for mosque and school. GSC 25/5/12.

11/0606/FL - Erection of new industrial (B1 (b) & (c), B2 and B8 buildings with service yard, parking and associated works following demolition of existing building. GSC 22/8/11.

12/0286/MA - Non-Material Minor Amendment to proposed warehouse and industrial building to reduce width of building and amend front elevation and layout to relocate entrance and administration area. GSC 29/3/12.

17/0448 - Change of use from existing dwelling to a Childrens Nursery. GSC 17/4/18.

Relevant Policies

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

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

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

- Proactively drive and support sustainable economic development to deliver the homes, businesses and industrial units, infrastructure and thriving local places the country needs.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Encourage the effective use of land by reusing land that has been previously developed.
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
- Take account of and support local strategies to improve health, social and cultural wellbeing for all and deliver sufficient community and cultural facilities and services to meet local needs.

Key provisions of the NPPF relevant in this case:

- **NPPF 1 - Building a strong, competitive economy**
- **NPPF 4 - Promoting sustainable transport**
- **NPPF 7 - Requiring good design**

- ***NPPF 8 - Promoting healthy communities***
- ***NPPF 10 - meeting the challenge of climate change, flooding and coastal change***
- ***NPPF 11 - Conserving and enhancing the natural environment***

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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

Local Policy

Black Country Core Strategy

https://go.walsall.gov.uk/ldf_core_strategy

- CPS1: The Growth Network
- CSP4: Place Making
- DEL1: Infrastructure Provision
- EMP3: Local Quality Employment Areas
- HOU5: Education and Health Care Facilities
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy

Saved Unitary Development Plan

https://go.walsall.gov.uk/unitary_development_plan

- 3.6: Environmental Improvement
- GP2: Environmental Protection
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV28: The Local List of Buildings of Historical or Architectural Interest
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- S6: Meeting Local Needs
- JP7: Use of Land and Buildings in Other Employment Areas
- T1: Helping People to Get Around
- T7: Car Parking
- T8: Walking
- T9: Cycling
- T10: Accessibility Standards - General
- T11: Access for Pedestrians, Cyclists and Wheelchair Users
- T12: Access by Public Transport
- T13: Parking Provision for Cars, Cycles and Taxis
- 8.7: Education, Health and Community Facilities

Supplementary Planning Document

<https://go.walsall.gov.uk/ldfsupplementaryplanningdocuments>

Conserving Walsall's Natural Environment

- Development with the potential to affect species, habitats or earth heritage features
 - NE1 – Impact Assessment
 - NE2 – Protected and Important Species
 - NE3 – Long Term Management of Mitigation and Compensatory Measures
- Survey standards
 - NE4 – Survey Standards
- The natural environment and new development
 - NE5 – Habitat Creation and Enhancement Measures
 - NE6 – Compensatory Provision
- Development with the potential to affect trees, woodlands and hedgerows
 - NE7 - Impact Assessment
 - NE8 – Retained Trees, Woodlands or Hedgerows
 - NE9 – Replacement Planting
 - NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility

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

Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

Air Quality SPD

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

Emerging Policy

Site Allocations Document – policy IND3 allocates the industrial building (excluding the block to the front) as part of retained local quality industry site IN51.1.

Policies are available to view online: https://go.walsall.gov.uk/planning_policy

Other Legislation

Equalities Act 2010 - Section 149 of the Equality Act 2010 provides that local authorities must, in exercising their functions, have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

Human Rights Act 1998 - Article 8 of the European Convention on Human Rights provides that everybody has the right to respect for his private and family life and his home, and there should be no interference by a public authority with the exercise of this right, except

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where that interference is (amongst other considerations) in accordance with the law and is necessary in a democratic society for the protection of rights and freedoms of others.

Consultation Replies

Environment Agency – no objection subject to the use of recommend condition in regard to implementing the mitigation measures of the submitted Flood Risk Assessment.

Planning Policy – The application involves the regularisation of a use that have been in operation for several years. In the case of the school, it would provide improved premises. Although there are planning policy grounds for opposing the application, in particular the loss of employment land, the loss of this building by itself is unlikely to prejudice the continuing operation of the remainder of the industrial area and on balance it would appear it can be approved.

Highways – no objection subject to use of recommended conditions in regard to limiting the amount of pupils, demarcating the car park, no parking on the playground during main school hours, car park management, implementation and monitoring of the School Travel Plan, cycle provision and controlling the height of the fencing around the front of the building.

Pollution Control – no objection subject to the use of recommended conditions in regard to contamination, electric vehicle charging points and implementation of the recommended noise mitigation measures.

Education – no objection.

Conservation Officer – building identified as locally listed. Part of original building was replaced following fire damage in 1999.

Police Architectural Liaison Officer – no objection subject to use of recommended security measures.

Sport England – does not fall within statutory remit

Severn Trent Water – no objections subject to use of recommended drainage condition.

Environmental Health – no objections.

Flood Risk Manager – no direct drainage issues, will need to consult the Environment Agency.

Coal Authority – no objection.

Fire Services – no objection.

Community Safety – suggested security measures.

Network Rail – the developer/applicant must ensure their proposal does not affect the safety, operation or integrity of the existing operational railway. Operational conditions are recommended.

Representations

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

No comments received

Determining Issues

- Principle of development
- Flood Risk
- Impact upon visual amenity
- Impact upon residential amenity
- Impact upon ground conditions
- Impact upon occupiers amenity
- Impact upon highway safety
- Conclusion

Assessment of the Proposal

Principle of development

The BCCS identifies the site within Regeneration Corridor 7 where local employment land should be retained and the emerging Site Allocation Document seeks to allocate the site as retained local quality industry site IN51.1. Saved Policy JP7 of the UDP states non employment uses such as schools (Class D1) are not permitted in employment areas except where a purely local need is demonstrated under the terms of Saved UDP policy S6. In granting the temporary permission, a local need was accepted at that time. The current application seeks to expand the school boundary to include a portal framed industrial building adjacent.

The proposals would result in the loss of employment land and the emerging evidence through the Core Strategy Review identifies that there is a substantial shortfall of employment land to meet the need for economic growth and there is a need not only to allocate additional land for industry but also to resist the loss of existing employment land to other uses.

Balanced against this, it is recognised that any industrial use of both the yard to the rear (where the current temporary buildings are), the portal framed building and its extension to the front are already constrained by the surrounding housing. Site IN51.1 as a whole, which includes the Fairground Way Industrial Estate off Corporation Street West and the rail-served concrete plant, scores relatively poorly in the Employment Land Review that underlies SAD Policy IND3 (it has a score of 20 against a range between 14 and 29 for local quality sites: this compares with a range between 6 and 21 for consider for release

sites). The loss of the yard, portal building and land to the front are unlikely to prejudice the continuing operation of the remainder of the adjacent industrial area.

The NPPF explains that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. In regard to education the NPPF gives great weight to the need to create schools.

It is understood that the portal frame building was built by EPC around 2011/12 (under the terms of planning permission 11/0606/FL) and the front three quarters has been used by the school since (the rear quarter is in use by EPC and is proposed to continue) – it appears there has been no reasonable prospect of the whole building being used for employment. Currently there is a school hall at ground floor, with part mezzanine used as classrooms.

Since the 2011 planning permission (which suggests the site had been used for school purposes before 2010) the site has continued to support the education of around 348 pupils. More recently due to the use of other sites (Shelly Campus and Kent Street) it now supports 270 mixed primary pupils and first year secondary female pupils. The amount of pupils demonstrates a need for the facility. The site is located within an existing community and serves a local need that specialises teaching in an Islamic environment. On balance, the loss of the facility would leave local needs unmet and there appears to be no other sustainable location to provide this facility within the community it serves. The loss of industrial employment is therefore outweighed by the education value that would be provided.

Flood Risk

Ford Brook runs north-south through the site, most of which is in twin box-culverts, there is a transducer/flood board that monitors the height of the brook and alerts the school should this raise. The site lies in Flood Zone 1, 2 and 3. Education buildings are classified as more vulnerable. The proposal seeks to remove the temporary buildings in Flood Zone 2 and relocate classrooms and school facilities to the existing commercial unit and proposed extension which are both located in Flood Zone 1.

The existing temporary buildings that are to be converted to permanent school buildings are located in Flood Zone 2 and 3. The Flood Risk Assessment identifies mitigation measures that will need to be retrofitted to these existing buildings to ensure that betterment is provided post development.

The FRA also recommends flood mitigation measures are installed within the converted commercial building. It concludes that the proposed development is considered to be suitable assuming appropriate mitigation can be maintained for its lifetime.

The Environment Agency raise no objection to the development subject to the implementation of the mitigation measures contained within the FRA. This can be a conditional requirement of any planning permission. As some of these measures would need to be retrofitted for assurances of acceptability a validation condition would also be necessary given the vulnerability of users.

Severn Trent Water recommends a drainage condition which is also considered necessary.

Ecology

The site crosses the Ford Brook which is designated as a Site of Local Importance for Nature Conservation, but this lies in a culvert through much of the site. Nearly all the site is hard-surfaced. The school buildings to be demolished are temporary structures whilst the factory is of recent construction. The office to the front appears to have a flat roof so would not be a suitable bat habitat. Accordingly the proposal would not have an adverse impact upon ecology.

Impact upon visual amenity

The removal of the temporary portable buildings would have a positive impact upon the visual amenity of the area. The retention of the two permanent single storey buildings would cause no further visual harm.

The two storey building 138-140 Wednesfield Road is locally listed. The listing description states: *"Large site purpose built for saddletree making. Substantial late C19 rear quadrangle. Frontage is a 1930s or 1950's replacement, with steel windows and a stylised Crown motif. Ironbridge."* There was fire in 1999 which resulted in the previous structure being largely replaced. The existing two storey flat roof building is of simple design and on its own has limited architectural value. Its listing was a collective listing as part of the wider saddletree works. Due to this, in heritage terms, there is little desire to retain the building. The proposed extension would provide a safer and more efficient educational environment. These public benefits outweigh the loss of the building.

The proposed extension would be 0.5m closer to the road than the existing building and would be 0.8m narrower. With a 11.4m high dual pitched roof and 10m high eaves the extension would be 5m taller than the existing 6.4m high flat roof building. This increase in height would be put in the context of the existing 9m high industrial building to be converted at the rear and the neighbouring houses with pitched roof and front dormer windows. The extension would have facing brick at the ground floor and silver cladding to the upper floors with a shallow pitched roof. The front elevation includes three floors of windows that are proportioned within the elevation.

Community buildings because of their function are often notably different to their surroundings. The NPPF guides that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

The front extension would appear as an industrial building, with the windows akin to the office element of such a use. This area of land has historically been for industrial use. The design used addresses that historical connection. The extension would be a high quality development with inclusive access for the local community that would provide a modern learning environment far better than the portable buildings currently on site. Subject to a condition defining the materials, the design of the extension is considered to take the opportunity to improve the appearance of the area.

The development also seeks to introduce landscaping around the car park and to the playground at the rear. This would be a visual improvement.

Impact upon residential amenity

There are residential properties within the line of terraces that front Wednesbury Road with two retained buildings and playground to the rear and car park to the side. The Council is not aware of any objections in regard to noise and disturbance from the existing school operations. Weight is given to the former industrial use and the greater noise potential it would generate.

It is recognised that during peak hours schools generate a lot of people and vehicle movements that can cause harm, this harm though is quickly dispelled once pupils are within the school or have left.

On balance the retention and expansion of the school use would not result in an unacceptable level of noise and disturbance to residents.

Impact upon air quality

The air quality report concludes that predicted relevant air quality objectives will not be exceeded at the proposed development site. These findings concur with the most recent work carried out by Pollution Control and under such circumstances building mitigation measures are considered unnecessary for this application.

The proposed development is situated adjacent to Electrolytic Plating Company Ltd. (EPC) which undertakes paint coating processes by dipping components, which are then cured by stoving in gas-fired ovens. Pollution Control confirm there are presently no evident reasons for the presence of this installation to prejudice the application or require mitigation measures.

The Black Country Air Quality SPD sets out required mitigation measures that include the need for electric vehicle charging points. In this case 5% of parking provision should provide electric charging points which equates to four parking spaces. This would be a conditional requirement.

Impact upon ground conditions

The ground condition report submitted only addresses part of the development site. Pollution Control is aware that the land in question is former industrial and the types of activities previously carried on the site may have resulted in localised ground contamination.

Under these circumstances and considering the proposal involves ground excavations / disturbance and coverage of yard areas, it is appropriate that a desk study is carried out following the removal of temporary buildings and structures to ascertain any potential ground contamination of this part of the site. A necessary condition has been recommended.

Impact from noise

In regard to noise, the acoustic conditions in schools are controlled by Part E of the Building Regulations with reference to Building Bulletin BB93. While noise issues in these circumstances technically fall to the Building Control function, planning policies and

decisions are nonetheless required to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

The submitted noise report identifies a list of mitigation measures required to protect pupils and staff from external noise (notably the erection of internal walls) and also to protect the ability of the adjoining business to continue to operate. Without mitigation measures there's a risk that the School could complain about the longstanding business next door and through Environmental Protection legislation impose controls over the operation of this business. For these reasons a condition that requires validation of the installation of the recommended mitigation measures is considered necessary.

Subject to the use of mitigation measures, a satisfactory environment could be created.

Security

The Police and Community Safety note that due to the moderate overall crime experienced in the area that recommended security measures are implemented. Both recommend secure boundaries, the existing pedestrian entrance to the north has an access control measure. The pedestrian entrance to the south has a gate to the rear of the car park that is locked once children have arrived at school. The Police recommend gating the car park, however due to the level of vehicle movements and in the interests of the free flow of Wednesbury Road, this would be likely to compromise highway safety.

The recommendation of CCTV is supported and considered a necessary condition as is the security standard of ground floor windows and doors.

Community Safety also recommend alterations to the retained single storey buildings to prevent hiding places. As no external changes are sought for these buildings this request would be unreasonable.

Like most schools the site would be used for education provision during the weekdays and then during the evenings and weekends would be available for extracurricular activities. These uses currently take place from the temporary buildings which also includes a prayer hall. There is an existing mosque at 156 Wednesbury Road which is accessed from Wednesbury Road and from the rear via the school access. The applicant explains that the prayer hall will only be for the school and will not provide access for adult members of the community to pray at any time during the school hours.

The school has two pedestrian accesses. The main access has a security gate that is closed once all children have been let in and is controlled by the school's reception. The other gate is manned by teachers during the start and end of the day when children arrive and is then locked. The application would look to continue the existing safeguarding arrangements. In the interests of child safety a condition to ensure the provision of access control measures during school hours is recommended. For safeguarding reasons it is necessary to define the use of the prayer hall for users of the school during the school hours and not for any separate purpose.

Impact upon highway safety

The layout on the western car park shows 67 parking spaces, plus three disabled spaces and six minibus spaces; ten spaces would be reserved for the nursery. The layout also proposes 13 staff parking spaces.

The school travel plan explains how sustainable measures will be promoted, looks to appoint a School Travel Champion and engage with the Council's Active Sustainable Travel and Road Safety programme (A*STARS). The plan also commits to monitoring and review of the document.

The previous, albeit 5 year temporary permission approved the school and the committee report at the time explained this was to accommodate 311 pupils. The Transport Statement (TS) explains that the school had been accommodating 348 pupils. The current proposal would be for 270 pupils. The TS has found that taking account of the current use and nursery, the proposed use (with a reduction in pupils) would result in a net reduction of trip generation. There would be a reduction of 11 trips in the morning peak and a reduction of 4 trips in the afternoon peak.

A car park accumulation study has taken place and concludes at its maximum peak time 14:00-15:00 57 parking spaces would be in use.

Taking into account the combination of sustainable travel promoted by the school, capacity for minibus parking and demonstration of sufficient off-street parking to meet the needs of the development it is considered the proposal would not have severe transportation implications. Highways raise no objection subject to the use of recommended conditions in regard to limiting the amount of pupils, demarcating the car park, no parking on the playground during main school hours, car park management, implementation and monitoring of the School Travel Plan, cycle provision and controlling the height of the fencing around the front of the building. These conditions are considered necessary and meet the six tests.

Relationship with railway

Network Rail raise no objection subject to the use of recommended operational conditions. The application site is 44m from the edge of the railway with an aggregate storage yard in between. It is noted that the yard historically may have been ancillary land to the railway. Due to the aggregate yard between it is considered the proposal would cause no impact upon operational railway land.

Conclusions and Reasons for Decision

In weighing the key material considerations and consultee responses against the national and local planning policies and guidance, it is considered that the principle of development is consistent with the provisions of the development plan. The design of the building would have a positive impact upon the character of the area and subject to mitigation measures the flood risk could be managed. Subject to the implementation of noise mitigation to the boundary wall with the retained industrial use at ECP and ground condition measures the proposal would provide a modern safe teaching environment for pupils. Conditions in regard to access control and use of the prayer hall are necessary for safeguarding reasons. The use of the site is considered not to impact upon either the adjacent business or the neighbouring residential properties. Sufficient off-street parking is provided to meet the needs of the development and measures to encourage sustainable travel are to be promoted through the School Travel Plan.

Taking into account the above factors it is considered that the application should be recommended for approval. The development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP4, DEL1, EMP3, HOU5, TRAN5, ENV2, ENV and ENV5 of the Black Country Core Strategy and saved policies GP2, 3.6, ENV10, ENV28, ENV32, ENV33, JP7, T13 and 8.7 of Walsall Unitary Development Plan, Supplementary Planning Documents Designing Walsall Conserving Walsall's Natural Environment.

Positive and Proactive Working with the Applicant

Officers have worked with the applicant's agent clarifying details of the scheme, securing amended drawings and technical information to enable support to be given.

Recommendation

Grant planning permission subject to conditions.

Conditions and Reasons

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

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

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

- Proposed site location plan received 9/3/17
- Existing site layout plan (2322-6A) received 7/2/17
- Proposed demolition plan (2322-3C) received 13/4/17
- Proposed layout plan (2322-4G) received 22/12/17
- Existing floor plan and elevations (138-140 Wednesbury Road)(2322-1C) received 24/7/17
- Proposed floor plan (138-140 Wednesbury Road)(2322-2E) received 13/12/17
- Proposed elevations (138-140 Wednesbury Road)(2322-5C) received 13/12/17
- Science lab plan and elevations (2322-7) received 9/2/17
- Ablutions plan and elevations (2322-8) received 9/2/17
- Proposed landscaping (2322-9) received 7/2/17
- Site survey received (03) 11/1/18
- Flood Risk Assessment (3407 FRA) received 24/10/17
- Air Quality Assessment (AQ0652) received 20/4/17
- Noise report received 20/4/17
- Contamination report (GRM/P4921/SA.1) received 3/2/17
- Coal Mining Risk Assessment received 7/2/17
- Transport Statement received 13/12/17
- School Travel Plan received 13/12/17

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

3a. The development hereby permitted shall be carried out wholly in accordance with the approved Flood Risk Assessment (FRA) received 24/10/17 and the implementation of all flood risk mitigation measures outlined within section 6 of the FRA.

3b. The retrofitted flood mitigation measures to the science lab and ablutions block shall be installed within six months from the date of this decision in accordance with the approved Flood Risk Assessment (FRA) received 24/10/17. A validation report confirming their installation shall be submitted for written approval of the Local Planning Authority. In the event that the measures are not fully installed within six months from the date of this decision and the validation report not received by the Local Planning Authority, the science lab and ablutions block shall cease to be used.

3c. Prior to the first use of the extension and mezzanine to 138-140 Wednesbury Road as shown on the approved drawings, the flood mitigation measures shall have been fully installed in accordance with the approved Flood Risk Assessment (FRA) received 24/10/17. Confirmation of their installation through a validation report shall have first been submitted to and approved in writing by the Local Planning Authority.

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

4a. Prior to the demolition of 138-140 Wednesbury Road a desk study and site reconnaissance shall be conducted to identify the potential for contaminants and/or ground gases to present a likely risk to proposed structures or future occupants of the development. Results of the desk study and site reconnaissance shall be submitted for written approval of the Local Planning Authority. (see Note for Applicant CL4)

4b. In the event that the desk study and site reconnaissance indicates a potential presence of contamination and/or ground gases on site then prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

4c. Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any ground contamination and/or ground gas shall be submitted to the Local Planning Authority. (see Note for Applicant CL2)

4d. Prior to built development commencing a 'Remediation Statement' setting out details of remedial measures to deal with identified and potential hazards of any ground contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

4e. The remedial measures as set out in the 'Remediation Statement' required by part d) of this condition shall be implemented in accordance with the agreed timetable.

4f. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation

required by part b) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part d of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

4g. 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 approved in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

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

5. Prior to the first use of the extension and mezzanine to 138-140 Wednesbury Road as shown on the hereby approved drawings, the mitigation measures as set out within the approved Noise Report received on 20/4/17 shall have been fully installed and confirmation of their installation through a validation report shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the occupants.

6a. Prior to the commencement of built development drainage plans for the disposal of surface water and foul sewerage shall have first been submitted for written approval of the Local Planning Authority. The drainage scheme shall include where possible sustainable drainage methods and a demonstration that surface water runoff would not increase beyond the current surface water runoff rates of the site.

6b. The scheme shall be fully implemented in accordance with the approved details before the development is first brought into use and retained thereafter.

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

7a. Prior to the commencement of the extension and mezzanine to 138-140 Wednesbury Road as shown on the hereby approved drawings no development above damp proof course shall take place until details of four electric vehicle charging points, to be provided for the development shall have first been submitted to and approved in writing by the Local Planning Authority.

7b. Prior to first occupation of any part of the development the electric vehicle charging points shall be fully installed in accordance with the approved details, available for use and shall be thereafter retained and maintained for the life of the development.

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

8a. Prior to first occupation of the extension and mezzanine to 138-140 Wednesbury Road as shown on the hereby approved drawings details of the appearance of the waste recycling compound shall be submitted for written approval of the Local Planning Authority.

8b. The approved details shall be fully implemented prior to first occupation of the extension and mezzanine hereby approved and shall be retained thereafter for the purposes of waste recycling and for no other purpose.

Reason: In the interests of visual amenity and highway safety.

9a. Prior to the extension and mezzanine to 138-140 Wednesbury Road as shown on the hereby approved drawings first coming into use, full details of a covered and illuminated cycle shelter facility and changing lockers for the use of staff and pupils in accordance with the measures contained within the approved School Travel Plan received on 13/12/17 shall be submitted to and approved in writing by the Local Planning Authority

9b. The facility shall be fully implemented in accordance with the approved details.

9c. The cycle shelter facility and changing lockers shall thereafter be retained and used for no other purpose.

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

10a. Prior to the development first coming into use, the access way and car parking areas as shown on the approved drawings shall be fully consolidated, hard surfaced and suitably drained to ensure surface water from the parking area does not discharge onto the highway or any highway drain (a standard parking space is 4.8m by 2.5m). All vehicle parking shall be clearly demarcated on the ground and, in the case of the six minibus and 10 nursery spaces, clearly signed for use by these vehicles only.

10b. The car parks shall thereafter be managed in accordance with the details contained with the approved Transport Statement received on 13/12/17. In the event of non-compliance the school shall cease to accept any further pupil enrolments at the start of the following academic year full compliance has been demonstrated.

10c. The demarcated parking spaces shall thereafter be retained and used for the school and nursery use and no other purpose.

Reason: To ensure the car parking arrangements are managed efficiently and effectively to minimise displacement on the surrounding streets, in the interests of the safe and satisfactory operation of the development, the free flow of traffic on the public highway and to highway safety.

11a. Upon first occupation of the extension and mezzanine to 138-140 Wednesbury Road as shown on the hereby approved drawings the commitments, measures and targets to encourage sustainable travel modes to reduce car based trips to the site as contained with the approved School Travel Plan received on 13/12/17 shall be fully implemented.

11b. The School Travel plan shall be monitored and reviewed for the lifetime of the development, in accordance with the approved Plan.

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

12. Within two months of the first occupation of the extension and mezzanine to 138-140 Wednesbury Road as shown on the approved drawings all existing buildings and mobile classrooms with the exception of the science lab and ablution buildings shall be permanently removed from the site, including all materials arising from the demolition.

Reason: To define the permission, in the interests of visual amenity and to mitigate against the impact of potential flooding.

13. The development hereby permitted shall be constructed entirely out of the following materials as stated on the application form, as shown on the approved drawing and considered necessary in the interests of visual amenity:

- Brickwork to the ground floor that matches in size, colour and texture to that used within the existing portal framed building.
- Kingspan micro rib panel in metallic silver to the upper floors.
- Aluminium framed windows and doors finished in sargasso blue.
- Profiled composite roof cladding in goosewing grey

Reason: To ensure the satisfactory appearance of the development.

14a. Prior to the erection of the 600mm fence to the front of the extension hereby approved, details of its design shall have first been submitted for written approval of the Local Planning Authority.

14b. The approved details shall be fully implemented and retained thereafter.

Reason: In the interests of visual amenity.

15. The existing flood warning/monitoring scheme shall be retained and maintained for the life of the development hereby approved.

Reason: To reduce the risk of danger to third parties during a flood event.

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

- All ground floor windows and any accessible windows should be PAS 24:2016 doors
- CCTV system should be installed covering entrances, car parking and corridors. This should be installed to BS EN 50132-7:2012 standard.

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

17a. The approved landscaping scheme shall be fully implemented within 12 months of any part of the development being first brought into use.

17b. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

- (i) grassed areas shall be maintained and any areas that fail to establish shall be reinstated;
- (ii) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- (iii) any damage to protective fences shall be made good.

Reason: To ensure the satisfactory appearance of the development.

18. At no time during daytime school hours shall the prayer hall be available for use by adult members of the community. During these hours the prayer hall shall be for the sole use of the school.

Reason: To define the permission and to safeguard children.

19. During daytime school hours the school shall operate security measures to ensure that no unauthorised persons are able to gain access into and around the school playground and school buildings.

Reason: To safeguard children.

20. The school shall enrol no more than 270 pupils at any one time and no more than 270 pupils will be taught on site at any time.

Reason: To accord with the submitted Transport Statement and in the interests of highway safety.

21. The Playground Area shown on the approved layout drawing (2322-4G) shall not be used for any overspill parking during the main school operating hours or for any external storage.

Reason: To provide sufficient outdoor play areas and to minimise potential conflicts between pupils and vehicular traffic in the interests of the safe and satisfactory operation of the development.

22. The fencing around the forecourt of the building extension shall at no time exceed 600mm in height above footway levels.

Reason: To retain adequate pedestrian/vehicle inter-visibility at the access, in the interests of highway safety.

Notes for applicant

Highways

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

Pollution Control

CL1 - Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A1:2013 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

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

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

CL4 - The desk study and site reconnaissance shall have regard to previous unknown filled ground and materials used and processes carried on. A further detail on the matters to be addressed is available in 'Model Procedures for the Management of Contamination' (CLR 11, DEFRA/Environment Agency). The results of the desk study and reconnaissance will be used to determine the need for further site investigation and remediation.

Severn Trent Water

Advise that there are public combined sewers located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval

Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 2.

Reason for bringing to committee: Major Application

Location: LAND AT HEATHFIELD LANE WEST, DARLASTON, WEDNESBURY, WEST MIDLANDS

Proposal: PROPOSED ERECTION OF 207 DWELLINGS, ENGINEERING WORKS, LANDSCAPING, PROVISION OF OPEN SPACE AND ASSOCIATED WORKS AND RE-ROUTING OF PUBLIC RIGHT OF WAY DAR1

Application Number: 18/0072

Applicant: Countryside Properties PLC

Agent: Cerda Planning Limited

Application Type: Full Application: Major Use Class C3 (Dwellings)

Case Officer: Paul Hinton

Ward: Darlaston South

Expired Date: 30-Apr-2018

Time Extension Expiry: 18-Apr-2018

Recommendation Summary: Delegate to the Head of Planning, Engineering and Transportation to grant planning permission subject to conditions providing the coal authority objections, ecological issues, highway layout and residential amenity issues have been satisfactorily addressed, including any necessary conditions and subject to a S106 agreement to secure required contributions as informed by the conclusions of the District Valuer and to secure the provisions of an in perpetuity Management Strategy for the areas of open space



Proposal

Proposed erection of 207 dwellings, engineering works, landscaping, provision of open space and associated works and re-routing of public right of way Dar1

Site and Surroundings

This application seeks planning permission for the erection of 207 dwellings on this brownfield site on the western edge of Darlaston. Two vehicular site accesses are proposed from Stanbury Avenue that leads to a number of cul-de-sacs. There would be a mix of 2, 3 and 4 bedroom houses and some one bedroom apartments (16, apartments, 24 no. two bed, 120 no. three bed, 47 no. 4 bedroom houses). The southern part of the site is the existing Wards Pool; this would be re-profiled and would become a central feature within the development (for ecological reasons the existing fish would be removed and public access around the perimeter of the pool would be prevented). Along Stanbury Avenue and Herberts Park Road houses are proposed to provide a continuation of these residential streets. To the western boundary would be a publicly assessable habitat creation area that would also serve as a surface water attenuation pond for the new houses (there would be three permanent ponds with 600m standing water depth).

Public right of way Dar1 runs through the site and provides a connection between Darlaston and Moxley over the Walsall Canal and across the Black Country New Road. The public footpath would be re-aligned and re-surfaced as part of the proposal. The layout also provides footpath links through the site including a link to Herberts Park Road. The proposed dwellings would be between 2 and 2 and a half stories in height with a mix of terraced, semi-detached and detached properties. The proposed materials vary between the plots including light red brick, red multi brick and buff multi brick with selected plots being partially rendered or tile hung. They would have interlocking tiles in red or grey. In the main properties would face the street, with small pockets of properties accessed from private drives.

This 8 hectare site is dominated by scrub and grassland with a large factory building to the north and a large pond (Wards Pool) to the south surrounded by an area of partially remediated open land. The site is bordered by the Walsall Canal to the west. The surrounding area is composed mainly of residential and commercial areas. The site generally falls to the west towards the canal and parts of the site would need to be raised to achieve the required finished floor levels, this increase would be up to 2m in places and includes retaining walls. High voltage overhead cables cross the site along the western boundary, one pylon located close to Herberts Part Road to the north and the other sits outside of the application boundary to the west. High pressured gas main runs along the western part of the site parallel with the canal. There are a number of trees and hedges along the north and north-eastern areas and some that from the southern boundary with the former Moxley Tip.

The site is 430m from Moxley Local Centre and 800m from Darlaston District Centre (as the crow flies). Pinfold Street Primary School is 820m walking distance away, the Grace Academy is 445m walking distance away, Pinfold Street Urban Open Space is 690m walking distance away and George Rose Park (including play equipment) is 910m walking distance away. The nearest convenience shop is on the corner of Berry Avenue and Wiley

Avenue 500m walking distance away. There is limited services from the bus stop along Herberts Park Road (473m walking distance away) with regular services from the stop on Wolverhampton Street 620m walking distance away.

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

Design and Access Statement

- Opportunity to revitalise a currently vacant site and provide quality family accommodation within the locality.
- The proposed houses will be two and two and a half storeys in height and of a density commensurate with a housing scheme of this nature.
- There are a variety of housing types, tenures and sizes that will assist in creating a balanced community, minimising potential social exclusion.
- New planting through trees and local level planting will mitigate the loss of existing trees.
- The architectural palette will consist of a light red brick, red multi brick and buff multi brick with selected plots being partially rendered or tile hanging to provide further variety in the street scene. These facing materials will be further enhanced by the use of interlocking red and grey tiles.
- All dwellings have parking either on plot or close to the house.

Planning Statement

- Proposal would provide 207 new homes in a mixture of open market and private rental at a density of 38 dwellings per hectare
- Due to viability and lack of space, a children's play area is not proposed on the site.
- Majority of existing factory building is vacant, with one remaining tenant of occupying a small part of the building and he will be relocated on exchange of the land deal.
- Mix of accommodation for first time buyers, those wishing to down-size or families.
- Proposal will result in the removal of a large vacant site which is considered by local residents to be an eye-sore. It will also remove opportunities for fly-tipping and anti-social behaviour.
- The retention and management of the SINC and Wards Pool on the site and enhancement to the open space on the land adjoin the canal will be beneficial for wildlife.
- Mix of 47.5% open market and 52.6% private rented properties.
- A Viability appraisal is provided stating that the scheme is not viable to provide affordable housing but the applicant proposes to provide a contribution of £200,000.00 towards the provision of off-site affordable housing within the ward.

Transport Assessment

- Surrounding residential roads are subject to 20mph speed limit and road hump traffic calming.
- No strong evidence of specific local accident problems that might be related to traffic conditions or road geometry.
- Layout would provide for penetration of the site by bus services if required in the future.
- The road layout provides good pedestrian connectivity and a choice of routes to and from existing transport corridor and amenities.
- Located within a reasonable walking distance of local bus services (nearest bus stop on Park Road is 450m away) and further bus stops within 10 minute walk.

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- Site lies within comfortable walking distance of various local amenities and employment opportunities with local shops, medical centre, primary and senior school within ten minute walk.
- Darlaston Town Centre is within 25 minute walk.
- Development estimated to generate 941 additional vehicle movements (both arrivals and departures) per day.
- AM peak additional 28 arrivals and 80 departures, PM peak 69 arrivals and 33 departures.
- The Wolverhampton Street/Forge Road, Wolverhampton Street/Heathfield Lane, Wolverhampton Street/Park Street junctions would operate well within capacity; the proposed development would have a negligible impact on junction performance.
- Modest increases in queues and delays are forecast at the Moxley Road/Wolverhampton Street junction and not considered to represent a severe cumulative impact.
- Impact can be mitigated against through use of a Travel Plan.

Transport Assessment Addendum (March 2018)

- Proposed development is considered to be in an accessible location with good access to existing public transport services that would reduce the need for residents to travel by car.
- Scheme provides 375 on-plot parking spaces, plus a further 40 garages, giving a total of 415 spaces for 207 houses.
- The neighbourhood area (based on 2011 Census data) has an average ownership level of 0.88 cars per household.
- Local growth factors for the end of the current plan period (2026) suggests this would grow to 0.99 cars per household in this neighbourhood.
- DCLG Residential Car Parking Research (2008) document would be based on car ownership, number of habitable rooms and number of allocated parking spaces calculate total demand of 455 spaces – in this case 40 unallocated spaces.
- The modest level of unallocated spaces could be accommodated on-street without compromising safe movements by vehicles, pedestrians and cycles, particularly as this would be spread out and not at the same time.

Travel Guide

- To be given to occupiers:
 - Maps location of local amenities
 - Encouragement of walking and cycling
 - Sets out bus routes, charges and location of nearest bus stops.
 - Sets out details of the Midland Metro
 - Explains car sharing opportunities.

Ecological Appraisal

- Proposed development footprint includes approximately 1.01ha of the SINC boundary, this will be offset by delivering and approximately 1.05ha 'Habitat Creation Area'; resulting in a 0.04ha net gain of ecologically diverse habitat. Wards Pool will also be brought under an ecologically positive management regime as a result of the proposals.
- The buildings and hardstanding are considered to be of negligible ecological value.

- The grassland habitats, scrub and the northern pond are generally of low ecological value.
- The proposed loss of grassland, scrub and tree planting are of minor ecological value and will be offset by new landscaping planting, incorporating native species
- The mature trees and southern pond would largely be retained under the proposals and will be protected during construction.
- Site generally offers limited opportunities for protected species and no evidence of any such species was recorded during the survey work.
- Likely that birds nest within suitable habitat in the site and mitigation measures centred on careful timing of works will be implemented to safeguard nesting birds.
- Habitats within Wards Pool SINC had been subject to considerable levels of human disturbance through littering and dumping of waste within the pond habitats.
- The area of SINC affected by the works represents 36.5% of the designation as a whole with affected habitats largely comprising of bare/disturbed ground, species-poor grassland and scattered scrub which are of low ecological value.
- In order to mitigate the reduction in size of habitats within the SINC designation and removal of vegetated habitats of low ecological importance from within this non-statutory designation, a new Habitat Creation Area will be delivered in the west of the site.
- Subject to the proposed mitigation, compensation and enhancement measures, the wider ecological network will not be compromised but strengthened in several key respects, through new native species planting, pond creation, and providing net gains in bat roosting and bird nesting opportunities.
- The habitats within the site support or have some minor potential to support small numbers of protected species. A number of precautionary safeguarding and mitigation measures have been proposed to minimise the risk of harm to fauna including protected species with compensatory measures proposed.

Ecological Addendum (March 2018)

- Identifies presence of an excavated Outlier/Subsidiary badge sett within the site. Survey works to establish the precise status of the set is currently ongoing but it will be the intention that a mitigation licence will be sought from Natural England to close the sett in advance of works commencing.
- With regards to Black Redstart the extent of potentially suitable foraging habitat within the site is considered to be limited and there is a lack of suitable nesting opportunities means they are unlikely to be present at the site.

Flood Risk Assessment

- Development is not at significant flood risk, subject to recommended flood mitigation strategies being implemented.
- Runoff from the development is accommodated in a surface water attenuation basin.
- Development will not increase flood risk to the wider catchment areas as a result of surface water management.

Preliminary Geo-Environmental Assessment

- Part of the land has already been remediated.
- Elevated levels of heavy metals and polyaromatic hydrocarbons have been identified.
- One mineshaft within the site that would require treatment.
- Made ground is present below the majority of the site.

- Ground gas has been identified.
- Not recommended to use soakaways.
- On site levels are likely to require raising.

Phase II Geo-Environmental Site Assessment

- 600mm of clean cover will be required in all private gardens to mitigate pollutant linkage.
- Hotspot delineation and excavation is required within certain identified areas.
- Low risk to controlled waters.
- Localised areas will require ground gas protection measures.
- In one part of the site delineation and remediation will be required to address existing methane gas from the site.
- Evidence of extensive coal mining in the southwest of the site and a mine shaft to the north.
- Proof drill and potential grouting might be required to areas of historical working.
- Due to made ground vibro stone columns and doubly re-enforced strip foundation would be required. Where made ground more than 6m deep, raft foundation is required.

Coal Mining Assessment – Mine Shaft report (April 2018)

- Probing confirmed position of mine shaft which is 2-3m wide.
- Mine shaft will need to be grouted.
- No build zone of 11.6m required.
- Eight plots will require piled foundations.

Remediation and Enabling Works Strategy

- Controlled removal of trees and vegetation.
- Removal and treatments of invasive plant species.
- Delineation and removal of hydrocarbon impacted soil.
- Removal of gas source within BH3.
- Excavation and processing of Made Ground in a controlled manner.
- Importation of suitable materials to achieve required development levels.
- Installation of post remediation gas monitoring wells.
- Provision of 600mm clean cover to garden areas.
- 300mm clean cover to areas of Public Open Space and soft landscaping.
- Provision of relevant ground gas protection measures.

Air Quality Assessment

- Potential impact of dust emissions associated with the construction phase as 'medium', however site specific mitigation measures would mean these would not be significant.
- Recommends one electric vehicle charging point per house with dedicated parking.
- Effects of traffic flow as a result of the development on existing and proposed receptors is determined to be imperceptible. The significance is determined to be negligible.

Noise Assessment

- The proposed development is not expected to have an adverse impact on health or quality of life.

- Acoustic glazing and mechanical ventilation is required to habitable rooms of properties exposed to noise levels from the A444 to the west of the site.
- Some gardens to the north and south of the site will require 2.4m high solid timber fence of brick boundaries.

Arboricultural Impact Assessment

- No trees present which are worthy of individual distinction, no veteran trees or areas of designated ancient woodland.
- Proposed redevelopment necessitates the clearance of the majority of the site's vegetation and a single category B group of trees is unavoidable to provide a viable scheme.

Arboricultural Method Statement

- Sets out methods of working to protect retained trees

Urban Open Space Statement

- 9733sqm of designated SINC would be lost, with 9738sqm of proposed Public Open Space to be improved to SINC standard.
- The proposal presents an opportunity to increase the quality, accessibility and inclusiveness of the urban open space.
- The proposal will result in a net loss of urban open spaces including a small part of the SINC, however the proposal will ensure the sites longevity bringing with it a variety of improvements for the open space which will result in the area being accessible to the whole community.
- A management plan will be put in place in order to monitor and maintain the natural features within the site, this will include appropriate signage as well as safety features.
- A total of £123,040.00 would be spent on the clearance and releveling of the Public Open Space, landscaping to Wards Pool and POS, railing around Wards Pool and Health and Safety signage included life aids.
- While the Council's Urban Open Space SPD seeks a contribution of in the region of £400,000.00, it is evident that numerous benefits delivered offset this requirement. In addition seeking any contributions would render the scheme unviable.

RoSPA Water Safety Review

- Overall medium risk level from the existing pond, new SUDs pond and the Walsall Canal.
- Existing Wards Pool is proposed to have its slopes lessened to 1 in 3 maximum.
- Slopes should ideally be 1 in 3 for at least 3m above and below the water line
- Debris within the existing pool e.g. tyres, mattress springs etc should be removed.
- Provide temporary ice warning signs during cold spells.
- No swimming sign should be provided.
- Provide two life rings at the existing pool.
- A 3-bar 1100mm high timber post and rail fences should be provided.
- Residents should be informed of the nature and depth of the pool, basin and permanent bond through a welcome pack

Statement of Community Involvement

- Two consultation events have been undertaken.

- Most people are pleased that finally the site is being brought forward and will be put to good use and expressed approval that the site would be developed due to anti-social behaviour on the site.
- Residents and Councillor were pleased to see a wide range of house types.
- Residents commented the development would boost the community and be a positive statement for Darlaston.
- Main concerns were about impact on road network, no bus stops are proposed and that the public right of way would be removed.

Energy Statement

- Building designed to achieve high level of energy efficiency.
- Including A rated appliances and boilers, energy efficient lighting, limited water consumption and reduced site materials and energy waste through off-site timber frame construction and prefabricated components.
- A number of properties are site and designed to maximise solar gain.

Archaeological desk-based Assessment

- No designated heritage assets within the site.
- Negligible potential for the site to contain archaeological remains, though the extensive extraction and industrial activity will have destroyed any sub-surface archaeological features that may have been present.

Employment and Skills Plan Agreement

- Sets out key benchmarks for work placements, school engagement, graduates, apprenticeships and local job creation.

Construction Environmental Management Plan (April update)

- Developers have signed up to the Considerate Constructors Scheme.
- All plant to be fitted with effective silencers
- Regular road sweeps, damping down surfaces and materials during cutting operations.
- Site notices to be erected and residents letter drop to take place 3 weeks before the start of work.
- One way on-site construction traffic to be implemented.
- Contractor parking to remain on site until space becomes a premium at the end of the project.
- Wheel washing facilities will be available.
- Bunded storage area will be used within the compound to mitigate any chemical spills.
- Monitoring for asbestos while building is demolished.
- Vibration monitor will be setup and levels adhered to.

Management Strategy

- The developer will form a Residents Management Company (RMC) that all purchasers will become a member of. Bigwood Chartered Surveyors are appointed to act on behalf of the RMC.
- The RMC will have liability in perpetuity to maintain the SUDs, Wards Pool and open space areas. Each residents will be required to sign a Deed of Covenant legally binding them to the covenants within their Transfer documentation.

- The maintenance strategy sets out what items and their frequency of maintenance, e.g. litter and debris removal takes place once a month.
- Fencing around Wards pool, lifebuoys and signage will be inspected for damage each month and repairs where necessary.

Relevant Planning History

BCW661 OUTLINE: Residential Development Grant Subject to Conditions 23rd March 1998

07/2465/FL/W2 - Demolition of existing building and erection of 321 houses and apartments, revised access, amenity areas, parking and associated works. Refused 30/1/08.

08/0394/FL - Demolition of existing buildings and erection of 304 houses and apartments, revised access, amenity areas, parking and associated works. (Resubmission of 07/2465/FL/W2). GSC 23/10/08

10/1253/FL- Rewording of conditions attached to planning permission 08/0394/FL to allow commencement of construction of roads to southern part of site. 3/12/10.

10/1614/DOC - Request for discharge of planning conditions 3, 4, 6, 9, 11, 11A, 13, 15, 16 & 25 of 08/0394/FL

11/1279/COC - Request for confirmation of discharge of condition 1 of 08/0394/FL. Confirmed 26/10/11

11/1547/MA - Non Material Amendment to landscape proposals and balancing pond in relation to residential development approved under planning reference 08/0394/FL includes Demolition of existing buildings and erection of 304 houses and apartments, revised access, amenity areas, parking and associated works. (Resubmission of 07/2465/FL/W2). 9/1/12

16/0117 - Screening Opinion as to whether an Environmental Statement is required for the development of 225 dwellings. Not EIA development 16/2/16.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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

- Proactively drive and support sustainable economic development to deliver the homes, businesses and industrial units, infrastructure and thriving local places the country needs.
- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

Key provisions of the NPPF relevant in this case:

- **NPPF 1 - Building a strong, competitive economy**
- **NPPF 4 - Promoting sustainable transport**
- **NPPF 6 - Delivering a wide choice of high quality homes**
- **NPPF 7 - Requiring good design**
- **NPPF 8 - Promoting healthy communities**
- **NPPF 10 - meeting the challenge of climate change, flooding and coastal change**
- **NPPF 11 - Conserving and enhancing the natural environment**
- **NPPF 12 - Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP1: The Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- HOU5: Education and Health Care Facilities
- EMP1: Providing for Economic Growth
- EMP4: Maintaining a Supply of Readily Available Employment Land
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN3: The Efficient Movement of Freight
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM5: Resource Management and New Development

Saved Unitary Development Plan policies

- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- 3.6 and 3.7: Environmental Improvement
- ENV10: Pollution
- ENV11: Light Pollution
- ENV12: Hazardous Installations
- ENV13: Development Near Power Lines, Substations and Transformers
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development

- ENV24: Wildlife Corridors
- ENV25: Archaeology
- ENV26: Industrial Archaeology
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV34: Public Art
- ENV40: Conservation, Protection and Use of Water Resources
- JP7: Use of Land and Buildings in Other Employment Areas
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- H4: Affordable Housing
- T1: Helping People to Get Around
- T6: Traffic Calming
- T7: Car Parking
- T8: Walking
- T9: Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces
- LC3: Children's Play Areas
- 8.7: Education, Health and Community Facilities.

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

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

- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

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

Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above (this standard will be applied more robustly at the rear than across roads at the front), 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing.

Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

Affordable Housing

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

Air Quality SPD

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

Emerging Policy

The Site Allocations Document (SAD) has been subject to its Examination in Public and is currently out to consultations on the main modifications which include this site. The emerging policy seeks to allocate part of the site as housing site HO303 with a housing capacity of 188 by assuming no development on the SINC area. The SAD sets out the view that the previous planning permission for the site has lapsed.

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations)

The proposal was screened in 2016 as an EIA development. As part of this application the 2017 EIA regs have been reviewed and it is concluded that the proposal remains not to be an EIA development.

Consultation Replies

Planning Policy – unless Ecology confirm otherwise, application should be amended to avoid residential development of the SINC area. Application boundary should be enlarged to include the whole of the SINC, should be set back from boundary with any industrial development of Moxley Tip.

Transportation – no objection subject to the use of recommended conditions in regard to engineering details, surfacing, visibility splays and Residential Travel Plan.

Public Rights of Way – no objection subject to a stopping-up/diversion order being approved and details of precise engineering details of the public right of way and footpath links and details of motorcycle barriers.

Highways England – no objection.

Environment Agency – no objection subject to use of recommended condition in regard to any additional contaminated material being identified.

Canal and Rivers Trust – no objection subject to use of recommended conditions in regard to drainage, construction management plan and boundary treatment. Would like to comment on the Ecological assessment and seeks a financial contribution towards the tow path.

Coal Authority – objects. No justification has been provided as to why the layout cannot be revised to avoid the zone of influence around the mine entry.

Pollution Control – no objection subject to use of recommended conditions to ensure the Construction Environmental Management Plan is implemented, asbestos is removed prior to demolition, contamination is remediated, ground gas ingress protection measures are implemented, noise mitigation measures are incorporated to dwellings and gardens and compliance with the Air Quality Supplementary Planning Document.

Ecology – report is considered fit for the purpose of supporting the current application, however some additional information is required to ensure all impacts can be understood, and in order for the effectiveness of mitigation, compensation and enhancement measures

to be evaluated. An addendum report has been received and is currently being considered.

Wildlife Trust (Ecology) – objects. Does not demonstrate adequate assessment of the impacts.

Wildlife Trust (Geodiversity) – Members of the Black Country UNESCO Geopark management team would like the opportunity to access the site prior to and during subsequent development to record any remaining exposed natural outcrop which might be exposed during site works.

Severn Trent Water – no objection subject to implementation of submitted drainage scheme.

Police Crime Prevention Design Advisor – supports the application. Seeks use of financial contributions towards improving the appearance of the canal and canal infrastructure and perimeter to the site.

Community Safety – how can we reduce fly-tipping onto the site?

Health and Safety Executive – no objection.

Sport England – does not fall within their remit to require a detailed response.

Network Rail – no objection.

Local Access Forum – suggests extending the path around the pool.

Cadent Gas – requires set separation distances from the two gas pipe lines.

Historic England – no objection.

Housing Strategy – 25% affordable housing as mix of shared ownership and social rent.

Archaeology and Historic Environment – no archaeological implications.

Natural England – standing advice.

National Grid –no objection.

Western Power – no objection, but applicant to be aware of apparatus in the area and to make contact.

West Midlands Fire Services – suitable water supplies should be provided. Shall be subject to consultation with WMFS once a Water Scheme plan has been provided.

Lead Local Flood Authority – no objection subject to use of recommended condition in regard to implementing the measures contained within the Flood Risk Assessment.

Waste Management – no comments received.

Housing Standards – no comments received.

Clean and Green – no comments received.

Education Walsall – notes there are pressures on existing capacity, but raise no objection.

NHS – no comments received.

Public Health – no comments received.

Tree Officer – no comments received.

Environmental Health – no comments received.

Where no comments have been received which is the case in the above, the NPPG confirms; *'consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice'*.

Representations

Surrounding occupiers and ward members notified by letter, site notices displayed and advertised in local press.

One letter has been received objecting to the application on the following grounds:

- Already a substantial amount of cars/traffic in the surrounding area, adding 2 roads so close together is not the option.

One letter has been received raising questions about the details of the proposal.

Following re-consultation on amended plans the same objector has written again objecting on the grounds of traffic and capacity of existing schools.

Determining Issues

- Extant planning permission
- Principle of development
- Ecology, Trees and Urban Open Space
- Ground conditions
- Drainage and flood risk
- Impact upon the character and appearance of the area
- Impact upon residential amenities
- Highway Safety
- Planning obligations

Assessment of the Proposal

Extant planning permission

In 2008 planning permission was granted subject to conditions for the erection of 304 houses and apartments at the site. In 2010 approval was given to amending the planning conditions to allow commencement of development. In October 2011 the Council approved a confirmation of condition application that works had commenced on site in accordance with the time limit of the planning permission. At that time, a site visit evidenced the commencement of works through the raising of ground levels within the south-eastern part of the site and setting out of an access road.

Since this time the site has naturally vegetated over and to anyone visiting the site today, it would appear that engineering operations had not taken place in preparation of building a new housing estate. Reviewing relevant case law on this matter; *High Peak Borough Council v Secretary of State for the Environment and Courtdale Developments [1980]* established that the digging of a trench was held sufficient to keep a permission alive even though there was no intention to proceed with the whole development immediately. A later judgement in *Riordan Communications Ltd v South Bucks District Council [1999]*, confirms a lack of intention to complete a development is not part of the test as to whether "material operations" have taken place. The Council's Legal Services have confirmed, there is no other current case law that contradicts this approach.

The Council confirmed material operations took place in 2011, the subsequent natural re-vegetation of the site, does not remove the lawful commencement of planning permission 08/0394/FL. Once planning permission has been lawfully commenced, there is no time limit for further works to take place. Accordingly, the site retains the original planning permission and this is an option to the developer to implement (subject to discharging the remaining phased planning conditions).

The 2008 planning permission approved 304 dwellings, ranging from 1 and 2 bed apartments to 4 bedroom family homes. The footprint of the approved built form is similar to that currently proposed with Wards Pools retained to the south, a proposed open space area to the west and two vehicle accesses from Stanbury Avenue. The 2008 planning permission included development on part of the SINC.

This extant permission is therefore a material consideration of the assessment of the current planning application.

Principle of development

The site has no allocation in the adopted development plan. Much of the southern part of the site was designated as a Site of Importance for Nature Conservation (SINC) in the mid-2000 *due to the diverse invertebrate communities of the pond habitats*. The application proposes the development of houses on part of the SINC (approximately 24 houses).

Part of the site is an existing factory building and associated hardstanding. The NPPF states that Planning Policies should avoid the long term protection of sites in employment use where there is no reasonable prospect of the site being used for that purpose. BCCS policy DEL2 states; before releasing employment land the Council must ensure the retention of an adequate supply of available employment land. The Employment Land

Review considers employment land provision across the borough and does not consider the existing factory and associated land as part of its employment supply. A new industrial development on the site would be constrained by surrounding residential uses and residential streets, limiting the scope of acceptable industrial uses to meet the needs of modern industry. The proposal meets the exceptions tests of saved UDP policy JP7. Retention of industrial use is unlikely to be acceptable in this location due to the constrained modern commercial vehicle access requirements to the site.

The site is within a sustainable location with walking distance of schools, local amenities and bus stops. The NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed and housing applications should be considered in the context of the presumption in favour of sustainable development. Walsall's emerging Site Allocation Document (SAD) proposes to allocate the site for housing under policy HC1 (site HO303). The SAD has not yet completed its examination: the wording of the policy in relation to the SINC has been subject to modification during the course of the examination. As such, the emerging policy in respect of this site carries no weight and until adoption the application will be determined against the extant policies.

The post-examination modifications are currently the subject of consultation that shows the site to have a housing capacity of 188 dwellings by assuming no development on the SINC area. While this has no weight in policy terms, the issues it raises should still be considered in the determination of the current application. Planning Policy consider the current scheme would appear to be premature pending the outcome of the SAD examination.

Planning Policy support the principle of housing development on the area excluding the SINC noting this is one of the largest potential housing sites on previously developed land in Walsall that would make significant provision to meeting the housing need of the area.

There is an existing pool outside of the western side of the application site and the canal. This is in separate ownership, although part of the SINC. Planning Policy seek that this is included within the site to secure satisfactory management in the future and avoid it becoming a nuisance to future residents. The applicants recognise the benefit to the overall scheme by having this within the application site and have approached the owner without success. Therefore, the application boundary must be considered as submitted.

BCCS policy ENV1 states that development is not permitted where it would harm regionally designated nature conservation sites, which includes SINC's. It goes on to say that exceptionally where the strategic benefits of a development clearly outweigh the importance of a local nature conservation site, damage must be minimised and any reduction in area must be fully mitigated against. Compensation will only be accepted in exceptional circumstances.

In mitigation for the loss of part of the SINC a Habitat Enhancement Area is proposed to the north-western part of the site. An ecological assessment has been undertaken and is considered in detail below.

Weight is also given to the extant planning permission, where planning permission for development within the SINC has previously been approved and remains capable of being developed.

The NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed, providing it is not of high environmental value. It goes on to say that decisions should aim to optimise the potential of the site. It also says that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats.

Should the strategic benefits of the development outweigh the importance of the SINC and exceptional circumstances for compensation are demonstrated (to be discussed below) then the principle of 207 houses on a brownfield site within an existing sustainable residential area would be acceptable.

Ecology and Trees

Whilst the development results in the loss of part of the SINC, the application addresses by providing in compensation a Habitat Creation Area to the north-western part of the site beneath the electricity cables. The policy test is whether there are exceptional strategic benefits of the development that clearly outweigh the importance of a local nature conservation site and whether there are exceptional circumstances for compensation.

The first consideration is the importance of the existing nature conservation value. An Ecological Appraisal has been undertaken which has found that habitats within Wards Pool SINC have been subject to considerable levels of human disturbance through littering and dumping of waste within the pond habitats. The area of SINC affected by the works represents 36.5% of the designation as a whole with affected habitats largely comprising of bare/disturbed ground, species-poor grassland and scattered scrub, which are of low ecological value. There has been a lack of positive management and ongoing antisocial activity. Habitats within Wards Pool appear to have been subject to a downward trend of ecological deterioration.

The SINC was allocated due to the diverse invertebrate communities of the pond habitats. The application would retain the pool and a buffer of approximately 6m around the pool. The proposal removes the fish from the pool to enhance the ecological value, with additional native planting around the periphery. Public access would be prevented by use of a 1.1m high metal railings to ensure diverse invertebrates can flourish.

Whilst the report identifies the existing ecological value of the land as species poor, it may be due to site management and investment, rather than development for housing, which may be a catalyst for bringing the land back to a condition worthy of the SINC allocation. Weight is given to planning permission being previously approved for the development of this part of the SINC, a permission as discussed above, that is still capable of being built.

The proposed development footprint includes approximately 1.01ha of the SINC boundary, this will be offset by delivering approximately 1.05ha 'Habitat Creation Area; resulting in a 0.04ha net gain of ecologically diverse habitat. Wards Pool will also be brought under an ecologically positive management regime as a result of the proposals. The report anticipates that the Habitat Creation Area will provide high enough ecological and amenity value. Once it is established it will ultimately qualify as an extension to the retained Wards Pool SINC designation. This area would be used as a water surface attention pond and would have paths around the perimeter. The applicant explains that aftercare and long-term conservation management will be put in place, to encourage the ecological interest of

the Habitat Creation Area. This would form part of management e.g. mowing, leaf and litter collections, tending to green corridors, maintenance of attenuation tanks and storm cell storage areas. This plan would be subject to a S106 agreement to ensure maintenance in perpetuity.

The ecological report has considered other areas of the site noting that the buildings and hardstanding are of negligible ecological value. The proposed loss of grassland, scrub and tree planting are of minor ecological value and will be offset by new landscaping planting, incorporating native species. The site generally offers limited opportunities for protected species and recommends a number of precautionary safeguarding and mitigation measures.

Subject to the proposed mitigation, compensation and enhancement measures, the wider ecological network will be strengthened in several key respects, through new native species planting, pond creation, and providing net gains in bat roosting and bird nesting opportunities. The proposals present the opportunity to secure a number of benefits for biodiversity, including positive management of retained habitats, additional native tree planting, improved roosting opportunities for bats and nesting habitats for birds.

The development would include the clearance of litter and pollutant materials and removal and treatment of identified Japanese Knotweed, Canadian Waterweed and Nuttall's Waterweed. Within the retained Wards Pool and Habitat Creation Area the following would be provided:

- Tree and Thicket Planting
- Seasonally Wet Grassland
- Wildflower Grassland
- Fish Removal (presence of fish species are detrimental to its ecological value)
- Litter Picking
- Invasive Species removal
- Bat boxes
- Garden fence cut-outs for hedgehogs
- Hedgehog domes
- Bird boxes
- Habitat piles

The Wildlife Trust objects to the application due to the significant negative impacts anticipated from the proposal on Ward's Pool Site of Importance to Nature Conservation (SINC). They consider that the current application does not demonstrate that adequate assessment of the impacts has been undertaken, that sufficient compensation has been proposed for the anticipated habitat loss, nor that the development will result in a long-term improvement in the management of the site or compensation area for nature conservation. The Wildlife Trust consider the habitat creation area should either be significantly larger or of significantly higher biodiversity value than the existing habitat to compensate for the impacts on wildlife populations resulting from initial habitat loss. They also consider that both the bat and great crested newt surveys require updating.. They do, however, welcome the location of the proposed 'habitat creation area'.

The Council's consultant Ecologist is of the opinion that the development would not harm the ecological interest of the habitats present within the SINC. With the exception of the water quality within Wards Pool itself, the habitats within the boundary that are due to be cleared are currently considered to be of low ecological value as they are common in the wider area and currently suffer high levels of public disturbance. This loss of these habitats would in the main be temporary during construction and result in a short-term adverse effect on the SINC and biodiversity within the development site. The amount of open water habitat due to be lost in the long-term as a result of the re-profiling works within Wards Pool is anticipated to be insignificant. It is considered that the Habitat Creation Area (equal in size to the area due to be lost) and Ward's Pool SINC Enhancements implemented as part of the development, would be sufficient to mitigate for the loss of these habitats and the potential for any effect on water quality, and as such are likely to result in a positive effect on the integrity of the SINC in the medium to long-term. An Ecological Management Plan setting out precise details would be required and can be secured through condition.

The Ecologist considers the surveys for bats and great crested newts demonstrate there is no current evidence of these protected species on site. They have requested further clarification on some points within the report in order for the effectiveness of mitigation, compensation and enhancement measures can be evaluated. These are currently being considered and will be updated. In addition a badger sett has been identified on site and the implications of this will be reported.

The site include a number of unmanaged trees, none of which are subject to Tree Preservation Orders. The proposed redevelopment necessitates the clearance of the majority of the site's vegetation and a single category B group of trees, which is unavoidable to provide a viable scheme. The layout provides opportunities for high quality native planting that would provide an opportunity for the introduction of better quality specimens that would outweigh the loss of the existing trees.

The southern boundary with the former Moxley tip, there is a notable hedge. This hedge has been assessed as being of below average to average condition. It is proposed to be removed to maximise the development potential of the site. There are trees along this boundary that are worthy of retention but outside of the application site, they will be subject to tree protection measures during construction.

The Walsall Canal is adjacent to the site. The Canal and Rivers Trust raise no objection to the application subject to use of recommended conditions in regard to drainage, construction management plan and boundary treatment. At their request the Trust has been sent a copy of the Ecological assessment but have made no further comments.

The Wildlife Trust also explain that the site is within the Moxley Channel Geological Consideration Zone GCZ11. Geological Consideration Zones are areas of potential geological significance where development may bring to light features which would otherwise be hidden. Sometimes features may be exposed which can be incorporated into landscaping/nature conservation restoration plans. At the very least features may be temporarily exposed providing opportunities for recording. Practically all the site is either worked or made ground but the Wildlife Trust advice there is a distinct possibility that some important natural drift material still survives. Members of the Black Country UNESCO Geopark management team would like the opportunity to access the site prior to and during subsequent development to record any remaining exposed natural outcrop

which might be exposed during site works. As the site works provide an opportunity to capture any potential drift exposure a condition ensuring access can be provided to the Geopark management team is recommended.

Ground conditions

The original site investigation report has identified one mine shaft within the site and a further report sets no build zones (which excludes the proposed houses) and that eight plots will need piled foundations. The Coal Authority objected to the original removed and have considered the additional report and maintain an objection. They are disappointed that no revisions to the layout have been made, in light of the findings, and that no justification has been provided as to why the layout cannot be revised to avoid the zone of influence around the mine entry. The Coal Authority has concerns not only for the dwellings proposed within this area but also for the safety and stability of the plots as a whole. We would therefore welcome commentary as to why revisions to the scheme have not been made, and if this is the case and the layout remains unchanged, confirmation of how the plots as a whole, including driveways / hardsurfaced and garden areas, will be remediated in order to ensure that should this mine entry collapse, the development, as a whole, will be safe and stable.

It is recommended that the decision be delegated to enable further discussions between the applicant and the Coal Authority to take place. Following those discussions should the Coal Authority maintain an objection then the application would need to be recommended for refusal.

Part of the land has already been remediated but made ground is present below the majority of the site and ground gas has been identified. The site investigations recommend 600mm of clean cover will be required in all private gardens to mitigate pollutant linkage and localised areas will require ground gas protection measures.

Pollution Control have considered the reports submitted with the application. In regard to demolition, it is noted the presence of asbestos within the existing building. Confirmation that all asbestos has been removed before the building has been demolished is required.

The ground conditions report identifies part of the site is still contaminated and requiring remedial action to ensure it is suitable for residential development. Additional investigation works are required following demolition and clearance of the existing building. Parts of the site have been remediated but the relevant reports confirming this have not been provided at this time. Accordingly further investigation work is required which can be secured by condition. Due to the relationship with the former Moxley Tip a gas vent trench is recommended and details are required. Therefore in regard to ground condition further reports are required and any remediation will need to be agreed.

Regarding noise, Pollution Control agree with the findings of the noise report, recommending acoustic glazing, mechanical ventilation and a solid boundary to some of the gardens. Full technical details are required by condition.

Regarding Air Quality, the Air Quality Assessment identifies that future occupants will not be significantly affected by poor Air Quality and future residents will not significantly increase the current background Air Quality levels. To mitigate against the increase in potential air quality impacts from the increased vehicles associated with the development

and in accordance with the Air Quality SPD, will be necessary for electric vehicle charging points to be installed.

Regarding working practices, control over working times, air and dust monitoring and vibration mitigation measures are necessary and can be controlled by condition.

Drainage and flood risk

The site is located within Flood Zones 1 and 2 due to the Darlaston Brook. A Flood Risk Assessment has been submitted that explains the development area is elevated above the 1 in 1000 year floodplain. Accordingly the development is not at significant flood risk from the Darlaston Brook.

A surface water drainage strategy has been developed using an attenuation basin with storage capacity from runoff to include a 100 year climate storm event plus 40% allowance for climate change. Due to this the development will not increase flood risk to the wider catchment areas. Neither the Environment Agency nor the Flood Risk Officer raise any objections to the application. With the later recommending a condition that ensure implementation of the recommendations of the FRA.

Severn Trent Water agree to the proposed drainage scheme.

Accordingly the proposal is considered not to be susceptible to or give rise to flooding issues and sufficient means of drainage can be provided.

Impact upon the character and appearance of the area

The area is characterised by two storey terraced and semi-detached houses finished either in render or facing brick all fronting the street. The application presents the opportunity to redevelop a brownfield site on the edge of a residential area. BCCS Policy HOU2 requires all developments to achieve a minimum net density of 35 dwellings per hectare. In this case the development would have a density of 38 dwellings per hectare which reflects the character of the area. The existing urban grain is defined by houses fronting the street with established building lines and gardens to the rear, which is largely followed within the proposed layout. The proposal takes the opportunity to continue the existing streetscene along Stanbury Avenue and Herberts Park Road. The proposals promote a mix of both wide and narrow frontage plan forms providing variety. There are a mix of house types that are distributed evenly across the site, with continuous building lines and dual aspect units to provide definition of the public realm. There is a mixed pallet of facing materials, with red, multi and buff bricks, some tile hung and some white rendered properties. The proposed roof tiles vary between slate colour, grey, Tuscan and rustic. Some of the houses are 2.5 storeys in height which add to the variety.

The application also includes an indicative landscape master plan that introduces a number of trees, shrubs and hedges around the site.

The proposal would have a positive impact upon the character and appearance of the area. The design approach would result in a visually attractive development that responds to the local character. A detailed landscape plan is required by condition.

Impact upon residential amenities

There is evidence that the existing site has suffered from anti-social behaviour with a burnt-out car, litter and graffiti. Community Safety explain that the turning head at the end of Herberts Park Road has also suffered from tipping. A number of the problems could be attributed to the isolated nature of the existing site. The proposed development has been designed to maximise natural surveillance of Wards Pool and the habitat creation area. The re-routed public footpath has good surveillance and is generally straight. Bollards are proposed around the habitat creation area to deter unauthorised vehicle access. The Police Crime Prevention Design Advisor supports the application. Community Safety asked how the development can reduce fly-tipping onto the site. The additional level of natural surveillance would assist. To the exposed boundaries with the former Molxey Tip and open space to the west rear gardens are secured by boundary fencing and additional trellising on top, meeting Secure by Design recommendations.

Running along the west of the site are two pylons, one of which is within the site boundary. The application has been designed to ensure the houses are 25m away from these power lines, the safety requirement of National Grid. The extant planning permission permitted 16m distance. Whilst it is recognised visually the outlook of the immediate houses to the electric lines is constrained, the lines are above the height of the houses and would be next to the habitat creation area and the canal that would provide visual amenity benefits.

Also to the west of the site are two high pressured gas mains. Cadent Gas requires habitable buildings to be away from these pipes and their easements. The layout achieves these distances.

Wards Pool is proposed to be fenced off and public access would be prevented for both ecological and safety reasons. Two lifebuoys and safety signage are proposed. These safety features would be a requirement in perpetuity and would be part of the management scheme for the site and planning conditions. A safety audit has been submitted with the application recommending 1 in 3 slopes and clearing the pool of debris. The applicants also confirm they will be providing a leaflet to new residents highlighting the potential dangers of the waterbody and would agree to this being a conditional requirement.

The nearest house would be 100m from the Black Country New Road (A4444). The noise assessment explains that acoustic glazing and mechanical ventilation is required to habitable rooms of properties exposed to noise levels from the A444 to the west of the site. In addition some gardens to the north and south of the site will require 2.4m high solid timber fence of brick boundaries. Subject to these mitigation measures which can be secured by condition, the potential occupiers would be sufficiently safeguarded from road noise.

57 of the properties fail to provide the 68sqm rear garden area and/or 12m length as sought by Designing Walsall SPD. Given the proximity of the properties to Wards Pool, the Habitat Creation Area and the Walsall Canal, it is considered the amenity value of the reduced rear gardens are outweighed by the accessibility of other areas of open space. In terms of separation distance between habitable room windows of the proposed dwellings this varies between 18.5m and 25m. Designing Walsall SPD seeks 24m. As these are new properties occupiers would be moving into this existing relationship so there would be no loss of amenity. To achieve full separation, due to the constraints of the site, there would need to be a reduction in the amount of proposed homes. The NPPF attaches weight to

the most efficient use of previously developed land. Achieving full 24m separation would not be practicable and to maximise the optimal development of the site a lesser separation would need to be accepted. Due to the orientation, layout and boundary treatment it is considered, on balance, an acceptable level of outlook and privacy would be provided for potential occupiers.

Due to these separation distances and in the interests of residential amenity, it is considered necessary to remove permitted development rights for future extensions.

Regarding the relationship with existing neighbours, the proposed houses along Stanbury Avenue would have a 20m separation across the road from the existing houses which would not cause a material loss of amenity. Between no. 85 Stanbury Avenue and plot 1 would be 8m separation from the side of the existing house. Between no. 50 Stanbury Avenue and plot 168 would also be 8m from the side of this house. Due to the depth and orientation there would be no loss of light, outlook or privacy to these houses. To the rear of nos. 85-91 Stanbury Avenue the rear of the proposed houses would be 30m away. The eight houses proposed along Herberts Park Road would be a 19m separation from the front of the existing houses which would not result in a material loss of amenity.

To the side boundary with no. 50 Stanbury Avenue a 1.5m high retaining wall plus a 1.8m high boundary fence is proposed. No. 50 has a triangle shaped garden that narrows at the end. This 3.3m solid boundary would be to the south of no. 50 and would cast a shadow across the garden. In addition, would result in a poor outlook from no. 50. This would not provide an acceptable outlook and the applicant has been advised that this needs to be amended before any planning permission could be issued. This forms part of the recommendation – officers would not support a planning approval of the boundary as current proposed.

To the side boundary with no. 85 Stanbury Avenue a 1-1.2m high retaining wall plus a 1.8m high boundary fence is proposed. This 3m high boundary would result in a loss out outlook to the neighbour. This would not provide an acceptable outlook and the applicant has been advised that this needs to be amended before any planning permission could be issued. This forms part of the recommendation – officers would not support a planning approval of the boundary as current proposed.

The development is estimated to generate 941 additional vehicle movements (both arrivals and departures) per day and vehicles would need to pass the front of existing houses to get to the main roads. These vehicles would be split throughout the day and there are three residential streets leading to Wolverhampton Street. It is recognised that for existing residents along these streets there would be a noticeable increase in vehicle movements. From a noise perspective there would have been existing harm from commercial vehicles associated with the historic use of the site and this is balanced against an increase frequency of vehicle movements compared to a reduction in the noise from vehicles. Weight is also given to the extant permission of 304 houses which would have had greater vehicle movements. On balance while there would be an increase in vehicle movements, it is considered this would not be severe to justify the refusal of the application on these grounds.

Planning Policy recommend that a “stand-off” area should be provided to the former Moxley Tip site to the south. This site is proposed to be allocated within the Site Allocations Document as industrial and the stand-off area would be a mitigation measure against potential industrial noise. The SAD allocation has limited weight in addition there is no current planning application for the development of that site. As this current application is before the Council it must be assessed on the basis that the former Moxley Tip site is an open undeveloped site. Should a planning application come forward for that site then it would be for that application to provide sufficient noise mitigation measures.

Highway Safety

The site would be accessed through existing residential streets that are narrow in parts and subject to on-street parking. These streets are subject to 20mph speed limit and road hump traffic calming. The site is located within a reasonable walking distance of local bus services (nearest bus stop on Park Road is 450m away) and further bus stops within 10 minute walk. The site lies within comfortable walking distance of various local amenities and employment opportunities with local shops, medical centre, primary and senior school within ten minute walk.

The development estimated to generate 941 additional vehicle movements (both arrivals and departures) per day. AM peak there would be an additional 28 arrivals and 80 departures, PM peak 69 arrivals and 33 departures. The Transport Assessment explains that the Wolverhampton Street/Forge Road, Wolverhampton Street/Heathfield Lane, Wolverhampton Street/Park Street junctions would operate well within capacity and the proposed development would have a negligible impact on junction performance. Modest increases in queues and delays are forecast at the Moxley Road/Wolverhampton Street junction and not considered to represent a severe cumulative impact.

It is explained that a travel guide would be given to occupiers that includes map location of local amenities, bus routes, charges and location of nearest bus stops and explains car sharing opportunities.

The scheme provides 375 on-plot parking spaces, plus a further 40 garages, giving a total of 415 spaces for 207 houses. The UDP maximum parking standards would seek 445 off-street parking spaces - therefore there is a shortfall of 30 spaces. The addendum to the Transport Assessment explains that the neighbourhood ownership level of cars is 0.88 per household which is predicted to grow to 0.99 cars per household by 2026. The assessment explains that the modest level of unallocated spaces could be accommodated on-street without compromising safe movements by vehicles, pedestrians and cycles, particularly as this would be spread out and not at the same time.

Highways raise no objection to the application subject to an amended layout plan that provides a footway along the western part of Herberts Park Road to the provide a segregated accessible pedestrian route to the canal and traffic calming measures on site and to replace existing measures along Stanbury Avenue and Berry Avenue that are impacted by the proposal.

Highways also recommend conditions in regard to engineering details, surfacing, visibility splays and provision of a Residential Travel Plan. The Travel Guide provided does not provide sufficient measure to promote sustainable travel and therefore a full Residential Travel Plan is required given the shortfall of parking. These conditions are considered

necessary and are recommended. Highways have taken into account local car ownership levels and sustainability credentials to justify the shortfall in parking.

There is an existing public rights of way that runs from Heathfield Lane West over the canal and links to the Black Country New Road, this then links to Hughes Road in Moxley. The existing route has a couple of bends, runs alongside the existing high fence to the factory building. The public right of way will be upgraded and widened to 3 metres to improve pedestrian safety and maintain connectivity for pedestrians and cyclists. The new route would be wider, largely straight and would be of the same length. Given the natural surveillance from the proposed houses the route would be safer. The route would provide better links between Darlaston and Moxley. For any children living in Moxley that use the nearby Grace Academy, the proposal would provide enhanced connectivity to the school.

Public Rights of Way raise no objection to the application subject to a stopping-up/diversion order being approved and details of precise engineering details of the public right of way and footpath links and details of motorcycle barriers. These measures can be secured by necessary conditions as recommended.

Planning obligations

This development triggers the Council's policies in regard to contributions towards, Urban Open Space, Affordable Housing and Education are relevant.

The applicant explains that due to viability issues, they are unable to provide full contributions and propose to provide a commuted sum of £200,000 towards affordable housing. The applicant has submitted a viability assessment that is currently being considered by the District Valuer. The conclusions of this independent assessment will be presented to the planning committee and forms part of the recommendation.

For Open Space, a development of this size within this ward, a qualifying contribution (defined by Urban Open Space SPD) of £424,116.00 would be sought towards open space improvements in the neighbourhood. The application looks to provide on-site habitat creation areas at a cost of £123,040.00 that would be maintained in perpetuity by a management company. The existing Wards Pool that would be improved would also be maintained. There would nonetheless be an equivalent monetary shortfall of £301,076.00. While the NPPF considers areas of water can be considered as open space as they can act as visual amenity and the improved Wards Pool and the habitat creation have limited recreational value. Further the scheme does not provide any on-site children's play equipment. Therefore the functional value as urban open space is limited (e.g. local children would not be able to play a game of football here)

In regard to affordable housing, the policy requirement is 25% of the units to be a mix of shared ownership and social rent.

As there has been no reply from public health or the NHS it must be assumed they raise no objection to the proposal and consider sufficient existing provision would be in place to serve the needs of potential future occupiers.

Education notes there is existing capacity issues but raise no objection to the proposal.

The Canal and Rivers Trust seek a financial contribution towards the towpath but have not provided any values to support this request.

The Police Crime Prevention Design Advisor seeks use of financial contributions towards improving the appearance of the canal and canal infrastructure and perimeter to the site.

Saved UDP policy ENV34 seeks the provision of public art at larger scale development, which this application would be. This is usually secured by a planning condition. No provision has been put forward as part of the proposals due to the viability issues.

This is a brownfield site within a sustainable location, which provides the opportunity for 207 new homes with a mix of types and sizes. The conclusions of the District Valuers consideration of the viability assessment will be reported at the meeting.

Local Finance Considerations

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

This application indicatively proposes 207 new homes.

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

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

Conclusions and Reasons for Decision

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, it is considered that the principle of development is consistent with the provisions of the development plan. The existing SINC area to be removed is demonstrated to be performing poorly in ecological terms and the compensation value of the habitat creation area would provide a considerable range of benefits for biodiversity which will be managed over the long-term. There are strategic benefits to maximising the development potential for housing developments in sustainable locations. Weight is also given to the extant planning permission at the site.

The layout and design of the houses would have a positive impact upon the character of the area. The development would provide sufficient amenity value for future occupiers and would not result in a material loss of amenity for existing neighbours. Noise from the Black Country New Road and existing ground contamination can be mitigated against. Sufficient

off-street parking is provided to meet the needs of the development and measures to encourage sustainable travel are to be promoted through the Travel Plan.

Taking into account the above factors it is considered that the application should be recommended for approval. The development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP3, CSP4, DEL1, DEL2, HOU1, HOU3, HOU3, HOU5, EMP1, EMP4, TRAN1, TRAN4, TRAN5, ENV1, ENV2, ENV3, ENV4, ENV5, ENV6, ENV7 and ENV8 of the Black Country Core Strategy and saved policies GP2, GP3, 3.6, 3.7, ENV10, ENV12, ENV13, ENV14, ENV18, ENV23, ENV24, ENV26, ENV32, ENV33, ENV34, ENV40, JP7, H3, H4, T1, T7, T8, T9, T13, LC1, LC3 and 8.7 of Walsall Unitary Development Plan, Supplementary Planning Documents Designing Walsall, Conserving Walsall's Natural Environment, Open space, sport and recreation and Air Quality .

Positive and Proactive Working with the Applicant

Officers have worked with the applicant and applicant's agent securing amended drawings and technical reports to enable support to be given.

Recommendation

Delegate to the Head of Planning, Engineering and Transportation to grant planning permission subject to conditions providing the coal authority objections, ecological issues, highway layout and residential amenity issues have been satisfactorily addressed, including any necessary conditions and subject to a S106 agreement to secure required contributions as informed by the conclusions of the District Valuer and to secure the provisions of an in perpetuity Management Strategy for the areas of open space.

Conditions and Reasons

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

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

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

- Location plan received 29/1/18
- Planning layout plan (revision O) received 13/4/18
- Boundary plan received (revision D) 13/4/18
- Landscape master plan received 18/1/18
- Longitudinal sections sheet 1 received 12/1/18
- Longitudinal sections sheet 2 received 12/1/18
- Longitudinal sections sheet 3 received 12/1/18
- Longitudinal sections sheet 4 received 12/1/18
- Longitudinal sections sheet 5 received 12/1/18
- Longitudinal sections sheet 6 received 12/1/18
- Longitudinal sections sheet 7 received 12/1/18

- Manhole schedule foul water received 12/1/18
- Manhole schedule surface water received 12/1/18
- Materials layout received 7/2/18
- Proposed street scenes received 18/1/18
- Site sections received 12/1/18
- Topographical survey received 12/1/18
- Typical drainage construction details received 12/1/18
- Site phasing plan received 7/2/18
- Temporary public right of way received 7/2/18
- Proposed route of public right of way received 23/3/18
- External levels and private drainage 1 received 13/4/18
- External levels and private drainage 2 received 13/4/18
- External levels and private drainage 3 received 13/4/18
- External levels and private drainage 4 received 13/4/18
- External levels and private drainage 5 received 13/4/18
- External levels and private drainage 6 received 13/4/18
- External levels and private drainage 7 received 13/4/18
- External levels and private drainage 8 received 13/4/18
- Drainage Layout 1 of 2 received 7/2/18
- Drainage Layout 2 of 2 received 7/2/18
- The Ashbourne brick elevations received 12/1/18
- The Ashbourne render elevations received 12/1/18
- The Ashbourne ground floor plan received 12/1/18
- The Ashbourne first floor plan received 12/1/18
- The Ashop brick elevations received 12/1/18
- The Ashop ground floor plan received 12/1/18
- The Ashop first floor plan received 12/1/18
- The Ashop FCT elevations and floor plans received 13/4/18
- The Coniston render elevations received 12/1/18
- The Coniston ground floor plan received 12/1/18
- The Coniston first floor plan received 12/1/18
- The Dee (semi) brick elevations received 12/1/18
- The Dee (semi) render elevations received 12/1/18
- The Dee brick elevations received 12/1/18
- The Dee render elevations received 12/1/18
- The Dee floor plans received 12/1/18
- The Dee SA render elevations received 12/1/18
- The Dee SA floor plans received 12/1/18
- The Dunham brick elevations received 12/1/18
- The Dunham (bay) brick/tile hung elevations received 12/1/18
- The Dunham (bay) ground floor plan received 12/1/18
- The Dunham (bay) first floor plan received 12/1/18
- The Dunham (bay) second floor plan received 12/1/18
- The Ellesmere (semi) Alt brick elevations received 12/1/18
- The Ellesmere (semi) brick elevations received 12/1/18
- The Ellesmere brick elevations received 12/1/18
- The Ellesmere underpass (3 block) brick elevations received 12/1/18

- The Ellesmere underpass (4 block) brick elevations received 12/1/18
 - The Ellesmere floor plans 1 received 12/1/18
 - The Ellesmere floor plans 2 received 12/1/18
 - The Ellesmere underpass floor plans received 12/1/18
 - The Grantham brick/render elevations received 12/1/18
 - The Grantham brick elevations received 12/1/18
 - The Grantham floor plans received 12/1/18
 - The Grantham Weaver (semi) brick/render elevations received 12/1/18
 - The Grantham Weaver (semi) brick elevations received 12/1/18
 - The Grantham Weaver ground floor plan received 12/1/18
 - The Grantham Weaver first floor plan received 12/1/18
 - The Irwell (semi) brick elevations received 12/1/18
 - The Irwell floor plans received 12/1/18
 - The Longford brick elevations received 12/1/18
 - The Longford brick elevations (semi) received 12/1/18
 - The Longford ground floor plan received 12/1/18
 - The Longford first floor plan received 12/1/18
 - The Lymington elevations received 12/1/18
 - The Lymington ground floor plan received 12/1/18
 - The Lymington first floor plan received 12/1/18
 - The New Calder elevations received 12/1/18
 - The New Calder floor plans received 12/1/18
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- The New Stamford brick elevations received 12/1/18
 - The New Stamford floor plans received 12/1/18
 - The Rippon apartments elevations received 12/1/18
 - The Rippon apartments ground floor plan received 12/1/18
 - The Rippon apartments first floor plan received 12/1/18
 - The Selby elevations received 12/1/18
 - The Selby ground floor plan received 12/1/18
 - The Selby first floor plan received 12/1/18
 - The Weaver (semi) brick elevations received 12/1/18
 - The Weaver (semi) brick/render elevations received 12/1/18
 - The Weaver brick elevations received 12/1/18
 - The Weaver brick/render elevations received 12/1/18
 - The Weaver floor plans received 12/1/18
 - The Weaver underpass elevations (3 block) received 12/1/18
 - The Weaver underpass elevations (4 block) received 12/1/18
 - The Weaver under pass floor plans received 12/1/18
 - Single garage detached plans and elevations received 12/1/18
 - Double garage detached plans and elevations received 12/1/18
 - Fence Types A to D received 12/1/18
 - G4M timber rail received 12/1/18
 - Garden gate fitting received 12/1/18
 - 450 knee rail fencing received 12/1/18
 - Hooped top railings received 12/1/18
 - Reinforcing mesh earth connection bar layout received 12/1/18

- Substation general arrangement received 12/1/18
- Timber bollards received 12/1/18
- Timber clad vehicle barrier received 12/1/18
- Wall type M1 received 12/1/18
- Air Quality Assessment received 12/1/18
- Arboricultural Impact Assessment received 18/1/18
- Arboricultural Method Statement received 21/1/18
- Archaeological Desk based assessment received 12/1/18
- Construction Environmental Management Plan received 13/4/18
- Coal Mining Assessment received 13/4/18
- Design and Access Statement received 12/1/18
- Drainage investigation report received 12/1/18
- Ecological Appraisal received 18/1/18
- Addendum to Ecological Appraisal received 3/4/18
- Flood Risk Assessment received 18/1/18
- Noise Assessment received 12/1/18
- Phase II Geo-environmental site assessment received 18/1/18
- Planning Statement received 12/1/18
- Planning Statement addendum received 7/2/18
- Preliminary Geo-environmental assessment received 12/1/18
- Remediation and enabling works strategy received 18/1/18
- Statement of community involvement received 12/1/18
- Transport Assessment received 18/1/18
- Transport Assessment addendum received 23/3/18
- Travel Guide received 12/1/18
- Urban Open Space Statement received 12/1/18
- Water Safety Review received 23/3/18

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

3a. Prior to the commencement of development, including site clearance, shall not take place until the tree protection measures as detailed in the Arboricultural Method Statement received on 21/2/18 have been fully implemented

3b. The approved details shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2012.

Reason: To safeguard the retained trees on the site.

4a. Prior to any engineering, site clearance/preparation, and/or construction works commencing a Construction Management Plan setting out how the works will be undertaken and giving details of arrangements for the control of noise, vibration, dust and debris (including site drag-out), the management of any materials arising from the works, details for the parking and turning facilities for site operatives and construction deliveries, the loading and unloading of plant and materials, the storage of plant and materials used in constructing the development, full details of the wheel cleansing arrangements to

prevent mud from being deposited on the highway during the period of construction shall be submitted for written approval of the Local Planning Authority.

4b. The Construction Management Plan shall be fully implemented upon commencement of any works and shall be maintained until the site is completed.

4c. Vibration levels during ground stabilisation/piling works shall not exceed the Low Probability of Adverse Comment, as prescribed within British Standard BS6472-1:2008 'Guide to evaluation of human exposure to vibration in buildings – vibration sources other than blasting'.

4d. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08:00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: To protect the amenity of local residents and in order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety. To safeguard the environment and in the interests of the structural integrity of the waterway and to ensure the proposed works do not have any adverse impact on the safety of waterway users and the integrity of the Walsall Canal

5. To avoid the risk to nesting birds, site clearance of vegetation and clearance works should be undertaken outside the bird nesting season. The bird nesting season extends between mid February and September inclusive but is weather dependant and nesting may take place outside this period. If site clearance unavoidably takes place within the nesting season the site shall be checked by a qualified and experienced ecologist immediately prior to works commencing. If nesting birds are discovered clearance works should be delayed and advice sought from the ecologist or Natural England

Reason: To protect local bird populations.

6i. In the absence of a Validation Report for Phase 1A and Phase 1B, prior to the commencement of any development within this area remedial measures for these Phases shall be first submitted and approved in writing by the Local Planning Authority.

6ii. Following the demolition of the building, and the additional site and ground-gas investigations, a 'Remediation Statement' setting out details of remedial measures, methodologies, and materials to be used to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site shall be first submitted and approved in writing by the Local Planning Authority. (see Note for Applicant CL2)

6iii. The remedial measures as set out in the 'Remediation Statement' required by part ii) of this condition shall be implemented.

6iv. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination is encountered, development shall cease until the 'Remediation Statement' required by part ii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

6v. A Validation Report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: Ensure safe development of the site, to protect human health, and the environment.

7a. Prior to the commencement of development a Stopping Up and/or Diversion Order of Bridlepath 1 Darlaston (part) and the unadopted turning head of Heathfield Lane West under section 247 of the Town and Country Planning Act 1990 shall be first submitted for written approval of the Department of Transport.

7b. Development must take place in accordance with any approval.

Reason: To provide and improve pedestrian routes.

8a. Prior to the commencement of the development, full engineering details of all adoptable estate highway infrastructure works, including the relocated public rights of way and footpath links (with provision of level and inclusive access), and all necessary modification works within the existing public highway shall be submitted for written approval of the Local Planning Authority. The details shall include all layouts, alignments, widths, levels, drainage arrangements and run off calculations, the modification of existing and provision of new traffic calming features both externally and internally with the development, modifications to existing Traffic Regulation Orders

8b. Prior to the first occupation of any dwelling on the development, all adoptable estate highway infrastructure works and all necessary highway modification works within the existing public highway required under part a) shall be fully implemented.

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

9a. Notwithstanding the details provided and prior to the commencement of development a detailed landscaping scheme for the site including its phased implementation shall be submitted for written approval of the Local Planning Authority. These details shall include:

- correct botanical names
- numbers/planting densities for each block of planting proposed
- size supplied of all proposed tree and shrubs at time of planting
- details of proposed turf/seeded areas and sowing rates
- topsoil and mulching depths and specifications

- staking details for proposed trees
- Ground preparation measures to be adopted.

9b. The approved scheme shall be fully implemented in accordance with the approved phasing and retained for 5 years from the phased implementation. Within this period:

- (i) grassed areas shall be maintained and any areas that fail to establish shall be reinstated;
- (ii) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- (iii) any damage to protective fences shall be made good.

Reason: To ensure the satisfactory appearance of the development and protect wildlife.

10a. Prior to the commencement of built development an Ecological Management Plan shall be first submitted for written approval of the Local Planning Authority. The plan shall include details of the phased implementation of the Habitat Creation Area, aims and objectives of management, establishment measures, monitoring and maintenance (over a five year period).

10b. The approved plan shall be implemented in accordance with the approved details.

Reason: To mitigate against the loss of part of the existing Site of Importance for Nature Conservation and to ensure satisfactory compensation is provided.

11. During the preparation of ground works members of the Black Country UNESCO Geopark management team shall be permitted access to record any outcrop of natural drift that might be exposed.

Reason: To ensure that any geological remains within Moxley Channel Geological Consideration Zone are recorded in the interest of the geological history of the area.

12. Temporary construction lighting shall be kept to a minimum in the vicinity of the off-site canal and directional lighting and deflectors shall be utilised where necessary in order to direct the light into the site and away from the canal, and maintain dark corridors for bats and other nocturnal / crepuscular wildlife.

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

13a. No development above damp proof course shall commence until details of the electric vehicle charging points, to be provided for the dwellings has been submitted to and approved in writing by the Local Planning Authority.

13b. Prior to first occupation of each dwelling the electric vehicle charging points shall be fully installed in accordance with the approved details and shall be retained and maintained for the life of the development.

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

14a. Prior to first occupation a detailed lighting scheme to serve the development shall be submitted for written approval of the Local Planning Authority

14b. Proposed new lighting shall be kept to a minimum in the vicinity of the off-site canal and directional lighting and deflectors be utilised where necessary in order to direct the light into the site and away from the canal, and maintain dark corridors for bats and other nocturnal / crepuscular wildlife

14c. The approved details shall be fully implemented in accordance with the phased occupation and retained thereafter.

Reason: To ensure the satisfactory development of the site, in the interests of highway safety, community safety, protection of residential amenity and conserve local bat populations.

15. If during development contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the LPA) shall be carried out until the developer has submitted and obtained written approval from the LPA for an addendum to the Method Statement. This addendum must detail how this unsuspected contamination shall be safely dealt with.

Reason: To ensure that the development will be protective of Controlled Waters at all times, notably the underlying Secondary A aquifer and the nearby Darlaston Brook.

16. The materials used shall be those indicated on the approved materials layout plan received on 7/2/18.

Reason: To ensure the satisfactory appearance of the development.

17. The development shall only be carried out in accordance with the mitigation and ecological enhancements as set out within the Ecological Appraisal received on 18/1/18, Addendum to Ecological Appraisal received 3/4/18 the drawings hereby approved.

Reason: To safeguard nature conservation and to provide sufficient mitigation to justify the loss of part of the Site of Importance for Nature Conservation.

18a. Prior to the relocated public right of way and footpath link between it and Herberts Park Road first coming into use details of the specification and location of motorcycle barriers shall be first submitted for written approval of the Local Planning Authority. The details shall include how the barriers link into the adjoining proposed boundary treatments.

18b. The approved details shall be installed before the footpaths are brought into use and shall thereafter be retained and maintained.

Reason: In the interests of highway safety.

19a. Prior to any dwelling identified in the Noise Assessment Report first being occupied the following details shall be first submitted for written approval of the Local Planning Authority:

- The specification of the glazing to be installed within each of the premises,
- Details of the ventilation systems to be installed within each of the premises,
- Details of the fencing or walls to be erected on noise affected boundaries.

19b. A validation report confirming the details have been installed shall be first submitted for written approval of the Local Planning Authority prior to the effected dwelling being occupied.

19c. The agreed measures shall thereafter be retained and maintained.

Reason: To protect the amenity of future occupiers.

20a. Prior to the first occupation of the dwellings hereby approved details of water safety signs to be displayed around Wards Pool, including that the pool is not for public access, and their location shall be first submitted for written approval of the Local Planning Authority.

20b. The approved signage shall be installed prior to first occupation and shall thereafter be retained and maintained.

Reason: In the interests of community safety.

21a. Prior to the first occupation of any dwelling on the development, all access ways, parking and vehicle manoeuvring areas serving that dwelling shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain, together with the clear demarcation of all parking bays.

21b. These areas shall thereafter be retained and used for no other purpose.

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

22a. The boundary treatment to Wards Pool shall be installed prior to first occupation of the first dwelling.

22b. The boundary shall thereafter be retained and maintained.

Reason: In the interests of visual amenity and public safety

23a. Prior to the first occupation of the dwellings hereby approved the two life buoys as shown on the approved layout plan shall be provided.

23b. Two life buoys shall be retained thereafter.

Reason: In the interests of community safety.

24. Upon first occupation of each dwelling hereby approved residents shall be provided with an information leaflet informing them of the nature and depth of Wards Pool and the permanent attenuation ponds. The leaflet shall confirm that Wards Pool is not intended for

public access and highlight the presence of the two lifebuoys and the safety warning signage.

Reason: In the interests of community safety.

25. The boundary treatment hereby approved shall be installed prior to the first occupation of each dwelling in accordance with the approved phasing plan.

Reason: In the interests of visual amenity and public safety.

26a. Prior to first occupation of the development, the submitted Travel Guide shall be developed into a full Residential Travel Plan containing appropriate commitments, measures and targets to encourage sustainable travel modes to reduce car based trips to the site that shall be first submitted for written approval of the Local Planning Authority.

26b. The approved Travel Plan shall be implemented, monitored and reviewed for the lifetime of the development.

26c. Upon first occupation of each dwelling on the development, the occupiers shall be provided a copy of the Residential Travel Plan.

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

27. The development hereby permitted shall only be carried out in accordance with the approved Flood Risk Assessment (FRA)/Drainage Strategy HLW-BWB-EWE-XX-RP-EN-0001_FRA and the following mitigation measures detailed within the FRA:

- Discharge will be to the Walsall Canal in agreement with the Canal and Rivers Trust.
- Limiting the surface water run-off generated by the site so that it will not exceed 33.6l/s and not increase the risk of flooding off-site.
- Provision of an appropriate calculated volume of attenuation flood storage on the site to a 100 year + climate change standard.
- Finished floor levels are set no lower than 600mm above 100yr+cc level in the Darlaston Brook or else 150mm above local ground level, whichever is the highest.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To reduce the risk of flooding from the existing culverts on the site. To ensure lifetime maintenance of the system to prevent flooding issues.

28. The development shall not be brought into use until the approved drainage scheme has been implemented in accordance with the approved details.

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

29. Japanese knotweed shall be treated in accordance with recommended guidelines as prescribed by the Environment Agency.

Reason: To ensure the satisfactory implementation of the development.

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30a. The development shall be constructed to meet the following minimum security measures:

- i. All ground floor windows and any accessible windows shall have at least one pane of 6.4mm laminated glass. This includes French doors and patio doors;
- ii. Where possible the frontages and accessible windows of the proposed dwellings shall have defensible planting under the windows;
- iii. Use of PAS 24:2012 doors and TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond Standard certification;
- iv. Where thumb turn locks are to be installed these shall be ASB Thumb turn 3 star cylinders, Ultion Locks or similar;
- v. Garage doors shall be certificated to one of the following standards - Loss Prevention Certification Board standard LPS1175 security rating 1 or WCL 2 BR 1;
- vi. Where concrete post and panels are to be used the fence panels need to be secured together using galvanised metal straps, so that the panels cannot be lifted. The fencing shall be treated wood with a guaranteed life span of 25yrs.
- vii. Perimeter fences facing public areas shall be erected so that the smooth face is always facing outwards
- viii. All side entry gates shall be key lockable from both sides and self-closing
- ix. No Lead or metal should be used on the ground floor, this includes outside taps to the front of properties;
- x. All properties shall have a suitable intruder alarm, with a siren box front and back, with dual or quad technology sensors and auto dialler function.

30b. Prior to the first occupation of any of the hereby approved houses, the above measures shall be fully implemented in accordance with the agreed details and thereafter retained.

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

31. Every vehicular access point shall at all times provide 2.4m x 3.4m pedestrian visibility splays, measured from the centre of each access at the back of the footway, within which no planting or structures exceeding 600mm in height above footway level shall be permitted.

Reason: To provide adequate inter-visibility at the access points in the interests of highway safety.

32. The two new road junctions on Berry Avenue and Stanbury Avenue shall, at all times, provide 2.4m x 25m visibility splays in both directions within which no structure or planting shall exceed 600mm in height above carriageway levels.

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

33. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors other than those approved by this permission, and no enlargements, additions or other alterations, as defined by Classes A, B, C, D and E of Part 1 of Schedule 2 of the Order, shall be constructed.

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

34. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 or succeeding Orders, the dwellings hereby permitted shall not be altered or enlarged to deprive them of an existing garage, drive or parking area as approved.

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

35. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or succeeding orders, no gates, fences, walls or other means of enclosure other than those expressly approved by this permission shall be constructed in front of the building line of the dwellings hereby approved.

Reason: In the interests of the visual amenity.

Notes for applicant

Highways

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

The applicant will be expected to enter into an agreement under S38 and S278 of the Highways Act 1980 with the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.

Any modifications to Traffic Regulation Orders required as a result of the development shall be made under the Road Traffic Regulations Act 1984 at the applicant's expense.

Public Rights of Way

The new adopted link path between BP1 Darlaston and Herbert's Park Road alongside the pylons to the north of the site, the widened and improved section of BP1 Darlaston and the new alternative route along estate roads, shall be included within the S38 and 278 Agreements.

A permit to work and/or temporary prohibition of traffic order will be required prior to commencement of work within or adjacent to BP1 Darlaston and the unadopted turning head of Heathfield Lane West. An existing temporary closure has been put into place, which will expire on 21 June 2018. Please contact public rights of way on 01922 654673 at least 6 weeks before expiry, should the closure need to remain in force beyond 21 June 2018.

No excavations, scaffolding, hoarding, signage, movement and storage of materials, or other obstructions associated with the proposed development are to be present within the bridleway without prior agreement of the highways authority. Prior to commencement the applicant must provide details to highways and apply for any necessary permits and

licences for any scaffolding and hoardings required on the bridleway as a consequence of the works. Upon completion, the applicant must reinstate the footpath to its present condition. Please contact Public Rights of Way on 01922 654673 to discuss this.

Canals and Rivers Trust

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

The applicant is advised that any surface water discharge to the waterway will require prior consent from the Canal & River Trust. As the Trust is not a land drainage authority, such discharges are not granted as of right where they are granted they will usually be subject to completion of a commercial agreement. Please contact Joanna Bryan (Joanna.bryan@canalrivertrust.org.uk) to discuss this further.

Severn Trent Water

There is a public sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Pollution Control – Contaminated Land

CL1 – Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A2:2017 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

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

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

Pollution Control – Air Quality

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

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

Wherever possible the power supply and charging point should both be phase 3 compatible. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded. Each charging unit to be supplied by its own independent radial circuit.

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

West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,

- Black Country Air Quality Supplementary Planning Document (SPD), can accessed via the following link:
https://go.walsall.gov.uk/Portals/0/images/importedddocuments/black_country_air_quality_spd_september_2016.pdf
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),
- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle
- Charging Equipment Installation.

Cadent Gas

BEFORE carrying out any work you must:

- Ensure that no works are undertaken in the vicinity of our gas pipelines and that no heavy plant, machinery or vehicles cross the route of the pipeline until detailed consultation has taken place.
- Carefully read these requirements including the attached guidance documents and maps showing the location of apparatus.

- Contact the landowner and ensure any proposed works in private land do not infringe Cadent and/or National Grid's legal rights (i.e. easements or wayleaves). If the works are in the road or footpath the relevant local authority should be contacted.
- Ensure that all persons, including direct labour and contractors, working for you on or near Cadent and/or National Grid's apparatus follow the requirements of the HSE Guidance Notes HSG47 - Avoiding Danger from Underground Services' and GS6 – Avoidance of danger from overhead electric power lines'. This guidance can be downloaded free of charge at <http://www.hse.gov.uk>
- In line with the above guidance, verify and establish the actual position of mains, pipes, cables, services and other apparatus on site before any activities are undertaken.

National Grid

- National Grid's Overhead Line/s is protected by a Deed of Easement/Wayleave Agreement which provides full right of access to retain, maintain, repair and inspect our asset.
- National Grid requires 3D drawings to be provided at the earliest opportunity (DWG, DGN or DXF)
- Statutory electrical safety clearances must be maintained at all times. National Grid recommends that no permanent structures are built directly beneath our overhead lines. These distances are set out in EN 43 – 8 Technical Specification for “overhead line clearances Issue 3 (2004) To view EN 43 – 8 Technical Specification for “overhead line clearances Issue 3 (2004).
http://www.nationalgrid.com/uk/LandandDevelopment/DDC/devnearohl_final/appendixII/applII-part2
- The statutory minimum safety clearance is 7.6 metres to ground and 8.1 metres to a normal road surface. Further detailed information can be obtained from the Energy Networks Association's (www.energynetworks.org.uk) Technical Specification E-43-8 for “Overhead Line Clearances”, Issue 3 (2004)
- Any changes in ground levels which are proposed either beneath or in close proximity to our existing overhead lines would serve to reduce safety clearances. Safety clearances to existing overhead lines must be maintained in all circumstances.
- To view the Development Near Overhead Lines Document.
<http://www2.nationalgrid.com/WorkArea/DownloadAsset.aspx?id=23713>
- To view the National Grid Policy's for our Sense of Place Document.
<http://www2.nationalgrid.com/UK/Services/Land-and-Development/A-sense-of-place/>
- The relevant guidance in relation to working safely near to existing overhead lines is contained within the Health and Safety Executive's (www.hse.gov.uk) Guidance Note GS 6 “Avoidance of Danger from Overhead Electric Lines.”

- Plant, machinery, equipment, buildings or scaffolding should not encroach within 5.3 metres of any of our high voltage conductors at the point where the conductors are under their maximum 'sag' or 'swing' conditions. Overhead Line profile drawings should be obtained using the above contact details.
- If a landscaping scheme is proposed as part of the proposal, we request that only slow and low growing species of trees and shrubs are planted beneath and adjacent to the existing overhead line to reduce the risk of growth to a height which compromises statutory safety clearances.
- Drilling or excavation works should not be undertaken if they have the potential to disturb or adversely affect the foundations or "pillars of support" of our towers. These foundations extend beyond the base area of the tower. Pillar of Support drawings should be obtained using the contact details above.
- Due to the scale, bulk and cost of the transmission equipment required to operate at 275kV or 400kV we only support proposals for the relocation of existing high voltage overhead lines where such proposals directly facilitate a major development or infrastructure project of national importance which has been identified as such by government.
- To promote the successful development of sites crossed by existing overhead lines, and the creation of well-designed places, National Grid has produced 'A Sense of Place' guidelines, which look at how to create high quality development near overhead lines and offer practical solutions which can assist in avoiding the unnecessary sterilisation of land in the vicinity of high voltage overhead lines.
- Further information regarding our undergrounding policy and development near transmission overhead lines is available on our website at:
<http://www.nationalgrid.com/uk/LandandDevelopment>



Walsall Council

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 3.

Reason for bringing to committee: Major Development

Location: BOX POOL, DARLASTON ROAD, WALSALL

Proposal: PROPOSED BUILDERS MERCHANTS TO INCLUDE WAREHOUSE, ANCILLARY STORAGE AND ASSOCIATED WORKS

Application Number: 17/0843

Applicant: Mr Jez Jutla

Agent: Mr Bruce Jones

Application Type: Full Application: Major Use Class B8 (Storage or Distribution)

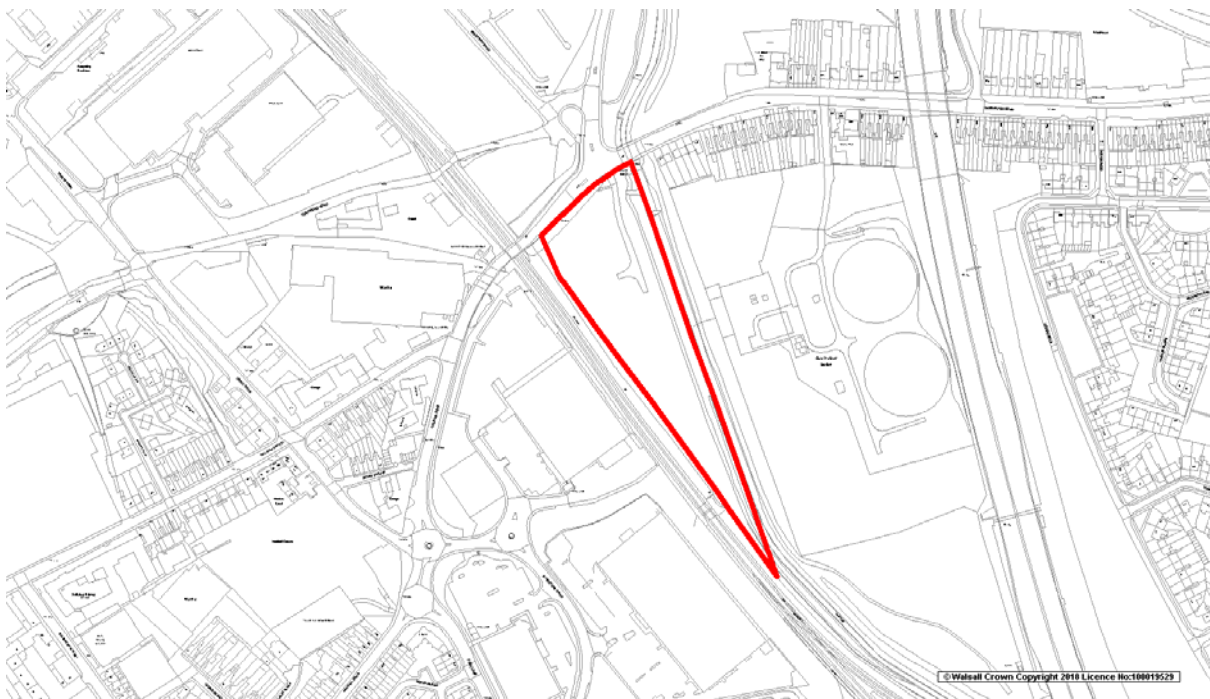
Case Officer: Mike Brereton

Ward: Pleck

Expired Date: 19-Sep-2017

Time Extension Expiry: 04-May-2018

Recommendation Summary: Grant Planning Permission Subject to Conditions



Proposal

The application site is currently vacant following previous site clearance and installation of major underground flood tanks and associated Infrastructure. This application follows a previous approval in 2011 for a similar builders merchants scheme made by the applicant which has since lapsed. The applicant explains this new application is being made to take account of a recently installed signalised junction adjacent to the site which does not currently provide a controlled access into the site.

This application proposes a 929m² warehouse building with a further 74m² storage area at first floor. The overall site layout proposes 32 x customer parking spaces, 7 x van loading spaces, an outdoor display area, security hut, storage yard and covered bulk storage bays. This application also proposes to introduce a fourth arm to the south of the Darlaston Road / Bentley Mill Way junction to enable a main controlled vehicle access into the site to the north-east.

The proposed development would measure and be externally finished in:

- **Warehouse** – 43m wide, 23m deep and 9.3m high to a pitched roof (6.8m to eaves). Finished in Merlin Grey Kingspan composite roof cladding, Goosewing Grey horizontal wall cladding and Kingspan Honesty vertical wall cladding, buff brickwork with 3 x course blue engineering brick and red brick piers.
- **Pre-fabricated Security Hut** – 1.9m wide and 3m deep. No further details have been provided.
- **Covered Storage Bays** – 35.5m wide, 5m deep and 3.8m high to a mono-pitch roof (2.5m to eaves). Finished in Goosewing Grey Kingspan composite roof cladding and Goosewing Grey horizontal wall cladding.

The proposed development (referred to as Phase 1) is shown to be limited to the western side of the application site due to site constraints in the form of recently installed underground sewer pipes and flood tanks to the north-east section of the site.

This application is supported by:

Transport Statement – Concludes the development would not result in any severe transport impacts and proposes the use of a new controlled access into the site.

Design and Access Statement – Explains the amount, and layout of development has been informed by the current loading capacity of the site due to significant underground flood tanks.

Drainage Layout – Explains the southern section of site is within a 1 to 100 year flood plain and recommends the area is not used for storage purposes. Explains the proposed warehouse would have a finished floor level of 118.000.

Contamination Review – Concludes the site has a low risk of contamination and sets out a number of recommended mitigation measures.

Flood Risk Assessment (FRA) – Explains the site is within Flood Zone 1, surrounded by Flood Zones 2 & 3 and a small portion of the site at south-east falls within flood zones 2 & 3. The FRA sets out a number of recommendations.

Habitat Surveys – Consider potential impacts on species and recommends a number of safeguarding and enhancement measures.

Coal Mining Risk Assessment – Identifies previous underground coal mining and recommends mitigation measures along with further intrusive geological investigations.

Site and Surroundings

The application site is the Box Pool site, a triangular plot of around 1.87ha with Darlaston Road and James Bridge to the north and bounded by the railway to the west and the River Tame to east.

The former James Bridge Gas Holder site is further east. The site is in a predominantly industrial location and within the saved UDP policy Core Employment Area (JP5) with nearest residential properties 25m to the north-east along Darlaston Road.

The application site also falls within the Local Development Order (LDO) boundary which allows development of up to 5,000m² gross floor space for B1(b), B1(c), B2 and B8 uses subject to criteria set out in the LDO.

Relevant Planning History

BC55184P – Earthworks to raise site levels. GSC 01/05/2001

09/0241/FL - New access road, access gate and fencing, control kiosk and ventilation column. GSC 10/06/2009

The site has been subject to recent underground flood and sewer related works carried out by Severn Trent Water under permitted development rights.

11/0005/FL - Proposed builders merchants. GSC 27/04/2011

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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

- Contribute to conserving and enhancing the natural environment and reducing pollution.

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

Key provisions of the NPPF relevant in this case:

- ***NPPF 1 - Building a strong, competitive economy***
- ***NPPF 7 - Requiring good design***
- ***NPPF 10 - meeting the challenge of climate change, flooding and coastal change***
- ***NPPF 11 - Conserving and enhancing the natural environment***

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

www.walsall.gov.uk/ldf_core_strategy

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- EMP3: Local Quality Employment Areas
- TRAN1: Priorities for the Development of the Transport Network

- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

Saved Unitary Development Plan

www.walsall.gov.uk/unitary_development_plan

- GP2: Environmental Protection
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- T7: Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Site Allocation Document (S.A.D)

The application site is identified as a Potential High Quality Industrial site (ref IN109) under Policy IND2 of the Council's emerging Site Allocation Document. The S.A.D now carries weight in the decision making process.

Supplementary Planning Document

www.walsall.gov.uk/ldf_supplementary_planning_documents

Conserving Walsall's Natural Environment

- Development with the potential to affect species, habitats or earth heritage features
 - NE1 – Impact Assessment
 - NE2 – Protected and Important Species
 - NE3 – Long Term Management of Mitigation and Compensatory Measures
- Survey standards
 - NE4 – Survey Standards
- The natural environment and new development
 - NE5 – Habitat Creation and Enhancement Measures
 - NE6 – Compensatory Provision
- Development with the potential to affect trees, woodlands and hedgerows
 - NE7 - Impact Assessment
 - NE8 – Retained Trees, Woodlands or Hedgerows
 - NE9 – Replacement Planting

- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

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

Consultation Replies

Area Partnership – No comments received.

Centro – No comments received.

Ecology – No objection subject to conditions to safeguard, mitigate and enhance habitats.

Economic Regeneration – No comments received.

Environment Agency – No objection subject to conditions and notes to applicant regarding potential ground contamination and remediation to protect controlled waters.

Environmental Health – No objection subject to meeting the Health and Safety at Work etc Act 1974 (*this would be added as a note to applicant*).

Fire Authority - No comments received.

Cadent Gas – No objection.

Coal Authority – No objection subject to a condition regarding intrusive site investigations and remediation measures.

Community Safety Team – Recommends a number of security measures (*these can be secured by condition*).

Health and Safety Executive – No objection.

Highways England - No objection.

Lead Local Flood Authority – No objection subject to conditions regarding flood mitigation measures.

Local Highway Authority – No objection subject to conditions regarding provision of modified junction, laying out of vehicle parking and access areas, visibility splays, cycle store and capacity assessment for future phases.

Network Rail – No objection subject to further details of foundation design and calculations to ensure no lateral shear or circular slip failure towards the railway (*this can be included as a condition and note to applicant*).

Pollution Control – No objection subject to conditions regarding Electric Vehicle Charging Points and ground gas assessment and remediation measures.

Planning Policy – No comments received.

Police – No objection subject to a number of security measures (*these can be secured by condition*).

Regeneration and Development – No comments received.

Severn Trent – No objection subject to conditions regarding drainage and restrictions on areas of build over underground tanks and pipes.

South Staffs Water – No comments received.

Transport for West Midlands – No comments received.

Representations

1x comment received:

- Would the development interfere with existing underground flood infrastructure?

Determining Issues

- Principle of development
- Ecology
- Landscaping
- Flooding and Drainage
- Appearance
- Access and Parking
- Impact on surrounding residential occupiers

Assessment of the Proposal

Principle of development

The proposed site is allocated in the Unitary Development Plan, as a Best Quality Site (E16), and subject to saved policy JP6. This safeguards the site for core employment uses only, as defined in UDP paragraph 4.4, which include B1 (b&c), B2 and B8. The proposed builders merchants use falls within use class B8 along with an ancillary storage yard element.

Furthermore, since the previous approval in 2011, the site has been allocated within the Darlaston Local Development Order for B1(b), B1(c), B2 and B8 uses and as a Potential High Quality Industrial site within the emerging Site Allocation Document. The principle of

development is considered acceptable subject to all other considerations being assessed as set out in this report.

Ecology

This site is part of a wildlife corridor following the River Tame. Whilst not being designated green belt it in effect provides a similar function and role by separating the built-up areas of Darlaston and Pleck. The proposed layout sets the proposed built development away from the River Tame boundary. This is considered to help minimise any impacts to local ecology whilst retaining the wildlife corridor.

The submitted ecological surveys recommend a number of measures to protect and enhance biodiversity and these would be included as conditions on any approval in line with the recommendations of the Council's Ecological Consultant. Overall, it is considered the development does not harm local ecology and the River Tame wildlife corridor at this location.

Landscaping

The installation of underground Severn Trent Water equipment has restricted the layout of both built development and landscape treatment. The submitted Design and Access Statement explains screen planting is proposed along the boundary to the River Tame and to the embankment fronting Darlaston Road. Conditions would be included to seek further details of planting to the landscaped areas as shown on the submitted plans and to require the protection of retained trees to ensure satisfactory appearance of development and to enhance the visual amenity of the area. In the context of the locality and working with the sites constraints, the landscaping proposals which are subject to safeguarding conditions are considered acceptable in this instance.

Flooding and Drainage

A neighbour raised concerns about potential additional impacts on the underground infrastructure. The applicant has demonstrated that the development would not result in any significant additional impacts on drainage and that the layout takes account of existing underground pipes and storage tanks to ensure they are not adversely affected by the proposal. Further drainage details and restrictions on areas of buildings can be secured via planning conditions in line with the recommendations of Severn Trent Water.

Further conditions would be included for flood mitigation measures as set out in the submitted Flood Risk Assessment in line with the recommendations of the Lead Local Flood Authority.

The submitted Indicative Drainage Layout plan makes reference to a new headwall to the River Tame permitted by the Environment Agency, and requiring consent and recommends no storage takes place within the most southern part of the site. Conditions would be included to seek full details of the headwall prior to its installation and to restrict storage in the southern section of the site.

Overall, it is considered the proposal has no further impacts on the existing underground drainage infrastructure, limits potential for future flooding subject to safeguarding conditions as set out below.

Appearance

The overall scale and layout of development along with the proposed exterior materials is considered acceptable and would be secured by condition given the industrial nature of the locality. No details of the pre-fabricated security hut has been provided and a further condition would be included to seek approval of these details prior to its construction to ensure satisfactory appearance.

The proposal includes 2.4m high palisade fencing and gates to the boundary. It is considered palisade fencing would not provide a positive contribution to the appearance of the locality or the security of the site. A safeguarding condition requiring the boundary fencing to be powder coated black wire mesh paladin fencing and gates would be included to ensure satisfactory appearance and improved security of the site. Whilst the Police have suggested the use of self-closing and self-locking gates this is considered would not be practical for customers accessing the site via the vehicle access. All other security measures as recommended by the Police and Community Safety Team would be required by condition.

Based on the amended fencing, it is considered the building, including its design is considered would have a positive impact on the locality by bringing a vacant site back into use.

Access and Parking

Sufficient parking is shown on the submitted plans to support the proposed development and to meet the requirements of saved UDP Policy T13. These spaces, along with the vehicle access and manoeuvring areas would be secured by condition in line with the recommendations of the Local Highway Authority. A secure cycle store for use by employees for up to 4 x bicycles would also be required by condition in line with saved UDP Policy T13 along with a condition to secure satisfactory visibility splays in line with the recommendations of the Local Highway Authority.

The submitted Transport Assessment explains that the development would not result in any severe transport impacts and concludes that the proposal for a fourth arm and associated signalling would operate within the capacity of the junction due to the low vehicle trips expected to be associated with the development. The Local Highway Authority also confirms that the predicted traffic from the development of 20 arrivals and 28 departures during am peak traffic and 5 arrivals and 14 departures in the afternoon is not a significant level of trips which can be accommodated within the capacity of the proposed improved junction.

The Local Highway Authority recommended conditions to require the works to the new junction to be carried out prior to commencement along with further capacity assessments for future phases of development. It is understood that the recent junction improvement works carried out by the Council's highways team in the locality failed to take account of the sites allocation for future development or the previous permission for a similar scheme on site, as this current application.

The proposed new junction works for a fourth arm fall outside of the application site boundary and it is considered that these works could be carried out under separate Highways legislation and a condition would not meet the Governments tests and aims on the use of planning conditions. It is also considered that the request for a further capacity

assessment for other phases of development fall outside the scope of this current application and it would be unreasonable and onerous failing the Governments tests and aims on the use of planning conditions. These matters would instead be added as notes to applicant.

A condition would also be included to require the installation of Electric Vehicle Charging Points as shown on the submitted Proposed Surface Finishes plan in line with the recommendations of Pollution Control.

Overall, the proposal is considered would not result in any severe transport implications and is acceptable subject to the conditions set out above.

Impact on surrounding residential occupiers

The nearest residential properties are approximately 90 metres away from the proposed building, side facing the site across the River Tame, with the storage yard area some 110 metres away. It is considered that this distance/separation is adequate to protect the amenity of those residents. Furthermore, this location is in at the edge of a predominately industrial use area where higher levels of noise and disturbance are to be expected over and above any usually expected within other predominantly residential areas of the borough. Across the River Tame, the character changes to a mixed residential/industrial use area again with higher levels of background noise and disturbance.

The proposed opening hours of between 07:30am to 18:00pm Monday to Saturday and 09:00am to 16:00pm Sundays and Bank Holidays are also considered would help to minimise any potential additional impacts on nearby neighbours amenity and this would be secured by condition.

Overall, it is considered the proposal would not result in any significant additional impacts on neighbours amenity subject to the recommended condition.

Conclusions and Reasons for Decision

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, it is considered that the proposal would not result in any additional harm to the appearance or environmental value of the area or result in any additional harm to nearby neighbours.

Notwithstanding the conditions recommended by the Local Highway Authority, the scope to include conditions is restricted to those relating to the laying out of the proposed vehicle access, parking / cycle spaces and visibility splays for the reasons set out in this report. Separate highway legislation for works outside of the application site boundary can deliver the remaining highways recommendations and as such the proposal is considered acceptable and would not result in severe additional transportation impacts.

The proposal is considered acceptable subject to the conditions set out in this report and accords with:

- NPPF 1 - Building a strong, competitive economy
- NPPF 7 - Requiring good design
- NPPF 10 - meeting the challenge of climate change, flooding and coastal change

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- NPPF 11 - Conserving and enhancing the natural environment
- BCCS CSP3: Environmental Infrastructure
- BCCS CSP4: Place Making
- BCCS EMP1: Providing for Economic Growth
- BCCS EMP2: Actual and Potential Strategic High Quality Employment Areas
- BCCS TRAN2: Managing Transport Impacts of New Development
- BCCS ENV1: Nature Conservation
- BCCS ENV2: Historic Character and Local Distinctiveness
- BCCS ENV3: Design Quality
- BCCS ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- BCCS ENV8: Air Quality
- UDP GP2: Environmental Protection
- UDP ENV10: Pollution
- UDP ENV11: Light Pollution
- UDP ENV14: Development of Derelict and Previously-Developed Sites
- UDP ENV17: New Planting
- UDP ENV18: Existing Woodlands, Trees and Hedgerows
- UDP ENV23: Nature Conservation and New Development
- UDP ENV24: Wildlife Corridors
- UDP ENV32: Design and Development Proposals
- UDP ENV35: Appearance of Commercial Buildings
- UDP T7: Car Parking
- UDP T13: Parking Provision for Cars, Cycles and Taxis
- IND2 of the emerging Site Allocation Document.
- NE1 to NE9 of the Natural Environment SPD
- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW10 Well Designed Sustainable Buildings
- Section 5 Air Quality SPD

Taking into account the above factors it is considered that this planning application should be recommended for approval subject to safeguarding conditions.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding layout and ecology, further plans and supporting information has been submitted which enables this application to be supported.

Recommendation

Grant Planning Permission Subject to Conditions

Conditions and Reasons

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

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

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

- Phase I and II Ground Investigation Report (DPS/18990 03/02/2011). Deposited 28/07/2017
- Assessment of Contamination (Ref 18990). Deposited 18/08/2017
- Transport Assessment (T&PPB6519R001F1.0 09/06/2017). Deposited 21/06/2017
- Coal Mining Risk Assessment (AJM/26260 08/08/2017). Deposited 08/08/2017
- Design and Access Statement. Deposited 16/06/2017
- Preliminary Ecological Appraisal (RT-MME-124828 April 2017). Deposited 16/06/2017
- Flood Risk Assessment (April 2017 – 2017-095). Deposited 21/06/2017
- Proposed Surface Finishes (1973B-06 Rev B). Amended deposited 15/08/2017
- Indicative Drainage Layout (101 P1). Deposited 28/07/2017
- Proposed Covered Storage Bays (1973-05 Rev A). Amended deposited 21/07/2017
- Site Location Plan (1973B-01). Deposited 16/06/2017
- Proposed Plans & Elevations (1973B-04). Deposited 16/06/2017
- Proposed Site Plan (1973B-03 Rev B). Amended deposited 28/07/2017
- Water Vole Survey Letter (RT-MME-125252). Deposited 31/01/2018
- Construction Ecological Management Plan (RT-MME-125252-03). Deposited 31/01/2018
- Reptile Survey (RT-MME-125252-01). Deposited 20/11/2017
- Otter Survey (RT-MME-125252-02). Deposited 20/11/2017
- Addendum to Preliminary Ecological Appraisal (RT-MME-124828-01). Deposited 07/03/2018

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

3a. Notwithstanding the submitted details, prior to commencement of development drainage plans for the disposal of foul and surface water flows shall be submitted to and approved in writing by the Local Planning Authority.

3b. The development shall be fully completed in accordance with the approved details prior to the development first coming into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

4a. Prior to the commencement of development the following shall be submitted to and approved in writing by the Local Planning Authority:

- i. a scheme of intrusive site investigations;
- ii. a report of findings arising from the intrusive site investigations; and
- iii. a scheme of remedial works.

4b. The approved scheme shall be fully implemented prior to the development first coming into use.

Reason: To ensure the safety of development and to accord with NPPF 109 & 120 and UDP Policy GP2.

5a. Prior to built development commencing the results of an additional ground gas assessment, together with an assessment of identified and/or potential hazards arising from any land contamination and/or ground gas shall be submitted to and approved in writing by the Local Planning Authority (see Notes for Applicant CL1 & CL2).

5b. Prior to built development commencing a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority (see Note for Applicant CL2).

5c. The remedial measures as set out in the 'Remediation Statement' required by part b) of this condition shall be fully implemented in accordance with the agreed timetable.

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

5e. 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 agreed in writing by the Local Planning Authority prior to the development being brought into first use (see Note for Applicant CL3).

Reason: To ensure safe development of the site, to protect human health and the environment, to ensure that the site does not pose any further risk to the water environment and to accord with NPPF 109 & 120.

6a. Prior to commencement of development a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority to clearly demonstrate (including but not limited to) that there will be no lateral shear or circular slip failure towards the railway operational infrastructure and to set out measures to ensure construction works do not affect the operation of the railway network.

6b. The development shall be carried out in accordance with the agreed details.

Reason: To ensure the stability of the development, to ensure continued free flow and operation of the Railway Network and to accord with NPPF Paragraph 120.

7a. Prior to commencement of development including site clearance a walkover Badger survey shall be carried out.

7b. In the event that any Badger setts are identified during the walkover badger survey, within 30m of the proposed area of construction works a Badger activity survey shall be undertaken.

7c. The results of the Badger surveys, along with any necessary mitigation and enhancement measures shall be submitted to and approved in writing by the Local Planning Authority prior to construction on site.

7d. Any necessary mitigation and enhancement measures set out in the approved Badger surveys shall be fully implemented prior to the development first coming into use and retained for the life of the development.

Reason: To ensure the appropriate protection, mitigation and enhancement of habitats, wildlife and protected species and to accord with National Planning Policy Framework 11 & Paragraph 109, BCCS Policies CSP3 & ENV1, UDP Policies ENV18, ENV23 & ENV24 and NE2, NE5, NE6 & NE8 of the Natural Environment SPD.

8a. Notwithstanding any details submitted and prior to commencement of development a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall incorporate a high proportion of trees (at least a third of the retained area) of local provenance, with the remaining area to be managed to develop some scrub habitats (for example along the steeper river bank) and species rich grassland on more easily managed areas. The landscaping scheme shall also outline associated ecological measures.

8b. The approved landscaping scheme shall be fully implemented prior to the development first coming into use.

8c. Any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same size and the same species as that originally required to be planted.

Reason: To ensure satisfactory visual amenity of the site, to provide necessary biodiversity enhancements and to accord with NPPF11, BCCS Policy ENV1, UDP Policy ENV18 and NE3, NE5 & NE9 of the Natural Environment SPD.

9a. Prior to the development first coming into use, all access ways, car parking, turning and manoeuvring areas shall be fully consolidated, hard surfaced and drained to ensure surface water from the site does not discharge onto the public highway and the parking bays and other markings clearly demarcated on the ground.

9b. These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development, in the interests of the free flow of traffic on the local highway network, to highway safety and in accordance with UDP Policy GP2, T7 and T13.

10. The electric vehicle charging points as shown on 'Proposed Surface Finishes (1973B-06 Rev B)' deposited 15/08/2017 shall be fully implemented prior to the development first coming into use and thereafter retained for the life of the development.

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

11. Prior to the development first coming into use, a secure covered and illuminated cycle store for the use of staff for up to 4 x bicycles shall be fully implemented within the site curtilage and thereafter be retained and used for no other purpose for the life of the development.

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

12. Prior to the development first coming into use, a covered and illuminated store for refuse and waste recycling facilities shall be fully implemented within the site curtilage and thereafter be retained and used for no other purpose for the life of the development.

Reason: To ensure satisfactory operation of the development.

13a. Notwithstanding the information shown on submitted plans, prior to the construction of the security hut as shown on 'Proposed Site Plan (1973B-03 Rev B)', detailed elevation plans to scale shall be submitted to and approved in writing by the Local Planning Authority of the proposed security hut including details of proposed exterior materials.

13b. The security hut shall be completed in accordance with the approved details and retained as such for the life of the development.

13c. The remainder of the development shall be constructed using the hereby approved exterior materials as shown on 'Proposed Plans & Elevations (1973B-04)' deposited 16/06/2017 and 'Proposed Covered Storage Bays (1973-05 Rev A)' deposited 21/07/2017 and retained as such for the life of the development.

Reason: To ensure satisfactory appearance of development and to accord with NPPF 7, BCCS CSP4 and UDP Policies ENV32 and ENV35.

14a. Prior to installation of any external lighting, an external lighting scheme for around the external areas of the site shall be submitted to and approved in writing by the Local Planning Authority.

14b. Any external illumination within the application site shall ensure that the River Tame is not illuminated during the night time.

14c. External lighting shall be installed in accordance with the approved details and thereafter retained in good working order for the life of the development. No additional lighting shall be installed thereafter.

Reason: To ensure the personal safety of users of the site and to safeguard local bat populations and to accord with National Planning Policy Framework 11 & Paragraph 109, BCCS Policies CSP3 & ENV1, Saved UDP Policies ENV23 & ENV24 and NE2, NE3 & NE5 of the Natural Environment SPD.

15a. Prior to installation of the Headwall as shown on 'Indicative Drainage Layout (101 P1)' deposited 28/07/2017, full engineering details along with plans to scale shall be submitted to and approved in writing by the Local Planning Authority.

15b. The Headwall shall be constructed in accordance with the approved details and retained thereafter.

Reason: To prevent flooding and to ensure satisfactory appearance of development and in accordance with NPPF7 & 10, BCCS Policies CSP4 & ENV5 and UDP Policy ENV32.

16a. The hereby approved development shall only be carried out in accordance with the approved Flood Risk Assessment (FRA)/Drainage Strategy 2017/095 and the following mitigation measures detailed within the FRA:

- Limiting the surface water run-off generated by the design storms so that it will not exceed 5 l/s and not increase the risk of flooding off-site.
- Provision of around 520 cubic meters of attenuation flood storage on the site to a 100year + CC standard. This may change with further detailed design.
- Finished floor levels are set no lower than 118m above Ordnance Datum (AOD)/ground level.

16b. No development or storage shall take place at any time within the south-east section of the site which falls within Flood Zones 2 and 3.

16c. Surface water shall not at any time drain into the water course.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to reduce the impact of flooding on the proposed development and future occupants and in accordance with NPPF10 and BCCS Policy ENV5.

17. No development shall take place above the north-east section of the site that accommodates underground Severn Trent equipment or:

- i. 7.5mtrs to the North and South of the equipment;
- ii. 5mtrs to the West of the equipment; and
- iii. Not to be built at all to the East (between the Severn Trent equipment and River Tame).

Reason: To protect underground flood and sewer related infrastructure to safeguard the locality against flooding and to accord with NPPF Paragraph 99 and BCCS Policy ENV5.

18a. The development shall be carried out in accordance with the hereby approved Construction Ecological Management Plan (RT-MME-125252-03).

18b. Any excavations during construction that need to be left overnight shall be covered or fitted with mammal ramps to ensure that any animals that enter can safely escape.

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18c. Vegetation clearance shall be undertaken outside the nesting bird season. The nesting bird season is weather dependent but generally extends between March and September inclusive (peak period March-August).

Reason: To ensure the appropriate protection, mitigation and enhancement of habitats, wildlife and protected species and to accord with National Planning Policy Framework 11 & Paragraph 109, BCCS Policies CSP3 & ENV1, UDP Policies ENV18, ENV23 & ENV24 and NE2, NE5, NE6 & NE8 of the Natural Environment SPD.

19. Notwithstanding the details as shown on 'Proposed Surface Finishes (1973B-06 Rev B)' deposited 15/08/2017, the hereby approved 2.4m high boundary fencing and gates shall be powder coated black paladin welded mesh fencing.

Reason: To ensure satisfactory appearance of development in accordance with UDP policies ENV32 & GP2.

20. All retained trees within the application site shall be protected during construction in accordance with British Standard 5837: 2012 'Trees in relation to design, demolition and construction – recommendations'.

Reason: To retain important visual amenity of the site and to safeguard the biodiversity benefits associated with the on-site trees and to accord with National Planning Policy Framework 11 & Paragraph 109, BCCS Policies CSP3 & ENV1, UDP Policies ENV18, ENV23, ENV24 & GP2 and NE2, NE5, NE6 & NE8 of the Natural Environment SPD.

21. No planting or structures exceeding 600mm or below 2000mm in height above carriageway levels shall at any time be permitted within inter-visibility splays measured 2.4m behind the stop lines across the full carriageway width of the new fourth arm and 2.4m behind the stop lines existing north and south arms.

Reason: In accordance with DfT Design Manual for Roads and Bridges design guidance for signalised junctions, in the interests of highway safety.

22. The hereby approved development shall not operate outside the hours of 07:30am to 18:00pm Monday to Saturday and 09:00am to 16:00pm Sundays and Bank Holidays.

Reason: To safeguard neighbours amenity and to accord with UDP Policy GP2.

23. The development shall be constructed to meet the following minimum security measures and retained as such:

- Supplementary defensive planting to the boundary.
- The site shall remain gated at the entrance (access road) during out of work hours.
- Metals, precious materials and tools shall be stored and kept secure within the application building.
- Plant equipment stored at the premises to have as many parts as possible marked with a unique number.
- Fitting of a secure plate bearing company's details or a unique identifier with a 24hour telephone number.

- Record all plant equipment and attachments in a company plant asset register and register items with an approved recognised database.
- Any accessible windows should be fitted with at least one pane of BS EN 356 grade P1A glass.
- Fit PAS 24:2016 doors.
- Any internal doors that will separate the staff from the customers should have access controls fitted.
- The site to be fitted with Monitored CCTV and alarm systems (including to the metal railings to alert owners of an attack to the fence line) with suitable lighting to support the CCTV. The CCTV system must have a recording capability, using a format that is acceptable to the local police. The recorded images must be of evidential quality if intended for prosecution. All CCTV systems must be installed to BS EN 50132-7 Standards.

Reason: To ensure the safety and security of the development and its occupiers, in the interests of visual and residential amenity and to accord with UDP Policy GP2.

Notes to Applicant:

Network Rail

The following details to be submitted to and agreed with Network Rail:

- A. Pad or strip foundations under the steel posts; and
- B. Foundation designs, calculations and ground investigation data.

Dust and debris cannot drift, fly or in any be deposited as a result of the development onto the railway.

The developer is to submit directly to Network Rail, a Risk Assessment and Method Statement (RAMS) for all works to be undertaken within 10m of the operational railway under Construction (Design and Management) Regulations, and this is in addition to any planning consent. Network Rail would need to be re-assured the works on site follow safe methods of working and have also taken into consideration any potential impact on Network Rail land and the existing operational railway infrastructure. Review and agreement of the RAMS will be undertaken between Network Rail and the applicant/developer. The applicant /developer should submit the RAMs directly to AssetProtectionLNWSouth@networkrail.co.uk

As the proposal includes works which may impact the existing operational railway and in order to facilitate the above, a BAPA (Basic Asset Protection Agreement) will need to be agreed between the developer and Network Rail. The developer will be liable for all costs incurred by Network Rail in facilitating this proposal, including any railway site safety costs, possession costs, asset protection costs / presence, site visits, review and agreement of proposal documents and any buried services searches. The BAPA will be in addition to any planning consent. The applicant / developer should liaise directly with Asset Protection to set up the BAPA.

Coal Authority

The undertaking of the scheme of intrusive site investigations shall be subject to agreement with the Coal Authority's Permitting Team.

Environment Agency

All works should be undertaken in accordance with best practice, e.g. the Environment Agency's Pollution Prevention Guidelines, to ensure that the watercourse within the survey area is not adversely impacted by the proposed works.

Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.

Refer to the Environment Agency Guiding principles for land contamination for the type of information that we required in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.

Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed.

Refer to the contaminated land pages on GOV.UK for more information.

The applicant / developer should refer to our document 'The Environment Agency's approach to groundwater protection', available from gov.uk. This sets out our position on a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heating and cooling
- Drainage
- Storage of pollutants and hazardous substances
- Management of groundwater resources

All precaution must be taken to avoid discharges and spills to ground both during and after construction. For advice on pollution prevention measures, the applicant should refer to guidance available on our website (www.gov.uk/environment-agency).

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used onsite providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution.
- treated materials can be transferred between sites as part of a hub and cluster project.
- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to:

- the Position Statement on the Definition of Waste: Development Industry Code of Practice and;
- The Environmental regulations page on GOV.UK.

Contaminated soil that is, or must be, disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to the Hazardous Waste pages on GOV.UK for more information.

Highways

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

Full engineering details of the required fourth arm to the Walsall Road/Cemetery Road signalised junction to provide access to the site, to be submitted to the Highway Authority. The modified junction should be fully implemented, commissioned and brought into use in accordance with the details. All costs to be borne by the applicant including commuted sums for the future maintenance of the equipment where required.

No further phases of development on the site should proceed until a full capacity assessment of the modified Walsall Road/Cemetery Road signalised junction has been undertaken and submitted to the Highway Authority. The assessment, should form part of an updated Transport Statement and should demonstrate that any additional development traffic, over and above that accepted under the current proposal would not have severe operational and road safety impacts on the signalised junction and to the free flow of traffic on the wider highway network.

Health and Safety

The premises is required to comply with the requirements of the Health and Safety at Work etc. Act 1974. The applicant is advised to liaise with Environmental Health prior to first opening to consider compliance issues relating to this legislation.

Pollution Control

Vehicle Charging Points

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

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

Contaminated Land

CL1

Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A1:2013 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

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

CL3

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

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

Severn Trent Water

Severn Trent Water advise that there are public sewers located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Ecology

A license will be required from Natural England to conduct any direct disturbance to protected species including translocation. Further details at <https://www.gov.uk/topic/environmental-management/wildlife-habitat-conservation>

For further information and guidance on UK protected species and licensing please visit [DEFRA web pages for the Wildlife and Countryside Act 1981.](#)



Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 4.

Reason for bringing to committee: Significant community interest

Location: 10, QUEENS PARADE, HIGH STREET, BLOXWICH, WALSALL, WS3 2EX

Proposal: CHANGE OF USE FROM USE CLASS A1 (SHOPS) TO A5 (HOT FOOD TAKEAWAY).

Application Number: 17/0855

Applicant: Mr D Raeofi

Agent: Mr Miah

Application Type: Full Application

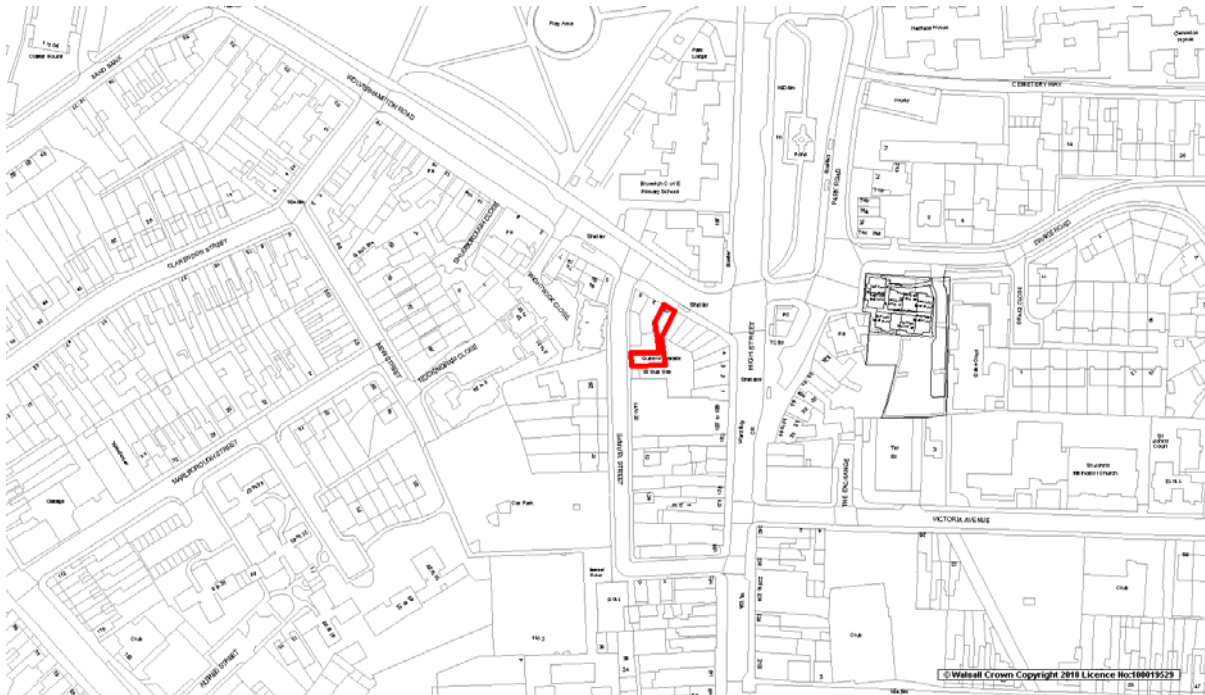
Case Officer: Devinder Matharu

Ward: Bloxwich West

Expired Date: 25-Dec-2017

Time Extension Expiry:

Recommendation Summary: Delegate to the Head of Planning, Engineering and Transportation to grant permission subject to conditions subject to resolution of hours of operation, roller shutters and flue or to refuse permission within the agreed extension of time if these matters are not resolved



Proposal

The proposal is for a change of use from use class A1 (shops) to class A5 (hot food takeaway).

The ground floor plan shows a customer waiting area, a counter and kitchen at the rear. The first floor plan shows an office and food preparation and storage area.

The plan also states a grease separator complying with BS EN 1825-1:2004 or other effective grease removal method shall be installed. A rear extraction flue will be installed, the plans state that the flue would be 1.0m above any roof ridge within 20m. The proposed flue would extend 1.5m above the roof ridge, as shown on the plan. The plans also show bins to be stored at the rear of the premises.

The application form states 4 people will be employed on a full time basis. The agent has stated that the applicant is willing to open during the day from 11am to 11pm Mondays Saturdays and Sundays 4pm until 11pm. There are no external alterations to the shop front.

Extraction details have been submitted.

The agent has advised that the applicant is willing to extend the opening hours of the shop to accommodate daytime trade, he will open from 11am until 11pm, Monday – Saturday and Sunday will remain 4pm till 11pm.

Site and Surroundings

Number 10 Queens Parade is located on the southern side of Wolverhampton Road, under 30m from the junction of Bloxwich High Street. The unit sits within a parade of commercial premises along this section of Wolverhampton Road. The other commercial units are occupied for a mixture of retail and non-retail uses including a hot food takeaway. In front of the parade of units are double red lines (red route). Towards the rear of the premises is a servicing area accessed from Samuel Street.

In between numbers 4 and 5 Wolverhampton Road is Samuel Street that provides access to the rear of the commercial premises on both Wolverhampton Street and High Street. There are also residential properties on the western side of Samuel Street. Adjacent number 17 Samuel Street is a car public park.

On the opposite side of Wolverhampton Road is Bloxwich Primary School.

The nearest residential property is located on Wolverhampton Street to the north west of the site.

The site is within the primary shopping area of Bloxwich District centre and within the Bloxwich High Street Conservation Area.

Relevant Planning History

None

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 1 - Building a strong, competitive economy**
- **NPPF 2 - Ensuring the vitality of town centres**
- **NPPF 7 - Requiring good design**
- **NPPF 8 - Promoting healthy communities**

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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

the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres
- CEN3: Growth in the Strategic Centres
- CEN4: Regeneration of Town Centres
- CEN5: District and Local Centres
- ENV3: Design Quality

Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV29: Conservation Areas
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S4: The Town and District Centres: General Principles
- S5: The Local Centres
- S6: Meeting Local Needs
- S10: Hot Food Take-Aways, Restaurants and Other A3 (Food and Drink) Outlets
- T4 - The Highway Network
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T13: Parking Provision for Cars, Cycles and Taxis
- BX1: Primary Shopping Area
- BX3: Conservation Areas
- BX12: Traffic within the District Centre
- BX13: Car Parking

Supplementary Planning Document

Designing Walsall

- DW3 Character

Shop Front

- SF2: Shop front proportions
- SF3: Materials in shop fronts
- SF4: Colour finishes
- SF5: Access to shops
- SF6: Advertisements
- SF8: Shop front security

Consultation Replies

Environmental Health – No objection to the proposed opening hours and adequate facilities for the storage/disposal and containment of waste.

Transportation – No objection

Pollution Control – No objection subject to the flue should project 1m above the ridge, grease trap details, litter bin condition and hours of operation.

West Midlands Trains Limited – No objection but states their concern would be surrounding noise levels & vibrations generated by passing trains, including heavy freight, both during the day and at night. We would therefore request that all developments include suitable structural mitigations (such as triple glazing) to minimise the impact of the railway.

Representations

Nine letters of objection have been received from five residents objecting to the proposal on the following grounds:

- Already too many take-aways in Bloxwich
- Already two take-aways in the parade of shops
- No more demand/requirement for new take-aways
- Unnecessary competition the area
- Existing businesses have seen a decline in business
- Limiting opening hours to 11pm
- Antisocial behaviour with young people hanging around
- Noise
- Smells
- Parking issues including red route has impacted upon business, restricted on street parking, increase traffic, customers will on street resulting in highway issues.

One petition with 16 signatures has been received objecting to the proposal on the following grounds:

- Increase in noise
- Increase in rubbish
- Anti-social behaviour by young people hanging around
- Restricted parking on the road
- Increase in illegal parking
- Increase in accidents.

Determining Issues

- Principle of development
- Design, visual impact of flue and impact upon the conservation area
- Impact upon neighbouring commercial and residential occupiers
- Parking and access

Assessment of the Proposal

Principle of development

The National Planning Policy Framework states that Local Planning Authorities should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality.

Policy S1 of the UDP identifies hot food take-aways as town centre uses that should be supported in established centres. The premises is currently vacant and the reuse of the premises with a hot food take-away would enhance the vitality and viability of the district centre.

The site is located within the primary shopping area and Policy S4 of the UDP supports non retail uses in primary shopping area provided they contribute to the vitality of the frontage by attracting additional trade and/or increasing the range of facilities to offer. It also states proposals should not detract from the retail function by creating a dead frontage, be open during normal shopping hours and not detract from the amenities. In this case, the proposal seeks to open between the hours of 4pm and 11pm Mondays to Sundays. The proposal in this respect of policy S4 would create a dead frontage and would not be open during normal opening hours. The agent has been advised to address this issue and also for his client to consider opening earlier in the day maybe midday to try and attract a lunch time trade. This will be updated at planning committee. If this issue cannot be resolved then delegated powers are sought for the Head of Planning Engineering and Transportation to refuse the planning application within the agreed extension of time date.

Whilst there are already two existing take-aways within this parade of units, there are no policies with the Unitary Development Plan that restricts the number of take-aways with any established town, district or local centre. Occupiers of neighbouring hot food take-aways have raised concerns over no further demand for new hot food take-away and competition is not a material planning consideration in this case.

Design, visual impact of flue and impact upon Conservation Area

The agent has not submitted any elevations of the front of the premises. There is a red solid roller shutter on the frontage of the premises, these have been installed over a period of time and are lawful. Whilst other premises along this parade of commercial units also have similar roller shutters, the site is within Bloxwich Park Conservation Area. The conservation area is at risk and therefore any works to secure enhancement of the conservation area would be a positive benefit to the conservation area. The agent has been approached to ascertain whether they could consider removing this visually detrimental roller shutter in lieu of a roller shutter that would be more sympathetic to character of the conservation area and in keeping with the Shop Front SPD. Comments on this will be updated at Planning Committee.

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The proposed flue would project 1.5m above the ridge of the building. It is considered the height of the proposed flue is excessive and would be seen above the ridge from the main High Street and Wolverhampton Road. Both Pollution Control and Environmental Health have advised the flue can be reduced to 1m above the ridge to reduce the visual impact within the conservation area. The extraction duct would also have to be painted black in the interests of the visual amenities of the conservation area. If this issue cannot be resolved then delegated powers are sought for the Head of Planning Engineering and Transportation to refuse the planning application within the agreed extension of time date. Amended plans are being sought from the planning agent showing the flue terminating 1m above the ridge.

Pollution Control have advised that they have no objection to the proposed extraction flue and equipment which would eliminate any cooking odours, so as not to impact upon the amenities of neighbouring occupiers.

The proposal seeks to provide rear storage bins, neighbours have raised concerns over rubbish from the take-away. It is more than likely that customers would come to the premises to collect their take-away and return home to consume their food. A note for applicant can be attached to ensure a waste bin is placed within the premises for customers use.

Impact upon neighbouring commercial and residential occupiers

The nearest residential properties are located 28m to the north west of the application site on Wolverhampton Road and Samuel Street towards the rear servicing area of the premises, some 50m away. The application site is within the district centre boundary. Numbers 5a, 5b, 7a and 7b sit adjacent two commercial properties. It is considered that the change of use of this premises into a hot food take-away would not unduly impact upon the amenities of these neighbouring occupiers sufficient to warrant refusal of the application. The proposal would also not unduly harm the amenities nor unduly impact upon the amenities of the occupiers along Samuel Street to warrant refusal of the application.

Objectors have also raised concerns regarding noise. Residential properties in Wolverhampton Street and Samuel Street are located on the edge of the district centre boundary. Policy S8 of the UDP identifies that those neighbouring properties in or adjacent local centres would have a lower level of amenity compared to those residents in suburban areas. There is no evidence to suggest that the take-away use would increase any existing noise levels in the area. Furthermore, a planning condition can be attached to ensure the premises do not operate for business beyond 11pm in the evenings, so that neighbouring residential occupiers can expect some peace and quiet beyond these hours.

Objectors have also raised concerns over anti-social behaviour and young people hanging around the premises. There is no evidence to suggest that the proposed hot food take-away would result in anti-social behaviour or result in young people hanging around. Customers would normally come to the premises to collect their take-away and would only be on site for a matter of a few minutes.

There are commercial occupiers either side of the proposed application site. The proposed hot food take-away would not unduly impact upon these neighbouring commercial occupiers to warrant refusal of the application.

Parking and access

The existing premises is a retail shop seeking change of use for a hot food take-away. The site is located within a parade of shops within Bloxwich District Centre. There are two existing hot food take-aways within this parade.

Objectors have raised concerns over potential increase in accidents and illegal parking. There are red route no parking restrictions along High Street and Wolverhampton Street outside the parade to control indiscriminate parking. Towards the rear of the premises is a servicing area access from Samuel Street. There is also a public car park on Samuel Street and some on street parking along High Street. It is envisaged that potential customers would utilise existing on street parking and car parks in the vicinity to park and collect their takeaway. The public car park on Samuel Street is located just under a100m from the hot food take-away.

Overall the Highway Authority considers the change of use of the premises will not have severe transportation implications and is acceptable in accordance with NPPF para 32.

Conclusions and Reasons for Decision

On balance, the principle of a hot food take-away in a district centre is considered acceptable providing the issue regarding opening hours and active frontage can be resolved. There is potential to remove and enhance the frontage of the premises with a more suitable roller shutter. The height of the flue is to be reduced in liaison with Environmental Health and externally painted black in the visual amenities of the conservation area. The proposed hot food take-away would not unduly harm the amenities of neighbouring residential and commercial occupiers to warrant refusal of the application. There are on street and public car parks within walking distance of the application site.

On balance the proposed development can be supported. The proposal meets the aims and objectives of The National Planning Policy Framework, policies CSP4, CEN1, CEN2, CEN3, CEN4, CEN5 and ENV3, of the Black Country Core Strategy, Saved Policies GP2, ENV10, ENV14, ENV32, ENV29, ENV35, S1, S2, S4, S5, S6, S10, T4, T7, T8, T9, T13, BX1 and BX3 of the Walsall Unitary Development Plan, Policy DW3 of Designing Walsall SPD and policies SF2, SF3, SF4, SF5, SF6, and SF8 of Shop Fronts SPD.

Positive and Proactive Working with the Applicant

Approve

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

Recommendation

Delegate to the Head of Planning, Engineering and Transportation to grant permission subject to conditions subject to resolution of hours of operation, roller shutters and flue or to refuse permission within the agreed extension of time if these matters are not resolved.

Conditions and Reasons

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

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

2. The development shall be completed in accordance with the following approved plans and documents only:

- Location map submitted 30 October 2017
- Extraction systems, the commercial kitchen filtration experts submitted 10th January 2018.
- Existing floor plans submitted 21 June 2017.
- Proposed floor plans submitted 19-02-18

Reason: To define the permission

3a. Prior to the commencement of development, details of a grease trap system to be installed within the premises to prevent fats/oils and greases entering the drainage system shall be submitted to and approved in writing by the Local Planning Authority.

3b. Only the approved grease trap details shall be installed and retained and maintained at all times.

Reason: To prevent the safe operation of the site and to prevent oils/fats and grease entering the drainage system.

4. A litter bin within the customer waiting area shall be placed prior to the first operation of the premises as a hot food take-away.

Reason: To ensure adequate waste facilities for customers is available.

5. The proposed hot food take-away hereby approved shall not be open outside the hours of 11am to 11pm Mondays to Saturdays and 4pm to 11pm Sundays and Bank and Public Holidays.

Reason: To protect the amenities of nearby residential occupiers.



Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 5.

Reason for bringing to committee: Significant community interest

Location: REAR OF, 33A, PELSALL LANE, RUSHALL, WALSALL, WS4 1NA

Proposal: DEMOLITION OF THE EXISTING SINGLE STOREY AND TWO STOREY BUILDINGS ON SITE, CHANGE OF USE FROM VACANT BUILDER'S MERCHANTS TO MOT CENTRE AND VEHICLE SERVICING INCLUDING ANCILLARY OFFICE, RECEPTION AND STAFF ROOM AND ERECTION OF A 2.4M HIGH PALISADE FENCE TO THE SOUTH OF THE SITE

Application Number: 18/0014

Applicant: FB Architecture Ltd

Agent: FB Architecture Ltd

Application Type: Full Application

Case Officer: Devinder Matharu

Ward: Rushall-Shelfield

Expired Date: 01-Mar-2018

Time Extension Expiry: 03-May-2018

Recommendation Summary: Delegate to the Head of Planning, Engineering and Transportation to grant permission subject to conditions subject to new material planning considerations are received in respect of the re-consultation on amended description to include the demolition of the existing buildings, to provide servicing of vehicles and the erection of the 2.4m high palisade fence.



Proposal

The application proposes:

- Demolition of the existing single storey and two storey buildings on site
- Change of use from vacant builder's merchants to MOT Centre and vehicle servicing including ancillary office, reception and staff room.
- Erection of a 2.4m high palisade fence to the south of the site

The proposed building would be 19.4m in length, 12.7m wide, 2.8m to the eaves and 5.8m to the pitch. The building will accommodate 3 MOT bays and a reception and staff area and three roof lights will be installed. The building would be located towards the rear of the site being set 1m off the rear boundary wall.

The application proposes to reduce the rear wall from 4.5m high to 3.5m high and a section of wall on the south western corner from 4m to 3m high. The existing 1.5m high wall on the southern boundary would be retained. A 2.4m high galvanised fence is proposed along part of the southern boundary of the site.

The plans show nine parking spaces to the side and front of the proposed building.

The application form states:

- the proposed opening hours would be 8am to 6pm Mondays to Fridays and 9am to 1pm Saturdays.
- 6 full time staff and 2 part time staff

Site and Surroundings

Number 33a Pelsall Lane is located on the west side of Pelsall Lane, a group of two storey and single storey buildings positioned behind number 33b Pelsall Lane, which is a dental surgery. The Dental Surgery is a single storey and two storey rendered property which sits at the back of pavement.

Three parking spaces are located towards the rear of the dental surgery for the surgery. Access to 33a and the rear of 33b is via a driveway to the north of number 33 Pelsall Lane.

Numbers 31 and 33 Pelsall Lane is a hot food take-away at ground floor and residential above. The boundary treatment with this property is a 1.5m high wall.

To the rear of the site is number 9 Ivatt Close a two storey detached building with a single storey garage. The property is set at an angle facing north east to the application site. The garden to this property is triangular in shape. The rear boundary is a wall approximately 4m high. The application site is sits 0.6m higher than this neighbouring property.

To the north of the application site is number 35 Pelsall Lane an end of terrace property with a two-storey wing and a rear garden that sits parallel to the application site.

To the south western corner of the site is number 8 Ivatt Close, an end of terrace property with a car parking area adjacent the boundary wall to the application site.

The 4.5m high boundary wall to the rear of the site can be seen from the neighbouring cul de sac, Ivatt Close.

On the opposite side of the road is the library and residential properties.

There are double yellow lines along this section of Pelsall Lane extending up to and outside 35 Pelsall lane and on the opposite side of Pelsall Lane. The site is some 34m from the junction with Lichfield Road. Pelsall Lane slopes upwards towards this junction.

The site is within Rushall Local Centre.

Relevant Planning History

15/0949/FULL- Retrospective application for the change of use from builders yard storage to 24 hour taxi booking office. Grant Permission Subject to Conditions 2015-08-11.

16/0940- Construction of 3no town houses and 2no semi detached two storey dwellings. Withdrawn 2016.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 1 - Building a strong, competitive economy**
- **NPPF 2 - Ensuring the vitality of town centres**
- **NPPF 7 - Requiring good design**
- **NPPF 10 - meeting the challenge of climate change, flooding and coastal change**

- **NPPF 12 - Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- CEN5: District and Local Centres
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- JP8: Bad Neighbour Industrial Uses
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres

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- S5: The Local Centres
- T4 - The Highway Network
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

DW3 Character

- DW10 Well Designed Sustainable Buildings

Air Quality SPD

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

Consultation Replies

Fire Officer - No objection subject to adequate water supplies for firefighting.

Police- No objection subject to secure by design and CCTV.

Pollution Control – No objection subject to conditions to mitigate the effects of ground contamination, identify any potentially hazardous materials associated with the building structures, their previous use or demolition and if necessary prevent contamination of the ground from such materials. Conditions are also recommended to minimise any likely noise impacts of the proposal and to prevent or minimise environmental impact during the course of building works.

Public Rights of Way – No objection.

Severn Trent Water No objection subject to drainage condition.

Representations

Eight letters or representations from 5 residents have been received objecting to the proposal on the following grounds:

- Inaccurate plans including the application site is not on the same level as neighbouring properties, the height of the existing wall is incorrect, building to be built 10ft away from wall
- Existing MOT centre in Pelsall Village, 3miles away
- Evans Halshaw dealership offers MOT and servicing
- Do not need MOT centre
- Site not suitable for building and business of this nature
- Close to residential properties

- Disruption to neighbours
- Boundary wall height shown incorrect on plans
- Do not want boundary height reduced.
- The land to the site is elevated 7 - 8 ft above the ground level of Ivatt close
- Proposed building tower above neighbouring property
- Loss of light to neighbouring property
- Impact upon health and wellbeing of elderly neighbours
- Noise pollution including car engines running, revving of cars, power tools being used, from use of garage with comings and goings, insulated doors but garages never kept doors closed, car doors slamming
- Concerns over car repairs on site
- Fumes
- Negative environmental impact
- Rubbish
- Litter
- Blocked drains as business dispose of cooking fats
- Fly tipping
- Other tenants leaving rubbish outside neighbours property resulting in them paying for removal
- Highway and access issues including- Access issues adjacent a main road, extra traffic using shared driveway, number of accidents with people exiting and overtaking buses, shared access and gate way, entrance dangerous adjacent junction and bus lane, residents received parking fines for parking outside homes, dangerous driving with bus lane/stop and inconsiderate customers parking to visit shops, dangerous slip road, speed of traffic, existing difficult parking situations, unable to park outside homes,
- Security issues with gate having to be locked out of hours

Determining Issues

- Principle of development
- Design and layout
- Impact upon neighbouring commercial and residential occupiers
- Access and parking

Assessment of the Proposal

Principle of development

The application proposes the demolition of the existing single storey and two buildings on the site, as well as the erection of a single storey building and change of use of the site. The agent has amended the description of development to include the demolition of the existing buildings on site, the erection of a 2.4m high palisade fence to the south of the site and to include vehicle servicing. As a result of this a further 14 day consultation has been undertaken. The recommendation is to delegate to the Head of Planning, Engineering and Transportation to grant planning permission subject to no new material planning considerations being put forward to cover this consultation period.

The agent advises the site is a vacant builders merchants. Policy S1 neither identifies a builders merchants nor a MOT centre and vehicle repairs as a town centre use. Whilst neighbouring residents may state the site is not suitable for buildings or a business of this

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nature, the proposal has to be weighed up in terms of the vacant builder's merchants operating again without the need for planning permission and without any restrictions upon opening hours with potential for external storage. On this basis the redevelopment of the site for an MOT garage can be supported in principle as it offers control over the proposed commercial use.. Furthermore, previously planning permission has also been granted for 24 hours taxi business, which would have been more disturbing to neighbours.

Neighbouring occupiers to the application site have also raised concerns that there is an existing MOT centre in nearby Walsall and Pelsall offering MOT's and servicing of vehicles and that they do not want a 'further MOT centre. Whilst there are other local garages that provide MOT's the proposed application would offer vehicle owners a choice of garages. The issue as to who will take ownership of the proposed MOT garage is a matter for the Driver and Vehicles Operation Services Agency as the business would have to be authorised to test vehicles.

Pollution Control have advised that previous land use data and historic mapping shows part of the site has historically been occupied by a builders merchants and a brewery and no information regarding ground contamination has been submitted. Planning conditions regarding contamination land survey to be undertaken.

The principle of a MOT centre and vehicle servicing on this site is considered acceptable and the issues regarding amenity and impact upon neighbouring occupiers would be considered and addressed below.

Design and layout

The proposed MOT building would be 19.4m in length, 12.7m wide, 2.8m to the eaves and 5.8m to the eaves. The building would be set back into the site adjacent the rear western boundary of the site and set 1m off the rear boundary with number 9 Ivatt Close. The building would accommodate a reception area, office and WC facilities.

The proposed new buildings replace existing buildings and fit around the rear section of the site. Neighbouring occupiers consider that the submitted plans are inaccurate as the site is not on the same level as neighbouring properties. The application site is set higher than the neighbouring properties, in particular number 9 Ivatt Close which is 0.6m lower than the application site. There is a 4.5m high wall that separates the rear garden of this neighbouring property and the application site. Amended plans to illustrate the levels difference have been requested. . The existing boundary wall would be reduced in height from 4.5m to 3.5m. The reduction of the boundary wall along the northern, western and part of the south western corner would visually enhance the site. The erection of a 2.4m high palisade fence along part of the southern boundary and the erection of 2.4m high gates set back into the site would not unduly harm the visual amenities of the site. The neighbouring commercial occupiers have raised concerns about security and the gates having to be locked outside of opening hours. This is a civil matter between the two parties but it is likely that the operator will lock the gates when the premises are closed to prevent break ins.

The design and layout of the proposed building, the reduction in the perimeter wall and the erection of the 2.4m high palisade fencing is considered acceptable.

Impact upon neighbouring commercial and residential occupiers

The wall of the proposed building would project 0.3m above the reduced height wall of 3.5m high with the roof sloping away from number 9 Ivatt Close to 5.8m high. It is considered that the proposed building would not unduly harm the amenities of the neighbouring occupiers in terms of loss of light, loss of outlook or visual amenity, as the roof would slope away from the boundary, and any light loss would occur in the morning and would not significantly harm the amenities of the neighbouring occupiers. Ambient light over the structure to the rear garden of 9 Ivatt Close would still be available. The neighbouring occupiers have stated that they do not want the boundary wall reduced, the reduction in the boundary wall by a metre would allow ambient light into the rear garden of number 9 Ivatt Close, improving the situation for these neighbouring occupiers.

The existing buildings on site along the western boundary are single storey and attached to the boundary wall. The proposal seeks to erect a detached building away from this boundary wall and further away from nearby residential properties. Furthermore, number 9 Ivatt Close is set at an angle to the application site where habitable rooms face north eastwards towards the application site, only a small section of the proposed building would be viewed from these windows. It is considered that the proposed building would not unduly harm the visual amenities or result in loss of outlook for these neighbouring residential occupiers.

To the north of the site is number 35 Pelsall Lane and along this boundary between this property and the application site is a 4m high wall and storage sheds and a two storey building. The storage sheds and two storey building are to be demolished with the boundary wall being reduced to 3m high. It is considered with the removal of these buildings, the proposed development would improve the visual outlook for these neighbours as well as allowing ambient into the rear of this neighbouring property and garden. Towards the south west of the site is number 8 Ivatt Close which has a parking area adjacent the boundary wall to the application site. The proposal seeks to reduce the boundary wall along this section of the site from 4m high to 3m high which would visually enhance the visual aspect from the cul de sac.

To the south of the site is number 33 Pelsall Lane that has commercial on the ground floor and residential above.

The proposal seeks to remove buildings and provide an area for car parking and a forecourt. It is considered that the proposed parking in close proximity to neighbouring properties and the use of the driveway would not unduly harm the amenities of these neighbouring occupiers sufficient to warrant refusal of the site. The hours of use of the proposed business would be limited to 6pm Mondays to Fridays and 1pm on Saturdays and no Sunday or public and bank holiday working to protect neighbouring amenities.

The site is located close to neighbouring residential properties. The types of activities likely to be carried out on site may have the potential to give rise to noise emissions which could have a significant impact on the occupiers of these dwellings. Noise emissions include those associated with extraction, ventilation and cooling systems, power tools, deliveries, employee/customer behavioural noise, revving of cars, car engines running and comings and goings to the site. Furthermore, the demolition and construction of the building/s could give rise to noise pollution. Pollution Control have recommended planning condition to control the hours of demolition and construction and the operation of the

business hours will be attached to protect the amenities of neighbouring occupiers. They have also advised that any plant, machinery or equipment used for the purpose of liquid pumping, providing compressed air, heating, ventilation and air conditioning shall be situated within building structure(s) or acoustically designed enclosures or at suitable locations which are to be agreed in writing first.

The site is in close proximity to the Lichfield Road, the main thoroughfare through Rushall to and from Walsall to Brownhills. This road has a high volume of traffic passing on a daily basis where the air quality in the local environment would be poorer. In comparison the number of customer vehicles coming and going at the application site would be lower and as a result the proposal would have a minimal effect on the ambient air quality.

It is considered by restricting the hours of operation of the MOT centre, the proposed use would not neither unduly cause a negative environmental impact for neighbouring occupiers nor impact upon the health and wellbeing of neighbouring occupiers.

Neighbours have reported issues of blocked drains with neighbouring commercial occupiers pouring cooking fat down drains. This is not a material planning consideration and should be pursued with Severn Trent Water and Environmental Health. Neighbours have also reported issues of fly tipping and other tenants dumping rubbish outside neighbouring occupier's houses, rubbish and litter. There is no evidence to suggest that the proposed use would result in litter over and above the existing litter problems in the area. Any fly tipping issues are matters to be dealt with by Clean and Green and Environmental Health.

The use of the site as a MOT centre and vehicle servicing would not unduly harm the amenities of the neighbouring commercial premises or neighbouring occupiers in terms of noise or general nuisance, loss of amenity, loss of outlook or loss of light to warrant refusal of the application.

Access and parking

The proposal will seek to provide nine parking spaces for the proposed use and 5 spaces for the existing adjoining dental practice. Parking policy T13 of the UDP requires garages and vehicles 5 parking spaces per service bay. The proposal would provide three service bays equating to 15 spaces plus 2 disabled bays. Importantly, these are maximum requirements. Taking into account the current use of the site is a Builders Merchants with associated unrestricted vehicle movements, parking etc, the proposed use offers an element of control via reasonable conditions in this respect.

Neighbouring occupiers have raised a number of concerns regarding access and parking, including the access being adjacent a main road, extra traffic using shared driveway, number of accidents with people exiting and overtaking buses, shared access and gate way and entrance dangerous adjacent junction and bus lane. They also refer to the speed of traffic, the slip road is dangerous and dangerous driving by drivers around the bus stop/lane. The access is an existing access point and the number of vehicle trips in comparison to a builders merchants would be lower. Any customers frequenting the proposed MOT and servicing centre would have a pre-arranged appointment and avoiding the need for casual trips to the site. Pelsall Lane is also a 30mph speed restricted road and in close proximity to the main Lichfield Road the speed of vehicles would be relatively low. Furthermore, the slip road off the main Lichfield Road is a bus lane for buses.

Neighbouring residents have also raised concerns that residents received parking fines for parking outside homes, inconsiderate customers parking to visit shops, existing difficult parking situations and unable to park outside homes. There are no guarantees that residents residing in terrace properties have a guarantee parking space outside properties. Any indiscriminate parking causing an obstruction would be a matter for the Police to pursue or Traffic Management.

Despite the shortfall in on-site parking compared to the UDP maximum requirement, on balance the Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with the NPPF in this respect. The public rights of way officer has advised there are no recorded public rights of way across or adjoining the application site.

Conclusions and Reasons for Decision

The principle of a MOT centre and vehicle servicing on this site is considered acceptable and would not unduly harm the amenities of the neighbouring commercial premises or neighbouring occupiers in terms of noise or general nuisance, loss of amenity, loss of outlook or loss of light sufficient to warrant refusal of the application. The design and layout of the proposed building, the reduction in the perimeter wall and the erection of the 2.4m high palisade fencing is considered acceptable. The development will not have severe transportation implications and is acceptable. The proposal meets the aims and objectives of The National Planning Policy Framework, policies CSP4, DEL1, DEL2, CEN5, ENV2, ENV3, ENV5 and ENV8 of the Black Country Core Strategy, Saved Policies GP2, ENV10, ENV11, ENV14, ENV32, ENV33, ENV35, ENV40, JP8, S1, S2, S5, T7 and T13 of the Walsall Unitary Development Plan, Policy DW3 of Designing Walsall SPD and Air Quality SPD.

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant's agent and requested additional details regarding boundary details and cross sections.

Recommendation

Delegate to the Head of Planning, Engineering and Transportation to grant permission subject to conditions subject to new material planning considerations are received in respect of the re-consultation on amended description to include the demolition of the existing buildings, to provide servicing of vehicles and the erection of the 2.4m high palisade fence.

Conditions and Reasons

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

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

2. The development shall be completed in accordance with the following approved plans and documents only:

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- Location plan drawing number 1386-17-01 submitted 27-02-18
- Site layout plan and site section drawing number 1386-17-02/B submitted 21/3/18
- Elevations of existing buildings drawing number 1386-17-15 submitted 27-02-18
- Proposed MOT centre existing office building drawing number 1386-17-07 submitted 27-02-18
- Proposed MOT centre existing site plan drawing number 1386-17-06 submitted 27-02-18
- Floor plan drawing number 1386-17-03/A submitted 27-02-18
- Proposed section and elevations drawing number 1386-17-04/A submitted 27-02-18
- Fence and gate details drawing number 1386-17-08 submitted 27-02-18.

Reason: To define the permission

3i. A desk study and site reconnaissance shall be conducted to identify the potential for contaminants and/or ground gases to present a likely risk to proposed structures or future occupants of the development. Results of the desk study and site reconnaissance shall be submitted to and agreed in writing prior to any built development commencing. (see Note for Applicant CL 4)

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

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

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

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

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

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

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

4a. Prior to the commencement of development, drainage plans for the disposal of foul and surface water flows shall be submitted to and approved by the Local Planning Authority.

4b. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

5a. Prior to the demolition and removal of any buildings and/or structures a site survey to identify any potentially hazardous materials shall be carried out and a Method Statement shall be submitted to and approved in writing by the local planning authority. The method statement shall detail actions and time scale to be taken to prevent localised contamination.

5b. Following demolition and removal of any buildings and/or structures a validation report shall be submitted and approved in writing by the Local Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials therein.

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

6a. Prior to the commencement of any development on site, the applicant shall agree measures for controlling noise, dust, flying debris, and drag-out from engineering and construction activities at the site, details of which shall be submitted and approved in writing by the Local Planning Authority.

6b. All agreed measures shall be implemented and maintained throughout the duration of demolition operations and construction activities.

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

7a. Prior to the commencement of any development on site, details of all plant, machinery or equipment used for the purpose of liquid pumping, providing compressed air, heating, ventilation and air conditioning that shall be situated within building structure(s) or acoustically designed enclosures or located at suitable locations shall be submitted to and approved in writing by the local planning authority.

7b. The approved MOT centre and vehicle servicing shall only operate in accordance with the approved details referred to in 7a and thereafter retained in accordance with condition 7a.

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

8. The proposed gates as shown on drawing number 386-17-02/B entitled site layout plan and site section submitted 21/03/18 shall be installed as shown prior to the operation of the site as a MOT centre and vehicle servicing.

Reason: To allow a standard motor vehicle to pull clear of the main carriageway at times when the gates are in a closed position, in the interests of the free flow of traffic along the public highway and to highway safety.

9. Prior to the development first coming into use all car parking bays, including those allocated for the dental surgery, shall be clearly signed and demarcated on the ground and thereafter retained and used for no other purpose.

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

10. When in use doors and windows serving the workshop shall remain closed other than for ingress, egress or emergency purposes.

Reason: To protect local amenity.

11. The fence and gate details as shown on drawing number 1386-17-08 submitted 27-02-18 and Site layout plan and site section drawing number 1386-17-02/B submitted 21/3/18 shall be externally painted/finished in black paint. The gates and fence shall be retained and maintained at all times.

Reason: In the visual amenities of the area.

12. The approved MOT centre and vehicle servicing including collections, deliveries and despatches shall not operate outside the hours of 07.00 to 18.00 Mondays to Fridays excluding Bank Holidays and Public Holidays and 08.00 to 13.00 Saturdays; and at no time on any Sunday, Bank Holiday and Public Holiday.

Reason: To protect the amenities of neighbouring residential occupiers.

13. No construction, demolition, or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall not otherwise take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: To protect the amenities of neighbouring residential occupiers.

Notes for the Applicant: Drainage

Severn Trent Water advise that there is a public sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Notes for the Applicant: Highways

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

Notes for the Applicant: Fire

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

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

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

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

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

Notes for the Applicant: Police

1. Unsure as to whether the site will be subject of an intruder alarm. If not, I would recommend that one be installed. It should be to a police response standard.
2. If the application were to be approved I would ask that any work be carried out to the standards within the Secured by Design ‘Commercial 2015’ guide. This is available to be accessed at;

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

3. I note that there is no indication that a CCTV system is, or will be, installed at the site. I would recommend that a suitable system be installed. This should provide coverage of external views of the buildings, all of the car parking areas and external view of the all entrances to the building including fire exits to the building. Any images should be recorded onto a secure system and be held for a minimum of 31 days (and complies with the Information

Commissioner's CCTV guidance document - please see -

http://www.ico.gov.uk/for_organisations/data_protection/topic_guides/~media/documents/library/Data_Protection/Detailed_specialist_guides/ICO_CCTVFINAL_2301.ashx

4. Any CCTV system should be compatible with any existing, or proposed, lighting scheme. Any scheme should follow the guidelines and standards as indicated in 'Lighting Against Crime' guide that is available to view and download at;
http://www.securedbydesign.com/pdfs/110107_LightingAgainstCrime.pdf

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 6.

Reason for bringing to committee: Councillor Application

Location: 74B, PARK ROAD, BLOXWICH, WALSALL, WS3 3SW

Proposal: CHANGE OF USE FROM A1 CLASS RETAIL TO A2 CLASS (FINANCIAL AND PROFESSIONAL SERVICES) GROUND AND FIRST FLOOR.

Application Number: 18/0350

Applicant: Eddie Hughes

Agent: Adrian Andrew

Application Type: Full Application

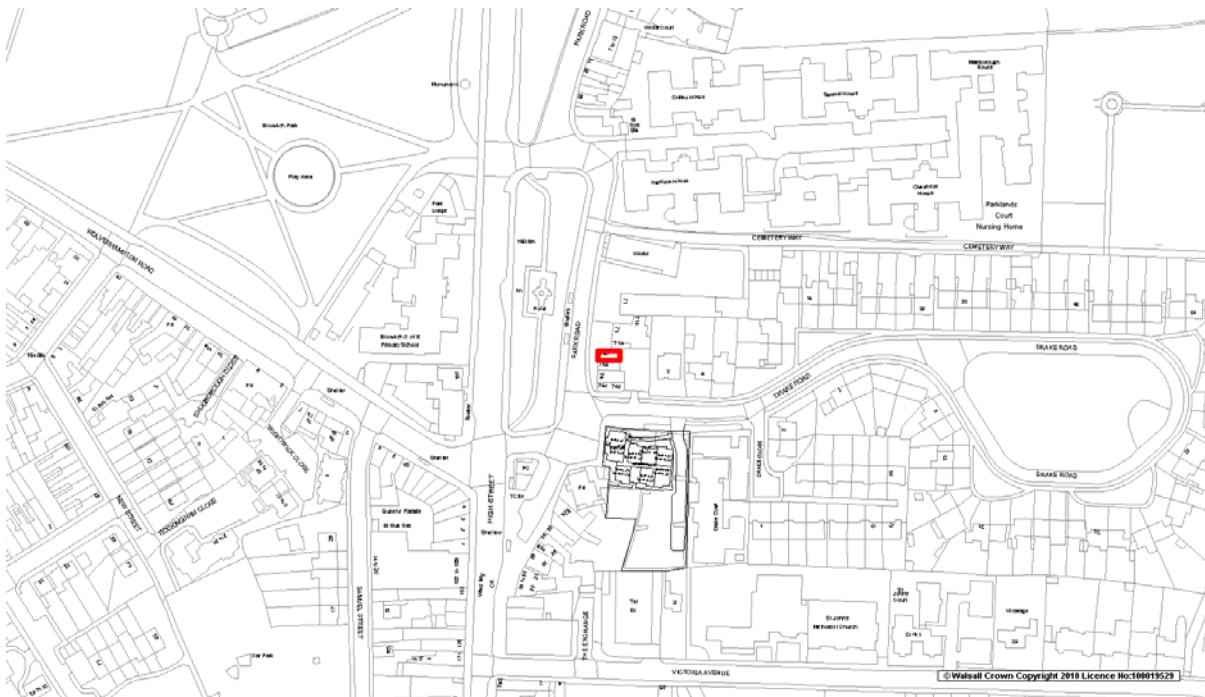
Case Officer: Stuart Crossen

Ward: Bloxwich East

Expired Date: 29-May-2018

Time Extension Expiry:

Recommendation Summary: Grant planning permission subject to conditions



Proposal

The application proposes a change of use of a Shop (A1) to a Financial and Professional Service Use (A2)

The previous shop was a Haberdashery and Crafting store and is currently vacant.

Site and Surroundings

This part of Park Road is defined by a mix of different uses including, shops, takeaways and a garage/workshop, the area is within the District Centre.

The neighbouring unit to the North is a Chip Shop and the adjoining neighbouring building is used as a hairdressers.

Relevant Planning History

03/1508/FL/E6 - Unit 3, 74 Park Road, Bloxwich, Walsall, WS3 3SW - New two storey unit. A1 retail at ground floor. A1 retail at first floor. GSC 12/11/03

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 1 - Building a strong, competitive economy**
- **NPPF 2 - Ensuring the vitality of town centres**
- **NPPF 4 - Promoting sustainable transport**
- **NPPF 7 - Requiring good design**

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres
- CEN5: District and Local Centres
- CEN6: Meeting Local Needs for Shopping and Services
- ENV3: Design Quality

Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- T4 - The Highway Network
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW3 Character

- DW8 Adaptability
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

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

Consultation Replies

Planning Policy – No comments or concerns raised

Transportation – No objections

Representations

None

Determining Issues

Principle of Development

Design and Character of the Area

Neighbouring Amenity

Assessment of the Proposal

Principle of Development

Policy S1 identifies that a Class A2 use is a town centre use and policy S2 confirms that the range of services within Bloxwich means it could be considered a town centre in its own right. The proposed A2 use is considered to be an appropriate use of this building within the District Centre.

Design and Character of the Area

The change of use does not propose any external or internal changes to the unit.

Neighbouring Amenity

Under permitted development rights it is possible that there might be flats above this row of shops. The use of the unit as A2 instead of A1 is considered would result in no additional amenity impacts and benefits from the same permitted development rights.

Conclusions and Reasons for Decision

The principle of development is considered acceptable and accords with Council policies S1 and S2.

The retention of the existing design and layout ensure there would be little impact on the design or character of the area so the scheme would comply with policy ENV32.

The change of use raises no additional neighbouring amenity impacts and complies with UDP policy GP2

Positive and Proactive Working with the Applicant

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

Recommendation

Grant planning permission subject to conditions

Conditions and Reasons

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

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

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

Amended location plan, block plan, existing and proposed plans received 20/03/18

Reason: To define the permission.



Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 7.

Reason for bringing to committee: Significant Community Interest

Location: MOUSE HILL STORES, 3, MOUSE HILL, PELSALL, WALSALL, WS3 4JW

Proposal: SUBDIVISION TO CREATE TWO A1 RETAIL UNITS, AND INSTALLATION OF A NEW SHOP FRONT.

Application Number: 17/1705

Applicant: M & N Harrish

Agent: Heather Birch

Application Type: Full Application

Case Officer: Emma Green

Ward: Pelsall

Expired Date: 21-Mar-2018

Time Extension Expiry: 27-Apr-2018

Recommendation Summary: Grant planning permission subject to conditions



Proposal

The proposal is for the retrospective change of use of an ancillary retail store associated with Mouse Hill Stores to a separate self-contained A1 retail unit. The works for conversion to a separate unit were completed in October 2016.

The unit is currently being occupied and run as a hairdressing salon and has the main salon room at the front, with a back room and store, staff kitchen and toilet facilities off this. The internal retail floor area created by the proposal is for 25.7 sq.m.

The existing Mouse Hill stores will continue to have a retail floor area of 85.46 sq.m and served by an ancillary store space of 10.8 sq.m. There is no change to the flat above the Mouse Hill Stores.

The hairdressing salon employees 1 full time and 1 part time members of staff. The opening hours are to be Monday to Friday 9 am to 5pm, Saturdays 8am to 8pm and Sundays 10 am to 4pm.

Site and Surroundings

The application site is No 3 Mouse Hill, which is a part two storey part single storey detached building. It comprises an A1 retail store with residential flat over within the main building and a single storey side element which is the new unit subject to this application and operating a hairdresser's salon.

The salon has a single door access fronting Mouse Hill. There are advertisements on this frontage and the door has an external box roller shutter for security.

Part of the site is located within the Old Pelsall Conservation Area, which terminates at the road junction, however, the new unit is actually adjacent to the Conservation Area.

These two units are the only commercial uses in an otherwise residential area. The site is close to the junction of Mouse Hill and Foundry Lane/Allens Lane.

Opposite the site along Mouse Hill leading onto Allen Road are a number of semi-detached houses, with individual driveways for parking. The properties in Foundry Lane are also semi-detached properties, with individual driveways for parking off road. To the north of the site are properties, which are accessed off Wilkes Avenue and back onto Mouse Hill.

There are no parking restrictions on Mouse Hill and Foundry Lane/Allens Road. There is a large hard landscaped area of land in front of the two stores which include a footpath and is used for parking associated with the retail units.

There is a bus route No. 25 which stops in close proximity to these shops, and offers an hourly bus service.

The shops are located approx. 0.5 mile from Pelsall Local Centre.

Relevant Planning History

17/1706 – Retention of 1no. non-illuminated fascia sign – For consideration at this planning committee – recommended for approval

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 1 - Building a strong, competitive economy**
- **NPPF 2 - Ensuring the vitality of town centres**
- **NPPF 4 - Promoting sustainable transport**
- **NPPF 7 - Requiring good design**
- **NPPF 12 - Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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

the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- CEN2: Hierarchy of Centres
- CEN5: District and Local Centres
- CEN6: Meeting Local Needs for Shopping and Services
- CEN7: Controlling Out-of-Centre Development
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Unitary Development Plan

- GP2: Environmental Protection
- ENV29: Conservation Areas
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S5: The Local Centres
- S6: Meeting Local Needs
- S7: Out-of-Centre and Edge-of-Centre Developments
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Consultation Replies

Transportation: No objection. The development is subdivision of an existing A1 shop into two shops. Historically the premises have never had off street parking and none can be accommodated. It is noted that the premises are located on a road junction, there are no parking restrictions and on balance, taking into account customers of the proposed hairdressers use is likely to be on an appointment basis which will provide an element of control over trips unlike the present shop use. The Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with the NPPF in this respect. The highway authority cannot support the use of the footway for car parking as shown on the plans, so recommended a condition which is clear no consent is granted for this parking arrangement.

Pollution Control: Support Application.

Representations

There have been 3 letters of objection to the proposal on the following grounds:

- Traffic and Parking issues with the hairdressers
- Building materials being dumped in the adjacent property during works at the premises.

There have been 10 letters of support on the following grounds

- Retention of the hairdressers as a local community service
- Facility is in walking distance for easy access.
- Creation of 2 new jobs

Determining Issues

The Principle of Retail Development
Impact on neighbouring amenities
Impact on Old Pelsall Conservation Area
Traffic and Highways

Assessment of the Proposal

The principle of retail development

Retailing facilities in national and local policies and guidance is all steered to being located within centres. These centres will be of varying sizes and importance in a hierarchy depending of the scale of the community they serve. Pelsall is the closest Local Centre (identified in the BCCS and UDP) to this location of this application.

The Walsall UDP and the Core Strategy do also recognise that outside of these centres there is still a need for other facilities. Policy S6 Meeting Local Needs of the UDP seeks to encourage small scale services to meet the day to day needs of their communities subject to a number of criteria set out below:

- I. The proposal is of a scale and kind to meet a local need for improved facilities.
- II. The local need cannot be better met by investment in a nearby centre.
- III. There will be no likelihood of an adverse impact on the vitality and viability of any established centre in the Borough or elsewhere within the affected catchment area.
- IV. There will be no impact on existing local provision such as to leave some local needs unmet, contrary to efforts to promote social inclusion.
- V. The proposal will improve accessibility to facilities by means other than the car and, in particular, will be within convenient, safe walking distance of the community it is intended to serve.
- VI. The proposal will help to reduce the need to travel, especially by car.
- VII. There must be no significant loss of amenity for neighbouring homes. To ensure this, the establishment of shops or other uses that attract the public in terraced properties adjoining dwellings will not normally be permitted.
- VIII. Servicing and parking associated with the proposed use must not create any significant road safety or traffic problems.

Whilst Policy CEN6 of the core strategy in addition to supporting the above criteria sets thresholds of what constitutes small scale and this is up to 200 sq.m. of gross floor space.

The overall scale of this new unit is for 36.4 sq.m. floor space and falls below the threshold of Policy CEN6 and is considered appropriate to serve a local need. As can be seen from the letters of support the salon is accessed by local residents a number of which walk to the facility and therefore strengthens the position of serving the local community. The change of use has not impacted on the amenity for any adjacent dwellings and does not affect the ability for the existing store to be operated as the layout of this still retains a storage facility.

Impacts on Neighbours Amenities

The position of the salon is detached from residential properties, with the closest residents above the adjacent unit. The nature of the business is not a noisy or disturbing operation, other than the comings and goings of patrons, particular if they arrive and leave by motor vehicle. The hours of operation proposed respect the noise sensitive hours and it is therefore considered that the use will not have a detrimental or adverse impact on the amenities of occupiers of nearby residential properties in terms of noise or disturbance. However, given the proximity to residential properties it is considered prudent to condition the hours of opening to ensure that there are no future issues relating to noise and disturbance without consideration and control by the Council.

Impact on Old Pelsall Conservation Area

The part of the building subject to the change of use is on the edge of the Old Pelsall Conservation Area (which was designated in 1986), whilst the main building is located within the conservation area. The conservation area is centralised on Pelsall Hall and the landscaped area which surrounds it and Mouse Hill which provides access to Pelsall Hall.

The size and scale of the building has not been amended to facilitate this development, the only external alteration has been the creation of a separate doorway and installation of advertisement. The advertisements are considered under the accompanying application.

The new doorway replaces an existing window and is of a scale and design which does not detract from the appearance of the building or the character and appearance of the area.

Traffic and Parking

The application site does not include any car parking facilities within it. However, the application plans show that two cars could be accommodated on the hard standing directly to the north of the site along Mouse Hill. This car parking is within the adopted highway and the Highways Authority cannot support this use for car parking and have suggested a planning condition to make it clear that this is not authorised.

The Highways Authority have raised no objection to the subdivision to create a new retail unit as the level of demand is not sufficient to have severe transportation implications and accords with guidance in the NPPF.

It is noted that neighbours have raised concerns about parked vehicles and issues of blocking pavements and causing disturbance. The scale of the new unit is not such to create a large demand for car parking provision, it is in walking distance of a number of properties and located on a bus route, so provided opportunity for a range of transportation modes. Furthermore, there is unrestricted on street parking in road adjacent to the site. It is therefore considered that the scheme complies with policies which seek to offer a range of sustainable transportation modes and offer the necessary minimum car parking requirements and there are insufficient highway safety grounds on which to refuse planning consent.

Conclusions and Reasons for Decision

It is noted that a number of local residents have raised concerns relating to the car parking arrangements and demands generated by the new business. However, the car parking levels are sufficient to meet the minimum policy requirements of policy T13 of the Walsall UDP, and the level of objection does not have sufficient weight or harm in accordance to planning guidance on parking and highway safety to warrant refusal on these grounds.

The location of the new local facility accords with local and national policies relating to ensuring access to facilities whilst protecting the vitality and viability of local centres and is not of sufficient size to have a detrimental impact on the vitality and viability of Pelsall Local centre.

It is therefore in balance considered that there is insufficient harm or conflict with the local and national planning policies to sustain a refusal of the change of use from ancillary storage to create a new retail unit in this location.

It is considered appropriate to limit the consent through conditions to control the hours of operation in order to protect the residential amenities of occupiers of nearby dwellings.

There has been an objection on grounds of dumping of building material during works. Whilst the Council has sympathy with the objector, this is not a material planning consideration and recourse to address this issue needs to be taken through civil action.

Positive and Proactive Working with the Applicant

Approve

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

Recommendation

Grant planning permission subject to conditions

Conditions and Reasons

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

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

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

- PL02 – Location Plan dated 15th January 2018.
- PL01 Rev B - Plans and Elevations dated 24th January 2018

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

3. Notwithstanding the details shown on drawing no. PL-01 Revision B, for the avoidance of any doubt, the two parking shown on the public highway footway shall not form part of this approval and no consent is hereby given or implied that parking on the public footway is either authorised or legitimised.

Reason: Parking on the public footway is contrary to highway laws and cannot therefore be approved under planning legislation alone.

4. The use of the premises shall not be open outside the following hours of opening,.
 - 0800 to 20:00 hours Mondays to Saturday; and
 - 10:00 to 16:00 Sundays and Bank Holidays

Reason: To protect the amenities of nearby residential properties.

Notes for Applicant

High Risk Coal Mining Area



Walsall Council

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 8.

Reason for bringing to committee: Significant Community Interest

Location: MOUSE HILL STORES, 3, MOUSE HILL, PELSALL, WALSALL, WS3 4JW

Proposal: RETENTION OF 1NO. NON-ILLUMINATED FASICA SIGN

Application Number: 17/1706

Applicant: M & N Harrish

Agent: Heather Birch

Application Type: Advertisement Consent

Case Officer: Emma Green

Ward: Pelsall

Expired Date: 22-Mar-2018

Time Extension Expiry:

Recommendation Summary: Approve subject to conditions



Proposal

The proposal is for the retrospective retention of a non-illuminated fascia signage measuring 0.3m in height and 2.8m in width and located at 2.3m above ground level. The sign has a black background and pink lettering.

The unit is currently being occupied as a hairdressing salon and has the main salon room at the front, with a back room and store, staff kitchen and toilet facilities off this. The internal retail floor area created by the proposal is for 25.7 sq.m.

There are two other signs located on the frontage of the shop, however both of these meet the permitted allowances for advertisements and therefore do not require consent.

Site and Surroundings

The application site is No 3 Mouse Hill, which is a part two storey part single storey detached building. It comprises an A1 retail store with residential flat over within the main building and a single storey side element which is the new unit subject to this application and operating a hairdresser's salon.

The salon has a single door access fronting Mouse Hill. There are advertisements on this frontage and the door has an external box roller shutter for security.

Part of the site is located within the Old Pelsall Conservation Area, which terminates at the road junction, however, the new unit is actually adjacent to the Conservation Area.

These two units are the only commercial uses in an otherwise residential area. The site is close to the junction of Mouse Hill and Foundry Lane/Allens Lane.

Opposite the site along Mouse Hill leading onto Allen Road are a number of semi-detached houses, with individual driveways for parking. The properties in Foundry Lane are also semi-detached properties, with individual driveways for parking off road. To the north of the site are properties, which are accessed off Wilkes Avenue and back onto Mouse Hill.

There are no parking restrictions on Mouse Hill and Foundry Lane/Allens Road. There is a large hard landscaped area of land in front of the two stores which include a footpath and is used for parking associated with the retail units.

There is a bus route No. 25 which stops in close proximity to these shops, and offers an hourly bus service.

The shops are located approx. 0.5 mile from Pelsall Local Centre.

Relevant Planning History

17/1705 Subdivision to create two A1 retail units, and installation of a new shop front, for consideration at this planning committee recommended for approval.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 1 - Building a strong, competitive economy**
- **NPPF 2 - Ensuring the vitality of town centres**
- **NPPF 4 - Promoting sustainable transport**
- **NPPF 7 - Requiring good design**
- **NPPF 12 - Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Unitary Development Plan

- GP2: Environmental Protection
- ENV29: Conservation Areas
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings

Supplementary Planning Document

Designing Walsall

- DW3 Character

Shop Front SPD

- SF6: Advertisements

Consultation Replies

Transportation: No objection.

Representations

There has been 1 letter of objection to the proposal on the following grounds:

- Signs are inappropriate in a semi-rural area
- Signs are an eyesore affecting houses opposite
- Signs are attached to a lovely old building

Determining Issues

Impact upon amenity and public safety, taking into account cumulative impacts.

Assessment of the Proposal

Impact upon amenity and public safety, taking into account cumulative impacts.

Guidance contained in the NPPF states that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. It states that control over outdoor advertisements should be efficient, effective and simple in concept and operation. The NPPF also advises that only those advertisements which will clearly

have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment.

Powers under the Advertisement Regulations may only be exercised in the interests of amenity and public safety, taking account of material factors such as adopted policies which are not by themselves decisive.

The extent of this signage within the surrounding commercial context is appropriate in terms of scale, design, position, and means of illumination internally and therefore does not have a detrimental impact upon visual amenity and would not prejudice public safety.

There is an objection from a neighbour who considers the signs are an eyesore and have a detrimental impact on residential amenity. The non-illuminated flat fascia sign is considered appropriate in terms of scale, design and position respecting the building's architectural style and detailing and do not have a detrimental impact upon the visual amenity of the area. As there is no illumination there are no issues of glare or impacts on resident's amenities in the evening.

There is no adverse impact on highway safety with regards to the siting, size or design of the fascia signage.

Conclusions and Reasons for Decision

The proposed signage is of an appropriate size design and siting for a fascia sign within a shop frontage.

Whilst there has been one objection stating it is an eyesore and affect amenities, I do not consider that this has sufficient weight to warrant refusal of the scheme. The scale and design of the signage is typical of other shop signage and with a lack of illumination does not cause an intrusion to amenities of nearby residential properties.

It is therefore consider that there is insufficient harm to amenity of the area or prejudice of public safety to warrant refusal of the signage, which is therefore compliant with advice set out in the National Planning Policy Framework, Planning Practice Guidance and local policies and guidance.

Positive and Proactive Working with the Applicant

Approve

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

Recommendation

Approve subject to conditions

Conditions and Reasons

1. The development shall be carried out in accordance with the deposited plans and drawings as stated below, unless otherwise agreed in writing by the Local Planning Authority.

PL-01 Rev B – Plans and Elevations Dated 24th January 2018

PL -02 – Location Plan dated 15th January 2018

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

- 2a. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

- 2b. No advertisement shall be sited or displayed so as to -

- I. endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
- II. obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air ; or
- III. hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

- 2c. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

- 2d. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

- 2e. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: The above conditions numbered 2a - 2e are standard conditions under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.



Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 9.

Reason for bringing to committee: Appeal received against non-determination of the application including an appeal for an award of costs

Location: FERNLEIGH FARM, GOSCOTE LANE, BLOXWICH, WALSALL, WS3 4QQ

Proposal: CHANGE OF USE OF FARM BUILDING TO PET CREMATION SERVICE.

Application Number: 17/0732

Applicant: Mr Alfred Barnard

Agent:

Application Type: Full Application

Case Officer: Barbara Toy

Ward: Bloxwich East

Expired Date: 21-Aug-2017

Time Extension Expiry:

Recommendation Summary: Advise the Planning Inspectorate that the Council would have granted planning permission subject to conditions and subject to a satisfactory response form DEFRA and that the Environmental Impact Assessment Screening Opinion would have determined that an Environmental Impact Assessment was not necessary



Current Status

There is a current appeal against non-determination of the application including an appeal for an award of costs. Officers are seeking a Committee resolution on whether they would have supported the proposals were the determination within their authority rather than the Planning Inspectorate. The resolution will be forwarded to the Planning Inspectorate and form part of the appeal documents.

Proposal

The proposal seeks a change of use of farm building to pet cremation service. The building is at Fernleigh Farm, Goscote Lane.

The building is to be converted from a processing plant for pig food to be split broadly in half between a reception area and incinerator room. A 400mm diameter flue is required for the incinerator at the rear of the building. Car parking is available on the driveway at the farmhouse at the front of the site utilising the existing access.

The incinerator and flue have already been installed. Other than the flue there are no other material alterations to the building.

The supporting statement identifies that following the loss of their own pet the applicant sought a cremation service locally that would carry out individual cremations for pets. From this experience the applicant saw an opportunity to provide such a service to the local community. The proposal is to start with a single chamber incinerator and if possible another chamber if demand requires. Likewise if the business requires it they would employ 2 part time or even full time staff. The business offers a collection service out of hours so would be less traffic visiting the premises.

Details of the Cremator equipment have been provided and a copy of a DEFRA certificate for the incinerator valid between 26/07/2017 and 26/10/2017.

Site and Surroundings

The building is a large structure located behind the main dwelling that has already been partly converted for the proposed use. The site is amongst a cluster of farmhouse and other buildings including Goscote House Farm and Fernleigh Farm that lies within the Green Belt. Field House Farm lies on the opposite side of Goscote Lane and there are open fields surrounding the farms. This is a wedge of Green Belt land between the settlements of Pelsall and Goscote.

Ford Brook is over 100m away to the north of the site and Wyrley & Essington Canal over 280m to the south

Relevant Planning History

BC28055P – Infilling of Marshy Low Lying Land with imported materials so that land can be put agricultural use – Refused 22/08/90.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 1 - Building a strong, competitive economy**
- **NPPF 3 - Supporting a prosperous rural economy**
- **NPPF 4 - Promoting sustainable transport**
- **NPPF 7 - Requiring good design**
- **NPPF 9 - Protecting Green Belt Land**
- **NPPF 11 - Conserving and enhancing the natural environment**

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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

the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality
- WM1: Sustainable Waste and Resource Management
- WM4: Locational Considerations for New Waste Management Facilities
- WM5: Resource Management and New Development

Unitary Development Plan

- GP2: Environmental Protection
- ENV1: The Boundary of the Green Belt
- ENV2: Control of Development in the Green Belt
- ENV3: Detailed Evaluation of Proposals within the Green Belt
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- JP8: Bad Neighbour Industrial Uses
- S14: Farm Shops
- T4 - The Highway Network
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

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

Other legislation

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) (Amendment 2015)

Consultation Replies

Environment Agency – Medium risk of pollution to controlled waters from past industrial activity at the site. An advice note for applicant is recommended to address potential contamination.

Environmental Health – No comments. The operation of the cremator will require a permit that can only be issued if the cremation can comply with environmental standards in statutory guidance. The activity is regulated by DEFRA.

Pollution Control – Such cremator units capable of incinerating animal carcasses of 50kg or more an hour require an Environmental Permit pursuant to The Environmental Permitting (England and Wales) Regulations 2016 and subject to regulatory control by Walsall Council Pollution Control provided the plant capacity is less than 10 tonnes per day. The proposed single cremator is below this threshold and does not require such an Environmental Permit. The applicant should be made aware that the 50kg/hr limit is an aggregate capacity and that the potential use of additional cremators in the future as indicated in the applicant's submission is likely to require an Environmental Permit. Smoke emissions from a single cremator will be subject to the provisions of the Clean Air Act 1993 enforced by Walsall Council Pollution Control.

The applicant has indicated that ashes arising will be returned to owners. Any not returned should be disposed of in a suitable manner.

Finally, with regard to animal cremation it is imperative that responses are received from DEFRA/Environment Agency. This is due to the fact that the applicant may need to apply to either or both for either exemptions or permits for the activity.

Transport – No objections.

Representations

There have been 10 representations, 5 in support and 5 objections (from 3 parties). These are summarised as follows:

Support

- Welcome in local area
- Much needed service
- Amazing to know pets will be looked after
- Pets will get respectful send off
- Great for animal lovers
- pleased for a pet cremation service to be near my home and my dogs will be looked after at time of passing
- No service like this anywhere
- Would recommend the service

Objections

- Increased traffic and congestion on a busy lane
- Detrimental to the lane
- Additional traffic visiting the mobile home on site
- Vehicle conflict such as reversing out of farm drive into traffic

- Concern for safety of horse riders on this busy lane
- Narrow lane where there has already been vehicle damage
- Since tack shop opened there is an increase in traffic

Determining Issues

Environmental Impact Assessment Screening Opinion

Principle of use

Impact on the Green Belt

Relationship to adjoining properties

Access and Parking

Assessment of the Proposal

Environmental Impact Assessment Screening Opinion

The EIA Screening Opinion is included at the end of this report but concludes that the characteristics of the development, location of the development, type and characteristics of the potential impact are such that an Environmental Statement is not required.

Principle of use

The proposed use is a relatively small-scale business limited by the capacity of the incinerator and terms of the DEFRA licence. Although the site is in the Green Belt it is in a sustainable location close to residential areas. The principle of re-use of the farm building to provide a pet cremation service is acceptable. Supporting letters for this pet cremation service in the local area have been received specifying that there is no other similar service in the local area.

Impact on the Green Belt

Saved UDP policy ENV2 allows re-use of existing buildings within the Green Belt provided that:

- i. It would not have a materially greater impact than the present use on the openness and purposes of the Green Belt;
- ii. It does not involve any building extension or associated uses of land around the building which would conflict with the openness and purposes of the Green Belt;
- iii. The buildings are of permanent and substantial construction and are capable of conversion without major or complete reconstruction;
- iv. The form, bulk and general design of the buildings are in keeping with their surroundings.

The proposal is to re-use an existing farm building formerly used for pig food manufacture. This involves minimal alterations except for provision of a flue, there is ample parking and manoeuvring available without encroaching further into the Green Belt, the buildings have been converted without major reconstruction and the form of the building and use is relatively small scale in keeping with the surroundings. The proposals will also allow the farm business to diversify by re-using the farm building for economic purposes without affecting the landscape. This accords with saved UDP policy ENV2 and is acceptable.

Relationship to adjoining properties

The proposal converts an existing building on this cluster of farm buildings with minimal alterations other than the flue. It is considered that the changes will not adversely affect the residential amenities in terms of outlook or privacy of the nearest residential neighbour

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at Goscote House Farm or other residential properties in the wider landscape. This accords with saved UDP policy GP2 and ENV32.

The emissions from the flue will be controlled by pollution control and thereby accords with saved UDP policy ENV10 in order to protect amenities.

Access and Parking

The proposal utilises the existing access and parking arrangements at the farm house where there is ample provision for parking to serve the pet cremation business. The business will operate on an appointment basis and number of cremations will be limited by the capacity of the incinerator. The Transportation officer is satisfied that the proposals do not cause severe harm to the surrounding transport network.

The business will be operated on an appointment basis and is limited by the capacity of the incinerator so is not expected to cause significant harm in terms of increased trips to and from the premises.

Objectors are concerned about increased traffic and congestion detrimental to this narrow yet busy lane and conflicts between traffic and horses and riders in the lane. There is ample parking and manoeuvring available for vehicles to enter and leave the site and the Transportation officer is satisfied that there is no severe harm to the operation of the highway network as a result of the pet cremation business. This accords with saved UDP policy T4 and T13.

Comments regarding increased trips to the residential mobile home and alleged tack shop business at the premises are being considered separately and are not material to the consideration of this application.

Conclusions and Reasons for Decision

The EIA Screening Opinion concludes that the characteristics of the development, location of the development, type and characteristics of the potential impact are such that an Environmental Statement is not required.

The principle of re-use of the farm building to provide a pet cremation service in this sustainable location is acceptable. The proposal to re-use the building in the Green Belt for economic purposes is acceptable and the conversion has been undertaken without harming the openness or purpose of the Green Belt as there are minimal changes to the building and no further encroachment within the Green Belt. This is in accordance with saved UDP policy ENV2.

It is considered that the changes will not adversely affect the residential amenities of nearby occupiers in terms of outlook or privacy or the impact on the wider landscape. This accords with saved UDP policy GP2 and ENV32. Potential emissions from the flue will be controlled by pollution control and thereby accords with saved UDP policy ENV10 in order to protect amenities.

The proposal utilises the existing access and parking arrangements at the farm house where there is ample provision for parking to serve the pet cremation business. The Transportation officer is satisfied that the proposals do not cause severe harm to the surrounding transport network. This accords with saved UDP policy T4 and T13.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant agent and in response to concerns raised regarding plans and supporting information amended plans and details have been submitted which enable full support to be given to the scheme.

Recommendation

Advise the Planning Inspectorate that the Council would have granted planning permission subject to conditions and subject to a satisfactory response form DEFRA and that the Environmental Impact Assessment Screening Opinion would have determined that an Environmental Impact Assessment was not necessary.

Conditions and Reasons

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

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

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

- Location /Block Plan received 26/06/17
- Existing and Proposed Floor Plans & Elevations received 13/07/17
- Car Parking Plan received 15/06/17
- Cremator Details and supporting @Information provided 24/05/17

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

Notes for Applicant

Environment Agency

The applicant / developer should refer to our document 'The Environment Agency's approach to groundwater protection', available from gov.uk. This sets out our position on a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heating and cooling
- Cemetery developments

- Drainage
- Storage of pollutants and hazardous substances
- Management of groundwater resources

All precaution must be taken to avoid discharges and spills to ground both during and after construction. For advice on pollution prevention measures, the applicant should refer to guidance available on our website (www.gov.uk/environment-agency).

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

APPENDIX to 17/0732 – Fernleigh Farm, Goscote Lane
ENVIRONMENTAL IMPACT ASSESSMENT SCREENING OPINION APPENDIX
The Town and Country Planning (Environmental Impact Assessment)
Regulations 2017 (EIA Regulations)
EIA Screening Checklist

Application Reference: 17/0732

Site Address: Fernleigh Farm, Goscote Lane, Bloxwich

Description of Development: Screening Opinion as to whether an Environmental Statement is required for the change of use of a farm building to pet cremation service.

Departure from Local Plan:	No	Site Size/Floorspace:	0.08 hectares
1. Consideration of Whether the Proposal is Schedule 1 Development			
1.1 Is the development of a description mentioned in Schedule 1? (See Regulation 2 and Schedule 1)		No	
If the answer to Question 1 is yes, which part of Schedule 1 does the development correspond to and why?			
1.2 Is the development “exempt development,” i.e. subject to a Direction by the Secretary of State to that effect? (See Regulations 2 and 4 (4))		No	
If the answer to Question 1.2 is yes, please give details of the relevant Direction.			
1.3 Is it “Schedule 1 development”? If the answer to Question 1.1 is “yes,” and the answer to Question 1.2 is “no,” it is “Schedule 1 development.” (See Regulation 2)		No	
If it is “Schedule 1 development” it is “EIA development” and an environmental assessment is automatically required (see Regulations 2 and 3)			
2. Consideration of Whether the Proposal is Schedule 2 Development			
2.1 Is the development of a description mentioned in Column 1 of Schedule 2? (See Regulation 2 and Schedule 2)		Yes	
If the answer to Question 2.1 is yes, which part of Column 1 of Schedule 2 does the development correspond to and why? 11. Other Projects. Part (b) Installations for the disposal of waste (i) the disposal is by incineration			
2.2 Is the development “exempt development,” i.e. subject to a Direction by the Secretary of State to that effect? (See Regulations 2 and 4 (4))		No	
If the answer to Question 2.2 is yes, please give details of the relevant Direction.			
2.3 If the development is of a description mentioned in Column 1 of Schedule 2 and is not “exempt development”:			
a) Is any part of the site within a “sensitive area”? (See Regulation 2 for definition of “sensitive area”)		No	

If the answer to Question 2.3 a) is "yes," why is it considered to be a "sensitive area"?	
Column 2 of Schedule 2 of the EIA regs (applicable thresholds and criteria)	
b) Is any applicable threshold or criterion in Column 2 of Schedule 2 exceeded or met? (See Regulation 2 and Schedule 2)	Yes
If the answer to Question 2.3 b) is "yes," what thresholds or criteria in Column 2 of Schedule 2 are exceeded or met? (i) The disposal is by incineration.	
2.4 Is it "Schedule 2 development?" If the answer to Question 2.1 is "yes," the answer to Question 2.2 is "no," and the answer to either or both of 2.3 a) or 2.3 b) is "yes," it is "Schedule 2 development." (See Regulation 2)	Yes
<p>If the proposal is "Schedule 2 development" the Council must carry out "screening" to determine whether or not it is "EIA development" requiring an environmental assessment. The Council must do this for all "Schedule 2 development," even if a planning application has already been submitted, and even if there has been no environmental assessment of previously approved schemes on the site (see Regulations 2 and 4 - 10). Screening involves considering the development against the selection criteria in Schedule 3 to determine the likely significance of its effects on the environment.</p>	
<p>3. Selection Criteria for Screening "Schedule 2 Development" (see Regulation 4 and Schedule 3)</p>	
<p>CHARACTERISTICS OF DEVELOPMENT</p>	
Size of development (site area and floor space of development)	0.08 hectares of site area utilising an existing building with no additional floor space
Accumulation with other development	<p>The site is an existing farm building previously used for pig food processing. The proposed scale of the use is limited by the size of the incinerator and DEFRA license restrictions. The area is in a high-risk coal area but as the proposal does not involve breaking any ground there is limited risk. The site is surrounded by farmland within the Green Belt and established residential areas of Pelsall and Goscote beyond that. Ford Brook is over 100m away to the north of the site and Wyrley & Essington Canal over 280m to the south.</p> <p>In consideration of parts (ii) and (iii) of part 11 of Schedule 2 the area of the site does not exceed 0.5 hectares and the installation is not within 100m of controlled waters.</p> <p>It is considered that the proposals would not generate a development that would be of more than local significance.</p>

	This development does not represent a significant development.
Use of natural resources	None significant from the development.
Production of waste	<p>Waste from the site will be less than 10 tonnes per day as limited by the incinerator installed and does not require an Environmental Permit. Use of additional cremators in future can be controlled by condition as this may trigger the need for an Environmental Permit. The DEFRA license controls the use of the cremator incinerator.</p> <p>Ashes will be returned to owners so minimal waste.</p> <p>It is considered that the development would not generate significant waste to impact the environment beyond the local level.</p>
Pollution and nuisances	<p>Smoke emissions from the single cremator will be subject to the provisions of the Clean Air Act 1993 enforced by Walsall Council Pollution Control.</p> <p>The generation of traffic to the site is considered not to cause severe highway impacts. There is ample parking.</p> <p>The pollution and nuisances from the site will therefore be controlled and are considered to be of no more than local interest.</p>
Risk of accidents, having regard in particular to substances or technologies used.	The risk to the environment from the proposed use is low and controlled through the DEFRA license. The characteristics of effects arising from the proposed use are not complex and are considered to be safe. The probability of any impact is considered to be predictable, localised and manageable at the local level.
<p align="center">LOCATION OF DEVELOPMENT <i>(The environmental sensitivity of geographical areas likely to be affected by development)</i></p>	
Existing Land Use (existing site area and existing floor space of development)	The site comprises an existing farm building previously used for pig food production. The floor space of the existing building is approximately 71.5m ² of which half will accommodate the incinerator providing for the pet cremation business. The site area is 0.08 hectares.
The relative abundance, quality and regenerative capacity of natural resources in the area	The proposals do not affect the Ford Brook or Wyrley and Essington Canal which are protected.

	As such the natural resources are protected through the proposals.
The absorption capacity of the natural environment, paying particular attention to the following areas:	
Wetlands	N/A
Coastal zones	N/A
Mountain and forest areas	N/A
Nature reserves and parks	N/A
Protected species laid down by EEC regulations	None identified. It is considered that any ecological impacts would be at no more than the local level.
Areas in which the environmental quality standards laid down in Community legislation have already been exceeded	The whole of Walsall is declared an Air Quality Management Area (AQMA) on account of the National Air Quality Objective for nitrogen dioxide associated with vehicle emissions and the Black Country Authorities has adopted an Air Quality SPD which any development would need to show compliance with. The Council considers that the site is not in an area currently affected by poor air quality and the development would not trigger the need for an air quality assessment for traffic impacts and other activities associated with the site.
Densely populated areas;	To the north and south of the site is a medium density populated residential area.
Landscapes of historical, cultural or archaeological significance.	The site does not contain any designated heritage assets. The landscape features are not of historical, cultural or archaeological significance other than at a local level.
CHARACTERISTICS OF THE POTENTIAL IMPACT	
The extent of the impact (geographical area and size of the affected population)	The impact of the development of the site would be at a local level only bringing economic benefits to the area and providing a local service.
The trans-frontier nature of the impact	Impact is considered to be at a local level
The magnitude and complexity of the impact	The overall impact of the scheme would not be complex, great or raise any sensitive land use issues or extend beyond the immediate area
The probability of the impact	All of the potential impacts are quantifiable. None of the potential impacts are considered likely to be significant.
The duration, frequency and reversibility of the impact.	Duration of the impact on the landscape would be negligible as the proposal involves conversion of an existing building.
Screening of Schedule 2 Development – Conclusions	
3.1 Is it “EIA development”? A “Schedule 2 development” is “EIA development” if it is likely to have “significant effects on the	No – Whilst the development falls within Schedule 2 and within the thresholds, the

<p>environment by virtue of factors such as its nature, size or location.” (See Regulation 2)</p>	<p>indicative thresholds consider that an EIA is unlikely to be required as the site does not exceed 0.5 hectares and the installation is not within 100m of controlled waters. Although incineration is proposed this is limited by the DEFRA license and the emissions will also be controlled. No part of the site is within a sensitive area.</p> <p>It is unlikely that the proposed development would result in significant effects on the environment that cannot be addressed and where necessary mitigated through planning conditions. Accordingly the planning application does not need to be supported by an Environmental Statement.</p>
<p>If the answer to Question 3.1 is “yes,” why does the Council consider that the proposal is likely to have “significant effects on the environment”?</p>	
<p>If a “Schedule 2 development” is “EIA development,” an environmental assessment is required (see Regulations 2 and 3)</p>	



Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 10.

Reason for bringing to committee: Contrary to consultee guidance

Location: 83, WALSALL ROAD, DARLASTON, WEDNESBURY, WS10 9JU

Proposal: CHANGE OF USE FROM PUBLIC HOUSE TO 7 FLATS WITH EXTERNAL CHANGES AND CREATION OF PARKING AREA.

Application Number: 16/1714

Applicant: Mr Khalid Mohammad

Agent: Spooner Architects

Application Type: Full Application

Case Officer: Paul Hinton

Ward: Bentley And Darlaston North

Expired Date: 01-Jan-2017

Time Extension Expiry: 06-Dec-2017

Recommendation Summary: Grant planning permission subject to conditions



Proposal

Change of use from Public House to 7 flats with external changes and creation of parking area.

Background

This application was withdrawn from the Planning Committee on 30th November 2017 agenda due to late representations from Pollution Control objecting on the basis that the noise appraisal had not given weight when considering indoor ambient noise criteria and required mitigation.

An updated Environmental Noise Assessment has been submitted with the following conclusions:

- The assessment already undertaken and the mitigation advised for this very ordinary residential conversion site would not change by the ProPG assessment guidelines.
- Walsall Councils' requirement to give consideration to ProPG has no impact on the results of the assessment undertaken.
- Walsall Councils' requirement to consider the night time impact of LA_{max} has not changed the mitigation we have advised.
- The mitigation required is to have normally closed windows, fitted with an ordinary specification of double glazing, there is no requirement for any non-standard or enhanced performance double glazing; there is no requirement to have double glazing that used two different thicknesses of glass.

Site and Surroundings

This application seeks planning permission for the change of use of this vacant public house to seven flats. The proposal includes the demolition of a single storey side and rear extension and the formation of an access driveway leading from Walsall Road to a rear parking area for eight vehicles, including one disabled bay to the rear. To the east is the existing public house car park, which is not part of this planning application and indicated for future development.

The proposal includes three studio flats at ground floor, two studio flats and a one bedroom flat at first floor and a two bedroom flat within the roof space of the building. Externally a front facing first floor window and rooflight is proposed. With the addition of a ground floor side facing window.

The public house is located at the back of pavement and includes a beer garden to the rear. There are residential uses to both sides and the rear. The site is 300m from Darlaston District Centre.

The following has been submitted in support of the application

Design and Access Statement

- The existing public house has declined in custom, and is no longer economical to run, to convert to residential accommodation provides for a much needed housing stock in the area.

Environmental Noise Assessment (June 2017)

- A good standard of habitable room background noise levels can be achieved when normal double glazed windows are closed during the day and night.
- Room ventilation would be by alternative means, typically mechanical ventilation.

Relevant Planning History

None relevant.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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

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

Key provisions of the NPPF relevant in this case:

- ***NPPF 1 - Building a strong, competitive economy***
- ***NPPF 4 - Promoting sustainable transport***
- ***NPPF 6 - Delivering a wide choice of high quality homes***
- ***NPPF 7 - Requiring good design***
- ***NPPF 8 - Promoting healthy communities***
- ***NPPF 11 - Conserving and enhancing the natural environment***
- ***NPPF 12 - Conserving and enhancing the historic environment***

On **planning conditions** the NPPF says:

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

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

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

NPPF Consultation

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

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- WM5: Resource Management and New Development

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

- LC8: Local Community Facilities

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

- DW2 Safe and Welcoming Places
- DW3 Character
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability

Air Quality SPD

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

Consultation Replies

Transportation – no objection subject to use of conditions in regard to surfacing and demarcating parking areas, details of cycle storage, reinstatement of redundant crossing, details of boundary treatment.

Pollution Control – further comments on the revised noise report to follow.

Coal Authority – no objection, recommended note for applicant.

Police – no objection subject to use of recommended security measures

Fire Services – no objection.

Representations

Site notice displayed and surrounding occupiers (26) notified by letter and re-consulted on amended plans. Responses are set out by property address taking account of multiple replies from neighbours (Officer comments in italics):

77 Walsall Road: Objects: If no longer has access to rear garden via gate to the side

100 Walsall Road: Objects:

- Reservations about the location of the refuse/recycling area, will management ensure tenants use the area correctly, will the bin area be screened, bin better sited at rear of building, could invite others to dump here.
- Land to the side being used as a care sales pitch (*subject to current enforcement investigation*).
- Two parking spaces insufficient, no turn around area (*application has been amended to now provide 8 parking spaces*)
- Restricted parking in the road
- Close proximity to zebra crossing

1 Hill Street: Objects

- HMOs are on the rise in the area and a further one will destroy the infrastructure and community within the area (*the planning application is for the conversion to 7 flats, not an HMO*)
- Create noise and disturbance, anti-social behaviour,

75 Walsall Road: General Comments

Raise questions about parking and the zebra crossing (*does not elaborate*) and asks questions about the adjacent land.

Determining Issues

- Principle of development
- Impact upon visual amenity
- Impact upon residential amenity
- Impact upon ground conditions
- Impact upon highway safety

Assessment of the Proposal

Principle of development

The proposal seeks to convert an existing public house into a seven flats. Saved UDP Policy LC8 considers the loss of local community facilities, which is only permitted where set criteria can be demonstrated, the NPPF guards against the loss of valued facilities where this would reduce the community's ability to meet its day-to-day needs.

LC8 asks; Other existing facilities in an equally or more convenient location

The following Public Houses are within walking distance of the application site

1. Old Engine, Bull Street, 200m away
2. Prince of Wales, Walsall Road, 140m away
3. Horse and Jockey, Walsall Road, 181m away
4. The Swan, Victoria Road, 436m away

The community will therefore continue to have local community facilities to meet its day-to-day needs.

LC8 asks; A replacement facility could be provided in an equally or more convenient location

The number of other local public houses demonstrates facilities in an equally convenient location.

LC8 asks; No longer a need for the facility or any other community use

The applicant explains that due to a gradual decline of custom the brewery placed the building on the open market. This is sufficient to demonstrate there was a limited need for the facility to be retained

LC8 asks; Not viable to retain the facility

The brewery have sold the site to a private owner. The lack of interest by other breweries/operators demonstrates it has not been a viable option to bring the building back into use. The decline and closure of public houses has been experienced nationally over the last 10 years.

The NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed and that housing applications should be considered in the context of the presumption in favour of sustainable development. Its conversion to residential use is acceptable as it would put forward a vacant and underused building which is in accordance with UDP policy ENV14. UDP policy H3 also encourages provision of additional housing through the re-use of previously developed land.

The existing public house car park is not part of the planning application but the applicant has explained there is an intention to submit a planning application for residential development in the future.

The principle of residential development on this vacant site is considered appropriate subject to a satisfactory appearance and residential environment being achieved.

Impact upon visual amenity

The demolition of the single storey side and rear extension would cause no visual harm to the character of appearance of the area. The proposed additional windows are of appropriate proportions to ensure they integrate into the design of the building. The new parking area to the rear would have no visual impact upon the character or appearance of the area.

The bin store was originally proposed at the front of the building, being relocated to the side, to limit any perceived visual harm. A condition requiring precise details of the bin store means of enclosure can be secured by a condition that meets the six tests.

Only partial boundary details have been provided at this stage, full details can be secured by condition in the interests of visual amenity and security. This condition meets the six tests.

Accordingly the development is considered would integrate into its setting without detrimental impact upon visual amenity.

Impact upon residential amenity

The submitted noise report concludes that vehicle noise from Walsall Road can be mitigated against using double glazed windows and keeping them closed. Natural air can be provided by mechanical ventilation. These measures ensure potential residents would not be adversely effected by noise and can be secured by conditions that meet the six tests.

In May 2017 a guidance document called ProPG was published to provide practitioners with advice on a recommended approach to the management of noise within the planning system. The noise report has now been updated to consider ProPG concluding that it made no difference to the conclusions and recommendations. At the time of writing this report no further Pollution Control advice had been received.

Based on the noise report being drafted by a qualified competent person, utilising the nationally accepted British standard, it is considered in this instance, to accept the conclusions of the noise assessment. Subject to safe guarding conditions requiring non opening double glazed windows to the front elevations of the building and a scheme of mechanical ventilation, it is considered that future occupants would be provided with a satisfactory living environment in terms of noise.

Each of the habitable rooms have windows with access to a good level of natural light and outlook whilst being sufficient distance from neighbours to ensure there is no loss of privacy. Each flat is provided with sufficient space for washing, cooking and sleeping. Externally 108sqm of amenity space is provided, whilst below the Designing Walsall guidance of 20sqm per unit, Victoria Park open space is 165m walking distance from the site. It is considered in this instance, the proposal provides sufficient amenity space for future occupiers.

For existing residential neighbours the removal of the beer garden and replacement with a car park is considered would cause no further loss of amenity. To the boundary with no. 77 a 1.8m high acoustic fence with 300mm trellising on top is proposed. This would help protect the neighbour from noise and also secure the boundary.

No. 77 has a side door which is accessed by crossing the application site. The occupier of no. 77 objects if they no longer have access. The proposed acoustic fence would be in front of no. 77's doorway. Access across third party land is a civil matter between the two parties and outside the scope of the planning application and would not be grounds to form a reason to refuse the application.

One objector says this HMO (House in Multiple Occupation) will destroy the infrastructure and community within the area, create noise and disturbance, anti-social behaviour. The proposal is not to create an HMO, it is for 7 self-contained flats. Whilst the fear of crime is a material consideration in planning decisions, the weight that can be given is often limited unless there is significant evidence to show that the increased fear of crime would actually occur. There is no evidence to conclude that seven flats in this residential location would give rise to any additional anti-social behaviour. The Police have no objection to the proposal subject to the use of a number of security measures, which include lock standards, access control to the communal access, fence heights, access control measures to the driveway, and communal letter box standards. These requirements are reasonable and are recommended via a safeguarding condition that meets the six tests.

The proposed access way and car park would expose the rear boundaries of the adjoining houses. In addition there is open access to the car park and the rear of the building. In the interests of security a secure access gate is required and a condition that meets the six tests is recommended.

One letter asks if management will ensure tenants use the refuse/recycling area correctly and its location could encourage others to dump here. The location at the front of the building is unsuitable and an alternative location away from the public realm will provide greater control over this area. The planning process is to ensure there is appropriate provision, it cannot force tenants to use the bins. If there were misuse and this causes a risk to human health it would be addressed under environmental health powers. There is no evidence that potential residents would not use the bins property.

Impact upon highway safety

Saved UDP policy T13 for flats equates to a requirement of eleven spaces plus one disabled space. The development would provide eight spaces inclusive of one disabled space in a car park to the rear of the site, plus the proposal includes cycle storage. Walsall Road is a bus route and the site is within walking distance of the facilities within Darlaston District Centre. Highways consider the level of proposed parking provision sufficient to meet the needs of the development. The proposed access would require the modification of the existing dropped crossing and would provide an access where two vehicles could pass in order to secure highway safety.

There is a zebra crossing 17m to the west with parking restrictions in front of the building. The access would be sufficient distance away with sufficient visibility to ensure there is no conflict with the zebra crossing and the parking restrictions will continue to ensure users of the crossing are not obscured by stationary vehicles.

Conditions for surfacing, demarcation, cycle storage, widening of the access are considered necessary. Subject to these safe guarding conditions, it is considered the development would not give rise to severe impacts upon highway safety. Highways also recommend the re-instatement of an existing dropped crossing to the front of the building. This requirement would not meet the six tests as it is not relevant to the development proposed and could be dealt with via highways legislation.

The aims of the Air Quality SPD is to ensure users of the building have readily available infrastructure to switch to environmentally sustainable transport. It is necessary there is provision for electric vehicle charging points which can be provided by safeguarding condition which meets the six tests.

Impact on ground conditions

The site lies within a Coal Mining High Risk area. As the planning application proposes the conversion of the existing building with only minimal operational development, it would not be at risk of the coal mining legacy features in the area. A safeguarding note for applicant is recommended.

Local Finance Considerations

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

This application proposes seven flats.

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

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

Conclusions and Reasons for Decision

In weighing all of the material planning considerations, including the comments of consultees, neighbours, planning legislation/guidance, it is considered the proposal would be an acceptable use of this previously developed site. The loss of the public house would not reduce the community's ability to meet its day-to-day needs. The proposal would not impact upon the visual amenity of the area and would, subject to safeguarding conditions, provide a satisfactory residential environment. There is no evidence to support concerns of giving rise to additional anti-social behaviour. In the interest of community safety, security measures are a conditional requirement. The proposal provides sufficient off-street parking to meet the needs of the development. On balance, the development is recommended for approval subject to conditions that meet the six tests for conditions.

Positive and Proactive Working with the Applicant

Officers have liaised with the applicant's agent securing clarification over details of the application to enable support to be given.

Recommendation

Grant planning permission subject to conditions

Conditions and Reasons

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

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

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

- Location plan received 1/11/16
- Block plan received 20/11/17
- Existing elevations 1 received 1/11/16
- Proposed elevation 1 received 26/9/17
- Existing elevation 2 received 1/11/16
- Proposed elevation 2 received 26/9/17
- Existing floor plans received 1/11/16
- Proposed floor plans received 26/9/17
- Environmental Noise Assessment received 12/3/18

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

3a. Prior to the commencement of development including any site clearance or demolition, details of mechanical ventilation to serve the rooms facing Walsall Road shall be first submitted for written approval by the Local Planning Authority.

3b. Prior to the development first being occupied, the approval details shall be fully installed within the development.

3c. The approved details shall be retained thereafter.

Reason: To mitigate the impacts of poor external air quality.

4a. Notwithstanding the details submitted and prior to the commencement of the development, details of the elevation details of the bin and a covered and illuminated cycle store shall have first been submitted to and approved in writing by the Local Planning Authority. .

4b. Prior to the first occupation of any part of the development, the bin and cycle store shall have been fully installed in compliance with the approved details and made available for future occupiers of the development hereby approved. These facilities shall thereafter be retained, available for the future occupiers of the development and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2, T7 and T13 and Black Country Core Strategy TRAN4.

5a. Prior to the commencement of development details of all boundary treatment, including materials and finishes shall have been submitted for written approval of the Local Planning Authority. The details shall include an imperforate solid boundary treatment in the form of a close boarded fence, with a minimum surface density of 15 kg per square metre to the boundary with 77 Walsall Road and 300mm anti-climb (Criss Cross) trellis topping on top of all existing and proposed side and rear boundaries.

5b. The approved details shall be fully installed prior to the first occupation of the development and the boundary shall thereafter be retained and maintained throughout the life of the development.

Reason: In the interests of visual amenity, residential amenity, security and to mitigate the impacts of noise.

6a. Notwithstanding the details submitted and prior to the development first being brought into use, details of self-closing security gates to the car park shall be first submitted for written approval of the Local Planning Authority. The gates shall be set back at least 5m from the carriageway kerb edge and not to open towards the public highway.

6b. The gates shall be fully installed in accordance with the approved details prior to the first occupation of any part of the development and shall be retained and maintained throughout the life of the development.

Reason: In the interests of community safety in an area with historically high levels of recorded crime and in the interests of the free flow of traffic along the public highway and to highway safety.

7. Notwithstanding the details submitted and prior to the development first being brought into use the existing dropped vehicular kerb access shall be widened to align with the new car park access.

Reason: To ensure the satisfactory completion and operation of the access, in accordance with UDP Policy GP2 and in the interests of highway safety.

8. Notwithstanding the details submitted and prior to the first occupation of any part of the development double glazed windows shall be installed to the windows facing Walsall Road. Any replacement window frames shall match in terms of thickness, profile and design of those that currently exist at the time of the planning application. The double glazed windows shall thereafter remain and be maintained throughout the life of the development hereby approved

Reason: To protect the residential amenities of future occupiers in accordance with the findings of the Environmental Noise Assessment and in the interests of visual amenity.

9a. Prior to the first occupation of any part of the development, the infrastructure for one electric vehicle charging point to be provided for the development shall have been fully installed and operational for the use of future occupiers.

9b. The electric vehicle charging point infrastructure shall be retained and maintained for the life of the development and available for the use of future occupiers.

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

10a) Prior to the first occupation of any part of the development, the parking spaces and access road shall be fully consolidated, hard surfaced and drained so that surface water from the development does no discharge onto the highway or into any highway drain, together with the clear demarcation of the parking bays on the ground.

10b) These areas shall thereafter be retained and used for no other purpose.

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

11. Notwithstanding the details submitted the development shall be fully implemented meeting the following minimum security measures and thereafter retained as such;

- All ground floor windows and any accessible windows should have at least one pane of 6.4mm laminated glass. This includes French doors and patio doors.
- PAS 24:2012 doors should be on all entrance and exit doors.
- A minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond standard certification should be used on all door locks
- Where thumb turn locks are to be installed these should be those that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks.
- Communal entry doors shall have access control system, this may be a proximity access control system, a door entry phone system and electronic lock release.
- There should be an area of defensible space in front of all rear facing floor windows

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

12a. Landscape areas as shown on the approved drawing shall be fully implemented within 12 months of any part of the development being brought into use.

12b. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

- (a) grassed areas shall be maintained and any areas that fail to establish shall be reinstated;
- (b) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;

Reason: To ensure the satisfactory appearance of the development.

Notes for applicant

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to obtain the necessary Road Opening Permit from the Highway Authority for the dropped kerb footway works within the public highway. For further information please contact the Traffic Management Team on 01922 654675.

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 11.

Reason for bringing to committee: Councillor Call in on grounds that the scheme requires delicate judgement

Location: LAND BETWEEN 37 AND 35A, PORTLAND ROAD, ALDRIDGE, WALSALL

Proposal: VARIATION OF CONDITION 2 OF PLANNING PERMISSION 16/0169 TO ALLOW THE INCREASE IN WIDTH BY 1.35M OF PLOT 2 AND REPOSITIONING OF PLOT 1 WEST BY 1.35M.

Application Number: 17/1698

Applicant: Mr Peter Dhillon

Agent: Mr Maurice Cotton

Application Type: Full Application

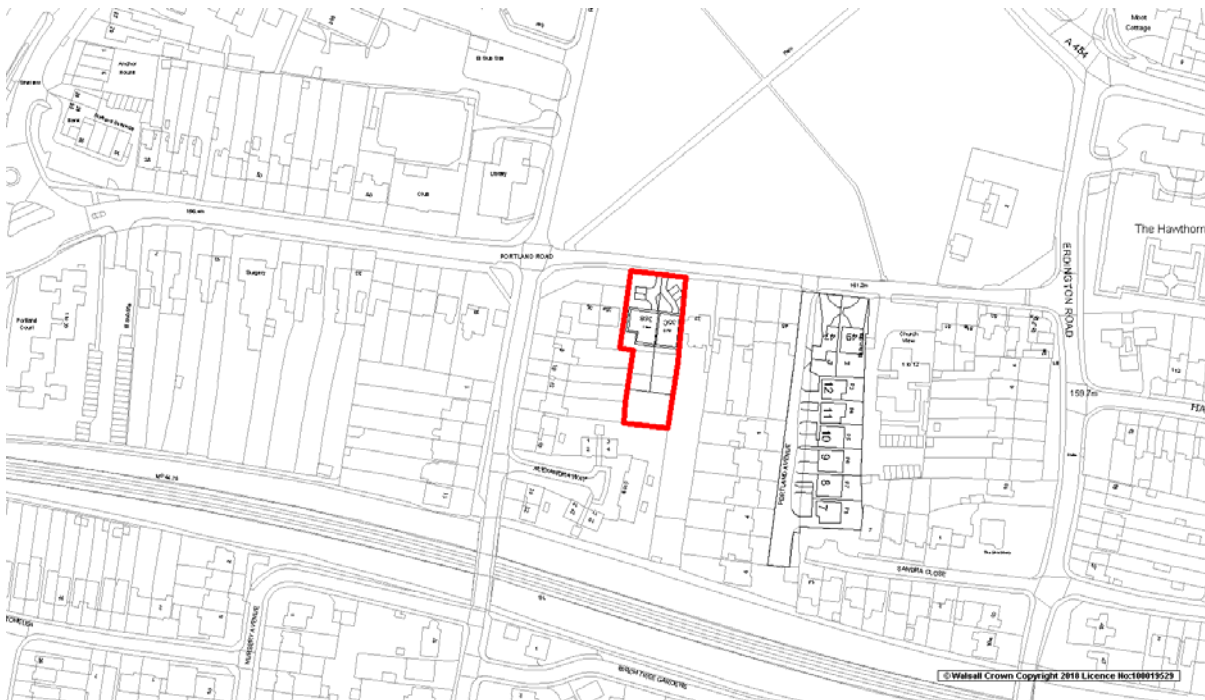
Case Officer: Stuart Crossen

Ward: Aldridge Central And South

Expired Date: 16-Feb-2018

Time Extension Expiry:

Recommendation Summary: Grant planning permission subject to conditions



Proposal

The proposal is for Variation of condition 2 of planning permission 16/0169 to allow the increase in width by 1.35m of plot 2 and repositioning of plot 1 West by 1.35m.

The vacant site is on the southern side of Portland Road and was formally occupied by a block of 8 x 1 bed flats within a two storey pitched roof block set on the same building line as the properties either side. A number of mature trees are situated within the site and there is a hedge along the boundary of Portland Road.

The previous approval proposed detached houses each comprising an integral garage, kitchen, hall, w/c and lounge/dining rooms at ground floor with 4 bedrooms (two with en-suite) landing and bathroom at first floor. They are proposed to be clad in render with UPVC windows and concrete tiled roofs. This application proposes an amendment to plot one to include a snug on the ground floor where part of the garage was, the remaining element and garage doors would be retained to provide storage and on the first floor there would be an additional store. The rear elevation at ground floor proposes to replace the previously approved rear facing ground floor windows and French doors with a wide concertina glass door.

The fronts of the dwellings are positioned broadly in line with the adjacent dwellings 35A and 37 Portland Road. Plot 1 is an L shaped building and is 11.5m wide by 12.5m long (the shorter section is 8m long). This plot was positioned 2.2m away from the boundary with 35A Portland Road, this application proposes to reduce the gap by 1.4 metres to 800mm. Plot 2 was 8m wide and this application proposes to increase the width to 9.2m, it would remain 12.5m long and be positioned 1.2m away from the boundary with 37 Portland Road. Both houses are 4.5m to the eaves and 8m to the ridge of the roof. This is marginally higher than the roof of 35A and marginally lower than the roof of 37 Portland Road. There is a gap of 1.2m between the dwellings. Plot 1 has a small gable on the front elevation and wider gable on the rear, Plot 2 is an entirely gable design house.

There is a combined central access off Portland Road at the front of the site with each plot having its own driveway branching off with three parking spaces to plot 1 (an additional space from the previous scheme) and two parking spaces to plot 2 coupled with their garage space provides for 3 off-street parking spaces.

The site is 0.14 hectares which equates to a density of 14 dwellings per hectare.

At the time of the site visit both plots were partly completed.

Site and Surroundings

The site is within the Aldridge Conservation Area and the opposite side of the road forms the boundary of the Aldridge district centre. The Croft urban open space is situated to the north on the opposite side of Portland Road. This is mostly maintained grass with pathways through and mature trees. A pair of 1960's semi detached facing brick houses (35 and 35a) sits immediately to the west of the site, each with a single storey side garage. To the east is a large detached rendered 1930's house with single storey side pitched roof garage (37). To the rear (south) of the site is a two storey block of flats off Alexandra Way.

Relevant Planning History

16/0169 - The building of 2 no. Detached houses. – GSC 27/04/16
16/0077 - English Oak Tag No. 979 to fell to ground level – Consent granted 25/02/16.
14/1590/FL - Erection of a pair of 4 bed semi detached houses – GSC 09/01/15.
08/1408/CA - Demolition of 35b Portland Rd - Approved 06/01/09.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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

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

Key provisions of the NPPF relevant in this case:

- ***NPPF 6 - Delivering a wide choice of high quality homes***
- ***NPPF 7 - Requiring good design***
- ***NPPF 12 - Conserving and enhancing the historic environment***

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

In March 2018 the Ministry of Housing, Communities and Local Government issued consultation proposals for revisions to the National Planning Policy Framework. The

consultation ends on 10 May 2018. The text has been revised to implement policy changes previously consulted upon and further changes to planning policy announced in the Budget 2017. Whilst proposals should be considered in light of this draft consultation at this stage it can be afforded little weight as a material consideration in the determination of the application.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV7: Renewable Energy
- WM5: Resource Management and New Development

Unitary Development Plan

- GP2: Environmental Protection
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV29: Conservation Areas
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T4 - The Highway Network
- T7 - Car Parking
- T8 – Walking
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

- NE1
- NE2
- NE3
- Survey standards
 - NE4
- The natural environment and new development
 - NE5
 - NE6
- Development with the potential to affect trees, woodlands and hedgerows
 - NE7
 - NE8
 - NE9
 - NE10

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Policies are available to view online:

Legislation:

- **Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990**
 - **Section 72(1) General duty as respects conservation areas in exercise of planning functions**

Other Policy/guidance:

- Conservation Principles Policies and Guidance for the Sustainable Management of the Historic Environment: English Heritage (2008) Historic environment Good practice Advice Notes 2, and 3.

Consultation Replies

Transportation – No objections to amended parking layout.

Pollution Control – No objections

Representations

3 objections have been received from 3 households on the following grounds:

- Planning permission has not been adhered too.

- Loss of light and privacy to rear garden.
- The applicant is buying number 35a to prevent them from objecting.

Determining Issues

- Design and Layout and Impact on the Conservation Area
- Impact on the Amenities of the Surrounding Occupiers
- Parking, Access and Highway Safety
- Conditions

The following determining issues were considered in the previous application and the amendments to this scheme raise no new considerations in this regard.

- Principle of Residential Development
- Impact on Trees and Natural Environment
- Local Finance Considerations

Assessment of the Proposal

Design and Layout and Impact on the Conservation Area

The relocation of plot one nearest to number 35a is a considered a minor change. The reduction in the gap to the shared boundary would still leave 800mm.

Plot 2 would be widened but the design would be very similar.

The proportions of the design features including the doors and windows are considered would not integrate as well as in the previous approved design.

The rear elevation detail changes would have little if any impact on the appearance of the scheme, being at the rear and as such has little if any impact on the character of the area.

The previous application considered the potential harm to the Conservations Area and these amendments raise no new considerations in this regard.

Impact on the Amenities of the Surrounding Occupiers

The position of Plot 2 to the boundary with 37 Portland Road is no different to that approved previously.

The relationship to number 37 is no different to the previous approval, and there are no new considerations in this respect.

The proposed dwelling on Plot 1 is now 1.4m away from the shared boundary with 35A Portland Road and there are no habitable room windows in the gable of this dwelling. The proposed dwelling on Plot 1 does not project beyond the rear elevation of number 35A.

Parking, Access and highway safety

The proposed dwellings would still each have 3 off-street parking spaces in the form of an integral garage and two parking spaces on the driveway in front of each house.

Conditions

Condition 3 is updated to reflect the approved drainage details as part of discharge of conditions application 16/0169.

Condition 4 is updated to reflect the details submitted as part of discharge of conditions application 16/0169.

Condition 5, 6 and 10 is now prior to occupation instead of commencement above damp course.

Condition 7 is amended to take account of the submitted Ground Investigation Report received as part of Discharge of Conditions Application 16/0169.

Conclusions and Reasons for Decision

The proposal is considered to cause 'less than substantial' harm to the Conservation Area and the amendments raise no new concerns in this regard. The design is not significantly different to the previous approval to justify refusal and is considered compatible with UDP policy ENV32.

The relationship between the proposal and neighbouring houses is considered acceptable that the proposals would have no adverse impact on the amenities of the adjoining occupiers and complies with policy GP2 and Designing Walsall SPD.

The proposed parking areas accord with saved UDP policy T13.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding the description and reduction in parking amended details have been provided to correct the description and to increase parking provision which enable full support to be given to the scheme.

Recommendation

Grant planning permission subject to conditions

Conditions and Reasons

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

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

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

- Location Plan received 05/02/16
- Site Plan (A100) received 05/02/17
- Amended Proposed Ground Floor Plan (A101 rev B) received 22/12/17
- Amended Proposed First Floor Plan (A100 rev C) received 22/12/17
- Amended Proposed Elevations 1 (A105 rev B) received 22/12/17
- Amended Proposed Elevations 2 (A106 rev B) received 22/12/17

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- External Dimensions (A400) received 22/12/17
- Survey (7762/1) received 05/02/16
- Planning Statement prepared by Cotton Surveys received 05/02/16

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

3. The development shall be completed with the approved discharge of conditions details 16/0169 and retained as such.

Reason: To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution. Drainage is below ground infrastructure that needs to be resolved before construction of any new dwellings is commenced.

4a. The walls shall be rendered off-white in colour, roof tiles shall be grey Marley Duo and the windows shall be pale grey UPVC.

4b. The development shall be implemented in accordance with the agreed materials and thereafter retained as such.

Reason: To ensure the materials throughout the development harmonise with those in the surrounding vicinity.

5a. Prior to the occupation of the development a landscaping scheme, including all boundary treatments, shall be submitted to and approved in writing by the Local Planning Authority.

5b. The scheme shall be completed in accordance with the approved details before the development is first occupied. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs of plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree. Shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to safeguard the visual amenity and natural environment of the Conservation Area.

6a. Prior to the occupation of the development, full engineering details of the required widening of the public footway across the entire site frontage to 2 metres together with any modifications to the existing dropped kerb access to align with the new access point as necessary, shall be submitted to and approved in writing by the Local Planning Authority.

6b. Prior to the first occupation of either dwelling on the development, the footway widening and dropped kerb works shall be fully implemented in accordance with the approved details and to the satisfaction of the Highway Authority

Reason: To improve the current substandard footway width and accessibility to the site, in accordance with UDP Policy GP2, T1, T5 and to highway safety and in accordance with DfT Manual for Streets guidance.

7a. The remedial measures as set out in the Ground Investigation Report dated June 2012 and submitted as part of discharge of conditions application 16/0169 shall be implemented prior to occupation.

7b. If during the undertaking of the construction of the approved development unexpected ground contamination not identified by the submitted Ground Investigation Report is encountered development shall cease until the Ground Investigation Report has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

7c. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

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

8a. Prior to the first occupation of either dwelling on the development, the parking areas and vehicle manoeuvring space shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

8b. The frontage parking areas shall thereafter be retained and used for no other purpose.

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

9. Notwithstanding the Town & Country Planning (General Permitted Development) Order 2015 (or succeeding orders), any future boundary treatment across the site frontage shall provide a 2.4m x 3.4m pedestrian visibility splay at each access point, within which no planting or structure exceeding 600mm in height above footway level will be permitted.

Reason: To ensure adequate pedestrian/vehicle inter-visibility at the access points in the interests of highway safety.

10. Prior to the occupation of the development details of replacement tree planting at the front and rear of the site shall be submitted to and approved in writing by the local planning authority. Details shall include species, size, location and quantity. The trees shall be planted within 12 months of the commencement of the development. If within a period of 12 months from the date of planting any tree is removed, destroyed or dies then another tree of the same species and size shall be planted in the same position.

Reason: To safeguard the future of the trees following completion of the development and to ensure the satisfactory appearance of the development.

11. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or succeeding orders), no development within Schedule 2, Part 1, Classes B and C (roof alterations and additions) shall be carried out to either dwelling.

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Reason: To protect the residential amenities of adjoining occupiers and character of the area.

12. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08.00 to 18.00 Monday to Fridays and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: In order to safeguard the amenities of the surrounding occupiers.

Note for applicant - Contaminated Land

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

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

Note for applicant – highways

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

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 12.

Reason for bringing to committee: Significant Community Interest

Location: FORMER 7, PAULS COPPICE, BROWNHILLS, WALSALL, WS8 7DE

Proposal: ERECTION OF 3 STOREY BLOCK OF 8 FLATS (4X2 BED & 4X1 BED) WITH AMENITY SPACE & PARKING TO THE REAR. (ADJOINING PUBLIC RIGHT OF WAY BRO36).

Application Number: 18/0137

Applicant: Access Complete Property Ltd

Agent: Mr Chris Greenhalgh

Application Type: Full Application

Case Officer: Stuart Crossen

Ward: Aldridge North And Walsall Wood

Expired Date: 03-Apr-2018

Time Extension Expiry:

Recommendation Summary: Grant planning permission subject to conditions



Proposal

The application proposes a three storey flat roof block of 8 flats with a gated undercroft to provide access to the rear parking and amenity space. The building would be brick built with white UPVC windows and coping stones for the flat roof parapet.

On the ground floor would be 2 x 2 bedroom flats with bathroom, kitchen and hall.
On the first floor would be 1 x 2 bedroom flat with bathroom, kitchen and hall way and 2 x 1 bedroom flats with open plan kitchen/ lounge, bathroom and hall. The first floor layout is repeated on the second floor.

The access point to all of the flats faces the road to the front and is a shared lobby with stairway and lift.

At the rear of the site would be 12 car parking spaces and a shared amenity area of 140m².

Site and Surroundings

The site is situated on the northern side of Paul's Coppice and is now vacant, formerly occupied by a single detached house in a large rectangular plot.
This is a predominantly residential area with a three storey block of flats with flat roof immediately to the east (No 9), the side windows of these flats serve bathrooms, with semi-detached houses beyond. There are semi-detached and terraced bungalows on the opposite side of the road and to the rear (north) in Robson Close and modern link detached two storey houses immediately to the west of the site.

There are local shops and a recently approved takeaway to the south west on the corner of Paul's Coppice and Lindon Road.

A public right of way (BRO36) runs east/west along the rear (northern) boundary of the site.

Relevant Planning History

08/0164/FL, demolition of existing dwelling. Erection of 8 apartments with car parking and amenity space, granted subject to conditions 20-03-08.
12/0707/FL, Development of 5 detached (3 bed) starter dwellings, refused 31-05-13
17/0122, Erection of 3 detached 2 bed bungalows adjoining public right of way Bro36.
Refused 23-03-17

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

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

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

Key provisions of the NPPF relevant in this case:

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

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- HOU2: Housing Density, Type and Accessibility
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Emerging Walsall Site Allocation Document (Not yet adopted)

- T4 The Highway Network

Supplementary Planning Document

Designing Walsall

- DW3 Character
- DW6 Legibility
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

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

Consultation Replies

Transportation – No objections subject to conditions for cycle shelter, bin storage, construction methodology, consolidated surfaces, amended footway crossing points and removal of permitted development for front boundary walls/fences.

Police – No objections, recommends secure by design which can be added as a note to applicant.

Fire officer – No objections, note to applicant recommended to provide further guidance for building regulations.

Severn Trent – No objections subject to drainage condition.

Pollution Control – No objections subject to conditions for ground contamination mitigation, electric vehicle charging, hours of construction and measures for controlling noise, flying debris and drag out from engineering and construction.

Public Rights of Way – No objections raised, condition required for suitable boundary treatment to secure public right of way and a note for applicant advising of permit requirements for works next to a public right of way.

Representations

3 objections have been received on the following grounds:

- Lack of parking
- Poor access for fire engines
- Road opposite is blocked with cars from residents of bungalows
- It will take away the privacy of the rear gardens of 3, 5 and 5a.
- There will be an increase in noise from the cars using the garages planned for at the bottom of 3, 5 and 5a.
- An application for three bungalows was turned down and they would have fitted in with the area far better than flats
- Proposal would overlook neighbouring gardens
- Could result in the sale of a neighbouring property falling through.

Determining Issues

- Principle of Development
- Design and Layout and impact on street scene and Character of the area.
- Impact on the surrounding occupiers
- Contamination
- Parking and Access

Assessment of the Proposal

Principle of Development

The site is situated within a predominantly residential street and comprises land previously occupied by a residential property. The site is considered to be in a sustainable location, with the local convenience shop 40m away and 1.1km from the District Centre of Brownhills and 820m from the Local Centre of Walsall Wood. There is also an earlier consent for erection of 8 flats on the site albeit granted in 2008 but this establishes the principle of a development for 8 flats.

Design and Layout and impact on street scene and Character of the area.

The proposed 3 storey flat roof design is similar to the neighbouring flats.

The flat roof ensures the flats are not significantly higher than the neighbouring houses.

All the residential units would have direct pedestrian access to the street, creating an active frontage and providing enhanced safety and security to the immediate vicinity.

Impact on the surrounding occupiers

The rear of the proposal projects approximately in line with the rear of the neighbouring houses.

The access to the rear of the adjacent flats provides separation to the existing flats and the proposal does not conflict with the 45 degree line from the rear windows of these flats.

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The main habitable room windows are on the front and rear elevations.

Severn Trent have recommended conditions for drainage details which can be attached to permission if granted in the interests of ensuring satisfactory means of drainage.

The public right of way runs along the site and secure boundary is required.

Contamination

No information regarding ground contamination on the site was supplied in support of the application and Pollution Control holds no information on ground conditions at this site address. A desk study and site reconnaissance will therefore be required to determine whether the site is suitable for the proposed end use and to identify any mitigation measures that may be required.

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

Conditions to prevent or minimise environmental impacts during the course of the demolition / construction works have been recommended by pollution control officers.

Parking and Access

Security gates are proposed to the access drive 4m back from the highway which would ensure the overall security of the site and provide a clear definition between the public and private realm.

To ensure the satisfactory management of traffic to and from the flats a condition has been recommended for a bin storage area which can be conditioned.

The condition requested by highways for cycle storage would ensure that the development would provide a choice of sustainable transport in accordance with Council policy.

The proposed condition for consolidated surfacing would minimise any material on the highway.

The removal of permitted development rights for 1m high boundary treatment next to the highway would benefit public safety for users of the highway and can be conditioned.

The 12 parking spaces accords with UDP T13 parking policy at 150%.

The access point on Pauls Coppice is existing subject to modification for amending the footway crossing points to ensure the satisfactory access of the site which can be conditioned.

Fire officers have raised no concerns about fire access contrary to concerns raised through consultation.

The proposal does not include sufficient parking for the use of the flats as HMO's.

Other non determining issues raised through consultation.

Whether the scheme affects the sale of adjacent housing is not a material consideration of a planning application.

Conclusions and Reasons for Decision

The principle of residential development of the site is considered to be acceptable and in accordance with policy HOU3.

The design is similar to the neighbouring flats and would integrate well with the existing character which is a mix of flats and houses, the flat roof ensures the scale is compatible with the existing flats and houses and would have little if any impact on the character of the area in accordance with UDP policy ENV32.

The layout and relationship to neighbouring houses accords with Designing Walsall and is considered would have little if any detrimental impact on neighbouring amenity, it would offer no more potential for overlooking than already exists between existing development along Pauls Coppice. Pollution Control Officers raise no concerns about noise disturbance from vehicles using the rear parking area in accordance with UDP policies GP2 and ENV32, drainage can be mitigated for to comply with BCCS policy ENV5 and UDP policy ENV10.

The Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with the NPPF in this respect, to ensure there is sufficient parking provision permitted development rights for change of use to a HMO can be removed by condition.

A condition can be required for secure boundary treatment to the public right of way which would be acceptable in accordance with UDP policy ENV32.

Positive and Proactive Working with the Applicant

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

Recommendation

Grant planning permission subject to conditions

Conditions and Reasons or Reasons for Refusal

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

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

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

Location Plan received 06/02/18

Block Plan received 06/02/18

Proposed Plans and elevations (AC/1) received 06/02/18

Proposed Street Elevation (AC/2) received 06/02/18

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

3a) Prior to the commencement of the development a desk study and site reconnaissance shall be conducted to identify the potential for contaminants and/or ground gases to present a likely risk to proposed structures or future occupants of the development. Prior to any built development commencing results of the desk study and site reconnaissance shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL 4)

3b) In the event that the desk study and site reconnaissance indicates a potential presence of contamination and/or ground gases on site. Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

3c) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

3d) Prior to built development commencing a 'Remediation Statement' setting out details of remedial measures to deal with identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

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

3f) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part ii) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part c) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

3g) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

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

4a) Notwithstanding the submitted documents and prior to the commencement of the development hereby permitted, drainage plans for the disposal of foul and surface water flows shall be submitted to and approved by the Local Planning Authority.

4b) The approved scheme shall be fully implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution and to comply with UDP policies GP2 and ENV10.

5a) Prior to the commencement of the development, a Construction Methodology Statement shall be submitted in writing to and approved by the Local Planning Authority. The Construction Methodology shall include the following details:

1. The location of parking and turning facilities for site operatives and construction deliveries
2. full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.
3. measures for controlling noise, dust, flying debris, and drag-out from engineering and construction

5b) All agreed measures shall be fully implemented and maintained throughout the duration of demolition operations and construction activities.

Reasons: To safeguard the amenities of the area and to comply with UDP policies GP2 and ENV10.

6a) Prior to commencement details shall be submitted to and approved in writing by the Local Planning Authority of the proposed boundary treatments adjacent to public footpath 36 Brownhills.

6b) The approved boundary treatment details shall be fully implemented and retained thereafter.

Reason: To ensure the satisfactory security of users of the footpath and to accord with Policy ENV32.

7a) Prior to the development first coming into use, full details of a proposed cycle shelter, which shall be secure, covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and the facility shall be fully implemented in accordance with the approved details.

7b) The cycle shelter facility shall thereafter be retained and used for no other purpose.

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

8a) Prior to the development first coming into use, full details of a suitably sized and accessible waste/recycling bin storage area, shall be submitted to and approved in writing by the Local Planning Authority and the facility shall be fully implemented in accordance with the approved details.

8b) The waste/recycling bin storage facility shall thereafter be retained and used for no other purpose.

Reason: To ensure adequate storage and collection of waste and recycling materials in accordance with UDP Policy WM4

9a) Prior to the commencement of the development details shall be submitted of the full infrastructure for electric vehicle charging facilities

9b) The agreed details shall be fully implemented in accordance with the approved details before the development is first brought into use and retained thereafter.

Reason: To conserve and enhance the natural environment and to comply with UDP ENV10 and the Air Quality SPD

10a) Prior to the first occupation of any flat on the development, the car park, access way and vehicle manoeuvring areas shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain, together with the clear demarcation of all parking bays on the ground. At least parking space shall be allocated for disabled users and marked out accordingly.

10b) These areas shall thereafter be retained and used for no other purpose.

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

11a) Prior to occupation and the access way first coming into use, the existing dropped kerb footway crossing on Pauls Coppice shall be reconstructed and modified to align with the new access in accordance with the Council's footway crossing specification SD11/8 dated January 2008 and to the satisfaction of the Highway Authority.

11b) In the event that existing the highway works undertaken under part a require modification or repositioning of the existing speed hump traffic calming features, these works shall be undertaken prior to occupation and the access way first coming into use, and shall be in accordance with all statutory requirements and be at the applicant's expense.

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

12) Notwithstanding permitted development rights under part 2, class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) there shall be no erection or construction of a gate, fence wall or other means of enclosure to the front of the building hereby approved.

Reason: To provide adequate pedestrian and vehicle inter-visibility at the access point, in the interests of highway safety.

13) Notwithstanding permitted development rights under part 3, class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) there shall be no change of use of any flat hereby approved to a use falling within class C4.

Reason: To provide adequate parking provision, in the interests of highway safety and in accordance with UDP policy T7 and T13.

14) There shall be no demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08.00 to 18.00; and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: To safeguard local amenity and to comply with UDP policy GP2

Notes for Applicant

Highways

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

2. The applicant will be expected to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the dropped kerb footway crossing within the public highway. For further information please contact the Traffic Management Team on 01922 654675.

3. The applicant/agent may wish to view [http://www.securedbydesign.com/wp-content/uploads/2016/03/Secured by Design Homes 2016 V1.pdf](http://www.securedbydesign.com/wp-content/uploads/2016/03/Secured_by_Design_Homes_2016_V1.pdf)

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

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

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

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

Contaminated Land

CL1

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

CL2

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

CL3

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

CL4

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

Public Rights of Way

A permit to work or temporary closure may be required in the interests of public safety prior to commencement of work within or adjacent to the public footpath. The applicant must discuss the requirements with highways 28 days prior to implementation and will be responsible for making any applications and covering costs associated with this. Please contact the public rights of way officer on 01922 654673 to discuss the requirements.



Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 13.

Reason for bringing to committee: Consultee objection and S106 Agreement required

Location: PROVIDENCE CHAPEL, NEW ROAD, WILLENHALL, WV13 2BG

Proposal: CONVERSION OF FORMER CHAPEL TO PROVIDE 8 X 1 BED APARTMENTS WITH ASSOCIATED PARKING AND EXTERNAL AMENITY SPACE

Application Number: 17/1259

Applicant: Mr & Mrs Jamil and Anila Hashim

Agent: Thorne Architecture Limited

Application Type: Full Application

Case Officer: Barbara Toy

Ward: Willenhall South

Expired Date: 27-Nov-2017

Time Extension Expiry:

Recommendation Summary: Delegate to the Head of Planning, Engineering & Transportation to grant permission subject to conditions and subject to a S106 Agreement to secure provision for compensatory tree planting



Proposal

The proposal seeks consent to convert the former Providence Chapel to 8 X 1 bed self-contained apartments with parking and amenity space.

There are four apartments proposed on the ground floor and a new first floor is to be constructed and will provide a further four apartments. Each apartment has kitchen/living/dining area plus bedroom and en-suite. A central shared hallway with staircase is proposed. There are twelve roof lights proposed, six on each roof slope.

The proposals include repointing the gable, refurbishing metal framed windows with new "Slimlite" double glazed units and obscure glazing to first floor windows up to 1700mm from finished floor level.

The amenity space to the east of the building includes patio area, new tree planting, secure cycle store and washing line area.

The proposal includes removal of protected trees at the front of the site and creation of 7 parking spaces plus bin store and motor cycle parking in front of the building. The existing wall and piers will be relocated to achieve a 2.4m X 3.4m pedestrian visibility splay at the access with low level planting behind. A turning area and disabled parking is available.

A Tree Survey, Design & Access Statement and Heritage Statement are provided in support.

Site and Surroundings

The site is located on the southern side of New Road and comprises a locally listed vacant chapel building set back from the road behind a boundary wall with pedestrian path to the building and two protected sycamore trees (TPO 6/2010). The site lies just outside of Willenhall district centre in walking distance of shops and services, in an area characterised by a mix of residential and commercial premises. New Road is a district distributor route with regular bus services.

The chapel dates back to 1879 and comprises a large gable chapel, mostly brickwork with small amounts of painted stone, with two tiers of large arched iron grid windows and a tiled slate roof. The building was last used as a chapel in 2008 and has remained vacant ever since and is now in a poor state of repair with broken windows, the subject of vandalism and break ins.

The site has boundaries with the car park for Lidl supermarket and residential properties in Newlands Close. Opposite is a locally listed public house and there are other commercial and residential properties in the surrounding area.

Relevant Planning History

09/1826/FL - Change of use to 8 self-contained flats - Refused 16-02-10.
Reason for refusal:

- Failure to demonstrate that parking spaces can be constructed without any detrimental impact on the TPO trees.

10/0307/FL - Change of use to 8 self-contained flats - Refused 10-05-10.
Same reason for refusal as 09/1826/FL.

10/0340/FL, change of use to temporary storage of white goods, refused 28-05-10.
Reason for refusal:

- Noise from deliveries and impact on residential occupiers.
- Relocation of boundary wall, impact on the street scene and security of Newlands Close
- Parking under the TPO trees likely to lead to pressure to remove the trees

15/1540 - Conversion of former chapel (Class D1) to form 14 bed HMO (Class Sui Generis) – Refused 14/07/16. Broadly two reasons relating to (i) insufficient parking and harm to trees and (ii) fear of crime and anti-social behaviour. Appeal dismissed 07/12/16. Conflict with parking policy GP2 and T7, protected tree policy GP2, ENV18 and ENV32 and policy H7 due to fear of crime given police evidence supporting this.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 - Ensuring the vitality of town centres**
- **NPPF 4 - Promoting sustainable transport**
- **NPPF 6 - Delivering a wide choice of high quality homes**
- **NPPF 7 - Requiring good design**
- **NPPF 12 - Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP1: The Growth Network
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- CEN7: Controlling Out-of-Centre Development
- CEN8: Car Parking in Centres
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality
- WM5: Resource Management and New Development

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV27: Buildings of Historic or Architectural Interest
- ENV28: The 'Local List' of Buildings of Historic or Architectural Interest

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- ENV32: Design and Development Proposals
- S8: Housing in Town Centres
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T4 - The Highway Network
- T7 - Car Parking
- T8 – Walking
- T10: Accessibility Standards – General
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC8: Local Community Facilities

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

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

Consultation Replies

Housing Standards – No comments.

Police – No objections.

Pollution Control – A noise survey is recommended to determine whether the site is suitable for residential use and to inform of any required mitigation measures that may be required in order to ensure that future occupiers of the proposed development will not be subjected to excessive noise. A site investigation is required to address any ground gas and ground contamination issues associated with the former uses of the site. Vehicle electric charging points shall be provided to allow future residents a readily available infrastructure to switch to environmentally sustainable transport in the future.

Transportation – No objections.

Tree Officer – Objects to loss of trees of high amenity value and lack of scope for replacement planting on and off site in the locality that would offer the same level of amenity value.

Representations

There are 3 letters of objection summarised as follows:

- The 10 skylights are an unnecessary alteration to the building
- Number of skylights suggests future alterations for more flats
- Trees are overgrown and need cutting back
- Trees fall into neighbouring gardens causing health and safety and maintenance issues
- The tree grows through boundary wall making it unsafe

One letter of support received from Cllr D Coughlan as follows:

Following the refusal of a HMO on Providence Chapel I have supported both residents and the applicant to arrive at a development acceptable to both. Having spoken to residents, they are fully supportive of the removal of the 2 trees to allow this conversion to go ahead.

The current application has had no opposition from residents and they welcome that the proposal is now 2 bedroom apartments. (Note: the units are 1 bedroom not 2)

I also fully support this and the removal of the trees, as this derelict building is a blight on our community and has been a target for anti-social behaviour.

Determining Issues

Principle of residential use
Design & Layout
Relationship to neighbouring properties
Access and Parking
Loss of trees

Assessment of the Proposal

Principle of residential use

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The site is on the edge of Willenhall district centre in a sustainable location with good bus routes to both Walsall and Wolverhampton and within walking distance to shops and services available in the district centre.

The proposals would allow for the reuse and refurbishment of a vacant locally listed building that is prominent within the street scene and is currently in a semi derelict condition. The building has been vacant since 2008 and the subject of vandalism and continues to deteriorate.

The NPPF and saved UDP policy H3 encourage provision of residential accommodation through conversion of existing buildings in sustainable locations. Saved UDP policy S8 encourages the provision of residential accommodation within town, district and local centres where a satisfactory level of residential amenity can be achieved and the use would not adversely impact upon other town centre uses. The site is located at the juxtaposition between commercial properties in Willenhall district centre and residential properties just beyond the centre. The proposed residential use of the former chapel allows the locally listed building to be retained and is considered appropriate in the circumstances.

The representation from the Councillor reiterates support for the apartment scheme as opposed to the earlier HMO scheme at the site. A condition can be secured to prevent conversion to HMO in order to allow the authority to give full consideration to the adequacy of parking and amenity for such proposals in the future. Occupation of the site will help reduce anti-social behaviour and remove the blight of the unoccupied building from the area.

Design & Layout

The design of the proposals utilises the existing building with minor external alterations other than refurbishment of windows and new roof lights. The internal reconfiguration to create the eight apartments includes provision of a new first floor but maintains the existing windows stating first floor windows to be obscurely glazed up to 1700mm from finished floor level. These changes will not harm the character or appearance of the locally listed building within the street. Conditions are recommended to ensure alterations are sympathetic to the original building. This is acceptable in accordance with saved UDP policies ENV27 and ENV32.

Although there are 12 roof lights and objectors consider this is unnecessary and detracts from the building they will not be prominent in terms of the appearance of the building in the surrounding area. They offer additional light to the first floor accommodation and will help reduce energy consumption on lighting.

Pollution control officers require a noise survey to determine any potential mitigation needed to protect future residents from noise from adjacent commercial premises and to address potential contamination. This can be secured by recommended conditions in accordance with saved UDP policies GP2 and ENV10. A condition for provision of NOx boilers is also recommended.

The layout includes a secure private garden area to the east of the building for resident's use. This is considered adequate as it will be a useable area including a patio and drying area. The location of the premises close to the shops and services within Willenhall district centre also offers alternative amenity benefits. This accords with saved UDP policy H3.

The design and layout is considered to offer adequate amenity for future occupiers and satisfactory accommodation. Unlike the previous HMO applications the proposal offers generous accommodation space and is considered to be more in keeping with the area.

There are no objections from the Police in relation to fear of crime issues unlike the earlier HMO applications. Nevertheless Secure by Design measures are recommended and can be secured by condition. Each of the apartments is self-contained and offers greater security than the earlier HMO scheme.

Relationship to neighbouring properties

As the building is an existing property the distance separation to adjoining residential properties in Newlands Close is unaltered. The existing large windows are to be refurbished and replacement glazing incorporated including obscure glazing up to 1700mm in first floor windows that face the gardens of housing in Newlands Close. This will help prevent potential overlooking of existing properties in accordance with saved UDP policies GP2 and ENV32.

Although a number of roof lights are incorporated these are unlikely to create potential overlooking due to their height and oblique angle.

The occupation of the premises for residential purposes rather than religious purposes is not likely to create additional noise and disturbance sufficient to warrant refusal of the application. A noise survey to be provided will determine what, if any, mitigation is required. The retention of the walls along the boundaries will screen any parking from the nearest neighbours.

Access and Parking

The proposal includes changes to the front of the site to accommodate 7 parking spaces plus bin store and motor cycle store. The details have been amended to address comments from the transportation officer in terms of manoeuvrability of the spaces and the opportunity to provide disabled spaces. The revised layout is now acceptable.

A single access point is proposed and the boundary wall will be relocated using existing brickwork to accommodate the visibility splay to maintain pedestrian safety.

The Transportation officer notes there are no parking spaces on site at present. Under the terms of saved UDP policy T13 and based on a GFA of 110m, the existing use would require 6 parking spaces. The proposed 8 apartments would require 12 spaces (150%). Consideration of the following has been made:

- The site has an extant use as a Place of Worship and will attract a parking demand which is currently not accommodated on site,
- The residents of the development are likely to have relatively low car ownership levels,

- The site is located within easy walking distance of Willenhall District Centre with a wide range of public and community facilities and good public transport links,
- The development will provide some parking on site which is an improvement on the current position,
- Secure motor cycle and cycle shelter provision is to be accommodated on site,
- There are parking restrictions on New Road and around the Newlands Close junction to control indiscriminate parking at the junction,

Also, it is noted that on the previous Appeal for a 16 bed HMO whereby the Inspector agreed that a 43% parking provision would be likely to lead to parking problems in the locality contrary to highway safety yet the current scheme provides 6 usable spaces for the 8 apartments (75%) plus motorcycle and cycle storage. The present scheme on balance is a significant improvement and the Highway Authority considers the revised scheme will not have severe transportation implications and is acceptable in accordance with NPPF para 32.

Electric vehicle charging points can be secured by condition to offer air quality improvements.

Loss of trees

There are two protected Sycamore trees at the front of the site which are proposed to be removed to accommodate the parking for the site. A Tree Survey report has been provided which states the trees are healthy and vigorous with no structural defects. The Tree officer objects to the proposals on the basis of the loss of the trees which are of high amenity value. The Tree officer specifies part of the criteria for including trees in a TPO is to consider the amenity value they provide to the locality and disagrees that the loss of trees from the locality and provision of mitigation planting elsewhere is not sufficient reason to allow the loss of the trees. The loss of the trees was also considered by the Inspector in regard to the appeal against HMO and proposals found to conflict with policies to protect trees.

The Council's Tree Inspector's Capital Asset Valuation of the trees is £15,000. The applicant has agreed to provide this compensatory sum through completion of a S106 Agreement.

There is some on-site planting proposed to the east of the building but the Tree officer considers this will not be of the same high amenity value due to its position and likely limited growth. If minded to approve the tree officer recommends consideration of replacement tree planting at the front of the site.

Whilst the loss of the trees is regrettable if they were to remain any conversion or redevelopment of the site is unlikely to be able to accommodate them in the design as they are significant and would limit the space available for parking and/or alternative buildings. It is considered that the retention and re-use of the locally listed building, a landmark in the area, which has been subject to anti-social behavior in the past and continues to deteriorate and detract from the appearance and character of the area and residential amenities of existing residents outweighs the harm caused by the loss of the trees. The premises have been vacant since before 2009 when the first application was received (nearly 10 years) and the longer they remain vacant the greater they will deteriorate to the detriment of the locally listed building and surrounding area. Residents are supportive of the reduction or removal of the trees as in their opinion they are overgrown and cause

health and safety and maintenance issues and growth has made the boundary wall unsafe in the neighbours opinion. On balance taking account of these factors it is considered the loss of the trees is acceptable and it is appropriate to secure a commuted sum for replacement planting to mitigate their loss by completion of a S106 Agreement.

In this instance the desirability of the proposed development significantly outweighs the amenity value of the trees as indicated in saved UDP policy ENV18 and appropriate planting of commensurate value will be secured with the S106 Agreement.

Conclusions and Reasons for Decision

The reuse and refurbishment of the locally listed building for residential purposes is considered acceptable in this sustainable location in accordance with saved UDP policy H3 and ENV27.

The design and layout achieves an appropriate level of accommodation and respects the character of the existing building in this context in accordance with saved UDP policies ENV27 and ENV32. Conditions are proposed to protect the amenity of the area and amenities of surrounding occupiers in accordance with saved UDP policies GP2 and ENV10 and ENV32.

The incorporation of parking in front of the building is acceptable and the number of spaces is considered appropriate for this location taking account of the determining factors highlighted by the Transportation officer. This accords with saved UDP policy T13.

The desirability of the development to bring forward a derelict locally listed building for residential development is considered to considerably outweigh the loss of two protected sycamore trees despite the Tree officer objection. A S106 Agreement is recommended to secure a commuted sum for compensatory planting in mitigation for the loss of the trees. This accords with saved UDP policy ENV18.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and in response to concerns raised regarding the parking layout and provision for replacement tree planting to be secured by a S106 Agreement amended plans and confirmation of agreement to the obligations have been submitted which enable full support to be given to the scheme.

Recommendation

Delegate to the Head of Planning, Engineering & Transportation to grant permission subject to conditions and subject to a S106 Agreement to secure provision for compensatory tree planting.

Conditions and Reasons

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

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

2. The development hereby approved shall be built in accordance with the following plans:

- Existing Site Location & Block Plans (15077/000/RevB) received 02/10/17
- Proposed Site Plan (15077/900/RevF) received 22/03/18
- Proposed GF and FF Plans (15077/003/RevD) received 20/09/17
- Proposed Roof Plan (15077/004/RevB) received 20/09/17
- Proposed External Works Details (15077/901/RevA) received 20/09/17
- Proposed Elevations (15077/101/RevB) received 20/09/17
- Existing GF and FF Plans (15077/0001) received 20/09/17
- Existing Elevations (15077/100) received 20/09/17
- Existing Roof Plan (15/077/001) received 20/09/17
- Design & Access Statement prepared by Thorne Architecture (15077/LA/JT dated 3rd August 2017) received 20/09/17
- Heritage Statement prepared by Thorne Architecture (15077) received 20/09/17
- Tree Survey prepared by Wolverhampton Tree Service received 20/12/17

Reason: To define the permission.

3a. No development shall commence on site until details of the disposal of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority.

3b. The development shall be completed in accordance with the approved details and retained as such.

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

4a. No development shall take place until details of specifications for Secured by Design measures have been submitted to and approved in writing by the Local Planning Authority.

4b. The approved details shall be fully implemented prior to the first occupation of the building and shall be retained at all times thereafter.

NB. Please refer to "Note For Applicant" for further information.

Reason: To provide appropriate levels of security and safety, in order to protect future occupiers and to gain and record evidence of any breaches of tenants contract or other crime related incidents.

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

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

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

6a. No development shall take place until a noise assessment is submitted to and agreed in writing with the Local Planning Authority. A submitted report shall include detailed findings and any recommendations for mitigation measures.

6b. Any mitigation measures shall be agreed in writing with the Local Planning Authority prior to commencement of construction.

6c. Properties shall not be occupied until any agreed mitigation measures have been implemented to the satisfaction of the Local Planning Authority.

Reason: To ensure the satisfactory functioning of the development and protect the amenity of occupiers of the proposed residential units.

7a. Prior to the commencement of the development measures for controlling noise, dust, flying debris, and drag-out from engineering and construction activities at the site shall be submitted to and agreed in writing with the Local Planning Authority.

7b. All agreed measures shall be implemented and maintained throughout the duration of demolition operations and construction activities.

Reason: To minimise environmental impact during development

8a. Prior to the first occupation of the development ;-

- i. The frontage parking and vehicle manoeuvring areas shall be fully consolidated, hard surfaced and suitably drained so that surface water from these areas does not discharge onto the public highway, full details of which shall be submitted to and approved in writing by the Local Planning Authority,
- ii. The parking bays shall be clearly demarcated on the ground.

8b. These areas shall thereafter be retained and used for no other purpose.

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

9. Prior to the frontage parking area first coming into use, the existing vehicle footway crossing shall be suitably extended to align with the widened vehicle access, shall be installed in accordance with Council's footway crossing specification SD11/8 dated January 2008 and to the satisfaction of the Highway Authority. All works within the public highway shall be in accordance all statutory requirements.

Reason: To ensure the satisfactory completion and operation of the access, in accordance with UDP Policy GP2 and in the interests of highway safety.

10a. Prior to the development first coming into use, full details of the proposed cycle shelter for residents/visitors of the development, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and the facility shall be fully implemented in accordance with the approved details.

10b. The cycle shelter facility shall thereafter be retained and used for no other purpose.

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

11. Prior to the new access onto New Road first coming into use, the front boundary wall shall be repositioned to respect the visibility splay shown on drawing no.900 Rev F.

Reason: In the interests of highway safety.

12. At no time shall security gates be installed across the new access point unless positioned at least 5 metres back from the kerb line and are inwards opening.

Reason: To allow an accessing vehicle to pull clear of the main carriageway in the event that the gates are in a closed position, in the interests of the free flow of traffic on the public highway and to highway safety.

13. At no time shall any structure or planting exceed 600mm in height above footway level within the pedestrian visibility splays at the access point shown on drawing no.900 Rev F or within 2.4 metre x 43 metre visibility splays in both directions along New Road.

Reason: In the interests of highway safety.

14. All replacement rainwater goods and downpipes to be constructed of metal.

Reason: To ensure the special character of the locally listed building is preserved.

15. The method of re-pointing existing masonry shall be as follows:

- No mechanical tools or equipment be used to remove mortar;
- All raking out of old mortar shall be by hand;
- All new pointing shall be given a flush finish (not weather struck); and
- All pointing shall be pat finished and not smoothed by tooling. All pointing shall be undertaken in accordance with this methodology and between the months of April to October or during weather conditions agreed by the local planning authority.

Reason: To ensure the special character of the locally listed building is preserved and enhanced and decay/erosion of the historic fabric does not escalate.

16. Only NOx boilers shall be installed and used in any of the units hereby approved.

Reason: In the interests of Air Quality and to comply with the Air Quality SPD

17a. Prior to occupation details shall be submitted in writing to the Local Planning Authority of electric vehicle charging points for each of the new premises.

17b. The agreed electric vehicle charging points shall be fully implemented in accordance with the approved details of part (a) of this condition before the development is first brought into use.

Reason: To improve air quality and comply with UDP policies GP2 and ENV10

18. No construction, demolition, 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 otherwise only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: To protect the amenity of local residents

19. No consent is given to any external lighting on the building or within the site.

Reason: To protect the amenity of local residents

20. Notwithstanding permitted development rights under part 3, class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) there shall be no change of use of any apartment hereby approved to a use falling within class C4 (house in multi occupation).

Reason: To provide adequate parking provision, in the interests of highway safety and in accordance with UDP policy T7 and T13.

Notes for Applicant

Police

The applicant/agent may wish to implement home security measures for each of the dwellings in the interests of preventing crime; especially burglary.

Please see advice and ideas on buildings refurbishment, home security and vehicle security at:

http://www.securedbydesign.com/wp-content/uploads/2017/06/Secured_by_Design_Homes_2016_V2.pdf

<http://www.west-midlands.police.uk/advice-centre/crime-reduction/home-security/index.aspx>

<https://www.west-midlands.police.uk/node/552>

<http://www.securedbydesign.com/crime-prevention-advice/>

<http://www.securedbydesign.com/crime-prevention-advice/secure-your-home/>

<http://www.securedbydesign.com/crime-prevention-advice/secure-your-home/home-security-alarm-systems/>

<https://www.police.uk/crime-prevention-advice/burglary/>

http://www.securedbydesign.com/?post_type=product&s=property+marking

<https://www.immobilise.com/>

Contaminated Land

CL1

Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A1:2013 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated

Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 ‘Updated technical background to the CLEA model’ and Science Report – SC050021/SR2 ‘Human health toxicological assessment of contaminants in soil’ or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3

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

Noise

The application site is adjacent to a Lidl supermarket and consideration should be given to noise from deliveries as well as operation of the supermarket such as extraction fans etc.

It is recommended that the applicant undertake a noise survey to determine whether the building is suitable for conversion and to identify any noise mitigation measures required. Any remediation measures shall ensure compliance with the good requirements of BS8233:2014 for internal living spaces, and moderate annoyance levels for external amenity areas. Consideration should also be given to ProPG which has been produced and signed off on behalf of the Institute of Acoustics, Association of Noise Consultants and the Chartered Institute of Environmental Health, and constitutes the most up to date guidance in respect of planning and noise in the context of residential development.

Paragraph 123 National Planning Policy Framework:

Planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- identify and protect areas of tranquility which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

Noise surveys may need to adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation point, and may also need to take account of changes in noise levels on account of height

above ground floor level to account for noise exposure at sensitive receptor points. Additionally, a noise survey may have to take into consideration changes in noise climate between normal weekdays, and weekends, effects of holiday periods, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys may be required to corroborate a single noise survey.

Submitted noise measurement data should include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of performance verification checks, recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum. Sound level measuring instrumentation shall conform to either: 'Type 1' of either British Standard BS 5969: 1981 'Specification for sound level meters', and/or BS EN 60651: 1994 'Specification for sound level meters', and/or BS 6698: 1986 'Specification for integrating-averaging sound level meters', and/or BS EN 60804: 1994/2001 'Specification for integrating-averaging sound level meters' and/or 'Class 1' of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications' (or any superseding standards as applicable).

Instrumentation shall have been verified either in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' or BS EN 61672: 2003 'Electroacoustics - Sound Level Meters - Part 3: Periodic Tests' within a preceding 2 year period of measurements being conducted, or else verified with a multifunction acoustics calibrator that has been UKAS certified within a preceding 2 year period.

In regard to specifying suitable noise mitigation measures to protect internal and/or external residential areas, reference can be made to guidance and criteria contained in British Standard BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings' and World Health Organisation Guidelines for Community Noise 2000. Assessment of certain industrial and commercial noise impacts can be undertaken having reference to British Standard BS 4142 'Method for Rating industrial noise affecting mixed residential and industrial areas'.

Noise Policy Statement England (NPSE)

The NPSE sets out the long term Government noise policy which includes a Noise Policy Vision to 'promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development'. Noise Policy Aims are threefold. Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:

- i) avoid significant adverse impacts on health and quality of life;
- ii) mitigate and minimise adverse impacts on health and quality of life; and
- iii) where possible, contribute to the improvement of health and quality of life.

'Development Control – Planning for Air Quality (2010 update)' by Environmental Protection UK, which provides information on mitigation measures for air quality.

ProPG: Planning & Noise – New Residential Development

The ProPG has been produced to provide practitioners with guidance on a recommended approach to the management of noise within the planning system in England. The IOA, the Chartered Institute of Environmental Health and the Association of Noise Consultants have worked together to produce the guidance which encourages better acoustic design for new residential development and aims to protect people from the harmful effects of noise.

Electric Vehicle Charging Points:

Walsall Council have adopted the Black Country Air Quality Supplementary Planning Document (SPD). This can be accessed via the following link:

https://go.walsall.gov.uk/Portals/0/images/importeddocuments/black_country_air_quality_spd_september_2016.pdf

In summary, the mitigation measures within the SPD range from:-

- Type 1 – installing electric vehicle charging points and low NOx boilers;
- Type 2 – also consideration of travel plans, encouraging modal shift, designating parking for low emission vehicles, Fleet Operations strategy for considering and reducing emissions, etc.; and
- Type 3 – for major developments also evaluation of contribution to increased ambient concentrations due to emissions and translating such additional emissions into damage costs.

Pollution Control is of the opinion that the Application falls under the Type 1 category, therefore the Applicant needs to install low NOx boilers and agree the provision of electric vehicle charging points.

Black Country Air Quality Supplementary Planning Document

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

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

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

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

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

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

Highways

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the dropped kerb footway crossing within the public highway. For further information please contact the Traffic Management Team on 01922 654675

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 14.

Reason for bringing to committee: Significant Community Interest

Location: 64, WHITEHORSE ROAD, BROWNHILLS, WALSALL, WS8 7PF

Proposal: ALTERATIONS TO EXISTING HOUSE AT NO 64 AND ERECTION OF A 3 BED DETACHED HOUSE ON LAND ADJACENT

Application Number: 18/0030

Applicant: Mr Singh

Agent: Mr Ben Palmer

Application Type: Full Application

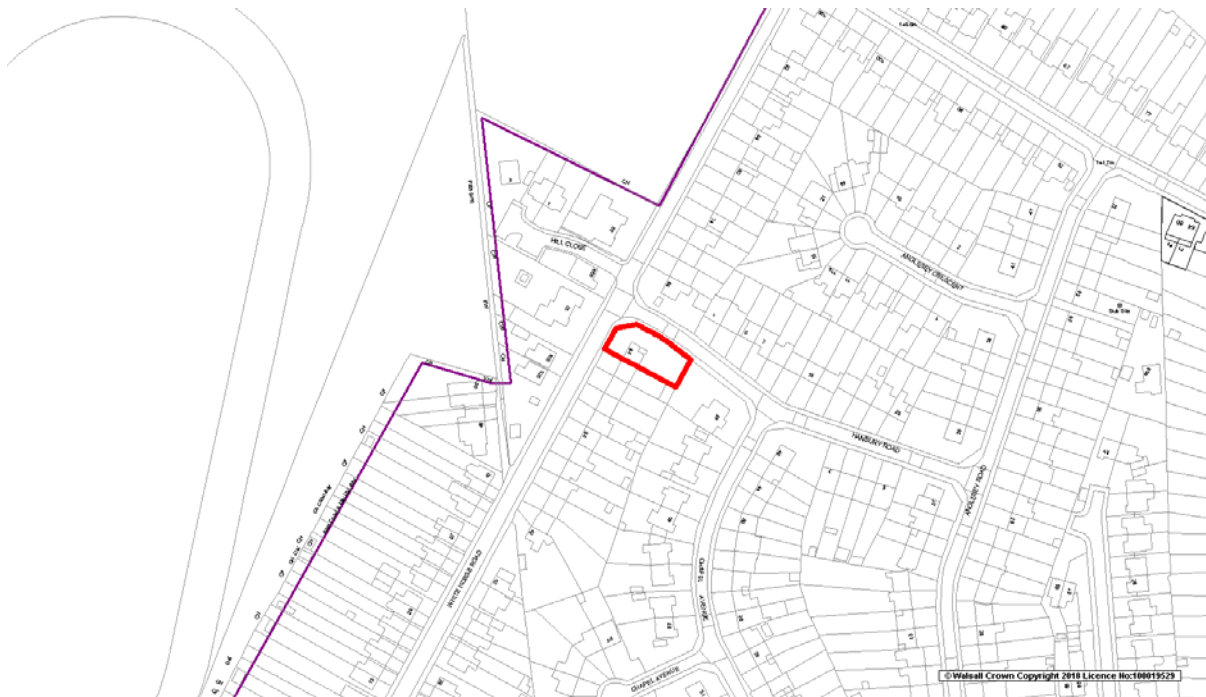
Case Officer: Stuart Crossen

Ward: Brownhills

Expired Date: 13-Mar-2018

Time Extension Expiry: 06-May-2018

Recommendation Summary: Grant planning permission subject to conditions



Proposal

The application proposes a detached inter-war styled 3 bedroom house with feature front bay window gable and side elevation ground floor bay and entrance. On the ground floor there would be a living room, open plan kitchen/ dining room and toilet, on the first floor would be 3 bedrooms and a bathroom.

The proposed dwelling is on land at the side of 64 Whitehorse Road at the junction with Hanbury Road. The front of the house would be in line with number 64 and the rear would project less than 500mm beyond the rear of number 64. There would be a gap of between 1.7m and 2.3m to the public footpath in Hanbury Road. The roof pitch would be 250mm higher than number 64.

At the rear would be the garden and the end of the garden would be two car parking spaces with access onto Hanbury Road.

Amended plans have been received which have widened the driveway to help improve visibility when exiting onto the highway.

The proposal would have a garden of 80m² and retains a 118m² garden for number 64.

A design and access statement has been provided which concludes that the scheme is high quality, complements neighbouring houses is sustainably located and complies with planning policy.

Site and Surroundings

The application site is part of the garden area of number 64 which is a wide plot. The boundary to the highway is defined by approximately 1m high and 2 metre high fences which have been in situ since at least 2009. The existing flat roof garage to the side of the application house would be removed.

On the adjacent corner at number 66 there are similar height fences and walls, number 66 has a single storey side extension and the side garden beyond has a shed.

Immediately to the rear is the rear garden of number 53 Chapel Avenue. The rear boundary of this house is defined by 1.8m high concrete posts and gravel boards.

Relevant Planning History

None

Relevant Policies

National Planning Policy Framework (NPPF)

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

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to

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contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

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

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

Key provisions of the NPPF relevant in this case:

- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

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

Unitary Development Plan

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

Supplementary Planning Document

Conserving Walsall's Natural Environment

- Development with the potential to affect species, habitats or earth heritage features
 - NE1
 - NE2
 - NE3
- Survey standards
 - NE4
- The natural environment and new development
 - NE5
 - NE6
- Development with the potential to affect trees, woodlands and hedgerows
 - NE7 - Impact Assessment
 - NE8 – Retained Trees, Woodlands or Hedgerows
 - NE9 – Replacement Planting
 - NE10 – Tree Preservation Order

Designing Walsall

- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall and Conserving Walsall's Natural Environment SPD's are consistent with the NPPF.

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

Designing Walsall

- DW1 Sustainability
- DW3 Character
- DW4 Continuity
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

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

Consultation Replies

Transportation – No objection subject to conditions for footway crossing, consolidated surface and to restrict permitted development for boundary wall heights.

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Fire Officer – No objections

Severn Trent - The proposal has minimal impact on the public sewerage system. No objections to the proposals and no requirement for a drainage condition to be applied.

Police – No objections, concern raised about visual surveillance of parked vehicles.

Pollution Control – No comments

Representations

5 Objections have been received on the following grounds:

- Would overlook neighbouring houses
- Loss of light
- Already lack of parking with cars parking on the highway.
- Would cause highway obstruction
- Would open the rear garden to crime issues.
- Construction noise and disruption.
- Devalue neighbouring houses
- Front door location would result in occupiers parking on the junction causing dangerous situations.
- The loss of the existing garage is out of keeping with the area.
- House would be out of keeping.
- Would be visible from neighbouring houses.

Determining Issues

Principle of Development

Design of Extension and Character of Area

Amenity of Nearby Residents and Occupiers

Parking

Assessment of the Proposal

Principle of Development

The site is situated within an established residential area with regular bus services along Whitehorse Road to and from Bloxwich and Brownhills.

Whilst the proposals will result in the development of a residential garden which is not defined as previously developed land in the NPPF, in this case, it is considered that the proposals will not cause harm to the local area, will not adversely impact on the character and identity of the local area and will be consistent with advice in paragraph 53 of the NPPF and that the house is within a residential location. An appropriate level of private amenity will be retained for 64 Whitehorse Road and the proposal would continue the residential street frontage of Whitehorse Road.

Design of Extension and Character of Area

Although a detached house in an area of semi-detached houses the design would be similar being traditional with a hipped roof and front bay window projection

The side elevation has a number of secondary windows and an access door to the house which ensures there isn't a blank elevation facing the highway and there is visual surveillance of the public highway.

The parking area is remote from the main house but would be visible from other neighbouring properties.

There would be a minimum of 1.7m metres between the side bay window and the footpath, the main part of the side elevation would be 2.3m from the footpath.

The character of the area is not defined by each house having a garage and only some have garages.

Extensions to the roof and side elevation under permitted development rights could have a significant impact on the appearance of the house to the detriment to the character of the area.

Amenity of Nearby Residents and Occupiers

Number 66 Whitehorse Road is the nearest house to the proposal 18 metres away to the side. This house has no main side elevation habitable room windows.

The house is to be built to the side of number 64 and would not project significantly forward or rearward of this house.

The proposed garden areas for both houses would exceed the Council's standards set out in designing Walsall SPD Appendix D.

Construction noise is to be expected with any development but due to the temporary nature would not be sufficient reason to refuse a planning application.

A rear extension erected under permitted development rights would not meet the Councils minimum standards set out in Designing Walsall, permitted development rights for rear extensions can be removed.

Parking

Two new parking spaces for the existing dwelling are to be provided on the frontage plus two parking spaces for the new dwelling. The existing drop kerb will be relocated further away from the junction which is welcomed.

Other issues raised through consultation

Loss of house value is not a material planning consideration.

A view from a property is not protected and not a reason to refuse a planning application.

Conclusions and Reasons for Decision

The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP. The principle of an additional residential property fronting the street is considered appropriate in this location.

The design, its orientation and relationship to the highway are considered acceptable and the proposal is considered would integrate well with the existing character of the area in accordance with UDP policies GP2 and ENV32.

There is considered sufficient visual surveillance of the parking area and houses opposite to outweigh the concerns raised by Police in accordance with UDP policy ENV32.

The loss of the existing garage would have little if any impact on the character of the area in accordance with UDP policy ENV32.

The distance to neighbouring houses, its siting and location is considered acceptable and would not result in any significant loss of amenity to neighbouring residents by way of loss of light or overlooking and accords with UDP policy GP2 and Designing Walsall SPD.

The parking arrangements are considered acceptable and in accordance with UDP T13 parking policy.

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

Positive and Proactive Working with the Applicant

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

Recommendation

Grant planning permission subject to conditions

Conditions and Reasons

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

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

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

Location plan, block plan, existing and proposed plans received 09/04/18
Design and Access Statement received 08/01/18

Reason: To define the permission.

3a) Prior to the commencement of any construction works for the new dwelling, the proposed frontage parking area to the existing dwelling number 64 shall be fully implemented and brought into use.

3b) The parking area shall be fully consolidated, hard surfaced and drained so that surface water run-off from this area does not discharge onto the highway or into any highway drain.

Reason: To ensure the satisfactory parking provision of the existing house and proposed house.

4a) Prior to the commencement of any construction works for the new dwelling and prior to the new parking area hereby approved to serve number 64, a new vehicle footway crossing to align with the new access shall be installed together with the reinstatement of all or part of the existing redundant dropped kerb footway back to full kerb height.

4b) The works shall be in accordance with the Council's footway crossing specification SD11/8 dated January 2008. The new crossing shall not exceed five 900mm flat kerbs and two 900mm taper kerbs. All works within the public highway shall be in accordance with all statutory requirements.

4c) The parking spaces shall thereafter be retained and used for no other purpose.

Reason: To retain adequate off street parking for the existing dwelling prior to construction of the new dwelling, in accordance with UDP policy GP2, T7 and T13, the Council's footway crossing procedure and in the interests of highway safety

5) The walls and roof of the new house shall comprise facing materials that match, in size, colour and texture as those which are used in 64 Whitehorse Road as it exists at the time of this application, and shall be retained as such after completion of the house.

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

6a) Prior to the first occupation of the new dwelling, the parking area hereby approved shall be fully implemented and brought into use, being fully consolidated, hard surfaced and drained so that surface water run-off from this area does not discharge onto the highway or into any highway drain.

6b) Prior to the parking serving the new house first coming into use, a new vehicle footway crossing to align with the new access shall be installed in accordance with the Council's footway crossing specification SD11/8 dated January 2008 and to the satisfaction of the Highway Authority. The new crossing shall not exceed five 900mm flat kerbs and two 900mm taper kerbs. All works within the public highway shall be in accordance with all statutory requirements.

6c) The parking spaces shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development, in accordance with UDP policy GP2, T7 and T13, the Council's footway crossing procedure and in the interests of highway safety.

7) Prior to the parking area for the new dwelling first coming into use, details shall be submitted of a section of boundary treatment not exceeding 600mm in height above footway level between the rear boundary fence of no. 53 Chapel Avenue and the edge of the 2.4m wide parking space shown on drawing no. HGD17-128-5.1 Rev B, and be approved by the Local Planning Authority.

7b) The approved details shall be fully implemented prior to occupation and retained thereafter.

Reason: To physically prevent vehicles emerging from the access immediately behind the existing 1.8m high boundary fence and to provide adequate pedestrian/vehicle inter-visibility at the access, in the interests of highway safety.

8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), no development within Classes A, B, C and D of Part 1 Schedule 2 of the said Order shall be carried out to the dwelling hereby approved.

Reason: To protect the character and amenities of the area, in the interests of ground gas protection and to comply with policies GP2 and ENV32 of Walsall's Unitary Development Plan.

Notes for Applicant

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

2. The applicant will be expected to obtain the necessary Road Opening Permit from the Highway Authority for the dropped kerb footway crossing works within the public highway. For further information please contact the Traffic Management Team on 01922 654675.

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

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

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

4. Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact

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must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

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

5. The applicant may wish to consider crime prevention and home security advice contained within SBD New Homes.

Please see http://www.securedbydesign.com/wp-content/uploads/2017/06/Secured_by_Design_Homes_2016_V2.pdf



Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 15.

Reason for bringing to committee: Application that includes Council owned land where a disposal of that land would follow

Location: 74, KING GEORGE CRESCENT, RUSHALL, WALSALL, WS4 1EG

Proposal: CHANGE OF USE FROM FORMER CARETAKER'S HOUSE TO STANDARD RESIDENTIAL HOUSE.

Application Number: 18/0297

Applicant: Asset Management Walsall Council

Agent: Walsall Council

Application Type: Full Application: Change of Use

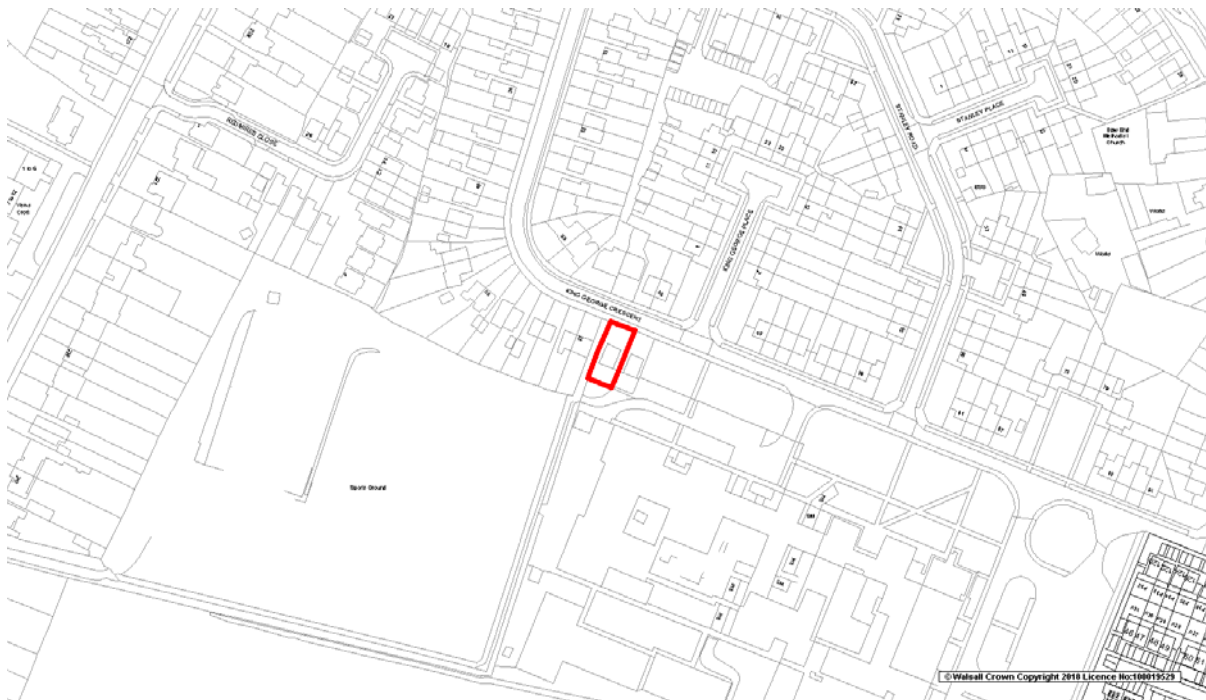
Case Officer: Sally Wagstaff

Ward: Rushall-Shelfield

Expired Date: 02-May-2018

Time Extension Expiry:

Recommendation Summary: Grant planning permission subject to conditions



Proposal

The application relates to the change of use from a former caretaker's house to a standard residential house to be sold on the open market. No changes to the external appearance of the property are proposed.

Site and Surroundings

The application house is a vacant former caretaker's house used as part of Manor Farm Community School which has not been in use for this purpose since 31/12/2015. The house lies outside of the school grounds and is at the beginning of the line of houses on this side of King George Crescent. The house has a flat roof and is stark in design. It is part rendered and built of dark bricks with small different sized windows to the front. The neighbouring property is a property which was similar in design but has added a hipped roof, side extension and canopy to the front. The area comprises of residential properties.

Relevant Planning History

None

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 1 - Building a strong, competitive economy**
- **NPPF 6 - Delivering a wide choice of high quality homes**
- **NPPF 7 - Requiring good design**
- **NPPF 8 - Promoting healthy communities**
- **NPPF 11 - Conserving and enhancing the natural environment**

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

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

Unitary Development Plan

- 3.6: Environmental Improvement
- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T7: Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Conserving Walsall's Natural Environment

Designing Walsall

- DW1 Sustainability

- DW2 Safe and Welcoming Places
- DW3 Character
- DW10 Well Designed Sustainable Buildings

Consultation Replies

Severn Trent Water – No objections

Transportation – No objections

Police Architectural Liaison Officer – No objections, applicant may wish to consider crime prevention and home security advice

Representations

None

Determining Issues

- Principle of development
- Amenity of nearby residents
- Parking

Assessment of the Proposal

Principle of development

The property has been vacant since 31/12/15 and its use for a caretaker's residence is no longer needed by the school. The change of use would bring the property back into residential use which would contribute to the Boroughs housing need.

Amenity of nearby residents

No external changes are proposed to the external appearance of the property, the use a residential house sold on the open market would have no significantly greater impact on neighbouring amenity than the existing use by the school as a caretaker's house.

Parking

The property currently has a two parking tandem spaces to the front elevation. The number of bedrooms remains as existing. UDP parking policy T13 requires 2 parking spaces for 3 bedroom dwellings. The development retains 2 frontage parking spaces which accords with the policy requirement. Means of access is unchanged.

Conclusions and Reasons for Decision

The property is located within a residential area which an appropriate location for the use as a residential dwelling. There is no overriding need for the property to be used by Manor Farm Community School as a caretaker's house. The proposal accords with UDP Policy H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings.

Taking into account the above factors the application is recommended for approval.

Positive and Proactive Working with the Applicant

Approve

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

Recommendation

Grant planning permission subject to conditions

Conditions and Reasons

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

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

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

74 King George Crescent, drawing no. EPMS 4226/1 - deposited 07/03/18.

74 King George Crescent, drawing no. EPMS 4226/3 - deposited 07/03/18.

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

Note to applicant

- 1) The applicant may wish to consider crime prevention and home security advice contained within SBD New Homes. Please see <http://www.securedbydesign.com/wp> V2.pdf



Walsall Council

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 16.

Reason for bringing to committee: Council Employee Application

Location: 84, BROADWAY WEST, WALSALL, WS1 4DZ

Proposal: DEMOLITION OF EXISTING REAR SUN ROOM AND ERECTION OF TWO STORY REAR EXTENSION. DEMOLITION OF EXISTING FRONT PORCH AND ERECTION OF A SINGLE STORY FRONT EXTENSION. REMOVAL OF CHIMNEY BREAST'S AND STACKS

Application Number: 18/0041

Applicant: Ashvin Patel

Agent:

Application Type: Full Application:
Householder

Case Officer: Mike Brereton

Ward: Palfrey

Expired Date: 06-Apr-2018

Time Extension Expiry: 04-May-2018

Recommendation Summary: Grant Planning Permission Subject to Conditions



Proposal

This application proposes a two storey rear extension with hipped roof to provide an enlarged kitchen area at ground floor and an additional 2 x bedrooms and en-suite at first floor. The first floor would be set in by 1.3m above the ground floor extension nearest to the boundary with No.82. The two storey rear extension would measure 7.2m wide at ground floor, 5.9m wide at first floor, 5.3m deep and 6.7m high to ridge (4.8m to eaves) to match existing. The roof over ground floor section would be 3.5m and 2.2m high.

This application also proposes a single storey front infill extension with a part-hipped roof to provide an extended lounge and porch. The single storey front extension would measure 3m wide, 5m deep and 3.7m high (2.2m to eaves).

This application also proposes the removal of existing external chimney stacks.

Site and Surroundings

The application house is a traditional two storey L-shaped semi-detached house of simple design with hipped main roof and facing brickwork. The nearby area is made up of similar two storey houses with pitched and hipped main roofs and examples of front, side and rear extensions of mixed design and roof styles.

Adjoining neighbour No.86 has already infilled the front area with a single storey extension with pitched roof and supporting pillar features and both adjoining neighbours have large two storey and single storey rear extensions.

Relevant Planning History

18/0012 - Prior Approval: Single storey rear extension measuring 6m deep, 4m high and 3m to eaves. Prior Approval Not Required 01/02/2018.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 7 - Requiring good design**

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D – Residential Design Standards

Consultation Replies

None required.

Representations

Neighbours notified and no comments received.

Determining Issues

- Design, Appearance and Character
- Amenity
- Highways

Assessment of the Proposal

Design, Appearance and Character

The overall scale and design of the proposed extensions are considered to reflect the emerging character of the area and would not result in any significant additional harm to the character or appearance of the application house or to the nearby area.

Whilst the proposed part-hipped roof over the porch area at front does not exactly match the style or pitch of the existing main roof, its height has been lowered following requests from Officers. Furthermore, the bulk of the proposed porch roof would largely be hidden behind the neighbour's infill extension at No.86. On balance, the proposed porch roof is unlikely to result in any significant harm to the character of the application house or nearby area and a refusal would not be sustained in this instance.

A condition would be included to require the use of matching external materials to ensure satisfactory appearance of development.

The applicant has confirmed that the 6m deep single storey rear extension under prior approval reference 18/0012 would not proceed in the event that planning permission is granted for this current application. A condition would be included to ensure that the prior approval extension is not built as part of this current scheme to define this permission.

Overall, it is considered the design and scale of proposed extensions are acceptable and would not harm the character of the area.

Amenity

Proposed rear facing bedroom windows would not directly face any nearest neighbours' habitable windows at first floor and this meets the recommendations of Appendix D, Designing Walsall SPD.

The proposed rear extension would breach the 45 degree code of No.82's nearest side facing habitable dining room window by 1.5m. No 82's primary source of outlook and light to their dining room is via a rear conservatory and 1.5m wide rear facing full-length glazed doors.

On balance, when combined with the fact that this neighbour's side facing dining room window already faces the existing 2m high boundary fence at a distance of 2.8m and existing two storey side elevation of the application house further beyond, it is considered that the proposal would not result in any significant additional impacts to this neighbours amenity.

The proposed front and rear extensions would not breach the 45 degree code to any other nearest neighbours' habitable room windows and due to the north-east facing rear gardens, it is considered the proposal would not result in any significant additional loss of light or shading to neighbours.

Overall, it is considered the proposal would not result in any significant additional impacts to neighbours amenity.

Highways

Sufficient space is present within the existing hard surfaced front drive area to accommodate the 3 x parking spaces measuring 2.4m by 4.8m each required by Saved UDP Policy T13. A condition would be included to ensure these spaces are retained to ensure sufficient parking is available to support the development.

Conclusions and Reasons for Decision

When taking into account local and national planning policy and guidance, and subject to the prior approval extension not being built as part of this proposal, the proposed development is considered would not result in any significant additional harm to the character or appearance of the application house or nearby area and sufficient parking spaces can be accommodated within the application site.

Notwithstanding the breach of the 45 degree code to No 82's side facing habitable dining room window, the presence of primary rear facing glazed doors are considered to provide the primary source of outlook and light to the dining room and is acceptable in this instance.

The proposal is considered acceptable subject to the conditions set out above in this report and accords with NPPF7, BCCS policies CSP4, ENV2 & ENV3, UDP Policies GP2, ENV32, T7 & T13 and DW3 & Appendix D of the Designing Walsall SPD.

For the reasons set out above it is considered this application should be supported.

Positive and Proactive Working with the Applicant

Approve

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

Recommendation

Grant Planning Permission Subject to Conditions

Conditions and Reasons

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

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

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

- Block Plan. Deposited 09/02/2018
- Location Plan. Deposited 09/02/2018
- Proposed Floor Plans (P3 Rev A). Amended deposited 26/03/2018
- Proposed Elevations (P4 Rev A). Amended deposited 26/03/2018

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

3. The walls and roof of the extensions shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension.

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

4. A minimum of three parking spaces measuring 2.4m by 4.8m each shall be retained on the front drive within the curtilage of the application house and fully consolidated, surfaced and drained at all times.

Reason: To meet the requirements of UDP policy T13 and in the interest of highway safety.

5. The single storey rear extension under Prior Approval reference 18/0012 issued on 01/02/2018 shall not be constructed as part of the development hereby approved.

Reason: To define the permission.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or succeeding Orders, no additional side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.



Walsall Council

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 17.

Reason for bringing to committee: Called in by Councillor Russell

Location: 22, FERNLEIGH ROAD, WALSALL, WS4 2EZ

Proposal: SINGLE AND TWO STOREY REAR EXTENSIONS, WIDENING OF EXISTING GARAGE AND SINGLE STUDY FRONT EXTENSION (RESUBMISSION OF 17/0939)

Application Number: 18/0291

Applicant: Neeta Patel

Agent: KLHDesign

Application Type: Full Application:
Householder

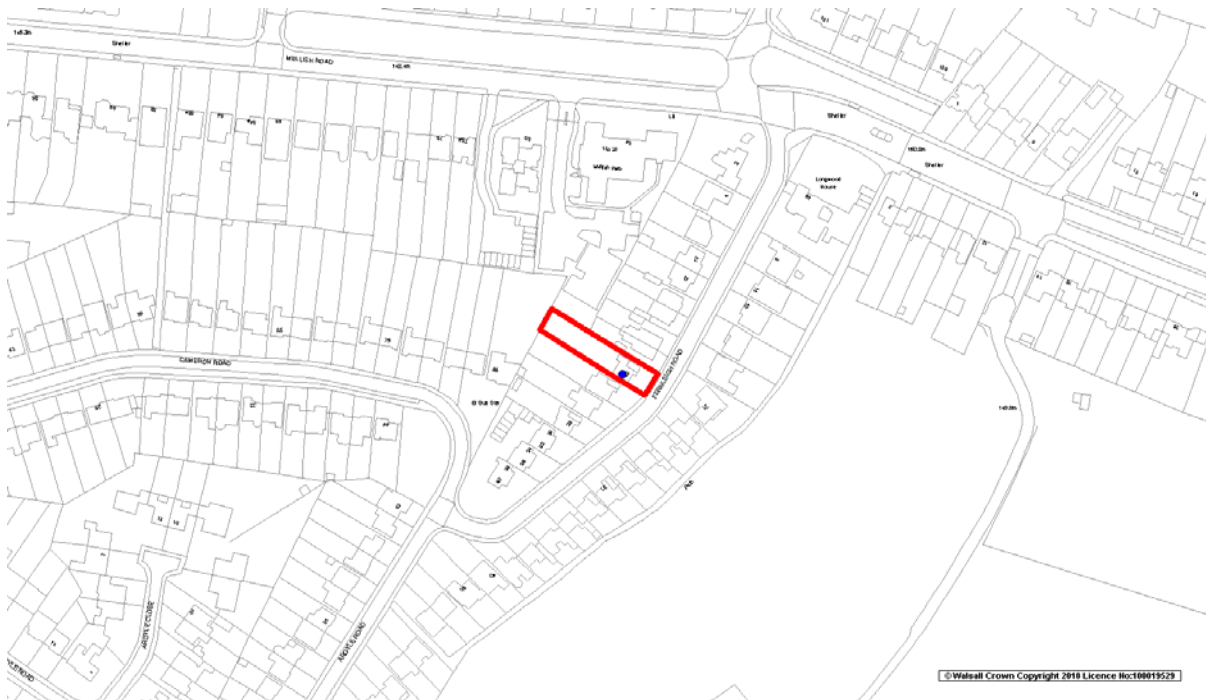
Case Officer: Helen Smith

Ward: St Matthews

Expired Date: 18-Apr-2018

Time Extension Expiry: 02-May-2018

Recommendation Summary: Refuse



Proposal

Councillor Russell has called this application before planning committee on the grounds that the proposed development will not cause harm to the neighbouring property as or above what would reasonably expected.

Site and Surroundings

This is a resubmission of the same proposal that was refused planning permission in December 2017 (planning reference no. 17/0939).

A planning appeal of refused planning application 17/0939 began on 5/4/18 has been made and has not yet been determined (Planning Inspectorate Reference no. APP/V4630/D/18/3195417)

This is a 1970's detached house with an existing single storey side and rear extension.

The application house is located within a residential area which consists of detached and semi-detached houses of varying age and design.

There are protected trees outside the boundary of the application plot and 25 metres from the application house. The length of the remaining rear garden would be 28 metres.

The proposal includes the following additions;

Two Storey Rear Extension

- 5 metres deep
- 6.5 metres wide
- 0.3 metres from the side boundary with 24 Fernleigh Road
- 3.9 metres from the side boundary with 20 Fernleigh Road
- Gable roof with a ridge 0.3 metres lower than the ridge height of the host dwelling
- Rear facing habitable room windows with a Juliet balcony
- Provides a 3rd bedroom and en suite
- 8 metres separation distance to side facing habitable room windows in no. 20 Fernleigh Road

Single Storey rear Extension

- Would extend 2 metres further rearwards from the proposed 5 metres deep two storey rear extension
- Would extend to the side of the proposed two storey rear extension with an additional 2.4 metres width
- 2.7 metres high flat roof
- 0.5 metres high lantern roof (*not shown on the proposed rear elevation drawing*)
- Side facing W.C window at ground floor opposite 20 Fernleigh Road

Garage Extension

- Increase in garage width from 2.5 to 3.5 metres
- Existing false front pitched roof would be extended across the garage enlargement

Single Storey Front Extension

- Extend the existing lounge forward by 1.1 metres
- Pitched roof between 2.4 and 3.5 metres high
- Next to the front boundary with 24 Fernleigh Road

Additional Alterations

- The removal of first floor side bathroom window opposite 20 Fernleigh Road
- Existing porch gable roof would be removed and replaced with a pitched roof to match the existing front roof at ground floor.

The neighbouring houses include;

20 Fernleigh Road

This house sits to the north-east of the application house and has sole side facing kitchen and bedroom windows across a separation distance of 8 metres to the proposed two storey rear extension.

There is a detached garage at no. 20 located between the side facing kitchen window at no. 20 and the shared boundary with the application house.

No. 20 has a sole lounge and dining room window in the side elevation facing the existing garage at the application house.

24 Fernleigh Road

This house sits further back and to the south west of the application house. This neighbouring house has a two storey side and rear extension near to the shared side boundary with the application house.

No. 24 has a side facing garage and utility room window facing the side boundary with no. 22.

21 & 23 Fernleigh Road

These houses face the front elevation of the application house across a separation distance of 29 and 24.2 metres respectively.

85 Argyle Road

No. 85 shares its rear garden boundary with the application plot and sits at right angles to no. 22. There would be a separation distance of 40 metres between the proposed extension and no. 85.

Relevant Policies

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

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

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

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 7: Requiring good design**

Paragraph 32 all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

On **planning conditions** the NPPF says:

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

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

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

NPPF Consultation

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

Local Policy

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Conserving Walsall's Natural Environment and Designing Walsall SPDs are consistent with the NPPF.

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

Relevant Planning History

17/0939 – Two and single storey rear extensions, widening of existing garage, single storey front extension – refused planning permission 21/12/17 on the following grounds;

1. *The proposed two storey rear extension would result in an unacceptable loss of light and outlook to side facing habitable room windows in the adjoining house 20 Fernleigh Road, because of its southerly orientation, the limited separation distance and its excessive length and height in relation to this property.*

This application is subject to a current planning appeal which is not yet determined no. APP/V4630/D/18/3195417.

Consultation Replies

None

Representations

(Officer comments included in italics)

Objections have been received from one neighbour on the following grounds;

- Loss of light
- Close proximity to 20 Fernleigh Road
- Drive of 20 Fernleigh Road would become a wind tunnel with no space for air to circulate and reducing air quality *(no evidence has been provided to demonstrate that this would arise from a domestic extension)*
- Do not recall any planning permission for an existing upright at the front of no. 22 which has reduced daylight into the hall of 20 Fernleigh Road by between 20% and 40% (the upright has been used to calculate the loss of sunlight and daylight due to the proposed building work at no. 22) *(neighbours can submit a planning enforcement enquiry in respect of the 'upright' if this has been in situ for less than 4 years and has not become lawful over time)*
- Loss of light to lounge in no. 20 by 25%
- Casting of shadow to hall of no. 20 by 40%
- Widening of garage would impact on drive of no. 20 and a loss of light to hall by an extra 20% and lounge by 25% *(the plans do not indicate that the garage would encroach onto the neighbours' drive at 20 Fernleigh Road)*
- Proposed toilet and window ventilation would be within 2 feet of drive trapping movement of air *(no evidence has been provided to demonstrate that this would arise from a domestic extension)*
- Any blockage to drainage of proposed downstairs toilet would adversely impact on the drive of 20 *(not a material planning consideration)*
- Blockage of 95% of daylight and 100% of sunlight to kitchen window of no. 20 which is also affected by the tree in the garden of no. 22
- Balcony would result in a 100% loss of privacy to kitchen and rear garden of no. 20
- First floor extension would cast a 100% shadow on the kitchen and 30% shadow on the garden of no. 20
- 100% loss of privacy, 75% loss of sunlight and 75% loss of daylight to rear bedroom of no. 20 from first floor extension of no. 20
- 100% of privacy, 20% loss of daylight, and loss of 75% sunlight to lounge in winter months and 40% in summer months to lounge of no. 20
- 50% loss of sunlight, 50% loss of daylight and loss of 100% privacy to the middle bedroom for the first floor extension of no. 20
- Loss of 100% privacy of middle room of no. 20 if proposed doors are accessed

- 50% loss of daylight and 50% loss of sunlight to the bathroom of no. 20
- Out of scale to no. 20 and those surrounding it
- Large brick wall to view from no. 20 which would not be visually amenable
- overshadowing
- Strong odours from no. 22 *(this is not a material planning consideration in this instance and neighbours may report this matter to Environmental Health to investigate)*
- Close proximity of extension to no. 20 will increase noise *(there is no evidence that noise would increase as a result of this proposal, if approved, however residents' can report any noise issues to Environmental Health to investigate)*
- Noise during construction which may impact on neighbours' ability to home work *(this is not a material planning consideration in this instance as the construction of house extensions tend to be relatively short periods)*
- Adverse impact of building work, blocking access drive to no. 20 *(this is not material planning considerations and would be a civil matter between neighbours)*
- Potential damage to drive, fencing and cars during construction and risk of falling objects and dust *(these are not material planning considerations and civil matters between neighbours)*
- Dust and debris on cars during construction and damage to stone drive *(these are not material planning considerations in this instance)*
- Dust will aggravate a neighbours' chest condition *(this is not a material planning consideration in this instance)*
- Loss of privacy will devalue and impact on ability to sell 20 Fernleigh Road *(the value of a property and ability to sell property are not material planning considerations in this instance)*
- Proposal not in ratio to the small garden at no. 20 taking all privacy
- Internal lighting at no. 22 from predominantly windows at the rear will cause nuisance to no. 20 *(this is not material planning considerations and would be a civil matter)*

Determining Issues

- Whether the application has addressed the reasons for refusal of the previous application or raises any new issues
- Additional neighbour comments
- Conclusion

Assessment of the Proposal

Whether the application has addressed the reasons for refusal of the previous application or raises any new issues

Refusal Reason no. 1

The proposed two storey rear extension would result in an unacceptable loss of light and outlook to side facing habitable room windows in the adjoining house 20 Fernleigh Road, because of its southerly orientation, the limited separation distance and its excessive length and height in relation to this property.

The scale and mass of the proposed extension would be the same as the previously refused proposal. This was considered would result in an unacceptable loss of light and outlook to side facing habitable room windows in the adjoining house 20 Fernleigh Road, because of its southerly orientation, the limited separation distance and its excessive length and height in relation to this property.

The limited 8 metres separation distance between the proposed two storey extension and the side facing kitchen window in 20 Fernleigh Road would be 5 metres less than the Council's recommended minimum 13 metres separation distance between habitable room windows and blank walls in excess of 3 metres high, as referred to in Appendix D of Designing Walsall SPD. This guidance is one of the Council's tools to assess the impacts of development on neighbours existing outlook and amenity.

The proposal is considered to have failed to overcome previous concerns regarding the unacceptable impacts this development would have on the neighbours' existing light and amenity at 20 Fernleigh Road. It is considered the approval of the planning application would have a detrimental impact to the neighbour, by loss of light and shadowing is considered far outweighs the gain the applicant would benefit from with an approval of the extension. No new issues have been raised as a result of this proposal and the impacts of this development on neighbours amenity was assessed for the 2017 planning application.

Additional Neighbour Comments

The garden of 20 Fernleigh Road is overlooked by existing neighbouring residential property in this urban setting by 18 and 24 Fernleigh Road and it is considered that this proposal would have a limited additional impact.

Neighbours have provided estimated percentage figures for loss of light which are not supported by evidence. The neighbours' previously advised that they have lived at the property for 30 years and have come to a good understanding and experience of daylight, sunlight, privacy and shadow on no. 20 Fernleigh Road. The Council utilises the guidance included in Appendix D of Designing Walsall SPD to assess impact on light and amenity. Should the planning committee choose to approve the current planning application, the neighbour can pursue the applicant via third party right to light legislation. In addition, the neighbour may choose to challenge the Council's decision within 6 weeks via a judicial review, if the neighbour is concerned with the Council's decision to approve

The proposal would meet the aims of the Council's 45 degree guidance, as referred to in Appendix D of Designing Walsall SPD in respect of front and rear facing habitable room windows in 20 and 24 Fernleigh Close. This advice is the Council's tool to guide development and planning applications in relation to neighbour's light and outlook.

Halls, toilets and bathrooms are considered by planning guidance to be non-habitable room windows. Non-habitable room windows are not afforded protection by current planning guidance.

The proposal is not for a balcony that can be stepped onto by occupiers of no. 22 but for a safety hand rail attached to the rear two storey elevation of the proposed extension which is considered would not significantly worsen the existing privacy at neighbouring properties. Should the planning committee choose to approve the extension, a

safeguarding condition could be imposed to prevent the ground floor roof being utilised as a balcony in order to protect neighbours privacy.

The scale of houses and flats along this part of Fernleigh Road vary and it is considered that this development, which has a similar combined footprint to no's 18 and 20 Fernleigh Road would have little additional impact on the appearance of the street scene and character of the area.

The proposed single storey rear extension and enlargement of the existing garage would have blank side walls facing habitable room windows in 20 Fernleigh Road. The height of these walls would be less than 3 metres and whilst there is a limited separation distance between these windows in no. 20 and the proposed single storey extension it is considered that these extensions would meet the recommended guidance included in Appendix D of Designing Walsall SPD.

The proposed garage extension would be viewed against the backdrop of the existing two storey elevation of the application house and it is considered that this would have a limited additional impact on neighbours' amenity

Conclusions and Reasons for Decision

The revised application is considered not to have overcome the previous refusal reasons or the detrimental harm to the neighbours light and amenity and the proposal is recommended for refusal. The proposal would benefit the applicant and their family by providing additional living accommodation. This would be a wholly private benefit that would not be sufficient to outweigh the harm that has been clearly identified and the resultant development plan conflict. Should the planning committee choose to approve the extension, it is considered that the neighbour may choose to judicially review the decision and also utilise third party right to light legislation, to prevent or amend the proposal.

Positive and Proactive Working with the Applicant

This is a resubmission of the same scheme to the previous one that was refused permission and has been determined as submitted.

Recommendation

Refuse

Reasons for Refusal

1. The proposed two storey rear extension would result in an unacceptable loss of light and outlook to side facing habitable room windows in the adjoining house 20 Fernleigh Road, because of its southerly orientation, the limited separation distance and its excessive length and height in relation to this property. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; The Black Country Core Strategy policies

CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and Appendix D of Designing Walsall SPD.



Planning Committee

Plans List Item Number: 18.

Case Officer: Helen Smith
Ward: Paddock
Expired Date: 05-Jul-2017
Time Extension Expiry: 02-May-2018

[illegible]

Proposal

Councillor Martin called this application before planning committee on the grounds that the proposed development could be detrimental to the character and/or the visual amenities of the area. Furthermore the proposed development could cause demonstrable harm to the amenities currently enjoyed by the occupiers of neighbouring properties over and above a level they would reasonably expect to enjoy.

This application was deferred on 30/11/17 and delegated to the Head of Planning, Engineering and Transportation to grant subject to conditions as set out in the report and the resolution of neighbour objections regarding glazing.

The applicant and the neighbour were both contacted to establish what discussions had taken place between them. The applicant advised that he had agreed to retain clear glazing to the kitchen window and replace existing clear glazing with obscure glazing to the windows in the dining area. The neighbour disputes this and states that it was agreed that all the windows on the ground floor of the extension were to be replaced with obscure glazing and they strongly oppose any intention to retain clear glazing.

This matter has been reviewed and considered in light of the current planning legislation and guidance. Neighbour disputes and the agreement of neighbours' to a proposal are not material planning considerations. The impact on the neighbour from clear glazed secondary windows had been considered and assessed in the report set out below. Notwithstanding the fact that in determining the previous planning application 15/0579/FL, prior to any construction, a precautionary approach was taken and the proposed secondary windows along the boundary should be obscurely glazed. Now the development has been built and the windows are in place, the proposal has been re-assessed. It is considered, that in this instance, the retention of the three clear glazed secondary windows has little additional impact on neighbours' existing privacy and amenity to sustain the refusal of this planning application as they face a blank gable wall and a fence. Consequently, the recommendation and conditions are as set out in the report below.

Site and Surroundings

This proposal seeks consent for the retention of a revised porch roof design which has been added since the approval reference no. 15/0579/FL was granted and an increase in porch depth. In addition an amendment to condition 4 of the same permission is sought to amend the permission for window's identified as A, B and C on drawing no. 17:131:P04 Rev. A to clear glazing rather than obscure glazing, In addition there has been reduction in the total number of approved side facing windows from 7 to 5 and with the first floor side window and window below this reduced in size.

The 8/7/15 delegated report assessed the merits of the overall proposed scheme and this report will focus upon the proposed amendments to the scheme. The extension is complete and is visible to neighbouring residents.

The application house is a detached property with a two storey front, hipped roof, feature which extends 0.95 metres forwards of the existing house. Broadway North is part of the Strategic Highway Network.

The current house is set back 16.3 metres from Broadway North. The overall application plot width is 11.4 metres and 73 metres in length. This part of Broadway North has a residential character consisting of detached houses of individual design. A number of properties along this road have been extended in the past.

The porch has been extended forward by a further 0.166 metres from 1.034 metres to 1.2 metres.

The approved pitched porch roof has been amended to form a gable roof design which is 2.5 metres high to the eaves and 3.1 metres high to the ridge. There is a minor drafting error on the porch roof drawings with a discrepancy on the depth of the roof between 1.5 and 1.8 metres deep but the impacts of this proposal have been assessed as built on site. The gable feature extends forward of the porch by 0.6 metres to form a canopy over the changed door design.

No. 261 Broadway North has a front habitable room bay window near to the shared boundary with the application house. This proposal is built next to the boundary

The amended porch roof is separated by a distance of 4.5 metres from the shared front garden boundary with 265 Broadway North, with their garage along the shared boundary with the application house.

The proposal includes the retention of three clear glazed secondary windows to the open plan kitchen/dining room facing the side boundary with 261 Broadway North. The open plan kitchen/dining room has primary folding windows/doors facing the applicant's rear garden. Planning condition 4 required these windows to be obscurely glazed. There is 1.8 metres high timber fencing long the shared garden boundary between no. 261 and 263 Broadway North.

The opening parts of these windows are 1.7 metres higher than the floor of the room they serve. The planning agent has provided an elevation drawing which indicates the height of the fence in relation to the side facing windows.

Relevant Policies

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf
National Planning Policy Framework (NPPF) www.gov.uk

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

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

- Find ways to enhance and improve places in which people live their lives

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

Key provisions of the NPPF relevant in this case:

- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

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

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

NPPF Consultation

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

Local Policy

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall SPD are consistent with the NPPF.

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

Relevant Planning History

16/1851 Retention of single storey detached structure in rear garden (playroom/gym) – refused permission by Planning Committee 2/6/17 and was allowed by the Planning Inspectorate. The Inspector stated that they were not able to identify any significant harm to the character or appearance or living conditions arising from this development and neither was there conclusive evidence that the outbuilding was not being used in connection with the main house and the appeal was allowed.

15/0579/FL – Two storey rear, single storey front, side and rear extensions and rear dormer windows and loft rooms – granted permission subject to conditions 09/07/15

Consultation Replies

None

Representations

Objections to the proposal have been received from the occupiers of 259 and 261 Broadway North on the following grounds;

- Front porch and extension projects beyond the current building line and the neighbour is concerned about the impact on no. 259 Broadway North as this will lead to building creep (*The application is for the retention of an amended porch roof shape and canopy over the front door, 0.166 metres increase in depth plus alterations to glazing type to three side windows*)
- Neighbouring properties may decide to build up to this new established line thereby depriving the occupiers of no. 259 of light and affecting their privacy (*Each planning application is dealt with on its individual planning merits*)
- Condition 4 should not be amended as this was to safeguard the amenities of the occupiers of adjoining premises
- Currently all side windows have clear glass
- The drawing shows a large front dormer where there are three skylights and the proposed drawing is invalid (*this drawing was amended and neighbours' re-notified of the changes*)
- The depth of the porch roof and porch does not match the drawings (*Officers were aware of this drafting discrepancy and the porch has been measured on site and assessed in situ*)
- The entire construction process has been marked by blatant disregard to planning norms and attempts to take liberties with the property and privacy of others (*the applicant submitted a planning application when asked for the assessment of the unauthorised porch roof*)
- Kitchen window should revert back to obscure glass as clear glass represents an invasion of privacy

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- Amended drawing “proposed front plans” has not been corrected to give a true impression of the actual appearance of the front elevation *(the plans as submitted provide sufficient information for the Council to determine the planning application and the extension can be seen on site)*
- Delay going to planning committee and lack of information *(it is a matter for the Local Planning Authority (LPA) when applications are brought before planning committee and any delays in processing the planning application is a matter between the applicant and LPA. The LPA is required to adopt a positive and proactive approach to resolve any issues when assessing a planning application in accordance with the NPPF which can lengthen the time taken to finalise planning applications)*
- Structure projects forward a lot further than is being claimed *(the additional depth is 0.166 metres and the proposal is visible on site as it has been built)*
- Clear glass represents an invasion of privacy which is unwelcome

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Conditions
- Conclusions

Assessment of the Proposal

Design of Extension and Character of Area

The retention of the pitched roof design over the new porch is considered to reflect the design of the host dwelling. As built, the amended porch roof design is considered integrates with the existing mixed residential character of Broadway North. The minor increase in extension depth by 0.166 metres is considered by the Council to be de minimis however the applicant chose to submit a planning application for this change.

Councillor Martin considers the proposal is detrimental to the character and visual amenities in the area. Broadway North has a mixed residential character and there are other examples of similar porch and garage extensions in the surrounding area. In this instance it is considered the proposal would result in little additional harm to this residential area.

The building line along Broadway North is not uniform and a number of properties have existing single storey front extensions, including porches and canopies. It is considered this amended porch roof design, with intervening planting along residents’ front garden boundaries the perceived impacts of the amended porch roof, set back 16.3 metres from the highway, are considered to be very limited.

The materials utilised in the construction of the porch roof reflect those used in the house. It is considered these are acceptable and reflect the vernacular of the area.

Planning applications are all assessed on their own individual planning merits and a precedence is not created as a result of a planning approval. The character of an area evolves over time and is not static as individual householders wish to make improvements

and changes to their homes to meet their current needs. Whilst witnessing these changes may be difficult for some residents it is unrealistic to expect that areas will not change over time.

Amenity of Nearby Residents

The front garage extension received planning permission under planning reference 15/0579/FL. The depth of 1.2 metres adjacent to the neighbours' property is considered to be acceptable and would have a limited additional impact on neighbours' existing light and amenity at 261 Broadway North.

The amended porch roof design meets the aims of the Council's 45 degree guidance, as referred to in Appendix D of Designing Walsall SPD in respect of habitable room windows in no. 261 Broadway North. This advice is the Council's tool to guide development and planning applications in relation to neighbour's light and outlook.

The amended porch roof design is separated by a distance of 4.5 metres from the shared front garden boundary with 265 Broadway North. No. 265 has a garage next to the shared boundary with the application house. It is considered the amended porch roof design has a limited impact on neighbours' existing light and amenity at no. 265.

The previous planning approval has been re-assessed in relation to the new windows which have been installed and the relationship with the neighbouring houses and boundary treatment.

The retention of the applicant's three secondary clear glazed side facing windows has been re-considered, as it was possible to view these in situ since construction of the previous extensions is mostly complete.

The largest window next to the kitchen area faces directly onto the blank two storey brick wall of the neighbouring house no. 261 Broadway North across a 1.4 metre gap. The two tall narrow secondary windows serve the dining room area and face existing 1.8 m high boundary fencing leaving 0.25 metres of glazing visible above the fence.

Boundary treatment between no. 261 and 263 Broadway North is a 1.8 metres high solid boundary fence and mostly screens these windows from neighbouring properties. It is considered that the retention of the three clear glazed secondary windows has little additional impact on neighbours' existing privacy and amenity to warrant refusal of the planning application. The initial proposal was assessed and considered to require obscure glazing for side facing windows.

The proposal has been built and is visible to residents which is considered provides a true impression of the actual appearance of the front elevation. In addition the removal of two previously approved side facing windows is considered reduces the impacts on neighbours' privacy.

259 Broadway North is next door but one to the application property and given this distance and the intervening house it is considered this proposal has little additional impact on privacy or amenity for these neighbours'.

Councillor Martin considers the proposed development causes demonstrable harm to the amenities currently enjoyed by the occupiers of neighbouring properties over and above a level they would reasonably expect to enjoy. The amendments to the approved scheme are considered to be minor changes to the initial planning permission and would have a limited additional impact over and above that already given planning permission.

Conditions

The previously approved conditions remain relevant to the current proposal and their retention is recommended subject to amending condition 2 regarding the revised plans and a revision to Condition 4 regarding glazing changes.

Conclusions and Reasons for Decision

The key material planning considerations, neighbour comments and consultee responses have been weighed in assessing the planning application. The proposal is considered accords with the aims and objectives of relevant national policies and guidance, Council policy and guidance and on balance is considered to be acceptable. The proposed conditions are considered to meet the 6 tests within the national planning guidance. There are no objections from significant consultees and the community interest that has been expressed is considered to not outweigh the recommendation to approve.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding drafting errors. Amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Grant Planning Permission Subject to Conditions

Conditions and Reasons

1: This development shall not be carried out other than in conformity with the following approved plans: -

- Site Location Plan, drawing no. 01, deposited 15/04/15
- Site Plan, drawing no. 02, deposited 15/04/15
- Existing Plans, drawing no. 03, deposited 15/04/15
- Amended Proposed Ground and First Floor Plan, drawing no. 04 Rev. B, deposited 11/06/15
- Amended Proposed Second Floor Plan, drawing no. 05 Rev. B, deposited 11/06/15
- Amended Existing and Proposed Elevations, drawing no. 06 Rev. C, deposited 11/06/15
- Site and Location Plan, drawing no. 17.131:P01, deposited 27/04/17
- Entrance canopy, drawing no. 17:131:P02, Rev: C, deposited 15/11/17
- As Built Side Elevations, drawing no. 17:131:P04 Rev. A, deposited 15/11/17

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

2: Notwithstanding the information included on the deposited plans the proposed first floor side window as built facing no's 261 and 265 Broadway North shall be obscurely glazed to Pilkington Level 4 privacy or equivalent, and non-opening unless parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and retained as such thereafter.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

3: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no additional side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

4: The approved rear Juliet balcony rail, as detailed on drawing no. 06 Rev. C, which will be attached to and level with proposed brickwork shall be retained as such at all times and at no time shall any alterations be made that would enable occupiers and visitors of the property to use the flat roof of the single storey extension as a 'walk-on' balcony area.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

5: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or succeeding Orders, the approved main house roof shall not be extended or altered.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to ensure the satisfactory appearance of the development.

Notes for Applicant

The area of this proposed development was formerly a pond/river/marsh which has subsequently been infilled which may have resulted in localised ground contamination that may present Health and Safety implications for person undertaking ground works. No specific detail of ground conditions in the area is available other than that obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking construction work at the site of the proposed development.

Although the application does not require a formal bat survey, there is still a risk that bats may be using your house 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, destruction or disturbance to bats roosts is a criminal offence. Care should be taken during building works. Stripping the soffit boxes and ridge and roof tiles should be carried out carefully by hand. If any bats or evidence of bats are discovered work should stop and advice should be sought from Natural England. They can be contacted on Tel; 0845 6014523 or email: wildlife@naturalengland.org.uk



Walsall Council

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 26-Apr-2018

Plans List Item Number: 19.

Reason for bringing to committee: Called by Councillor Hussain

Location: 29, RUSHALL MANOR ROAD, WALSALL, WS4 2HD

Proposal: TWO STOREY SIDE EXTENSION, SINGLE STOREY REAR EXTENSION, NEW RAISED ROOF TO PROVIDE ACCOMMODATION IN LOFT WITH REAR DORMER.

Application Number: 18/0116

Applicant: Mr N. Hussain

Agent:

Application Type: Full Application:
Householder

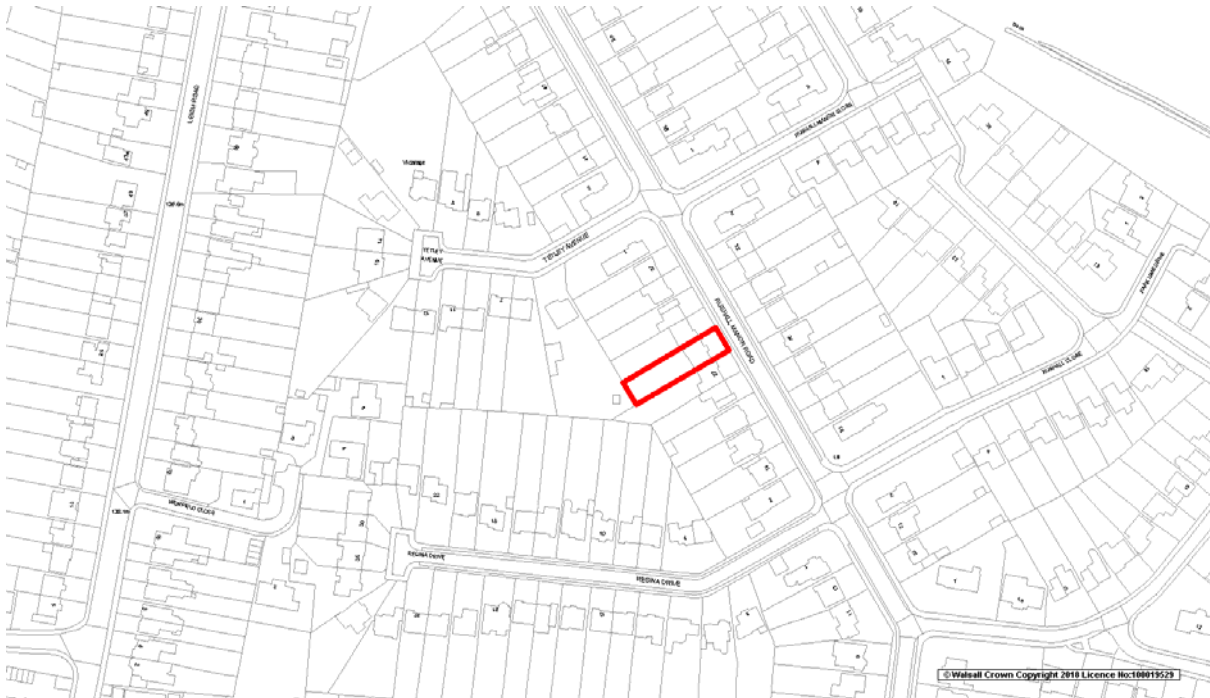
Case Officer: Karon Hulse

Ward: St Matthews

Expired Date: 26-Mar-2018

Time Extension Expiry:

Recommendation Summary: Refuse



Proposal

This application is for extensions to a detached house at 29 Rushall manor road, Walsall.

The proposals include rear ground floor extensions to provide to provide extended lounge and kitchen, first floor side and rear extension to provide a bedroom, and a loft conversion to provide a further bedroom with en-suite. A total of 5 bedrooms will be created.

The maximum height of the roof ridge is proposed to be raised by 0.5mts and changed from a hipped roof to a gable, with a full width rear dormer to enable and accommodate the loft conversion.

The key measurements are as follows:

Loft conversion

- 5.1 mts to the eaves
- 9.2 mts to the ridge
- hipped roof changed to gable being 9.8mts wide
- dormer window being 8.9mt wide with a sloping roof meeting with the ridge of the raised roof height
- side facing window towards no. 31

Rear ground floor extension

- 9.4mts wide (full width of house)
- 4.2mts deep
- 2.5mts to the eaves
- 3.8mts to the ridge

First floor rear /side extension

- 5.3mts long
- 2.8mts wide
- Infills first floor at the rear over flat roof above existing garage and kitchen

Site and Surroundings

The application house is a 1960's -70's detached house consisting of brick and partial white render with slate tiles.

The street consists of a mix of detached and semi-detached houses, bungalows and two storey houses of a similar age and design. They are mostly characterised by hipped roofs.

This area and estate has a residential character.

There is off-street parking available on the frontage of the application and the garage parking space would be retained. The length of the rear garden would be 26 metres.

Relevant Planning History

None

Relevant Policies

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

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

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

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 7 - Requiring good design** (Paras 17, 56 and 58 which require high quality design that responds to the character of the area.)

On **planning conditions**, the NPPF says:

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

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

NPPF Consultation

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

Local Policy

Black Country Core Strategy

- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan policies

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall SPDs are consistent with the NPPF.

45 Degree code

Extensions, which would breach the 45 degree code, will not normally be allowed, except for single-storey extensions where the length of the extension would not exceed 3.5 metres in length as measured from the nearest window in the adjoining dwelling.

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall SPD are consistent with the NPPF.

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

Consultation Replies

None

Representations

Three representations received objecting on the following grounds:

- used as a house of multiple occupation.
- increasing number of bedrooms raises possibility of intensification
- inclusion of a planning condition prohibiting future multiple occupation
- solid rectangular roof will create a mass and appear "top heavy"
- proposed design will set an unwelcome precedent.
- new raised roof will make the house obtrusive : too high and too big compared to the neighbouring houses
- spoil the dimensions of the building in this residential road.
- change the profile and character of the front and rear of the existing property.
- block daylight to adjacent properties.
- appearance is intrusive.
- five bedroom property will cause on street parking issues to this area.

Determining Issues

- Design and Character of Area

- Amenity of Nearby Residents
- Parking

Assessment of the Proposal

Design and character of the area

Whilst the principle of extending this house maybe supportable, subject to the scale and design of the extension. The appearance and scale of the current proposal, due to the proposed design, is considered unacceptable and will have a detrimental impact on the appearance of the house within the street-scene.

In particular the loft conversion which includes raising the ridge height by 0.5mts combined with a hip to a gable roof, will result in the overall design of the house being top-heavy and out of character with the existing street scene.

Between Regina Drive and Tetley Avenue all roof designs are hipped and on the opposite side between Rushall Manor Close and Rushall Close they are also hipped or have roof slopes to side boundaries. Whilst they are a mix of semi-detached and detached houses they are similar in height, character, appearance and style.

Raising the roof height to accommodate the loft conversion and changing the roof from hip to a gable would be discordant additions to the roof which would appear disproportionate and not subordinate to the original house, whilst reducing the gaps and change the relationships between the application house and properties either side to the detriment of the character of the area and streetscene.

The resultant loss of space at roof level between no's 27, the application house (29) and no.31 would disrupt the distinctive rhythm of the houses along this part of Rushall Manor Road and would have a harmful effect upon the character and appearance of the host property, the streetscene and the area.

Detached properties along Rushall Manor Road are characterised by tall freestanding chimneystacks. This particular design feature would be lost if the hipped roof is changed to a gable roof. This would also contribute to the proposal having a harmful impact upon the character and appearance of the host property, the streetscene and the area.

The raising and changing of the roof with the inclusion of a rear dormer, across the majority of the rear roof slope width, whilst not being visible from any public vantage point, would have the appearance of a three storey building, becoming a dominate feature from views within rear amenity areas of neighbouring properties, to the detriment of users of the rear amenity spaces.

The application states the total number of bedrooms would be 5. No more than 6 people can live at a property without the benefit of a further planning approval. Consequently, the current planning position at the property, meets the national legislation and would be exempt from the Council pursuing planning enforcement action. Should the application be approved a safeguarding condition could be imposed which restricts the future use of the house to a single family unit only.

On balance the proposed extensions are considered inappropriate and unacceptable based on the above and will detract from the character of the area, existing house and street scene.

Amenity of Nearby Residents

The 45 degree rule and its associated standards set out to protect the amenity of local residents, extensions will not normally be allowed where the 45 degree rule is breached.

In this instance the proposed rear ground floor extension would comply with the 45 degree code in relation to both 27 and 31 Rushall Manor Road.

The first floor side and rear extension would not project beyond the existing rear elevation and will not impact on the amenities of no 31 Rushall Manor Road

The rear garden length is approximately 30 metres as such the space around dwelling distances will be met.

Parking

The application looks to provide two additional bedrooms 5 in total. There would be sufficient area on the frontage for 3 parking spaces (1 in the garage- subject to a safeguarding condition to retain the garage, if the application was to be approved).

As such the development in transportation terms is not considered severe and on balance it is acceptable in accordance with NPPF para 32.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance, it is considered that the design of the proposed roof extension is considered not to reflect the defining character of the area and streetscene and will harm the character of this detached property which sits amongst other similarly design houses all with hipped roofs. Furthermore, the design will result in the rhythm of the roof lines being interrupted to the detriment of the streetscene.

As such and on balance it is considered the proposals will be in conflict with the aims and objectives of the National Planning Policy Framework, policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall SPD and on balance is not considered acceptable.

Taking into account the above factors it is considered that the proposed application is considered to represent poor design and is recommended for refusal.

Positive and Proactive Working with the Applicant

Officers have confirmed to the applicant that the submitted details are not acceptable and that the proposed design of the roof cannot be supported. No further changes have been requested.

Recommendation

Refuse

Refusal reasons

1. The houses along Rushall Manor Road (including the application house) between Regina Drive and Tetley Drive all have hipped roof designs, similarly on the opposite side between Rushall Manor Close and Rushall Close are also hipped roofs or have roofs sloping towards the side boundaries. Whilst they are a mix of semi-detached and detached houses the defining character and design of the roof shape is hipped which creates natural gaps in the streetscene at roof level. The proposed change of the roof design, from hip to gable, would change the defining character and would harm the streetscene. It would look incongruous and disproportionately wide at roof level and will result in the rhythm of the roof lines being interrupted to the detriment of both the host dwelling and other houses along Rushall Manor Road.

As such it is considered would be out of keeping with the design of the existing house and the character of the street in this location, contrary to the National Planning Policy Framework including paragraph no's 17, 56, 57, 58, 63 and 64; Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular saved policies GP2 and ENV32 and Designing Walsall SPD (DW3 and Appendix D).

2. The resultant loss of space at roof level between no's 27, the application house (29) and no.31 would disrupt the distinctive rhythm of the houses along this part of Rushall Manor Road and would have a harmful effect upon the character and appearance of the host property, the streetscene and the area. As such it is considered to be contrary to the National Planning Policy Framework including paragraph no's 17, 56, 57, 58, 63 and 64; Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular saved policies GP2 and ENV32 and Designing Walsall SPD (DW3 and Appendix D).
3. The design of the proposed roof would result in the loss of the free standing individual tall chimney stack which is a characteristic feature of the detached properties along Rushall Manor Road. As such it would be detrimental to the character of the host property and other detached properties which include this specific design element contrary to the National Planning Policy Framework including paragraph no's 17, 56, 57, 58, 63 and 64; Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular saved policies GP2 and ENV32 and Designing Walsall SPD (DW3 and Appendix D).
4. The proposed raising of the roof with the inclusion of a rear dormer across the majority the roof slope, whilst not being visible from any public vantage point, would give the appearance of a three storey building which would dominate views and be an incongruous feature from rear amenity areas of neighbouring properties. As such it is considered contrary to the National Planning Policy Framework including

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paragraph no's 17, 56, 57, 58, 63 and 64; Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular saved policies GP2 and ENV32 and Designing Walsall SPD (DW3 and Appendix D).