



WALSALL COUNCIL

REGENERATION - PLANNING AND BUILDING CONTROL

TOWN AND COUNTRY PLANNING ACT 1990

Appeal by Mrs Josephine Doherty against the refusal by Walsall Council to grant planning permission for change of use for stationing one residential caravan for one gypsy family at Railswood Nursery, Pelsall, Walsall, WS3 4BE.

PRE-INQUIRY RULE 6 STATEMENT

Local Authority Ref. 07/1878/FL/E10
Inspectorate Ref. APP/V4630/A/10/2130063

1 Site Description

1.1 The Council will describe the appeal site and the wider area. This will include:

- A description and location of the character of the immediate and wider area surrounding the appeal site, making reference to its location within the Green Belt.
- Reference will be made to the planning history of the appeal site.

2 Appeal Proposal and Process of Determination

2.1 The Council will describe the application the subject of the appeal and the information submitted to support the application.

2.2 The Council will describe the debate at committee meetings that determined the application the subject of this appeal and with reference to the minutes (see **Appendix 1**) we will detail the nature of the Council's objection. We will also explain the reason for Members deferring consideration of the application and the additional information provided by the Appellant following that deferral.

2.3 The Council will address the reasons for refusal that are identified in the Planning Committee resolution. It is clear from the approved minutes that the objections of the Planning Committee were not limited to the question of Gypsy status, and to that extent the Refusal Notice is an imperfect reflection of the decision made. In this regard the Council accepts the Appellant is an ethnic Gypsy but does not accept that evidence has been provided to clearly demonstrate that the Appellant benefits from Gypsy status for the purposes of planning.

2.4 For the avoidance of doubt the Council will maintain that:

1. No very special circumstances have been demonstrated to justify the proposed development in the Green Belt.
2. That the Appellant has not demonstrated that she or her partner benefit from Gypsy status.
3. The development comprises inappropriate development in the Green Belt and is harmful to the openness and character of the area and such harm is not clearly outweighed by any very special circumstances that have been demonstrated by the Appellant.

3 Current Policy Framework

Development Plan

- 3.1 Reference will be made to policies contained within the Walsall Unitary Development Plan (UDP 2005), particularly policies 3.1, 3.3, 3.6, GP2, ENV2 and ENV32 and any other policies considered relevant. Reference will also be made to the Gypsy & Traveller Community Strategy (May 2006) and the Gypsy & Traveller Accommodation Needs Assessment (Black Country Study).
- 3.2 The Council will identify that the Regional Spatial Strategy was revoked by the Secretary of State on 6 July 2010 and is no longer part of the Development Plan. The Council will refer to the evidence which underpins the former RSS, to the extent that it remains relevant and up to date.

Emerging Policy

- 3.3 The Council will update the Inquiry in respect of progress in respect of the Local Development Framework in particular the Core Strategy and Development Plan Documents. In terms of the evidence base for the emerging policy documents the Council will refer to the Strategic Housing Land Availability Assessment, the Gypsy and Travellers Accommodation Assessment

National Planning Guidance

- 3.4 Reference will be made to Planning Policy Guidance Notes and Circulars and other expressions of ministerial government policy that are appropriate in demonstrating the harm the proposals cause to the Green Belt and countryside. The following will be key references:

- Planning Policy Guidance 2 "Green Belts"
- Planning Policy Statement 3 "Housing"
- Planning Policy Statement 7 "Sustainable Development in Rural Areas"
- Circular 01/2006 "Planning for Gypsy and Traveller Caravan Sites"
- Circular 11/1995 "The Use of Conditions in Planning Permissions"

- 3.5 Circular 1/2006 (ODPM) advises that a Gypsy is:

Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such.

Other Legislation

- 3.6 Reference will be made to the Human Rights Act 1998 and the Race Relations Act 1976 (as amended).

4 The Council's Case

- 4.1 The Council will describe the harm caused to the Green Belt through inappropriate development, and will describe the weight to be attributed to such harm and analyse the proposal against the aims and objectives of Green Belt policy.
- 4.2 Furthermore, the Council will adduce evidence to demonstrate that the proposal will lead to a loss of openness within the Green Belt and will encroach into the Green Belt.
- 4.3 The Council will demonstrate that evidence to satisfy the requirements of Planning Policy Guidance Note 2 – Green Belts to clearly outweigh the substantial harm to the Green Belt has not been provided.
- 4.4 In that regard the Council will outline the evidence provided by the Appellant to satisfy the decision maker of the Gypsy status of the Appellant and will conclude that whilst the Appellant is an ethnic Gypsy she and her partner have not demonstrated that they satisfy the requirements of Circular 1/2006 in terms of their Gypsy status.
- 4.5 In particular the Council will aver that the Appellant has not demonstrated that they have previously led a lifestyle that can be described as nomadic. The Council have not been provided with evidence that demonstrates that the Appellant stopped travelling for the purposes of educating their children. To the contrary it is understood that the Appellant was not travelling before their children's education needs arose. In order to meet the policy definition in Circular 1/2006 it is necessary for there to be a cessation of travelling for one of the stated reasons. This requires first that there was a previous pattern of travelling sufficient to constitute a nomadic habit of life and second that this nomadic habit of life has ceased (permanently or temporarily) for reasons only of health, education, or old age.
- 4.6 Furthermore, in terms of general need the Council will conclude that if the Appellant is not a Gypsy then the site, currently occupied by the Appellant, will not meet the general need for Gypsy pitches in the area.
- 4.7 If the Appellant fails to demonstrate that they are persons formerly of nomadic habit of life who have only ceased travelling for their children to gain an education then their personal circumstances will not carry sufficient weight or comprise a very special circumstance that is capable of outweighing the harm to the Green Belt as the development plan meets general housing needs in the area.

- 4.6 Even if the Appellant does benefit from Gypsy status then it remains the clear conclusion of the Council that very special circumstances have not been demonstrated for the stationing of a caravan for this family in the Green Belt. The Green Belt in this location, on the edge of the urban area, is particularly vulnerable to erosion of its openness by reason of inappropriate development.
- 4.6 The Council will, with reference to the GTAA and existing and emerging policy base, describe the need for Gypsy sites within the area as well as describing the process for provision. We will describe the emerging policies in the Core Strategy and the timetable for providing a Site Allocations DPD to meet the needs of the area.

5 Documents

- 5.1 During the course of the Inquiry, the Council may refer to and/or submit evidence from the following documents:
- The Walsall Unitary Development Plan 2005.
 - Photographs of the site.
 - Relevant Planning Policy Statements, Planning Policy Guidance Notes, Circulars, other expressions of Ministerial policy/guidance, case law, documents.
 - All relevant Committee reports and minutes.
 - All relevant planning history files and planning enforcement files.
 - Any relevant planning appeal decisions and in particular the decision references APP/V4630/C/08/2072638 and APP/V4630/A/08/2063407.
 - The Gypsy & Traveller Community Strategy (May 2006) and the Black Country Gypsy and Traveller Accommodation Needs Assessment
 - West Midlands Interim Regional Statement on Gypsy and Traveller Policy (Black Country Study).
 - Human Rights Act 1998
 - Race Relations Act 1976
- 5.2 The Council reserves the right to add to the above list and respond to any further matters raised by the Appellants.
- 5.3 Copies of the documents can be inspected, by prior appointment with the Planning Department, at The Civic Centre, Darwall Street in Walsall

DEVELOPMENT CONTROL COMMITTEE

Thursday, 5 November, 2009 at 5.30 p.m.

In the Council Chamber at the Council House Walsall

Present

Councillor M.G. Pitt **(Chair)**
Councillor Bird **(Vice-Chair)**
Councillor Ali
Councillor Ault
Councillor Barton
Councillor Beeley
Councillor P. Bott
Councillor Carpenter
Councillor Cook
Councillor Douglas-Maul
Councillor P. Hughes
Councillor Madeley
Councillor McCracken
Councillor Munir
Councillor Robertson
Councillor Rochelle
Councillor Sarohi
Councillor Underhill

2238/09 **Apologies**

Apologies for non attendance were received on behalf of Councillors Harris and Turner.

2239/09 **Minutes**

Resolved (6 in favour, 5 against)

That the minutes of the meeting held on 8 October, 2009, a copy having been previously circulated to each member of the Committee, be approved and signed by the Chairman as a correct record; subject to a revision to Minute 2214/09 to correctly show that Councillor Ali moved the second recommendation to refuse and Councillor Rochelle seconded it.

Councillor McCracken wished to have her name recorded as having voted against the approval of the minutes.

2240/09 **Declarations of Interest**

Councillor Ali declared a prejudicial interest in Item 1 of the plans list as he had previously considered the matter at a meeting of Cabinet.

Councillor Bott declared a prejudicial interest in Item 1 of the plans list as he was Chairman of The Friends of the Park and also had family members which attended the school.

Councillor Pitt declared a prejudicial interest in Item 3 of the plans list as his brother is an ambulance driver based at Pelsall.

Councillor Cook declared a prejudicial interest in Item 9 of the plans list in relation to the Taxi Rank at Bridge Street, as he was a Blue Badge holder.

Councillor Bird declared a prejudicial interest in Agenda Item 9 in relation to the Taxi Rank at Bridge Street, as he had had been previously involved in this application at a meeting of Licensing & Safety Committee.

Councillor P. Hughes declared a prejudicial interest in Agenda Item 9 in relation to the Taxi Rank at Bridge Street, as he had had been previously involved in this application at a meeting of Licensing & Safety Committee.

Councillor McCracken declared a prejudicial interest in Agenda Item 9 in relation to the Taxi Rank at Bridge Street, as she had been previously involved in this application at a meeting of Licensing & Safety Committee.

2241/09 **Deputations and Petitions**

It was reported that there were two deputations in relation to the report regarding the Taxi Rank, Lower Bridge Street, Walsall and a further deputation in respect of the application to fell one protected Beech Tree at Lichfield Court.

At this juncture the Chairman reported that item 15 of the agenda in relation to Hooty's Supplies (Wholesale) Ltd had been withdrawn as had item 10 of the application list for permission to develop which related to the change of use to a wedding hall and function room at Abley Motors, Walsall.

2242/09 **Taxi Rank in Lower Bridge Street, Walsall**

Councillors Bird, Cook, Hughes and McCracken having declared a prejudicial interest in this item, left the room and did not vote.

Councillor Sarohi, having left the room during deliberation did not take part or vote on the application.

The report of the Head of Engineering and Transportation was submitted:-

(see annexed)

The Service Manager of Traffic and Transportation advised the Committee of the background to the report. In doing so he acknowledged receipt of a further letter in support of the proposed traffic regulation order, a DVD showing the difficulties experienced with the rank in its current location and a petition.

The Committee then welcomed the first deputation on this item, Mr. Moulton who spoke against the Traffic Regulation Order (TRO). Mr Moulton raised concern that health and safety issues would arise should the objections to the TRO be overruled. In particular, he made reference to the gradient of the pavement on the west side of Lower Bridge Street and stated that this would cause difficulties for those in a wheelchair and using walking frames.

The Committee then welcomed the second deputation, Mr. Aftab who spoke in support of TRO. Mr. Aftab specified that health and safety of both the taxi drivers and customers both able bodied and disabled was of paramount importance. In his view, relocating the taxi rank would ensure that difficulties presently experienced, such as disabled people in a wheelchair having to access and egress taxis in the middle of the road, would be removed. Complaints had also been received from businesses as the exhaust fumes were entering the shops. In closing, he stated that taxi drivers were not covered by public liability insurance whilst assisting wheelchair users into a taxi in the current location and that there was further provision of disabled parking around the town.

Members considered the application and Councillor Pitt **moved** and it was duly **seconded** by Councillor Ali that: -

The Committee overrule the objections and agree the TRO and hence to the swapping of the Taxi Rank and Blue Badge Bays.

The motion having been put to the vote was declared **carried** with seven Members voting in favour and five against.

Resolved (7 in favour and 5 against)

That the objections be overruled and the TRO be agreed hence swapping of the Taxi Rank and Blue Badge Bays.

2243/09 **Application to fell one protected Beech tree at Lichfield Court**

Councillors Barton and Munir, having left the room during deliberation did not take part or vote on the application.

The report of the Head of Development and Delivery was submitted:-

(see annexed)

The Planning Officer advised the Committee of the background to the report.

The Committee then welcomed the only deputation on this item, Councillor Arif who spoke in favour of granting consent for the removal of the Beech Tree at Lichfield Court.

Members considered the application and Councillor McCracken **moved** and it was duly **seconded** by Councillor Cook that: -

The application to fell one protected Beech Tree at Lichfield Court be approved in the interests of safety and to protect the structural integrity of the premises subject to the residents association being instructed to plant a further, reasonably mature tree, to replace the one lost as determined by the Tree Officer and that the tree be sited further away from the building.

The motion having been put to the vote was declared **carried** with ten Members voting in favour and none against.

Resolved (10 in favour and none against)

The application to fell one protected Beech Tree at Lichfield Court be approved in the interest of safety and to protect the structural integrity of the premises subject to the residents association being instructed to plant a further, reasonably mature tree, to replace the one lost as determined by the Tree Officer and that the tree be sited further away from the building.

2244/09 **Application to fell one Black Poplar tree at 78 Wednesbury Road, Walsall WS1 4JH**

The report of the Head of Regeneration – Delivery and Development was submitted:-

(see annexed)

Resolved (18 in favour, none against)

That approval be given for the removal of the Black Poplar Tree at 78 Wednesbury Road subject to owners being instructed to plant a further reasonably mature tree to replace the one lost as determined by the Tree Officer.

2245/09 **Confirmation of Tree Preservation Order 34 of 2008 on 13 and 17 Portland Rd, Aldridge. To revoke Tree Preservation Order 17 of 2004**

The report of the Head of Regeneration – Delivery and Development was submitted:-

(see annexed)

Resolved (13 in favour and none against)

- (1) That Walsall Tree Preservation Order No. 34 of 2008 be confirmed in an unmodified form;
- (2) That the reasons for the making of the Tree Preservation Order, as set out in the report detail paragraph 1.1, be supported;
- (3) That it be noted that no representations had been received in respect of the Tree Preservation Order;
- (4) That Walsall Tree Preservation Order 17 of 2004 be revoked.

2246/09 **Confirmation of Tree Preservation Order 48 of 2008 on Land at former Beechdale County Primary School, Remington Road, Walsall**

The report of the Head of Regeneration – Delivery and Development was submitted:-

(see annexed)

Resolved (Unanimously)

- (1) That Walsall Tree Preservation Order No. 48 of 2008 be confirmed in an unmodified form;
- (2) That the reasons for the making of the Tree Preservation Order, as set out in the report detail paragraph 1.1, be supported;

- (3) That it be noted that no representations had been received in respect of the Tree Preservation Order.

2247/09 **Conservation Area Appraisals and Management Plans for Aldridge, Bloxwich and Highgate, Walsall**

The report of the Head of Regeneration, Development and Delivery was submitted:-

(see annexed)

Resolved (Unanimously)

- (1) That the results of the public consultation on the Conservation Area Management Plan be noted;
- (2) That the contents of the (i) Aldridge (ii) Bloxwich and (iii) Highgate Conservation Area Appraisal and Management Plans be approved as a formal Council document to be used as a material planning consideration;
- (3) That the proposed amendments to the conservation area boundaries and implementation of Article 4(2) directions, as set out in the Management Plan sections of each of the documents be noted and that the Committee agreed to Officers undertaking formal consultation on these proposals. Results of the consultation will be reported back to the Committee for formal approval.

2248/09 **Update on previous report regarding compliance with condition 3 of planning approval reference number 06/1873/RM/W5 – Residential Development, Stafford Road, Darlaston**

The report of the Head of Planning and Building Control was submitted and members were advised to have regard to additional information as contained within the supplementary paper circulated at the meeting.

(see annexed)

Resolved (Unanimously)

That the amended details as set out in the report now submitted be approved.

2249/09 **Proposed variation of Section 106 Agreement dated 19th March 2008 in relation to proposed construction of 10 Two Bedroom Dwellings with Associated Parking at Land on the corner of Goscote Lane and Well Lane, Goscote, Walsall. Application No 07/2323/FL/E12;**

and

Proposed variation of Section 106 Agreement dated 19th March 2008 in relation to proposed construction of 18 no. 2 and 6 bedroom dwellings and associated parking at Land off Thames Road, Blakenall, Goscote, Walsall. Application No 07/2340/FL/E9

Prior to consideration of these applications the Officer reported that whilst it was initially intended to have two reports the matter could now be dealt with using one report. The report had been distributed to Members and copies had also been sent to libraries and placed on Public Deposit.

Resolved (Unanimously)

That the Section 106 agreements in relation to planning applications **07/2323/FL/E12** and **07/2340/FL/E9** be revised to allow a reduction in the total sought from £92,204.65 to £62,204.65.

2250/09 **Section 106 2nd Quarter Financial Year Report 2009/10**

The report of the Head of Planning and Building Control was submitted:-

(see annexed)

Resolved (Unanimously)

That the report be noted.

2251/09 **Hooty's Supplies (Wholesale) Ltd, Longacres, Rose Hill, Willenhall**

This item had been withdrawn from the agenda.

2252/09 **Application List for Permission to Develop**

The application list for permission to develop was submitted together with the supplementary papers and additional information for items already on the plans list:-

(see annexed)

The Committee agreed first to deal with the items on the Agenda where members of the public had previously indicated that they wished to address the Committee. The Chair, at the beginning of each item for which there were speakers advised of the procedure whereby the speaker would have three minutes to speak and then at two minutes they would be reminded that they had a minute left.

2253/09 **Item No. 1 - 09/0961/FL – change of use of part of George Rose Park, to part of Darlaston Community School and erection of fencing at Darlaston Community School, Herberts Park Road, Darlaston, Walsall**

Councillor Ali and Bott having declared a prejudicial interest in this item, left the meeting prior to deliberations and did not take part or vote.

The Planning Officer advised the Committee of the background to the report and drew Members' attention to additional information as contained within the supplementary paper circulated at the meeting.

The Committee then welcomed the first speaker on this application, Louise Causer, who spoke against the application.

The Committee then welcomed the second speaker on this item, Councillor Wilkes, who also spoke against the application.

There then followed a period of questioning by Members in relation to the level of consultation undertaken.

Members considered the application and Councillor Bird **moved** and it was duly **seconded** by Councillor M.G Pitt:-

That planning application No. **09/0961/FL** be approved subject to conditions.

The motion having been put to the vote, was declared **lost**, with five Members voting in favour and nine against.

Members further deliberated the application and Councillor Madeley **moved** and it was duly **seconded** by Councillor Cook:-

That planning application No. **09/0961/FL** be refused as it would take away a much needed facility in a deprived area which already had a substantial lack of open space.

The motion having been put to the vote, was declared **carried**, with nine Members voting in favour of refusal and five against.

Resolved (9 in favour and 5 against)

That planning application No. **09/0961/FL** be refused as it would take away a much needed facility in a deprived area which already had a substantial lack of open space.

Councillors Bird and Pitt requested that their names be recorded as having voted against the decision to refuse the application.

2254/09 **Item No. 2 - 09/1101/FL – erection of a new teaching building for the performing arts and learning resource centre, together with demolition of redundant buildings, car parking and landscaping at Walsall Campus, Gorway Road, Walsall**

The Planning Officer advised the Committee of the background to the report.

The Committee then welcomed the first speaker on this application, Councillor Arif, who spoke against the application.

The Committee then welcomed the second speaker on this application, Mr. Green, who spoke in support of the application.

There then followed a period of questioning by Members in relation to the problems experienced with parking in streets surrounding the site, what measures the university had undertaken to try to resolve this issue and whether or not refusing the application would impact on possible funding for the project.

Members considered the application and Councillor Bird **moved** and it was duly **seconded** by Councillor McCracken:-

That planning application **09/1101/FL** be deferred to enable Officers to liaise with the University to find a solution to the parking difficulties experienced by residents of properties surrounding the site.

The motion having been put to the vote, was declared **carried**, with Members voting unanimously in favour of deferring the application.

Resolved (Unanimously)

That planning application **09/1101/FL** be deferred to enable Officers to liaise with the University to find a solution to the parking difficulties experienced by residents of properties surrounding the site.

2255/09 **Motion to continue the meeting past 3 hours**

In accordance with procedure rule (9) of the Constitution, Councillor Bird **moved** and it was duly **seconded** by Councillor Pitt that the meeting continue over 3 hours in order to deal with the remainder of the business on the agenda.

The motion having been put to the vote was declared **carried** with Members voting unanimously in favour.

Resolved (Unanimously)

That the meeting continue over 3 hours in order to deal with the remainder of its business on the agenda,

2256/09 **Item No. 3 - 09/0915/FL – demolition of existing ambulance station erection of a warehouse extension to existing foodstore, construction of new service yard, extension of existing car park, provision of ambulance office and ambulance parking bay and diversion of existing footpath at Morrisons Supermarket, Anchor Road, Aldridge, Walsall**

Councillor Munir, having left the meeting during deliberation of this application and so did not take part or vote.

The Chairman of the meeting, having declared a prejudicial interest in this item, left the meeting during deliberation. The Vice-Chair, Councillor Bird chaired the meeting for this item only.

The Committee then welcomed the first speaker on this application, Margaret Wright, who spoke against the application.

The Committee then welcomed the second speaker on this application, Mrs. Turner, who spoke in support of the application.

The Committee then welcomed the third speaker on this application, Ashley Turner, who spoke in support of the application.

There then followed a period of questioning by Members in relation to the impact the extension would have on traffic, additional noise generated which could impact upon nearby residents and the location of ambulance services on the site.

Members considered the application and Councillor Rochelle **moved** and it was duly **seconded** by Councillor Cook:-

That planning application **09/0915/FL** be refused as:-

- 1) It would impact on the amenity of neighbours, particularly those in Croxstall Court and neighbouring properties due to the increase of traffic movement, in particular in relation to HGVs, as the service road would be moved closer to residential properties;
- 2) It would be an inadequate mixing of ambulances with heavy goods vehicles;
- 3) The increased noise of early morning and evening deliveries would be detrimental to those living in neighbouring properties.

The motion having been put to the vote was declared **carried** with Members voting unanimously in favour of refusing the application.

Resolved

That planning application **09/0915/FL** be refused as:-

- 1) It would impact on the amenity of neighbours, particularly those in Croxstall Court and neighbouring properties due to the increase of traffic movement, in particular in relation to HGVs, as the service road would be moved closer to residential properties;
- 2) It would be an inadequate mixing of ambulances with heavy goods vehicles;
- 3) The increased noise of early morning and evening deliveries would be detrimental to those living in neighbouring properties.

The meeting then adjourned at 8.45 until 8.55 p.m.

Councillor Barton left the meeting at this point and did not return.

2257/09 Item No. 20 - 09/1170/FL – two storey side and rear extension and alterations at 34 Mountford Crescent, Aldridge, Walsall

The Planning Officer advised the Committee of the background to the report and drew members attention to the supplementary paper circulated at the meeting.

The Committee then welcomed Mr. and Mrs Osbourne , who spoke in support of the application.

Members considered the application and Councillor Pitt **moved** and it was duly **seconded** by Councillor Bird:-

That planning application No. **09/1170/FL** be approved subject to the conditions as contained in the report now submitted.

Resolved (Unanimously)

That planning application No. **09/1170/FL** be approved subject to the conditions as contained in the report now submitted.

2258/09 **Item No. 21 - 09/1156/FL – two storey side extension and single storey rear extension at 100 Broadway West, Walsall**

The Planning Officer advised the Committee of the background to the report.

The Committee then welcomed Mr. Aqbal who spoke in support of the application.

The Committee then welcomed the second speaker on this item, Councillor Yasin who also spoke in support of the application.

Members considered the application and Councillor Beeley **moved** and it was duly **seconded** by Councillor Ali:-

That planning application **09/1156/FL** be approved as it was deemed an acceptable design within the street scene and would not constitute a terracing effect.

The motion having been put to the vote was declared **carried** with Members voting unanimously in favour of approving the application.

Resolved

That planning application **09/1156/FL** be approved as it was deemed an acceptable design within the street scene and would not constitute a terracing effect.

2259/09 **Item No. 23 - 08/1603/FL – change of use to lorry parking (to include an additional maximum 10 HGV's) acoustic fencing and landscaping at land at junction of Walsall Road and Steelmans Road**

The Planning Officer advised the Committee of the background to the report.

The Committee then welcomed the first speaker on this item, Mr. Dutton who spoke against the application.

The Committee then welcomed the second speaker on this application, Mark Jackson who spoke in support of the application.

Members considered the application and Councillor Pitt **moved** and it was duly **seconded** by Councillor Beeley:-

That planning application **08/1603/FL** be approved subject to the conditions as contained in the report now submitted.

The motion having been put to the vote was declared **carried** with nine Members voting in favour and five against.

Resolved (nine in favour and five against)

That planning application **08/1603/FL** be approved subject to the conditions as contained in the report now submitted.

2260/09 **Item No. 5 - 09/0880/FL – addition of 4 no. flats to existing approval 07/2228/FL/W7 for a retirement village at land at Bentley Road North, Walsall**

Resolved

That planning application No. **09/0880/FL** be approved subject to the conditions as contained in the report now submitted and a Planning Obligation.

2261/09 **Item No. 6 - 09/0979/FL – change of use to allow for the storage of waste asbestos prior to disposal elsewhere, plus removal of existing porch and replacement of existing roller shutter door with a larger one and addition of a smaller roller shutter door and UPVC window and door on the western side of the building at Unit 1B, Gatehouse Trading Estate, Lichfield Road, Walsall**

Resolved

That planning application No. **09/0979/FL** be approved subject to the conditions as contained in the report and supplementary paper now submitted.

2262/09 **Item No. 7 - 07/1878/FL/E10 – change of use for stationing one residential caravan for one gypsy family at Railswood Nurseries, Railswood Drive, Pelsall**

Councillor Carpenter left the meeting during deliberation of this item and did not take part or vote.

Prior to consideration of this application the Council's solicitor referred Members to Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites. This circular made reference to a similar case to the one before Members for consideration and advice was given that Members should have regard to this when making a decision.

In response Councillor Bird referred Members to the minutes of the meeting held in September in which the applicant stated that he intended to stay in the caravan permanently as his children had started school and were happy there. He clarified that the gypsy Council had still not responded to confirm that the applicant had gypsy status.

Members considered the application and Councillor Madeley **moved** and it was duly seconded by Councillor **Underhill**:-

That planning application No. **07/1878/FL/E10** be approved subject to the conditions as contained in the report now submitted.

The motion having been put to the vote was declared **lost** with four Members voting in favour and ten against.

Members continued to deliberate. The solicitor present at the meeting referred Members again to the circular which she mentioned at the start of the application. In doing so, she stated that whilst it was Committees decision entirely, it was important to note that it was not essential for a person to travel to hold gypsy status to meet the tests of the circular.

The Head of Planning and Building Control endorsed the advice of the Councils Solicitor and urged that there would be a great risk of cost being awarded against Council and it was highly unlikely that the Council would be unsuccessful at appeal stage.

Following further deliberation, Councillor Bird **moved** and it was duly **seconded** by Councillor Rochelle:-

That planning application No. **07/1878/FL/E10** be refused as:-

- 1) No special circumstances had been demonstrated for a dwelling in a green belt.
- 2) Gypsy status had not been proven as the applicant had stated that he intended to stay in the caravan permanently as his children had started school and were happy there and no response had been received from the gypsy council.

- 3) The development was inappropriate within the green belt and harmful to the character and openness of the area.

The motion having been put to the vote was declared **carried** with ten Members voting in favour of refusal and four against.

Resolved

That planning application No. **07/1878/FL/E10** be refused as:-

- 1) No special circumstances had been demonstrated for a dwelling in a green belt.
- 2) Gypsy status had not been proven as the applicant had stated that he intended to stay in the caravan permanently as his children had started school and were happy there and no response had been received from the gypsy council.
- 3) The development was inappropriate within the green belt and harmful to the character and openness of the area.

2263/09 **Item No. 14 - 09/1084/FL – proposed 4 bedroom house at land between 47-55 Ryders Hayes Lane, Pelsall, Walsall**

Resolved

That planning application No. **09/1084/FL** be approved subject to the conditions as contained in the report now submitted.

2264/09 **Item No. 4 - 09/1102/FL – proposed new school building following partial demolition of existing school buildings together with associated access, car parking and landscaping at Birchills C of E School, Farringdon Street, Walsall**

Resolved

That planning application No. **09/1102/FL** be approved subject to the conditions as contained in the report and supplementary paper now submitted.

2265/09 **Item No. 8 - 09/1086/FL – proposed demolition of single storey buildings and erection of new visitor centre at Walsall Arboretum, Lichfield Street, Walsall;**

And

Item No. 8 - 09/1172/CC – proposed demolition of single storey buildings and erection of new visitor centre at Walsall Arboretum, Lichfield Street, Walsall;

And

Item No. 8 - 09/0168/CC – demolition of toilet blocks, gazebo, shelters and shed at various locations (including one structure adjoining a public footpath at Walsall Arboretum, Lichfield Street, Walsall;

And

Item No. 8 - 09/0171/LB – repairs, including structural, and replacement of roof tiles at Boat House, Arboretum, Lichfield Street, Walsall;

And

Item No. 8 - 09/0172/FL – repairs and reinstatement, replacement of roof materials at Bandstand, Arboretum, Lichfield Street, Walsall;

And

Item No. 8 - 09/0170/FL – partial demolition / conversion to open sided shelter at Lakeside Café, Arboretum, Lichfield Street, Walsall.

Resolved

That the applications as listed above be approved subject to conditions and the resolution of any concerns raised by the Environment Agency.

2266/09 **Item No. 9 - 09/1133/FL – two storey rear extensions to provide GP trainer and trainee rooms and training / seminar room. Single storey front extension to increase existing waiting area at 51 Leckie Road, Walsall**

Resolved

That planning application No. **09/1133/FL** be approved subject to the conditions as contained in the report now submitted.

2267/09 **Item No. 10 – 09/0778/FL – Change of use to wedding hall and function room at Abley Motors, St Johns Road, Walsall**

This item was withdrawn from the agenda.

2268/09 **Item No. 11 - 09/0901/OL – erection detached dwelling (layout and access to be considered) at land between 4 & 5 Herberts Park Road, Wednesbury**

Resolved

That planning application No. **09/0901/OL** be approved subject to the conditions as contained in the report now submitted.

2269/09 **Item No. 12 - 09/0904/OL – erection of detached dwelling (layout and access to be considered) at land between 2 & 4 Well Avenue, Wednesbury, Walsall**

Resolved

That planning application No. **09/0904/OL** be approved subject to the conditions as contained in the report now submitted.

2270/09 **Item No. 13 - 09/1126/FL – re-submission of 09/0447/FL for extension of ground and first floors to the Oaks Medical Practice at 119 Chester Road, Streetly**

Resolved

That planning application No. **09/1126/FL** be approved subject to the conditions as contained in the report now submitted.

2271/09 **Item No. 15 - 09/1241/FL – construction of 2 storey dwelling at land adjacent to 9 Hilary Drive, Aldridge**

Resolved

That planning application No. **09/1241/FL** be approved subject to the conditions as contained in the report now submitted.

2272/09 **Item No. 16 - 09/0927/FL – proposed 2 bedroom 2 storey dwelling and access road junction and demolition of existing outbuilding at land adjacent 1 Haley Street, Willenhall, Walsall**

Resolved

That planning application No. **09/0927/FL** be approved subject to the conditions as contained in the report now submitted.

2273/09 **Item No. 17 - 09/0999/FL – re-submission of refused application 08/0757/FL for replacement 6 bedroom dwelling at 27 Gillity Avenue, Walsall**

Resolved

That planning application No. **09/0999/FL** be approved subject to the conditions as contained in the report now submitted.

2274/09 **Item No. 18 - 09/1128/FL – proposed extensions and alterations to convert existing garage to dining room and first floor bedroom extension at 76 Delves Green Road, Walsall**

Resolved

That planning application No. **09/1128/FL** be approved subject to the conditions as contained in the report now submitted.

2275/09 **Item No. 19 - 09/1148/FL – single storey front and rear extensions and two storey side and rear extensions at 62 Furzebank Way, Willenhall**

Resolved

That planning application No. **09/1148/FL** be approved subject to the conditions as contained in the report now submitted.

2276/09 **Item No. 22 - 09/1195/FL – conservatory to rear of property at 15 Linley Close, Walsall**

Resolved

That planning application No. **09/1195/FL** be approved subject to the conditions as contained in the report now submitted.

Termination of meeting

There being no further business the meeting terminated at 10.25 p.m.

Signed:

Date: