

Planning Committee

Report of Head of Planning and Building Control on 12 November 2020

Plans List Item Number: 1.

Reason for bringing to committee

Called in by Councillor Sears on the grounds that the development is needed in the area and will benefit the NHS

Application Details

Location: LAND ADJACENT 370, CHESTER ROAD, ALDRIDGE

Proposal: CONSTRUCTION OF NEW 62 BEDROOM CARE HOME (C2 USE) INCLUDING ASSOCIATED CAR PARKING AND LANDSCAPING.

Application Number: 20/0463

Case Officer: Devinder Matharu

Applicant: Restfull Homes Developments

Ward: Aldridge North And Walsall Wood

Agent: Robothams Architects

Expired Date: 28-Jul-2020

Application Type: Full Application: Major Use Class C2 (Residential Institutions)

Time Extension Expiry: 30-Nov-2020

Recommendation

Refuse



Officers Report

Proposal

The application proposes the construction of a new 62 bedroom care home (C2 use) including associated car parking and landscaping.

The proposed building lies to the east of a recently built care home catering for 80 beds developed by the same developer.

The proposed building would be L shaped and situated towards the front of the site with car parking in front of the building also towards the front of the site. A total of 26 car parking spaces are indicated. Amenity areas would be located towards the rear and sides with both ramp and stair access points. The submitted plans show some trees towards the rear (west) and the side (north) of the site will remain. The access is shared with the adjacent care home and bin store will be located to the south of the site adjacent the existing care home.

The proposed care home will be three stories high with a basement. The design of the proposed care home would include brick and glazing along the side elevations. The roof will be pitched at the edges with the main section being flat roof.

The basement will house a laundry, storage areas, and kitchen and staff areas. The ground floor will accommodate bedroom, communal lounges, café and a nail bar. The first floor would include bedrooms and communal lounges with the second floor having bedroom, communal lounges, an activity room and a roof terrace.

The following documents have been submitted with the application:

Demand for service letter which states:

Walsall has experienced a chronic shortage of any form of quality Dementia provision over many years. This has led to elderly residents living with Dementia and their loved ones travelling to neighbouring authorities in order to find appropriate care. Many of these residents of Walsall have ended up as residents in one of our homes in Staffordshire, Birmingham and Warwickshire. Restful Homes Group has been liaising with Walsall CCG for many years and have designed Castlehill Specialist Care Centre specifically to fill the gap of high quality Dementia care within Walsall.

Design and Access Statement, which addresses the proposal in respect of its design, layout etc.

Drainage Operation and Management, which addresses drainage in terms of pipes, gullies and monthly rainwater flows.

Ecological Impact Assessment, which identifies that great crested newts may be present in the woodland, it addresses clearance works and having a qualified ecologist on site for great crested newts.

Environmental site report, which addresses landfill, coal mining, flooding and contamination on site.

Transport Assessment, which states:

- Traffic generation to the development can be estimated by reference to the TRICS database. It is estimated that peak hour movements for both phases of the care home project would be approximately 30 trips (two-way). Analysis reveals that the access to the site would operate satisfactorily with a great deal of spare capacity.
- It is noted that 85th percentile speeds through the junction to the site are of the order of 44-47mph and lower than the speed limit of 50mph.
- An obligation to promote a Travel Plan for Phase 1 was included within a Section 106 Agreement. Obligations include the use of a minibus to assist in the travel for staff. The increase in scale introduced by Phase 2, with the same land-use and operator, allows the Section 106 Agreement to be updated to promote sustainable travel within a Travel Plan for the combined project.
- From the evidence provided it is our view that traffic from the proposals for the development would not adversely affect the operation of the highway network and therefore there are no sustainable highway reasons why planning permission should be withheld for a second care home at Chester Road near Stonnall.

Tree Survey, which identifies different categories of trees on site and those earmarked for removal.

Site and Surroundings

The site is in the Green Belt and is located on the western side of Chester Road. To the north of the site is a detached dwelling, 370 Chester Road, the site is north of the junction with Castlehill Road near to the borough boundary with Lichfield District.

There is a dense screen of trees along Chester Road and a steep cliff with mature woodland within it have been cleared to develop the site for the care home.

The existing access from Chester Road has been demarcated with lines on the main carriageway. The site to the west and north is set at a higher level than the existing care home.

There is no footway along this section of Chester Road. Chester Road (A452) is a classified road and forms part of the Strategic Highway Network.

To the south of the application site is the existing care home and to the south of this are numbers 197 and 203 Castlehill Road. Number 197 is a Grade II listed building and number 203 is a locally listed building.

To the west of the application site is number 161 Castlehill Road, which is accessed from a track off Castlehill Road. Number 135 Castlehill Road, beyond the boundary of 161 Castlehill Road is a locally listed building.

Relevant Planning History

17/0033 Redevelopment of former blockwork site to provide new 80 bed specialist care home (C2 use) and associated ancillary facilities, car parking and external works. Granted subject to conditions and a section 106 agreement for a travel plan on 16 February 2018.

14/1537/OL- Outline application for a proposed 58 bedroom specialist care home (access, appearance, layout and scale to be determined). Granted Subject to Conditions 16-Feb-2016

No other planning history relating to the site or former industrial use.

350 Chester Rd – (former industrial premises to the north of the application site)

14/0454/FL – Erection of 1 x dwelling, formation of new vehicular access and associated works (re-submission of 11/0232/FL) – GSC 27/06/14.

11/0232/FL – Erection of 1 x 6 bed house, formation of new vehicular access with associated works – GSC 05/04/11.

11/0414/TE – Time extension on 07/1443/FL/E9 for demolition of existing buildings and erection of 2 x four bed houses, formation of new vehicular access, landscaping and associated works – GSC 27/06/11.

07/1443/FL/E9 - Demolition of existing buildings and erection of 2 x four bed houses, formation of new vehicular access, landscaping and associated works – GSC 08/04/08.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

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

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable,

precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

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

National Planning Policy Guidance

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

Reducing Inequalities

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.2 to 3.5 The Countryside and Green Belt
- GP2: Environmental Protection
- ENV7: Countryside Character
- ENV10: Pollution
- ENV11: Light Pollution
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- H6: Nursing Homes and Rest Homes for the Elderly
- 7.4 Strategic Policy Statement
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making

- DEL1: Infrastructure Provision
- HOU2: Housing Density, Type and Accessibility
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island

Walsall Site Allocation Document 2019

HC3: Affordable Housing and Housing for People with Special Needs

GB1: Green Belt Boundary and Control of Development in the Green Belt

EN1: Natural Environment Protection, Management and Enhancement

T4: The Highway Network

EN3: Flood Risk

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites

- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Other Policy:

- Conservation Principles Policies and Guidance for the Sustainable Management of the Historic Environment: English Heritage (2008)
- Historic environment Good practice Advice Notes 2, and 3

Consultation Replies

Arboricultural Officer – No objection

Archaeology – No objection

Environment Agency – No objection subject to planning conditions to address contamination on site to prevent pollution of water sources, remedial measures to prevent water pollution

Flood Risk Officer – Objection on the grounds of an insufficient drainage strategy to prevent on site and off site flooding.

Fire Officer – No objection but makes comments on fire appliance access and water supplies in accordance with Building Regulations.

Historic England – No objection

Network Rail – No objection

Natural England – No objection

Police – No objection but makes comments on secure by design.

Pollution Control – No objection subject to planning conditions relating to contaminated land, electric charging points and acoustic noise.

Public Health – No objection. The proposal will address local housing and social care needs for a vulnerable group and will support the development of the local economy and job creation. Welcome the inclusion of sustainable transport options and tree protection and future tree planting.

Severn Trent Water – No objection subject to drainage condition.

Strategic Policy-Objection on the grounds of inappropriate development in the Green Belt and sustainable development.

Transportation – No objection subject to planning conditions regarding parking, cycle shelter and construction management plan. They also make reference to a new travel plan being agreed through a planning obligation, section 106 agreement.

Walsall Adult Social Care – Objection, that the existing care home is not full to capacity and may have implications for Walsall Adult Social Care.

Representations

Four letters of objection from five residents have been received objecting to the proposal on the following grounds: (*officer comments in italics*)

- Increase in size from the old blockworks.
- Loss of privacy
- Overlooking
- Dust and dirt from previous construction will apply to new construction
- Loss of visual amenity
- Noise from early morning construction work
- Light pollution
- Loss of trees
- Parking and access issues including: increase in traffic along Chester Road since the existing care home has opened, impacting upon neighbouring occupiers entering and exiting their property, contractors and visitors parking around neighbouring driveways and along Chester Road during the last construction, on street parking restricts vehicle visibility on a 50mph road, restricts access to emergency services, delivery drivers delivering parcels for care home at neighbouring properties, when people turn left into the care home speeding vehicles serve into the highway to avoid collision, traffic lights at Shire Ridge congested with traffic, lack of footpaths along Chester Road, vehicles speed down Chester Road, horses on roadways cause highway safety issue.
- Devalue of property –*Not a material planning consideration in this case.*

Councillor Sears has called the application in on the grounds that the development is needed in the area and will benefit the NHS.

Determining Issues

- Inappropriate development in the Green Belt, very special circumstances and whether there is an identified need to outweigh harm and openness of the Green Belt
- Archaeology
- Flooding and drainage
- Impact upon listed building
- Impact upon neighbouring and proposed residential occupiers
- Trees and Landscape
- Access and Parking
-

Assessment of the Proposal

Inappropriate development in the Green Belt, very special circumstances and whether there is an identified need to outweigh harm and openness of the Green Belt

The site is located within the West Midlands Green Belt. Paragraph 134 of the NPPF states the role of the Green Belt is 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.

Paragraph 143 of the NPPF states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 145 of the NPPF stating new buildings other than buildings for agriculture and forestry, provision of outdoor sport and recreation, limited extensions/alterations, replacement buildings provided they are not materially larger than the existing, limited affordable housing and limited or partial redevelopment of previously developed land.

Paragraph 144 of the NPPF states '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 resulting from the proposal, is clearly outweighed by other considerations'.

The submitted planning statement in paragraph 6.9 states the site comprises of previously developed land.

The application site is a large wooded area to the northwest of the existing care home on Chester Road. A small middle section of the site fronting Chester Road was previously developed with buildings. The remainder of the site covered by mature trees. NPPF paragraph 145 g) states that the redevelopment of previously developed land is not inappropriate where it would not have a greater impact on the openness of the Green Belt than the existing development. This was used to support the recently completed care home but is clearly not the case for this second building. The submitted plans are misleading in describing the current proposal as a second phase, since the outline application and detailed application for the existing building gave no indication of a second phase. The application site is not previously developed land as the planning statement claims. The section of the site that was previously developed has been developed through the construction of the existing care home under planning reference 17/0033.

Paragraph 6.9 of the planning statement states 'proposed development would contribute to meeting an identified need for housing in the form of specialist dementia care for older residents'. With paragraph 6.10 of the planning statement stating dementia care accommodation does not fall within the specific NPPF definition of affordable housing and acknowledges that the proposal does not meet strictly the defined exception and is therefore inappropriate development in the Green Belt'.

Restful Homes have engaged with Adult Social Care Commissioners and whilst there is a need for specialist dementia provision, the negotiated rate offered per week is significant higher than the Councils usual placement rates per week.

When considering whether a care home can meet an individual's assessment needs officers take into consideration best value, it is only by exception and with approval from a director, a permanent placement is made. On occasions, adult social care have used for short term placements as part of intermediate care offer to support hospital flow in line with their approach around assessed need and best value.

On this basis, it is considered that there is an over provision, which does not outweigh the harm to the Green Belt, as such there is no identified need for this level of provision in the Borough.

In this case, the proposed development is inappropriate development in the Green Belt for which there are no very special reasons to outweigh the harm to the Green Belt.

Chester Road has no bus services and there is no footpath on this side of Chester Road. Staff and visitors will therefore be unable to access the site without the use of private cars or a lengthy walk along a busy and isolated main road, or transport that the operator of the site may choose to provide. The proposal therefore represents unsustainable development.

Paragraph 133 of the NPPF states 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 permanence. Openness has both a visual and spatial dimension. There have been a number of court cases that have sought to clarify the issues around openness in the green belt:

- The High Court [R (Boot) v Elmbridge Borough Council (2017)] held that (in the case of a new sports stadium in the green belt) that a development cannot “preserve” the openness of the Green Belt when it causes harm to openness.
- Court of Appeal [Samuel Smith Old Brewery (Tadcaster) v North Yorkshire CC [2018] EWCA Civ 489] held that there is a need to consider the impacts of development on the green belt in visual as well as spatial terms. If a proposed development is likely to have visual impacts within the green belt, the policy implicitly requires a decision maker to consider whether those visual impacts bear on the issue of whether the development would have an impact on openness (Paul Brown QC, November 2018).

The proposed development in respect of its excessive footprint together with the proposed parking area, the design, scale and height of the of the proposed building being in effect three stories high would harm the openness of the Green Belt. Furthermore, the proposed development would be visually detrimental to the character of the Green Belt and visual amenities of the surrounding area due to the size and height of the proposed building, which would be prominent and obtrusive in its elevated position above the level of the carriageway in Chester Road and lack of adequate screening.

Walsall Adult Social Care have objected to the proposal on the grounds that there is not currently sufficient demand to give planning approval for the 62 beds proposed.

The approval of this scheme would see a 100% increase in capacity on this site at a time where there is already significant vacancies elsewhere in the borough. In June 2020 there were 450+ vacancies with existing Walsall residential and nursing providers and the existing scheme on site approved under 17/0033 is not 100% occupied.

Archaeology

The application site is sensitive in terms of archaeology, not least because of the Iron Age Hillfort to the west (a scheduled monument). There are other sites in the vicinity on the Historic Environment Record, such as a possible moated site, ridge and furrow, and numerous marl pits and quarry pits from historic mineral extraction. However, the site immediately adjacent to the current application was quarried in the 20th century, and modern aerial photography (from Google Earth) suggests that the site itself was cleared of

trees recently, and has since been subject to significant disturbance due to the construction of the adjacent building.

Given the unfortunate likelihood of disturbance of below-ground deposits, an archaeological condition would not be recommended.

Flooding and drainage

The application is accompanied by a drainage maintenance plan. Severn Trent Water have no objection to the proposal subject to a drainage condition seeking details of surface water and foul water drainage to prevent pollution.

The Environment Agency (EA) have advised the site is designated as a Principle Aquifer by the Environment Agency which are layers of rock or drift deposits that have high intergranular or fracture permeability and usually provide a high level of water storage. The site is also located within the total catchment (Zone 3) of a groundwater Source Protection Zone. As such, the site setting is situated in a location that can be considered to be sensitive with respect to controlled waters. The submitted Desk Study has identified a potentially contaminative past land use and based on the limited information provided, risks to groundwater remain unclear. The EA have specified planning conditions to seek drainage details to minimize the risk to controlled waters.

The Flood Risk Officer has objected to the proposal on the grounds that the development may present risks of flooding on-site and/or offsite if surface water run-off is not effectively managed. The absence of an adequate drainage strategy is therefore sufficient reason in itself for a refusal of planning permission contrary to policies in the Development Plan.

Impact upon listed building

The listed building is located a significant distance away from the application site, some 141m, as such the proposed development would not unduly affect the setting or character of this listed building. Furthermore, the existing care home provides a buffer between the listed building and proposed application site. It is considered that the proposed care home would not unduly harm the setting of the two adjacent locally listed buildings, as they are located 141m (203) and 129m (135) away from the application site.

Impact upon neighbouring and proposed residential occupiers

The nearest residential property to the north of the site is 370 Chester Road. This property is set 10m off the southern boundary of the site and set at a lower level than the application site. The proposed plan shows some trees to the north of the application site to be retained. The proposed care home would be set off the northern boundary by 27m. The northern elevation of the care home would accommodate windows to the corridor and secondary lounge windows. However, a roof terrace is also proposed at second floor on the northern side of the proposed care home and despite the separation distance, it is considered that the proposed roof terrace would unduly harm the amenities of these neighbouring occupiers in respect of overlooking and loss of privacy. Neighbouring occupiers have raised concerns over loss of outlook, whilst the removal of the trees within the application site will open up the site, these trees are not protected and as such the applicant has the right to remove them.

Number 161 Castlehill Road is located some 30m from the boundary with the application site. The land to the west of the site is set at a higher level and despite the proposed care home being three stories higher, it is considered that the proposal would not unduly harm the amenities of these neighbouring occupiers by way of overlooking and loss of privacy.

In the event that planning permission is granted despite officer recommendations noise from early morning construction workers and the dust and dirt from the construction work should be controlled through the requirement for a construction management plan.

If planning permission were supported any issues regarding light pollution would be addressed through a lighting condition, to protect the amenities of existing residential occupiers surrounding the site.

The proposed development would fail to provide a satisfactory amenity area for potential residents, as the site is dominated with built development. Towards the rear of the site, the amenity area would be shaded by trees and amenity area to the north of the site would have limited light. It is unlikely, that the proposed amenity areas will be utilised.

Trees and Landscape

The site has already been cleared of a number of mature trees. The Arboricultural Officer has no objection to the proposal and has advised whilst the proposal will result in the loss of an area of low quality woodland, this will have little impact outside of the site as the majority of the woodland is to be retained. The recommendations and guidelines as detailed in the BS 5837: 2012 tree report by Peter Jackson of Design, Construction Management Services should be adhered to with regards to tree fencing. Furthermore, the Arboricultural Officer has no objection subject to replacement tree planting on site.

Access and Parking

The Highway Officer has no objection to the proposed development subject to planning conditions relating to parking, cycle storage and a construction management plan.

The Highway officer has also stated that a new travel plan would be required for the new care home and specified this should be secured as before through a S106 Planning Obligation if planning permission is supported for the proposals.

Neighbouring occupiers have raised a number of concerns regarding on street parking, parking for construction workers and blocking vehicle visibility along Chester Road for neighbouring occupiers. There is adequate space within the parking area for the existing care home for construction vehicles to be parked. Furthermore, such matters would be addressed by a construction management plan if the development were supported. Neighbouring occupiers have also raised concerns about speeding traffic. Chester Road is a 50mph speed restricted highway; along this highway, there are speed cameras, which should deter speeding. Monitoring is a police matter.

The neighbour's comments about increased traffic are understandable and have been addressed above in regards to sustainable development.

Conclusions and Reasons for Decision

The proposed development is inappropriate development in the Green Belt for which there are no very special reasons to outweigh the harm to the Green Belt. There is an over provision of such care facilities in the Borough, which does not outweigh the harm to the Green Belt, as such there is no identified need for this level of provision in the Borough. Furthermore, the proposal represents unsustainable development. The proposal is contrary to The National Planning Policy Framework, policy and ENV1 of the Black

Country Core Strategy, Saved Policies 3.2 to 3.5, H6, GP2, and ENV7 of the Walsall UDP, Policies HC3, GB1 and EN1 of the SAD.

The proposed development in respect of its excessive footprint together with the proposed parking area, the design, scale and height of the of the proposed building being in effect three stories high would harm the openness of the Green Belt. Furthermore, the proposed development would be visually detrimental to the character of the Green Belt and visual amenities of the surrounding area due to the size and height of the proposed building, which would be prominent and obtrusive in its elevated position above the level of the carriageway in Chester Road and lack of adequate screening. The proposal is contrary to The National Planning Policy Framework, policies and ENV1, ENV2 and ENV3 of the Black Country Core Strategy, Saved Policies 3.2 to 3.5, GP2, ENV7, ENV32 and ENV33 of the Walsall UDP, Policies GB1 and EN1 of the SAD and policies DW1, DW2, DW3, DW9 and DW10 of Designing Walsall SPD.

The proposal has failed to demonstrate that the site can adequately address potential risks of flooding on-site and/or offsite and whether surface water run-off would be effectively managed to prevent pollution of controlled waters. The proposal is contrary to The National Planning Policy Framework, Policy ENV5 of the BCCS, Saved Policy ENV40 of the UDP and Policy EN3 of the SAD.

The proposed roof terrace would unduly harm the amenities of neighbouring occupiers in respect of overlooking and loss of privacy. Furthermore, the proposed development would fail to provide a satisfactory amenity area for potential residents. The proposal is contrary to The National Planning Policy Framework, Policies ENV2 and ENV3 of the BCCS, Saved Policies GP2 and ENV32 of the UDP and Policy HC3 of the SAD.

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Refuse

Officers have spoken with the applicant's agent and in this instance are unable to support the proposal.

Recommendation

Recommendation: Refuse

Reasons for Refusal

1. The proposed development is inappropriate development in the Green Belt for which there are no very special reasons to outweigh the harm to the Green Belt. There is an over provision of such care facilities in the Borough, which does not outweigh the harm to the Green Belt, as such there is no identified need for this level of provision in the Borough. Furthermore, the proposal represents unsustainable development. The proposal is contrary to The National Planning Policy Framework, policy and ENV1 of the Black Country Core Strategy, Saved Policies 3.2 to 3.5, H6, GP2, and ENV7 of the Walsall UDP, Policies HC3, GB1 and EN1 of the SAD

2. The proposed development in respect of its excessive footprint together with the proposed parking area, the design, scale and height of the of the proposed building being in effect three stories high would harm the openness of the Green Belt. Furthermore, the proposed development would be visually detrimental to the character of the Green Belt and visual amenities of the surrounding area due to the size and height of the proposed building, which would be prominent and obtrusive in its elevated position above the level of the carriageway in Chester Road and lack of adequate screening. The proposal is contrary to The National Planning Policy Framework, policies and ENV1, ENV2 and ENV3 of the Black Country Core Strategy, Saved Policies 3.2 to 3.5, GP2, ENV7, ENV32 and ENV33 of the Walsall UDP, Policies GB1 and EN1 of the SAD and policies DW1, DW2, DW3, DW9 and DW10 of Designing Walsall SPD.
3. The proposal has failed to demonstrate that the site can adequately address potential risks of flooding on-site and/or offsite and whether surface water run-off would be effectively managed to prevent pollution of controlled waters. The proposal is contrary to The National Planning Policy Framework, Policy ENV5 of the BCCS, Saved Policy ENV40 of the UDP and Policy EN3 of the SAD.
4. The proposed roof terrace would unduly harm the amenities of neighbouring occupiers in respect of overlooking and loss of privacy. Furthermore, the proposed development would fail to provide a satisfactory amenity area for potential residents. The proposal is contrary to The National Planning Policy Framework, Policies ENV2 and ENV3 of the BCCS, Saved Policies GP2 and ENV32 of the UDP and Policy HC3 of the SAD.

End of Officers Report

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 12 November 2020

Plans List Item Number: 2.

Reason for bringing to committee

Significant Community Interest

Application Details

Location: 135, ERDINGTON ROAD, ALDRIDGE, WALSALL, WS9 0RT

Proposal: ERECTION OF 3NO. DETACHED DWELLINGS AND 1NO. DETACHED GARAGE AND 1NO DETACHED GARAGE-GYM.

Application Number: 20/0600

Case Officer: Mike Brereton

Applicant: D Patel

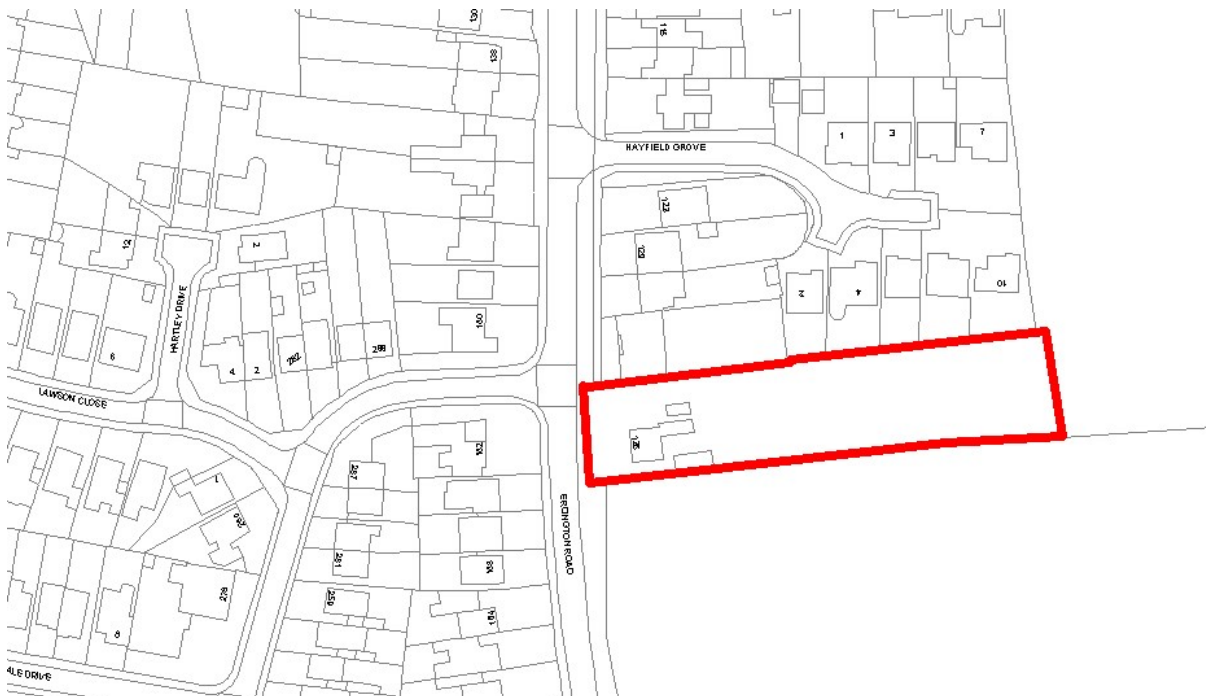
Ward: Aldridge Central And South

Agent:

Expired Date: 29-Jul-2020

Application Type: Full Application: Minor Use Class C3 (Dwellingshouses)

Time Extension Expiry: 20-Nov-2020



Officers Report

Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:
 - The amendment and finalising of conditions; and
 - No new material considerations being raised by the Council's Tree Officer.

Proposal

This application is a new revised proposal following a previously approved scheme for the erection of 4 dwellings under planning reference 16/1153 which was granted subject to conditions following consideration by Planning Committee on 31st August 2017.

This current revised application proposes the erection of 3 x detached dwellings, garages / outbuilding and a gated main vehicle access off Erdington Road (gates set back 6.3m from back of road). An external bin store is proposed close to the main vehicle access.

Plot 1 is a two storey, five bedroom, dwelling with hipped main roof, double gabled front elevation, side gable feature, juliet balcony to bedroom 3 nearest No.133, and a rear balcony serving bedroom 4 including 1.8m high obscure glazed screening to the north and 1.1m high glazed balustrading to the remainder. Plot 1 measures:

- 11.6m wide;
- 13.5m deep;
- 8.7m high (5m to eaves);
- 115m² rear garden area;
- 1.1m gap to shared boundary with No.133; and
- 161m² footprint.

The double garage serving Plot 1 measures:

- 6.5m wide;
- 6.5m deep;
- 5.2m high (2.3m to eaves);
- 0.7m gap to shared boundary with No.133; and
- 42m² footprint.

Plot 2 is a 2.5 storey, four bedroom, dwelling with attached forward projecting double garage, hipped main roof, front, side and rear gable features, front dormers to garage and main roof, juliet balcony to bedroom 3 and an enclosed balcony area to bedroom 1. Plot 2 measures:

- 14.2m wide;
- 11.5m deep to front gable elevation and 20.3m deep including garage;
- 9.1m high to main roof ridge (5.6m to eaves), 5.3m to garage ridge (2.2m to eaves);
- 169m² rear garden area; and
- 207m² footprint.

Plot 3 is a 2.5 storey, six bedroom, dwelling with front and rear central gable features and dormers in the main hipped roof and balcony to bedroom 1 including 0.7m high glazed balustrade. Plot 3 measures:

- 15.5m wide;
- 12.2m and 19.8m deep;
- 9.1m high (5.7m to eaves);
- 462m² rear garden area; and
- 229m² footprint.

The double garage and gym building serving Plot 3 measures:

- 6.3m wide;
- 18m deep;
- 5.1m high (2.3m to eaves);
- 0.5m gap to shared boundary with No.8 and No.10 Hayfield Grove; and
- 113m² footprint.

The previously approved scheme under reference 16/1153 included main ridge heights of between 8.1m and 8.4m, and a total footprint coverage of 492m². In comparison, the main ridge heights of the current proposal are between 8.7m and 9.1m high and total proposed footprint coverage in this current application is 752m² (a 260m² increase). However, the proposed reduction in the number of dwellings equates to a reduced density of 10 dwellings per hectare in comparison to the previously approved 14 dwellings per hectare.

Following negotiations with the applicant, revised plans have been submitted which reduce the main ridge height of proposed dwellings in this current application by 0.7m.

The following documents and supporting information has been submitted:

- **Arboricultural Survey Impact Assessment and Method Statement** – Provides an assessment of impacts on existing trees and protection / safeguarding methods.
- **Swept Path Analysis** – Demonstrates access and manoeuvring areas for a large emergency vehicle.
- **Supporting Letters** – Explains how the scheme has been revised to take account of representations received, and the appropriateness of the development against local context.
- **Design and Access Statement** – Explains the merits of the development against local context.
- **Topography Plan** – Shows the ground levels.
- **Landscaping Plan** – Sets out a hard and soft landscaping scheme.

Site and Surroundings

The original bungalow within the application site has now been demolished, but was positioned towards the front of the site further forward than 131 Erdington Road. The application site is around 1m lower ground level than existing properties to the north. The site has mostly been cleared in connection with the extant permission and contains 5 x protected trees, including a veteran oak tree in the north-east corner of the site.

To the north of the site are residential dwellings including 131 Erdington Road, a detached dormer bungalow and 2 to 10 Hayfield Grove, a cul-de-sac of two storey houses on a higher ground level than the application site. Beyond the site boundaries to the east and south is the West Midlands Green Belt.

Other properties in the vicinity are predominantly a mix of one and two storeys high, some including dormer windows. There are also examples in the area of 2.5 storey dwellings and larger modern dwellings 145m north of the application site (Wheatland Grove).

There are outbuildings within the gardens of properties in Hayfield Grove that adjoin the boundary to the application site. The boundary treatments mainly consists of 1.8m high close board timber fencing.

The site is within Flood Zone 1 with the lowest probability of flooding from sea and rivers.

Relevant Planning History (Officer Comments in Italics)

16/1153 - Proposed demolition of existing bungalow and outbuildings, and erection of 4 no detached dwellings. GSC 20/10/2017 (*this permission benefits from the governments automatic extension of time to implement up to May 2021*).

Nearby site rear 119-133 Erdington Road (now known as Hayfield Grove)

06/2208/FL/E12 - Land rear of 119-133, Erdington Road, Demolition of 121 Erdington Road and erection of 9 dwellings plus roads and sewers to rear of 119-133 Erdington Road, Aldridge. Grant subject to conditions 2007.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 15 – Conserving and enhancing the natural environment**

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

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- T7 - Car Parking
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis:
 - 1, 2 and 3 bedroom houses 2 spaces per unit
 - 4 bedroom houses and above 3 spaces per unit

Black Country Core Strategy

- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation

- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing

GB1: Green Belt Boundary and Control of Development in the Green Belt

EN1: Natural Environment Protection, Management and Enhancement

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity

Air Quality SPD

- ***Section 5 – Mitigation and Compensation:***
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures

Consultation Replies (*Officer comments in italics*)

Woodland Trust - Holding objection due to potential disturbance to the Root Protection area of a veteran tree, and lack of an updated tree assessment (6th August 2020) (*no further comments have been received to date following re-consultation on the submitted tree assessment*).

Local Highway Authority:

- No objection subject to conditions regarding construction management, visibility splay, provision of access road and parking areas, engineering details for highway works and bin collections (2nd November 2020).
- Further information requested on visibility splay, main access, front and internal footways and swept path analysis (31st July 2020).

Strategic Planning Policy:

- No objection (22nd October 2020).
- No objection (28th July 2020).

Pollution Control – No objection subject to conditions to secure electric vehicle charging points, low NOx boilers and construction management details (24th July 2020).

Fire Authority:

- Makes a number of fire-related recommendations (8th October 2020) *(this would be added as note to applicant as it forms part of Building Control considerations)*.
- Makes a number of fire-related recommendations (13th July 2020) *(this would be added as note to applicant as it forms part of Building Control considerations)*.

Coal Authority:

- No comments to make, published standing advice to be included on any decision (9th October 2020) *(this would be added to decision notice)*.
- No comments to make, published standing advice to be included on any decision (10th July 2020) *(this would be added to decision notice)*.

Natural England:

- No objection (13th October 2020)
- No objection (23rd July 2020)

Tree Officer - No objection (22nd August 2020) *(no further comments have been received to date following re-consultation on additional submitted information)*.

Severn Trent Water – No objection and no conditions required. Advises that a public sewer may be present within the site (23rd July 2020) *(this would be added as note to applicant)*.

Wildlife Trust - No comments received.

Clean and Green - No comments received.

Waste Management - No comments received.

Designing out Crime - No comments received.

Representations (Officer comments in italics)

A total of 5 x residents support this application on the following grounds *(summarised)*:

- Development and landscaping will enhance site and area;
- Applicant has worked proactively and committed to making further revisions to minimise impacts to my amenity; and

- Current scheme with reduction in units is considered to be of better appearance and with reduced traffic than previous permission.

A petition has been lodged with the Council including 219 signatures objecting to this planning application on grounds of the removal of a hedgerow, over-development and encroachment to the Green Belt.

In addition, a total of 13 x objections have also been received directly in response to this planning application on the following grounds (*summarised*):

- Encroachment into the Root Protection Area (RPA), and harm to, the veteran Oak tree;
- Future management of the veteran tree should be in conjunction with the adjacent third party owner (*this is a private matter*);
- Irregularities in submitted plans (*a full assessment of the submission is provided in this report*);
- Reduced value of homes (*this is not a material planning consideration*);
- Insufficient parking spaces;
- Use of sensitive lighting for bats;
- Harm to amenity of adjacent residents including breach of 45 degree code, loss of light, outlook, privacy, increased shading, noise and light pollution;
- Loss of views to open countryside (*this is not a material planning consideration*);
- Development within RPA of Hawthorn hedgerow along shared boundary with Hayfield Grove and would reduce light leading to impacts to its health and longevity;
- Garage / gym building is excessive and has potential to be converted to a further dwelling in future (*an assessment can only be made on the basis of the details submitted to the Local Planning Authority at this time*);
- Lack of privacy and space between new dwellings and poor resulting level of amenity for intended occupiers (*there is greater flexibility on residential standards between occupiers of new developments on a 'buy-as-seen' basis. It should be noted that this scheme has been designed by the intended occupiers*);
- Swept plan analysis needs to be updated (*an updated plan has been submitted to reflect the latest layout*);
- Current proposal almost doubles the developed area of previous permission from 800sqm to 1500sqm by 91% (*the submitted plans show a total proposed footprint of around 752m² in comparison to the previous approved footprint of 492m² which represents a 260m² increase*);
- Proposal represents increased density (*this revised proposal reduces the density from 14 dwellings per hectare as previously approved down to 10 dwellings per hectare*);
- Development would be visually prominent and intrusive;
- Over-development, cramped appearance and out of character with area;
- Inappropriate development and boundary treatment next to Green Belt and erosion of openness;
- Insufficient space within site for re-planting;
- Grounds of refusal for application reference 20/0077 should equally apply to this application (*each application is judged on its own merits. The site referred to at 11 Knights Hill lies within the Green Belt over 400m to south-west*);
- Grounds of dismissed appeal reference APP/V4630/W/3208393 should equally apply to this application (*each application is judged on its own merits. The site referred to at 142 – 144 Whetstone Lane lies 219m to the west. Weight is also given*

to the extant permission at this application site which could be implemented at any time until May 2021);

- Updated Protected Species Survey required, including assessment of potential presence of Grey Wagtails;
- Irregularities between current and previous tree assessments regarding tree and hedge retention, concerns with content of submitted tree survey including reference to accidental damage to retained trees;
- Foraging bats highly likely to be present within the veteran tree;
- Significant site clearance already carried out (*these works relate to the extant permission*);
- Proposal results in a reduced number of retained trees and potential future harm through excessive pruning;
- Lack of submitted street scene plan, shadow plans, site section plans including finished floor and site levels (*these have not been deemed necessary in this instance*);
- Energy Statement, Waste Resource Management and Water Conservation Statement are required (*there is no planning policy basis to require their submission for this scale and type of development*);
- Lack of submitted details for a foul sewage scheme (*Severn Trent Water as statutory consultee has stated no such conditions are necessary in this regard in this instance. This is a matter for Building Regulations*);
- Inappropriate siting of bin store;
- Council should identify and protect trees with potential to become veteran in future including T3 and T4;
- Hedgerow removal and encroachment into Green Belt land and lack of satisfactory replacement planting and habitat;
- Highway safety concerns of proposed main vehicle access, gates and visibility splay;
- 5m high street lighting not necessary and harmful to area and wildlife (*no lighting details have been submitted for this current application*);
- Residents would like to see soil assessment results (*It is unclear what is being requested. All information submitted for this application has been published on the Council's website. It should be noted that any technical supporting information required in future to discharge planning conditions is a matter for the Council and its consultees*);
- Poor design and layout, siting of bin store, which excludes segregated footpath and open space and fails to demonstrate suitable access for all users
- Proposal is not considered to represent environmentally sustainable development;
- Insufficient gap of 0.25m between proposed gym / garage and shared boundary (*there is no minimum gap required submitted plans show a 0.5m / 0.50m gap*);
- Cost of new houses would only be available to a select few (*this is not a material planning consideration*);
- Gym area should be accommodated within the dwelling Plot 3 itself, or applicant should use local gyms, rather than being provided within a separate building. Gym should not become a commercial operation (*this application can only be judged on its merits and on the basis of the details submitted to the Local Planning Authority*);
- Proposed dwellings are three storey (*plans show two storey and 2.5 storey dwellings*);
- Will set a precedent for future development (*each application is judged on its own merits*);

- Refusal of Council to consult with local residents and something underhand occurring (*the Local Planning Authority has carried out its statutory duty to notify residents throughout the life of this planning application, and in taking account of representations in the overall assessment*);
- Concerns that this development will be approved at a Planning Committee again (*the outcome of any planning application cannot be pre-judged. This application will be subject to an open and transparent discussion at Planning Committee prior to reaching a decision*);
- Request a review of traffic management on Erdington Road (*this falls outside the scope of this planning application*); and
- Request submission of an asbestos survey for demolition of bungalow (*this site has already been cleared of the previous buildings*).

Further objections were received from a respondent with no postal address, and from a previous local resident who now resides in the USA. Limited weight is therefore given to these comments (*summarised*):

- Development would be visually prominent;
- Over-development;
- Inappropriate development next to Green Belt and erosion of openness;
- Harm to visual amenity of area;
- Removal of trees and hedgerow;
- Insufficient space for re-planting;
- Removal of hedgerow and Green Belt boundary;
- Impacts on wildlife habitat; and
- Crimes are being committed and should be stopped.

Ward Member Councillor Tim Wilson objects on the following grounds:

- Too large and not in keeping with the local area;
- Over-development on one site;
- Traffic and accessing Erdington Road safely; and
- Potential risks to trees and wildlife.

Determining Issues

- Principle of Development
- Design, Layout and Character of Area
- Amenity of Neighbours and Intended Occupiers
- Trees and Landscape
- Ecology and Protected Species
- Access and Parking
- Air Quality
- Local Finance Considerations
- Other Matters

Assessment of the Proposal

Principle of Development

The principle of residential development at this site has previously been accepted in 2017 following the grant of planning permission for four dwellings under reference 16/1153. This

permission benefits from the governments automatic extension of time up to May 2021 and therefore remains extant, and could be implemented at any time.

Whilst being adjacent to the Green Belt, the application site itself lies outside of the Green Belt and previously contained a bungalow and is therefore previously developed land. Whilst some changes have occurred to local and national planning policy and guidance since the last permission, these changes reinforce the aims of the planning system to deliver new homes, and to make effective use of previously developed land.

On this basis, it is considered that the principle of residential development at this site remains acceptable, subject to all other material planning considerations as set out in this report.

Objections have been received in regards to alleged encroachment of Green Belt land to the east and south, and removal of hedgerow, in connection with works associated with the original permission. The applicant has maintained contact with the Council's Asset Management Team regarding Council owned land to the south, and with the land-owner to the east of the site. The applicant has confirmed that the works carried out on Green Belt land are temporary minor encroachments during the period of construction, and that the land will be reinstated upon completion including a replacement hedgerow along the boundary with mixed native species, mixed height, mixed maturity and livestock friendly hedging plants.

These temporary works are permitted under The Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 4, Class A.

Design, Layout and Character of Area

There is no predominant single character of dwellings in the locality, and the proposed design of the dwellings which incorporates modern and traditional features is therefore considered acceptable, and would not result in any significant additional harm to the character of the area over and above the extant permission.

A condition would be included to secure the use of appropriate external facing materials to ensure satisfactory appearance. No boundary treatment details have been submitted for this current application and this would also be secured by condition.

In terms of layout, this revised scheme provides a similar tandem layout to the extant permission with Plot 1 to the front of the site which respects the building line of adjacent No.133, and Plots 2 and 3 located at rear of the site served off an internal access road.

The side elevation of Plot 1 includes a feature projecting gable and this is considered to provide visual interest and would provide an acceptable elevation treatment which would be visible on approach to the site when travelling north along Erdington Road.

The 0.3m increased height of Plot 1 over the extant permission is considered would not result in any significant additional harm to the street scene. Furthermore, the proposed increased ridge heights of 1m to Plot 2, and 0.7m to Plot 3 are considered would not result in any significant additional impacts on the character of the area. The lower ground level of the application site than existing properties to the north helps to further minimise any arising impacts in this regard.

Whilst this proposal results in an increase in overall footprint, it consolidates the amount of built form within a reduced number of dwellings and results in a lower density scheme. On balance, it is considered that this revised proposal continues to provide a satisfactory layout which provides sufficient gaps between dwellings, and for areas of soft landscaping to help integrate the development with its surroundings. Furthermore, it is considered that these proposals would make effective use of this under-utilised site in line with the provisions of NPPF Paragraphs 117 and 118(d).

The overall scale, design and layout is considered would provide a satisfactory overall appearance, and would not result in any additional harm to the openness or character of the area, or to Green Belt land to the east and south over and above the extant permission.

Objections have been received regarding insufficient gaps between the proposed development and the shared boundary to north. There is no specified minimum required gap for planning purposes, and the proposed gaps of between 0.5m and 1.1m are sufficient to ensure the development would not overhang the site boundary. The proposed buildings are of permanent and substantial construction thereby minimising the amount of future maintenance works likely to be required to these elevations. It should be noted that potential access on third party land for the carrying out of future maintenance falls outside the scope of the planning process and is a private matter between the applicant and adjoining land-owners. Whilst also falling outside of the planning remit, it should be noted that the proposed gaps are sufficient to meet Building Regulations.

The proposed bin store location in the south west corner of the site is considered acceptable, and would enable the bins to be taken to the front of the site beyond the gates on bin collection days. The distance of the bin store is within easy walking distance from each plot. A condition would be included to secure an appropriate external appearance.

Objections have also been received regarding design, character, Green Belt, layout, density, scale and boundary treatments. These matters have all been fully considered and addressed above, and can be secured by planning conditions as set out.

Overall, and taking account of representations received, the revised scheme is considered to be acceptable as set out above and would not result in any significant additional impacts to the character of the area over and above the extant permission. A refusal would not be warranted in this instance.

Amenity of Neighbours and Intended Occupiers

Plot 1 is located in a similar position as the original permission, with its front and rear main elevations sitting in line with adjacent property No.133. The 45 degree code to this neighbour's nearest habitable windows, including a rear dormer window, would not be breached. The applicant has made changes to this current scheme to provide a 1.8m high obscure glazed screen to the northern section of the balcony and this would help to minimise overlooking / perceived overlooking and loss of privacy to this neighbour. This would be secured by condition along with a further condition to ensure the side facing windows serving en-suites are obscure glazed to safeguard this neighbour's amenity. The detached garage serving Plot 1 would not result in any significant harm to this neighbour's amenity in terms of shading, loss of light, outlook or noise.

Due to the lower ground level of the application site, and distances of 15m and 18m between the rear garden areas of No.133 Erdington Road and No.2 Hayfield Grove and the proposed non-habitable dormer windows serving the upper floor in Plot 2, it is considered that this would not result in any significant additional overlooking / perceived overlooking or loss of privacy to these neighbours.

Side facing windows serving bedrooms 2 and 3 are proposed in the northern elevation of Plot 2 which would be located at a distance of 19m from nearest rear first floor habitable windows at No.2 Hayfield Grove (separation was previously 22m in extant permission for bedroom 1 in Plot 2). This falls below the recommended minimum separation of 24m in Walsall's Designing Walsall SPD. These proposed windows are considered to be secondary due to the presence of further primary windows in the east and west elevations which would provide the primary source of light and outlook to these bedrooms. A condition would therefore be included to secure obscure glazing to the side facing bedroom and en-suite windows to safeguard neighbours amenity and to meet the aims of the Designing Walsall SPD. The proposed enclosed balcony area serving Plot 2 is considered would not result in any significant additional overlooking / perceived overlooking or loss of privacy to adjacent neighbours.

The northern elevation of the proposed garage / gym serving Plot 3 would be located between 12.6m and 12.9m from nearest ground floor habitable windows serving No.8 and No.10 Hayfield Grove. Due to the lower ground level of the application site, any views of this outbuilding are likely to be limited to the slope of the pitched roof above a standard 2m high boundary fence. On balance, this is considered to meet the aims of Appendix D, Designing Walsall SPD in terms of outlook. Furthermore, this revised scheme removes a two storey dwelling which was originally approved next to this shared boundary which results in an improved relationship between the development and adjacent neighbouring gardens and properties along Hayfield Grove.

There are no habitable side facing windows in the northern elevation of Plot 3 with the exception of an en-suite window which would be secured by condition to be obscure glazed to safeguard neighbours amenity. The lower ground level of the application site when combined with the distance of 13m to the shared boundary to north, and intervening garage / gym building, is considered would limit the potential for overlooking / perceived overlooking and loss of privacy to the rear garden areas of No.8 and No.10 Hayfield Grove from the proposed rear balcony area. On balance, the proposal is considered would not result in any significant additional impacts on neighbours' amenity over and above the extant permission.

In terms of intended occupiers' amenity, the proposed garden sizes significantly exceed the Council's minimum recommended size of 68m² and reflect the mixed garden sizes in the locality. Whilst the separation between first floor habitable bedroom windows in Plots 2 and 3 at 18.3m falls below the recommended minimum of 24m, greater flexibility can be afforded when applying these standards to occupiers within new development schemes on the basis that properties are 'bought as seen'. It should be noted that this development has been designed by, and is to be occupied by, the applicant and members of their family. On balance, this is considered acceptable and overall the proposal provides a satisfactory level of amenity to intended occupiers.

A Construction Management Plan would be secured by condition to minimise impacts on surrounding neighbours during construction in line with the recommendations of Pollution Control.

Objections have been received regarding noise and light pollution, impacts on neighbours amenity and inadequate level of amenity for intended occupiers of the development itself. In terms of noise, the residential use of this proposal is considered acceptable in this existing residential location. All other matters have been fully considered and addressed above, or can be dealt with by planning conditions as set out.

Overall, taking account of representations received, it is considered that this revised proposal would not result in any significant additional shading, loss of light, loss of outlook or privacy to adjacent neighbours' windows serving habitable rooms, or outdoor garden amenity space over and above the extant permission. A refusal would not be warranted in this instance.

Trees and Landscape

The submitted tree survey explains that this revised scheme would not result in harm to the veteran oak tree, and sets out a bespoke working methodology and supervising arboriculturalist. It also explains that lower quality existing trees along the northern boundary are not suitable for long-term retention (these trees are not protected), but that a comprehensive tree re-planting scheme is proposed. Furthermore, it goes on to explain that the southern hedge, which has since been removed to facilitate temporary construction access, was not designated a retention category in the previous report as it was described as 'remnants of a hedge'. Notwithstanding this, the applicant has confirmed their commitment to re-instatement of the hedge post-development which will be secured by condition as appropriate.

Whilst additional comments have not yet been received by the Council's Tree Officer in relation to the latest revised layout, they previously confirmed that they do not object to this current application and stated that the layout satisfactorily retains the 5 trees protected by TPO title no. 05/2017. The Tree Officer also explains that whilst guidance (BS 5837: 2012) recommends a Root Protection Area (RPA) of 14.4m radius to the protected veteran Oak tree, a reduced distance of 10.9m was considered to be acceptable for the extant permission, and this revised scheme provides a betterment with an increased distance. Latest submitted plans show the distance to be around 12m. Deviations or modifications from the recommendations of BS 5837: 2012 can be acceptable following sound arboricultural assessment. The Council's Tree Officer concurs with the assessment, and content of the submitted tree survey. On balance, and taking account of the extant permission which could be implemented at any time, this is considered acceptable and provides a betterment to the original permission regarding the veteran tree. A condition would be included to secure the recommended tree protection measures and methodology.

Whilst a landscaping plan has been submitted, this has not yet been updated to reflect the latest layout and this would therefore be secured by condition to ensure a satisfactory landscaping, and re-planting scheme.

Recent clearance works carried out by the applicant have been monitored by the Council's Tree Officer, and also supervised by a qualified arboriculturalist on behalf of the applicant. The Council has been assured by both professionals that the works have been carried out in the correct manner, and safeguards the protected trees.

Objections regarding tree retention, protection and re-planting have been received, and these points have been fully considered and addressed above or can be dealt with by planning conditions as set out. No further comments have been provided by the Woodland Trust on the recently submitted updated Tree Survey.

Neighbours have stated that the development would be within the RPA of an existing Hawthorn hedgerow along the shared boundary with Hayfield Grove, and would reduce light to it, with the potential to result in harm to its longevity. The applicant's arboriculturalist has explained that the shared hedge along the boundary with No.8 and No.10 Hayfield Grove has been unmanaged for over a decade and has lost form, partly due to shading from the neighbours' own boundary fencing. Comments are being sought from the Council's Tree Officer on this point.

Additional comments are also being sought from the Council's Tree Officer on the latest revised layout, hence the recommendation for members to delegate the issuing of permission subject to no new material planning considerations being raised, and to allow the planning conditions to be finalised. Should comments be received prior to the Planning Committee meeting these will be set out in the supplementary paper.

Overall, taking account of representations received, and subject to further comments from the Tree Officer, the proposed revised layout is considered to be acceptable as set out above and would result in the retention of protected and veteran trees and a betterment regarding the distance of built form to the veteran tree. A refusal would not be warranted in this instance.

Ecology and Protected Species

It should be noted that site clearance works have already been carried out in connection with the extant permission, and in connection with the associated original conditions regarding ecology. The site is therefore considered to have limited potential for any further wildlife or protected species to be present over and above that identified in the original ecological survey in 2017.

The relevant recommendations for precautionary and enhancement measures set out within the original ecological report continue to provide a sound basis for ensuring the protection and enhancement of wildlife, habitat and protected species and would be secured by condition:

- **Bats** – appropriate external lighting scheme and bat boxes;
- **Badgers** – precautionary measures during clearance and construction;
- **Reptiles** – site clearance;
- **Nesting birds** – clearance works to be outside of nesting season;
- **Hedgehogs** – precautionary measures during clearance and construction;
- **Fox hole** – in north-east corner of site to be closed by hand;
- **Other enhancement measures** - replacement tree planting, bird nesting boxes, nectar-rich planting and wood or brash piles for Hedgehogs.

A Tree Roost Assessment dated February 2020 has been submitted in relation to conditions attached to the original permission which explains that an experienced licenced senior ecologist and tree climber carried out the assessment and confirmed there was no evidence of roosting bats within the Poplar Tree (tree 8). A further pre-check was carried out in May 2020 by a further licensed bat ecologist prior to the felling of this tree which again confirmed no presence, or evidence of roosting bats or other roosting features.

Objections have been received regarding ecology, protected species and the potential presence of bats within the veteran tree, and of Grey Wagtails. No works are proposed to the veteran tree, and a condition would be included to secure a sympathetic external lighting scheme to safeguard local bat populations. Whilst Grey Wagtails were not identified in the original ecological assessment, the RSPB published advice on this species makes it clear that these birds are only usually present where sites feature water sources / features, and only visit the UK during the summer, leaving the UK in September / October. On balance, the current presence of this species is therefore considered unlikely at this site, and a condition could be included to ensure works to vegetation / clearance are carried out outside of summer months. All other matters have been fully considered and addressed above, or can be dealt with by planning conditions as set out.

Overall, and taking account of representations received, this proposed revised scheme is considered would not result in any additional harm to wildlife, or protected species over and above the extant permission, and conditions can be included to secure safeguarding and enhancement measures as set out. A refusal would not be warranted in this instance.

Access and Parking

A total of 9 x parking spaces are proposed which accords with the provisions of the Council's adopted parking standards in Saved UDP Policy T13. This would be secured by condition in line with the recommendations of the Local Highway Authority.

The main vehicle access is as approved in the extant permission and therefore remains acceptable. The reduction in dwellings is considered would minimise the number of vehicle trips. The main vehicle gates would be set back from the highway by 6.3m, and would open inwards and this is also considered to be acceptable.

The internal access would be a private shared surface for vehicles and pedestrians, and this is considered to be acceptable due to the limited number of vehicle movements associated with this scale of development and would provide an acceptable form of level access for all users of the development. The laying out of the shared access would be secured by condition in line with the recommendations of the Local Highway Authority.

Bin collections would take place from the bin store towards the front of the site and a condition would be included to ensure the pedestrian gate is left open on bin collection days to allow bin operators to collect the bins on foot. The bins would then be emptied into the refuse vehicle at the road-side which reflects the current refuse collections for adjacent and nearby properties along Erdington Road.

The swept path analysis plan has been updated to reflect the latest layout and the applicant explains that the fire vehicle shown (DB32) is sufficient following discussions with Aldridge Fire Station. It should be noted that the Fire Authority do not object to this proposal. Overall, the internal access is therefore considered acceptable regarding emergency vehicle access. As this plan relates to technical matters, it has not been

subject to a re-consultation with neighbours and interested parties, but it has been published on the Council's website as part of the planning file.

Adequate visibility is provided at the access point in the form of a 2.4m x 100m visibility splay which reflects actual vehicle speeds along Erdington Road and would be secured by condition in line with the recommendations of the Local Highway Authority.

The Local Highway Authority has requested that a highway footway link to the site is provided to improve pedestrian accessibility to the site. Further details on this would be secured by condition along with a further condition to secure a Construction Management Plan in line with the recommendations of the Local Highway Authority.

Objections have been received regarding parking spaces, highways safety, poor pedestrian access and inadequate space for emergency vehicle access. These matters have all been considered and addressed as set out above and found to be acceptable subject to conditions.

Overall, taking account of representations received, and no objection from the Local Highway Authority, the proposed revised layout is considered to be acceptable subject to conditions as set out above and would not result in unacceptable impacts on highways safety or severe cumulative impacts on the operation of the highway network. A refusal would not be warranted in this instance.

Air Quality

Conditions would be included to secure electric vehicle charging points and use of low NOx boilers within the development in line with the recommendations of the Pollution Control team, and in accordance with BCCS Policy ENV8, the Air Quality SPD and the NPPF.

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 3 new homes.

The Government has indicated that, for 2019-20, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2019-20 the total payments, taking account of completions over the last 4 years, are expected to amount to £2,911,601.

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

Other Matters

A number of other objections have been made which are not material planning considerations, or fall outside the scope of this planning application and therefore carry no weight in the determination of this current planning application:

- Reduced value of homes;

- Cost of proposed dwellings will be out of reach for most people;
- Loss of views to open countryside;
- Future management of veteran tree should be in conjunction with the adjacent third party owner;
- Garage / gym building has potential to be converted to a further dwelling in future;
- Gym area should be accommodated within the dwelling Plot 3 itself, or applicant should use local gyms, rather than being provided within a separate building. Gym should not become a commercial operation;
- Crimes are being committed and should be stopped;
- Request to see soil assessment results;
- Request a review of traffic management on Erdington Road;
- Grounds of refusal and appeal decision at different sites should be taken into account;
- Request submission of an asbestos survey for demolition of the bungalow;
- Will set a precedent for future development;
- Refusal of Council to consult with local residents and something underhand occurring; and
- Concerns that this development will be approved at a Planning Committee again.

Further comments have been made on the lack of submitted supporting information and plans. The Local Planning Authority adheres to national validation criteria, and guidance within the NPPF and NPPG regarding supporting information requirements for planning applications. The level of information submitted with this current application is considered to be proportionate to the scale and nature of the development proposed and provides a sufficient basis to enable assessment, and determination of this current proposal.

Conclusions and Reasons for Decision

This revised proposal has been assessed, and representations received have been taken into account, as set out in this report against the relevant material planning considerations. It has been demonstrated that this development would not result in any significant additional impacts over and above the extant permission which could be implemented at any time, and accords with the local and national planning policies and guidance stated in this report.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and revised plans have been submitted in response to points raised during the course of the application which enables full support to be given to the scheme.

Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:
 - The amendment and finalising of conditions; and
 - No new material considerations being raised by the Council's Tree Officer.

PAGE 32 OF 98

Conditions and Reasons

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

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

2: The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

- Existing and Proposed Location and Block Plan 2590-01 Rev D. Amended, received 30th September 2020
- Plot 1 Double Garage 2590-02 Rev B. Amended, received 30th September 2020
- Plot 1 Plans and Elevations 2590-03 Rev E. Amended, received 30th September 2020
- Plot 2 Plans and Elevations 2590-04 Rev E. Amended, received 30th September 2020
- Plot 3 Garage and Gym 2590-06 Rev C. Amended, received 30th September 2020
- Plot 3 Plans and Elevations 2590-05 Rev E. Amended, received 30th September 2020
- Arboricultural Survey Impact Assessment and Method Statement. Received 6th October 2020
- Swept Path Analysis 2360-002 Rev A. Submitted 2nd November 2020
- Site Boundary Over Topo Survey MP/ER/P02. Submitted 3rd June 2020

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

3a: Prior to the commencement of development a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary portacabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings

- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures
- xiii. Precautionary measures for badgers, reptiles and hedgehogs during site clearance and construction

3b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

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

4a: Prior to the commencement of the development, full engineering details of all adoptable highway works and works within the existing highway, including layouts, alignments, widths and levels, together with all necessary drainage arrangements, shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include:-

- i) the new public footway provision linking the shared surface access road to the existing highway footway to the north of the site; and
- ii) the new bellmouth including appropriate hazard tactile paving at the interface between the new footway and the shared surface access road.

4b: Prior to the first occupation of any dwelling on the development hereby permitted, the above highway infrastructure works shall be fully implemented in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To ensure the satisfactory completion and operation of the public highway and in the interests of highway safety.

5a: Prior to any equipment, machinery or materials being brought on to the site for the purposes of the development hereby permitted, the tree protection measures for retained trees shall be installed in accordance with the details set out in the submitted Arboricultural Survey Impact Assessment and Method Statement received 6th October 2020, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

5b: Nothing shall be stored or placed nor any fires started, any tipping, refuelling, disposal of solvents or cement mixing carried out inside the protective fencing or on the ground protection referred to in part a to this condition. Ground levels within protective fencing and on ground protection areas shall not be altered nor shall any excavation or vehicular access or drainage routes be made.

5c: The development hereby permitted shall not be carried out otherwise than in accordance with the approved methodology and protection details contained within the submitted Arboricultural Survey Impact Assessment and Method Statement received 6th October 2020.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Saved Policy ENV18 of the UDP and Conserving Walsall's Natural Environment SPD.

6a: Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.

6b: The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

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

7a: Prior to the commencement of building operations above damp proof course of the development hereby permitted details of the proposed boundary treatment of the site and external bin store, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

7b: The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

7c: The development hereby permitted shall not be occupied until all boundary treatments and the external bin store have been erected in accordance with the approved details.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

8a: Notwithstanding the details submitted, prior to the commencement of building operations above damp proof course of the development hereby permitted details of landscaping including both hard and soft landscape works and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority.

8b: Prior to first occupation of the development hereby permitted the approved landscaping details shall be carried out.

8c: If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.

Reason: In the interests of the visual amenities of the area in accordance with saved policies ENV17 and ENV33 of Walsall's Unitary Development Plan.

9a: Prior to the commencement of building operations above damp proof course of the development hereby permitted details of bird nesting boxes and their locations within the application site shall be submitted in writing to and approved in writing by the Local Planning Authority.

9b: Prior to first occupation of the development hereby permitted, the bird nesting boxes shall be installed in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To safeguard and enhance local wildlife and to comply with BCCS Policy ENV1, saved UDP Policy ENV23, NE1 to NE6 of the Natural Environment SPD and the NPPF.

10. Prior to first occupation of Plot 1, the 1.8m high obscure glazed screen to balcony as shown on Plot 1 Plans and Elevations '2590-03 Rev E', amended and received 30th September 2020, shall be installed and thereafter retained for the lifetime of the development.

Reason: To safeguard the amenities of the neighbours and to comply with saved policy GP2 of the Walsall Unitary Development Plan.

11a: Prior to first occupation of the development hereby permitted a brick bat box shall be incorporated into the proposed first floor southern elevation of each dwelling and shall thereafter be retained as such. The bat box shall be located at a point not lower than 2.5m from ground level and shall not be positioned directly above any doors or windows.

11b: The entrance to the brick bat box shall be kept clear from obstructions at all times.

Reason: To conserve local bat populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

12a: Prior to the first occupation of any dwelling on the development, the shared surface access road together with all parking and vehicle manoeuvring areas associated with the new dwellings, shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

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

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

13a: Prior to first occupation of the development hereby permitted details of electric vehicle charging points, to be provided for each dwelling shall be submitted in writing to and agreed in writing by the Local Planning Authority.

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

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

14a: Prior to the first occupation of any dwelling of the development hereby permitted the shared surface access road together with all parking and vehicle manoeuvring areas associated with the new dwellings shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

14b: These areas shall thereafter be retained and used for no other purpose for the lifetime of the development.

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

15: The 2.4m x 100m visibility splay in both directions at the access point along Erdington Road shall, at all times, be kept free of structures and vegetation in a visibility envelope between 600mm and 2000mm in height above carriageway level.

Reason: In accordance with Saved UDP Policy GP2, the safe and satisfactory operation of the development and in the interests of highway safety.

16: All site clearance shall take place outside the bird breeding season (February to August), and outside the months of April to October, unless carried out under the supervision of a qualified and experienced ecologist.

Reason: To ensure proper regard is taken to the impact of development on protected and important species, including Grey Wagtails.

17: No boilers shall be installed in any of the units hereby permitted, save for

- Gas and liquefied petroleum gas (LPG) boilers with maximum NOx emissions no greater than 56 mg/kWh.

- Oil-fired boilers with maximum NOx emissions no greater than 120 mg/kWh.

Reason: To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1.

18: Notwithstanding the details submitted of the development hereby permitted and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding

that Order with or without modification, the proposed en-suite side facing windows serving all hereby permitted dwellings, and side facing windows serving bedrooms 2 and 3 in the northern elevation of hereby permitted Plot 2, as shown on submitted plans, shall be obscure glazed to Pilkington (or equivalent) privacy level 4 and there shall be no opening parts lower than 1.7metres from the floor level of the rooms they serve and the window[s] shall thereafter be retained for the lifetime of the development.

Reason: To safeguard the amenities of the neighbours and to comply with saved policy GP2 of the Walsall Unitary Development Plan.

19a: No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.

19b: No external lighting shall be installed on the site otherwise than in accordance with the approved details.

Reason: In the interests of the visual amenities of the area, to conserve local bat populations and in accordance with saved policies GP2, ENV11, ENV23 and ENV32 of Walsall's Unitary Development Plan, BCCS Policy ENV1, NE1 to NE6 of the Natural Environment SPD and the NPPF.

20: The pedestrian gate to the front of the site shall be left open on bin collection days.

Reason: To allow bin operators to collect the bins from the bin store on foot and to enable them to be emptied into the refuse vehicle at the roadside to ensure satisfactory waste collection arrangements to the site and avoid potential obstruction to the highway from bins being left outside.

Notes for Applicant

Local Highway Authority:

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to either enter into an agreement under S38/S278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for all adoptable highway works and works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.

Severn Trent Water:

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

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

Fire Authority:

Approved Document B, Volume 1, Dwelling-houses, 2019.

Requirement B5: Access and facilities for the fire service

These sections deal with the following requirement from Part B of Schedule 1 to the Building Regulations 2010.

Requirement

Limits on application Access and facilities for the fire service B5.

- (1) The building shall be designed and constructed so as to provide reasonable facilities to assist fire fighters in the protection of life.
- (2) Reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building.

Intention

Provisions covering access and facilities for the fire service are to safeguard the health and safety of people in and around the building. Their extent depends on the size and use of the building. Most firefighting is carried out within the building. In the Secretary of State's view, requirement B5 is met by achieving all of the following.

- a. External access enabling fire appliances to be used near the building.
- b. Access into and within the building for firefighting personnel to both:
 - i. search for and rescue people
 - ii. fight fire.
- c. Provision for internal fire facilities for firefighters to complete their tasks.
- d. Ventilation of heat and smoke from a fire in a basement.

If an alternative approach is taken to providing the means of escape, outside the scope of this approved document, additional provisions for firefighting access may be required.

Where deviating from the general guidance, it is advisable to seek advice from the fire and rescue service as early as possible (even if there is no statutory duty to consult)

Section 13: Vehicle access

Provision and design of access routes and hard-standings

13.1 For dwelling-houses, access for a pumping appliance should be provided to within 45m of all points inside the dwelling-house.

13.3 Access routes and hard-standings should comply with the guidance in Table 13.1.

13.4 Dead-end access routes longer than 20m require turning facilities, as in Diagram 13.1. Turning facilities should comply with the guidance in Table 13.1.

Overall

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 1, Table 13.1)

Water

Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 16 and “National Guidance Document on the Provision for Fire Fighting” published by Local Government Association and WaterUK:

<https://www.water.org.uk/wp-content/uploads/2018/11/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net

Sprinklers

Where sprinklers in accordance with BS 9251:2014 or BS EN 12845:2015 are fitted throughout a house or block of flats:

- a) the distance between a fire appliance and any point within the house (in houses having no floor more than 4.5m above ground level) may be up to 90m:
- b) the distance between the fire and rescue service pumping appliance and any point within the house or flat may be up to 75m (in houses or flats having one floor more than 4.5m above ground level) (BS 9991:2015 50.1.2).

Blocks of flats with a floor more than 30m above ground level should be fitted with a sprinkler system, throughout the building (ADB Vol 1, Section 7)

The approval of Building Control will be required to Part B of the Building Regulations 2010 Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 1, Section 7)

The external access provisions for a building should be planned to complement the internal access requirements for a fire attack plan. (CIBSE Guide E, Fire Safety Engineering 2010, p. 13-14)

End of Officers Report

Planning Committee

Report of Head of Planning and Building Control on 12 November 2020

Plans List Item Number: 3.

Reason for bringing to committee

Significant Community Interest

Application Details

Location: CHASE COMMUNITY HOMES, CHASE HOUSE CARE HOME, CHASE ROAD, BROWNHILLS, WALSALL, WS8 6JE

Proposal: CONVERSION OF EXISTING HOUSE NO.95 CHASE ROAD INTO 3 X 1 BED FLATS INCLUDING DEMOLITION OF PART OF REAR CONSERVATORY LEAN-TO, CONSTRUCTION OF REAR EXTENSION (SINGLE STOREY) AND WORKS FOR ASSOCIATED PARKING.

Application Number: 19/1188

Case Officer: Devinder Matharu

Applicant: RW Services

Ward: Brownhills

Agent: Neil Boddison Associates Ltd

Expired Date: 04-Dec-2019

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

Time Extension Expiry: 30-Oct-2020



Officers Report

Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to
 - The amendment and finalising of conditions;
 - Overcoming the outstanding objection raised by Arboricultural Officer

Proposal

The proposal seeks conversion of existing house no.95 chase road into 3 x 1 bed flats including demolition of part of rear conservatory lean-to, construction of rear extension (single storey) and works for associated parking.

The submitted plans show two flats on the ground floor and one flat on the first floor. The proposal will include the demolition of the conservatory and re-roofing the existing lean to at the rear of the property. A single storey rear extension will be provided to incorporate a bedroom to the ground floor flat 2. Each apartment will have its own amenity space. Three off road parking spaces will be provided towards the front of the site, with parking to flat 1 adjacent flat 1.

The plans also show the location of the bin store towards the front of the site.

A bat survey has been submitted which has concluded the building is conclusively not being used as a bat roost site. The building overall was categorized as negligible bat roost potential in respect of potential use by bats.

A Transport Statement has been submitted which addresses parking, repositioning of street lights etc.

Site and Surroundings

Number 95 Chase Road is a large detached property located on the western side of Chase Road. The property is set back with a large front garden. Within the front garden is a Lime tree, which is protected by a preservation order. The property has a dropped kerb and a 1.5m high (approx) timber fence fronting Chase Road.

The property has an original rear two storey wing attached to which is a lean to single storey wing and beyond that a conservatory.

To the north of 95 Chase Road is a dropped kerb that provides access to number 2 Middleton Road, a large detached property from a unmade track.

The property has a rear conservatory located to the southern part of the site.

To the south of the site is number 55 Chase Road a semi-detached property. The rear of this property sits in line with the front elevation of number 95 Chase Road.

On the opposite side of Chase Road are commercial uses such as a fencing company and Castings Ltd. Directly opposite the application site are double yellow lines.

The site is located approximately 99m from the junction with Lichfield Road to the north of the site.

Beyond the boundary with number, 2 Middleton Road is the Wyrley and Essington Canal.

Relevant Planning History

2a Middleton Road

17/0227 - Proposed development is for 6 new dwellings comprising 4 x 2 bed semi-detached houses, 2 x 3 Bed Detached (including all associated infrastructure). The Existing site has 2 access points serving no.98 and no.2a - the application includes a proposal for a single access point serving the proposed new dwellings and also the existing dwelling no.95 Chase Road. Grant subject to conditions February 2019.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

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

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

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing

EN4: Canals

T4: The Highway Network

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

- NE1 – Impact Assessment

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

- DW3 Character

Air Quality SPD

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

Consultation Replies

Historic England – No objection

Network Rail – No objection

Transportation – No objection subject to planning conditions relating to access, parking and cycle shortage.

Canal and River Trust – No objection

Housing Standards – No objection

Fire officer – No objection subject to compliance with Building Regulations.

Community Safety Officer – No objection but makes comments to secure by design.

Highways England – No objection

Inland Waterways – No objection

Natural England – No objection

Birmingham Wildlife Trust –Objection, the application should not be approved until a bat survey has been submitted.

Arboricultural Officer – Objection on the grounds of the impact on the protected Lime tree.

Strategic Policy – No objection

Archaeology – No objection

Severn Trent Water – No objection subject to drainage condition.

Representations

Seventeen letters from four neighbours have been received objecting to the proposal on the following grounds: (officer comments in italics)

- Plans are incorrect as the boundary wall dog legs into the proposed extension
- Concerns over subsidence as the adjacent house is lower
- Concerns over the type of tenants in the building
- Demolition of conservatory impact upon neighbouring property
- Red line boundary to the north side of the road
- Clarification required regarding the red edge on 17/0227 and the front garden of application site
- Impact upon amenity including overlooking and loss of light
- Loss of trees including loss of neighbouring mature trees and shrubs
- Drainage issues including waste discharged through shared drains,
- Number of bins now allocated to each house/flat
- Parking and access including increased vehicle movements from occupiers and delivery drivers, increase in traffic, three parking spaces shown, previous application 2 parking spaces shown, insufficient space for vehicles to manoeuvre causing issues on the highway, bins located in the front impact on vehicle manoeuvrability, increased use of driveway in close proximity to a bridge and busy road, increase in road accidents, safety of pedestrians and school children in danger with vehicles coming and going, traffic backs up on Chase Road, cars to reverse into protected lime tree, congestion with vehicles coming and going to this and adjacent site for houses, numerous accidents
- Loss of view – *not a material planning consideration in this case*
- Devalue of property - *not a material planning consideration in this case*

Determining Issues

- Principle of development
- Design
- Impact upon neighbouring residential occupiers
- Ecology and Trees
- Parking and access
- Local Finance Considerations

Assessment of the Proposal

Principle of development

The application site is located in a mixed residential /commercial area. The existing dwelling is a single family home. The proposal seeks to subdivide the property to provide three individual flats. Under Policy HC2 of the SAD other land for housing is supported provided, the scheme can meet the more detailed criteria set below.

Neighbouring occupiers have raised concerns over the type of tenants that may reside in the premises. The type of tenants to reside in the property is not a material planning consideration, as the planning legislation does not seek to control tenancy; this is a civil matter between the applicant and tenants. The current proposal is for three separate flats, which is considered acceptable

Design

The proposed scheme has been amended to address officers concerns, the rear extensions along the southern boundary of the site have been deleted and individual amenity areas have been provided. A small single storey extension has been included to the rear of the premises to accommodate a bedroom for flat 2.

It is considered that the proposed design is considered acceptable and in keeping with the area. All flats would be accessed from the existing front door maintaining active frontages and all private rear amenity areas will be secure and private.

Parking would be located towards the front of the site, which would be overlooked by flats 1 and 3.

Whilst the proposal seeks to provide a bin storage area at the front of the site, a planning condition is recommended to ensure that the bins are only placed at the front of the site on bin day in the interests of protecting the visual amenities of the area.

The community safety officer has made comments about secure by design including CCTV, lighting, fencing and window and door security, these will be included as a note for applicant.

Neighbouring occupiers have raised concerns over drainage, Severn Trent Water have no objection to the proposal subject to a drainage condition. Furthermore, drainage would be addressed at Building Regulations stage.

Neighbouring occupiers have stated that the plans are incorrect as the boundary wall dog legs into the extension. These comments have been forwarded to the planning agent. The planning agent has submitted a red line plan and a certificate to state his client owns the site.

Any issues regarding proposed subsidence between numbers 55 and 95 Chase Road are civil matters, but no doubt addressed through Building Regulations. Neighbours also state the demolition of the conservatory will impact upon them, this is a civil matter.

Neighbouring occupiers have sought clarification with the red line to the north of the road. The land to the north of the site is in the applicant's ownership, as it is edged blue.

Impact upon neighbouring residential occupiers

There are no side facing windows on the southern elevation. It is considered that the external alterations are minimal would not unduly impact upon neighbouring occupiers in respect of overlooking or loss of privacy.

With regards to 2 Middleton Road, the existing property is positioned to the side of 95 Chase Road, so that the side elevation of this property faces towards Chase Road and not towards the rear elevation of 95 Chase Road. The property is also designed so that the front of the property faces south to overlook the area behind 95 Chase Road. The proposal seeks to include a secondary window to the bedroom to flat 3 on the rear elevation facing the rear of 95 Chase Road. It is considered this is no different to the existing windows on the rear elevation of the dwelling looking towards the rear of 95 Chase Road. As such. The proposal would not unduly result in overlooking or loss of privacy for the occupiers of 2 Middleton Road.

Any windows on the rear elevation of the ground floor of the development would be screened by boundary fencing to prevent overlooking and loss of privacy between the application site and 2 Middleton Road.

Ecology and Trees

The BBC wildlife Trust have advised the application should not be determined without a bat survey. The planning agent has submitted a bat survey concluding the building is conclusively not being used as a bat roost site and the building overall was categorized as negligible bat roost potential in respect of potential use by bats. The Wildlife Trust have been consulted on the bat survey but so far no further response has been received.

The Arboricultural Officer has advised the proposed parking has been moved further away from the protected Lime tree. However, no information as to what implications the proposals will have on the tree have been submitted. A tree survey in accordance with BS 5837: 2012 Trees in relation to design, demolition and construction – Recommendations will have to be undertaken to recognise any tree constraints, identify any tree protection measures and if necessary specify details of any working methodology required to ensure the safe long term retention of the TPO tree. Until this tree survey is submitted the outstanding objection remains. It is considered that the application should be delegated to the Head of Planning and Building Control to allow the tree survey to be submitted to overcome this objection.

Neighbouring occupiers have raised concerns that the proposal will result in loss of mature trees and shrubs from the removal of the conservatory. The existing vegetation is not protected and does not require planning permission to do so.

Parking and access

The Highway Officer has no objection to the proposal as the proposal provides three off road parking spaces in accordance with Policy 13 of the UDP. They also advise Access is to be taken from the improved and modified access approved under 17/0227, which is to be fully implemented prior to first occupation of the development as the existing access is considered substandard. The existing access to the site is to be closed off and reinstated. Furthermore, planning conditions for parking, access and cycle shelter have been suggested.

Neighbouring occupiers have raised a number of concerns regarding increased vehicle movements from occupiers and delivery drivers, increase in traffic, insufficient space for vehicles to manoeuvre causing issues on the highway and increased use of driveway in close proximity to a bridge and busy road. There is no evidence to suggest that the additional three flats would exacerbate any existing traffic and highway issues, furthermore, there is no evidence to suggest the proposal would increase traffic along Chase Road over and above traffic that might be associated with the existing three bedroom house

Neighbouring occupiers also comment that the proposal will impact upon pedestrian safety and increase accidents. The Highway officer has not raised this as a concern to warrant refusal of the application. There is no evidence to suggest the proposal would increase accidents along this stretch of Chase Road.

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 3 new homes.

The Government has indicated that, for 2019-20, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2019-20 the total payments, taking account of completions over the last 4 years, are expected to amount to £2,911,601.

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

Conclusions and Reasons for Decision

The principle of development is acceptable. The design is considered acceptable. The proposal would not unduly harm the amenities of neighbouring occupiers in respect of overlooking or loss of privacy. The proposal provides parking in accordance with policy. The proposal complies with the policies as set in the policy section of this report.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have sought amendments to address concerns with the proposed scheme

Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to
 - The amendment and finalising of conditions;

- Overcoming the outstanding objection raised by Arboricultural Officer

Conditions and Reasons

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

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

2. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

- Proposed Plans, Elevations & Site Plan drawing number 30689/02/E submitted 27 July 2020.

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

3a. Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.

3b. The development shall not be carried out otherwise than in accordance with the approved details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.

3c. The development hereby permitted shall not be occupied until the approved drainage has been installed in accordance with the approved plans.

Reason: To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

4a. Prior to the commencement of building operations above damp proof course of the development hereby permitted details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

4b. The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

4c. The development hereby permitted shall not be occupied until all boundary treatments have been erected in accordance with the approved schedule.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

5a. Prior to commencement of the development hereby permitted, the details of the proposed access onto Chase Road together with the closure and reinstatement back to full kerb height of the existing redundant access, approved under planning permission 17/0227 shall be submitted to and approved in writing by the local planning authority.

5b. The development shall not be carried out other than in accordance with the details approved under part 5a of this condition.

Reason: To ensure the satisfactory completion and operation of the development, to ensure that there is safe access and egress to the development, in accordance with UDP Policy GP2 and T4 and in the interests of highway safety.

6. Prior to commencement of the development hereby permitted, a bat box shall be fixed to a mature tree on the site and shall thereafter be retained. The bat box shall be located at a point not lower than 4metres from ground where there are no branches below the box that would impede the direct flight of bats into and out of the bat box. The bat box shall be made of timber or woodcrete.

Reason: To conserve local bat populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

7. Prior to the first occupation on any flat on the development, the access and parking area shall be fully implemented and brought into use and thereafter retained and used for no other purpose.

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

8. Prior to the first occupation of any flat on the development, a secure, covered cycle storage facility for residents shall be installed, details of which shall be submitted to and approved in writing by the Local Planning Authority and maintained for the lifetime of the development. .

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

9a. No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.

9b. No external lighting shall be installed on the site otherwise than in accordance with the approved details.

Reason: In the interests of the visual amenities of the area in accordance with saved policies GP2, ENV11 and ENV32 of Walsall's Unitary Development Plan.

10. The walls and roof of the development hereby permitted shall comprise facing materials that match, in size, colour and texture, those which are used in the existing building] and the facing materials shall thereafter be retained for the lifetime of the development.

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

11. No boilers shall be installed in any of the units hereby permitted, save for
- Gas and liquefied petroleum gas (LPG) boilers with maximum NOx emissions no greater than 56 mg/kWh.
 - Oil-fired boilers with maximum NOx emissions no greater than 120 mg/kWh.

Reason: To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1.

Notes for Applicant: Community Safety Officer

The current boundary treatment would benefit from the following: fencing to reach 2.2-2.4m best option would be replacement of larch lap with closed board (min 33 boards per 8') to 2m and addition of trellis to top. The boundary of the site is open and accessible from two sides and partially accessible to the frontage. The site is also not well overlooked. Advice would be to enclose frontage with metal fence and gates to secure. Planting to frontage to be reduced in height to enable view. PIR/dusk to dawn bulkhead to the front of property to secure car parking area. CCTV access fitted to each residence and separate mail delivery points. Secured By design spec should be included for all doors and windows.

Notes for the Applicant: Highway

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to either enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927
3. The relocation of the existing Street Lighting Column required to achieve the modified and approved access shall be with the approval of the Council's Street Lighting partner, AMEY.

End of Officers Report

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 12 November 2020

Plans List Item Number: 4.

Reason for bringing to committee

Significant community Interest

Application Details

Location: 54, VALLEY ROAD, STREETLY, SUTTON COLDFIELD, B74 2JE

Proposal: ERECTION OF AN ATTACHED DORMER BUNGALOW.

Application Number: 19/1138

Case Officer: Sally Wagstaff

Applicant: Mr M Donlon

Ward: Streetly

Agent: JMI Planning

Expired Date: 16-Dec-2019

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

Time Extension Expiry:

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to the amendment and finalising of conditions



Officers Report

Proposal

This application is for the erection of an attached dormer bungalow following the refusal under delegated powers of a detached dormer bungalow in September 2018 (planning reference 18/0066).

The current application proposes the following changes compared to the previous refusal:

2. Property attached to no. 54 Valley Road
3. Property reduced in width from approximately 6.7 metres to approximately 6.3 metres
4. 1.6 metres to be retained between property and public highway boundary allowing for a landscape buffer around the front and side of the property in front of close boarded fencing
5. Dormers to front and rear reduced in width from approx. 4 metres to approx. 3.6 metres
6. Dormer to the front elevation reduced in projection from roof slope from approx. 2.5 metres to 2 metres.

This application has been amended since submission to take into account officers concerns regarding:

- Incorrect drawing titles on plans (which have been amended to reflect proposal).
- The scale of the dormers (which have been reduced as mentioned above)
- Impact on the open character of the area in relation to the position of fencing (fencing position adjacent to the highway moved 1 metre into site and removed around the front of the site)
- Requirement for a visibility splay (visibility splay is shown on proposed block plan)

The following has been submitted in support of the application:

Design and Access Statement

- Proposal amended to take into account previous reason for refusal
- Proposal in a sustainable location for residential development
- Development integrates into its surroundings in terms of scale, design and materials
- Satisfactory relationship between development and neighbouring properties in regard to overlooking, overbearing, shadowing and other unacceptable affects.
- Hedge around perimeter to be removed

Site and Surroundings

The application site is located on the northern side of Valley Road and the western side of Grove Way. The application site is wider fronting Valley Road and narrower towards the rear of the site.

The application site is enclosed by a mature boundary hedge fronting both Valley Road and Grove Way.

Grove Way slopes upwards from Valley Road, so the houses in Grove Way sit at a higher level than the application site.

Numbers 44 to 54 Valley Road are all bungalows, they are slightly elevated above the public highway with gardens and driveways to the front. The bungalows have an open frontage.

Number 54 has flat roof dormers within the both front and roof slopes. The property has a secondary habitable room windows within the side elevation facing into the application site. The rear garden is approximately 11 metres in length and 82 sqm in area.

Towards the rear of the site is the garage and driveway for 54 Valley Road, which is adjacent to the garage and driveway of 3 Grove Way. 3 Grove Way is an extended bungalow with a rear elevation facing 50 and 52 Valley Road. There is approximately 23 metres at a diagonal distance between the nearest corner of this property and the proposed bungalow.

Adjacent to the site are semi-detached two storey dwellings 40-44 Grove Way which are approximately 17 metres from the application site and 56 Valley Road at approximately 19 metres.

On the opposite side of the road are two storey semi-detached dwellings. The dwellings are staggered along this part of Valley Road. The houses on this part of Valley Road have flat roof porches and extensions at the front and side.

The site is 0.66km from the edge of Streetly local centre.

Relevant Planning History

18/0066 - Construction of new detached dormer bungalow with associated external works to form new dropped kerb. Refused 03/09/2018.

Reason for refusal:

The proposed dormer bungalow extending out to the back of the public highway along Grove Way would provide a cramped form of development with no open space around it and fails to reflect the existing open character of the area, as such it would harm the visual amenities and open character of the street scene. The top heavy dormers when viewed from Grove Way would be visually detrimental and visually harmful to the character of the street scene. The proposal is contrary to the National Planning Policy Framework, Policies DEL1, DEL2, HOU1, HOU2, CSP4, ENV2 and ENV3 of the Black Country Core Strategy, Saved Policies GP2, 3.6, 3.7, 3.113, 3.114, 3.115, 3.116, ENV32, ENV33 and H3 of the Walsall Unitary Development Plan, Policies DW3, DW4, DW6, DW9 and DW10 of Designing Walsall SPD.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

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

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

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- T4 - The Highway Network
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- ENV3: Design Quality

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing
T4: The Highway Network

Supplementary Planning Document

Designing Walsall

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

Air Quality SPD

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

Consultation Replies

Highway Authority – No objection subject to planning conditions regarding parking and access.

Pollution Control – No objection subject to use of recommended conditions in regard to installation of electric vehicle charging points and low NOx boilers and a Construction Management Plan.

Public Rights of Way – No objections. There are no recorded definitive public rights of way or adopted footpaths within or adjacent to the proposed development, and no claims for unrecorded public rights of way in accordance with S31(6) of the Highways Act 1980 have been received.

West Midlands Fire Service – No objection
Severn Trent Water – No objection

Representations

18 objections and comments have been received from 8 local residents to both the initial and amended scheme as follows:

(Officers' comments in italics)

- No internet to view plans and council offices are not open to visit *(the LPA is aware through a telephone conversation with the local resident they have obtained a copy of up-to-date plans from another resident)*
- Lack of time to give views due to delay between date on letter and receiving it in the post *(the LPA has carried out consultations in accordance with legislation but has no control in respect of postal service delivery times)*
- Request to allow more time to respond due to number of days to receive letters *(the LPA will consider all comments made until the application is determined)*
- Request log receipt due to council not replying to comments *(the LPA are unable to confirm receipt or reply to comments as specified in notification letter)*
- Residents not informed of decision for the application submitted in November 2019 *(this is the same application which has been amended so no decision made yet)*
- Cannot agree with statements made within Design and Access Statement *(the Design and Access Statement is written in support of the application by the applicant)*
- References made in Design and Access Statement to 70 Nicholas Road and 44 Grove Way do not apply to this site *(whilst comparisons may be made between sites, each site is assessed on its individual merits)*
- Clarification required on the position of the timber fencing around perimeter of site as not clear on block plans due to the coloured curtilage lines *(the LPA have requested clarification on this matter, no confirmation at time of writing)*
- Clarification on whether the hedge will be removed as not clear on block plan *(the LPA has sought clarification on this matter, nevertheless the Design and Access Statement states to be removed. No confirmation at time of writing)*
- Titles on plans state an extension, confusion over what is being applied for *(titles on the plans have been amended to reflect accurately what is being applied for and residents notified of the change)*
- Presumption of sustainable development is undemocratic, development should not be allowed if local residents are opposed to it *(the role of the LPA is to assess planning applications against relevant National policies (NPPF) and Walsall Council's Development Plan policies in doing so the LPA must take into considerations material planning issues raised by local residents) .*
- Hedge to the boundary requires trimming back – obstructing pedestrians from using footpath leading to pedestrians walking in the road which poses safety concerns *(the LPA have notified highways enforcement that the hedge is obstructing the public highway, the agent has also been notified that it would require trimming back)*
- Building works and construction vehicles would create noise disturbance *(a Construction Management Plan is recommended to control working hours on site, nevertheless any noise disturbance issues could be reported to Environmental Health Officers to investigate if they arise)*
- Materials should not be left on neighbouring properties or highway *(a Construction Management Plan is recommended to control the storage of plant and materials, nevertheless any materials or plant left on the highway could be reported to*

Community Protection to investigate if the issue arose. Any items are left on neighbouring properties is a civil matter between the parties involved)

- Changing semi-detached dwellings into a terrace would devalue properties (*this is not a material consideration in the determination of an application*)
- Insufficient land for dwelling, cramped form of development due to previously being a garden belonging to 54 Valley Road
- Proposal would turn properties into a terrace which is out of keeping in an area mainly semi-detached houses and bungalows
- Dormers out of keeping with other properties in the area
- Porch out of keeping with character of the area
- Proposal does not reflect open character of the area
- Loss of privacy due to intrusive dormers
- Intrusive development due to proximity to properties on Grove Way
- Loss of light as side windows within 54 Valley Road would be blocked up (*the applicant has outlined the curtilage in blue to indicate this property is within their ownership. Whilst it is acknowledged that this property currently has a tenant, they would need to seek legal advice regarding their rights as a tenant*)
- Removal of hedge is not required if it was to be maintained appropriately
- Spoils local landscape character of area, environment and potential wildlife habitats including bats (*no evidence of bats on site, site is not within a zone requiring a protected species survey to be carried out*).
- Flooding issues cause by torrential rain and hard surfaced gardens, neighbouring properties affected by flooding with water backing in the highway (*Application site is within Flood Zone 1 a Flood Risk Assessment is not statutorily required for development within Flood Zone 1. Severn Trent have no objections to proposal with no drainage condition required*)
- Drains are in the wrong place (*not material to the consideration of this planning application, position of drains is dealt with at building regulations stage*)
- Pedestrian safety concerns due to proximity of vehicles to pedestrians crossing on the corner of Grove Way and Valley Road
- Access and parking issues including the parking of construction vehicles and construction traffic, manoeuvring difficulties of vehicles along Valley Road frontage

Determining Issues

- Whether the application has addressed the reasons for refusal of the previous application or raises any new material planning considerations

Assessment of the Proposal

Whether the application has addressed the reasons for refusal of the previous application or raises any new material planning consideration

Refusal Reason:

The proposed dormer bungalow extending out to the back of the public highway along Grove Way would provide a cramped form of development with no open space around it and fails to reflect the existing open character of the area, as such it would harm the visual amenities and open character of the street scene. The top heavy dormers when viewed

from Grove Way would be visually detrimental and visually harmful to the character of the street scene.

The refusal reason can be broken down into the following two points:

1. Cramped development with no open space fails to reflect the existing open character of the area as such would harm character of the area
2. Top heavy dormers when viewed from Grove Way would be visually detrimental to the character of the streetscene.

Cramped development with no open space fails to reflect the existing open character of the area as such would harm the character of the area

This site is not allocated for housing within Walsall Council's Site Allocation Document (SAD) due to capacity of less than 10 dwellings. Whilst the proposals will result in the development of a residential garden which is not defined as previously developed land in the NPPF, in this case, it is considered the proposed residential development is within a sustainable established residential location which would provide a satisfactory residential environment in line with SAD policy HC2. To add, the principle of residential development in this location did not form part of the previous reason for refusal.

The main alteration within this application is the proposal is attached to the side of no. 54 Valley Road. In addition the width of the property has been reduced which both allow for a distance of 1.6 metres to be retained between the property and the highway boundary on Grove Way. It is considered that by setting the property away from the boundary, the current open character of the site can be retained by means of landscaping between the property and the public highway and the property is no longer considered to be of cramped form. It is acknowledged that the open character will be altered due to the presence of built form nevertheless it is considered that the proposal would not unduly erode the open character of the street scene. It is considered a landscaping condition is required for details to be submitted and agreed by the LPA to maintain the visual amenities of the area.

The proposal would create a rear garden of approximately 75 sqm and there would be 82 sqm retained for no. 54 Valley Road. The development of the site would allow for an acceptable level of rear amenity space for both properties that reflects the surrounding character and is above the minimum standards within Walsall Council's Designing Wasall SPD.

To ensure the satisfactory appearance of the development is retained, taking account the size of the site and proximity to public highway, it is recommended that permitted development rights for householders under Schedule 2 Part 1, Class A for rear and side extensions, Class E for garden outbuildings and Schedule 1 Part 2, Class A for gates, fences, walls or other means of enclosure is removed by condition

It is considered the scale and mass of the property would not be overdevelopment of the site. The depth, width and height of the bungalow are no larger than others within the street scene and it would not appear dominant against the adjoining property no. 54 Valley Road. It is recognised that by adjoining no. 54 Valley Road to allow for open space at the back of the public highway the pair of semi-detached dwellings no. 52 and 54 Valley Road become a terrace. This is not typical of the street scene nevertheless it is considered the proportions of the proposed bungalow are comparable to the size of no. 44 Valley Road and would not lead to an unbalanced affect within the row of properties. The design of the property and proposed palette of materials would reflect neighbouring properties which

would allow for the dwelling to integrate within the streetscene. A condition to provide a materials schedule is considered necessary to ensure the development integrates.

For the reasons above, on balance it is considered this application overcomes previous concerns regarding the proposal leading to cramped development with no open space which fails to reflect the existing open character of the area as such would no longer be harmful to the character of the area.

The top heavy dormers when viewed from Grove Way would be visually detrimental to the character of the streetscene

The proposed dormers have been reduced in width and depth (front dormer) to address this element of the refusal reason. The proposed dormers are comparable in size to those of. no 54, Valley Road, whilst there is little evidence elsewhere within the streetscene of other properties having dormers it is considered that the two properties will appear visually similar from Valley Road and Grove Way.

It is considered the reduction in size of the dormers coupled with the property being set back from the highway would result in a scheme which is not overbearing within the streetscene.

The proposal is considered to overcome concerns regarding the dormers being visually detrimental and visually harmful to the character of the area.

It is acknowledged that the dormers may lead to a perception of overlooking however it is considered the potential for overlooking is no worse than having first floor habitable room windows which currently exist within properties on Grove Way and Valley Road.

The nearest property to the rear of the site, no. 3 Grove Way is approximately 23 metres from the proposed dormers with no direct overlooking of amenity space and the front dormers would face 23 Valley Road across a public highway where privacy and aspect distances are considered not as sensitive as this is in the public realm.

Neighbouring occupiers have raised concerns that the proposed dormer bungalow would have lasting social impact upon neighbouring occupiers, the previous refusal reason did not raise concerns regarding the proposal having a detrimental impact on neighbouring amenity. It is considered the proposal would have a limited impact upon the light, outlook and privacy enjoyed by neighbouring residents as to warrant refusal of the application.

Access and Parking

The proposal includes two parking spaces for the new dwelling which accords with UDP T13 parking policy. There is a retained existing garage and parking space to the rear to serve the existing dwelling. It is noted that a paved area has been created on the frontage of the existing dwelling although this is not shown as being intended for parking on the current application and so is discounted as official parking provision.

Neighbouring occupiers have raised pedestrian safety concerns due to proximity of vehicles to pedestrians crossing on the corner of Grove Way and Valley Road. There is no evidence to suggest any proposed parking arrangements would impact upon pedestrian movements on the public highway, the creation of frontage parking is similar to other frontage parking along both Valley Road and Grove Way.

Neighbouring occupiers have raised concerns including the parking of construction vehicles and construction traffic, manoeuvring difficulties of vehicles along Valley Road frontage. The Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2018 paragraph 109.

New Material Planning Considerations

The Design and Access Statement explains the hedgerow to the front and side of the development would be removed however plans do not clearly show its removal. The officer has asked for clarification from the applicant on this matter, which to date has not been submitted. A condition to provide details of the boundary treatment to be submitted to and agreed by the LPA will clarify this matter and ensure satisfactory appearance of the development.

The proposal would result in the loss of secondary habitable room windows within the side elevation of no. 54 Valley Road. The loss of light to these windows would not have an undue impact upon the amenity of future occupiers of the property.

The application site is located within a residential area and Pollution Control Officers recommend conditions for a Construction Management Plan to control noise, dust and debris affecting local residents. The Construction Management Plan should also contain a restriction of construction and demolition working hours which can also be conditioned. Pollution Control is of the opinion that the Application falls under the Type 1 category set out in the Air Quality SPD, therefore a condition is recommended for the installation of an electric vehicle charging points within the residential unit and for low NOx boilers.

Local Finance Considerations

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

This application proposes one new home.

The Government has indicated that, for 2019-20, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2019-20 the total payments, taking account of completions over the last 4 years, are expected to amount to £2,911,601.

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

Conclusions and Reasons for Decision

Taking into account the above factors it is considered that the application has overcome earlier reasons for refusal and should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have spoken with the applicant's agent and in response to concerns raised regarding the scale of the proposal, amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to the amendment and finalising of conditions

Conditions and Reasons

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

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

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

- Planning Statement in Support of Erection of an attached Dwelling, produced by JMI Planning LTD, submitted 03/09/19
- Site Location & Proposed Block Plan, drawing no. P100
- Proposed Site Plan, drawing no. P110A- Submitted 07/10/20
- Proposed Floor Plans, drawing no. P200A- Submitted 07/10/20
- Proposed Elevations, drawing no. P300A-Submitted 07/10/20
- Proposed 3D Views, drawing no. P310A - Submitted 07/10/20
- Existing and Proposed Street Scene, drawing no.P320 – Submitted 07/10/20

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

3a. Prior to the commencement of development a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

1. Construction working hours
2. Loading and unloading of materials
3. Storage of plant and materials used in constructing the development
4. Measures to prevent flying debris
5. Dust mitigation measures

6. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)

b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

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

4a. Prior to commencement of the development hereby permitted details of landscaping including both hard and soft landscape works and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority.

b. Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

c. If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.

Reason: In the interests of the visual amenities of the area in accordance with saved policies ENV17 and ENV33 of Walsall's Unitary Development Plan.

5a. Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces, roofs, windows, doors and rainwater goods shall be submitted in writing to and approved in writing by the Local Planning Authority.

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

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

6a. Prior to the commencement of building operations above damp proof course of the development hereby permitted details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

b. The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

c. The development hereby permitted shall not be occupied until all boundary treatments have been erected in accordance with the approved schedule.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

7a. Prior to first occupation of the development hereby permitted details of electric vehicle charging points, to be provided for the dwelling shall be submitted in writing to and agreed in writing by the Local Planning Authority.

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

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

8. No boilers shall be installed in any of the units hereby permitted, save for
- Gas and liquefied petroleum gas (LPG) boilers with maximum NOx emissions no greater than 56 mg/kWh.
 - Oil-fired boilers with maximum NOx emissions no greater than 120 mg/kWh.

Reason: To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1.

9a. Prior to the first occupation of the new dwelling, the parking spaces shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

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

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

10. The development hereby permitted shall not be occupied until the dropped kerb has been installed in accordance with the Council's footway crossing specification SD11/8 dated January 2008 *see Notes for Applicant.

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

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

-Class A (enlargement, improvement or other alterations)

-Class E (building incidental to the enjoyment of a dwelling house)

shall be installed in any part of this development.

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

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

- Class A (gates, fences, walls etc)

shall be installed in any part of this development.

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

Notes for Applicant

Highways

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

2. With reference to the Council's footway crossing specification SD11/8 dated January 2008, the crossing extension shall not exceed five 900mm flat kerbs and two 900mm taper kerbs. All works within the public highway shall be in accordance with all statutory requirements

3. The applicant will be required to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the dropped kerb footway crossing within the public highway. For further information please contact the Traffic Management Team on 01922 654675.

Pollution Control

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

The electric vehicle charging point provision for commercial premises is 5% of parking provision with charging points to comply with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw. Appropriate cable provision shall be in place for a further 5% to meet any future increase in demand.

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

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

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

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

Ultra-low NO_x boilers discharge NO_x at or below 40mg/kWh. The latest models are futureproofed to the European Union's Energy-related Products Directive 2018 NO_x levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NO_x, and may be eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

West Midlands Fire Service

Requirement B5: Access and facilities for the fire service

These sections deal with the following requirement from Part B of Schedule 1 to the Building Regulations 2010.

Requirement

Limits on application Access and facilities for the fire service B5.

(1) The building shall be designed and constructed so as to provide reasonable facilities to assist fire fighters in the protection of life.

(2) Reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building.

Intention

Provisions covering access and facilities for the fire service are to safeguard the health and safety of people in and around the building. Their extent depends on the size and use of the building. Most firefighting is carried out within the building. In the Secretary of State's view, requirement B5 is met by achieving all of the following.

- a. External access enabling fire appliances to be used near the building.
- b. Access into and within the building for firefighting personnel to both:
 - i. search for and rescue people
 - ii. fight fire.
- c. Provision for internal fire facilities for firefighters to complete their tasks.
- d. Ventilation of heat and smoke from a fire in a basement.

If an alternative approach is taken to providing the means of escape, outside the scope of this approved document, additional provisions for firefighting access may be required.

Where deviating from the general guidance, it is advisable to seek advice from the fire and rescue service as early as possible (even if there is no statutory duty to consult)

Section 13: Vehicle access

Provision and design of access routes and hard-standings

13.1 For dwelling-houses, access for a pumping appliance should be provided to within 45m of all points inside the dwelling-house.

13.3 Access routes and hard-standings should comply with the guidance in Table 13.1.

13.4 Dead-end access routes longer than 20m require turning facilities, as in Diagram 13.1. Turning facilities should comply with the guidance in Table 13.1.

Overall

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 1, Table 13.1)

Water

Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 16 and "National Guidance Document on the Provision for Fire Fighting" published by Local Government Association and WaterUK:

<https://www.water.org.uk/wp-content/uploads/2018/11/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net

Sprinklers

Where sprinklers in accordance with BS 9251:2014 or BS EN 12845:2015 are fitted throughout a house or block of flats:

a) the distance between a fire appliance and any point within the house (in houses having no floor more than 4.5m above ground level) may be up to 90m:

b) the distance between the fire and rescue service pumping appliance and any point within the house or flat may be up to 75m (in houses or flats having one floor more than 4.5m above ground level) (BS 9991:2015 50.1.2).

Blocks of flats with a floor more than 30m above ground level should be fitted with a sprinkler system, throughout the building (ADB Vol 1, Section 7)

The approval of Building Control will be required to Part B of the Building Regulations 2010. Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 1, Section 7)

The external access provisions for a building should be planned to complement the internal access requirements for a fire attack plan. (CIBSE Guide E, Fire Safety Engineering 2010, p. 13-14)

Severn Trent Water

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

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't

permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

Please note if you wish to respond to this email please send it to Planning.apwest@severntrent.co.uk where we will look to respond within 10 working days. Alternately you can call the office on 0345 266 7930

End of Officers Report

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 12 November 2020

Plans List Item Number: 5.

Reason for bringing to committee

Called In by Councillor Douglas-Maul, stating significant community interest.

Application Details

Location: LIVING AREA ABOVE, 317, CHESTER ROAD, ALDRIDGE, WALSALL, WS9 0PH

Proposal: RETENTION OF NEW DOORWAY, WINDOW AND EXTERNAL STAIRCASE TO FIRST FLOOR FLAT

Application Number: 19/0468

Case Officer: Gemma Meaton

Applicant: Simon Khera

Ward: Streetly

Agent: Gerry Bradley

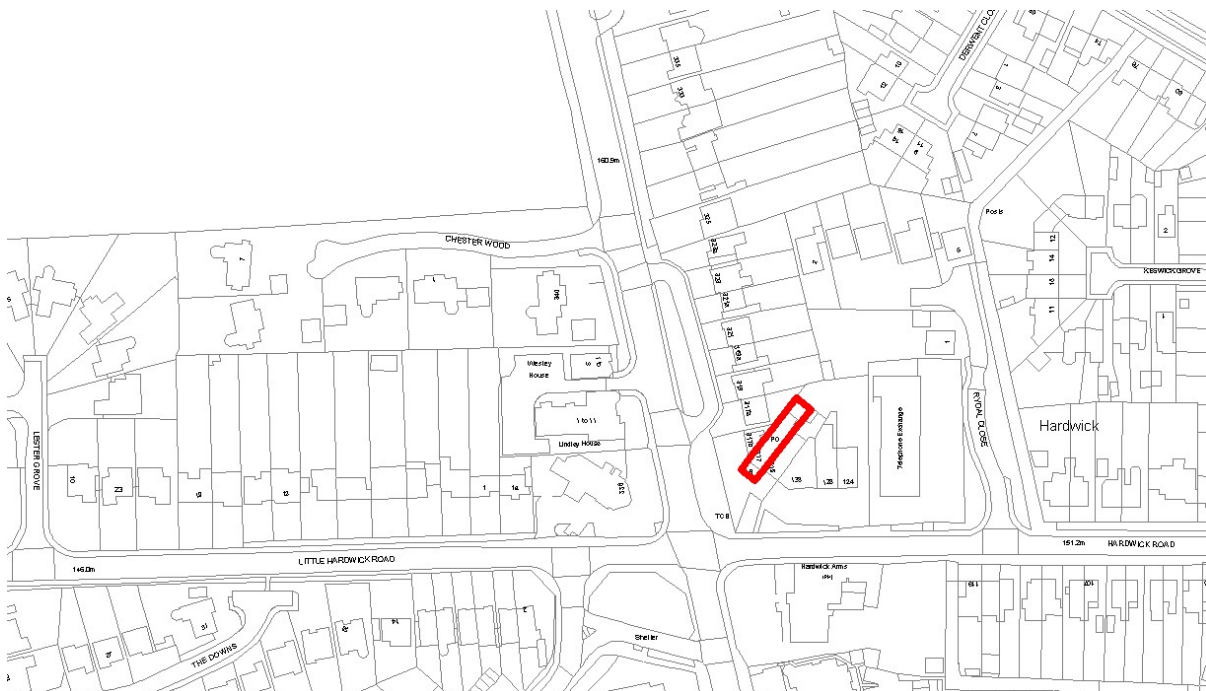
Expired Date: 26-Jun-2019

Application Type: Full Application: Minor Use Class C2 (Residential institutions)

Time Extension Expiry: 19-Nov-2020

Recommendation

Refuse



Officers Report

Current Status

At the meeting on 11th July 2019 Members deferred determination of this application to allow consultation with West Midlands Fire Service and Building Control and to find a suitable alternative privacy screen for the staircase.

Consultation Responses: *(Officer comments in italics).*

West Midlands Fire Service – Flats not fitted with fire mains should have vehicle access for a fire appliance not more than 45m from all points within each dwelling, measured on a route suitable for laying a hose. The direct distance is reduced to two thirds to allow for internal layout. If this cannot be met a fire main should be provided. The approval of Building Control will be required to Part B (Fire Safety) of the Building Regulations 2010. *(Not a material planning consideration, will be dealt with under Building Regulations)*

Building Control – Following Planning Committee on 11th July the applicant was advised that a Building Regulations application was required for the works that have been undertaken. A Building Regulations application for regularisation of the unauthorised works was submitted on 7th August 2019. A site meeting with the applicant's agent took place in early September and the agent was advised of the works that will need to be done to comply with Regulations. The existing means of escape is not acceptable and the external staircase does not comply with Building Regulations in various aspects. Plans to show the works required have not been received at this time.

Alternative privacy screen for the staircase

The agent has provided an alternative privacy screen which would replace the temporary bamboo screen. The proposed screen is described as decorative outdoor metal screen panels and consist of a laser-cut flat metal panel that would allow some light to pass through without allowing for full visibility.

The amended visibility screen was included in a re-circulation to surrounding neighbours in May 2020 and no amended comments were received. An email was provided by the applicant's agent dated February 2020 from a surrounding neighbour indicating that the proposed screen is the preferred design option.

Although the proposed screen would be aesthetically an improvement over the existing screen, it is considered that it would remain unacceptable in terms of visual amenity. The staircase and screening is fully visible from Chester Road above the garage roof of No 317a Chester Road as well as from the rear windows and rear garden of the property. It is considered that any form of screening structure suitable to ensure privacy to the occupiers of 317a would maintain the existing poor outlook and loss of amenity to the occupiers of 317a and maintain the existing adverse impact on the visual amenity of the area.

During the course of the application the case officer discussed alternative proposals to provide independent access to the flat with the applicant's agent, but no response or amended plans have been received.

The report below remains unchanged and the recommendation remains as refuse.

Proposal

This application proposes the retention of a new entrance door and window on the side elevation of the two storey wing of this building and an external metal staircase to the rear of the premises which provides independent access to the first floor residential accommodation. Independent access has been sought to overcome security issues associated with the ground floor post office use.

The staircase is situated towards the right hand side of the property and the design includes a landing across the width of the property, across an existing single storey flat roofed structure below, leading to a short run of stairs, a further landing and a further longer run of stairs into the back yard area of the premises.

The works were completed in March 2019 and since then a bamboo screen approx. 2m in height has been added to the outer side of the staircase which sits approx. 1m above the height of the staircase handrail. The bamboo is attached to the staircase with wooden posts and cable ties. The handrail of the staircase measures 1m in height. The staircase sits within 1m of the angled boundary with 317a Chester Road and sits approx. 2.7m beyond the existing extensions to the rear of the shop.

The total length of the staircase including the top landing area is 8.7m and the maximum height of the handrail is 4.6m and the overall maximum height with the screening 5.6m.

This application has been submitted following a complaint and subsequent investigations by an enforcement officer.

Site and Surroundings

The site comprises a retail shop at ground floor with a flat above. A single storey flat roofed extension is set to the side of the two storey wing with further single storey flats roofed elements to the rear which includes an access door to the rear elevation. A gated yard area is situated to the rear and is used to park a single vehicle. A large beech tree protected under TPO 25 of 1976 is situated to the rear on the boundary between the site and 315.

It is understood that the first floor flat was previously accessed internally via the shop unit.

The shop is situated within a block of 6 retail units situated on the corner of Chester Road and Hardwick Road, with a parking area on the frontage around the highway junction. A service yard is situated to the rear of the shops. It appears that the shops all have accommodation at first floor.

315 has an external staircase to the rear that is angled across the rear of the property.

317a is a semi-detached house immediately adjacent to the boundary with the site with an angled boundary. The house has a single storey side flat roofed garage and a small triangular rear garden. The occupier has added 0.8m of trellis with plastic foliage to the top of the original 1.8m high boundary fencing, since the installation of the staircase, giving a total height of 2.6m.

Relevant Planning History

None other than tree applications.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**

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

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

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

Reducing Inequalities

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Supplementary Planning Documents

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

- DW3 Character
- DW9 High Quality Public Realm
- Appendix D

Consultation Replies

Tree Officer – Objection. Further information is required of the foundation and installation method for the staircase in order to accurately assess the long-term health and condition of the protected Beech tree.

Representations

One objection received

- The staircase that has been erected causes a privacy issue and a security risk

PAGE 75 OF 98

Determining Issues

- Impact on the amenities of the surrounding occupiers
- Impact on the visual amenity of the area
- Impact on a protected tree

Assessment of the Proposal

Impact on the amenities of the surrounding occupiers

The staircase sits at a high level adjacent to the angled boundary with 317a, a semi-detached house.

A bamboo screen has been attached to the outer side of the staircase since the installation (projecting 1m above the handrail height) to try and prevent loss of privacy to the occupiers of 317a. The occupiers of 317a have also added 0.8m high trellis with plastic foliage attached to the top of their original 1.8m high fence to provide further screening along the boundary.

317a has a very small triangular rear garden and the staircase sits alongside the angled boundary. The two landing areas within the staircase provide a high level platform for users to overlook the rear garden of 317a. The top landing sits at a height of 3.1m and the middle landing at 2.3m. Whilst the bamboo currently provides some screening, this is not considered a suitable permanent solution to the overlooking and loss of privacy that the staircase creates as it is likely to deteriorate over time, or be damaged by severe weather. The method of fixing the bamboo (cable ties) represents a temporary fix, not a permanent one, but any structure in this location would be obtrusive.

317a has a large first floor bedroom window on the rear elevation, the staircase conflicts the 45 degree code with a separation distance of 7m from the centre of the window to the staircase.

Due to its height and proximity it is considered that the staircase and platform and bamboo screen has an adverse impact on the amenities of the occupiers of 317a, having an overbearing impact on the living conditions of the bedroom through loss of outlook and privacy.

Impact on the visual amenity of the area

The height and location of the bamboo screen means that it is visible from Chester Road over the flat roofed garage of 317a, providing an obtrusive, alien feature with poor visual appearance out of character with the surrounding pattern of development.

It is considered that the bamboo screen is likely to deteriorate over time and could be damaged by severe weather exacerbating the poor appearance.

Impact on a protected tree

The mature protected Beech tree at the site sits on the boundary between 317 and 315 and has a radial root protection distance of between 9.6 and 10.8m. The new staircase therefore sits within the root protection area of the tree. The foundations and method of construction will determine whether the staircase will be detrimental to the long term health and condition of the tree, but no significant dieback is noted to date. Objections raised by

PAGE 76 OF 98

the tree officer subject to the submission of the foundations and installation method of the staircase to accurately access the long term health and condition of the tree.

Conclusions and Reasons for Decision

The staircase has been installed without the benefit of planning consent in order to provide independent access to the first floor flat above the shop.

The staircase sits immediately adjacent to the angled boundary with 317a Chester Road and given the two landing areas in particular has resulted in overlooking and loss of privacy to the residential occupiers at No 317a. The bamboo screening has been added to the outside of the staircase since installation to address overlooking issues, but this is considered a temporary solution not a permanent one. The occupiers of 317a have also found it necessary to add additional 0.8m high trellis (with foliage) to the top of their fencing to improve their privacy. This too has been installed without the benefit of planning consent.

The proposals fails to demonstrate that the development has no detrimental impact on the long term health and condition of the protected mature Beech tree.

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal and enforcement action taken to secure the removal of the staircase.

Positive and Proactive Working with the Applicant

The case officer has spoken with the applicant and their agent to advice that the retention of the staircase cannot be supported and discussed alternative proposals for the provision of a staircase to allow for independent access to the first floor flat. No amended plans have been received.

Recommendation

Refuse

Reasons for Refusal

1. The external staircase as installed has an adverse impact on the amenities of the occupiers of 317a Chester Road having an overbearing impact on their living conditions through loss of outlook and privacy. The bamboo screening attached to the staircase is also visible from Chester Road and results in an obtrusive, alien feature with poor visual appearance, out of character with the surrounding pattern of development. As such the proposals are contrary to the aims and objectives of the National Planning Policy Framework, policies ENV2, ENV3 and CSP4 of the Black Country Core Strategy, saved policies GP2 and ENV32 of Walsall Unitary Development Plan.
2. The application fails to accurately demonstrate that the staircase installation will not be detrimental to the long term health and condition of the mature Beech tree protected under Tree Preservation Order 25/1976. As such the proposals are contrary to the aims and objectives of the National Planning Policy Framework,

PAGE 77 OF 98

policy ENV3 of the Black Country Core Strategy, saved policies GP2, ENV18, ENV32 of Walsall Unitary Development Plan and policies NE7 and NE8 of Supplementary Planning Document Conserving Walsall's Natural Environment.

End of Officers Report

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 12 November 2020

Plans List Item Number: 6.

Reason for bringing to committee

Application is for a Councillors property

Application Details

Location: 203, WHETSTONE LANE, ALDRIDGE, WALSALL, WS9 0HH

Proposal: DEMOLITION OF EXISTING PORCH, REBUILD AND EXTEND TO THE FRONT BY 1 METRE TO INCORPORATE EXISTING PORCH SPACE AND PLUS EXISTING HALL TO CREATE A NEW ROOM AND HALL. SINGLE STOREY REAR EXTENSION OF 3.5 METRES X 4 METRES.

Application Number: 20/0498

Case Officer: Claire Woodcock

Applicant: Adrian Andrew

Ward: Aldridge Central And South

Agent:

Expired Date: 29-Sep-2020

Application Type: Full Application:
Householder

Time Extension Expiry: 22-Dec-2020

Recommendation

Grant Planning Permission Subject to Conditions



PAGE 79 OF 98

Officers Report

Proposal

The proposal is for a new porch and front extension which will expand and replace the area of the existing porch and hallway and form a larger front playroom. Also proposed is a single storey rear extension that will be joined to an existing single storey rear extension and will create a dining room.

The front extension dimensions will be:

1.8 metres deep on the west side elevation

2.5 metres on the east side elevation where the porch joins the existing garage

4.1 metres wide

Having a bay window to the front elevation and an entrance door.

Having a flat roof the dimension are:

2.4 metres to the eaves

2.8 metres overall

The single storey rear extension dimensions would be:

3.7 metres wide

4.6 metres deep

With bi-folding doors to the dining room facing towards the rear garden.

Having a flat roof with roof lantern inset the dimensions would be:

2.6 metres to the eaves

3.6 metres overall at the top of the roof light.

Site and Surroundings

The applicant property is a detached dwelling, set in a residential area on an elevated position on the brow of a hill on Whetstone Lane. The surrounding properties are of a similar detached design many of which have had front side and rear extensions.

The original projecting garage has previously been converted to an office with bay window.

Relevant Planning History

Applicant property: None

201 Whetstone Lane: None

205 Whetstone Lane: None

Relevant Policies

National Planning Policy Framework (NPPF)

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

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to

PAGE 80 OF 98

contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

Key provisions of the NPPF relevant in this case:

- **NPPF 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**

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

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall and SPD's are consistent with the NPPF.

Consultation Replies

The Highway Authority: Support. There is sufficient parking space on the property frontage to park at least 2 cars which is acceptable.

Representations

None

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

Assessment of the Proposal

Design of Extension and Character of Area

The application would replace the area of the existing porch by creating a full width front extension 1.8m in depth with a bay window to the extended playroom and adjoining the already converted garage. The proposed front extension would be set back by 0.2 metres from the existing garage conversion which projects 2.7 metres and the existing bay window projects a further 0.5 metres forward from the main dwelling. There is a gap of 1.3 metres between the applicant property and the neighbouring property of 201 Whetstone Lane and a gap of 1 metre between the applicant property and No 205 Whetstone Lane and plans show that these will remain as existing.

Having a flat roof 2.4 metres to the eaves and 2.8 metres overall which would run across the front elevation which would abut the roof of the existing garage conversion and would be 0.4 metres higher than that of the garage conversion roof.

Whilst the proposed porch windows and entrance door will be visible from public vantage points, on balance, it is considered to be proportional to the host house, and neighbouring houses within the area, reflecting the local varied housing designs, plus the evolving character of the area, where many of the surround properties have front and side extensions in a variety of designs.

The proposed single storey rear extension to create a dining-room, would join onto the existing rear extension. The proposed single storey rear extension is considered to reflect the character of the original dwelling, providing the facing materials will be consistent with those used for the existing house. The extensions are proportional to the size of the plot and will appear subservient in relation to the main dwelling.

It is considered that as it is a rear extension and is not visible within the street scene so causes no harm to the character of the dwelling nor the street scene.

Amenity of Nearby Residents

Although the footprint of the existing porch would be increased, plans show that the proposed front extension would still be set back from the existing garage conversion and the bay window of proposed extension would replace that of the existing porch, and match the bay window of the garage conversion. Plans show that the entrance door will be moved from facing towards the west, to forward facing towards the highway. However, this changed position is similar to the neighbouring properties of No's 201 and 205 Whetstone Lane.

No 201 Whetstone Lane has a porch extension to the front and is set to the west and at a slightly raised ground level to the applicant property. As the proposed extension is set to the east of the applicant property and set behind the existing garage conversion, it is considered that the proposed extension would be mostly hidden from the view of this neighbouring property, by the existing dwelling, and the proposed front extension adheres to the 45-degree code in relation to this property.

No 205 Whetstone lane is set to the east and at a slightly lower level than the applicant property. This neighbouring dwelling has the benefit of a garage nearest to the boundary with the applicant property and a front porch extension which projects approximately 1.7 metres from that of the main dwelling. This results in the proposed front extension been hidden from the view of the nearest habitable window of this neighbouring property by its own porch and garage, and the proposed front extension adheres to the 45-degree code in relation to this property.

As the front elevation of the application house and neighbouring properties No's 201 and 205 Whetstone Lane face towards the north, it is considered that this proposal would have limited additional impact on neighbours existing light and amenity available to front habitable room windows. The proposal complies with the 45-degree code and in line with saved UDP policies GP2 and ENV32 and SPD Designing in Walsall.

The proposed single storey rear extension would be adjoined to and the same depth of the existing rear extension. Which would result in the proposed and existing extension running across the whole width of the existing dwelling. Having a flat roof, with roof lantern inset.

The neighbouring property of No 201 Whetstone Lane has the benefit of a conservatory and single storey extension. The proposed single storey extension would be set behind the existing applicant rear extension and there are no additional side windows. There is an existing boundary treatment and the proposed rear extension adheres to the 45-degree guidelines in relation to this property.

No 205 Whetstone Lane has the benefit of a rear conservatory, which is approximately 2.7 metres deep. At the boundary between this and the applicant property is a garage and a 2-metre boundary fence, there are no additional side facing windows and proposed extension adheres with the 45-degree guidelines in relation to the nearest habitable window of this neighbouring property.

The applicant rear garden is approximately 23 metres long and backs onto the garage and side elevation of No 15 Beacon Rise. Therefore, exceeds the 13 metre separation distance of 13 metres, as per Walsall SPD Appendix D. There is a 2-metre boundary fence and established trees along the boundary. The proposed extension with a depth of 4.6 metres is considered to not create an adverse impact on the neighbouring outlook above what is created by the existing rear extension which has a depth of 4.6 metres. There should be no adverse shading effects created by the proposed extension above what is created by the existing house and single storey extension.

The remaining rear garden space will be approximately 244m², which is above the 68m² minimum requirements set out in the Designing Walsall SPD.

Conclusions and Reasons for Decision

The design of the proposed front and rear single storey extensions is acceptable in relation to the original dwelling and are considered appropriate within the street scene and does not harm the visual amenities of the area. Therefore, it is in accordance with saved UDP Policies: GP2 and ENV32 and SPD Designing Walsall.

The proposed development is considered to not have a detrimental effect on the outlook, daylight or privacy to neighbouring habitable rooms. Therefore, the residential amenities will remain protected and the proposed development is in accordance with saved UDP policies GP2 and ENV32 and SPD Designing Walsall.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

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

Recommendation

Grant Planning Permission Subject to Conditions

Conditions

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

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

2: The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

- Amended Block Plan received: 04-08-2020
- Location Plan received: 06-05-2020
- Existing Plans and Elevations (Drawing reference: CA-257-01) Received: 06-05-2020
- Proposed Plans and Elevations (Drawing reference: CA-257-03A) Received: 04-08-2020

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

3: The walls and roof of the development hereby permitted shall comprise facing materials that match, in size, colour and texture, those which are used in the [existing building] and the facing materials shall thereafter be retained for the lifetime of the development.

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

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no side facing windows, doors, or other openings other than those shown on the approved 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 saved policy GP2 of the Walsall's Unitary Development Plan.

End of Officers Report

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 12 November 2020

Plans List Item Number: 7.

Reason for bringing to committee

Councillor Andrew requested the application be heard at Planning Committee due to significant community interest.

Application Details

Location: 9, MORETON AVENUE, GREAT BARR, BIRMINGHAM, B43 7QP

Proposal: CHANGE OF USE OF VACANT TATTOO PARLOUR TO RESTAURANT (A3 USE)

Application Number: 20/1049

Case Officer: Rebecca Rowley

Applicant: MATT BYWATER

Ward: Pheasey Park Farm

Agent: Williams Architectural

Expired Date: 19-Oct-2020

Application Type: Full Application: Change of Use

Time Extension Expiry:



Officers Report

Recommendation

Planning Committee resolve to delegate to Head of Planning & Building Control to grant planning permission subject to conditions and subject to;

- No further comments from Environmental health raising material planning considerations not previously addressed;
- The amendment and finalising of conditions;

Proposal

The applicant seeks planning permission for the change of use from a tattoo parlour (planning class use sui generis) to a restaurant (A3 planning class use at time of application, new planning class use E(b)) at 9 Moreton Avenue.

The proposal would make no external changes, only internal changes and the addition of an extraction/ventilation system at the rear side. The site has CCTV and there is no intention or requirement to install roller shutters. Initially 4 staff (two full time and two part time) would be employed, with the ultimate intention to create employment for up to 10 people.

The proposed opening hours would be 11.00am to 23.00pm Monday – Sunday and Bank Holidays.

Site and Surroundings

The application site is located in Moreton Avenue at the end of a U shaped parade of shops fronting Moreton Avenue, Beacon Road and Queslett Road. The last known use of the site was as a tattooists, approximately 2 years ago.

The application site is within a parade of 15 retail shops at ground floor with residential accommodation above. The block consists of the application site which was trading as a tattoo parlour until approximately 2 years ago, an off-licence, beauty salon and hairdressers fronting Moreton Avenue, 2 estate agents, a DIY shop, Post Office, Chinese take away and accountants fronting Beacon Road (although they are set back on a service road known as Queslett Road) and a further estate agents, funeral directors, butchers and a betting shop fronting Queslett Road.

There is on-street marked parking bays in front of the shopping parade for 16 vehicles, a further 3 off street spaces adjacent to the section of Queslett Road which is set back off Beacon Road, and 15 spaces on the hard surfaced areas in front of the shops fronting Moreton Avenue. Three of these spaces are directly in front of the application site, although they are not specifically allocated to this premises. The application site is currently vacant.

The adjacent premises to the west of the application site is a nursery with a public grassed area and residential dwellings beyond. Opposite the application site are 2 detached houses at the edge of the residential estate to the north.

To the east side of the of the shops, on the opposite corner of the junction of Beacon Road and Queslett Road is The Old Horns, which is a public house and to the south side, on the opposite side of Queslett Road is an Asda Supermarket.

Immediately behind the application site building is a private amenity area for the occupants of the application site and beyond the rear boundary is the rear garden of no. 296 Queslett Road.

There are 7 bus stops within a 500m radius of the application site serving routes from West Bromwich, Sutton Coldfield, Walsall and central Birmingham.

Relevant Planning History

BC01944 – erection of extensions and alterations to chemists shop – granted permission – 03/12/1981

BC06558P – extensions to shop – 10/02/1983

BC15960P – extension to store – granted permission – 24/02/1986

BC27275P - Two Storey Extension to Form Entrance to First Floor Flats & Extension to Rear Store. – granted permission – 12/09/1989

BC39077P - New shopfront & roller shutter. – granted permission – 24/09/1993

09/1068/FL - Proposed infill extension, disabled access ramp & new shop front. – granted permission – 10/11/2009

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- NPPF 2 – Achieving sustainable development
- NPPF 7 – Ensuring the vitality of town centres
- NPPF 8 – Promoting healthy and safe communities
- NPPF 12 – Achieving well-designed places
- NPPF 16 – Conserving and enhancing the historic environment

On planning conditions the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all

PAGE 89 OF 98

parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

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

Reducing Inequalities

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

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

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

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

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

Local Policy

Black Country Core Strategy

- CSP4: Place Making
- EMP1: Providing for economic growth and job creation.
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres

- CEN3: Growth in the Strategic Centres
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Walsall Site Allocation Document (SAD) was adopted in January 2019. The saved UDP policies detailed below have not been replaced by the SAD and full weight can be given to these policies. The following SAD policies are relevant:

- SLC1/SLC2 Local Centres (LC14 – Queslett)

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP6: Disabled People
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- S2: The role of the Local Centre is to meet the day-to-day convenience shopping and local service needs of their communities.
- S6: Meeting Local Needs

- S10: Hot Food Take-Aways, Restaurants and Other A3 (Food and Drink) Outlets
- T7 - Car Parking
- 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

Supplementary Planning Document Designing Walsall

- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW6 Legibility
- DW9 High Quality Public Realm

Shop Front

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

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Consultation Replies

Pollution Control – No objections subject to safeguarding conditions for a scheme of noise insulation between the ground floor restaurant use and the residential premises above

Environmental Health – Chasing a response

Public Health – No objection

Transportation (Local Highways Authority) – No objections

Aldridge/Pheasey/Streetly Area Partnership – no response

Representations

2 neighbours objected with the following concerns (*Local Planning authority comments in italics and brackets*):

- Parking issues in the area/ outside the shops (*The existing parking issues is outside the scope of local planning authority to deal with. There are other agencies to deal with this which residents can report this too*)
- Parking causing access issues to residential driveways/potential access issues for emergency services. (*This is outside the scope of the planning legislation to consider and a matter for residents to raise with other agencies to investigate*)
- Traffic congestion/dangerous manoeuvring (*This is outside the scope of the planning legislation to consider and a matter for residents to raise with other agencies to investigate*)
- We already have private car park signs up, but this does not stop people parking on the front of nursery (*This is outside the scope of the planning legislation to consider and a matter for residents to raise with other agencies to investigate*)
- People going to a restaurant will park there for longer than people popping into the off license
- This residential road is not suitable for this type of business. It is more suited to a retail or business area. (*The proposal is within a local centre which is considered within the Principle of the Use below*)
- A current restaurant in the locality, Pigeon Parlour is proposing to open every evening until 9 or 10 pm. So to add another business opening in the evenings to this area would cause a lot of congestion, noise, possibly litter. With the potential for 24 customers at a time, that's at least 12 cars! (*In accordance with saved UDP policy S10, the cumulative impact would be considered. Pigeon Parlour does not currently open these hours and this assessment can only be made based on the current circumstances.*)
- Speaking to the owners of the other shops, and most of the other residence of Moreton Avenue, they are not happy for this proposal to go ahead (*Any objections received are weighed in the overall planning balance. Currently there are only two objections that have been received*)
- Impact from noise of customers on childrens' or care workers' sleeping patterns.
- Increase in litter (*There is no evidence provided that an additional restaurant use in the local centre would generate additional litter*)
- Inappropriate disposal of litter resulting in bags being split open by foxes (*The proposed restaurant use has not commenced, consequently this cannot be considered as a material consideration in the determination of this planning application*)

- Inappropriate disposal of cigarette butts (*The proposed restaurant use has not commenced, consequently this cannot be considered as a material consideration in the determination of this planning application*)
- I do want Moreton Ave to become a lovely row of businesses, but as we all have to look at the dreadful eyesore of the vacant shut down petrol station, (*this site has been identified in the Site Allocation Document policy SLC2, site LC14 for redevelopment and not a material consideration in the determination of this current planning application*)
- I just do not want a business next door that is going to create more problems, and as we have not been told what sort of restaurant it is going to be, (*No evidence has been provided that the future use subject to this planning application will create problems and the planning legislation does not require evidence of what sort of restaurant will open*)

One additional objection was received on 16 October raising the same issues as above (subsequently withdrawn in writing on the 20 October), plus:

- The businesses already operating on Moreton Avenue do not have a negative impact on residents in terms of their customers.
- Our customers purchase from us and then leave the vicinity.
- Sunflowers Nursery, operates within set hours and users (children and their carers) do not negatively impact the residential area.
- Impact on the residents surrounding Moreton Avenue and certain businesses, including the nursery (*No evidence has been provided to substantiate how this restaurant use would impact on residents and local businesses*)
- There is already a café at 5 Moreton Avenue, we do not see the need for another restaurant and do not believe there will be sufficient demand. (*The local planning authority has to determine the application before it, which is currently for a restaurant. The council has no planning policies that restrict the numbers of restaurants or hot food takeaways in an area or location*)

Determining Issues

- Principle of the use
- Impact to Character of the Area
- Residential amenity
- Car parking

Assessment of the Proposal

Principle of the use

The proposal falls within the Local Centre LC14: Queslett as identified by Walsall's Site Allocation Document policy SLC1. Local Centres generally meet day-to-day convenience goods needs and are useful to the elderly and less mobile. Within these areas the retention, enhancement and further development of shops, services and other town centre uses, including restaurants as identified in saved UDP policy S1, will be encouraged through the council's planning policies. In this case the proposed change of use from a tattoo parlour to a restaurant, is considered an appropriate scale for this local centre, which also benefits from good public transport links. This unit is currently vacant, so the re-

use as a restaurant will create employment, benefit the economy and ensure that the building is maintained, which would have a positive impact on the appearance of the local area. It is considered, the proposed change of use to a restaurant in the local centre accords with the council's planning policies including UDP Saved Policy S2, S6, S10 and BCCS Policy CEN5 plus SAD policy SLC1.

Impact to Character of Area

The application proposes no changes to the front elevation of the property other than branding and no shutters of any kind are proposed. A flue is to be installed on the south west side elevation of the building. The installation of an extraction flue at the rear/side of a parade of shops, even with flats above, is reflective of the equipment that may be expected to be installed in a local centre location like this. The flue would be mostly shielded from view from the public vantage point by the stairwell rising along the south west side elevation of the building to the first floor. As a restaurant is the type of use that would be considered consistent with such a local centre, it is considered that this proposal would not cause harm to the character of the application site or the locality in accordance with BCCS policy CSP4 and ENV2 and saved UDP policies GP2 and ENV32 and the SPD Designing Walsall DW3.

Impact on Amenity of Local Occupants

Whilst the property is situated within a local centre, there are residential units above the shops. Government policies encourage the use of upper floors of commercial units to be used for residential use. This section of Moreton Avenue is an entrance road to this part of the Pheasey housing estate on the western side of Beacon Road, with 7 bus stops within a 500m radius of the application site. These bus stops serve routes from West Bromwich, Sutton Coldfield, Walsall and central Birmingham. The council accepts that living in local centres above shops, the level of amenity for residents will not be the same as those living in a suburban location. Notwithstanding the Pollution Control team are seeking a condition to install noise insulation between the ceiling of the ground floor and the residential premises above that has a minimum a sound reduction of Rw 70 dB. It is considered that this would limit the impact of any noise and disturbance from the proposed restaurant use to the flat above.

The proposed use is seeking to open from 11am every day, plus into the evening until 23.00pm Monday to Sunday. The council's hot food UDP policy S10 suggests closing times of 23:00 hours Monday to Fridays, with 23:30 hours for closing on Saturdays, whilst the policy continues Sundays will be considered on its merits. Therefore this proposal would reflect the council's UDP policy S10 suggested closing times for Monday to Saturday, whilst it is considered the proposed Sunday and Bank holiday opening hours would also reflect UDP policy S10 as there are no consultee objections to the opening hours. On balance it is considered the overall proposal for the change of use to a restaurant is in accordance with the council's policies.

The installation of an extraction flue at the rear of a parade of shops, even with flats above, is reflective of the equipment that may be expected to be installed in a local centre location like this. There would be a separation distance of 46m between the proposed flue and residential windows at the rear, the flue would be of limited visibility for residents opposite the building due to shielding from the stairwell leading to the first floor flat above the application site, and whilst it would be visible from the grounds of the adjacent Sunflowers Day nursery, the closest part of the rear amenity area is 9 m from the proposed flue. Whilst

the flue would have a fine grain satin steel finish, a condition can be imposed to secure it being powder coated a colour to assist in it blending better with the existing built fabric of its surroundings to further mitigate any perceived visual harm. Overall, due to its limited visibility and the imposition of the condition regarding its colour finish, it is considered the position and height of the extraction flue would be acceptable.

The proposal includes an extraction flue that terminates 0.5 metres above the eaves of the building. It is considered, based on the evidence before the council's planning authority, the extraction flue should terminate at least one metre higher than the highest part of the building to sufficiently mitigate the potential smell/odour concerns.

Modern extraction systems should minimise the potential for noise on neighbours and the locality. Whilst the proposed system includes anti vibration mounts and a silencer system, it is considered that this would limit the impact of any noise from the extraction system and the applicant has made sufficient effort to mitigate the impact of noise from the proposed flue.

Environmental Health who would be best placed to deal with future noise complaints regarding this proposed use and the LPA are seeking comments from them. The recommendation to planning committee will take into account this position.

Comments received raising concerns about litter are outside the scope of the planning application process as the planning system cannot control what residents may choose to do once they have purchased food from the restaurant if they decide to take away. There are third party agencies that are better placed to deal with this matter including environmental health who the LPA are seeking comments from on this planning application.

As such the proposals as they currently are would have no greater adverse impact on resident's amenities for surrounding occupiers, including those in the flats above the shops over and above the current situation.

Consequently, when weighing the planning balance taking into account the issues raised by residents, the planning application as submitted, the council's planning policies and consultee responses, it is considered the planning application can be supported.

Car Parking

The site is located within the Moreton Avenue/Queslett Road local centre which has good access to public transport and provides shops and services for local residents. As such it is considered to be in a highly sustainable location. There is parking along the frontage of the shops on Moreton Avenue for customers. This area is 39m wide, which would accommodate up to 15 vehicles in 2.5m wide spaces. There is a further 89m of on street marked parking bays surrounding this local centre, which would allow parking for up to 18 more vehicles at a length of 4.8m. There is sufficient space to park a further 3 vehicles off-road in unmarked spaces with no parking restrictions. Further off street parking is available in front of some of the units along Beacon Road and Queslett Road. This would allow off street or allocated on-street parking for at least 36 vehicles using the local centre at any time. It is acknowledged that parking requirements for each type of use within this local centre will vary depending on the time of day and that many of these businesses' would be closed in the evening, allowing more parking availability for the uses which do require later opening hours.

The Local Highway Authority was consulted and have no objections to the proposal. Matters of unsafe parking or driving by visitors to the local centre is outside the scope the planning application process and a matter for residents to raise with other agencies to investigate and if necessary pursue.

Conclusions and Reasons for Decision

The application has demonstrated sufficiently that the change of use of the premises will serve a local need and is unlikely to result in any significant additional harm to existing local centres to warrant a refusal reason, its use will allow a business to operate, provide employment opportunities and will not have any additional impact on surrounding residents above what they may already experience above these businesses which currently operate in the area.

As such the key material planning considerations, neighbour comments and consultee responses have been weighed in assessing the planning application and it is considered that the proposed development accords with the aims and objectives of the National Planning Policy Framework, Black Country Core Strategy CEN5, CEN6 and CEN7, Walsall's Site Allocation Document Policy SLC1, Saved Unitary Development Plan GP2, ENV10, ENV32, ENV35, S2, S6, S10, T7, T8 and T13 and Supplementary Planning Document Designing Walsall and on balance is considered to be acceptable.

The use of safeguarding conditions in respect of the hours of use and open storage / refuse will ensure that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

Taking into account the above factors, there are no objections from significant consultees or the community which are considered to be contrary to the recommendation and therefore it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

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

Recommendation

Planning Committee resolve to delegate to Head of Planning & Building Control to grant planning permission subject to conditions and subject to;

- No further comments from Environmental health raising material planning considerations not previously addressed;
- The amendment and finalising of conditions;

Conditions and Reasons

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

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

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

- Application Form, submitted 24/08/2020
- Existing and Proposed Plans, drawing number WAD1108-01, submitted 24/08/2020
- Extraction System Plans and Elevations, drawing number IDC022589, submitted 06/10/2020
- Extraction System Specification, Submitted 06/10/2020
- Extraction System Details. Submitted 06/10/2020
- Design and Access Statement, submitted 13/10/2020

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

3a. Notwithstanding the details as submitted and prior to commencement of the development hereby permitted a noise insulation scheme to address noise between the ground floor restaurant use and the residential premises above shall be submitted in writing to and agreed in writing by the Local Planning Authority. The scheme shall include details of recommendations for mitigation measures to achieve a weighted sound reduction index (Rw) of not less than 70dB.

3b. The development hereby permitted shall not be carried out otherwise than in accordance with the agreed noise mitigation measures and such measures shall thereafter be retained for the lifetime of the development.

Reason: To safeguard the amenities of the occupiers of the adjoining premises and the wider area to ensure the satisfactory functioning and appearance of the development.

4a. Notwithstanding the details as submitted and prior to commencement of the development hereby permitted until details of a mechanical extraction flue system of all fumes from the food preparation area shall be submitted to and agreed in writing by the Local Planning Authority. The assessment shall include;

- details of a de-odorising filter,
- details of the extraction equipment including the chimney and the manufacturer's guidelines,
- drawings to demonstrate the extraction flue terminates at least one metre above the highest part of the building,
- the extraction flue being powder coated BS381C 3012
- details of the extraction flue fixings to the building that minimise noise and vibration transmission

4b. The development hereby permitted shall not be carried out otherwise than in accordance with the agreed mitigation measures and such measures shall thereafter be retained for the lifetime of the development.

Reason: To safeguard the amenities of the occupiers of the adjoining premises and the wider area to ensure the satisfactory functioning and appearance of the development.

5. No deliveries taken at or despatched from the site otherwise than between the hours of 0800 hours to 23.00 hours Mondays to Sundays and Bank and Public Holidays.

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

6. The development hereby permitted shall not be open to customers otherwise than between the hours of 0800 hours to 23.00 hours Mondays to Sundays and Bank and Public Holidays.

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

7. Notwithstanding the details as submitted the development hereby permitted shall not be carried out otherwise than in accordance with the construction of compound up to 2 metres high within the rear yard of the application boundary to accommodate the storage and containment of waste from the proposed use and such measures shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory provision of appearance and functioning of the development in accordance with UDP saved policy GP2 and ENV32

Notes for Applicant

1. This permission is for a change of use only and does not grant permission for any significant alterations to the exterior/shopfront of the premises which would require planning permission including the installation of security shutters.
2. This permission does not grant consent for any signs or advertisements, illuminated or non-illuminated. A separate application may be required under the Town and Country Planning (Control of Advertisements) Regulations 1992 or subsequent legislation.
3. Prior to beneficial use a suitable grease trap shall be provided to prevent entry into the public sewerage of matter likely to interfere with the free flow of the sewer contents, or which would prejudicially affect the treatment and disposal of such contents.

End of Officers Report