



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13th November 2014

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Item No	Page No	Application Number	Site Address	Proposal	Recommendation
1	1	14/1146/RM	520 CHESTER ROAD, WALSALL, WS9 0PU	Reserved matters proposals pursuant to outline permission 06/0169/OL/E4 as extended by permission 11/1033/TE for residential development and construction of new access road for Branton Hill Quarry (considering access, appearance, landscaping, layout and scale of the residential development). Affecting Public Footpath Ald 38 and Ald 37.	Grant permission for the reserved matters subject to conditions and subject to no further representations raising new material considerations.
2	21	14/1403/FL	LAND SOUTH OF WOLVERHAMPTON STREET, WALSALL	Variation of condition A2, B3, B4, and B24 of planning application 14/0779/FL to provide minor alterations and elevation changes, to increase number of cinema seating to 1245 and to allow details of car parking	Grant Conditional Planning Permission subject to, satisfactory comments from Transportation Officers, and completion of a deed of variation for a 106 agreement:

				strategy, waste / litter management to be submitted prior to first occupation of the building.	
3	49	14/1360/FL	Midland Yard, Fairground Way, Walsall, WS1 4NU	Variation of condition 13 of planning permission 13/0960/FL for the material changes to ready mixed concrete plant and erection of conveyor.	Grant Permission Subject to Conditions
4	59	14/0995/FL	ASPRAYS TRANSPORT LTD AND ADJACENT INDUSTRIAL PREMISES (E HAMMOND), NOOSE LANE, WILLENHALL, WALSALL, WV13 3AZ	Demolition of existing unit. Change of use from timber pallet and case manufacturers to form an extension to the existing Logistics Facility, and provision of 7 new car parking spaces and 12 lorry/trailer spaces and erection of a new vehicular canopy. (Affects public right of way Willenhall 50).	Grant Permission Subject to Conditions
5	71	14/0807/FL	SITE OF FORMER DOLPHIN INN P.H., 210 GOSCOTE LANE, WALSALL, WS3 1PD	Construction of 18 no new dwellings	Grant Permission Subject to Conditions
6	87	14/0874/OL	FORMER PEAR TREE COTTAGE, PEAR TREE LANE, WALSALL, WS8 7NF	Outline application for a food convenience retail store (A1) with access only for consideration.	Refuse

7	99	14/1205/OL	47 PORTLAND ROAD, WALSALL, WS9 8NU	Outline application for residential development of 7 detached dwellings (access, layout and scale to be determined)	Grant Permission Subject to Conditions, unless additional information is received that raises material planning issues
8	113	14/1330/FL	M & J MAHONEY AND SON LTD, ALDRIDGE ROAD, WALSALL, B74 2AS	Erection of warehouse building measuring 7.5 x 20 metres.	Grant Permission Subject to Conditions
9	125	14/1175/FL	UNIT 1A, ALVAR BUSINESS PARK, STRAIGHT ROAD, WILLENHALL, WV12 5QY	Change of use from B1/B2 use to martial arts studio (class D2 use) - resubmission following refusal of 13/1244/FL.	Refuse
10	137	14/1474/PNTEL	TELECOMMUNICATIONS EQUIPMENT, SNEYD LANE, BLOXWICH, WALSALL, WS3 2LN	Replacement of existing 9.7m high telecommunication mast with 9.7m high telecommunication mast and additional equipment cabinet (1230mm x 400mm x 1032mm).	Prior Approval REQUIRED and APPROVES
11	145	14/0900/FL	131 SNEYD LANE, WALSALL, WV112DX	Part retrospective: Material amendment to planning permission 13/1138/FL to amend rear dormer windows	Recommendation: Approve subject to conditions and no new material planning matters arising following the reconsultation on the description of development.

12	155	14/0953/FL	815 SUTTON ROAD,WALSALL,W S9 0QJ	Erection of replacement detached 4 bed house and retention and extension to existing detached garage.	Grant with conditions, subject to no new information raising new material issues
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Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/11/2014

Plans list item no: 1.

Reason for bringing to committee: Major application

Application Number: 14/1146/RM

Application Type: Reserved Matters

Applicant: Cameron Homes Ltd

Proposal: Reserved matters proposals pursuant to outline permission 06/0169/OL/E4 as extended by permission 11/1033/TE for residential development and construction of new access road for Branton Hill Quarry (considering access, appearance, landscaping, layout and scale of the residential development). Affecting Public Footpath Ald 38 and Ald 37.

Location: 520 CHESTER ROAD, WALSALL, WS9 0PU

Ward: Aldridge Central & South

Case Officer: Alison Ives

Telephone Number: 01922 652604

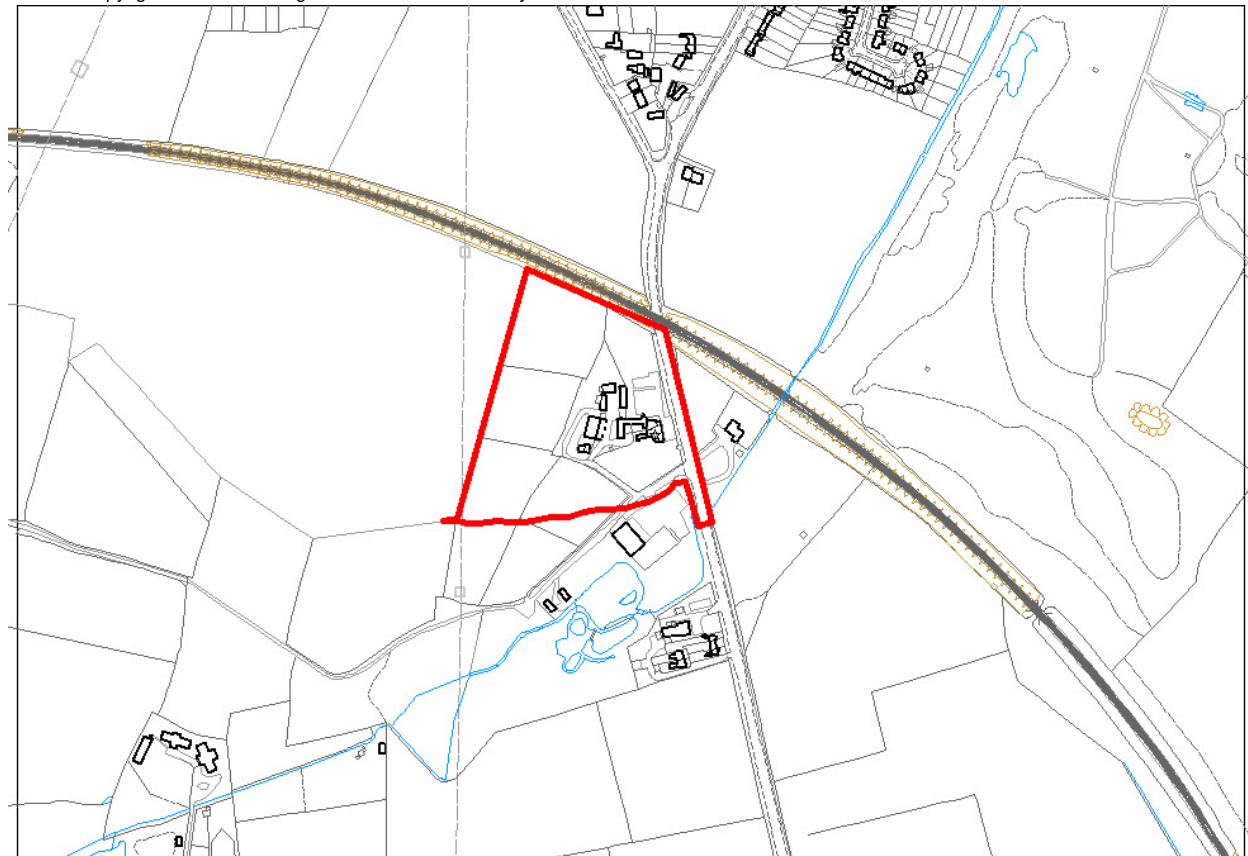
Email: planningservices@walsall.gov.uk

Agent: Lapworth Architects Ltd

Expired Date: 28/11/2014

Recommendation Summary: Grant permission for the reserved matters subject to conditions and subject to no further representations raising new material considerations.

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Application and Site Details

The application seeks approval of reserved matters for a residential development and construction of a new access road for Branton Hill Quarry. The proposals were granted outline permission in March 2009 under application reference 06/0169/OL/E4. The time for implementing the permission was extended in October 2013 under application reference 11/1033/TE.

The current proposal relates to the erection of 14 detached houses which are located at the rear of Bourne Farm, Chester Road, Aldridge on fields currently used for horse grazing. The residential development was approved in principle at outline stage as enabling development to help fund the construction of the new quarry access road. A S106 Agreement is in place which prevents development of the housing until the alternative quarry access road is implemented. The reserved matters sought relate to access, appearance, landscaping, layout and scale of the proposed houses.

Bliss Sand & Gravel Quarry is at the rear of the site, Locally Listed Bourne Farm (now Simon's Restaurant) and The Coach House (converted barn now a residential property) and a range of ancillary barns and outbuildings are located in front of the housing site. Wheat's Garden Centre lies to the south of the site. All these properties share the access off Chester Road. There is a public right of way ALD37 cutting across the housing site and another ALD 38 to the south of the site.

The site is in the Green Belt and there are protected trees mainly within the Bourne Farm curtilage but including a sycamore tree on the boundary of Wheat's Garden centre near the access. The site for the housing is at a higher ground level than the garden centre. There is a railway to the north of the site and electricity pylons in the nearby fields.

The proposed houses are accessed via the shared access from Chester Road with a new cul-de-sac serving the new dwellings. The access details include provision of a 2m wide footway on Chester Road and link to a new pedestrian refuge that will provide crossing facilities for pedestrians. New tactile paving is proposed on either side of the access off Chester Road.

Each of the proposed dwellings has a double garage and ample driveway to accommodate at least a further two vehicles.

The proposed houses are all two storeys high and have five bedrooms with most having a sixth guest bedroom/ home office space above the double garage. A combination of brick and timber clad houses and garages are proposed. The appearance is designed to resemble farm houses or converted barns.

The Design & Access Statement – Describes the site and surrounding context and highlights the planning history. It also explains how the design achieves the criteria for aspirational housing stipulated in the outline permission i.e. 5 or more bedrooms, minimum floor space of 279 sqm and plots of at least 0.09 hectares. The design of the layout is for the houses to be grouped into courtyards to appear like farm complexes. Some of the dwellings are designed like contemporary barns and the remainder like farmhouses.

The Ecological Appraisal - Discusses the potential impacts on the nearest non-statutory sites including the adjacent wildlife corridor, Bourne Pool SLINC and Branton Hill Quarry geological SINC. It recommends a buffer to the northern and western boundaries and suitable landscaping and minimal lighting. It recommends mitigation for potential loss of any native hedgerows and protection for any retained trees. It is unlikely that Great Crested Newts will pose a constraint to development, no bat roosts were recorded in association with trees on the site but a method statement for removal of trees is recommended.

The Ecological Management Plan – Proposes measures to include amenity grassland (gardens to be managed by occupiers), buffer planting and development and management of hedges and trees. Bat and bird boxes will be inspected regularly.

The Report on Existing Noise Climate – Concludes that the noise climate is primarily traffic flows on Chester Road and higher noise from intermittent trains passing by. The revised report states there were no significant noise emissions from the quarry at the time of visiting but that proposed landscaping and the difference in ground levels will mitigate potential noise in future from quarrying operations. Internal noise requirements can be achieved within the dwellings and rear gardens also achieve the desirable criteria in BS8233. Solid fencing to protect gardens from railway noise is recommended on the northern site boundary.

The Sustainability Statement – Explains that use of soakways on site are not feasible due to ground conditions but that other sustainability measures are proposed. This includes improved energy performance and energy efficiency, use of smart meters, drying space, energy labelled white goods, controls over external lighting, cycle storage, home/office space, external water use and energy efficient materials and responsible sourcing of materials, flood risk measures, storage of non-recyclable and recyclable household waste, site waste management, other standards in the Code for Sustainable Homes.

The Archaeological Watching Brief – Explains the underlying geology and archaeology at the site and in the vicinity of the site. The brief proposes excavation and recording of any archaeological remains identified during groundworks and construction. Details of staffing, reporting, archiving and timetables are identified.

The Badger Survey – Records a number of disused badger setts and states that retained boundary treatment means badgers are not a constraint to development. It recommends a further survey 2 weeks prior to site operations to identify any additional badger evidence.

The Tree Survey – Assesses 6 individual trees, 1 group of trees and 2 hedges within the site. Of these two sycamores, a hawthorn and holly hedge and part of a holly hedge are to be removed to allow the development to proceed and a sycamore crown lifted.

The Residential Travel Plan – Gives an overview of policy guidance, describes the site and highway network and opportunities for accessibility by sustainable modes including bus and rail. It identifies travel plan measures.

The Ground Investigation – Identifies ground conditions and contamination risk and highlights engineering considerations.

Relevant Planning History

06/0169/OL/E4 – Outline permission granted in March 2009 following a called-in public inquiry. The proposal is for residential development and construction of a new access road to serve Branton Hill Quarry. All matters except for the means of access are reserved for subsequent approval. The new access road off Chester Road was to replace the existing quarry access off Branton Hill Lane. The proposed housing was to provide an enabling development to cover the cost of constructing the new quarry access road. The Secretary of State recognised that the proposals constituted inappropriate development in the Green Belt by the reduction in the openness and encroachment into the countryside, and harm to the character and appearance of the area. The Secretary of State concluded that in this particular case, the beneficial effects of the proposal amount to very special circumstances of sufficient weight to clearly outweigh the harm to the Green Belt.

11/1033/TE – Time Extension for implementing permission 06/0169/OL/E4 – Granted subject to conditions and a S106 Agreement 23/10/13. The S106 Agreement states that no dwellings shall be constructed until either of the alternative access roads (shown on 11/1033/TE or 11/0943/FL) have been constructed and brought into use as permanent means of access to the and egress from the quarry. It also obligates the quarry to permanently cease all vehicular access and egress to and from Branton Hill Lane once the new quarry access is brought into use.

11/0943/FL - New access road to quarry off Chester Road and relocated recycling centre, including associated buildings - Granted subject to conditions and a S106 Agreement 23/10/13. The S106 Agreement ties this permission to 11/1033/TE including the clauses as referred to above.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- Support sustainable development
- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 17 states planning should be a creative exercise in finding ways to enhance and improve the places in which people live their lives, seeks to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 79 states the essential characteristic of Green Belts is their openness and permanence.

Paragraph 80 identifies the five purposes of Green Belts which are:

- *to check the unrestricted sprawl of large built-up areas*
- *to prevent neighbouring towns merging into one another*
- *to assist in safeguarding the countryside from encroachment*
- *to preserve the setting and special character of historic towns*
- *to assist in urban regeneration by encouraging recycling of derelict and other urban land*

Paragraph 81 states local planning authorities should plan positively to enhance the beneficial use of the Green Belt and to retain and enhance landscapes and visual amenity. It also encourages improving damaged or derelict land in the Green Belt.

Paragraph 87 states inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 88 states very special circumstances will not exist unless the potential harm is clearly outweighed by other considerations.

Paragraph 89 states the construction of new buildings is inappropriate in Green Belt except for specific purposes including:

- *buildings for agriculture or forestry*
- *provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it*
- *replacement of a building provided the new building is the same use and not materially larger than the one it replaces*

Paragraph 90 certain types of development are not inappropriate provided they do not conflict with the openness of the Green Belt including engineering operations. Mineral extraction and engineering operations are appropriate within the Green Belt.

Paragraph 109 encourages protection and enhancement of valued landscapes and geological conservation and remediation and mitigation of despoiled, degraded, derelict, contaminated and unstable land where appropriate.

Paragraph 110 aims to minimise pollution and other adverse effects on the local and natural environment.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

Paragraph 126 - Local planning authorities should have a positive strategy for the conservation and enjoyment of the historic environment.

Paragraph 128 requires applicants to describe the significance of any heritage assets.

Paragraph 129 requires local authorities to assess the significance of heritage assets.

Paragraph 142 states minerals as essential to support sustainable economic growth.

Paragraph 143 requires identification of policies for mineral extraction and to define mineral safeguarding areas.

Paragraph 144 sets out criteria for assessing planning applications for mineral extraction.

On **planning conditions** the NPPF says:

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

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

3. Model sustainable communities on redundant employment land in the Regeneration Corridors that make the best use of existing opportunities and are well integrated with surrounding areas.

6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.

9. Sufficient waste recycling and waste management facilities in locations which are the most accessible and have the least environmental impact.

10. Safeguard and make the most sustainable use of the Black Country's mineral resources including primary, secondary and recycled materials without compromising environmental quality.

The above are supported by the following policies:

CSP2: Outside strategic centres and regeneration corridors will provide a mix of good quality residential areas where people choose to live.

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character. Development proposals will be required to preserve and where appropriate enhance aspects of the historic environment together with their settings.

ENV7: All residential developments of 10 units or more must incorporate generation of energy from renewable sources sufficient to offset at least 10% of the energy demand of the development.

HOU2: Density and type of new housing will be informed by:

- The need for a range of types and sizes of accommodation to meet sub regional and local needs
- The level of accessibility
- The need to achieve high quality design and minimise amenity impacts

All developments will aim to achieve a minimum density of 35 dph, except where higher densities would prejudice historic character and local distinctiveness

MIN1: Sustainable management of the Black Country's mineral resources is encouraged and they will be protected by being included within the Mineral Safeguarding Area (MSA) shown on the Minerals Key Diagram.

MIN2: The Black Country will continue to produce primary land-won sand and gravel, and will aim to produce a minimum of 50,000 tonnes per annum throughout the plan period. During the plan period the primary sand and gravel extraction will be concentrated at two sites including MA2: Branton Hill. Extension to Branton Hill Quarry will be subject to implementation of the proposed access road (approved in March 2009).

MIN5: All new development proposals involving mineral working or mineral related developments should demonstrate how they will contribute towards Spatial Objective 10 and the strategic objectives of Policy MIN1. Proposals should minimise waste as far as possible and where feasible, provision should be made for the extraction, re-use or recycling of potentially useable materials produced as a by-product of the operation.

Walsall's Unitary Development Plan (UDP)

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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

ENV1: Identifies the Green Belt boundaries.

ENV2: Highlights considerations of proposals within or adjacent to the Green Belt and states development is inappropriate if it conflicts with the openness and purposes of the green belt.

ENV3: Identifies more detailed considerations for proposals in the Green Belt.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV13: Development will not normally be permitted in close proximity to high voltage electricity transmission lines. Appropriate operation safe clearances will be considered.

ENV14: Encourages reclamation and development of derelict and previously developed land where possible in accordance with other policies. Where previous uses have affected the stability of the site the application must be accompanied by a site investigation report.

ENV17: Planting will be promoted at minerals and waste management sites.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV24: New development should not sever or unacceptably harm the integrity of a wildlife corridor.

ENV25: Proposals for development which affect archaeological sites normally need evaluation of the archaeological resource

ENV28: Seeks to protect Locally Listed Buildings.

ENV32: Proposals should take in to account the surrounding context particularly within or adjacent to the Green Belt including consideration of the effect on the local character of the area, vehicular and pedestrian patterns and visual relationship to surrounding areas.

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

ENV40: The quality of all water resources will be protected.

H3: Encourages provision of additional housing on previously developed land, subject to (amongst other things) satisfactory residential environment, and no unacceptable constraint on the development of any adjacent site for its allocated or identified use.

T7 – All development should satisfy the car parking standards set out in Policy T13.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

4 bedroom houses and above 3 spaces per unit

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

Supplementary Planning Documents (SPD)

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

Designing Walsall SPD

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

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

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

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

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

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

Conserving Walsall's Natural Environment SPD

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

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

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

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

Urban Open Space (SPD)

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.

Consultations

Transportation – No objections subject to conditions to secure details relating to the access and public right of way. The proposal improved pedestrian crossing facilities on Chester Road and retains the public footpath through the site. The principle of the residential development and priority junction on Chester Road is already approved.

Pollution Control (Scientific Team) – Concern over potential noise impacts for future residents from noise from the quarry, road traffic and the railway. Traffic Noise

Pollution Control (Contaminated Land) – No specific contaminated land requirements.

Conservation Officer – No objections to the proposals as the houses will have minimal impact on the setting of the locally listed building. A condition is recommended to secure the details for dismantling and rebuilding the boundary wall.

Fire Service – No adverse comments. Suitable water supplies for fire fighting purposes should be provided in consultation with West Midlands Fire Service once a water scheme plan has been approved by the relevant Water Company. This is recommended as a note for applicant.

Local Access Forum (Walsall Ramblers) – No objections. Details for securing the maintenance of footpath ALD37 which runs through the site should be secured.

Natural England – The proposals are not likely to result in significant impacts on statutory designated sites. Consideration of protected species, local sites, biodiversity enhancements and impact risk zones should be made.

Natural Environment (Ecology) – Objects. Amended planting details are required in relation to the buffer planting strip along the southern boundary of the site and details of maintenance and management of all landscaping throughout the site. A means of securing the buffer strip which is outside the application site is required.

Network Rail – Recommends measures to protect the adjacent railway. Conditions and notes for applicant are recommended to secure this.

Severn Trent Water – No objections subject to satisfactory drainage details. A condition is recommended to secure this.

Public Participation Response

One letter of support and two letters of objection have been received which are summarised as follows:

Support

- This has been ongoing since 2006 and is long overdue
- Support the proposals for the benefit of residents of Branton Hill Lane

Objection

- The access is owned by RM Wheat & Sons
- The large protected Sycamore tree (T8 of TPO AB9/1964) on the corner of Wheat's car park entrance will be affected by the proposals
- The tree survey states the tree is not protected yet it is
- The works are likely to affect the tree during construction of the access and achieving necessary ground levels and road alignment (roots and branches)
- No details of exact tree protection are provided
- No details of service routes have been provided and there is no right to utilise Wheat's land for this
- Drainage and levels details have not been provided yet could impact on Wheat's land
- Storm water attenuation is required yet no details are provided
- The right of way is incorrectly shown
- Concern over the effect of construction traffic on Wheat's business and request weekdays only so as not to conflict with the garden centre peak trading times at weekends
- Mud and dirt from construction vehicles
- The new quarry access should be allowed to be utilised for construction traffic
- Reference is made to the demolition and realignment of the boundary wall but not to the ice house behind it

The consultation period expires on 2nd December 2014.

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

Determining Issues

- Access
- Layout, Appearance and Scale of the development
- Landscaping
- Relationship between existing and proposed properties
- Trees/Ecology

Observations

Access

The proposed access to the housing is from the shared access off Chester Road and returns along the boundary with Bourne Farm and The Coach House including realignment of the boundary wall to achieve visibility. This requires removal of a protected tree and relocation of a telegraph pole. The access continues to a cul-de-sac arrangement serving the 14 proposed dwellings. Each of the dwellings has a double garage and extensive driveway sufficient to accommodate at least four vehicles. There are turning areas within the cul-de-sacs.

The proposals include provision of a new 2m wide footway link on Chester Road leading to a new pedestrian refuge with dropped crossings on both sides of the access onto Chester Road. This will improve pedestrian facilities and give access to the opposite side of Chester Road where the footway continues and the Transportation officer supports this.

The objector highlights that the access is owned by them. It is clear there are established rights of access for existing properties and whether the new dwellings can utilise these rights is a private matter not a planning issue. The objectors also highlight that there is an ice house behind the boundary wall to be demolished and rebuilt. The conservation officer has no objections to the realignment of the boundary wall and a condition is included to secure details in accordance with the submitted plans.

The proposal incorporates the public right of way ALD37 which passes between plots 7 and 8 on its original alignment. Although the objector states it is incorrectly shown on the drawings the details are taken from Council records. Full details of the right of way are to be secured by the recommended condition. The Local Access Forum has no objections to the development on the basis that there is no significant impact on public rights of way and subject to securing their reinstatement.

The means of access is acceptable.

Layout, Appearance and Scale of the development

The principle of residential development for 14 houses has already been approved by the permission 06/0169/OL/E4 as extended by 11/1033/TE. The layout now demonstrates how the site can accommodate 14 dwellings and comply with the specifications required by the outline permission as they are 5 or more bedrooms, have a minimum floor space of 279 sq m and are set in grounds of at least 0.9 hectares. These specifications are required to ensure the housing remains aspirational to attract housing for social grades A and B as this was one of the very special circumstances accepted as outweighing any harm to the Green Belt.

The layout is designed to create the appearance of a cluster of farmhouses and barns and so does not take the traditional form of a linear street. This layout is specifically designed to respect the setting of the houses. The layout achieves adequate gardens and the space and separation between dwellings is acceptable and will not cause overlooking or loss of privacy.

The appearance of the proposed houses is a mixture of farm houses and converted barns with modern additions such as double storey glazing and flat roof elements such as dormer windows. The proposed materials are a mixture of brick work with slate roofs and timber cladding. This is considered appropriate given the Green Belt setting and proximity to the existing former farmhouse and converted barns at The Coach House which are of similar design and appearance.

The scale of the dwellings is considered appropriate as it is two storeys but does allow scope for roof extensions.

The layout, appearance and scale of the proposed development is acceptable.

Landscaping

The soft landscape proposals show a 5m landscape buffer along the northern, southern and western boundaries and provision of a new hedge along the public right of way. Other areas of landscaping are shown along the highway boundaries. These areas are identified within a management area to be maintained by the developer. This is considered adequate to screen the development and provide an appropriate context.

The Natural Environment officer objected to the original landscaping proposals as the plant species was not ideal and it was unclear how the landscaping areas and buffer would be maintained. Additional details and an amended landscape plan have been received to address this. Appropriate conditions are recommended to secure implementation and maintenance of the landscaping. Although the southern buffer is outside the application site it is within the developers control so a condition to secure implementation and maintenance is recommended. Any further comments from the Natural Environment officer will be updated at committee.

The landscaping is considered acceptable.

Relationship between existing and proposed properties

The proposed dwellings are located at an appropriate distance away from existing housing at The Coach House and Bourne Farm and will not have any significant impact on outlook, daylight or privacy of these surrounding occupiers.

The garden centre is located on the opposite side of the shared access and whilst there is an access and storage yard that borders the site the proposed landscape buffers around the edges of the site will screen this from future occupiers. The use of the shared access by future occupiers should not cause significant conflicts. It is recommended that hours of construction are restricted by an appropriate condition to protect the amenities of nearby residential occupiers. It is unreasonable to extend this condition to preclude weekend trading hours of the adjacent garden centre. A construction methodology plan is recommended to be secured by condition that will ensure appropriate measures are in place to prevent conflicts with construction traffic and wheel cleaning to prevent mud on the road.

A noise assessment has identified that there will be no significant impact on future occupiers from noise from traffic, the railway or quarry and that given the proposed landscaping and difference in levels this will not be a constraint to the development.

The objector is concerned that details of drainage and levels have not been provided and could have a significant impact on the garden centre in relation to flooding. These details are recommended to be secured by condition. Although not provided at this stage developers often work up drainage plans once a layout has been approved and this is not unreasonable in this instance.

The objector also states that no service routes are identified and there is no third party right to utilise Wheat's land for this purpose. Details of service routes is a condition on the outline permission so can again be imposed as a condition to secure details. The right of access is a private matter not a material planning consideration.

The relationship between existing and proposed properties is acceptable.

Trees/Ecology

There are protected trees throughout the site and on adjacent land so a tree survey has been provided as required by the outline permission. This shows removal of some trees throughout the site including the sycamore tree near to the realigned boundary wall. This is growing close to the wall and would not be viable to retain. The objector is concerned that in the absence of levels and drainage details that a sycamore tree on their land would be adversely affected. Conditions are recommended as on the outline permission to secure appropriate protection of trees to be retained on and off site. As referred to above drainage and levels details will also be secured by condition so the potential impact on the neighbours tree can be assessed fully by officers.

Although the proposal results in the loss of some trees and hedgerows it is considered that the replacement landscaping will provide appropriate mitigation.

An ecological management plan has been provided that will ensure regular inspection and management of landscaped areas and measures to safeguard protected species.

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant and their agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted. In light of the submitted details officers are able to support the scheme.

Recommendation: Grant permission for the reserved matters subject to conditions and subject to no further representations raising new material considerations.

1. The development must be begun no 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).

2a. No development shall take place until a scheme of noise mitigation measures in accordance with the details identified in the recommendations section (section 8) of the Report on Existing Noise Climate prepared by Hoare Lea (Revision 3 received 6th October 2014 namely:

- (i) Habitable room windows to have a minimum manufacturers rating of Rw30 for the window as a whole including the frame and any associated furniture
- (ii) Habitable room windows should be provided with a proprietary wall or window mounted trickle vents to achieve background ventilation in accordance with Building Regulations requirements. All vents should, when open, have a minimum rated sound reduction of Dnew30.
- (iii) A solid barrier fence shall be provided to the northern boundary to the garden of plot 14. The barrier fencing shall be continuous with no significant gaps and have a minimum height of 2m above the site boundary with a minimum density of 10kgm2

2b. The agreed measures shall be fully implemented prior to the first occupation of any dwelling on the site.

Reason: To protect the residential amenities of occupiers of the dwellings.

3. The development shall be maintained in accordance with the management prescriptions identified in table 10.0 and Five Year Work Programme identified in table 11.0 of the approved Ecological Management Plan prepared by FPCR (Issue EJF/03.06.2014 - June 2014).

Reason: To ensure the protection of wildlife and protected species on the site.

4. The development shall be implemented in accordance with the approved Archaeological Watching Brief and Written Scheme of Investigation prepared by Centre for Archaeology Staffordshire University received 6th October 2014.

Reason: To ensure that below ground archaeological remains are recorded ahead of and/or during development.

5. The development shall be implemented in accordance with the approved Sustainability Statement received on 6th October 2014.

Reason: In order to provide high performance sustainable homes and protect the environment in accordance with Black Country Core Strategy Policy ENV7 and policy GP2 of the Walsall Unitary Development Plan.

6a. No development shall commence on site until details of the disposal of both surface and foul water drainage (directed away from the railway) have been submitted to and approved in writing by the Local Planning Authority.

6b. The development shall be completed with the approved details 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.

7a. Prior to the commencement of the development, full engineering details of all highway infrastructure works within Chester road including the existing bell mouth modifications, new footway and pedestrian refuge crossing facility shall be submitted to the Local Planning Authority for approval in writing.

7b. Prior to the first occupation of any new dwelling on the development, the highway infrastructure works detailed in part a of this condition shall be fully implemented in accordance with the approved details to the satisfaction of the Local Highway Authority.

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

8a. Prior to the commencement of the development, a construction methodology statement shall be submitted to and approved by the Local Planning Authority detailing where the parking and turning facilities for site operatives and construction deliveries will be located and including full details of a wheel wash facility to be provided during the period of construction.

8b. This provision shall be retained during construction in accordance with the approved details.

Reason: In order to minimise potential disruption to the free flow of traffic on the A452 Chester Road and in the interests of highway safety.

9a. Prior to the commencement of the development, details of the future legal maintenance arrangements for the private road shall be submitted to the Local Planning Authority for approval in writing. The arrangements shall involve a properly constituted body with legally defined maintenance responsibilities in perpetuity for the common benefit of the residents.

9b. The approved arrangement shall be in place prior to the first occupation of any dwelling on the development.

Reason: To ensure the satisfactory arrangements are in place for the future maintenance of the access road in accordance with Manual for Streets guidance.

10a. Prior to the commencement of the development, full engineering details of the following works relating to the reinstatement and retention and of Definitive public footpath nos. 37 and 38 (Aldridge) through the development, shall be submitted to and approved in writing by the Local Planning Authority:-

- i) surface materials and drainage on the public footpaths ,
- ii) gates and barriers on the public footpaths,
- iii) boundary treatments alongside the public footpaths,
- iv) Public footpath signage

v) pedestrian crossing facilities over the estate roads.

10b. Prior to the first occupation of any dwelling on the development, the engineering details referred to in Condition 8 (a) above relating to the reinstatement and retention of Definitive public footpath nos. 37 and 38 (Aldridge) through the development, shall be fully implemented in accordance with the approved details.

Reason: To ensure the satisfactory completion and operation of the development and the safe and satisfactory operation of the existing public rights of way, in accordance with UDP Policy T8 and T11 and to highway safety.z

11a. If it is the developers intention to request the Council as the Local Highway Authority to adopt the proposed new access road as a highway maintainable at the public expense, then full engineering details of all adoptable highway works including the layout and alignment, widths and levels of the proposed road works together with all necessary drainage arrangements and run off calculations, shall be submitted to the Local Planning Authority for technical approval in writing in consultation prior to the commencement of any works on site.

11b. Prior to the first occupation of any new dwelling on the development, the adoptable highway works infrastructure works detailed in part a of this condition shall be fully implemented in accordance with the approved details and to the satisfaction of the Local Highway Authority.

Reason: To ensure the satisfactory completion and operation of the development and in accordance with the Councils procedures for adopting new roads.

12a. Prior to the first occupation of any new dwelling on the development, all vehicle hard standing, parking areas and access ways serving that dwelling shall be fully consolidated, hard surfaced, drained and brought into use.

12b. These areas shall be thereafter retained and used for no other purpose.

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

13. Prior to the occupation of any dwelling on the development, the initial measures contained within the approved Residential Travel Plan, including the appointment of a Travel Plan Coordinator and the issue of 'Welcome Packs' to prospective residents, shall be implemented. Subsequently, the measures and targets to reduce the reliance on the motor car and promote sustainable travel as set out in the Travel Plan shall thereafter be implemented, monitored and reviewed in accordance with the agreed plan.

Reason: To encourage sustainable modes of travel and in accordance with UDP Policy T4, T10 and Black Country Core Strategy TRAN1 and TRAN2.

14. If it is the developers intention for the estate roads to remain to in private ownership and not formally adopted as a publically maintainable highway but waste and recycling is to be undertaken by Walsall Waste Management, then the private estate roads are to be constructed to a specification capable of accommodating a 26tonne refuse vehicle and the estate road turning facility designed to accommodate a full turning manoeuvre for a 10.7m long refuse wagon. These details are to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

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

15a. In accordance with the plan reference PROPOSED_WALL_01 dated October 2014 the existing brick boundary wall at the access shall be relocated and rebuilt in accordance with the following specifications:

(i) The brick bonding shall use the same brick bond as that used in the adjacent section of retained wall;

(ii) Mortar shall comprise Lime mortar mix of NHL3.5 at a sand to lime ratio of 3:1; and

(iii) Salvaged coping shall be reused

15b. The scheme for the dismantling and rebuilding of the boundary wall shall be implemented as approved prior to the first occupation of a dwelling built in connection with this application.

16. The approved landscaping scheme shall be fully implemented within 12 months of the completion of the development. All planting shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any trees, shrubs or plants 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 define the permission and to safeguard the visual amenity of the green belt and natural environment of the site.

17a. Prior to the commencement of the development full details of all external facing and surface materials shall be submitted to and approved in writing by the local planning authority.

17b. The development shall be completed fully in accordance with the approved details and retained thereafter.

Reason: To ensure the satisfactory appearance of the development and to secure the site.

18a. Prior to the commencement of the development full details of all boundary treatment shall be submitted to and approved in writing by the local planning authority.

18b. The development shall be completed fully in accordance with the approved details and retained thereafter.

Reason: To ensure the satisfactory appearance of the development and to secure the site.

19a. Before any works are carried out within 10m of the railway the developer shall submit a risk assessment and method statement (RAMS) for the proposal to Network Rail Asset Protection, once the proposal has entered the development and construction phase. The RAMS should consider all works to be undertaken within 10m of the operational railway including the demolition works. The RAMS should ensure that works on site follow safe methods of working and have taken into consideration any potential impact on Network Rail land and the operational railway. The developer should contact Network Rail Asset Protection prior to works commencing at AssetProtectionLNWNorth@networkrail.co.uk to discuss the proposal and RAMS requirements in more detail.

19b. Any scaffold which is to be constructed within 10 metres of the Network Rail / railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed. The developer must consider if they can undertake the works and associated scaffold / access for working at height within the footprint of their property boundary. The developer is reminded that when pole(s) are erected for construction or maintenance works, should they topple over in the direction of the railway then there must be at least a 3m failsafe zone between the maximum height of the pole(s) and the railway boundary. This is to ensure that the safety of the railway is preserved and that scaffolding does not:

- Fall into the path of on-coming trains
- Fall onto and damage critical and safety related lineside equipment
- Fall onto overhead lines bringing them down, resulting in serious safety issues (this is applicable if the proposal is above the railway and where the line is electrified).

The applicant is requested to submit details of proposed scaffolding works to the Network Rail Asset Protection Engineer for review and approval.

Reason: To ensure protection of the adjacent railway.

20. Prior to the commencement of the development full details of existing and proposed ground levels, earthworks and excavations to be carried out including those near to the railway boundary shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the agreed details.

Reason: To protect the amenities of surrounding properties including the adjacent railway.

21a. Prior to the installation of any external lighting on the site full details shall be submitted to and approved in writing by the Local Planning Authority.

21b. Any details of external lighting approved by the Local Planning Authority shall be installed fully in accordance with the approved details and retained as such.

Reason: To safeguard the visual amenities of the area.

22. No development or site clearance shall commence until full details of underground services, drains, and sewers are submitted to the Local Planning Authority and approved in writing.

Reason: To ensure the protection of trees and hedgerows to be retained in the interests of the amenity of the area and the functioning of the site as bat commuting and foraging habitat.

23. None of the existing trees on the site shall be lopped, felled or root pruned without the prior consent in writing of the Local Planning Authority.

Reason: To safeguard the protected trees and hedgerows on site.

24. The approved tree protection measures and fencing detailed in the approved Tree Survey and Arboricultural Impact Report prepared by Peter Jackson dated 8th April 2014 (Version 5) shall be fully implemented prior to the commencement of any works on site and 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 5837:2005.

Reason: To safeguard the protected trees and hedgerows on site.

25. During demolition, site preparation and building operations no storage of materials, equipment or waste, nor passage of vehicles, nor lighting of fires shall take place beneath the canopy of any tree to be retained.

Reason: To safeguard the protected trees and hedgerows on site.

26. No digging of trenches or changes in ground level shall be undertaken within the canopy of any tree to be retained on the site without the written approval of the Local Planning Authority.

Reason: To safeguard the protected trees and hedgerows on site..

27. 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 07.00 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 amenities of surrounding occupiers.

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

- Site Location Plan (20 Rev A) received 06/08/14
- Site Plan as Proposed (21 Rev C) received 21/10/14
- House Type A – Plots 4, 5, 14 Plans & Elevations Proposed (01 Rev A) received 06/08/14
- House type B – Plots 3,6,11,13 Plans & Elevations Proposed (02 Rev A) received 06/08/14
- House Type C – Plots 8,9 Plans & Elevations Proposed (03 Rev A) received 06/08/14
- House Type C1 – Plots 2,12 Plans & Elevations Proposed (04 Rev A) received 06/08/14
- House Type D – Plot 1 Plans & Elevations Proposed (05 Rev A) received 06/08/14
- House Type D1 – Plot 7 Plans & Elevations Proposed (06 Rev A) received 06/08/14
- House Type A – Plot 14 and Garage Plans & Elevations Proposed (08 Rev A) received 06/08/14
- Plots 11 & 12 Garage Plans & Elevations Proposed (07 Rev A) received 06/08/14
- Site Access General Arrangement (SK01 Rev C) received 06/08/14
- Site Access Forward Visibility and Footway Link (SK02 Rev B) received 06/08/14
- Site Layout RCV Swept Path Analysis (SK03 Rev B) received 06/08/14
- Soft Landscape Proposals (AE1427-01D) received 23/10/14
- Management Area Plan received 20/10/14
- Proposed wall adjacent Bourne Farm (proposed-wall-01) received 20/10/14
- Design & Access Statement prepared by Lapworth Architects (1542 Rev A) received 06/08/14
- Ecological Appraisal prepared by FPCR received 06/08/14
- Ecological Management Plan prepared by FPCR received 06/08/14
- Badger Survey received 06/08/14
- Report on Existing Noise Climate prepared by Hoare Lea (REP10/05337-AM-R3) received 06/10/14
- Sustainability Statement received 06/08/14
- Archaeological Watching Brief prepared by Centre of Archaeology received 06/08/14
- Tree Survey & Arboricultural Impact prepared by Peter Jackson (Version 5) received 06/08/14
- Residential Travel Plan prepared by Travis Baker received 06/08/14
- Ground Investigation prepared by Georisk Management (14055/1) received 06/08/14

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).

Note 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 agreements under S38 or S278 of the Highways Act 1980 for all adoptable highway works or works within the existing public highway.

A Temporary Footpath Closure Order(s) will be required in the event that public access cannot be safely and satisfactorily maintained along public footpath nos. 37 and 38 (Aldridge) during the period of construction. In this respect it is advised that the applicant contacts the Public Rights of Way Team On 01922 654669 at least 8 weeks before either public footpath is temporarily closed. All cost to be met by the applicant.

Note for applicant – Fire Service

Suitable water supplies for fire fighting purposes should be provided in consultation with West Midlands Fire Service once a water scheme plan has been approved by the relevant Water Company.

Note for applicant – S106 Agreement

The applicant is reminded of the need to adhere to the terms of the S106 Agreement completed for the outline application 06/0169/OL/E4 as extended by permission 11/1033/TE.

Note for applicant – Network Rail

The developer must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail land and its infrastructure or undermine or damage or adversely affect any railway land and structures.

- There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil.
- Any future maintenance must be conducted solely within the applicant's land ownership.
- Should the applicant require access to Network Rail land to facilitate their proposal they would need to approach the Network Rail Asset Protection Team at least 20 weeks before any works are due to commence on site. The applicant would be liable for all costs incurred in facilitating the proposal and an asset protection agreement may be necessary to undertake works. Network Rail reserves the right to refuse any works by a third party that may adversely impact its land and infrastructure.
- Any unauthorised access to Network Rail air-space or land will be deemed an act of trespass.

Network Rail requests that the developer ensures there is a minimum 2 metres gap between the **buildings and structures on site** and our boundary fencing.

- To allow for all construction works on site and any future maintenance to be carried out wholly within the applicant's own land ownership and without encroachment onto Network Rail land and air-space. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (**s55 British Transport Commission Act 1949**).
- To ensure that should the **buildings and structures on site** fail or collapse that it will do so without damaging Network Rail's boundary treatment or causing damage to the railway (e.g. any embankments, cuttings, any lineside equipment, signals, overhead lines) and to prevent the materials from the **buildings and structures on site** falling into the path of trains.
- To ensure that the **buildings and structures on site** cannot be scaled and thus used as a means of accessing Network Rail land without authorisation.
- To ensure that Network Rail can maintain and renew its boundary treatment, fencing, walls.
- There are no Party Wall issues for which the applicant would be liable for all costs.
- To ensure that the applicant does not construct their proposal so that any foundations (for walls, buildings etc) do not end up encroaching onto Network Rail land. Any foundations that encroach onto Network Rail land could undermine, de-stabilise or other impact upon the operational railway land, including embankments, cuttings etc. Under Building Regulations the depth and width of foundations will be dependant upon the size of the structure; therefore foundations may impact upon Network Rail land by undermining or de-stabilising soil or boundary treatments.

The developer is reminded that potential for any noise/ vibration impacts caused by the proximity between the proposed development and the existing railway, which must be assessed in the context of the National Planning Policy Framework (NPPF) should consider the following:

- The current level of railway usage may be subject to change at any time without prior notification including increased frequency of trains, night time train running and heavy freight trains.
- There is also the potential for maintenance works to be carried out on trains, which is undertaken at night and means leaving the trains' motors running which can lead to increased levels of noise.

- Network Rail also often carry out works at night on the operational railway when normal rail traffic is suspended and often these works can be noisy and cause vibration.
- Network Rail may need to conduct emergency works on the railway line and equipment and these would not be notified to residents in advance due to their safety critical nature.
- The proposal should not prevent Network Rail from its statutory undertaking



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/11/2014

Plans list item no: 2.

Reason for bringing to committee: Major Application

Application Number: 14/1403/FL
Application Type: Full application

Case Officer: Stuart Crossen
Telephone Number: 01922 652608
Email: planningservices@walsall.gov.uk
Agent: ID Planning

Applicant: Kier Property Developments Limited

Proposal: Variation of condition A2, B3, B4, and B24 of planning application 14/0779/FL to provide minor alterations and elevation changes, to increase number of cinema seating to 1245 and to allow details of car parking strategy, waste / litter management to be submitted prior to first occupation of the building.

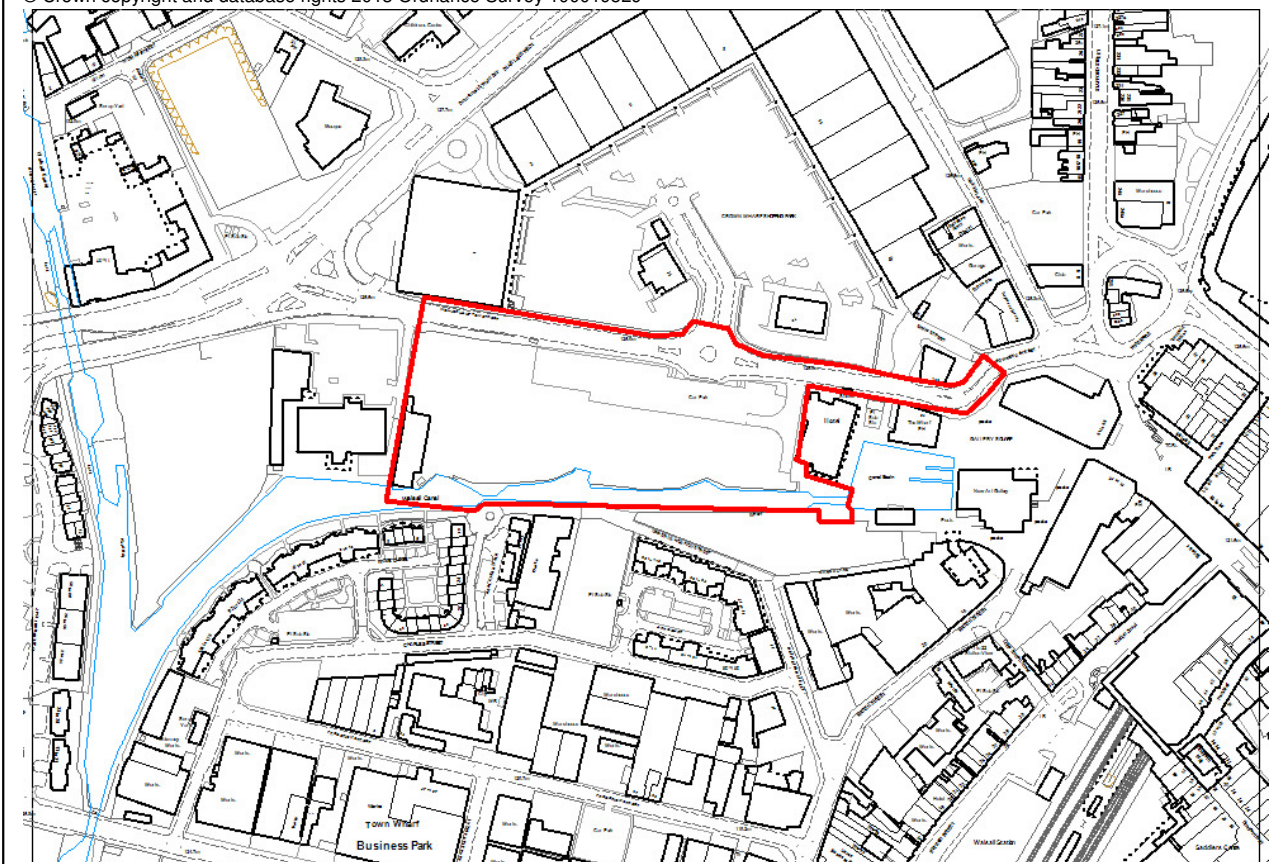
Location: LAND SOUTH OF WOLVERHAMPTON STREET, WALSALL

Ward: St. Matthews

Expired Date: 22/12/2014

Recommendation Summary: Grant Conditional Planning Permission subject to, satisfactory comments from Transportation Officers, and completion of a deed of variation for a 106 agreement:

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Application and Site Details

This Section 73 planning application is for a material amendment to the original approved scheme (13/0440/FL) considered by 20 June 2013 planning committee and the subsequent Section 73 (14/0779/FL) approved increasing the ground floor space of the cinema and the two restaurant units, as well as amending the cinema elevations. This current Section 73 is to amend conditions A2, B3, B4 and B24 of 14/0779/FL planning application to provide minor alterations and elevation changes, plus increase the number of cinema seating to 1245 from 1039, plus varying the triggers of car parking strategy details, waste/ litter management details to be submitted prior to first occupation of the building.

The 2.14 hectare application site is the northern side of the Walsall Town Centre canal arm, up to Wolverhampton Street. On the opposite side of the canal is the Waterfront South residential development, with Crown Wharf Retail Park to the north. The site is adjacent to the Premier Inn Hotel with the New Art Gallery in close proximity.

The 13/0440/FL application approved on 20 June 2013 was a hybrid application including full planning application for multi-screen cinema (Use Class D2) at first & second floor level with retail, restaurants & cafes, drinking establishments (Use Class A1/A3/A4) at ground floor level and two separate units for restaurants & cafes and drinking establishments (Use Class A3/A4). Car parking, external seating area, landscape works, additional temporary surface car parking, canal footbridge, associated works and access arrangements were also part of the consideration of the detailed application and are unchanged. An outline application (all matters reserved) for leisure, retail, restaurants and cafes, drinking establishments (Use Classes A1, A3, A4 and D2) was also considered.

The previous section 73 application 14/0779/FL, approved the following changes;

Cinema Building: increased the original floor space 5,224sqm; by 97sqm to 5321sqm)
Ground Floor Units: Use Classes A1, A3, A4 increased the original floor space 2,257sqm; by 97sqm to 2354sqm)
First and Second Floor: Cinema Use Classes D2 2,407sqm and 560sqm respectively (no change from original approval)

It is noted that the retail would be a maximum of one unit up to 500sqm (no change from original approval)

There are two restaurant units also proposed:

Unit 1A and Unit 1B (A3/A4) – Originally 304sqm each – total 608sqm, this application amends Unit 1A to Unit 5 with a proposed floor space of 279sqm and Unit 1B to Unit 6 with a proposed floor space of 353sqm; this represented an overall increase of the two units by 24sqm.

The development delivers 196 car parking spaces, including 13 disabled spaces. A temporary car park of 69 spaces with 4 disabled spaces is proposed whilst phase 2 of the development is finalised. This represents no change from the original approval.

Under this section 73 application there are no changes to the floor space of the **Full Application**. The cinema elevation amendments include a change to first floor windows from a transparent glass to opaque which is required for the expansion in seating. Elevation changes are also proposed to both units 5 and 6 including the omission and inclusion of windows and doors and to vary the roof plant enclosure, none of these changes affect the floor space.

Outline Application

There are no changes to the outline application 06/1450/OL/W1 from the approval 13/0440/FL, which was considered and approved by planning committee on 20 June 2013.

Relevant Planning History

Other Cinema application

13/0206/FL - Proposed Multi-Screen Cinema (Use Class D2) with additional commercial units for retail, cafe and restaurants, drinking establishments and hot food takeaways (Use Classes A1, A3, A4 and A5) with associated car parking, access arrangements, landscaping and public realm. GSC – 21st June 2013.

14/0762/FL - Variation of condition 21 of planning consent 13/0206/FL to allow substitution of plans. Not determined but can found on the same planning committee agenda.

Previous Waterfront Applications

Waterfront North (The application site)

14/0779/FL – Section 73 Application - Application under section 73 to vary condition A7 of planning permission 13/0440/FL to enlarge the footprint of the proposed cinema units 5 and 6 (formally units 1a and 1b) and change elevation details. GSC – 16/07/14

13/0440/FL - Hybrid Application - Full Planning Application for Multi-Screen Cinema (Use Class D2) at first and second floor with Retail, Restaurants and Cafes, Drinking establishments (Use Classes A1/A3/A4) at ground floor level and two separate units for Restaurants and Cafes and Drinking Establishments (Use Class A3/A4), car parking, external seating area, landscape works, additional temporary surface car parking, canal footbridge, associated works and access arrangements. Outline Application (all matters reserved) for Leisure, Retail, Restaurants and Cafes and Drinking Establishments (Use Classes A1, A3, A4 and D2). GSC – 21st June 2013.

10/1093/FL - Hybrid Application: Detailed Application for 100-bed Hotel (Use Class C1) together with associated restaurant and bar, external seating area, associated landscape works and temporary surface 100 space car park (2 years) and access arrangements; change of use and external alterations to Wharfingers Cottage for retail, financial and professional services, offices, leisure, drinking establishment and restaurant encompassing implemented landscaping works and new external seating area (Use Classes A1, A2, A3, A4, B1(a) and D2). Outline application (all matters reserved) for leisure, retail, financial and professional services, restaurant, drinking establishments, hotel, office, residential development (Use Classes A1, A2, A3, A4, B1(a), C3, D2) and associated multi-storey car park together with proposed access, servicing, landscaping, canal bridge and works to canal basin. GSC – 7th January 2011.
(Hotel is now built and operational)

08/1849/FL – 120 bedroom hotel and restaurant – reduced to 100 bed hotel under a minor amendment. GSC 09/02/2009

06/1450/OL/W1, in December 2006. Outline permission for a mixed use scheme including leisure, offices, retail, apartments and associated multi storey parking (consisting of 12 buildings, 7 of which were submitted as reserved matters). GSC 21/12/2006

Waterfront South (adjoining to the south of the application site, and extending further west)

07/0618/FL/W7 and amended through 09/0832/FL – development of 316 dwellings and commercial buildings is currently under construction.

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

National Planning Policy Framework (NPPF)

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

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

- be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;
 - not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
 - proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;
 - 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, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
 - support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);
 - contribute to conserving and enhancing the natural environment and reducing pollution.
- Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
 - promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
 - conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;
 - 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; and
 - 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:

20. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

21. Investment in business should not be over-burdened by the combined requirements of planning policy expectations. Planning policies should recognise and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure, services or housing.

23. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should:

- recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;
- define a network and hierarchy of centres that is resilient to anticipated future economic changes;
- define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations;
- promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;
- retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive;
- allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres. It is important that needs for retail, leisure, office and other main town centre uses are met in full and are not compromised by limited site availability. Local planning authorities should therefore undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites;
- allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available. If sufficient edge of centre sites cannot be identified, set policies for meeting the identified needs in other accessible locations that are well connected to the town centre;
- set policies for the consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres;
- recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites; and
- where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity.

30. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion

32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Assessment and account should be taken of the opportunities for sustainable transport modes

35. Developments should be located and designed where practical to

- accommodate the efficient delivery of goods and supplies;
- give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
- create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
- incorporate facilities for charging plug-in and other ultra-low emission vehicles; and
- consider the needs of people with disabilities by all modes of transport.

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people

58. Policies should set out the quality of development that will be expected of an area, including:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Optimise the potential of the site to accommodate development
- Respond to local character and history and reflect the identity of local surroundings and materials
- Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion
- Are visually attractive as a result of good architecture and appropriate landscaping

70. To deliver the social, recreational and cultural facilities and services the community needs, ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.

103 – seeks to ensure that development is located in appropriate areas at low risk of flooding and does not exacerbate the risk of flooding.

123 seeks to ensure that development mitigates against pollution, including noise.

On **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.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

Regional Strategy (RS)

The Regional Strategy was cancelled by the Secretary of State on 20th May 2013.

Local

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).*" To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The BCCS states that the councils will create cohesive, healthy and prosperous communities.

The relevant policies are:

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. *Environmental Transformation* - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. *Economic Prosperity* Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP1 – sets out the targets for sustainable regeneration of the Black Country including enhancement of the town centre.

CSP4 – develops the need for high quality place making and design

CSP5 – sets out the need to develop and manage movement and ensure that sustainable modes of transport are promoted.

CEN1 - The Strategic Centres will provide the main focus for higher order sub-regional retail, office, leisure, cultural and service activities, balanced by a network of Town, District and Local Centres, providing for town centre uses including meeting day-to-day shopping needs (particularly convenience shopping). Proposals that undermine this strategy will be resisted. To strengthen the Black Country's centres, mixed-use developments that are well integrated with existing provision will be encouraged, including the use of upper floors.

CEN2 – sets out the Hierarchy of Centres

CEN3 – Strategic Centres provide the focus for comparison shopping, office employment, leisure and culture in the Black Country. Any proposed development exceeding 500 square metres gross floor space - whether brought forward through a Local Development Document or planning application, that would lead to the amount of floor space in an individual Strategic Centre exceeding the figures set out above, will only be considered favourably if the retail impact assessments contained in the most recent national guidance on retail planning are satisfied. Any proposed development in an edge-of-centre location exceeding 500 square metres gross floor space will only be considered favourably if the retail impact assessments contained in the most recent national guidance on retail planning are satisfied. However, if it is considered that development below this threshold is likely to have a significant impact on centres, then those proposals will be required to carry out an impact assessment. Also identifies offices at Walsall Gigaport.

CEN4 – Seeks to regenerate the strategic centres - Retail capacity in Town Centres will largely be met by existing commitments, planning permissions and allocations, and any redistribution of floor space between Centres to meet strategic priorities.

TRAN1 Sets the priorities for the development of the transport network and promoting sustainable transport modes.

TRAN2 requires development proposals to manage transport impacts of new development

TRAN5 Sets out the requirement for development to focus on moving away from the reliance on the private car.

ENV 1, ENV 2 and ENV 3 set out the criteria for nature conservation, the historic environment and design quality.

ENV4 development must enhance the canal corridor.

ENV5 seeks to ensure that new developments mitigate against flood risk and promote sustainable drainage

ENV7 seeks to ensure new development promotes renewable energy provision

EMP6 seeks to ensure that visitor and cultural facilities are provided in appropriate locations.

Although Diagrammatic – office-led development is shown on the Walsall Strategic Centre Diagram. These are supplemented by the following policies

SC3.1 By 2026 Walsall town centre will have been regenerated as a sub-regional focus for the local economy and the community. It will provide its catchment area with an attractive choice of comparison shopping and leisure, entertainment and cultural facilities, as well as supporting a thriving office market. Walsall will also support modern town centre living. The centre will bring all of these activities together in a vibrant, safe, attractive and accessible environment that combines local heritage with modern design.

SC3.5 highlights

- Growth in convenience floor space for the strategic centre is likely to be delivered through existing commitments

- There is a need for more leisure facilities and venues to serve all sections of the community and boost the evening economy. In particular there is no cinema and no major entertainment venue. There is also a need for hotel and conference facilities.

Walsall's Unitary Development Plan (UDP) (2005)

www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says *"due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)"*.

The relevant policies are:

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

ENV10: (a) The development of an industry or facility which may cause pollution will only be permitted if it would not cause unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

ENV14: The Council will encourage the reclamation and development of derelict and previously developed land wherever this is technically feasible

ENV23: The layout of all new development must take account of:-

- I. The potential for enhancement of the natural environment through habitat creation or the exposure of geological formations.

- II. The nature conservation opportunities provided by buildings by designing in features which provide roosting/ nesting places for bats/birds and other species.

ENV24(b) New development which would sever, or unacceptably harm the integrity of linear features such as rivers, streams, canals, field boundaries, tree belts, green lanes, and road verges or 'stepping stone' features such as lakes, reservoirs, ponds and small woodlands will not normally be permitted.

ENV29: The Council will determine whether a development preserves or enhances the character and appearance of a Conservation Area in terms of:-

- I. The degree of loss or alteration to property which makes a positive contribution to the character of the area.

- II. The impact of any new buildings on the special townscape and landscape features within the area.

III. The scale, massing, siting, layout, design or choice of materials used in any new building or structure.

IV. The nature of its use and the anticipated levels of traffic, parking and other activity that will result.

ENV32(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

ENV33: Good landscape design is an integral part of urban design and the Council will require full details of external layout and landscape proposals on larger developments.

ENV40: Proposals for development will be encouraged to incorporate measures for the conservation of water resources such as the use of water efficient devices, the on-site recycling of water (including grey water systems), the collection and use of rainwater (e.g. the provision of water butts) and minimising the watering needed to sustain landscaping (eg. through the use of mulching and drought tolerant turf and plants).

S1 – Defines town centre uses – including offices, leisure and retail

S2 – Defines the hierarchy of town centres with Walsall Town Centre will be sustained and enhanced in its sub-regional role as the main centre for the Borough, and some places farther afield, for comparison shopping and other town centre uses. These should particularly include leisure and entertainment facilities appropriate to the centre's sub regional role. It is also recognised that Walsall has a local role meeting the needs of adjacent communities for convenience shopping and local amenities and services.

S3 - To ensure the proper integration of developments in or on the edge of centres, proposals should:

I. Be of scale and nature appropriate to the size and function of the centre concerned.

II. Be sensitively integrated, in functional and visual terms, with the primary shopping area and other land uses, pedestrian routes, car parking provision, public transport facilities, servicing arrangements, traffic circulation, and the local townscape.

S4 - Development must not be at the expense of the vitality and viability of the centre as a whole, or that of other centres within the Borough or elsewhere in the affected catchment area: the Council may require an impact assessment if it considers that a proposal might have adverse effects. The Council will seek to further improve the environment of Walsall Town Centre, with particular stress on maintaining and enhancing their individual character. Improvements will be sought both through new investments and developments and through the Council's own actions.

I. Development proposals will be required to have a high standard of design

II. Development proposals will also be required to give particular attention to the principles of designing-out-crime.

III. When considering development proposals, the Council will explore with developers the scope for carrying out improvement works and will also seek, if relevant, the provision of new or improved facilities to meet wider community and social needs.

IV. The Council will pursue a programme of improvements to help to make these centres more attractive and will also seek to encourage others to invest in improvements.

S10: Restaurants and Food and Drinks outlets will be appropriate in Walsall Town, Centres subject to the use proposed must not adversely affect the amenities of existing or proposed dwellings (including those on upper floors above commercial premises) by reason of noise, smell, disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on residential amenity.

T7 and T13: All development should satisfy the car parking standards, and be well designed.

T8: To help existing pedestrians and encourage greater use of walking as a healthy and sustainable form of travel the Council will provide good pedestrian links within a development. All pedestrian links must be safe, direct and convenient and well lit.

T9: Cycling The Council will assess the suitability of cycle-related improvements.

WA3: Outside the primary shopping area, and on upper floors within it, the Council will encourage business / service uses, offices, leisure, community uses and, subject to the provisions of Policy S8 in Chapter 5, residential development.

WA6: Subject to the availability of resources for its installation and maintenance, the Council will seek to extend the coverage of the Walsall Town Centre CCTV system.

WA12:(b) The area, on both sides of the canal, is considered to be the main location in the town centre for substantial leisure development to serve the Borough and surrounding areas. It should be developed principally for leisure uses which can serve all sections of the community, and examples of uses that would be particularly welcomed by the Council include a cinema, a family entertainment centre and an adventure activity centre. Associated bars/ restaurants would also be encouraged, provided they form part of a comprehensive scheme to provide major facilities. Other appropriate uses will include hotel, and conference facilities, cultural uses, and office/business uses (including small scale craft-based activities) to complement development primarily for leisure uses. Retail use, except small-scale, complementary activities, will not be permitted. Generally, the mix of uses and the arrangement of those uses should be such as to ensure the creation of the most attractive possible scheme for investment in leisure facilities.

WA18: Priority will be given to maintaining, enhancing and increasing provision of short stay parking for shoppers and visitors, including suitable dedicated parking for disabled people. Long-stay parking for commuters will be strictly controlled or reduced.

WA19: Seek to improve public spaces, and improve significant pedestrian and cycle routes, both within the Town Centre and linking with surrounding areas.

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF

Walsall Town Centre Area Action Plan

Walsall Town Centre Area Action Plan offers support in principle for both applications, though at present the AAP is at a very early stage of production with submission, examination and adoption anticipated in 2015. The intention is to allocate land for cinema development in the AAP and to determine, during the plan-making process, how many such sites should be allocated. However, given the early stage of its preparation, the AAP can be given no material weight.

Supplementary Planning Documents (SPD)

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

Designing Walsall SPD

Seeks to guide development and deliver high quality design through local distinctiveness and sustainable design.

Policy DW1 Sustainability

Policy DW2 Safe and Welcoming Places

Policy DW3 Character

Policy DW4 Continuity

Policy DW5 Ease of Movement

Policy DW6 Legibility

Policy DW7 Diversity

Policy DW8 Adaptability

Policy DW9 High Quality Public Realm

Policy DW9(a) Planning Obligations and Qualifying development

Policy DW10 Well Designed Sustainable Buildings

Walsall Waterfront SPD

Amplifies Policy WA12 for development proposals in seeking to maximise the dynamism and character of the historic canal frontage through appropriate public realm improvements, creating an accessible canal and water space with a series of linked focal spaces and waterside routes connecting to the wider town centre. The public realm must be accessible for all and integrated

with the wider transport network, especially cycling and pedestrian networks. Seeks to achieve the delivery of 'world class' architecture and public art within a scheme that reflects the unique waterside, cultural and urban character of the area.

Large areas of surface car parking should be avoided; other options including well-designed multi-storey or underground solutions should be explored as alternatives to this approach. Only in the short-term should vacant sites be considered as appropriate in providing temporary car parking solutions.

The location of new bridges across the canal, and their associated public spaces, is of particular importance to the success of the quarter, as is their relationship with adjacent developments. Pedestrians must be able to move freely through the development and onto the wide, surrounding network of public squares, spaces and streets within the town centre.

Natural Environment SPD

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

Protection is proposed for protected animals, plants etc.

Consultations

Natural England – No objections

Highways Agency – No objection

National Grid – No objection

Fire Officer – No objection

The Coal Authority – No objections

Structures and Geotechnics – No objections

Police Architectural Liaison Officer – No objections, recommends car park meets safer parking 'Park Mark' standards. (can be attached as an informative)

Transportation – To be updated for committee

Pollution Control

Scientific Team – No objections

Contaminated Land Team – No objections

Environment Agency – No objections

Canal and River Trust – No objections

Severn Trent – No objections

Natural Environment Team

Conservation – No objection

Ecology – No objection

Landscape Team – No objections

Local Access Forum (including Ramblers Association) – No objections

Representations

An objection has been received that the applicants trip rates are lower than were required for 13/0206/FL which is considered to underestimate trips. If the same rate had been applied to both, this development based on the revised number of seats would generate 143 two way trips at PM peak and 133 on Saturday PM peak.

The objector considers that this warrants further investigation by the Highways Department in light of existing issues on the ring road and at key access junctions for the site.

Determining Issues

- Design of Phase 1 and visual relationship to the canal of the cinema and restaurant unit
- Access and Trip Generation
- Environmental Impact Assessment
- Section 106 Deed of Variation
- Planning conditions

The following matters were considered in determining the previous planning application and the proposed changes raise no new concerns or comments:

- Principle of development
- Deliverability of a town centre cinema
- Impact on vitality and viability of the town centre
- Ecological issues and the canal bank
- Car parking and services
- Phase 2 and future reserved matters
- Impact on residents opposite (in Waterfront South and Marsh Street developments) and in the vicinity
- Local Finance Considerations

Observations

Phase 1 and visual relationship to the canal of the cinema and restaurant unit

The alterations to the elevations of the cinema are considered acceptable in this instance, the opaque glazing would offer relief to the solid elevation.

The proposed changes to units 5 and 6 are minor having little additional impact on the original proposed appearance and are considered acceptable.

The other amendments, which include a small increase in floor space, raise no other significant issues than have already been considered in the previous scheme.

Access and Trip Generation

The concerns raised about trip rate differences between this proposal and the other cinema application is noted and comments on this matter are to follow from Transportation Officers as part of their consultation response.

Environmental Impact Assessment (EIA) Screening Opinion

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 distinguishes between two separate groups of development to which EIA are required. Schedule 1 Development requires an EIA in every case and Schedule 2 Development requires an EIA only if the project is judged likely to have significant effects on the environment by virtue of factors such as its size, nature or location.

The proposal does not fall within Schedule 1.

The development falls within Schedule 2 part 10(b) as it is an urban development project with an area of development that exceeds 0.5 hectares. The site is not within a sensitive area and the site is not statutorily protected and is a previously developed brownfield site. The development is not of more than local importance given its leisure use, its central location, which has good links to public transport and which is envisaged would serve the local community. The potential impact of the development, taking account of extra 206 cinema seats, elevational changes to the cinema, changes to condition triggers and minor amendments to units 5 & 6 on the surrounding site is not significant in this instance.

In light of the above an Environmental Impact Assessment for the proposed development is not needed.

Section 106 Deed of Variation

A section 106 was completed as part of the previous permission a deed of variation is required to ensure the section 106 obligations apply to the new permission.

Planning conditions

Section 73 gives the local planning authority power to grant permission subject to different conditions to those attached to the previous permission. If granted, the conditions attached to planning permission 14/0779/FL will be repeated as part of this permission unless already discharged. Conditions will also be updated, for example, by removing the requirement for submitting information which has already been discharged from 14/0779/FL.

Positive and Proactive working with the applicant

Officers have met with the applicant's agent and worked closely in response to concerns raised, amended plans have been submitted to enable full support to be given to the scheme.

Recommendation - Grant Conditional Planning Permission subject to, satisfactory comments from Transportation Officers, and completion of a deed of variation for a 106 agreement:

Schedule of Conditions

A- General Planning Conditions applying to the whole development

B - Phase 1 Planning Conditions (Full Planning Permission)

C - Phase 2 Planning Conditions (Outline Planning Permission)

A - General Planning Conditions applying to the whole development

A0 - the term "Phase" means:-

Individual sites within the overall application site that can be progressed in individual reserved matters submissions and still meet the overall aspirations and objectives of the outline planning permission.

Reason: To define the permission, and create the framework for the conditions, and their application to parcels of land.

A1) For the avoidance of doubt the Phases shall comprise as follows:

Phase 1 – as shown on Plan reference (00) 365 Rev B, including the following:

Cinema and associated ground floor units, Unit 5 and Unit 6, access, landscaping, public realm, canal works, highways works, temporary car park subject to the conditions within Schedules A and B of this permission.

Phase 2 – Replacement of the temporary car park with appropriate development as illustrated on drawing (00)300 Rev N subject to the submission of a satisfactory reserved matters as defined by Schedules A and C of this permission. The buildings shown are not approved by this permission.

Reason: In order to define the permission and phasing of the development.

A2) Unless amendment is sought through planning conditions or the Reserved Matters submission, the development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:

Plans and Drawings:

(00)100 Rev J
(00)300 Rev N
(00)365 Rev B
(00)305 Rev J
(00)310 Rev G
(00)311 Rev F
(00)312 Rev D
(00)321 Rev E
(00)400 Rev E
(00)500 Rev G
(00)510 Rev G
(00)520 Rev D
(90)350 Rev A
MC9000_H
M15010 – PG11 Rev D
M15010/002

Documents:

Design and Access Statement (ref: 13,026/IMAGES) prepared by Archial/ID Planning Statement prepared by ID Planning
Flood Risk Assessment and Addendum (ref: 2372/FRA_v1.2) prepared by Westwood
Baseline Ecological Audit (ref: 5501/3987/1/HAUD) prepared by Betts Ecology
Ecological Planting to Supplement Landscape Strategy (ref: 5501 Version2.0) prepared by Betts Ecology
Transport Assessment and Addendum (ref: W50775 / R01 Rev A) prepared by Pell Frischmann
Framework Travel Plan (ref: W50775 / R02 Rev A) prepared by Pell Frischmann
Landscape Report (ref: 15010 Rev D) prepared by Gillespies
Geo-environmental Appraisal (ref: T/13/1216/GA) prepared by Tier Environmental
Statement of Community Involvement prepared by Acceleris Marketing Communications
Walsall Waterfront Technical Note 2

Reason: To define the permission

A3) The details agreed via the formal discharge of conditions 14/1290/DOC of measures to control water runoff from the site during construction (including details of the timing of construction of the proposed measures, and of their removal) shall be implemented in accordance with the approval.

Reason: To protect the water environment.

A4b) The details agreed via the formal discharge of conditions 14/1290/DOC for wheel washing shall be fully implemented and retained throughout the reclamation and construction period.

Reason: To prevent mud being deposited on the public highway.

A5b) The remedial measures as set out in the “Remediation Statement” required by part A5a) of planning permission 14/0779/FL of this condition and agreed via the formal discharge of conditions 14/1290/DOC shall be implemented in accordance with the agreed timetable.

A5c) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation is encountered development shall cease until the “Remediation Statement” required by part a) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

A5d) 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 CL2)

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

A6a) The approved uses in the detailed planning permission are as follows:

- i) Cinema Building:
 - Ground Floor Units (Use Classes A1, A3, A4)
 - First and Second Floor (Use Class D2)
 - Unit 5 and Unit 6 (Use Classes A3/A4)
- ii) The approved uses in the outline planning permission are A1, A3, A4 and D2
- iii) Retail use (Use Class A1) shall be a maximum of one unit and no greater than 500sqm

A6b) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, and the Town and Country Planning (General Permitted Development) Order 1995 (as amended), there shall be no change of the particular use approved under part (i and ii) of this condition to retail (Use Class A1) use.

Reason: To define the permission, to deliver appropriate levels of leisure development, to control the nature of retailing on the site, to secure retailing which is either complementary to the other uses on the site, or of a character which adds interest to the site and the town centre, to reflect the overprovision of convenience retailing in the town centre identified in the Black Country Centres Study 2009 (GVA Grimley) and to ensure the health and viability of the Primary Shopping Area as the primary location for comparison retailing.

A7) No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation) or deliveries associated with demolition, construction or engineering works, shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 13.00 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.

Reason: In the interests of the amenity of adjacent occupiers

B - Phase 1 Planning Conditions

B1a) This development must be begun not later than 21st December 2014.

Reason: Pursuant to the requirements of Section 91(1)(b) of the Town and Country Planning Act, 1990 and to ensure that any delay in the delivery of the development takes account of the Walsall Town Centre Area Action Plan which will seek to develop a preferred option for a town centre cinema.

B2b) Before any part of the development is brought into use a landscape management plan shall be submitted to the Local Planning Authority and approved in writing. The management plan shall be carried out to an accepted methodology and provide full details of:

- How the ecological planting will be maintained through the establishment period and managed thereafter.
- Monitoring and reviewing the effects of management and incorporating any remedial works required to implement the approved landscape scheme.
- How the ornamental landscape schemes will be maintained through the establishment period and managed thereafter.
- Provision for the replacement of any plant which dies, becomes diseased or damaged within a period of 5 years from the completion of the development.
- Details of routine maintenance such as pruning/ litter picking/ cutting/ watering in dry period/ weeding.
- Full details of all management operations will be set out together with a timetable for each operation.

B2c) The landscape scheme agreed via the formal discharge of conditions 14/1290/DOC shall be managed in accordance with the approved management plan.

Reason: To ensure satisfactory development of the application site and to enhance the appearance of the area and to ensure that the proposed development contributes to the preservation and enhancement of the local character, distinctiveness and ecological value of the waterway corridor.

B3a) Prior to first occupation of any buildings on site, the building details shall be submitted to the Local Planning Authority for car park management. The development will operate a scheme of parking controls through a pay and display mechanism to:-

- i) Prevent use of the car parks on the site by long-stay commuters and
- ii) Maintain the use of the car park within the application site as short-stay parking for shoppers within the development, shoppers in the town centre and other non-commuter uses within the site and in the town centre. Short-stay is defined as up to 4 hours,

B3b) The scheme will have a pricing structure similar to that of the Council's short-stay car parks, with the following qualifications:-

- i) Charges shall never be less than the charges applicable to the Council's short-stay car parks; and may be up to, but never more than, twice the charges applicable to the Council's short-stay car parks
- ii) The site operator may offer free parking to customers of the development for up to 4 hours.

B3c) The site operator may review the charges with the Council in the event that it is evident that any pricing structure fails to ensure that adequate parking remains available to customers.

B3d) The approved scheme and details shall be fully implemented and fully operational prior to the first use of the car park.

B3e) No car park shall be brought into use prior to the commencement of built development.

Reason: To ensure town centre developments should be functionally integrated and not cause congestion on the surrounding highway network; parking should support the Council's strategy of enhancing the centre and should serve the centre as a whole, to provide for shoppers and visitors, through management and pricing arrangements; parking controls should discourage commuters and an inappropriate regime for parking could have an adverse impact on the vitality and viability of Walsall Town Centre. Further short stay surface level car parking is not required and should only be provided in support of the proposals for development.

B4a) Prior to first occupation of any buildings on the site details of a waste storage, servicing area, collection and litter management plan for the site shall be submitted to and agreed in writing by the Local Planning Authority.

B4b) The approved details of the servicing areas and bin storage areas shall be fully implemented prior to the occupation or bringing into use of any of the commercial units approved in Phase 1.

Reason: To prevent pollution of the waterway and ground water from wind blow, seepage or spillage of waste products and materials, and to ensure the satisfactory appearance of the development in accordance with policies ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy, ENV29 and ENV32 of the Unitary Development Plan and the Adopted Walsall Waterfront SPD.

B5b) The details agreed via the formal discharge of conditions 14/1290/DOC of the proposed boundary treatments, including for the service areas and of any barriers to be provided to prevent vehicles from entering the canal shall subsequently be fully implemented in accordance with the agreed details.

Reason: To protect the integrity of the canal infrastructure and to prevent a detrimental impact on the appearance of the waterway corridor from the erection of poorly designed boundary treatments, in accordance with policies ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy.

B6b) The Phase 1 cladding and facing materials of commercial units shall be implemented in full prior to the occupation or bringing into use of any of the commercial units approved in Phase 1 in accordance with the agreed details under 14/1290/DOC.

Reason: To ensure the satisfactory appearance of the development.

B7a) The details agreed via the formal discharge of conditions 14/1290/DOC for a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall subsequently be fully implemented in accordance with the approved details before the development is completed.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the system.

B8b) The details agreed via the formal discharge of conditions 14/1290/DOC for the roof treatment and plant and machinery of units 1a and 1B shall be implemented prior to use.

Reason: Units 1A and 1B are significantly lower in height than the New Art Gallery and Premier Inn hotel and will be looked down on by members of the public and users of these buildings. The proposed roofs will therefore need to be as attractive as possible and appropriate use and appearance is required.

B9b) The details agreed via the formal discharge of conditions 14/1290/DOC for the condition of the waterway wall and method statement and schedule of the repairs identified shall be fully implemented in accordance with the agreed details and retained thereafter.

Reason: In the interests of the structural integrity of the waterway wall, waterway heritage, navigational safety and visual amenity in accordance with policies ENV2 Historic Character and Local Distinctiveness, ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy and the Adopted Walsall Waterfront SPD.

B10a) Before the proposed temporary car park is constructed, details shall be submitted to and approved in writing by the Local Planning Authority, showing its position, arrangement, surfacing and boundary treatment. It will be implemented in accordance with those approved details before the cinema is first brought into use.

B10b) The car park use shall cease no later than 3years from the first occupation of the cinema or within 6months of the Reserved Matters approval, whichever is the earlier.

B10c) Should no development come forward within the timescale of part b of this condition, the car park shall be replaced by a scheme of public realm to match landscaping proposals approved under condition B2 of this permission.

Reason: An unlimited permission would prejudice the comprehensive development of the whole site in accordance with the Unitary Development Plan and the application submission.

B11a) Before any part of the development is brought into use a management plan showing how the landscape treatment will be established and managed is submitted to the Local Planning Authority and approved in writing. The management plan shall be carried out to an accepted methodology and detail:

- i) How the ecological planting will be established and managed thereafter.
- ii) Management operations to be carried out with proposed dates.
- iii) Monitoring and review to ensure the ecological enhancement of the site/ canal frontage develops in accordance with the approved landscape details.
- iv) Bird and bat boxes position

B11b) The management shall be fully carried out in accordance with the approved management plan.

Reason: To ensure satisfactory development of the application site and to enhance the appearance of the area and to ensure that the proposed development contributes to the preservation and enhancement of the local character, distinctiveness and ecological value of the waterway corridor.

B12a) Prior to completion of built development details (including location and external appearance) of all plant, machinery, equipment and facilities used for the purpose, *inter alia*, of heating, extract-ventilation, and/or air conditioning, refrigeration, chilling, provision of compressed air, provision of electricity, waste disposal shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:

- i) Mitigation to ensure that the proposed systems and methods are designed and operated to ensure that noise emissions, either individually or cumulatively, do not give rise to a complaint likelihood assessment exceeding "marginal significance" at nearby residential premises as determined in accordance with British Standard BS 4142: 1997 '*Method for Rating industrial noise affecting mixed residential and industrial areas*'.

ii) Mitigation to ensure that the proposed systems and methods do not give rise, either individually or cumulatively, to a Noise Rating Exceeding NR 35 1m from the window of any occupied residential premises during the hours 19.00 to 07.00.

iii) Flues serving commercial hot food cooking points

iv) Cleaning and maintenance regimes for odour extraction and abatement systems shall be agreed in writing prior to the systems coming into use.

v) External appearance and appropriate design features to visually disguise plant and machinery.

B12b) All of the agreed details shall be fully implemented prior to the first use of any of the hereby approved buildings.

Reason: To ensure satisfactory appearance of proposed plant and machinery and to ensure that it does not result in the loss of amenity to nearby residents by virtue of odours, smells and noise.

B13a) Prior to the installation of any external seating area or any street furniture within the development details of the chairs, tables, any boundary treatment or barriers and any other external features within the external seating area shall be submitted to and approved in writing by the Local Planning Authority.

B13b) The development shall subsequently be fully implemented in accordance with the agreed details.

Reason: To ensure the satisfactory appearance of the development and to prevent furniture entering the canal.

B14a) Prior to the installation of any external lighting, details of the proposed lighting for the development including details of foundations, luminance in candelas, light spillage details and hours of operation shall be submitted to and approved in writing by the Local Planning Authority.

B14b) The approved details shall be fully implemented in accordance with the agreed details.

Reason: The lighting at waterside developments should be designed to minimise the problems of glare, show consideration for bats and unnecessary light pollution should be avoided by ensuring that the level of luminance is appropriate for the location, is sustainable and efficient, and protects the integrity of the waterway infrastructure in accordance with policies ENV1 Nature Conservation, ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy.

B15a) Within 6 months of the development hereby approved being brought into use, a full Travel Plan relating to the cinema use shall be developed/submitted in partnership with the Highway Authority. This shall identify a package of proposed measures consistent with the aim of reducing reliance on the car, and encouraging the use of sustainable transport. The agreed details of the Travel Plan shall be fully implemented within three months of being agreed and shall be retained throughout the life of the development.

B15b) A Travel Plan Co-ordinator shall be nominated (this may not be their only role). They will manage the Travel Plan and co-ordinate the annual survey and review, which will be submitted to, and approved in writing by the Local Planning Authority in consultation with the Highway Authority on the 12 month anniversary of the travel plan originally being implemented.

Reason: To promote sustainable travel with a view to reduce congestion, the environmental impact of car use, and improve health, in accordance with TRAN 4 of the Black Country Core Strategy.

B16b) The details agreed via the formal discharge of conditions 14/1290/DOC for the location of parking for site operatives and visitors shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during construction of the development.

Reason: To prevent indiscriminate parking in the interest of highway safety.

B17) The details agreed via the formal discharge of conditions 14/1290/DOC for security oriented design measures and physical security measures for all buildings and public spaces shall be fully implemented concurrently with the relevant element of the development, and thereafter retained.

Reason: To ensure the safety of the occupiers and users of the development.

B18a) A system to control grease, oil and fat discharges to drainage/sewerage systems shall be agreed in writing with the Local Planning Authority

B18b) The approved details shall be fully implemented prior to use and retained thereafter.

Reason: To prevent inappropriate discharges into the drainage system

B19) The permitted development shall meet the equivalent of 2005 Building Research Establishment Environmental Assessment Method 'very good' standard, as a minimum or provide details of sustainable construction and management details to reduce energy and consumption.

Reason: In order to comply with guidance within saved policy ENV40 of Walsall's Unitary Development Plan, ENV3, ENV5 and ENV7 of the Black Country Core Strategy and the National Planning Policy Framework in terms of sustainable development and use of natural resources towards lower-carbon technology.

B20a) Within 6months of the commencement of the development, the following details shall be submitted for approval in writing by the Local Planning Authority and in conjunction with the Highway Authority and Walsall Council's Street Lighting partner Amey;

- Full engineering details of the proposed improvements to the existing roundabout junction and Wolverhampton Street, to include pedestrian crossing facilities.
- Full engineering details of the proposed new access off Wolverhampton Street as specified on the approved plans.
- Full engineering details of the highway infrastructure works to facilitate the closure of the all existing redundant accesses and vehicular crossovers onto Wolverhampton Street.

B20b) Prior to occupation of the development all the detailed highway infrastructure works and cycle parking shall be fully implemented, completed and brought into use to the satisfaction of the Highway Authority in accordance with the agreed construction method statement and timetable.

Reason: In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development.

B21a) Notwithstanding the plans submitted within 12 months of the commencement of the development details of the canal basin bridge including construction details shall be submitted to and approved in writing by the Local Planning Authority in conjunction with the Canal and Rivers Trust.

B21b) The proposals shall be fully implemented in accordance with the agreed details within 12 months of the first occupation of the development and retained thereafter.

Reason: In the interests of the structural integrity of the waterway walls, waterway heritage, navigational safety and visual amenity and to ensure the delivery of pedestrian links to the development which would be otherwise lessened and in accordance with policies ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy and the Adopted Walsall Waterfront SPD.

B22a) Prior to the occupation of the development hereby approved the access, turning areas and parking facilities shown on the approved plan shall have been properly consolidated, surfaced, drained, free of loose stone in accordance with details to be submitted to and approved in writing by the local planning authority

B22b) These areas shall be thereafter be retained and kept available for those uses at all times.

Reason: In the interest of highway safety, and ensure the free flow of traffic using the adjoining Highway.

B23) No speakers or public address facilities shall be installed externally.

Reason: To safeguard the amenities of nearby residents

B24) The maximum number of seating for the approved cinema shall not exceed 1245.

Reason: To ensure the satisfactory functioning of the development and in accordance with the submitted Walsall Waterfront Technical Note 2.

C - Phase 2 Planning Conditions

C1) Application for approval of the Reserved Matters shall be made before the 21st June 2016.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

C2) The development must be begun not later than:

- i) 5 years from the date of decision of the first reserved matters.
- ii) 2 years from the approval of the last Reserved Matters

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

C3) This development shall not be commenced until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- a) The layout of the building(s);
- b) The scale of the building(s);
- c) The external appearance
- d) Access to the site and buildings,
- e) The landscaping of the site

Reason: Pursuant to Article 3 (i) of the Town & Country Planning (General Development Procedure) Order 1995

C4) The Reserved Matters will contain a development amount comprising a minimum footprint for development of 1,173sqm.

Reasons: To define the permission and to ensure that future phases of development meet aspirations for leisure led development, especially as the design and amount of development is not agreed and given the need to promote the Waterfront development for formal leisure, banqueting and conference facilities.

C5a) As part of each Reserved Matters submission details of the following shall be submitted to and approved by the Local Planning Authority:

- a) strategy pedestrian movement towards the Primary Shopping Area and across the canal
- b) public realm enhancement and maintenance strategy
- c) a scheme for external lighting and maintenance with areas around the canal and basin minimising glare and light pollution.
- d) details of proposed refuse and waste recycling facilities
- e) fire and emergency service access
- f) measures for ecological enhancement

C5b) The agreed details shall be fully implemented prior to the first use of the, hereby approved development and retained thereafter.

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

C6a) As part of the Reserved Matters details shall be submitted to the Local Planning Authority for car park management as a result of the proposed additional development. The development will operate a scheme of parking controls through a pay and display mechanism to:-

- i) Prevent use of the car parks on the site by long-stay commuters and
- ii) Maintain the use of the car park within the application site as short-stay parking for shoppers within the development, shoppers in the town centre and other non-commuter uses within the site and in the town centre. Short-stay is defined as up to 4 hours,

C6b) The scheme will have a pricing structure similar to that of the Council's short-stay car parks, with the following qualifications:-

- i) Charges shall never be less than the charges applicable to the Council's short-stay car parks; and may be up to, but never more than, twice the charges applicable to the Council's short-stay car parks
- ii) The site operator may offer free parking to customers of the development for up to 4 hours.

C6c) The site operator will submit to and agree in writing with the Local Planning Authority any subsequent changes to the management scheme. The site operator may review the charges with the Council in the event that it is evident that any pricing structure fails to ensure that adequate parking remains available to customers.

C6d) The approved scheme and details shall be fully implemented and fully operational prior to the first use of the car park.

Reason: To ensure town centre developments should be functionally integrated and not cause congestion on the surrounding highway network; parking should support the Council's strategy of enhancing the centre and should serve the centre as a whole, to provide for shoppers and visitors, through management and pricing arrangements; parking controls should discourage commuters and an inappropriate regime for parking could have an adverse impact on the vitality and viability of Walsall Town Centre.

C7a). As part of each Reserved Matters submission a detailed landscaping scheme for the site, (including any necessary phasing of implementation), has been approved in writing by the Local Planning Authority. The submitted scheme will include where appropriate,

- a) any necessary phasing
- b) arrangements for temporary servicing of buildings that are brought into use in advance of completion of the servicing access arrangements
- c) green and brown roof ecological impact mitigation measures, bat and bird boxes
- d) surfacing able to handle a 17 tonne high reach Fire Service vehicle
- e) litter collection bins
- f) suitable details for all parts of the site not covered by buildings.
- g) canal side improvements

C7b). The landscape scheme shall be submitted on a plan to an appropriate scale and shall include, where applicable, details of:

- Proportions (%) of plant species within each proposed plant mix.
- How the plants will be introduced, for example as: seeds, plugs, whips, standards, through natural colonisation and how the land will be prepared.
- Topsoil/growing media specification
- Specification of trees and shrubs and associated tree pit specification.
- Plant numbers, weights of seed, density of sowing/ planting.
- Locations of all planting.
- Details of hard landscaping/ lighting and drainage.
- Details of access and circulation.
- Coir rolls and gabions to be provided within the canal
- Management strategy and regime for a period of 5years

C7c) The development shall be carried out in accordance with the approved landscaping scheme and management regime.

C7d) The approved scheme shall be implemented, in its entirety, in accordance with any agreed phasing or within one year of any part of the development being brought into use or such other period of time as may be agreed in writing by the Local Planning Authority.

Reason: To ensure satisfactory development of the application site and to enhance the appearance of the area and to ensure that the proposed development contributes to the preservation and enhancement of the local character, distinctiveness and ecological value of the waterway corridor.

C8a) Prior to commencement of development a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

i) Limiting the rate of surface water run-off generated by the site to discharge at no more than the Greenfield rate of 6.4 l/s

ii) Provision of attenuation storage volume on the site to retain the 100 year + climate change flow event volume assuming the discharge rate given above as detailed.

iii) Details of how the entire surface water scheme shall be maintained and managed after completion.

iv) At the detailed design phase, details must also be provided to confirm that surface water will not leave the proposed site in the 100 year + climate change allowance event. Drainage calculations must be included (e.g. Micro Drainage or similar package calculations), including the necessary attenuation volume, pipeline schedules, network information and results summaries to demonstrate that the greenfield discharge rate as proposed in the FRA and addendum will be achieved across all storm events.

v) If the system surcharges, the location of any surcharging should be identified as should any resultant overland flood flow routes. Any excess surface water must be routed away from any proposed or existing properties. If above ground flooding is to occur, detail must be provided of depth and where this will go and prove that the development or adjacent property will not be flooded as a result.

C8b) The scheme shall subsequently be fully implemented in accordance with the approved details before the development is completed and retained thereafter.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the system.

C9a) As part of the reserved matters submission a schedule of the facing materials shall be submitted to approved in writing by the Local Planning Authority.

C9b) The development shall subsequently be implemented in accordance with the agreed details.

Reason: To ensure the satisfactory appearance of the development.

C10a) As part of the reserved matters submission details of the proposed boundary treatments, including for the service areas and of any barriers to be provided to prevent vehicles from entering the canal, shall be submitted to and agreed in writing by the Local Planning Authority.

C10b) The development shall subsequently be fully implemented in accordance with the agreed details and retained thereafter.

Reason: To protect the integrity of the canal infrastructure and to prevent a detrimental impact on the appearance of the waterway corridor from the erection of poorly designed boundary treatments, in accordance with policies ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy.

C11a) As part of the Reserved Matters submission assessment and details wherever practicable shall be submitted to and agreed in writing by the Local Planning Authority in conjunction with the Canal and Rivers Trust for the following:

- i) street furniture
- ii) lighting strategy
- iii) ablution facilities for canal users
- iv) electricity and water supply to the canal and canal basin

C11b) The proposals shall be implemented in accordance with the agreed details and retained thereafter.

Reason: The Phase 2 proposals are in outline with all matters reserved with no end users or detail agreed and therefore additional infrastructure should be explored to promote a lively and interesting canalside development which is active for users of the canal in addition to users of the waterside development and in accordance with policies ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy and the Adopted Walsall Waterfront SPD.

C12a) As part of the Reserved Matters submission details of a waste storage, collection and litter management plan for the site shall be submitted to and agreed in writing by the Local Planning Authority

C12b) The proposals shall be fully implemented in accordance with the agreed details and retained thereafter.

Reason: To prevent pollution of the waterway and ground water from wind blow, seepage or spillage of waste products and materials in accordance with policies ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy and the Adopted Walsall Waterfront SPD.

C13a) As part of the Reserved Matters submission a management plan showing how the landscape treatment will be established and managed is submitted to the Local Planning Authority and approved in writing. The management plan shall be carried out to an accepted methodology and detail:

- i) How the ecological planting will be established and managed thereafter.
- ii) Management operations to be carried out with proposed dates.
- iii) Monitoring and review to ensure the ecological enhancement of the site/ canal frontage develops in accordance with the approved landscape details.
- iv) Green and brown roof detail and management
- v) Bird and bat boxes position

C13b) The management of the landscaping shall be fully carried out in accordance with the approved management plan.

Reason: To ensure satisfactory development of the application site and to enhance the appearance of the area and to ensure that the proposed development contributes to the preservation and enhancement of the local character, distinctiveness and ecological value of the waterway corridor.

C14a) As part of the Reserved Matters the submitted Travel Plan Framework shall be updated in consultation with this Council's highways officers and the Public Transport Authority (PTA) and include a mechanism for delivery of the Travel Plan.

C14b) The Travel Plan submission will identify a package of measures consistent with the aim of reducing reliance on the car, and should include (but not be limited to) providing information on / promoting the use of alternative modes of transport, by:-

- i) The appointment of a travel plan co-ordinator,
- ii) The establishment of targets for modal shift,
- iii) The details of measures to be employed to achieve the identified targets,
- iv) Mechanisms for ongoing monitoring and review of targets and travel plan measures,
- v) Details of penalties and/or additional measures to be investigated / implemented in the event that the identified targets are not met.
- vi) Public transport information and ticket details;

- vii) Cycle provision, showers and lockers and associated infrastructure for staff; and
- viii) Walking initiatives.
- ix) Improving overall links to the main public transport infrastructure of and the primary retail core.

C14c) Prior to the first occupation of each building the approved measures shall be developed into a formal Travel Plan and agreed in writing by the Local Planning Authority, including binding methods of delivery, review, and monitoring of the measures in the Travel Plan (including the requirements of this condition).

C14d) The approved Travel Plan shall be fully implemented during the six months following the first occupation of the premises. Following the expiry of this period of time, a review of the Plan shall be carried out, and submitted to the Local Planning Authority for approval. The review will identify any refinements and clarifications deemed necessary to the Plan.

C14e) The occupation and use of the development shall comply with the requirements of the revised plan approved under part (d) of this condition, at all times,.

Reason: To ensure the satisfactory functioning of the development, to promote the use of a range of modes of transport, and minimise the use of the car.

C15a) As part of the Reserved Matters details shall be submitted to the Local Planning Authority setting out where the location of parking for site operatives and visitors has been provided within the application site.

C15b) The approved details shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during construction of the development.

Reason: To prevent indiscriminate parking in the interest of highway safety.

C16a) As part of the Reserved Matters details of security oriented design measures and physical security measures for all buildings and public spaces shall be submitted to and approved in writing by the Local Planning Authority.

C16b) The approved measures shall be fully implemented concurrently with the relevant element of the development, and thereafter retained.

Reason: To ensure the safety of the occupiers and users of the development.

C17a) prior to occupation details (including location and external appearance) of all plant, machinery, equipment and facilities used for the purpose, *inter alia*, of heating, extract-ventilation, and/or air conditioning, refrigeration, chilling, provision of compressed air, provision of electricity, waste disposal shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:

- i) Mitigation to ensure that the proposed systems and methods are designed and operated to ensure that noise emissions, either individually or cumulatively, do not give rise to a complaint likelihood assessment exceeding “marginal significance” at nearby residential premises as determined in accordance with British Standard BS 4142: 1997 ‘*Method for Rating industrial noise affecting mixed residential and industrial areas*’.

ii) Mitigation to ensure that the proposed systems and methods do not give rise, either individually or cumulatively, to a Noise Rating Exceeding NR 35 1m from the window of any occupied residential premises during the hours 19.00 to 07.00.

iii) Flues serving commercial hot food cooking points

iv) Cleaning and maintenance regimes for odour extraction and abatement systems shall be agreed in writing prior to the systems coming into use.

v) External appearance and appropriate design features to visually disguise plant and machinery.

C17b) Agreed details shall be fully implemented prior to the first use and retained thereafter.

Reason: To ensure satisfactory appearance of proposed plant and machinery and to ensure that it does not result in the loss of amenity to nearby residents by virtue of odours, smells and noise.

C18. The development, the subject of the Reserved Matters submission shall meet the equivalent of the 2005 Building Research Establishment Environmental Assessment Method 'very good' standard, as a minimum.

Reason: In order to comply with guidance within saved policy ENV40 of Walsall's Unitary Development Plan, ENV3, ENV5 and ENV7 of the Black Country Core Strategy and the National Planning Policy Framework in terms of sustainable development and use of natural resources towards lower-carbon technology.

C19a) A system to control grease, oil and fat discharges to drainage/sewerage systems shall be agreed in writing with the Local Planning Authority

C19b) The approved details shall be fully implemented prior to the first use of the development and retained thereafter.

Reason: To prevent inappropriate discharges into the drainage system

NOTE FOR APPLICANT:

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

B) Canal & River Trust offer no right of support to the adjacent property. The land owner should take appropriate steps to ensure that their works do not adversely affect the canal infrastructure at this location.

C) The proposed development indicates the provision of a bridge crossing and soft planting within the canal. The applicant/developer is advised that Canal & River Trust' consent is required for these. Please contact the Canal & River Trust Estates Team on 01827 252034 for further advice.

D) The proposed development indicates that surface water may be discharged to the canal. The applicant/developer is advised that Canal & River Trust' consent is required for such a discharge. Please contact the Canal & River Trust Utilities Team on 01926 626108 for further advice.

Mud on Highway

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.

No Drainage to Discharge to Highway

Drainage arrangements shall be provided to ensure that surface water from the compound does not discharge onto the public highway. No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Contaminated Land

CL1) 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.

CL2) 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.

Crime Prevention and Reduction

The Crime Prevention Design Advisor / Crime Reduction Officer strongly recommend that the car park meets Safer Parking 'Park Mark' standards. This would greatly reduce the possible impact of crime this development could have on the area. Park Mark is similar to Secure By Design but for car parks and has proven to be very effective in creating safe car parking environments. Information can be found at <http://www.britishparking.co.uk/Guidelines-and-resources>



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/11/2014

Plans list item no: 3.

Reason for bringing to committee: Major Application

Application Number: 14/1360/FL
Application Type: Full application

Case Officer: Stuart Crossen
Telephone Number: 01922 652608
Email: planningservices@walsall.gov.uk
Agent: David L Walker Ltd

Applicant: Hope Construction Materials

Proposal: Variation of condition 13 of planning permission 13/0960/FL for the material changes to ready mixed concrete plant and erection of conveyor.

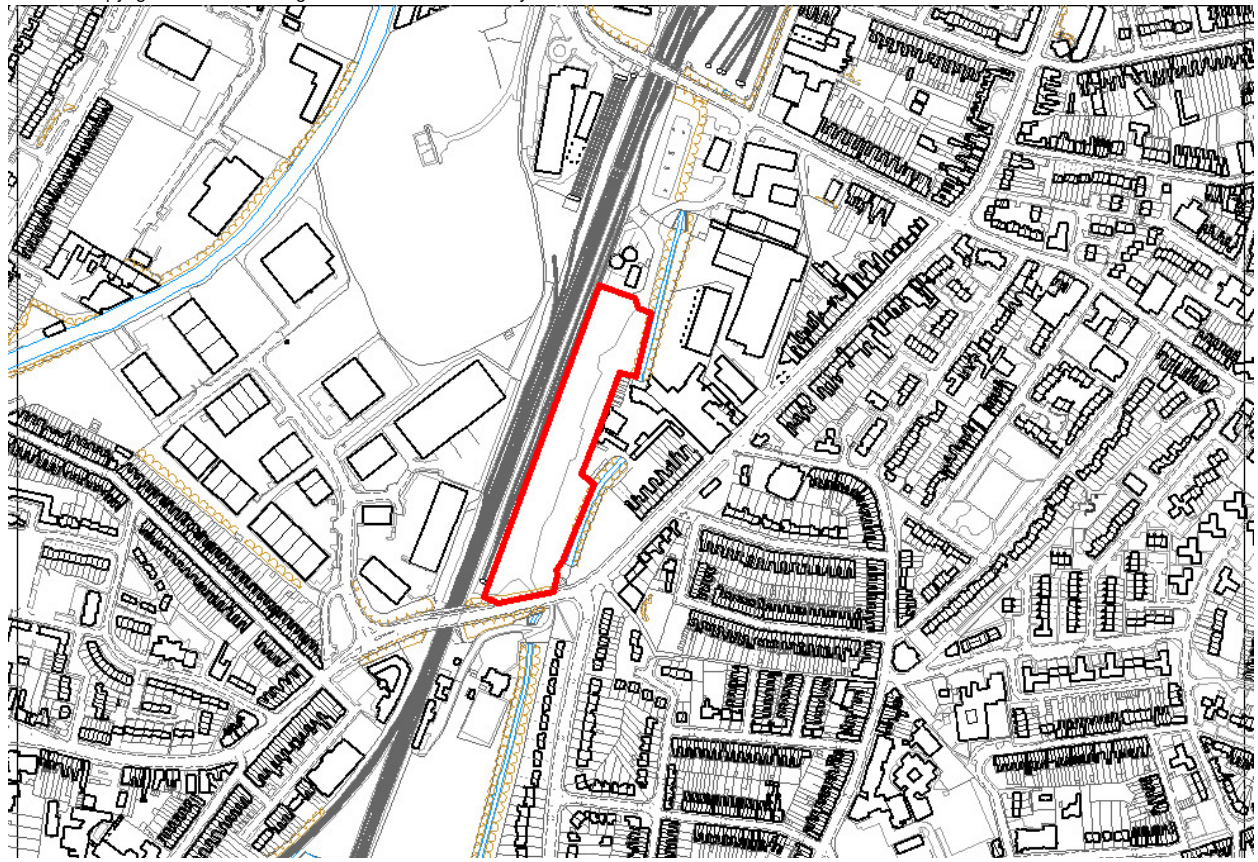
Location: Midland Yard, Fairground Way, Walsall, WS1 4NU

Ward: Palfrey

Expired Date: 24/12/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The application site is the former sidings and yard space (including the Midland Yard) which was created initially as a maintenance depot for locomotives, a use which continued on site through until the 1960s. After this time the maintenance element was removed concurrently with the final movements of steam locomotion and the site reverted to becoming a goods yard.

The site currently includes open yard space with immediate access to a dedicated 350 m long rail siding, which forms the north western perimeter of the application site. The northern perimeter of the site is occupied by an existing cement depot, operated by the applicant company. The southern perimeter of the site fronts Wednesbury Road.

The eastern perimeter of the site is defined by a large bund which has become heavily vegetated over time. The bund varies in height from 1-3 metres, and in other places is not present. Beyond the bund is the Ford Brook, which is a drainage feature for the Borough.

The access at Fairground Way is a well-established single track road already used by a number of industrial land users.

The previous planning permission proposed the erection and operation of a ready mixed concrete plant (with ancillary facilities) together with the use of an established rail siding for the importation (by train) of construction materials and their subsequent storage and distribution by road to a network of ready mixed concrete plant already operated by the applicant.

The site layout included three key design areas in addition to general design considerations such as surfacing and boundary treatment, these being:

- the proposed rail head stocking facilities situated at the southern end of the application site;
- the proposed ready mixed concrete plant situated in the northern end of the application site; and
- the proposed offices and weighbridge facilities situated centrally within the site.

Railhead Stocking Facilities

The railhead stocking facilities will include a series of stocking bays, 60 m long and 20 m deep with 2.4 m high concrete retaining walls.

Section 73: Ready Mixed Concrete Plant – Proposed change from previous planning permission.

This section 73 relates only to the ready mixed concrete plant. The design is different and would be 2.7 metres lower in height. The full extent of the ready mixed concrete plant would have previously occupied a floor space of approximately 480 square metres, this proposed design would occupy less than 480 square metres of floor space. The agent has confirmed that the design significantly reduces the risk of generating dust emissions.

Site Offices and Weighbridge

The site offices will be a single storey portakabin-style building (3.6 m by 12m by 2.4 m) sitting on concrete plinths at each corner of the building. The plinths will be 1.2 m high. The weighbridge will be managed from the site offices and will be a 14.6 m long one-way weighbridge with access ramps at either end.

The approved application was supported by a statement outlining the following:

Highway impact - In respect of HGV routing, unless delivering locally in Walsall, traffic will be instructed to use Corporation Street West to the west of Fairground Way, and use Rollingmill Street to access the A4148 Pleck Road to access the strategic road network. In addition, the HGV

traffic movements will be using an established HGV route which provides access to surrounding industrial units. Therefore, the HGV movements generated by the development proposals will not change the exiting composition of traffic on the local road network.

Noise- The normal night-time operations exceed the 42dB_LAeq, 1hr criteria, however as the noise climate in the vicinity of the application site is dominated by existing industrial land uses, road traffic and the normal operations of the main line railway, this level is already exceeded. In such circumstances, the appropriate assessment methodology is to adopt the LA90 +10 levels up to a maximum of 55dB_LAeq, 1hr as a suitable limit for the night-time operations. The noise predications confirm that the proposed development is within this level. In summary, it is anticipated that the operations could be undertaken with minimal impact on surrounding amenity.

Air quality assessment (including dust) - In undertaking the assessment the following activities were carried out:

- visits to view the existing operation;
- walkovers of the surrounding area to view the site setting;
- review of windspeed and direction data;
- review of standards and controls;
- evaluation of the potential dust impact; and
- recommendations for mitigation.

The report finds that significant impacts due to dust are unlikely to occur on these on residents nearby as a result of the proposed scheme, with additional mitigation measures being implemented to ensure that even under adverse conditions, dust emissions are adequately controlled. The effects of wind blow across the aggregates stored at the railhead and ready mixed concrete plant will be minimised by maintaining the level of the stockpiles below the tops of the storage bays. In dry windy conditions, the surfaces of the stockpiles will be kept damp by spraying with water.

Flood risk assessment - The application site is primarily located within Flood Zone 2, with some element of flood risk amounting to a 0.1% probability. Taking into account the site location based on the Environment Agency's functional floodplain map, it is considered that there is a risk of flooding occurring at the site. However, a sequential approach has been used on the site design based on resilience measures to minimise any impacts.

Planning policy – The statement concluded and considered national and local planning policy in relation to economic development and concludes that there is broad support for the proposed development within the policy framework.

Visual effects - In respect of landscaping, the site will comprise a combination of areas with hardstanding and areas of bare ground. The statement highlights that the site is located in a predominantly industrial setting, although some residential land uses and a school are located to the east. The vegetated bund which currently exists along the eastern perimeter will be therefore partially retained and re-profiled in this location in the interests of residential and public amenity.

Relevant Planning History

In 2000 planning consent for the erection and operation of two cement silos, which remain in place and are located immediately north of the application site; this use is ongoing with cement imported by trains and distributed by HGV.

13/0960/FL - Erection and operation of a ready mixed concrete plant (with ancillary facilities) for the manufacture and distribution of ready mixed concrete and continued use of railway siding for the importation, storage and distribution of construction materials. GSC 22/11/13

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

National Planning Policy Framework (NPPF)

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

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Reuse land that has been previously developed

Key provisions of the NPPF relevant in this case:

Paragraphs 18-21 encourage Planning Authorities to support and put significant weight on economic growth and to proactively to meet the development needs of business whilst protecting strategically important economic areas from encroachment.

Paragraph 103 – seeks to ensure that development is located in appropriate areas at low risk of flooding and does not exacerbate the risk of flooding.

Paragraph 123 seeks to ensure that development mitigates against pollution, including noise.

On planning conditions the NPPF says:

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

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS)

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*".

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices,

including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.

The above are supported by the following policies which have superseded UDP Waste Management Policies:

CSP3 – Seeks to improve environmental infrastructure

EMP1-4 – Seeks to secure, safeguard and provide appropriate levels of employment land to aid sustainable economic growth

DEL1 – seeks to ensure that all new developments are supported by an adequate level of infrastructure and mitigate any adverse impacts.

TRAN1 – all developments should provide adequate access for all modes of transport.

TRAN2 – seeks to ensure that developments are safe and accessible.

TRAN3 – promotes the use of new freight railways and railway sidings for economic use and activity

TRAN5 Sets out the requirement for development to focus on moving away from the reliance on the private car.

ENV1 - Adequate information must be submitted with planning applications for proposals which may affect any designated site or any important habitat, species or geological feature to ensure that the likely impacts of the proposal can be fully assessed. Without this there will be a presumption against granting permission.

ENV3 sets out the criteria for design quality

ENV4 development must enhance the canal corridor.

ENV5 seeks to ensure that new developments mitigate against flood risk and promote sustainable drainage

ENV8 seeks to ensure that developments adequately deal with air quality and air borne pollution

MIN1 sets out the strategy for the future management of mineral resources

MIN2 highlights the safeguarding of mineral related infrastructure which includes storage, handling, and processing facilities

MIN5 sets detailed criteria for the consideration of mineral related infrastructure including the economic benefits, environmental impact, compatibility with neighbouring uses, traffic impact and use of rail and alternative modes of transport.

Saved Policies of Walsall Unitary Development Plan March 2005

GP2 expects development to make a positive contribution to the environment and considers (II) the susceptibility to pollution of any kind as an adverse impact which would not be permitted, and VII. Adequacy of access will be taken into account.

ENV10 states that development which may give rise to pollution such as noise and smell will only be permitted where it would not have an adverse effect on adjoining uses/potential uses.

ENV32 states that poorly designed proposals which fail to take account of the context or surroundings will not be permitted.

JP1 – designates land allocated for employment uses.

JP7 – seeks to protect land in employment use unless exceptional circumstances are demonstrated.

T7 and T13 seeks to ensure that car parking and servicing is well laid out and car parking is provided for at an appropriate level.

Supplementary Planning Documents (SPD)

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

Designing Walsall SPD

Aims to achieve high quality development that reflects the Borough's local distinctiveness and character, through key design principles

Natural Environment SPD

Policies NE1, NE2, NE3, NE4, NE5, NE8, NE9 & NE10 deal with the need to fully assess protected species, assess, protect and secure compensatory planting for trees. Protection is proposed for protected animals, plants etc.

Consultations

Transportation – No objection

Pollution Control

Contaminated Land Team – No objection

Scientific Team – No objection

Environment Agency – No objection.

Coal Authority – No objection

Network Rail – Support the proposals and suggests additional conditions.

Fire Service – No objection

Representations

Acorn Packing Supplies Ltd an adjoining business has raised concerns about parking restrictions on Fairground Way not being respected by tankers using the application site and would like planning committee to be made aware of the issue. (Existing parking issues outside of the application site are not material considerations of this section 73 which deals with a reduction in size of a previously approved concrete plant)

Delkin Devices have raised the following objections:

Noise and disturbance resulting from use.

Smells

Pollution

Hazardous materials/ground contamination

(The above objections were considered in the previous approved application and the section 73 changes raise no new concerns on these matters)

Determining Issues

- Proposed height and scale of buildings
- Conditions updated

The following determining issues were considered at the time of the previous application and the proposed changes would not impact on any previous considerations:

- Principle of the Development
- Relationship to residential properties on Wednesbury Road
- Flooding and Drainage
- Car parking and servicing

Observations

Proposed height and scale of the proposed buildings

The proposed changes would be at the northern part of the site.

The proposed silos, mix plant and offices being positioned close to the existing silos at the northern end of the site with the stocking bays at the southern end of the site. The amended proposed mix plant would be considered against the existing silo structures. At 13m in height the proposals are lower than previously approved and they are approximately 115m from the boundary with Wednesbury Road properties with an existing bund that will be improved as part of the proposal. It is also noted that the proposed silos are thinner and smaller in size than the existing silos. It is considered, that the proposed mix plant would not result in structures that would be inappropriate in scale or mass to their location.

As such, having considered the impacts of the proposals in terms of the scale and mass of the proposals it is considered in this instance that the proposals would be of an appropriate scale and mass for the context of its surroundings.

Conditions updated

Section 73 gives the local planning authority power to grant permission subject to different conditions to those attached to the previous permission. If granted, the conditions attached to planning permission 13/0960/FL will be repeated as part of this permission unless already discharged. The order shall be amended for clarity at the same time without changing the principle of the original condition.

Positive and Proactive working with the applicant

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

Recommendation: Grant Permission Subject to Conditions

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

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

2. The development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority

- Within the Written Statement and associated plans (not including plan 1 location plan, plan 2 proposed site layout and plan 5 proposed elevations of ready mixed concrete plant) and assessments prepared by David Walker Limited (dated June 2013)
- Supplemental material on noise (reference: R13.7738/5/JG, dated 31st October 2013)
- Flooding (reference: SAS_50369703_1_1, dated 25th October 2013) and the following amended plans:
 - Amended Location Plan (Plan 1) received 24/09/14
 - Proposed Site Layout (Plan 3 rev B) received 17/09/14
 - Proposed Elevations of Ready Mixed Concrete Plant (Plan 5a) received 17/09/14

Reason: In order to define the permission.

3. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA), ref: W47FRA, dated June 2013 and the following mitigation measures detailed below:

- Limiting the rate of surface water run-off generated by the site to discharge at no more than the existing Greenfield rate as detailed in the FRA.
- Provision of attenuation storage volume on the site to retain the 100-year 20% flow event volume assuming the discharge rate given above as detailed.
- Details of how the entire surface water scheme shall be maintained and managed after completion.
- Detailed assessment, including full calculations, of the performance of the surface water system for the 30-year and 100-year 20% climate change cases.
- There must be no new buildings, structures (including gates, walls and fences) or raised ground levels within 8 metres of the top of any bank of the Ford Brook.
- A suitable Flood Emergency and Evacuation Plan should be implemented to the satisfaction of the Local Planning Authority & Emergency Planners.
- On site storage should be designed to prevent the movement of stored materials off site in a flood event.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site; maintain access to the watercourse for maintenance or improvements and provide for overland flood flows; reduce the impact of flooding on the proposed development and future occupants; and reduce the risk of flooding to the proposed development and future occupants

4a) Prior to the commencement of development a schedule of proposed cladding and finished materials shall be submitted to and agreed in writing by the Local Planning Authority.

4b) The development will be carried out in accordance with the submitted details and retained thereafter.

Reason: To ensure satisfactory appearance of the application site and to ensure appropriate reduce dust suppression.

5a) Prior to the commencement of the use details of the following dust suppression measures shall be submitted to and agreed in writing by the Local Planning Authority:

- Vehicle Movements:
 - Water dampening of dust and wheel-washing
 - Speed controls within the application site
 - Details of when lorries to be sheeted.
- Material handling

- Water dampening of dust
- Measures implemented to reduce drop heights
- Measures implemented to reduce handling and processing of material

iii) Access Road

- Road sweeper cleaning strategy
- Speed controls on the access road
- Details of when lorries will be sheeted
- Maintenance strategy for non-adopted roads.

5b) The agreed details shall be fully implemented and retained thereafter.

Reason: To ensure dust does not affect the amenities of nearby residents.

7a). Prior to the installation of external lighting details of a scheme for external lighting have been submitted to and approved by the Local Planning Authority.

7b) The lights shall be installed and thereafter retained in accordance with the approved details.

Reason: To manage the impact of light pollution.

8. No development approved by this planning permission shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- A preliminary risk assessment which has identified: all previous uses potential contaminants associated with those uses a conceptual model of the site indicating sources, pathways and receptors potentially unacceptable risks arising from contamination at the site.
- A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- The results of the site investigation and detailed risk assessment referred to in (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The scheme shall be implemented as approved.

Reason: To ensure that the proposed development does not cause pollution of controlled waters (i.e. Secondary A aquifer and surface watercourse) in the area.

9. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To ensure protection of controlled waters receptors.

10. No infiltration of surface water drainage into the ground beneath the site is permitted, to ensure there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: To prevent pollution of controlled waters receptors.

11a). Prior to the commencement of development details of enhancement to the landscape bund and to the southern boundary with Wednesbury Road shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be submitted on a plan to an appropriate scale and shall include, where applicable, details of:

- i) existing and proposed ground levels
- ii) site preparation
- iii) plant species/densities; tree species/sizes and locations

11b) The approved scheme shall be fully implemented in accordance with the submitted details.

Reason: To ensure the satisfactory appearance of the development.

12. At no time shall the height of materials stored externally within the stockpiles exceed 5m in height.

Reason: To ensure that the proposals do not cause dust to be blown off the site and to ensure that the visual impact of the stockpiles does not impact on nearby residents.

13. The site operational hours, including deliveries and dispatches shall be between

- 0700 to 1900 Monday to Friday; and
- 0700 to 1400 on Saturdays.
- The site shall not operate on Sundays, Bank and Public Holidays.

Reason: To safeguard the amenities of nearby residents.

NOTES FOR APPLICANT:

S278 Works

No work on the public highway should commence until any engineering detail of improvements to the public highway have been approved by the Highway Authority, and an agreement under S278 of the Highways Act 1980 entered into. Any agreement for street lighting should be agreed in writing with Walsall Metropolitan Borough Council's Street lighting partner Amey.

Mud on Highway

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.

Drainage

No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

A) Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures either affecting or within 8 metres of the Ford Brook, designated Main River.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/11/2014

Plans list item no: 4.

Reason for bringing to committee: Major application

Application Number: 14/0995/FL
Application Type: Full application

Case Officer: Alison Ives
Telephone Number: 01922 652604
Email: planningservices@walsall.gov.uk
Agent: Gould Singleton Architects

Applicant: Nationwide Ltd

Proposal: Demolition of existing unit. Change of use from timber pallet and case manufacturers to form an extension to the existing Logistics Facility, and provision of 7 new car parking spaces and 12 lorry/trailer spaces and erection of a new vehicular canopy. (Affects public right of way Willenhall 50).

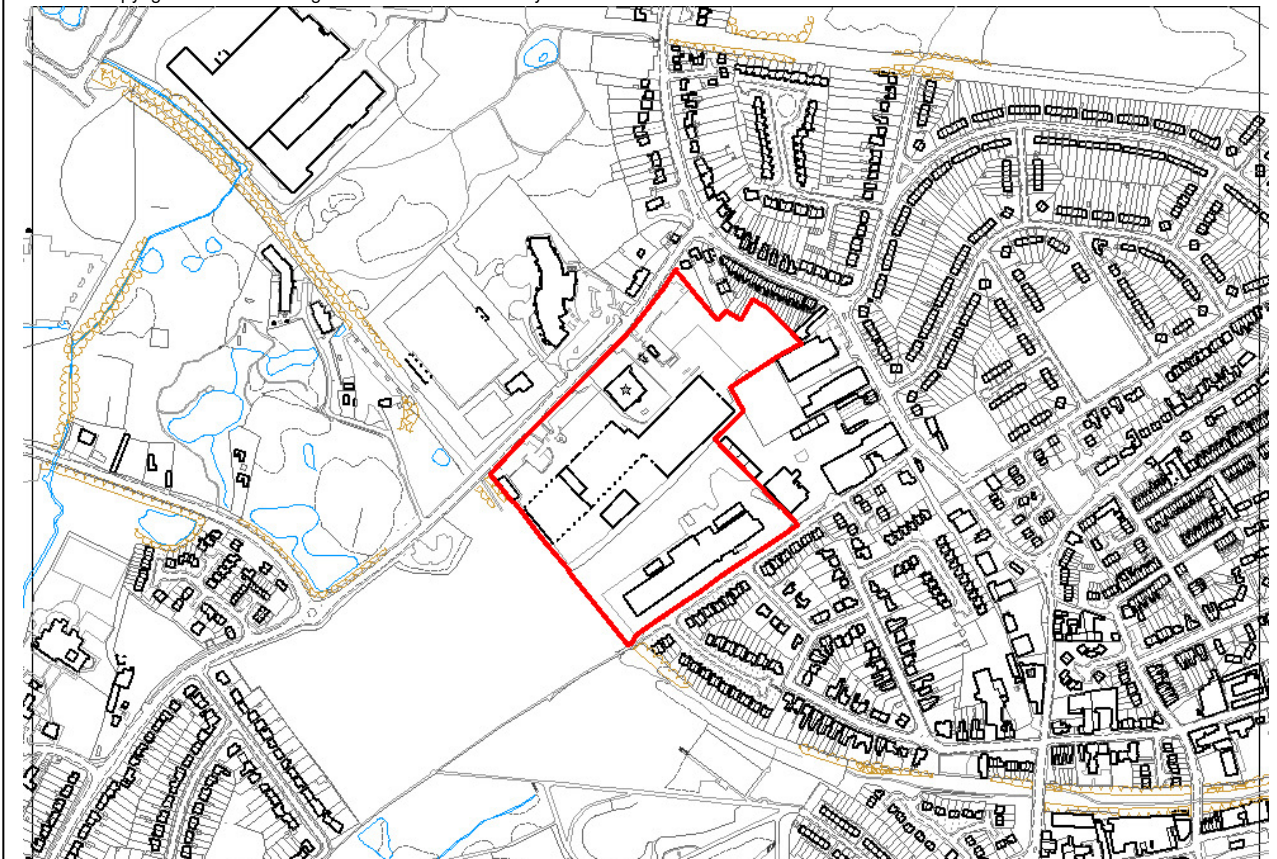
Location: ASPRAYS TRANSPORT LTD AND ADJACENT INDUSTRIAL PREMISES (E HAMMOND), NOOSE LANE, WILLENHALL, WALSALL, WV13 3AZ

Ward: Willenhall North

Expired Date: 28/11/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The proposal is for demolition of E Hammond premises currently a timber pallet and case manufacturer and incorporation into the Asprays Transport site. The E Hammond premises comprises of a large industrial building (constructed of corrugated panels) with parking at the front and storage yard at the rear. The premises are on the south side of Moose Lane and are surrounded by the Asprays Transport premises. Opposite the site on Moose Lane there is Fibbersley Park Primary School and a football ground and club premises. There are residential properties in Moose Lane and Wellington Place to the north and Park Road to the south that border this large site.

The proposal is for demolition of the E Hammond unit and erection of a canopy attached to Asprays existing warehouse building facing Moose Lane. The proposed canopy is a maximum 63m X 63m X 10m high. The proposed canopy is clad in colour coated composite panels in Asprays blue corporate colour with pressed metal flashings and trims in yellow. The canopy steelwork is gloss painted finish in yellow. The roof is colour coated profiled composite roof panels in grey.

Also proposed are 12 new lorry trailer parking spaces in front of the canopy along the Moose Lane frontage and 7 new car parking spaces as an extension to the existing car parking area. A new gatehouse linked with the existing gatehouse is proposed at the front of the site. The proposed new gatehouse and link building is 12.2m X 4.8m and is the same height as the existing gatehouse which is two storeys high approximately 9.4m. The ground floor of the gatehouse extension will be used for storage.

As the E Hammond premises are to be demolished the existing vehicular access will be extinguished and all vehicles will use the existing Asprays access. This will enable improved HGV vehicle circulation within the Asprays site. New fencing, boundary wall and railings with landscaping to match the boundary treatment on Asprays is proposed.

Asprays operate 24 hours a day. There are 300 employees presently.

The Design & Access Statement – Describes the site and surroundings, the strategic advantages of locating at this site and how it will secure retention of Asprays and the employment opportunities in the area. It advises that the Aspray 24 central hub in Willenhall has benefited from consistent growth increasing staff by 85 employees in 2012 and a further 115 employees in 2013. The E Hammond site is key to future growth at Asprays and if unsuccessful Asprays would have to consider moving elsewhere.

The Desk Study & Initial Site Assessment – Identifies a moderate risk of the site being impacted by near surface soil contamination associated with the historic use of the site. There is a low to moderate potential of the site being impacted by ground gases due to the presence of shallow coal seams and coal workings and possibly biodegradable made ground – a ground gas monitoring programme is recommended. It recommends stabilising, grouting and capping the mine shaft within the site and designing appropriate foundations for the canopy.

The Noise Impact Assessment – Identifies that the proposals facilitates relocation of some of the existing operations currently undertaken on the Asprays site. The proposal includes a larger canopy area which will be used by forklift trucks loading the HGV's. There will also be easier HGV movements. The noise assessment considers the maximum change in noise levels from the nearest noise sensitive receptors. The worst case scenario impact was "minor" and "barely perceptible" in accordance with guidelines over all time periods for weekdays and weekends. In the circumstances further mitigation measures are not required.

Relevant Planning History

BC49326P – Extension to storage and distribution building – GSC 29/09/97.

02/0808/FL/W3 – Demolition of existing gable wall and erection of new gable and extension to existing building – GSC 25/06/02.

03/1104/FL/W3 – Extensions and alterations to Asprays Depot including new warehouse units and relocation of factory – GSC 17/10/03. There are conditions imposed on this permission that restrict working hours and operations on the site to protect neighbours amenities.

04/0305/FL/W3 – Extension to existing distribution warehouse and ancillary facilities and two new warehouses with associated offices – GSC 19/03/04.

There are also applications for display of advertisements at the premises (flagpoles and signs) approved in 2004.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- Support sustainable development
- Promoting sustainable transport

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 103 when determining planning applications local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a Flood Risk Assessment.

Paragraph 110 aims to minimise pollution and other adverse effects on the local and natural environment.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 121 Development sites should be suitable for new uses taking account of ground conditions and land instability, including from natural hazards or former activities such as mining and pollution.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

On **planning conditions** the NPPF says:

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

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

- 1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.
- 2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.
- 3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

- 3. Model sustainable communities on redundant employment land in the Regeneration Corridors that make the best use of existing opportunities and are well integrated with surrounding areas.
 - 6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.
 - 9. Sufficient waste recycling and waste management facilities in locations which are the most accessible and have the least environmental impact.
 - 10. Safeguard and make the most sustainable use of the Black Country's mineral resources including primary, secondary and recycled materials without compromising environmental quality.
- The above are supported by the following policies:

CSP2: Outside strategic centres and regeneration corridors free-standing employment sites to provide local employment opportunities to serve communities outside the corridors will be supported.

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

EMP1: Aims to provide industrial land and warehouse jobs in the Black Country and to protect jobs and support economic growth.

EMP2: Encourages development of high quality employment land and safeguards it for B1(b), B1(c), B2 & B8 purposes.

EMP3: Provides for local quality employment land.

EMP5: Seeks to improve access to the labour market by securing recruitment and training.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV5: Seeks to minimise the probability and consequences of flood risk.

Walsall's Unitary Development Plan (UDP)

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: Encourages reclamation and development of derelict and previously developed land where possible in accordance with other policies. Where previous uses have affected the stability of the site the application must be accompanied by a site investigation report.

ENV32: Proposals should take in to account the surrounding context including consideration of the effect on the local character of the area, vehicular and pedestrian patterns and visual relationship to surrounding areas.

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

JP7: When windfall sites come forward for redevelopment these will be safeguarded for appropriate employment uses unless there are exceptional circumstances where it may be more appropriate to consider other uses.

JP8: Bad neighbour industries will be given careful consideration and should be capable of providing satisfactory screening and landscaping and must be subject to stringent operational control to minimise disturbance.

T1: All development should conform to the accessibility standards set out in policies T10-T13.

T4: Classifies the highway network and specifies that residential streets and minor roads are those where traffic volumes and speeds should be quite low. Sometimes traffic calming measures will be required.

T5: Seeks to implement selective improvements to highway infrastructure and states highway improvement schemes should be designed to minimise any adverse impact on the environment or the amenity of residents.

T7: All development should satisfy the car parking standards set out in Policy T13.

T8: Seeks to improve pedestrian access.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

Class B8 (Warehousing & Distribution) – 1 car park space per 50m² of gross floor space up to 2500m²; then 1 space per 100m² up to 25000m²; then 1 space for every 500m² of gross floor space, 1 bike locker for every 10 car parking spaces plus Taxi facilities.

Supplementary Planning Documents (SPD)

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

Designing Walsall SPD

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

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

Consultations

Transportation – No objections subject to securing details of access and parking for which conditions are recommended. The proposal removed an awkward access onto the current E Hammond premises thereby removing vehicle conflicts at the access. They also improve the internal access arrangements of the Asprays site.

Pollution Control (Scientific Team) – No comments received.

Pollution Control (Contaminated Land) – No objections. The site has been utilised for mining of coal and lignite, clay brick and tile manufacture and timber works that may have resulted in localised ground contamination that may present Health & Safety implications for persons undertaking ground works. A note for applicant regarding the same is recommended.

Fire Service – No objections.

Local Access Forum (Walsall Ramblers) – No objections as the proposals are unlikely to impact on the footpath in Noose Lane or public right of way WILL 50 (Noose Lane to Park Road).

Severn Trent Water – No objections subject to provision of drainage details. A condition is recommended.

Public Participation Response

One letter has been received from the owner of the Hammond Case & Pallet Limited premises which is summarised as follows:

- No deal for the sale of the premises has been agreed
- Suitable alternative premises are required for relocation of the business
- A suitable price for the sale of the premises is required
- If no suitable alternative premises are available E Hammond will continue trading from the Noose Lane site
- E Hammond business has been operating in Willenhall since 1906

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

Determining Issues

- Principle of development
- Layout and Design
- Relationship to surrounding properties
- Means of access and parking

Observations

Principle of Development

The premises are located in an existing employment area where there are established industrial uses adjacent. In accordance with policies EMP2 and EMP3 of the BCCS and JP7 of the UDP these types of sites are safeguarded for employment uses including classes B1, B2 and B8. The proposal is for a Class B2 general industrial use with ancillary offices and staff facilities. This accords with the policy to protect employment land.

The land owner's objections relating to the private land deal for sale of the premises to Asprays is a private matter and is not a material planning consideration. It is noted that the E Hammond premises have been operating since 1906 and support would be given to the relocation of this business at suitable alternative premises.

For these reasons the proposals are considered in accordance with BCCS policy EMP2, EMP3 and UDP policy JP7.

Layout and Design

The proposed layout replaces the existing E Hammond premises with a new canopy beneath which loading of HGV's will take place. The new canopy, although large, is in keeping with the scale and design of the surrounding Asprays premises. The loading of HGV's takes place elsewhere on site and the proposal allows the relocation of these operations to the new part of the site.

The proposals seeks to provide efficiencies on the Asprays site by providing a new loading area and improving circulation for HGV's which currently have to negotiate a narrow access behind the E Hammond premises and there is visible evidence that vehicles have struck the buildings. The new circulation for HGV's is supported.

The new gatehouse extension matches the design of the existing gatehouse and is acceptable.

The layout and design of the proposal are acceptable.

Relationship to surrounding properties

The proposals are focused on the Noose Lane frontage opposite the school and football club. Although there are residential premises that border the larger site the activities resulting from the proposals are focused on the Noose Lane frontage. There is existing acoustic fencing on the boundary with Noose Lane and Wellington Place properties which is to remain and the proposals are over 90m away from this boundary. The existing housing on the opposite side of Noose Lane is 50m away from the front of the site.

The noise impact assessment identifies that the worst case scenario impact was “minor” and “barely perceptible” over all time periods for weekdays and weekends. In the circumstances the proposals will not have significantly greater impacts on nearby neighbouring properties and any further mitigation measures are not required.

It is recommended that operations at the site are restricted with safeguarding conditions as on the earlier permission in order to protect the amenities of surrounding occupiers from any significant adverse impact from noise and disturbance.

Means of access and parking

The proposal results in closure of E Hammond access utilising the existing Asprays access for all vehicles. This removes an awkward access and removes vehicle conflicts at the access.

The internal access arrangements on the Asprays site will also be improved by removing the need for HGV's to manoeuvre around the narrow access at the rear of the E Hammond premises with improved access at the front of the site.

The additional parking for staff and HGV's is acceptable.

The means of access and proposed parking is acceptable as it offers improvements in terms of circulation and access for HGV's.

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant and their agent and discussed the process for determining this application. In response to this advice relevant amended plans and supporting information has been submitted. In light of the submitted details officers are able to support the scheme.

Recommendation: Grant Permission Subject to Conditions

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

Reason; Pursuant to the requirements of Section 92 of the Town and Country Planning Act, 1990.

2a. Prior to the commencement of the development drainage plans for the disposal of both surface water and foul sewage shall be submitted to and approved in writing by the Local Planning Authority.

2b. The development shall be completed fully in accordance with the approved details 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.

3a. Within two months of the date of this permission a revised layout plan shall be submitted to and approved by the Local Planning Authority showing the provision of a 2 metre wide tactile pedestrian refuge facility midway across the proposed modified eastern-most access point, including the realignment of the existing tactile crossings either side of the access if necessary.

3b. The modified access point with pedestrian refuge shall be fully implemented in accordance with the approved details prior to the development first coming into use.

Reason: The proposed development is likely to result in an intensification of HGV movements at the access on Noose Lane which is opposite a primary school where there are relatively high pedestrian movements and the width of the access point at 15m is excessively wide to expect pedestrians to negotiate in one movement. The provision of a suitably located pedestrian refuge is therefore required, in accordance with UDP Policy GP2 and in the interests of highway safety.

4a. Prior to the construction of the gatehouse and canopy extensions samples of all facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall be fully completed in accordance with the approved details and retained thereafter.

Reason: To ensure the satisfactory appearance of the development.

5a. Full details of all boundary treatment shall be submitted to and approved in writing by the local planning authority.

5b. The boundary treatment shall be fully implemented and maintained thereafter in accordance with the agreed details.

Reason: To protect the visual amenities of the area and maintain highway safety.

6a. Prior to the development first coming into use, all vehicle hard standing areas, parking and manoeuvring areas shown on the approved drawing no. 14-1409/01D, shall be fully consolidated, hard surfaced and drained and the HGV trailer and car parking spaces clearly demarcated on the ground.

6b. These areas shall thereafter be retained and used for no other purposes.

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

7a. Prior to the installation of any external lighting systems full details shall be submitted to and agreed in writing with the Local Planning Authority.

7b. Any agreed external lighting shall be implemented and maintained in accordance with the agreed details.

Reason: To protect the amenities of surrounding properties.

8. All goods vehicles shall be loaded or unloaded within warehouses or where this cannot be achieved, within the designated unloading canopy and loading docks area.

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

9. All doors and windows serving collection, delivery and dispatch areas shall remain closed other than when in use for ingress, egress or emergency purposes.

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

10. No materials, goods or refuse shall be stored or deposited in the open on any part of the site other than refuse in a refuse container which shall be positioned to avoid interference with car parking spaces and vehicle manoeuvring on the site.

Reason: To ensure the satisfactory functioning of the development.

11. No tannoy or radio or similar device shall be installed internal or external to any building or structure which is generally audible beyond the curtilage of the application site.

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

12. Vehicle horns shall not be sounded between the hours of 2300 to 0700 hours except for emergency purposes.

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

13. No fires shall be permitted on the site for the purpose of waste disposal.

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

14. 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 amenities of surrounding properties.

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

- Location Plan (14-14094 Rev A) received 29/10/14
- Full Depot Layout – New Canopy (14-1409/01D) received 05/08/14
- Proposed Elevations (14-1409/02A) received 04/07/14
- Gatehouse Plans & Elevations as existing (14-1409/04) received 04/07/14
- Design & Access Statement prepared by Gould Singleton (sjb040614.jp1) received 04/07/14
- Desk Study & Initial Site Assessment prepared by Spilman Associates (report number J14099/01) received 28/08/14
- Noise Impact Assessment prepared by WSP (project number 70006494) received 15/10/14

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).

Note for applicant – Contaminated Land

The area of this proposed development was formerly utilised for mining and quarrying, clay brick and tile manufacture and a timber works that may have resulted in localised ground contamination

that may present Health and Safety implications for persons 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.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/11/2014

Plans list item no: 5.

Reason for bringing to committee: Major application

Application Number: 14/0807/FL
Application Type: Full application

Case Officer: Alison Ives
Telephone Number: 01922 652604
Email: planningservices@walsall.gov.uk
Agent: Urban Hybrid

Applicant: Gora Developments

Proposal: Construction of 18 no new dwellings

Location: SITE OF FORMER DOLPHIN INN P.H., 210 GOSCOTE LANE, WALSALL, WS3 1PD

Ward: Blakenall

Expired Date: 28/11/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

The proposal is for construction of 18 new dwellings on the site of the former Dolphin Public House located at the junction of Goscote Lane and Slacky Lane. The public house was demolished following a fire in 2007. There are industrial units on the opposite side of the junction, Rivers House Children's Home at the rear and housing to the side and opposite on Goscote Lane. "The Lea" open space lies within the Green Belt diagonally opposite the site.

The proposal is for 4 x 2 bed and 14 x 3 bed two-storey terraced houses in two rows, plots 2-10 facing Goscote Lane (the proposals were amended to omit plot 1 and create a new access) and plots 11-19 face the enclosed courtyard between the two rows of housing. The row of houses on Goscote Lane is set back between 3.6 and 4.2m from Goscote Lane with plots 9/10 turning the corner onto Slacky Lane. The other row of houses is set between 19-22m behind plots 2-10 facing onto the courtyard with back gardens bordering the access to Rivers House.

A one way vehicle access is proposed entering from Goscote Lane and exiting onto Slacky Lane with gates proposed at both accesses. There is 1 car parking space per dwelling with most located within the rear garden of the dwelling they serve with the exception of plots 8-12 which are located in a row adjacent to the exit behind the security gates. The access gates are proposed as 2.2m high powder coated steel and key fob operated. A bin store is located at the rear of plots 7/8 and cycle parking at the rear of plot 19.

The design of the houses is two storeys high with some gable fronted properties. The elevations are part render part brick with some artificial stone cladding and slate coloured roof tiles. Windows and doors are proposed aluminium/timber composite in a grey colour.

The Design & Access Statement – Describes the site and its surroundings, the development proposals, access and safety, sustainability and planning policy.

The Environmental Noise Assessment – Discusses the potential impact of road traffic noise along Goscote Lane and Slacky Lane plus occasional aircraft noise and light industrial noise which is included in the measurement data. The site is in noise exposure category B on Slacky Lane and noise exposure category C on Goscote Lane. In such areas planning permission can be granted subject to conditions to achieve acceptable internal noise levels.

Relevant Planning History

09/0857FL – Redevelopment for 26 no. 2 and 3 bedroom flats – Granted Subject to Conditions 14/09/09

08/0595/FL – Redevelopment for 39 no. 2 and 3 bedroom apartments – Refused 30/06/08. Six reasons for refusal broadly relating to (1) poor layout (2) lack of a noise assessment (3) inadequate disabled access (4) lack of sustainability measures (5) communal amenity too distant detrimental to residential amenities (6) lack of provision for education, healthcare, public art, open space and affordable housing.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- Promoting sustainable transport
- Delivering a wide choice of high quality homes

- Requiring good design
- Conserving and enhancing the natural environment

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

On **planning conditions** the NPPF says:

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

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should

not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council’s Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

- 1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.
- 2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country’s natural and built environment.
- 3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include provision of a high quality environment.

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors will provide new homes in sustainable communities built on brownfield sites close to existing public transport routes.

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided.

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

CSP4: A high quality of design of the built and natural environment is required.

HOU1: Seeks to deliver at least 63,000 net new homes over the period 2006-2026.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness

HOU3: Will seek to secure 25% affordable housing on all sites of 15 dwellings or more.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

ENV5: Seeks to reduce the impact of flooding.

ENV7: All residential developments of 10 units or more gross (whether new build or conversion) must incorporate generation of energy from renewable sources sufficient to off-set at least 10% of the estimated residual energy demand of the development on completion.

Walsall's Unitary Development Plan (UDP)

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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

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

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

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

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

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

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

T1: Seeks to improve access and help people get around

T7 – Car Parking

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

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

Supplementary Planning Documents (SPD)

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

Designing Walsall SPD

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

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

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

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

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

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

Conserving Walsall's Natural Environment SPD

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

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

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

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

Supplementary Planning Document for Affordable Housing

Guides delivery of affordable housing to appropriate locations in the Borough and provides for balanced, mixed communities.

Supplementary Planning Document Urban Open Space

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.

Consultations

Transportation – No objections subject to securing details of layout, access, visibility and parking. The one-way access arrangement is acceptable as is the 100% parking provision. Conditions are recommended to secure the required details.

Pollution Control (Scientific Team) – The properties are likely to be affected by road traffic noise given their proximity to Goscote Lane and Slacky Lane. It is recommended that the structure of the proposed premises, including glazing and ventilation to habitable rooms that overlook Goscote Lane and Slacky Lane achieve a good level of sound reduction. An acoustic report has been submitted in support of the proposals. It is recommended that glazing should achieve sound reduction properties of Rw 38 dB and any ventilation to have Rw 38 dB in the open position and any agreed glazing and ventilation should be installed prior to occupancy. This can be secured by condition. A condition to restrict hours of working to protect existing residents is also recommended plus a construction working plan to control dust and drag-out from the site.

Pollution Control (Contaminated Land) – No objections in principle subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues associated with the site. Conditions to secure this are recommended.

District Valuation Officer – The total gross development value (GDV) is £2,409,500. Whilst the sales values supplied by the developer are broadly agreed a higher value for house type C has been adopted in the assessment. Allowing for a developers profit of 15% of the GDV this equates to a total sum of £361,425. Accordingly the proposed residential scheme is not viable taking into account the site value.

Fire Service – No objections subject to provision of a turning circle at the head of the access. Further comments on the amended plans are expected.

Housing Strategy – The property mix is acceptable. In accordance with policy HOU3 the proposal triggers the need for provision of 25% affordable housing. This equates to 5 units for this scheme (rounded up from 4.5 units). Due to the volume of affordable housing in the surrounding area, and included in future development plans, and that 5 affordable housing units would not be practical for a Registered Provider to manage given the current layout, an off-site contribution is sought rather than on-site. This would take the form of a commuted sum and would be approximately £30k per affordable home which equates to £135k.

Landscape – If recommended for approval landscaping should be secured by condition. The density of the scheme has a detrimental effect on the proposed landscaping. With only 1 car parking space per dwelling it is likely that additional vehicles will park over proposed landscaping. Some permanent boundary treatment to the open front boundaries on Goscote Lane is recommended and internal planting beds protected by a knee rail to prevent their misuse for parking.

Local Access Forum (Walsall Ramblers) – No rights of way are affected by the development. The nearest is WAL 27 – Slacky Lane to WAL 36 Station Road which runs along the nearby towpath and is unaffected.

Natural Environment (Ecology) – No objections.

Police – The site is in the Blakenall Neighbourhood Policing Team where there have been 1201 recorded crimes in the last 12 months. The area suffers a high proportion of violent crimes and anti-social behaviour. Slacky Lane is often used by offenders as an escape route from the area

making the site more vulnerable. It is recommended that the developer achieves Secure by Design standards.

Severn Trent Water – No objections subject to securing provision of adequate drainage. A condition is recommended.

Wildlife Trust for Birmingham & the Black Country – The site is close to the Goscote Wedge SLINC and Wyrley & Essington Canal. As part of any landscaping scheme native plant species should be used. Bat and bird boxes to benefit local wildlife species are also recommended.

Public Participation Response

None received.

Determining Issues

- Principle of residential development
- Layout and design
- Relationship to surrounding properties
- Means of Access and Parking
- Provision for affordable housing
- Provision for Urban Open Space
- Local Finance Considerations

Observations

Principle of residential development

Planning permission for the erection of 26 flats on the site was granted in September 2009 under application reference 09/0857/FL therefore the principle of new residential development on the site is established. Redevelopment for new housing on this previously developed site in a sustainable urban location is in accordance with the NPPF and BCCS and local development plan policies.

Layout and design

The proposed housing layout is designed to create a strong built frontage to Goscote Lane with secure parking and gardens at the rear within an enclosed courtyard. The position of the proposed houses on Goscote Lane is closer to the highway than existing dwellings but this is acceptable as there is still defensible space in front of the buildings. The design of the housing is modern two storey buildings and will not harm the character or appearance of the surrounding area.

There is a minimal separation distance of 19m between the rear of plots 2-10 and front of plots 11-19 but this will not have any significant impact on the outlook or privacy of future occupiers. There are very minimal sized rear gardens which are designed as shared spaces for parking and garden space. Whilst this does not achieve the 68m² of garden space recommended in council guidelines there is a useable space with a dual function to benefit future occupiers. There is also nearby access to open space at The Lea opposite the site.

The proposed dwellings on plots 13-19 have minimal rear gardens, the smallest just 3m long x 5m wide. As referred to above the space is useable and given the proximity to alternative open space this shortfall is considered acceptable.

Given the shortfall in distance separation between the proposed dwellings and restricted garden areas it is recommended that permitted development for extensions and alterations, additions to the roof and garden buildings is removed.

The landscape officer requests details of boundary treatment to protect landscaped areas given the limited parking available. A condition is recommended to secure these details.

Relationship to surrounding properties

The position of the dwelling on plot 2 does not have any significant impact on the outlook, privacy or daylight for the adjacent house 208 Goscote Lane given the separation distance. There is 15.6m between the front elevation of plot 19 and rear elevation of 208 Goscote Lane but the two properties are offset from each other so not directly overlooking.

There is 21m between the rear facing elevation of the proposed houses and Rivers House building. This is acceptable despite being a marginal shortfall on recommended separation distances given the intervening fencing. There are no main habitable room windows in Rivers House facing the proposed dwellings.

There are industrial units on Goscote Lane which are accessed on the opposite side of Slacky Lane. The main activities at the units take place at the rear of the buildings. As the number of dwellings directly facing the industrial premises is restricted to plots 10, 11 and 12 this limits the potential for disturbance to future occupiers. The pollution control officer recommends provision of acoustic glazing to the dwellings to protect residential amenities and a condition is recommended to secure this mitigation. The gardens within the courtyard will be partly masked by the dwellings.

Means of access & parking

The proposed one way access has been designed to resolve concerns of the transportation and fire officers. It allows vehicles to enter and exit the site in a forward gear without the need for a turning head. This is acceptable to the transportation officer.

The parking provision of 1 space per dwelling is considered acceptable given the accessibility of the site to local bus services and local shops. All parking is within the secure courtyard. There is also provision for secure cycle storage at the rear of the site within the courtyard which will encourage alternative means of travel.

Provision for affordable housing

Policy HOU3 of the BCCS and Supplementary Planning document: Affordable Housing requires provision of 25% affordable housing on qualifying sites of 15 units or over. This scheme proposes 18 market housing units comprising 4 x 2 bedroom and 14 x 3 bedroom units. The policy requirement therefore triggers the need for 5 affordable units.

The Housing Strategy officer has highlighted that there is an abundance of affordable housing in the surrounding area and in future development plans and that 5 units on site would be difficult for a Registered Provider to manage given the current layout. In the circumstances it is recommended that a commuted sum towards off-site provision of affordable housing is more favourable. Allowing £30k per affordable unit this would equate to a requirement for a commuted sum of £135k.

The developer had offered nil contributions and has provided a Viability Assessment which has been reviewed by the District Valuation officer who concludes that the scheme is not viable. On this basis it is advised that provision for affordable housing cannot be secured by the development in light of the viability of the scheme. The opportunity the proposals offer to bring forward a vacant site for redevelopment is also considered in its favour and the Housing Strategy officer has highlighted the abundance of affordable housing in the surrounding area so the proposals offer a greater mix.

Provision for Urban Open Space

In accordance with policies GP3 and LC1 of the UDP, policy DEL1 of the BCCS and Supplementary Planning Document: Urban Open Space the proposal triggers the need for urban open space provision. Based on the current mix proposed this equates to a contribution of £34,250.00.

The developer offers nil contributions and has provided a Viability Assessment which has been reviewed by the District Valuation officer who concludes that the site is not viable. In light of this advice it is recommended the requirement for a contribution towards provision of open space in the area is waived in this instance.

The proposals offer the opportunity to re-develop a vacant previously developed site within an established residential area. It is also very close to existing open spaces including The Lea opposite the site.

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 18 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.

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

Recommendation: Grant Permission Subject to Conditions

1. The development must be begun no 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).

2a. Prior to the commencement of the development full details of the disposal of both surface and foul water drainage shall be submitted to and approved in writing by the Local Planning Authority.

2b. The development shall be completed fully in accordance with the approved details 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 and protect the integrity of the adjacent railway.

3a. Prior to the commencement of the development samples of all facing and roofing materials, including the size, colour and texture, shall be submitted to and approved in writing by the Local Planning Authority.

3b. The development shall be completed fully in accordance with the approved details and retained as such.

Reason: To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

4a. Prior to the commencement of the development details of proposed measures to achieve a high quality sustainable design shall be submitted to and agreed in writing by the Local Planning Authority. Examples include the following: -

- i. Measures to reduce energy consumption and carbon dioxide emissions (e.g. building insulation, energy display devices, drying space, energy labelled white goods, low and zero carbon technologies, cycle storage, home office)
- ii. Measures to reduce water consumption (e.g. recycling surface water or grey water)
- iii. Responsible sourcing of materials
- iv. Reduction of surface water run-off (e.g. surface water management and management of flood risk)
- v. Household recycling, construction waste management and composting facilities
- vi. Means of reducing pollution and emissions
- vii. Health and wellbeing measures (e.g. daylighting, sound insulation, private space, Lifetime Homes)
- viii. Management opportunities (e.g. home user guide and considerate constructors scheme)
- ix. Additional ecological measures

4b. The development shall be carried out in accordance with the approved details, and the dwellings shall not be occupied before the approved facilities have been installed and made available for use by the occupiers of the dwellings.

Reason: In order to deliver a higher quality and sustainable means of construction.

5a. Prior to the commencement of the development fully detailed drawings showing the design and operation of the access gates serving the communal parking areas and the design of all pedestrian access gates throughout the site are to be submitted to and approved in writing by the Local Planning Authority.

5b. The agreed scheme shall be fully installed prior to first occupation and retained in accordance with the agreed details thereafter.

Reason: To ensure the security of the site.

6a. Prior to the commencement of the development full details of landscaping works shall be submitted to and approved in writing by the local planning authority. The details shall include the following:

- i. correct botanical names
- ii. numbers/planting densities for each block of planting proposed
- iii. size supplied of any proposed trees and shrubs at time of planting
- iv. grass seed/turf specification
- v. topsoil and mulching depths and specifications
- vi. staking details for any proposed trees
- vii. details of landscape establishment /maintenance proposals to be undertaken during the standard conditioned maintenance period
- viii. details of future management of the landscape scheme

6b. The scheme shall be completed fully in accordance with the approved details before the development is occupied and retained as such.

6c. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which die, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to safeguard the visual amenity and natural environment of the area.

7a. Prior to the commencement of the development full details of all boundary treatments shall be submitted to and approved in writing by the local planning authority.

7b. The scheme shall be completed fully in accordance with the approved details before the development is occupied and retained as such.

Reason: In order to safeguard the visual amenity and natural environment of the area.

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

- 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 the 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.

9a. Prior to the commencement of the development full details of the following matters shall be submitted to and agreed in writing by the local planning authority:

- i. Acoustic glazing with a minimum sound reduction property of Rw 38 dB shall be installed to all habitable rooms with a facade onto Goscote Lane and Slacky Lane
- ii. Acoustic ventilation with a minimum sound reduction property of Rw 38 dB in the open position shall be installed to all habitable rooms with a facade onto Goscote Lane and Slacky Lane

9b. The development shall be completed fully in accordance with the agreed details prior to the occupancy of the dwellings and maintained thereafter.

Reason: To protect the residential amenities of future occupiers.

10a. Within two months of the date of this approval full engineering details of the following works within the existing public highway shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority:-

- (i) The new access and egress points onto Goscote Lane and Slacky Lane respectively, which shall take the form of Footway Dropped Crossing design not kerbed bell mouths.
- (ii) The reinstatement back to full kerb height of the two existing redundant footway crossings in Goscote Lane.
- (iii) The provision of a pair of tactile pedestrian dropped crossings in an appropriate position across Slacky Lane, near the Goscote Lane junction.

10b. Prior to the first occupation of any dwelling on the development, the highway works specified in part (a) of this condition, shall be fully implemented in accordance with the approved details.

Reason: To ensure the satisfactory completion and operation of the development, in accordance with UDP policy GP2, T5, T7, T8 and T13, and in the interests of highway safety.

11a. Prior to the commencement of the development, a construction methodology statement shall be submitted to and approved by the Local Planning Authority detailing where parking and turning facilities for site operatives and construction deliveries will be provided during the period of construction. Measures for controlling dust, flying debris and drag-out from the site shall also be provided.

11b. This provision shall be retained during construction in accordance with the approved details.

Reason: In the interests of minimising the potential for disruption to the free flow of traffic on the public highway during the period of construction and in the interests of highway safety and general amenity of the area.

12a. Prior to the first occupation of any new dwelling on the development, all access way, vehicle manoeuvring and parking areas serving that dwelling shall be fully consolidated, hard surfaced and drained. Parking bays 8 to 12 shall be clearly demarcated on the ground.

12b. These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development and to provide and retain adequate off- street parking, in the interests of highway safety and to accord with UDP policy GP2, T7 and T13.

13. Prior to the first occupation of Plots 2 to 12 on the development:

- (i) An appropriate Traffic Regulation Order shall be made and confirmed to minimise and control any potential on-street parking on Goscote Lane and Slacky Lane fronting the development
- (ii) The Traffic Regulation Order, referred to in part (i) of this condition shall be fully implemented.
- (iii) All costs incurred shall be at the applicant's expense.

Reason: To minimise and control any potential on-street parking as a result of Plots 2 to 12 having rear parking only and to ensure the visibility splay at the junction of Slacky Lane and Goscote Lane is kept free of parked vehicles, in the interests of the free flow of traffic on the public highway and to highway safety.

14a. Prior to the one-way access road first coming into operation and notwithstanding the details required as part of condition 5a of this permission the following shall be provided:

- (i) Full details of the operating mechanism for the automated access and egress gates shall be submitted to and approved in writing by the Local Planning Authority.
- (ii) Full details of appropriate signage required at either end of the access and egress points to warn that a one-way system is operated within the site.

14b. The access/egress control gates shall be implemented in accordance with the approved details and shall thereafter be retained and maintained in good working order throughout the life of the development.

Reason: To ensure the satisfactory completion and operation of the development and to minimise the potential of abuse of the one-way access/egress arrangement to avoid vehicle conflicts on the access road and in the interests of highway safety.

15. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (as amended) Schedule 2, Part 1, Classes A, B, C and E no extensions or enlargement of the dwellings, extensions or alterations to the roofs or provision of buildings within the gardens shall be permitted.

Reason: In order to safeguard the amenities of the surrounding occupiers.

16. 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; Easter Monday; Good Friday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.*

Reason: To protect the amenities of surrounding properties.

17. This development shall not be carried out other than in conformity with the following approved plans and documents except in so far as may otherwise be required by conditions: -

- Location Plan (SK150) received 02/06/14
- Site Plan with Highways Response (SK303 Rev 02) received 06/10/14
- Vehicle Swept Paths (TR8131083/SP04) received 06/10/14
- Colour Master Plan (SK302) received 02/06/14 (To be updated)
- Landscape Plan (SK301) received 02/06/14 (To be updated)
- Proposed Street Elevations (SK311 Rev 01) received 02/06/14 (To be updated)

- Proposed Street Elevations (SK312 Rev 01) received 02/06/(To be updated) Proposed Site Sections (SK313 Rev 01) received 02/06/14 (To be updated)
- House Type A Floor Plans (SK202 Rev 01) received 02/06/14
- House Type A Elevations (SK203 Rev 01) received 02/06/14
- House Type A Sections (SK204 Rev 01) received 02/06/14
- House Type B Floor Plans (SK205 Rev 1) received 02/06/14
- House Type B Elevations (SK206 Rev 01) received 02/06/14
- House Type B Sections (sk207 Rev 01) received 02/06/14
- House Type C Plans (SK230 Rev 01) received 02/06/14
- House Type C Elevation (SK231 Rev 01) received 02/06/14
- House Type C Section (SK232 Rev 1) received 02/06/14
- Design & Access Statement prepared by Urban Hybrid architecture (13-102-DAS01-140531) received 02/06/14
- Environmental Noise Assessment prepared by Sound Acoustics Limited received 22/07/14

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

Notes for Applicant – Contaminated Land

CL1: Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 “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 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 – Acoustic Glazing/Ventilation

Pollution Control cannot verify that the actual glazing/ventilation has been or will be installed as per manufacturer’s instructions. It is recommended that such confirmation is obtained from a suitable third party, such as a Building Control Inspector or the acoustic performance verified by a person

or organisation certified for the purposes of sound insulation testing by either the Association of Noise Consultants (ANC) or the United Kingdom Accreditation Service (UKAS).

Note for applicant – Highways Matters

1. The applicant will be expected to enter in agreements under S278 of the Highways Act 1980 in respect of works within the public highway.
2. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/11/2014

Plans list item no: 6.

Reason for bringing to committee: Called in by Councillor Cassidy on grounds of traffic capacity and impact on amenity of neighbours.

Application Number: 14/0874/OL

Application Type: Outline Application

Applicant: Mr Oliver Wassall

Proposal: Outline application for a food convenience retail store (A1) with access only for consideration.

Location: FORMER PEAR TREE COTTAGE, PEAR TREE LANE, WALSALL, WS8 7NF

Ward: Brownhills

Case Officer: Paul Hinton

Telephone Number: 01922 652607

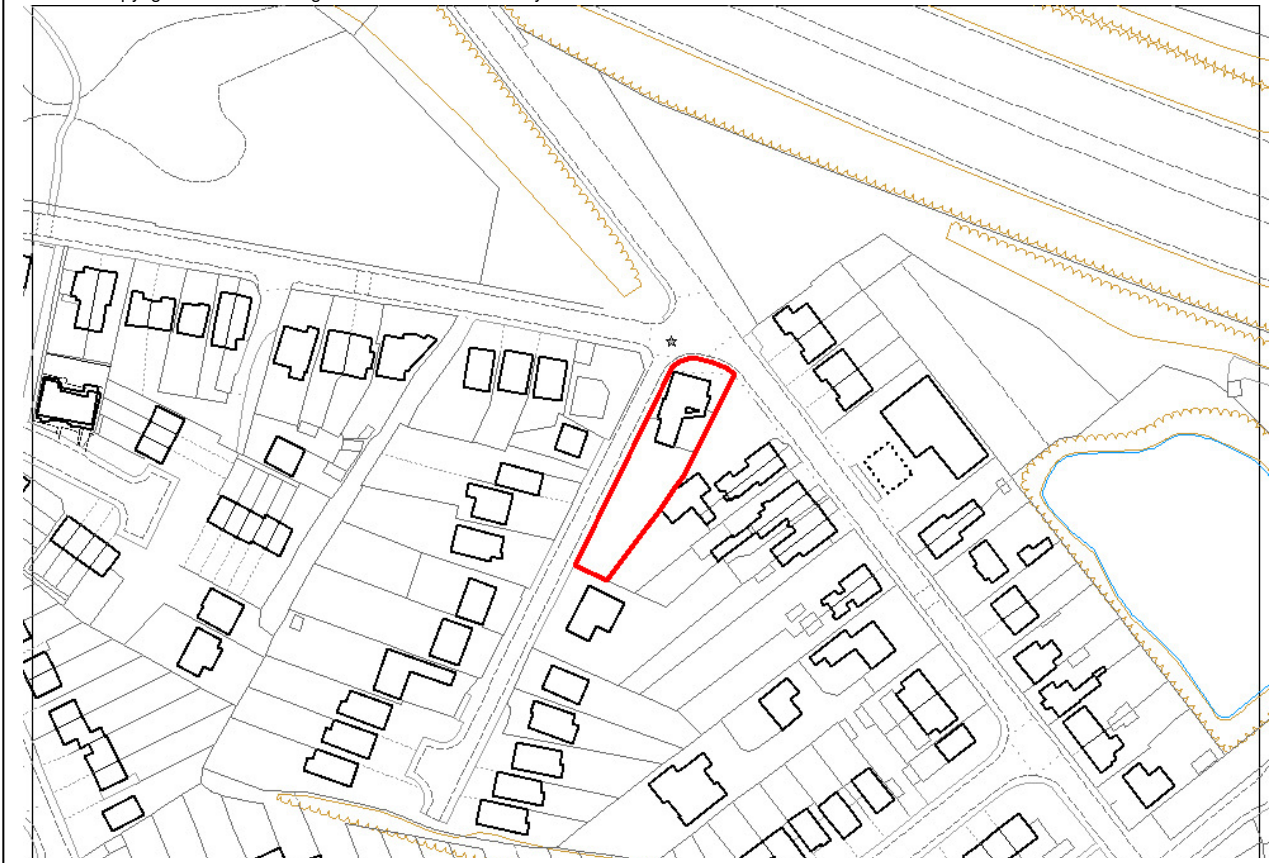
Email: planningservices@walsall.gov.uk

Agent: AJ Carter Consulting

Expired Date: 11/08/2014

Recommendation Summary: Refuse

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Application and Site Details

This is an outline planning application with access only for consideration at this time in regard to a proposed food convenience retail store. The application follows refusal of a full planning application for a retail unit in July 2012 on grounds of design and highway safety. Since the refusal the long term vacant public house has been demolished. The application form states the proposed retail unit would have a floorspace of 300 square metres. The submitted drawing shows a rectangular building at the front of the site with a small area for frontage bicycle parking. To the rear one access point is proposed with the provision of 13 parking spaces plus two disabled spaces. A loading area next to the rear of the building is shown. The application has been supported by a 3.5 tonne vehicle turning plan showing the vehicle able to turn into and around within the site.

Amended plans have been received positioning the access closer to Hednesford Road resulting in a smaller area for the proposed retail store, indicatively shown to have a floorspace of 216sqm.

The application site is located on the junction of Pear Tree Lane (a cul-de-sac), Albutts Road (a cul-de-sac) and Hednesford Road, where there is a speed cushion and a 20mph speed restriction. The area is predominantly residential, with two vehicle garages, one to the southern boundary of the site and the other across Hednesford Road to the east. The M6 toll road passes under Hednesford Road to the north. The surrounding area is characterised by a mixture of two-storey and single storey development of varying styles an appearance, including flat roofed developments.

A perspective view of the retail store has been provided showing a single storey mono-pitch roof building with a glazed frontage wrapping around a central feature entrance on the corner of Hednesford Road and Pear Tree Lane.

Brownhills District Centre boundary is approximately 1.7km walking distance to the south east, with the main shopping area 1.9km away. The nearest shops are along Shannon Drive 600m walking distance away.

The following information has been submitted in support of the application:

Planning and Design and Access Statement

- The settlement of Brownhills West has relatively few supporting services comprising of the Waterside Public House and a Social Club. No convenience store is present in the locality.
- Perspectives show an active frontage, with pedestrian access also to the rear.
- The corner treatment follows the curve of the site, adding visual interest.
- The mass of the structure is enough to offer visual presence, but not overbearing.
- The settlement of Brownhills West has the capacity and ability to support a larger retail convenience store without causing harm to any centres.
- The proposal would serve two key functions, local need and passing trade.
- Although the parking provision is below the parking requirements of UDP policy T13 it is considered sufficient for a store which would address local need.
- Times of delivery vehicles could be restricted outside normal trading hours to avoid conflict with customers.
- Indicate loading is away from the closest residential property.
- Policy LC8 in regard to loss of a community facility no longer applies at the building has been demolished. The retail store would offer some social, community and economic benefits. Alternative public house facilities and a social club are present to the south of the site.

Transport Statement

- The site is vacant and has no existing use.
- The public house would have generated a number of trips to and from the site with resultant parking.
- No parking restrictions exist in Pear Tree Lane, although the road is narrow
- Visibility across the junction for both vehicles and pedestrians is good
- Site benefits from good pedestrian links, with pavements serving each route.
- A regular bus service between Hednesford and Walsall via Rugely provides a sustainable transport mode to customers.
- A bus stop is located adjacent to the site on Hednesford Road
- Considering a smaller floorspace of 201 square metres the UDP parking provision of 15 parking spaces could be achieved.
- As the application is in outline form with access only, it is reasonable to condition a technical transport statement until reserved matters stage.
- Signage would be provided to identify the car park
- If deemed appropriate the applicant will consider traffic regulation orders (TRO).

Relevant Planning History

12/0671/FL - Redevelopment of former Pear Tree Cottage pub site for A1 retail unit and car parking. Refused for the following summarised reasons 25/7/2012:

1. The proposed retail unit through its design and use of materials will have a detrimental impact on the streetscene and the character of the area by virtue of it not providing animation, variety or interest at the street level. It will result in a building which is bland, uninspiring in appearance and which does not recognise or mark its importance and prominence within the streetscape. The scale and massing of the proposed building does not represent or replicate the former Pear Tree Cottage which is considered necessary to address this local site and corner within the overall town/streetscape.

2. The proposed new retail unit fails to ensure that the scheme will not have any detrimental impact on highway safety:

Failed to provide a satisfactory Transport Statement

Level of car parking does not comply with UDP Policy T13

Car parking spaces 10 and 11 are not accessible

Customers are likely to park on Hednesford Road at the front

The level of disabled car parking fails to comply with policy

Does not demonstrate that there is sufficient space for the delivery vehicle to manoeuvre

No pedestrian access routes have been shown.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- Find ways to enhance and improve places in which people live their lives
- 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:

1. Delivering sustainable development
- 18 Committed to securing economic growth in order to create jobs.
- 19 Support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth.
2. Ensuring the vitality of town centres
24. Applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered.
4. Promoting sustainable transport
- 32 Decisions should take account of safe and suitable access to the site can be achieved for all people. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 34 Developments that generate significant movement are located where the need to travel will be minimised.
- 35 Developments should be located and designed where practical to; create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.
7. Requiring good design
56. Good design is a key aspect of sustainable development.
 58. Decisions should aim to ensure the developments:
 - will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
 - optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
 - respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
 - create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion;
 - and are visually attractive as a result of good architecture and appropriate landscaping.
63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.
64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
8. Promoting health communities
69. Decisions should aim to achieve...safe and accessible environments where crime and fear of crime do not undermine quality of life or community
70. To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:
 - ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community;
11. Conserving and enhancing the natural environment
- 109 The planning system should prevent new and existing development from contributing or being put at unacceptable risk from, or being adversely affected by unacceptable levels of.... noise pollution.
- 111 Encourage the effective use of land be re-using land that has been previously developed.
- 123 Planning decisions should aim to:
 - Avoid noise from giving rise to significant adverse impacts

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.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

Local

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The key planning policies include:

CSP4: Develops the need for high quality place making and design

CEN2: Hierarchy of Centres – identifies 3 levels of hierarchy.

CEN4: Regeneration of Town Centres

CEN5: District and Local Centres

CEN6: Meeting Local Needs for Shopping and Services – new small-scale local facilities outside of defined centres of up to 200sqm will be permitted if it can be shown that: the proposal is of an appropriate scale to meet day-to-day needs, provision could not be better met by investment in a nearby centre, existing facilities will not be undermined; access by means other than by car.

CEN7: Controlling Out-of-Centre Development - requirements of CEN6 will be required.

TRAN1: Priorities for development of the transport network – all new developments will address the transport network and provide adequate access for all modes.

TRAN2: Planning permission will not be granted for development likely to have significant transport implications.

ENV2: States that development proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness. Proposal should aim to sustain and reinforce locally distinctive elements.

ENV3: Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits.

It is considered in this case that the relevant provisions of the BCCS can be given full weight

Walsall's Unitary Development Plan (UDP) (2005)

www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says *"due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)"*.

The relevant policies are:

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

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

3.7 The Council will seek to protect people from unacceptable noise, pollution and other environmental problems.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution caused by installations or activities that are a source of any form of pollution.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

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

ENV33: Landscape Design – good landscape design is an integral part of urban design.

ENV35: Appearance of Commercial Buildings

S1: Town Centre use includes – retail

S2: The Hierarchy of Centres

S4: The Town and District Centres – centres will be safeguarded

S5: The Local Centres – seeks retention of shops

S6: New small-scale local facilities will be permitted if it can be shown:

- i. The proposal is 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.
- viii. Servicing and parking associated with the proposed use must not create any significant road safety or traffic problems.

S7: Sequential tests need to be undertaken to justify out of centre development of town centre uses in edge of centre locations, except where in accordance with policy S6.

LC8: Local Community Facilities

I. There are other existing facilities, in an equally or more convenient location, which could accommodate any community activities displaced by the proposed development; or

II. A replacement facility could be provided in an equally or more convenient location; or

III. There is no longer a need for the facility, or for any other community use which could be appropriately provided on the site in accordance with other policies of this Plan; or
IV. It would not be possible to retain the facility, or provide an alternative community facility because, despite all reasonable efforts, this would not be viable.

T4: The Highway Network

T7: Car Parking - All development should satisfy the car parking standards set out in Policy T13. This will involve providing an adequate level of parking to meet operational needs while not exceeding any maximum parking standards that are specified.

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

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

Supplementary Planning Documents (SPD)

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

Designing Walsall (Feb 2008)

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

Policy DW2 Safe and Welcoming Places

Policy DW3 Character

Policy DW4 Continuity

Policy DW5 Ease of Movement

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

Consultations

Transportation – objects. Access point on Pear Tree Lane is unacceptable to serve an A1 use, likely to lead to indiscriminate parking and footway parking. Likely to lead to delivery and service vehicles to the store larger than 3.5 tonne loading either on Hednesford Road at the junction or reversing into or out of Pear Tree Lane. Position of car park behind the store is likely to lead to indiscriminate parking.

Pollution Control:

Contaminated Land – no objection.

Scientific Team – no objection.

Police Crime Reduction – no objection. CCTV and building alarm should be provided, a barrier should be installed to close off the car park when the store is closed. Measures should be provided to prevent ram raid attacks.

Environmental Health – no objection.

Landscape – no objection. Landscaping should be a reserved matter. The indicative drawing needs a wider planting bed.

Severn Trent Water – no objection subject to use of recommended condition in regard to drainage details.

Fire Services – no objection.

Public Participation Responses

Adjoining occupiers notified by letter and site notice displayed.

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

- Delivery vehicle times would cause more nuisance
- No guarantee that there will only be servicing from 3.5 tonne light vehicles
- Hard to believe vehicles will arrive at pre-designated times
- Most people will visit by car
- Will form a gathering point for people
- Would be a catalyst for anti-social behaviour, litter and vandalism.
- Size of car park not adequate
- Vehicles would use cul-de-sac to turn or residential drives
- Increase in traffic and noise pollution
- Loss of property values
- Cause a traffic hazard at the junction
- Parking and delivery will cause access problems
- Pear Tree Lane is narrow and not suitable for lorry deliveries. Public house deliveries were accessed from the front of the building
- Existing shops in Shannon Drive
- Single storey development not in context with the street scene
- Nobody 'pops down to the shops' anymore with supermarkets and home deliveries
- Two previous shops in Hednesford Road have closed down
- Refuse vehicle has to reverse out of Pear Tree Lane, delivery vehicles would have to reverse out.
- Letter should have been sent to each resident in Pear Tree Lane
- Vehicles parked on pavement will prevent disabled users able to use the pavement.

One letter has been received confirming support to the proposal

Further consultation has been undertaken following amended plans:

Three letters confirming previous objection to the proposal

One letter not objecting and noting that there are a number of elderly residents in the area who would benefit from the convenience of this retail store.

Determining Issues

- Principle of development (out of centre/meeting local need)
- Whether the application overcomes the previous reasons for refusal in regard to:
 - Design, Impact and appearance in the street
 - Parking and highway safety
- Loss of community facility
- Impact on residential amenity

Observations

Principle of development (out of centre/meeting local need)

The site is 1.9km walking distance from the main retail area of Brownhills District Centre. Policy S1 supports retail units in town, district or local centres. Policy CEN6 of the Black Country Core Strategy supports new retail units outside of defined centres provided the size of the unit does not exceed 200 square metres. The application is for access only, but would establish the principle of a retail use in this location. The indicative plan suggests 216 square metres could be accommodated. In this out of centre location, CEN6 requires:

Proposals to be of an appropriate scale and nature to meet a specific day-to-day need of a population within convenient, safe walking distance

The maximum 216 square metres unit would be of a scale to provide for a day-to-day need of the local residential area, which is accessible within convenient walking distance.

Local provision could not be better met by investment in a nearby centre

The nearest centre Brownhills District Centre is outside convenient walking distance and investment there would not serve the immediate area.

Existing facilities that meet day-to-day needs will not be undermined

There are existing shops in Shannon Drive, 600m away. These shops are community based in that due to the layout of the street only local people would be aware of and use these shops. The proposal, in comparison, due to its location would present itself more to passing trade. UDP policy S6 makes reference to defining areas where residential areas are more than 500m from a food shop. In this case the proposal is of a sufficient distance from Shannon Drive to provide an alternative food store rather than adversely affecting existing provision. The NPPF (para 23) requires planning to promote competitive town centres that provide customer choice.

Access to facilities by means other than the car

The proposal is on the doorstep of a residential area and therefore would provide a facility within walking distance.

UDP policy S6 applies similar tests, in addition there should be no significant loss of amenity for neighbouring homes and serving and parking associated with the use must not create significant road safety or parking problems. These issues are considered elsewhere in the report.

The previous application was not refused on the grounds of the principle of use. There have been no policy changes in this time, however since that time the public house has been demolished and the established use has therefore ceased. The site has a nil use and that is material for consideration of other factors below.

Design, impact and appearance within the street

The site is in a prominent location at the junction of Hednesford Road, Pear Tree Lane and Albutts Road, and is particularly prominent when approaching along Hednesford Road from the north travelling over the crest of the M6 Toll Road bridge.

As access is only for consideration at this time, unlike the previous full application, the application is not determined on the layout and appearance of the building. The indicative drawing shows a single storey building that addresses this dominant corner. Landscape's concern about the narrow planting beds and the Police's comments on security measures are factors for later consideration.

Parking and highway safety

The previous application was refused on highway grounds as the application 1) failed to provide a satisfactory Transport Statement, 2) level of car parking did not comply with UDP Policy T13, 3) Car parking spaces 10 and 11 are not accessible, 4) Customers are likely to park on Hednesford Road at the front, 5) The level of disabled car parking fails to comply with policy, 6) Does not demonstrate that there is sufficient space for the delivery vehicle to manoeuvre, 7) No pedestrian access routes have been shown.

This application in outline form, with access only for consideration. The proposed access would use an existing dropped crossing along Pear Tree Lane which is directly opposite a pumping station on the corner of Albutts Road. Currently there are two accesses with the second opposite numbers 32 and 34. The proposed access would be shared between customers and delivery vehicles. An indicative plan has been provided showing a building and parking area. The previous full application was similar with a building to the front and car park and servicing to the rear through one access point.

A Transport Statement has been provided, the position of parking spaces have been revised, a percentage of disabled parking spaces are provided and the location of pedestrian access points have been provided. The application therefore has overcome some of the previous concerns.

It is noted that the application indicatively shows a building of 216sqm with a total parking provision of 15 spaces. UDP policy T13 would require 16 spaces, plus 10% for disabled parking. The Transport Statement confirms any building could be reduced to accommodate the required parking requirement as part of any reserved matters for layout.

Transportation maintain an objection on the grounds that the position of the proposed car park and service vehicle delivery access on Pear Tree Lane out of sight of would be customers passing along Hednesford Road and Albutts Road is likely to lead to either indiscriminate parking on and around the four-way road junction or on Pear Tree Lane which is only 4 metres in width, contrary to the free flow of traffic on the public highway and the free movement of pedestrians along the public footway. UDP policy T13 says parking should normally be visible from the highway.

Additionally, whilst it has been demonstrated that a 3.5t delivery van can turn within the car park, it is likely that larger multi-drop vehicles will deliver to the site. These vehicles would not be able to turn in the rear car park and are therefore likely to load outside at the front of the store on Hednesford Road at the junction, which is a busy Local Distributor Road or possibly reversing into or out of Pear Tree Lane. This would be contrary to the free flow of traffic on the public highway and to the free movement of pedestrians along the public footway.

As a consequence the combination of the use, generating a relatively high turnover of vehicle movements and the position of the access off Pear Tree Lane is likely to result in increased vehicle conflicts in and around the proposed access and around the road junction to the detriment of highway safety. It is considered the cumulative impacts of the development would have severe transportation implications and is unacceptable.

Residents raise concern that there is no guarantee that there will only be servicing from 3.5 tonne light vehicles and vehicles would have to reverse out of the road like refuse vehicles do. As discussed above it has not been demonstrated that the proposal can be appropriately accessed by all servicing vehicles. Concern is also raised that most people will visit by car, weight is given that Hednesford Road is a commuter road between the Strategic A5 and the area of Norton Canes and therefore the proposal would be attractive to passing trade. It would also serve for local people within walking distance. Due to this passing trade and the location of the car park, Transportation

raise an objection. Residents concerns about vehicles parking on the pavement is noted due to the proposed access arrangement.

Loss of community facility

Policy LC8 states that proposals involving the loss of local community facilities, including public houses will only be permitted if it can be demonstrated that there are other pubs nearby which could accommodate the displaced customers from this establishment or there is no longer a need for the facility. The building was present at the time of the previous application but has since been demolished. Therefore LC8 is no longer applicable.

Impact on residential amenity

The previous use of the site as a public house would have resulted in a level of activities that had the potential to create some noise and disturbance. It is acknowledged that the areas would have had a less than tranquil setting. The public house has been demolished and therefore the lawful use has since gone and the site has entered a new chapter in its planning history. Limited weight can be given to the history of the site.

In the supporting information it states that delivery vehicles times can be restricted outside normal trading hours to avoid conflict with customers. Residents object to this on grounds of noise and disturbance. While the application is for access only it would establish the principle of a shop in this location. No information is currently presented about possible opening times of any shop and thus what delivery times. These matters would be for consideration at a later time. Due to the relationship with houses, it might not be suitable for deliveries to take place outside of any normal opening hours, e.g. first thing in the morning and last at night. Reasonable operating times could be subject to a condition on a later application.

Residents raise concern about the site becoming a gathering point for people and that it would be a catalyst for anti-social behaviour, litter and vandalism. It is acknowledged that shops by their very nature are a hub of activity and associated with that are high levels of people and vehicle movements. The public house which was also a hub of activity was present at this site for over a hundred years and pre-dates a number of houses, the site therefore cannot be regarded as being particularly quiet or tranquil. Noise could be generated by deliveries, unloading, plant noise, customer noise and car noise. Opening hours and deliveries could be controlled by condition that should ensure noise and disturbance from vehicles are within acceptable limits – an issue for consideration at reserved matters. Deliveries to the shop would be of a relatively short duration and the likely size and nature of the shop would be such that relatively few customers would be immediately around it at any one time. A condition could be used to where delivery vehicles must have a White Noise Broadband Reversing Alarms (using a “ssh ssh” sound rather than tonal beeping alarm). It is not considered the noise from customers at the shop would be any louder than customers to the public house.

External plant could be positioned to the side elevation of the building next to the car garage rather than the houses. An acoustic fence could also be positioned to the boundary with number 31 and along the boundary with the pavement to create a barrier from manoeuvring vehicles on the car park in terms of noise and vehicle lights. Both issues that could be considered in detail at reserved matters stage. Issues of litter would be a management issue for any store, but it would be necessary for a litter bin to be provided as part of a condition.

Neither Pollution Control nor Environmental Health raise any objection to the principle of the application in consideration of the development of this vacant site for a shop use.

The Police raise no principle objection to the application, recommending that CCTV and a building alarm should be provided. In the interests of residential amenity and community safety a barrier should be installed to close off the car park when the store is closed and measures should be

provided to prevent ram raid attacks. It is considered these measures can be secured through a planning condition. On the basis of their comments it is not considered potential for anti-social would be a reason to refuse the planning application in the circumstances. In addition any potential anti-social behaviour would be an operational issue for the store manager during opening hours or for the police at other times.

Residents raise concern about loss of property values which is not a material planning consideration. Concern has also been raised that letters should have been sent to each resident in Pear Tree Lane, adjoining occupiers have been consulted by letter and a site notice displayed; the required consultation has been undertaken.

Weight is also given to this derelict site and an opportunity to improve the current environment with a modern attractive building with a use that can be subject to modern planning conditions and operations.

Positive and proactive working with the applicant

Officers have liaised with the applicant's agent during the application process to ensure full information has been provided, however due to the constraints of the site it has not been possible to provide support to the proposal.

Recommendation: Refuse

1. A retail store in this location in addition to the position of the proposed access would give rise to conditions prejudicial to highway safety by virtue of:

- The location of the site on an existing awkward junction layout and the position of the proposed car park and service vehicle delivery access out of sight of potential customers passing along Hednesford Road and Albutts Road, due to the nature of the use, is likely to lead to either indiscriminate parking and footway parking on and around the four-way road junction or on Pear Tree Lane which is only four metres in width.
- Delivery and service vehicles to the store which are larger than 3.5 tonne (multi-drop deliveries) would not be able to turn within the car park resulting in loading/unloading either on Hednesford Road at the junction or on Pear Tree Lane and having to reverse onto the junction.
- The indicative size of the retail store and the resultant space on site fails to provide sufficient off-street parking spaces to meet the needs of the development.

The proposal would give rise to increased vehicle conflicts in and around the access and around the road junction contrary to the free flow of traffic on the public highway and the free movement of pedestrians along the public footway. Accordingly the proposal is contrary to the aims and objectives of the National Planning Policy Framework, policy TRAN1, TRAN2 of the Black Country Core Strategy and saved policies, GP2, 3.6, ENV32, T4, T7 and T13 of the Walsall Unitary Development Plan.



Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/11/2014

Plans list item no: 7.

Reason for bringing to committee: Major application

Application Number: 14/1205/OL

Application Type: Outline Application

Applicant: Graham Wilson and Abigail Burn-Murdoch

Proposal: Outline application for residential development of 7 detached dwellings (access, layout and scale to be determined)

Location: 47 PORTLAND ROAD, WALSALL, WS9 8NU

Ward: Aldridge Central & South

Case Officer: Alison Ives

Telephone Number: 01922 652604

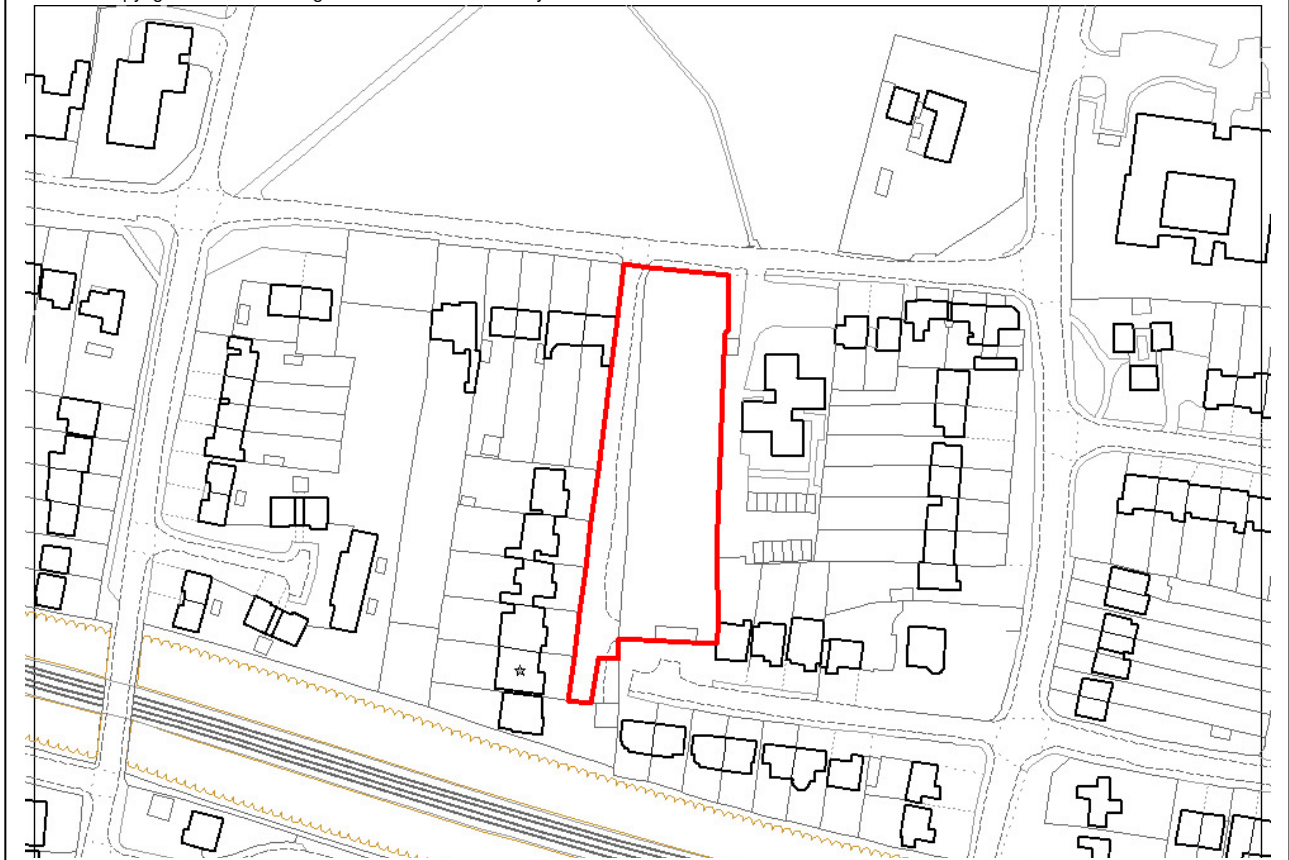
Email: planningservices@walsall.gov.uk

Agent: A21 Architects

Expired Date: 05/12/2014

Recommendation Summary: Grant Permission Subject to Conditions, unless additional information is received that raises material planning issues

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Application and Site Details

The proposal seeks outline permission for the erection of 7 detached dwellings on the site of a former detached house, 47 Portland Road. Means of access, layout and scale are to be considered.

The site is at the junction of Portland Road and Portland Avenue in Aldridge Conservation Area and faces The Croft open space. There is a Tree Preservation Order on the site (18/1982) covering the mature Sycamore and Ash trees which are predominantly located along the boundary with Portland Avenue. The site is within walking distance of Aldridge District Centre. There is a combination of bungalows, two storey housing and three storey flats surrounding the site in Portland Road, Portland Avenue and Sandra Close. Portland Avenue is an unadopted cul-de-sac. There is a boundary wall between the site and Church View flats and 7 Sandra Close which returns at the end of Portland Avenue.

The proposed layout shows two detached houses facing Portland Road utilising the existing dropped kerb to create individual driveways for plots H1 and H2. These are set back 12-13m from the highway in line with the adjacent house at 45 Portland Road. The remaining five detached houses (plots H3 – H7) are at the rear of plots H1/H2 and face Portland Avenue which is an unadopted private road. The houses on plots H3-H7 are set between 7m and 9.4m from the road immediately behind the row of protected trees. Each plot has an individual driveway beneath the canopy of the trees. The plans identify tree protection zones.

The proposed block plan identifies the eaves and ridge height of the proposed dwellings on plots H1/H2 to be 1.5m higher than 45 Portland Road. The ridge height of plots H3-H7 begins 600mm higher but reduces in height on plots nearer the end of the cul-de-sac. The outline elevations indicate the proposed scale of the dwellings and relationship to surrounding flats and housing. The outline of the permitted apartment scheme is also included for information.

The site area is 0.33 hectares which equates to a density of 21 dwellings per hectare.

The Design & Access Statement – Explains that there is an existing planning permission for 22 apartments in two blocks. It describes the site and surrounding location, layout, scale and access, it discusses the relationship to the protected trees, services and waste removal, ecology and Secure by Design.

The Planning Statement – Explains the site and surroundings and highlights national and local planning policy and guidance. It discusses the principle of development, potential impact of the development on the character of the area and amenities of surrounding occupiers, means of access and parking, TPO trees and ecology.

The Updated Tree Survey – Assesses the 14 remaining TPO trees which are all retained as part of the proposed development.

Relevant Planning History

14/0493/TR – Remove growth and lower limbs and reduce crown of Sycamore and Ash trees – Granted 22/05/14.

04/0876/FL/E4 – Erection of 22 apartments in 2 blocks – Refused 15/07/04. Allowed on appeal 17/01/05. This shows two blocks of apartments, a four storey block at the front and two storey block at the rear. As the development was commenced in January 2010 this permission can still be implemented.

BC64851P/C – Conservation Area Consent: Demolition of existing two storey detached house in conservation area in preparation for a residential development – Consent Granted 22/11/01.

BC58595P/C – Residential development of 3 storey block of flats and four bungalows – GSC 05/09/01.

BC36249P/C – Erection of 4 Bungalows & 3 Storey Block of 9 Flats – GSC 07/10/92.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- Support sustainable development
- Requiring good design
- Conserving and enhancing the natural environment
- Promoting sustainable transport

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 103 when determining planning applications local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a Flood Risk Assessment.

Paragraph 109 encourages protection and enhancement of valued landscapes and geological conservation and remediation and mitigation of despoiled, degraded, derelict, contaminated and unstable land where appropriate.

Paragraph 110 aims to minimise pollution and other adverse effects on the local and natural environment.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.
Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

Paragraph 126 - Local planning authorities should have a positive strategy for the conservation and enjoyment of the historic environment.

Paragraph 131 seeks to sustain and enhance the significance of heritage assets and putting them to viable uses consistent with their conservation and making a positive contribution to local character and distinctiveness.

Paragraph 137 states new development in Conservation Areas should enhance their significance and preserve elements of their setting that make a positive contribution.

On **planning conditions** the NPPF says:

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

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

3. Model sustainable communities on redundant employment land in the Regeneration Corridors that make the best use of existing opportunities and are well integrated with surrounding areas.

6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.

9. Sufficient waste recycling and waste management facilities in locations which are the most accessible and have the least environmental impact.

10. Safeguard and make the most sustainable use of the Black Country's mineral resources including primary, secondary and recycled materials without compromising environmental quality.

The above are supported by the following policies:

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character. Development proposals will be required to preserve and where appropriate enhance aspects of the historic environment together with their settings.

ENV5: Seeks to minimise the probability and consequences of flood risk.

Walsall's Unitary Development Plan (UDP)

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: Encourages reclamation and development of derelict and previously developed land where possible in accordance with other policies.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV29: Development should preserve or enhance the character and appearance of a Conservation Area

ENV32: Proposals should take in to account the surrounding context particularly within or adjacent to the Green Belt including consideration of the effect on the local character of the area, vehicular and pedestrian patterns and visual relationship to surrounding areas.

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

ENV40: The quality of all water resources will be protected.

T1: All development should conform to the accessibility standards set out in policies T10-T13.

T4: Classifies the highway network and specifies that residential streets and minor roads are those where traffic volumes and speeds should be quite low. Sometimes traffic calming measures will be required.

T5: Seeks to implement selective improvements to highway infrastructure and states highway improvement schemes should be designed to minimise any adverse impact on the environment or the amenity of residents.

T7 – All development should satisfy the car parking standards set out in Policy T13.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

4 bedroom houses and above 3 spaces per unit

Supplementary Planning Documents (SPD)

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

Designing Walsall SPD

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

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

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

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

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

Conserving Walsall's Natural Environment SPD

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

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

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

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

Consultations

Transportation – No objections subject to securing details of access and parking. Conditions are recommended.

Pollution Control (Scientific Team) – No objections but recommend construction working hours are controlled by condition to ensure nearby neighbours are not unduly affected.

Pollution Control (Contaminated Land) – No specific contaminated land requirements.

Conservation Officer – No objections. The access and layout will not have a material impact on the character of the conservation area or setting of listed buildings. The buildings are less of a scale than the formerly approved apartments and is more in keeping with the village green character.

Fire Service – No objections. Although the access is tight the Fire Service always has a banksman when reversing to ensure manoeuvres are safe. The revised plan allows turning albeit a five point turn but this is preferable to reversing down the length of Portland Avenue.

Landscape – No objections subject to securing landscaping by condition.

Natural Environment (Ecology) – No objections. A condition is recommended to secure provision of bat roosts in the new dwellings.

Severn Trent Water – No objections subject to provision of drainage details. A condition to secure these is recommended.

Tree Officer – No objections. The proposals have no greater impact on the protected trees than the existing permission for apartments. Consequently as long as the tree protection measures are adhered to as detailed in the revised tree survey and appendices there are no objections.

Public Participation Response

Ten letters of objection from 8 households have been received which are summarised as follows:

- The site is not previously developed it was a back garden
- House 5 looks like it abuts 7 Sandra Close but there should be a gap
- Less houses would be more in keeping
- Too high density
- 7 houses in place of 1 is increasing the housing density in a conservation area
- The development should respect the conservation area and The Croft setting
- Portland Road is narrow making it difficult for two vehicles to pass safely especially buses and lorries
- The edge of highway in Portland Avenue should be delineated
- Concern over construction traffic and visitor parking causing congestion in Portland Avenue and Portland Road
- Restricted emergency service access
- Increased traffic near the junction with Erdington Road
- The existing trees should be removed and replaced with more appropriate species allowing Portland Avenue to be widened
- The trees are protected and less housing could be accommodated better
- The tree protection needs to be monitored
- Parking on tree roots may damage them
- Future occupiers are likely to want the trees removed

- Surfacing and drainage in Portland Avenue is poor
- New properties will have to contribute to maintenance of Portland Avenue
- The wall on the boundary is unsafe and should be removed and rebuilt
- The proposed development may damage the wall next to plot 7
- Compensation will be sought for any damages to the wall
- Speed humps referred to in the application are not wanted
- Noise/dust/disturbance from construction traffic
- The houses are preferred to the approved apartment scheme as they are more in keeping with the surrounding area
- Overlooking and lack of screening to interrupt views
- Lack of privacy
- Loss of light
- Impact on protected species (bats)

The site notice will not expire until 2 December 2014.

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

Determining Issues

- Principle of development
- Layout and Scale of the development
- Access
- Impact on the character and amenity of Conservation Area s
- Relationship between surrounding properties
- Trees and Ecology

Observations

Principle of development

The original dwelling was demolished in 2001 following the grant of permission. There is a current planning permission for the erection of 22 apartments in two large four storey buildings on the site (04/0876/FL/E4). The principle of residential development on the site is already established despite the neighbours concern that this is not a previously developed site. The applicant's fallback position would be to complete this approved development.

Residents have pointed out that they prefer the proposed scheme for detached houses to the approved apartment scheme as detached houses are more in keeping with the surrounding area but would prefer fewer houses.

Redevelopment for new housing on this previously developed site in a sustainable urban location is in accordance with the NPPF and BCCS and local development plan policies. The site has also remained vacant for a number of years and could be considered to detract from the area whereby the proposed development for housing is welcomed.

Layout and Scale of the development

The outline permission seeks approval of layout and scale. The layout shows two properties fronting Portland Road and the remaining 5 properties facing Portland Avenue with clear definition between public and private spaces. The layout achieves adequate rear garden spaces in excess of 68m² per dwelling.

The layout also accommodates driveways for each house and demonstrates how Fire Service vehicles can turn within the site. This is acceptable to the Transportation officer and Fire Service. Although the driveways are between the retained TPO trees the tree officer does not raise any objections. The canopy of the trees is well above the proposed height of the houses so there will not be significant overshadowing. It is recommended that bat boxes are provided in the proposed

new dwellings and retained trees as on the earlier permission so a condition is recommended to secure this.

The scale of the buildings is illustrated on the proposed outline elevations which indicated the height of the proposed dwellings is lower than the approved apartment scheme and more in keeping with the scale of surrounding houses. Although the proposed dwellings facing Portland Road are taller than Church View flats or 43/45 Portland Road the scale of the proposed dwellings is not overly dominant given the separation between the existing and proposed properties. The detailed appearance of the dwellings will be subject to reserved matters to but given the scale of the dwellings is acceptable the development would respect the conservation area and The Croft setting.

The density of the proposal is 21 dwellings per hectare and the density of existing housing in Portland Avenue is 30 dwellings per hectare. Despite the objections claiming that the density is higher and out of keeping the proposal is actually lower density and is considered appropriate. The density is also lower than the approved apartment scheme which is 67 dwellings per hectare.

Residents have highlighted drainage issues and Severn Trent has recommended a condition to secure detail of appropriate drainage. This will address the concerns of neighbours.

The proposed layout and scale are satisfactory and do not have any significant impact on the character of the area. As appearance and landscaping of the site are reserved for subsequent approval there is further opportunity to ensure the character of the Conservation Area is protected and enhanced. Retention of the trees will also help assimilate the development into its surroundings.

Access

The two plots fronting Portland Road utilise the original in/out access that served 47 Portland Road and is acceptable subject to a slight adjustment for plot H1 to realign the dropped crossing with the driveway. A condition is recommended to secure this.

Although there will be five additional dwellings served off Portland Avenue and residents are concerned this will restrict emergency services access the proposal is acceptable to the Fire Officer who confirms that there is adequate space for a fire service vehicle to turn within the site. Other emergency service vehicles are smaller so should also be able to turn.

The number of proposed dwellings does not trigger the need for any traffic impact assessment and the additional dwellings will not create a significant amount of additional traffic or on street parking that would have a significant adverse impact on highway safety in the surrounding highways. It is also considered that the proposals would not have a greater impact on highway safety than the approved apartment scheme.

Objectors have highlighted that Portland Avenue is privately owned (by the applicant) and that existing occupiers contribute towards the maintenance of the highway. They consider the proposals should take the opportunity to improve or widen the highway and that future occupiers should contribute towards the maintenance. Portland Avenue is to remain a private unadopted road and so issues relating to surfacing, drainage and maintenance will be the responsibility of the existing and future occupiers as the existing situation. There is no requirement to widen the access as it is adequate to serve the needs of the development.

A resident states they would not support road humps but there are no proposals to install road humps in the nearby streets as part of this application.

The width of Portland Avenue is unaffected so reversing space for existing residents is unaffected despite concerns.

It is recommended that a construction traffic methodology plan is agreed before works commence. This addresses neighbour concerns over potential congestion caused by construction traffic and aims to limit disturbance to neighbours. The Fire Service has no objections to the proposed access.

The proposed layout demonstrates how off-street parking can be provided. The Transportation officer recommends a condition to ensure that the reserved matters submission makes provision for off-street parking appropriate to the number of eventual bedrooms per dwelling in accordance with policy T13.

Impact on the character and amenity of the Conservation Area

The proposal would bring forward development on a site that has been vacant since 2001 when the original house was demolished. The previously approved development has stalled but trenches have been dug out and protective metal fencing installed around the edge of the site which detracts from the Aldridge Conservation Area. The proposal for detached houses is more in keeping than the approved apartment scheme and would therefore benefit the character and amenity of the conservation area.

Relationship between surrounding properties

Only the front part of Church View flats have windows in the gable facing the site and this faces the gable of plot H1 so there is no significant overlooking. There is also almost 12m between the building and garden boundary of plot H1.

There is 9m between the rear of plot H7 and the gable wall of 7 Sandra Close which is below the 13m recommended guidelines. There are no habitable room windows in the gable wall of 7 Sandra Close and although there is a single storey conservatory extension at the rear the existing boundary wall masks any view of this. The layout shows plot H7 has a small 800mm projection at the rear and the main dwelling is 11.2m from the boundary with 7 Sandra Close. The details of the appearance which are reserved for subsequent approval will determine the window relationship. The proposals are considered not to cause significant harm to the outlook, daylight or privacy of 7 Sandra Close. Boundary treatments will be confirmed by submission of details recommended by condition and help screen the gardens. The neighbour's objection about the need for a gap between properties is addressed as the garden intervenes between the two properties. There are no proposals for the existing boundary wall but any replacement or repair will be controlled by the recommended condition. If damage is caused to the neighbouring property this is a civil matter not a material planning matter.

There are bungalows opposite the site on Portland Avenue at least 20m away on the opposite side of the highway. Despite being below the recommended 24m this is an acceptable distance and is similar to the relationship between properties in Sandra Close nearby and should not have a significant impact on the outlook, daylight or privacy of residents. There is existing screening to some of the bungalows opposite.

The adjacent property 45 Portland Road has two storey side extensions that abut the highway in Portland Avenue. There are only small non-habitable windows in the extended gable. This is almost 10m away from the property on plot H2 which is considered adequate and will not harm the outlook, privacy or daylight to either property.

A condition to restrict construction hours to protect amenities is recommended.

The relationship between the proposals and the surrounding properties is considered acceptable.

Trees and Ecology

The proposal allows retention of the remaining TPO trees and the Tree Officer has no objections to this. These trees are an important part of the character of the site and although one objector states they are too large and should be removed and replaced with a species more compatible with housing the retention of the trees does help assimilate the development into the conservation area. Tree protection measures are required and a condition is recommended to secure this.

One objector considers fewer houses would allow more space for the trees and less likely to lead to requests from future occupiers seeking their removal. The scheme has no greater impact on the trees than the approved apartment scheme. Also as the tree canopies are very high so less likely to cause overshadowing of the dwellings themselves. The potential impact of parking over tree roots can be addressed by specific construction methods to be secured by condition as identified in the Updated Tree Survey.

The Ecologist is satisfied that there will be no adverse impact on protected species and recommends a condition to secure new bat roosts in the trees and dwellings. This addresses the neighbours concern about the potential impact on protected species.

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant and their agent and discussed the process for determining this application. In response to this advice relevant supporting information and additional revised plans have been submitted. In light of the submitted details officers are able to support the scheme.

Recommendation: Grant Permission Subject to Conditions, unless additional information is received that raises material planning issues

1. Application for the approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

2. The development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the reserved matters application, or the last reserved matters approval.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

3. This development shall not be commenced until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- a) Appearance
- b) Landscaping

Reason: Pursuant to Article 3 (i) of the Town & Country Planning (General Development Procedure) Order 1995

4a. Prior to the commencement of the development drainage details for the disposal of both surface water and foul sewage shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall be completed with the approved details 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.

5a. Prior to the commencement of the development full details of external facing and roofing materials shall be submitted to and approved in writing by the local planning authority.

5b. The development shall be completed in accordance with the approved facing materials.

Reason: To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

6a. Prior to the commencement of the development, a Construction Methodology Statement and plan including details of a turning facility and parking for site operatives, the siting of portakabins and materials, shall be submitted to and approved in writing by the Local Planning Authority.

6b. The Construction Methodology Statement shall be implemented and retained during the period of construction in accordance with the approved details.

Reason: To ensure the safe and satisfactory operation of the development during construction due to the sensitive nature of the sites near to a school.

7. As part of any reserved matters submission the dwelling design shall include sufficient parking to meet UDP policy T13 parking standards.

Reason: To accord with UDP Policy T13.

8a. Prior to the commencement of the development full details of the design, construction and location of artificial bat roosts to be incorporated into the new buildings and of bat boxes erect on trees shall be submitted to and approved in writing by the local planning authority.

8b. The approved scheme shall be incorporated before any part of the development is brought into use and retained free of obstruction thereafter.

Reason: To conserve local bat populations.

9a. Prior to the commencement of development, a detailed landscaping scheme and maintenance strategy for the development (including any necessary phasing of implementation) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted on a plan to an appropriate scale and shall include where applicable, details of:

- (i) Ground preparation for any planting and seeding/turfing areas should include the requirement to de-compact formation level below any top soiling following inevitable heavy trafficking by construction plant.
- (ii) Topsoil depths – shrub/hedgerow planting areas should be at least 450mm : grass seeded /turfed areas should be at least 150mm.
- (iii) Further details of proposed tree/plant species, number of plants/shrubs, size at time of planting, density, ground surface treatment, tree support and tree pit details, root barriers and mulching. full details of sizes/ container volumes/ seed mixes/ plant numbers/ provenance/ botanical and English names and methods of planting.
- (iv) Tree planting and staking details which should be ideally shown as standard detail(s)
- (v) Full specification for walls, fences, gates (boundary and internal, showing materials, heights and location), and paving (materials and layout).

9b. The scheme shall be completed fully in accordance with the approved details before the development is occupied and retained as such.

9c. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which die, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to safeguard the visual amenity and natural environment of the area.

10a. Prior to the commencement of the development details of proposed measures to achieve a high quality sustainable design shall be submitted to and agreed in writing by the Local Planning Authority. Examples include the following: -

- x. Measures to reduce energy consumption and carbon dioxide emissions (e.g. building insulation, energy display devices, drying space, energy labelled white goods, low and zero carbon technologies, cycle storage, home office)
- xi. Measures to reduce water consumption (e.g. recycling surface water or grey water)
- xii. Responsible sourcing of materials
- xiii. Reduction of surface water run-off (e.g. surface water management and management of flood risk)
- xiv. Household recycling, construction waste management and composting facilities
- xv. Means of reducing pollution and emissions
- xvi. Health and wellbeing measures (e.g. daylighting, sound insulation, private space, Lifetime Homes)
- xvii. Management opportunities (e.g. home user guide and considerate constructors scheme)
- xviii. Additional ecological measures

10b. The development shall be carried out in accordance with the approved details, and the dwellings shall not be occupied before the approved facilities have been installed and made available for use by the occupiers of the dwellings.

Reason: In order to deliver a higher quality and sustainable means of construction.

11a. Prior to the commencement of the development full details of all boundary treatment shall be submitted to and approved in writing by the local planning authority.

11b. The development shall be completed in accordance with the approved details and retained thereafter.

Reason: To ensure the satisfactory appearance of the development and to secure the site.

12. Prior to the commencement of development full details of any proposed external lighting to be installed on the site shall be submitted to and approved in writing by the Local Planning Authority. Any details of external lighting approved by the Local Planning Authority shall be installed fully in accordance with the approved details and retained as such.

Reason: To safeguard the visual amenities of the area.

13. None of the existing trees on the site shall be lopped, felled or root pruned without the prior consent in writing of the Local Planning Authority. The development shall be implemented in accordance with the approved tree protection and construction methodology measures as identified in the approved Updated Tree Survey prepared by Paul Dickinson & Associates (July 2014) in accordance with the recommendations of BS5837:2012 and maintained throughout the development.

Reason: To safeguard the trees in the Conservation Area on site.

14. During demolition, site preparation and building operations no storage of materials, equipment or waste, nor passage of vehicles, nor lighting of fires shall take place beneath the canopy of any tree to be retained.

Reason: To safeguard the trees in the Conservation Area on site.

15a. Prior to the first occupation of any new dwelling on the development, the proposed vehicle hard standing/parking areas serving that dwelling shall be fully consolidated, hard surfaced, drained and brought into use.

15b. All parking areas shall be thereafter retained and used for no other purpose.

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

16. Prior to the first occupation of the dwelling on Plot H1 fronting Portland Road, a new dropped kerb footway crossing shall be installed to align with the new driveway. The works shall be constructed to a specification to be approved and agreed in writing by the Local Planning Authority. Any works shall meet all statutory requirements.

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

17. 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 Mondays to Fridays 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 amenities of surrounding occupiers.

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

- Location Plan & Proposed Outline Elevations (0603/102) received 13/08/14
- Proposed Block Plan (0603/100 Rev. A) received 01/10/14
- Proposed Site Plan received 13/08/14
- Survey Revision A received 13/08/14
- Design & Access Statement received 13/08/14
- Planning Statement received 13/08/14
- Updated Tree Survey prepared by Paul Dickinson & Associates received 07/08/14

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).



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/11/2014

Plans list item no: 8.

Reason for bringing to committee: Significant Public Interest

Application Number: 14/1330/FL
Application Type: Full application

Case Officer: Karon Hulse
Telephone Number: 01922 652614
Email: planningservices@walsall.gov.uk
Agent:

Applicant: Stansgate Planning

Proposal: Erection of warehouse building measuring 7.5 x 20 metres.

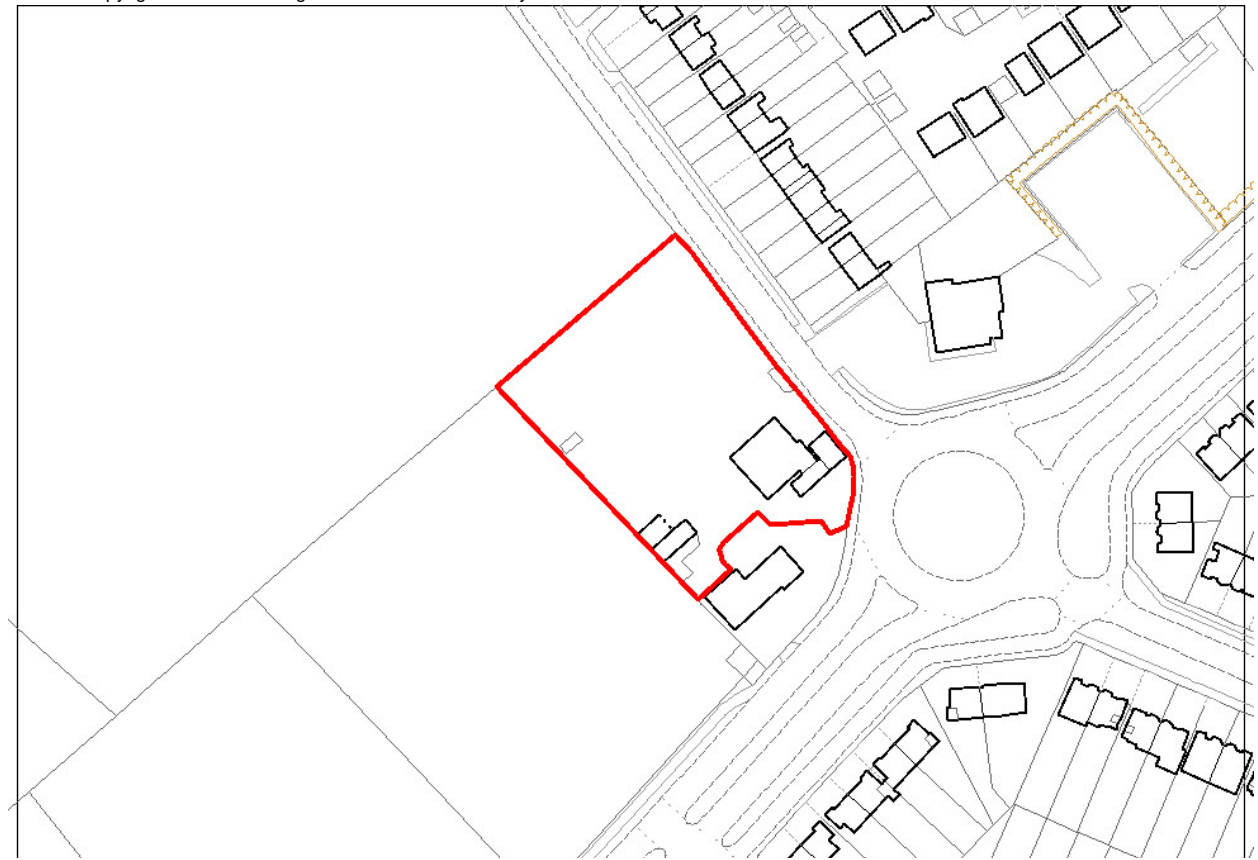
Location: M & J MAHONEY AND SON LTD, ALDRIDGE ROAD, WALSALL, B74 2AS

Ward: Streetly

Expired Date: 31/10/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

This application seeks consent for the erection of a new warehouse storage building on the site of M & J Mahoney's and Son Ltd, a Builders Merchants, DIY and Garden Centre.

This is a well established builder's merchants/garden centre which has been trading from the site since 1983. The proposal results from an increase in business and as such requires additional secure and under cover storage for materials on the site. The proposed warehouse storage area will measure 7.5 metres deep by 20 metres long and have an overall height of 5 metres providing a total floor area of 150 square metres. It will be sited along the western boundary with the adjacent field and will occupy part of the site currently used for open storage. Some of this open storage will be moved inside the building for security.

The application site sits at the eastern corner of the Great Barr Conservation Area. The surrounding land (which is within the conservation area) to the north and west is open countryside. The builder's yard forms part of the corner of the junction of Queslett Road East and Aldridge Road partially facing the traffic island, with access off Aldridge Road. Queslett Road East is a strategic highway which is a dual carriageway at this point. There is the Pub opposite with a large car park to the side with houses running north on the opposite side of Aldridge Road. To the south of the site is a single storey office building (bungalow).

The builder's merchant is entirely covered by hard-standing with materials being stored across it and surrounded by palisade fencing.

The site operates over 12 hours, 5 days a week and employs up to 50 staff between the warehouse and the customer service department.

Relevant Planning History

BC04154P – Use of site to include all areas of general garden and building materials supplies centre, reorganisation of layout, car parking, landscaping and elevational treatment of existing buildings. Granted on appeal 8th April, 1983

ENF 389/81 – The making of a materials change of use of the land to a mixed use for the purpose of the supply and sale of builders materials and for the purpose of the supply and sale of garden materials and plants. Appeal allowed 8th April, 1983

BC41841P – Proposed storage building (extension to existing). Granted 12th September, 1994

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- Seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas.
- Positively drive and support sustainable economic development to deliver business, taking account of the needs of the residential and business communities.

Key provisions of the NPPF relevant in this case:

1: Building a Strong, Competitive Economy

18. The Government is committed to securing economic growth in order to create jobs and prosperity.

19. The planning system should do everything it can to support sustainable growth

21. Planning policies should seek to address potential barriers to investment, including a poor environment, or any lack of infrastructure, services or housing.

3. Supporting a prosperous rural economy

28. Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;
- promote the development and diversification of agricultural and other land-based rural businesses;

7. Requiring good design

58. High quality development will be expected to include/meet the following criteria:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

64. Permission should, be refused for development of poor design

9. Protecting Green Belt land

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

80. Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

89. A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this include:

- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary

buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Annex 2: Glossary - **Previously developed land:** Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.

11. Conserving and Enhancing the Natural Environment

109. The Planning System should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

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.

Other Relevant National Policy

The Planning System: General Principles

This has not been superseded by the NPPF. Paragraph 15 indicates that a planning application should be determined on its merits in light of all material considerations.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies*”. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*.” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The key planning policies include:

ENV2 states that development proposals will be expected to preserve and, where appropriate, enhance local character.

ENV3: Design Quality

Development should deliver an urban renaissance through high quality design that stimulates economic, social and environmental benefits.

CSP2: Green Belt boundaries will be maintained and protected from inappropriate development.

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

ENV1: Safeguards nature conservation by ensuring development is not permitted where it would harm designated sites including Site of Importance for Nature Conservation. Adequate information must be provided with planning applications to ensure the likely impacts are fully assessed.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Encourage high quality design that stimulates economic, social and environmental benefits.

TRAN2: Planning permission will not be granted for development proposals that are likely to have significant transport implications unless applications are accompanied by proposals to provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development including, in particular, access by walking, cycling, public transport and car sharing.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

Walsall's Unitary Development Plan (2005)

3.3 The character and function of the Green Belt (which includes most of Walsall's countryside) will continue to be safeguarded as part of the wider West Midlands Green Belt. Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

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

3.21 & ENV1: Defines the purpose of the Green Belt.

The relevant policies are:

3.3: Inappropriate development within the Green Belt will not be allowed unless justified by very special circumstances.

ENV1: Defines the extent of the Green Belt.

ENV2: Highlights considerations of proposals within or adjacent to the Green Belt, and it includes a presumption against new buildings in the Green Belt, subject to exceptions similar to the approach in the NPPF although the NPPF now takes a more permissive approach to the extension or replacement of existing buildings (not just dwellings) and in respect of limited infilling or partial or complete redevelopment of previously developed sites. In both case this is subject to the impact on the Green Belt. Development is inappropriate if it conflicts with the openness and purposes of the green belt. ENV2(b) states re-use of existing buildings in the Green Belt will be acceptable provided that it does not involve any building extension or associated uses of land around the building that would conflict with the openness and purposes of the Green Belt.

ENV3: Detailed Evaluation of Proposals within the Green Belt - Proposals will be assessed for their impact on;

I. The detailed layout of the site.

II. The siting, design, grouping, height and scale of buildings, structures and associated outdoor equipment.

III. The colour and suitability of building materials, having regard for local styles and materials.

vi. The impact on significant views, viewpoints and topographical features.

IX. Any other relevant considerations identified in GP2.

ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- The appearance of the proposed development
- The height, proportion, scale, and mass of proposed buildings/structures.
- The materials proposed for buildings, external spaces and means of enclosure.
- The integration and co-ordination of buildings and external space.
- Community safety and security

- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.
- The proposed vehicular and pedestrian circulation patterns.
- The integration of existing natural and built features of value.
- The maintenance requirements of the developments.

ENV33: Promotes good landscape design, including in prominent locations and / or where there are features the council requires to be retained or enhanced.

T7: Car Parking

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

T13: Parking Provision

4 bedroom houses and above: 3 spaces per unit

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

Supplementary Planning Document "Designing Walsall" (Feb 2008)

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

DW3 – Character - all new development must be designed to respect and enhance local identity

DW9 – High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality

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

Consultations

Transportation – No objections

Pollution Control (Scientific Team) – No objections

Contaminated (Land Team) – No objections

Fire Officer – No objections

Regeneration (ecology) – no objections

Regeneration (landscaping) – no objections subject to condition requiring landscaping along the boundaries

Severn Trent – no objections subject to drainage condition

Public Participation Responses

Received 8 representations objecting on the following grounds:

The change of use from the garden centre to a builders merchants

- Existing permission is for garden centre not a builder's merchant.
- Over last 2 decades the site has seen a gradual conversion to a Builder's Merchant's yard, the nature and volume of the traffic generated by the site has changed.
- The garden centre was in operation into the early nineteen eighties
- The move to builder's merchants has not been subject to public consultation and scrutiny

Appearance of the building

- look out of place due to the type of construction
- be a 'blot' and possible effect on house prices(?)

- all surrounding buildings are mainly brick,
- Existing boundary offers very little screening of the proposed warehouse.
- No detail of the cladding material or its colour... not able to make an accurate assessment of the visual impact of the elevation which is located in Green Belt land.
- impact on wildlife,
- proposed warehouse out of keeping with residential
- incongruous in its form and uniform colour presenting a solid slab of building against the natural green fields adjacent
- will be clearly visible to residents on Aldridge Road due to the elevated position of houses...not welcome given its size, undifferentiated colour and mass
- out of character with its surroundings.

Traffic / manoeuvring around the site

- traffic already very bad ... will get worse with further deliveries and possible more people visiting etc.
- entrance close to an island and problematic for school children to cross.
- impact on traffic and the safety of pedestrians.
- no improvement to the road layout in area
- existing entrance opposite the Queslett pub...not adequate for the business with large vehicles manoeuvring in and out of the site
- warehouse location will result in building materials relocated leading to a reduction of space for vehicular manoeuvring and access on the site.
- frequent entry and exit of Articulated Lorries causes congestion at the bottom of Aldridge Road which is designated a main distributor road.

Noise / pollution

- increase in noise and pollution from vehicles,
- increase heavy goods vehicles associated with the delivery, storage and removal of building materials.
- vehicle movements and loading /unloading with forklift truck activities fitted with constant audible warning systems
- operate a building materials site delivery service with continuous heavy goods vehicle movements during opening hours
- traffic approaching from Queslett Road East and turning into Aldridge Road has poor visibility of the entrance of Mahoney's site which has led to several rear end shunts between stationary and approaching vehicles.
- Articulated lorries make deliveries between 5am and 7am, until the site opens it is common for these lorries to be left parked up along the built up side of Aldridge Road
- audible warning systems fitted to HGV's and site machinery are a constant nuisance to local residents.

Determining Issues

- Principle/Policy
- Relationship to the Green Belt and Conservation Area
- Supporting a prosperous rural economy
- Access/parking
- Noise/nuisance

Observations

Principle/Policy - This site was granted planning permission for use as a general garden and building materials supplies centre with reorganisation of its layout including car parking and landscaping and elevational treatment of existing buildings in April, 1983 following a ministerial appeal. At that time an enforcement notice was also quashed which then allowed for the making of a material change of use of the land to a mixed use for the purpose of the supply and sale of builders materials and for the purpose of the supply and sale of garden materials and plants. As such the site has a lawful permitted use for building and garden supplies.

The NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. It also states exceptions to this and in particular where there will be limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

As in many cases additions (including infilling) will likely to have a greater impact on openness. In this instance and given the existing impact on the green belt from the lawful use of the land and the potential for stockpiling additional material in perpetuity, it is considered on balance that the proposed storage building will benefit the area and will be a visual improvement and benefit to green belt and conservation area.

In conclusion, the scale, design and position, sensitive to the sites green belt location and setting is considered to "have no greater impact on the openness of the green belt and the purpose of including land within it than the existing development." As such it is considered overall, that it will be an improvement based on the existing appearance of this particular section of green belt.

Relationship to the Green Belt and Conservation Area - This is a long established successful builder's merchants/garden centre having occupied the site for at least the past 20 years on a major highways junction at the eastern corner of the Great Barr Conservation Area. The surrounding land (which is within the conservation area) to the north and west is open countryside. The builder's merchant is entirely covered by hard-standing with materials being stored in the open across site and surrounded by palisade fencing. The site as it currently appears is harmful to the conservation area, by virtue of the open aspect into the site and the poor quality of the buildings and materials being stored in the open.

The proposed building which would be 5m high, constructed from corrugated metal sheeting and located along the sites western boundary will help screen/enclose the activities within the site. It is considered this would be beneficial to the conservation area and green belt. However, the form of cladding could potentially be unacceptable unless it is given a paint finish that will reduce its impact. There was a tradition during the 20th century to construct corrugated metal buildings (particularly in rural areas) and therefore the use of this product should not be dismissed. Corrugated metal sheeting would look acceptable in this instance if it were given a durable and dark paint finish in a subtle colour such as green, it is considered that this can satisfactorily be required and controlled by the imposition of an appropriate planning condition.

The construction of poor quality built form in this location will generate less than substantial harm, whilst its screening merits to this site will be positive.

There are no ecological issues arising from this proposal.

Supporting a prosperous rural economy - The NPPF states that policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This is an established successful business which by allowing the current proposal is for an extension will allow for the continued operation of the business in a rural location. The provision of a new building for storage will provide security for goods of the business, retain existing jobs on the site and enhance and improve its overall presence in this location, within the conservation area and green belt.

Access/Parking - The applicant has stated that the new building is required for additional secure undercover storage of materials as a result of increased business, this is a large site and the siting of the new building for storage purposes will not result in a detrimental impact on existing parking provision or any other external storage.

The storage building will replace an area currently used for open storage simply relocating the open storage inside, it is not anticipated that this will result in any additional deliveries likely to take place as a result

There is no change to the existing sites access; the erection of the new building does not require any amendments to accommodate it.

The proposed new building will provide an additional 150sqm floor space. In terms of parking requirements on the overall site plus the new building policy T13 would require be 10 spaces, inclusive of 1 disabled space. The proposals provide 22 spaces overall and therefore more than meets the policy requirement.

Noise/nuisance - The new storage building will clearly offer benefits in terms of noise as operations and storage will take place inside a building. The siting of the new building will not impact on the operations currently taking place at the site namely the use of fork lift trucks with audible reversing warning systems.

On balance the provision of the new storage building will not increase the day to day operations and use of this general garden and building materials supplies centre. It is unlikely to increase noise or pollution in the area and deliveries to and from the site are unlikely to increase above that which currently exists. Notwithstanding this a condition can be imposed on any approval that restricts delivery times which should reduce any impact which may arise from the site.

Positive and Proactive working with the applicant

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

Recommendation: Grant Permission Subject to Conditions

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

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

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

- Existing Site Plan (7353-200 REV A) received 3/10/14
- Location plan (7353-100) received 4/9/14
- Proposed Elevations and Floor Plan (7353-300 REV A) received 4/9/14
- Proposed Site Plan (7353-201 REV B) received 3/10/14
- Planning Appraisal received 4/9/14

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 new building first being used, the customer and staff parking spaces shown the approved drawing no. 7353-200 Rev B, shall be clearly demarcated on the ground. At least 1 parking space shall be allocated for disabled users and demarcated accordingly.

3b. The parking spaces shall thereafter be retained and used for no other purpose..

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

4a. No development shall be carried out until full details of existing and proposed boundary treatment of the site have been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include any internal site divisions.

4b. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

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

5a. Prior to the commencement of the development full details of hard and soft landscaping works shall be submitted and approved in writing by the local planning authority to include the following:

- correct botanical names
- numbers/planting densities for each block of planting proposed
- size supplied of all proposed shrubs at time of planting
- details of proposed turf/seeded areas
- topsoil and mulching depths and specifications
- details of landscaping establishment/maintenance proposals to be undertaken during the standard maintenance period
- details of future management of the landscape scheme
- ground preparation measures to be adopted
- existing and proposed levels
- Management plan

5b. The approved landscaping shall be implemented within 12 months of the completion of the development.

5c. All planting shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any trees, shrubs or plants 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 of the area.

6a. No development shall begin until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority.

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

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. No development shall not be carried out until a schedule of facing materials to be used in external walls and roofs has been submitted to and approved in writing by the Local Planning Authority.

7b. The approved details shall be fully implemented and thereafter retained.

Reason: To ensure the satisfactory appearance of the development.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, there shall be no vehicular access to the site, other than through the access as shown on the deposited plans.

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

9. No construction, demolition, engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation) or deliveries shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 13.00 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.

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

10. The warehouse storage building hereby approved shall only be used for the storage of materials ancillary to the main use of the site namely the *Builders Merchants, DIY and Garden Centre* and at no time shall it be sub divided and operated as an independent and separate business.

Reason: To define the use of the building, to ensure the satisfactory operation of the site, to ensure adequate parking, outside storage and vehicular manoeuvring space is retained, in accordance with UDP Policy GP2, T7 and T13 and in the interests of highway safety.

Notes: The development looks to add an additional B8 storage building of about 150sqm GFA. In terms of UDP T13 parking policy the overall parking requirement including the existing buildings and the proposed building equates to 10 spaces, inclusive of 1 disabled space. The proposal looks to provide 22 spaces overall and therefore more than meets the policy requirement.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/11/2014

Plans list item no: 9.

Reason for bringing to committee: Called in by Councillor Shires and Departure from the Development Plan

Application Number: 14/1175/FL
Application Type: Full application

Case Officer: Alison Ives
Telephone Number: 01922 652604
Email: planningservices@walsall.gov.uk
Agent:

Applicant: Giokick Martial Arts

Proposal: Change of use from B1/B2 use to martial arts studio (class D2 use) - resubmission following refusal of 13/1244/FL.

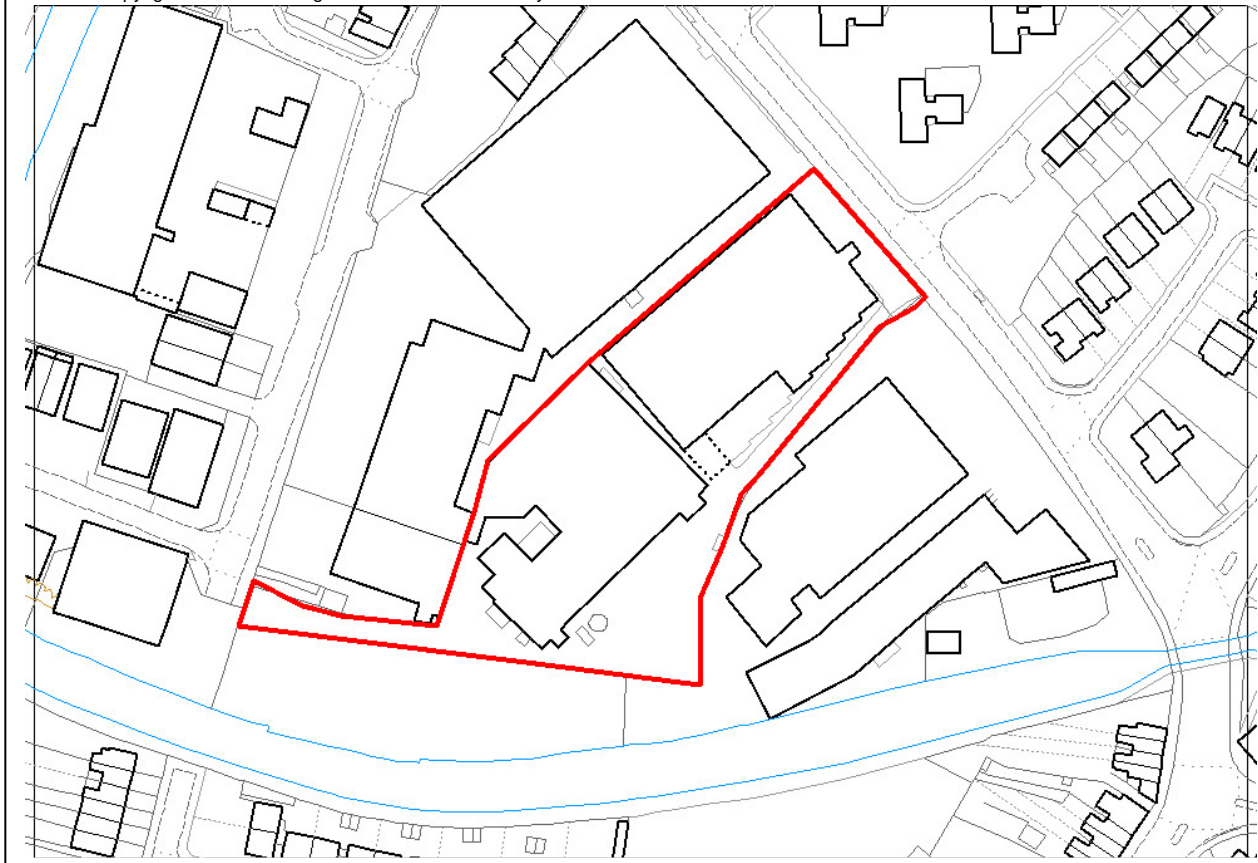
Location: UNIT 1A, ALVAR BUSINESS PARK, STRAIGHT ROAD, WILLENHALL, WV12 5QY

Ward: Short Heath

Expired Date: 28/11/2014

Recommendation Summary: Refuse

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Application and Site Details

The proposal is for change of use from Class B1/B2 (business/general industrial) use to a martial arts studio (Class D2 - assembly & leisure) use at Unit 1A Alvar Business Park, Straight Road. This is a resubmission following refusal of permission 13/1244/FL on 21st November 2013 and subsequent dismissal of an appeal on 9th April 2014.

The application relates to vacant first floor premises on an established industrial park comprising 9 units. The premises are located in Straight Road and there is shared off-street parking in front of the building. Further parking is available at the rear of the site. There are predominantly industrial and commercial premises on this side of Straight Road and residential properties including flats and housing opposite. The site is 124m away from Lane Head Local Centre and approximately 2 miles away from Willenhall District Centre.

The proposal is to set up a fully equipped martial arts studio teaching all ages from 4 years upwards. The proposal shows the layout of the first floor including a gym area, warm up area, reception and waiting areas. Parking is available at the rear of the adjoining industrial units.

The Council's refused application 13/1244/FL for the following reason.

1) The proposal fails to demonstrate that:

- A local need for the proposed martial art studio exist to justify this use in an out of centre location;*
- There are no more centrally located sites, buildings or opportunities within the Town, District or Local centre that would serve the catchment area of the proposed use adequately;*
- The proposed use can be adequately accessed by sustainable methods of travel avoiding significant reliance on car usage.*

As a result the proposal would have a significant adverse economic impact upon the vitality and viability of Willenhall District Centre through the diversion of trade and deterrence of investment which would otherwise help sustain the centre. As such the proposal is contrary to the National Planning Policy Framework, Policies CEN1, CEN2, CEN6 and CEN7 of the Black Country Core Strategy, Saved policies 5.4, 5.5, 5.6, 5.8, S1, S6, S7, T10 and T12 of the Walsall Unitary Development Plan.

The Business Plan – Describes the business objectives to offer a fully equipped martial arts studio with 2 full time instructors, 2 part time instructors and 2 part time administration staff. It describes the benefits of the service and how it will be promoted, the layout of the premises, facilities available, opening hours, class times and costs in terms of classes, rental of the premises and set up costs. Attached is a list of people who have made inquiries about classes and confirmation from the landlord regarding the terms of the lease.

The Supporting Planning Statement – Seeks to address the sequential tests. The applicant has appended a petition with 558 signatures in support of the proposals which they state has been collected locally. Twelve individual letters of support are also appended plus support from the Police Community Support Officer. The Statement reviews the local statistics including a public health profile and crime, it identifies health benefits, benefits to local employment in term of trades, suppliers and employment of staff. It states the premises have been vacant since 2011. The statement identifies that other premises have been considered but were unsuitable for various reasons. In conclusion the statement considers the proposal is much needed in the area, will create a business to generate employment and support supply chains, has community support, there are no suitable premises in a centre location, it will bring an unused building into use, is accessible by means other than the private car close to bus routes and where cycling and walking will be promoted.

The Supplementary Transport Statement – Highlights that there would be access to 29 off-street parking spaces for the proposed use at the premises. The applicant considers this is adequate to serve their needs and is unlikely to have a detrimental impact on the highway. The statement also discusses accessibility of the site for pedestrians and cyclists and identifies 6 local schools in walking distance, local bus routes and local centres.

The Supporting Statement – Policy Assessment – Explains the unit has been vacant for some time and the owner has had little interest in letting the premises for industrial or office purposes. It also highlights that there is an indoor play and activity centre with ancillary cafe and a gymnasium in adjacent units on Arrow Industrial Estate as well as Alvar Karting & Laser Centre. The statement points out that the site is not in a Core Employment Area or a Best Quality Site safeguarded by policies JP5 and JP6. It concludes that there are no suitable alternative District and Town Centre premises to meet the business space and technical requirements and only industrial units are suitable, there would be no adverse impact from noise to any residents, traffic would be off-peak and have little impact on the local highway network, the site is in walking/cycling distance of nearby residents and served by local buses.

Relevant Planning History

13/1244/FL - Change of use from B1/B2 use to martial arts studio (D2 use class) – Refused 21/11/13. One reason for refusal relating to the adverse impact on the vitality and viability of Willenhall District Centre due to the failure to demonstrate a local need to justify the use in an out-of-centre location or that there are no other more centrally located sites to serve the catchment area and reliance on the private car due to inaccessibility by sustainable means of transport.

Appeal dismissed – 9 April 2014 due to the failure to adequately address the sequential test, proportionate to the scale and nature of the proposal, to justify a significant new leisure use in an out of centre location or to demonstrate that the leisure use would primarily be a facility to meet local needs. The appellant failed to demonstrate that the proposal would not materially harm the vitality and viability of Willenhall town centre.

12/0322/FL - Refurbishment of existing industrial units for B1, B2 and B8 uses; Change of use of Unit 2 to a go-karting centre; Conversion of Units 4 and 5 to vehicle repairs and MOT station with renovation of front elevation; Reconstruction of unit 3 to provide ancillary facilities to Unit 2 and a laser centre - Granted subject to conditions by Planning Committee on 28th June 2012.

11/0744/FL - Alvar Business Park - Refurbishment of existing industrial units for B1, B2 and B8 uses, external alteration plus the change of use of unit 2 to vehicle repairs and MOT station - Granted subject to conditions 17th October 2011.

BC13560 - Straight Road, Willenhall - Erection of single storey office block and toilets - Granted 1979.

Other relevant planning history

05/1380/FL/W5 Arrow Industrial Estate, Unit 4 Straight Road - Change of use of existing industrial/warehouse building to children's indoor play and activity centre with ancillary café - Granted subject to conditions 7th September 2005.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- Proactively drive and support sustainable economic development to deliver business and infrastructure and thriving local places that the country needs.
- Encourage the effective use of land by reusing land that has been previously developed.
- Ensuring the vitality of town centres
- Promoting sustainable transport
- Requiring good design and a good standard of amenity for all existing and future occupants of land and buildings.

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 19 supports sustainable economic growth and advises that planning should operate to encourage and not act as an impediment to sustainable growth. Significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 23 states planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. Local planning authorities should consider the following:

- recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;
- define a network and hierarchy of centres that is resilient to anticipated future economic changes;
- allocate a range of suitable sites to meet the scale and type of leisure development needed in town centres;
- allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available;
- set policies for the consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres.

Paragraph 24 states Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.

Paragraph 27 highlights that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place

- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 32 identifies that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment.

Paragraph 35 states plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people.

Paragraph 56 attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 notes it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

On **planning conditions** the NPPF says:

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

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was

published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP2: Outside strategic centres and regeneration corridors free-standing employment sites to provide local employment opportunities to serve communities outside the corridors will be supported.

CSP4: A high quality of design of the built and natural environment is required.

EMP1: Aims to provide industrial land and warehouse jobs in the Black Country and to protect jobs and support economic growth.

EMP3: Provides for local quality employment land.

CEN1 Town, District and Local Centres provide for town centre uses including meeting the day-to-day shopping needs. Proposals that undermine this strategy will be resisted.

CEN2: Defines Willenhall as a Town Centre.

CEN4: The network of centres will help to meet needs in the most accessible and sustainable way.

CEN6: Small-scale local facilities outside defined centres of up to 200 square metres gross will be permitted if all of the following requirements are met:

- The proposal is of an appropriate scale and nature to meet a specific day-to-day need of a population within convenient, safe walking distance.
- Local provision could not be better met by investment in a nearby centre;
- Existing facilities that meet day-to-day needs will not be undermined.
- Access to facilities by means other than by car would be improved and, in particular, will be within convenient, safe walking distance of the community it is intended to serve;
- Where new local facilities are to meet the specific needs of new housing development,

CEN7: Seeks to control out-of-centre development. Proposals for out-of-centre development will have to demonstrate that development cannot be provided in-centre or at edge-of-centre locations of existing Centres appropriate to the hierarchy. For retail purposes, a location that is well connected and within easy walking distance (i.e. up to 300 metres) of the primary shopping area of Strategic and Town Centres will be regarded as edge-of-centre. For all other main town centre uses a location that is well connected and within easy walking distance (i.e. up to 300 metres) of the centre boundary of Strategic and Town Centres will be regarded as edge-of-centre, unless otherwise defined in relevant saved UDP policies. Any proposal for a town centre use in an out of centre location, whether brought forward through a Local Development Document or planning application, will only be considered favourably if the impact assessments contained in the most recent national guidance are satisfied, or the requirements of Policy CEN6 are satisfied. Any out-of-centre proposal which is considered to fall within the catchment area of a relevant centre will be required to include that centre in any sequential test.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

Walsall's Unitary Development Plan (UDP)

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

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

GP6: Developments to which the public will have access will only be permitted if designed to provide good access for disabled people.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV32 & 3.116: Seeks to create high quality environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

JP7(c): Assembly and leisure (D2) will not be permitted, except where a purely local need is demonstrated.

JP7(d): When buildings come forward for re-use they will normally be safeguarded for appropriate employment use, however there may be exceptional circumstances where it will be appropriate to consider other uses.

5.4: The Council will apply a sequential approach for the location of all leisure uses.

5.5: Out-of centre development will only be acceptable if it can be demonstrated that there are no alternative opportunities within or, failing that, on the edge of existing centres.

5.6: Apply the sequential approach in a flexible, realistic and sensitive manner, and consider the needs of developers and operators. It will also expect applicants to be flexible about their requirements - in terms of unit sizes, layouts, ancillary facilities, car parking, servicing and design - so as not to preclude the possibility of identifying locations in centres. Where an edge-of-centre or out-of centre proposal comprises different elements or units, or involves adding floor space to or within an existing or permitted development, then each part of the proposal should be considered separately for an in centre location. In all cases, the key issue will be whether the type of activity proposed - rather than the type of building preferred by the developer or operator - can be accommodated in a more central position.

5.7: The Council will resist proposals for the movement of existing retailing, leisure, other town centre uses and public transport facilities to edge-of-centre or out of- centre locations where this would:-

- Lead to the loss of trade, activity or investment from the centre (taking into account any proposals for the re-use of the existing site);and/or
- Be contrary to Government guidance to improve accessibility to a range of facilities by means other than the car; and /or
- Conflict with Government guidance to reduce dependency on access by car and/or reduce car travel.

5.8: Development proposals in edge-of-centre and out-of-centre locations will also be subject to the provisions of Policy S6 ('Meeting Local Needs') and/or Policy S7 ('Out-of-Centre and Edge-of-Centre Developments').

S1: Defines martial arts studios as town centre uses (Class D2 – Assembly & Leisure).

S2: Defines Willenhall as a district centre.

S6(c): Out-of-centre development may be appropriate to meet such specific local needs - otherwise proposals for additional out-of-centre development for town centre uses will be considered against policy S7. Therefore, new small-scale local facilities will be permitted if it can be shown that all of the following requirements will be met:-

- 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.
- viii. To ensure this, the establishment of shops or other uses that attract the public in terraced properties adjoining dwellings will not normally be permitted.
- ix. Servicing and parking associated with the proposed use must not create any significant road safety or traffic problems.

S7; proposals for other town centre uses in out-of-centre or edge of-centre locations will only be permitted provided they can meet the following tests:

- Need for the facility.
- There being no more centrally located sites, buildings or opportunities which could be used to serve the catchment area of the use proposed.
- have an adverse economic impact upon the vitality and viability of any existing Town, District or Local Centre
- have an adverse economic impact on existing or planned provision to meet local needs
- offer genuine and realistic safe and easy access by public transport, walking and cycling for all sections of the community, and from a wide catchment area,
- should not be designed and located so as to be reliant primarily on access by car

iii) The proposal must not likely to have an adverse economic impact upon the vitality and viability of any existing Town, District or Local Centre (within or outside the Borough) through the diversion of trade and/or deterrence of investment which would help sustain and enhance that centre.

V) The proposal must offer genuine and realistic safe and easy access by public transport, walking and cycling for all sections of the community, and from a wide catchment area, to help achieve better access to facilities and development by a choice of sustainable transport modes.

Consideration must be given to whether an alternative location in a centre would ensure easier access.

VI) The proposal should not be designed and located to be reliant primarily on access by car and should contribute to the objective of reducing the need to travel, especially by car. Again, consideration must be given to whether an alternative location in a centre would facilitate multi-purpose trips and help reduce car use.

T1: Seeks to improve access and help people get around

T7 – Car Parking

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T12(c) Access by public transport for Leisure Facilities

I. The walking distance from the entrance of the building to a bus stop should be no more than 400 metres and the bus stop should be as conveniently located as possible to the entrance of the building.

II. Bus services should operate during working hours from all parts of the catchment area directly to the facility, and there should be pickup/drop-off points within 400 metres of all housing within the catchment area

III. Bus services should be at the level of frequency set out in (b) with additional services for staff outside these hours if necessary.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

Martial arts studio class d2 use; 1 space per 22 square metres of gross floor space

Supplementary Planning Documents (SPD)

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

Designing Walsall SPD

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

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

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

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

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

Consultations

Transportation – No objections subject to securing cycle shelter provision by a recommended condition. In accordance with policy T13 the proposed Class D2 use requires 9 car parking spaces plus cycle facilities. There are potentially 29 car parking spaces available on the business park. Taking into account the sustainable location with access to frequent bus services and that the premises will mainly operate outside peak traffic periods the proposal is unlikely to result in severe transportation implications.

Public Participation Response

None received.

Determining Issues

- Whether the proposals address the earlier reason for refusal of 13/1244/FL and dismissal of the appeal

Observations

Whether the proposals address the earlier reason for refusal of 13/1244/FL and dismissal of the appeal

The key reasons for refusal of permission 13/1244/FL and subsequent dismissal of the appeal relate to the failure to demonstrate a local need for the development, or to address the sequential tests to justify this leisure use in an out of centre location or to demonstrate that the proposal would not materially harm the vitality and viability of Willenhall town centre.

The Inspector acknowledged that the size of the unit exceeds that normally allowed for out of centre facilities and that the scale and nature of the business would draw customers from a wider area. In the absence of a business plan or any market research relating to the catchment area the appellant had failed to demonstrate that the proposal would meet local needs. A business plan has been provided but this concentrates on how the business will operate rather than market research and local catchment.

The Supporting Planning Statement does include evidence collected by the applicant relating to local need. A petition with 558 signatures in support of the proposed martial arts centre was collected by the applicants in neighbouring streets, shop owners and customers in Lane Head local centre and New Invention, customers of the nearby Go-Karting centre and people working in the vicinity of Alvar Business Park. The petition welcomes a community facility for adults, children and young people in an area underprovided by such facilities in an accessible location. The applicant states that although some signature addresses are not local to the site these are in the minority as 336 signatures are from residents living in the nearby neighbourhoods. They also highlight that not all residents in Straight Road and Drancy Avenue have been approached. The petition does not entirely demonstrate that there is a local need for the facility or that the local residents would be less likely to use a similar facility in an established centre.

The Inspector also refers to the lack of consideration of town centre sites or to demonstrate that the requirements of the business are so unusual that they cannot be accommodated in a town centre building as only three alternative buildings had been considered at that time. The applicant provides details of five alternative premises they have viewed in Wolverhampton, Bilston and Willenhall which were unsuitable due to being in a poor state of repair, within protected Core

Employment Areas, or unsuitable layout. These sites are not in a town centre location. The applicant has also contacted the Development & Delivery Team to assist in their search for premises and highlight 3 further town centre premises which they have dismissed as unsuitable due to costs (including costs of rental, maintenance, adaption works required, floor space and accommodation needs).

The Inspector highlights that the appellant had not given full consideration of whether a reduced level of car parking would be adequate to serve the business, particularly if it was located in an established centre. The applicant considers the location is accessible and will enable clients use alternative means of travel including public transport, walking and cycling.

The information provided by the applicant is not sufficient to address the earlier reason for refusal.

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted but officers are unable to support the scheme.

Recommendation: Refuse

1. There is insufficient information to demonstrate a local need for the facility and identify a catchment area that is informed by market research to demonstrate that a martial arts centre would not be viable in an established centre in a sequentially preferable location. As a result the proposals would have a significant adverse impact on the vitality and viability of Willenhall District Centre through diversion of trade and deterrence of investment which would otherwise help sustain the centre. As such the proposal is contrary to the aims and objectives of the National Planning Policy Framework, policies CEN1, CEN2, CEN6 and CEN7 of the Black Country Core Strategy and saved policies S1, S6, S7 of the Walsall Unitary Development Plan.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/11/2014

Plans list item no: 10.

Reason for bringing to committee: Decision required within 56 day period

Application Number: 14/1474/PNTEL

Application Type: Prior Approval of siting & Appearance of Telecommunications Apparatus

Applicant: MBNL

Proposal: Replacement of existing 9.7m high telecommunication mast with 9.7m high telecommunication mast and additional equipment cabinet (1230mm x 400mm x 1032mm).

Location: TELECOMMUNICATIONS EQUIPMENT, SNEYD LANE, BLOXWICH, WALSALL, WS3 2LN

Ward: Bloxwich West

Case Officer: Paul Hinton

Telephone Number: 01922 652607

Email: planningservices@walsall.gov.uk

Agent: GVA

Expired Date: 05/12/2014

Recommendation Summary: Prior Approval REQUIRED and APPROVES

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Background

This type of application is granted planning permission by national planning legislation, subject to the siting and appearance. A decision must be made within 56 days otherwise permission is automatically approved.

Application and Site Details

This is a prior approval application for the replacement of an existing 9.7m high telecommunication mast with a 9.7m high telecommunication mast. The shroud and antenna would be marginally wider than the existing installation, with a wrap around cabinet at the base. A fourth equipment cabinet is proposed, measuring 1.2m by 0.4m by 1m. The mast and cabinets would be located within the pavement along Sneyd Lane, close to its junction with Broad Lane. The mast would be operated by EE. The mast would be galvanised and the cabinets would be galvanised steel.

The application site is pavement next to the road traffic junction of Sneyd Lane and Broad Lane. Immediately to the rear is a three to five storey high residential apartments for people over the age of 60, across the road are houses. The area is mainly residential with street furniture in the form of street lamps, bus shelter, road traffic signs, trees and boundary railings.

The technical information submitted includes:

- Site specific Supplementary Information, which states:
 - Upgrade of an existing site
- Design and Access Statement, which states:
 - Will form part of an improved upgraded network for Hutchison 3G UK limited which will allow faster downloading and the reduction in call drop outs.
 - There is a high level of traffic to this site
- A Declaration of Conformity with International Commission on Non Ionising Radiation Protection (ICNIRP) Public Exposure guidelines.

Consideration of alternative sites:

- Parker Street – Existing 15m high mast, any upgrade would have a noticeable visual impact on the local area
- BT Leamore ATE, Victoria Avenue – This is a four storey building with existing telecommunication equipment at rooftop level and several masts attached to the side. Any upgrade to this site will result in a greater adverse visual impact due to a lack of screening

In addition the applicants have confirmed the proposal is not to increase the coverage area, but the capacity of the existing area.

Relevant Planning History

04/0915/PT/E6 – Proposed telecommunications installation consisting of 10m high monopole antennae and cabinets. Prior notification details approved 3/6/2004.

14/1222/PNTEL – Replacement of existing 9m high telecommunication mast with a 12m high telecommunication mast and additional equipment cabinet (1330mm X 400mm X 1032mm). Withdrawn 11/9/14

14/1294/TELECOMREG5 - Installation of a pogona cabinet measuring 1230 x 400 x 1032 mm, the swap out on a like for like basis of the 9.7m monopole and antennas within the shroud, additional mast head amplifiers (MHAs) and associated development. Prior approval required 30/9/14.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- proactively drive and support sustainable economic development
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- encourage the reuse of existing resources

Key provisions of the NPPF relevant in this case:

5. Supporting high quality communications infrastructure

42. Advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services.

43. Existing masts, buildings and other structures should be used, unless the need for a new site has been justified. Where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate.

45. Applications for telecommunications development (including for prior approval under Part 24 of the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development.

This should include:

- the outcome of consultations with organisations with an interest in the proposed development.
- for an addition to an existing mast or base station, a statement that self certifies that the cumulative exposure, when operational, will not exceed International Commission on non-ionising radiation protection guidelines; or
- for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met.

46. Local planning authorities must determine applications on planning grounds. They should not seek to prevent competition between different operators, question the need for the telecommunications system, or determine health safeguards if the proposal meets International Commission guidelines for public exposure.

7. Requiring good design

56. Good design is a key aspect of sustainable development.

58. Decisions should aim to ensure the developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion;

- and are visually attractive as a result of good architecture and appropriate landscaping.

63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

65. Not refuse permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape.

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.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

Local

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The key planning policies include:

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Encourage high quality design that stimulates economic, social and environmental benefits.

TRAN2: Planning permission will not be granted for development likely to have significant transport implications.

It is considered in this case that the relevant provisions of the BCCS can be given full weight

Walsall's Unitary Development Plan (UDP) (2005)

www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2: Environmental Protection

Development should be sustainable and contribute to environmental improvement

ENV32: Design and Development Proposals

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

ENV38: Telecommunications:

a) Equipment including cabinets can have significant visual impact and are unlikely to be acceptable: ii) within curtilage of a Listed Building, iv) other visually sensitive locations.

b) i) Use of existing high level buildings and structures ii) Mast and site sharing

c) Measures to reduce the impact of the equipment, such as screening and mast camouflage, will be required where necessary

d) All proposals should comply with ICNIRP requirements.

T1 and T8 states that the Council will have regard for disabled people ensuring that street furniture does not inhibit safe and convenient access and to protect pedestrian routes between the central cores, food stores and residential catchment areas.

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

Supplementary Planning Documents (SPD)

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

Designing Walsall (Feb 2008)

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

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

It is considered in this case that the relevant provisions of Designing Walsall

The Code of Best Practice on Mobile Network Development in England 2013: (Published: 24/07/13)

This is also a material consideration establishing the procedures of consultation, notification and determination of telecommunication applications.

Consultations

Consultation expires end of play on 7/11/14. An update will be provided to Committee on any additional comments received.

Transportation – no objection.

Pollution Control

Scientific Team – no objection recommending continual compliance with ICNIRP requirements following any upgrading or modification to the telecommunication equipment.

Contaminated Land Team – no objection. Note for applicant in regard to historic ground conditions.

Public Participation Responses

Surrounding occupiers notified by letter and site notice displayed. Consultation expires on 11/11/14 after the publication of the report. Any comments received will be reported at the meeting.

Determining Issues

- Principle of appearance and siting
- Impact upon character and appearance of area
- Highway safety
- Health risks and perception of health risks

Observations

Principle of appearance and siting

The site has previously been found as acceptable for the siting of a 9.7m high telecommunications mast and two equipment cabinets and has been used for this equipment for some time. This application proposes the removal of the existing 9.7m mast and its replacement with a new 9.7m high mast and an additional equipment cabinet. Notwithstanding this recent telecommunication history the NPPF (paragraph 45) requires for a new mast that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure. UDP policy ENV38 also requires operators to demonstrate that they have fully investigated the possibility of the need for the erection of new masts by the use of existing high level buildings and structures. The applicant has considered alternative locations, an existing street works mast at Parker Street and the telephone exchange building in Victoria Avenue, both of which are considered would have an adverse visual impact. Officers agree with this conclusion.

The NPPF states that high quality communications infrastructure is essential for sustainable economic growth. The proposal is required to provide sufficient coverage for two telecommunication providers. The proposal utilises an existing site through mast share rather than the requirement for any additional masts. The principle of a telecommunication installation in this location is therefore acceptable.

Impact upon character and appearance of area

Since the previous approval the single storey buildings that were present on the site to the rear of the mast have been demolished and replaced with Fairview Court, self-contained apartments for adults over 60. This is a three to five storey high building on the corner of Sneyd Lane and Broad Land. The mast is located in front of these apartments but not directly in front of the windows. The current mast does not exceed the fourth floor and the proposal would maintain that relationship. In the immediate area there is street furniture in the form of street lamps, boundary railings, traffic lights, traffic signs, bus shelter and trees ensure. The combination of these features and the height of the building behind mean that mast would have no further impact upon the appearance of the area. The diameter of the mast is very similar the existing mast. The height and colour of the mast remains as the existing mast, galvanised steel, while a colour coating could be required here, given the grey and blue cladding of the building behind, it is considered the grey galvanised mast would integrate better than any colours.

The additional equipment cabinet would be next to the three existing cabinets finish in a green colour, which are in front of the metal railings that form the boundary of Fairview Court, with landscaping between the boundary and the windows to the ground floor apartments. The cabinet would be a grey colour which would be at odds, however a condition requiring this to be green to match the others is necessary to ensure it integrates into the area. The cabinet would be no higher or wider than the existing cabinets. Given the height of the three storey building behind, the width of the pavement and the existing street furniture, the additional cabinet would have limited visual impact. While the cabinets are in front of the ground floor windows, due to their height, position and distance from these windows they would not result in a significant loss of outlook from these windows.

This is a sustainable development which brings economic and social benefits without adversely effecting the environment.

Highway safety

There would be 2.3m between the proposed mast and the edge of the pavement and a distance of 5.3m between the additional cabinet and the edge of the pavement. The proposal would not impede the use of the highway. Transportation raise no objection to the application.

Health risks and perception of health risks

Whilst health concerns are a material consideration, they must be considered in the context of current government guidance. In this case the applicants have submitted an ICNIRP declaration which certifies that the site is designed to be in full compliance with ICNIRP requirements regarding health aspects and concerns about them.

Pollution Control do not object but recommend a condition to ensure continual compliance with ICNIRP requirements. Operators are required by their licence to ensure sites are ICNIRP compliant, the condition for continual compliance is not necessary or relevant to planning for the requirements of the NPPF. The proposal of such conditions has been dismissed by Planning Inspectors in appeal decisions.

Positive and proactive working with the applicant

Officers have liaised with the applicant's agent during the application process to ensure full information has been provided to enable full support to be given to the scheme.

Recommendation: Prior Approval REQUIRED and APPROVES

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 application form and following plans and documents: -

- Site location plan (WLL022_BROAD LAND SW_53118_001) received 1/10/14
- Existing site plan (53118-102 Rev A) received 29/10/14
- Existing elevations (53118 -103 Rev B) received 29/10/14
- Proposed elevations (WLL022_BROAD LAND SW_53118_003) received 1/10/14
- Declaration of conformity with ICNIRP Public Exposure Guidelines received 1/10/14

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

3. The equipment cabinet hereby approved shall be finished in a green colour to match the existing equipment cabinets.

Reason: In the interests of visual amenity.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/11/2014

Plans list item no: 11.

Reason for bringing to committee: Requiring delicate judgement

Application Number: 14/0900/FL

Application Type: Full application

Applicant: Mr & Mrs A Jackson

Proposal: Part retrospective: Material amendment to planning permission 13/1138/FL to amend rear dormer windows

Location: 131 SNEYD LANE, WALSALL, WV112DX

Ward: Willenhall North

Case Officer: Paul Hinton

Telephone Number: 01922 652607

Email: planningservices@walsall.gov.uk

Agent:

Expired Date: 27/08/2014

Recommendation Summary: Grant Permission Subject to Conditions

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Application and Site Details

This application is for a material amendment to planning permission 13/138/FL which was approved in November 2013 a roof extension to the left hand side of the property over the previous flat roof garages, to provide accommodation within the roof space. A front projecting gable to the side of the house close to the boundary with number 137 was approved, with a single dormer window also to the front. Three dormer windows to the rear were also approved. The roof was approved be extended beyond the existing footprint of the garage and utility to the rear to square it off at the rear, creating a canopy structure.

The application seeks retrospective approval to the change in the height and location of the rear dormer windows. The two bedroom dormer windows have been positioned 0.2m higher up the roof than approved, with the opening windows swapped sides and opening towards number 129. The en-suite dormer window has been increased in height, positioned 0.2m lower and 0.2m higher than the approved drawing and positioned a further 0.4m away from the boundary with number 137. The opening has been swapped sides and opens towards number 129. This window has obscure glazing.

At the front, the new 5.7m high gable was approved with its roof spanning the width of the original flat roof garages (7.2m), with the eaves cut back to be contained within the property. The gable has been built at a lower maximum height, 5.3m with a reduced width (6.2m). Due to the reduced width there is a 1.2m wide section at the front next to the gable which has a flat roof with a step. This felt finished roof was part of the original roof of the garage; it has a parapet at the front and has a depth of 6 m that forms part of the boundary with number 137. The opening to the window to this front gable has swapped sides and opens towards number 137.

The front dormer window has been built 0.2m higher than approved, with the top being positioned closer to the roof of the bungalow. The opening to the window to this front gable has swapped sides and opens towards number 137.

Other changes from the approved plans include:

- To the approved patio doors to the dining room, additional windows either side of the opening (proposed)
- Stone details to window cills to front of house (constructed with the exception of one window which would be installed once the garage door is removed).
- Addition of partial break in the roof plane to the side elevation with number 137 due to reduced width of gable.

At the time of the officers site visit the extension works had been largely undertaken but the build had not been fully completed.

This detached bungalow is situated on the southern side of Sneyd Lane, Essington, set back 10m from the pavement behind a large boundary hedge that encloses the front and both sides of the drive. There is a protected Sycamore Tree that forms part of this front boundary. The street is characterised by mature trees along the front boundaries of houses, with protect trees within the front boundaries of number 127, 137 and 141. This is a residential area, with this side of the road characterised by detached houses of individual designs. Number 129 is a detached two storey house with a large two storey gable feature to the front and projects to front and rear of number 131. The side elevation facing the application site is blank, with openings in the hipped roof. Number 137 is a two storey detached house which has been extended with a single storey side and two storey rear extension. The side elevation facing 131 has an existing WC and utility window at ground floor and a secondary bedroom window and bathroom window at first floor. To the frontage a large bay window to the lounge and a secondary window on the front of the single

storey side extension. The garden levels to the property drop down to the rear. The garden at number 137 is broadly level, with one step from the patio area.

There is a current Ombudsman investigation in regard to the Council's handling of the previous application.

Relevant Planning History

13/1138/FL – Roof extension to create first floor living accommodation: dormer window to frontage and 3 to rear, conversion of existing garage to a kitchen and alterations to front entrance. Granted subject to conditions 21/11/13.

BC25851P - Garage and kitchen extension, granted subject to conditions 11-04-89.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings

Key provisions of the NPPF relevant in this case:

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area.
- Optimise the potential of the site to accommodate development.
- Create safe and accessible environments.
- Respond to local character and history and reflect the identity of local surroundings and materials.
- Are visually attractive as a result of good architecture and landscaping.

60. Decisions should not attempt to impose architectural styles of particular tastes and they should not stifle innovation. It is proper to seek to promote or reinforce local distinctiveness.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

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.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight

The Vision consists of three major directions of change and underpins the approach to the whole strategy which includes the delivery of Sustainable Communities, Environmental Transformation and Economic Prosperity.

The relevant key policies are:

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

It is considered in this case that the relevant provisions of the BCCS can be given full weight.

Walsall's Unitary Development Plan (UDP)

www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2: The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

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

ENV32: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

It is considered that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

Supplementary Planning Documents (SPD)

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

Designing Walsall (Feb 2008)

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

The following are the relevant policies;

DW3 – Character – new development to be informed by the surrounding character and to respond in a positive way to it by reflecting local urban design characteristics, such as street patterns, building scale, topography and culture.

DW4 – Continuity – New development proposals must give consideration to common building lines and how the development will give definition to streets and spaces to reinforce the existing urban structure and give significance to important streets and spaces.

Annexe 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, terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area.

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

Consultations

No required.

Public Participation Responses

One letter has been received from 137 Sneyd Lane objecting to the application on the following grounds:

- Three dormer windows overlook patio and garden obliterating privacy previously enjoyed to number 137 Sneyd Lane
- The en-suite window has been constructed lower and larger than approved so projects further towards the rear, even closer to patio and eating area.
- The other two dormer windows sit higher than the agreed plan which gives them a greater vantage point.
- There are a number of anomalies between the approved plan and what has been built, applicants should submit a true and accurate plan
- Proposed obscure glazing was suggested by Walsall Council, not the next door neighbours as suggested
- Neighbours suggested a velux window but was dismissed out of hand.
- Openings to the front windows are different to approval, opening towards number 137 rather than away.

Following amended plans, the objector has written a further letter making the following additional comments:

- Number 131 sits further back from number 137 on higher ground.
- New construction has also created noise and disturbance on a daily basis
- Object to the new courses of brickwork that have been added to the front of the property.
- The re-notification letter makes no reference to the other anomalies between the approved drawings and the structure as built
- If the applicants had submitted true and accurate plans at the start, the design and visual appearance of the structure from the street scene along would have been enough to decline this application.

The occupier of 129 Sneyd Lane has written in stating no objection to the amendment.

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

Determining Issues

- Impact on the character and appearance of the surrounding area
- Impact on residential amenity

Observations

Impact on the character and appearance of the surrounding area

Concern has been raised that there are a number of anomalies between the approved plan and what has been built compared to the drawing submitted as part of this application. The applicants have provided a revised drawing considering the additional deviations from the approved drawings. Re-consultation has taken place so neighbours are aware of the changes. Due to the variations in the plans to reflect the as-built works, a revised description of development has been sought from the applicants and this in turn will necessitate additional consultation to ensure the description of development accurately reflects the works undertaken. An update will be provided to Members on the revised description.

From the street the changes between the approved drawings and this material amendment application is the reduction in the height and width of the front gable, the increase in the height of the dormer window and the use of stone detailing to window cills.

The gable maintains the 40 degree roof pitch that continues to compliment the 40 degree roof pitch of the smaller gable. The stone details are attractive features that do not cause any harm. The 2.7m high flat roof including a small parapet wall to the side of the gable is an unorthodox feature. This is part of the original flat roof garage that projects 3.5m further forward than number 137. As with the original garage, from wider views due to the presence of the 1.8-2m high side boundary hedge the flat roof is not a dominant feature and viewed in the context of two storey houses either side of the property. From immediate views the front hedge and protected sycamore tree screen large portions of this feature. The eaves height is comparable with the single storey extension at number 137, immediately to the side of this feature. The resultant flat roof does not have the same proportions as the approval and therefore there is not a balanced symmetry to the house. On balance, for the reasons explained it is not considered this feature would cause such harm to the character of the wider area to warrant refusal of the application on these grounds.

Neighbours comment that if the applicants had submitted true and accurate plans at the start, the design and visual appearance of the structure from the street scene along would have been enough to decline this application. Any application for the design as now proposed would have been considered against the factors discussed.

To the rear the positions of the dormer windows are not considered to cause harm to the appearance of the area. The additional windows next to the patio doors would have no visual harm.

Impact on residential amenity

The rear of the neighbouring properties project further to the rear than the application site. Number 129 is approximately 4.3m to the rear and the ground floor of number 137 is approximately 7m to the rear. The garden to the application site is a triangle shape, narrowing at the rear with the rear garden of number 137 in comparison widening at the rear. The patio area of number 137 is to the side of the house and due to the relationship of the houses is beneath the dormer windows at 131.

The planning permission approved three dormer windows in the extended rear roof plane; however they were not built in accordance with the approved drawings. The consideration of this application seeking retention of these windows is whether they cause any further harm to residential amenity than the approved windows. It should be noted that refusal of the application would not remove the applicant's right to revert to the original planning permission which has been established as a lawful fall back position.

The immediate neighbours at number 137 object on the grounds that the dormer windows overlook their patio and obliterating privacy previously enjoyed. The nearest window to the en-suite projects further towards the rear, slightly closer to the patio and eating area with the other two dormer windows sitting higher than the agreed plan which gives them a greater vantage point.

The base of the en-suite window sits lower in the roof but has been positioned closer to the other dormer windows and effectively is 0.4m further away from the neighbours than the approval. The approval was not subject to conditions in regard to glazing or room type. The nearest window is an en-suite bathroom which has been obscurely glazed with the opening away from number 137.

The changes to this non-habitable room do not result in any further loss of privacy compares to the approval. To protect the amenity of neighbours a condition is recommended to ensure the obscure glazing is retained and also that this room continues to be an en-suite bathroom.

The two bedroom dormer windows have been positioned 0.2m higher up the roof than approved, with the opening windows swapped sides and opening towards number 129. The neighbours at 137 consider this increase in height increases the vantage point. This slight increase in height would not alter the terms of the planning permission which permitted a bedroom window in this location. The additional height of the window would not result in any further loss of privacy compared to the existing situation.

The neighbours comment that the drawing states that they requested the obscure glazing, when it was suggested by the Council. In seeking to resolve the breach of planning control, advice was given to what factors may mitigate any potential harm. Neighbours also feel that the suggestion of a velux window was dismissed out of hand by the Council. As considered above, due regard must be given to the fall back position of the planning approval.

At the front of the property the openings of the gable are towards the front drive of 137, because the gable is forward of the front of 137 this arrangement would not result in any additional loss of privacy or give rise to any additional overlooking to that already exists to the front garden.

Concerns about noise and disturbance during construction of any development is not a reason to refuse a planning application.

The parapet wall at the front of the flat roof sits forward of 137, with the nearest ground floor window being a second window within the extended dining room, at first floor is the bay window of a bedroom. The neighbours object to this addition. The approval includes the hipped roof of the gable on top of this wall which would have a greater massing compared to the flat roof and parapet. This is now set in by between 0.4m and 1.2m. The additional four courses of bricks with felt roof on top would have less than substantial impact upon the outlook and visual amenity of the occupiers of 137 to substantiate a refusal on these grounds alone.

Positive and proactive working with the applicant

Officers have liaised with the applicant during the application process to secure amendments to the application to enable full support to be given to the scheme.

Recommendation: Approve subject to conditions and no new material planning matters arising following the reconsultation on the description of development.

1. This development shall not be carried out other than in conformity with the following approved plans unless required to do so by other conditions of this approval:

- Location and Block Plan drawing 13-024-03 submitted 15th August 2013
- Existing Elevations, Floor Plans and Section drawing 13-024-01 submitted 15th August 2013
- Proposed Elevations, Floor Plans and Section drawing 13-024-02 Rev F submitted 10th October 2014.

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. The walls and roof of the extensions shall comprise facing materials that match (in colour and texture) 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.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

4. The rear facing dormer window shown as an en-suite bathroom on approved drawing 13-024-02 Rev F received on 10th October 2014 shall at all times have obscure glazing to the window. At no time shall the room be used for anything other than an en-suite bathroom.

Reason: To protect the amenity of adjoining residential occupiers.



Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/11/2014

Plans list item no: 12.

Reason for bringing to committee: Contrary to policy

Application Number: 14/0953/FL
Application Type: Full application

Case Officer: Barbara Toy
Telephone Number: 01922 652615
Email: planningservices@walsall.gov.uk
Agent: Mr Nick Massey

Applicant: Mr S Chohan

Proposal: Erection of replacement detached 4 bed house and retention and extension to existing detached garage.

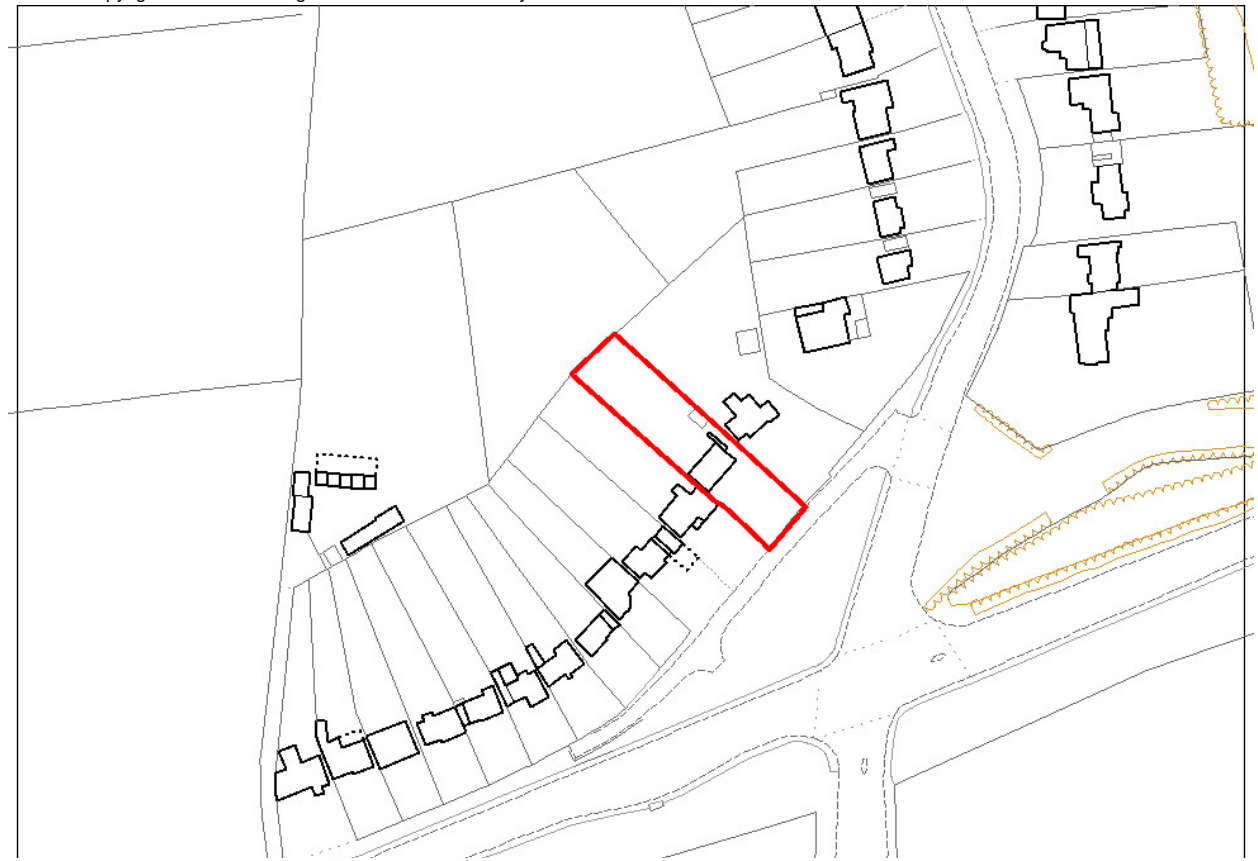
Location: 815 SUTTON ROAD, WALSALL, WS9 0QJ

Ward: Aldridge Central & South

Expired Date: 21/11/2014

Recommendation Summary: Grant with conditions, subject to no new information raising new material issues

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Application and Site Details

The site is situated north western side of Sutton Road, just to the south west of the traffic light controlled junction with Longwood Road, and sits within a service road off the main road. The property comprises a detached dormer bungalow with a detached single garage set to the side/rear. The property has an existing small single storey extension which wraps around the side and rear and a mature rear garden. To the frontage the property is set back from the road with a landscaped front garden, sweeping driveway and a large mature oak tree located close to the road.

The property sits within a line of detached dwellings (a mix of houses and bungalows) which forms a ribbon of development leading into Longwood Road. The property sits within a large area of designated Green Belt.

Both the adjacent properties are two storey houses. No 813 to the south west has a single storey side/rear extension close to the joint boundary which is still under construction, a single storey flat roofed forward projecting double garage to the frontage, a two storey front gable as well as temporary shelters in the front driveway and the rear garden. No 817 to the north east has a two storey rear extension which results in a 'T' shaped footprint, with a single storey conservatory in the western corner close to the boundary with 815. A tall hedge above a dwarf wall forms the boundary between 815 and 817.

To the rear of the site are three paddocks. Whilst this area appears to be accessed from some of the surrounding residential properties and includes a number of domestic features there is no planning consent for the land to be used for domestic purposes and still has an overall rural character. The lawful use of this land is considered to be agricultural or open land within the Green Belt. All three paddocks are bounded by a tree lined hedge which separates this area from the wider area of open land to the west and south. The opposite side of Sutton Road also lies open countryside.

This application is a resubmission following a previous refusal for two storey front and rear extensions. The extent of the extensions proposed are now considered to form a replacement dwelling. The proposals have been amended since submission to reduce the size of the building and now proposes:

- Two storey extensions to the frontage to provide two forward projecting gable features (the one to the left wider and projecting further than the one to the right), both with ground floor bay windows.
- Single storey porch extension between the front gables,
- A two storey rear extension 1.3m in depth with a 1.9m single storey extension beyond (with hipped roof and four roof lights), the full width of the house,
- A single storey side extension towards the rear of the house and,
- A single storey extension (0.5m) to the side of the existing detached garage to the side/rear.

The proposals would convert the property from a three bed dormer bungalow to a four bed (three with en-suite facilities) two storey house.

Relevant Planning History

14/0335/FL, proposed front and rear two storey extensions, refused 06-05-14.

Reasons for refusal:

1. The proposed extensions are a disproportionate addition to the original house due to their size, length and massing which fill the entire plot width giving a cramped appearance in relation to the surrounding houses and surrounding Green Belt. The design of the proposed extensions also proposes two forward projecting gables which would be detrimental to the character of the Green Belt.

2. The proposed extensions by virtue of their excessive size, length, height, massing and proximity to the neighbouring properties would have an overbearing impact on the outlook from the conservatory at 817 Sutton Road and upon the outlook and daylight to the front bedroom and ground floor window at 817 Sutton Road. The rear extension would also harm the outlook from the primary bedroom window on the north east side of 813 Sutton Road by virtue of its proximity to the neighbours property.
3. The proposed south east gable projection would have a detrimental impact on the character and appearance of the wider street scene by virtue of the height of the extension and its design including the absence of any features

Relevant Planning Policy Summary

National Planning Policy

National Planning Policy Framework (NPPF)

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

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

- Always seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different area, promoting the vitality of our main urban areas

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

60. It is proper to seek to promote or reinforce local distinctiveness

61. Decisions should address the integration of new development into the natural, built and historic environment

64. states permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of the area and the way it functions.

9. Protecting Green Belt land

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

80. Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

81. Once Green Belts are defined, authorities should plan positively to enhance the beneficial use of the Green Belt such as improve damaged and derelict land.

87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

89. The construction of new buildings is inappropriate in the Green Belt except for specific purposes including:

Replacement of a building provided the new building is the same use and not materially larger than the one it replaces.

On **planning conditions** the NPPF says:

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

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

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The above are supported by the following policies:

CSP2: Green Belt boundaries will be maintained and protected from inappropriate development.

CSP4: A high quality of design of the built and natural environment is required.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: New developments and existing facilities must demonstrate their travel and transportation impacts together with proposals for mitigation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

Walsall's Unitary Development Plan (UDP)

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

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

ENV2: Development is inappropriate if it conflicts with the openness and purposes of the green belt.

- (a) IV. Limited extension, alteration or replacement of an existing dwelling providing this will not result in disproportionate additions or a new dwelling materially larger than the original dwelling,

ENV3: Detailed Evaluation of Proposals within the Green Belt - Proposals will be assessed for their impact on;

II. The siting, design, grouping, height and scale of buildings

III. The colour and suitability of building materials, having regard for local styles and materials.

VI. The impact on significant views, viewpoints and topographical features.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

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

T7 – Car Parking

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

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

4 bed houses and above – 3 spaces per unit

It is considered that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

Supplementary Planning Documents (SPD)

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

Designing Walsall SPD

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

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

DW4 – Continuity – Where the context of the site presents a repetitive design characteristic this should be reflected in the design of the new development

DW9 – High Quality Public Realm – new development must seek to ensure it creates places with attractive environmental quality.

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

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, 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. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 13m separation between habitable windows and blank walls exceeding 3m in height.
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from www.walsall.gov.uk).

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

Consultations

Ecology – No objections subject to condition in relation to ensuring the protection of bats during construction.

Tree Officer – No arboricultural objections. There is a significant mature Oak tree on the frontage of the site that should be protected throughout the construction.

Pollution Control – No objections, whilst there is evidence of a small sand pit outside the frontage of the property this is not thought to have an influence on the proposed development. The property is set back from the traffic light controlled road junction therefore traffic noise and air pollution are unlikely to have a significant impact on the proposed development.

Public Participation Responses

Two letters of objection from the immediate neighbours received in connection with the original submission.

Objections:

- Any side facing windows would impact on privacy
- The balcony to the rear would overlook adjacent garden and impact on privacy
- Loss of light to conservatory adjacent
- Detrimental impact on the row of houses and impact on the open spaces by the reduction in the gap between the properties
- Adverse impact on local natural beauty and wildlife.
- Little difference from the previous application so previous objections still apply
- Property not built square on the plot (there is a dog leg) so side wall of the extension would approach the boundary and possibly even have the eaves and guttering overhanging the boundary
- Conflict with 45 degree code in relation to rear window loss of light and outlook
- Forward extension would set a precedent within the street

No further comments have been received on the amended plans prior to the publication of the agenda . The consultation period on the revised description of development (as a replacement dwelling) is due to expire on 20th November 2014. Any comments received will be reported within the supplementary paper.

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

Determining issues

Whether the proposals overcome the previous reason for refusal in relation to:

- Disproportionate additions to the original house detrimental to the character of the Green Belt
- Impact on the amenities of the adjoining occupiers
- Detrimental impact of the front extensions on the character and appearance of the street scene

Additional considerations:

- Parking, access and highway safety
- Impact on Protected Species and Trees

Observations

Disproportionate additions to the original house detrimental to the character of the Green Belt

The size, length and massing of the proposed extensions have been reduced considerably since the previous refusal and further amended during the course of this application. The overall width of the two storey property proposed has been reduced by 1.4m retaining the existing gap between 817 and the property with the existing vehicle access to the garage retained.

The extent of the front two storey extensions has been reduced in depth and the right hand element also reduced in width to make it subservient to the left hand gable extension. The front building line would sit forward of the two storey element at No 813 to the south west but would sit behind the existing single storey forward projecting garage at 813.

The rear extension has been reduced significantly with the first floor extension only 1.3m in depth and the extent of the single storey also reduced to a maximum of only 3.2m. The extensions would square off the building and give it a similar overall depth of footprint as the two houses adjacent, which have both already been extended.

The proposals convert this vacant dormer bungalow to a two storey house which would reflect the character of the adjoining houses either side whilst maintaining the existing spacing and views between the houses.

The existing bungalow has a low eaves level but high ridge (6.9m) providing a dominant mass of roof, the proposals would provide a ridge height of 7.1m, only 0.2m more than the existing with a shallower roof, reducing the overall impact of the roof and incorporating more detail into the overall design of the building.

It was recognised under the previous application that there was some scope to extend the property but the previous proposals would have resulted in a building that would have had a substantial impact on the character of the area and the Green Belt. It is considered that the reduction in the depth and width of the proposed extensions would make the additions more proportionate to the original property and would no longer have a significant impact on the openness and appearance of the Green Belt, overcoming the first reason for refusal on the previous application.

Impact on the amenity of the adjoining occupiers

The reduction in the depth of the rear first floor and ground floor extensions would reduce the overall impact on the amenities of the adjoining occupiers. The first floor extension has been reduced to 1.3m and the ground floor extension 1.9m beyond. This would ensure that the proposals meet the 45 degree code in relation to the rear facing window at No 813 to the south west.

The first floor rear extension would now sit approx in line with the rear elevation of the two storey element at No 817 to the north east, with the single storey element sitting in line with the existing conservatory to the rear at 817. The separation distance between the side glazed elevation of the conservatory and the blank gable on the side of the rear extension would be 5.8m, falling short of the 13m separation distance required by Appendix D of Designing Walsall but the wall of the single storey element is only 2.7m in height and the roof would be hipped to take the roof height away from the boundary.

It should also be recognised that permitted development would allow longer extensions at both ground and first floor level to be added to the rear of 815. The proposed rear extension would sit approx 4.5m from the side boundary with 817 which comprises a high mature hedge above a dwarf wall. The hedge would form a natural screen between the conservatory and the proposed extension. It is considered on balance that the orientation, the reduced length, boundary treatment and improved design of the proposals would overcome the second reason for refusal on the previous application.

Whilst one of the objectors has commented on side facing windows and loss of privacy, these comments relate to the larger extension in the original submission and the proposals now include no side facing windows. Similarly the balcony to the rear has been deleted from the scheme.

The agent has confirmed that the boundary identified on the submitted block plan is accurate and includes a dog leg on the frontage of the property, which appears to reflect the records held by the Council.

Detrimental impact of the front extensions on the character and appearance of the street scene.

The proposed front extensions have been reduced and the design amended following the previous refusal and during the course of this application.

The left hand forward gable extension now forms the dominant feature on the frontage in line with the character of other properties in the row, with the right hand gable reduced in width and depth and with a hipped roof to reduce its height would make it subservient to the main feature gable. The amended design would reduce the overall impact of the frontage within the street scene and the reduced width (back to the width of the original building) maintains the existing well established gaps between the properties, that form part of the character of the street scene, allowing views between the built form maintaining the openness and character of the Green Belt.

It is considered that the amended design, reduced width and depth of the front extensions would overcome reason for refusal 3 on the previous application.

Parking, Access and highway safety

The existing garage would be retained and extended in width by 0.5m to make it more useable and the existing front driveway would provide off street parking for at least two vehicles providing 3 off street parking spaces in compliance with policy T13 for a 4 bed house.

Impact on Protected Species and Trees

The submitted bat survey indicates that a bat roost is unlikely. Conditions are recommended to ensure caution on the applicant's part when works start on site.

The significant mature Oak tree adjacent to the front driveway is highly visible from outside the site and contributes significantly to the landscape character of the area. Whilst the proposed extensions will not have a direct impact on the tree there are concerns that the adjacent garden area may be used for the storage of materials which may impact on the long term health of the

tree. It is also anticipated that some of the lower branches of the tree that overhang the driveway may be damaged by high sided vehicle access or indeed removed to allow access. Conditions are therefore recommended to ensure protection of the tree throughout the implementation of any consent and to control any pruning works necessary to the tree.

Recommendation: Grant with conditions, subject to no new information raising new material issues

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 walls and roof of the extension shall comprise facing materials that match 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.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

4a. Bat survey work has found a low risk that bats may be present in the buildings within the site (as identified in the bat report by Stefan Bodnar dated 7 March 2014) and the following precaution shall be taken when implementing the planning permission:

- i. Contractors undertaking dismantling works shall be made aware that bats may be present and undertake demolition works in the expectation that bats may be present.
- ii. If no bats or evidence of bats are found during these operations, the approved works can continue.

4b. If bats or evidence of bats are found during these operations:

- i. bats should not be handled or touched and the vicinity of the roost shall be immediately reinstated.
- ii. no further destructive works shall be carried out to the building until the need for Natural England licence has been established.
- iii. within one week of finding bats or evidence of bats, a written report by the supervising ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation
- iv. work on the building shall only continue in accordance with the approved mitigation measures and on the approved timetable and/or in accordance with the terms of any Natural England licence issued

Reason: To conserve local bat populations.

5. 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.

6. Approved temporary tree protection fencing as detailed in British Standard 5837:2012 'Trees in Relation to Design, Demolition & Construction – Recommendations', shall be constructed adjacent the driveway to protect the mature Oak tree at the front of the site. The fencing shall be constructed prior to the commencement of any works on site and shall be retained until the completion of the development. The enclosed area shall remain sacrosanct and be kept clear of all contractors' materials and machinery at all times.

Reason: To safeguard the mature Oak tree at the front of the site.

7. In the event that the mature Oak tree needs to be pruned to allow access to high sided vehicles (access facilitation pruning) then all pruning works should be undertaken by someone who is appropriately insured and qualified in such operations and in accordance with BS 3998: 2010 Tree works – Recommendations.

Reason: To protect the health and amenity of the Oak tree at the front of the site.

8. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Site location Plan submitted 26th June 2014-10-27
- Block Plan submitted 27th October 2014
- Existing Floor Plans and Elevations submitted 26th June 2014
- Proposed Floor Plans and Elevations submitted 13th October 2014-10-27
- Internal/External Bat Survey by Stephan Bodnar dated March 2014.

Reason: For the avoidance of doubt and in the interests of proper planning.