



## Development Management Planning Committee

Report of Head of Planning and Building Control on 23<sup>rd</sup> July 2020

### CONTENTS

Item	Page	Application Number	Site Address	Proposal	Recommendation
1	1	19/1565	OFFSHORE STAINLESS SUPPLIES LTD, LICHFIELD ROAD, BROWNHILLS, WALSALL, WS8 6JZ <b>Ward:</b> Brownhills	Amendments to 15/0387/FL to remove office accommodation at front and replace with extended industrial floor space and provide replacement office space on western side and erection of a canopy.	Planning Committee resolve to delegate to the Interim Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and the amendment and finalising of conditions
2	13	20/0412	ACCIDENT AND EMERGENCY, MANOR HOSPITAL, MOAT ROAD, WALSALL, WS2 9PS <b>Ward:</b> Pleck	Erection of a two storey healthcare building with a roof top plant. Demolition of the existing Emergency Canopy. Refurbishment of the existing Emergency Department building. The development of the current car parking and landscaping to accommodate the new Emergency	Planning Committee resolve to Delegate to the Interim Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and Section 106 to secure

				<p>department and AMU (Acute Medical Unit).</p>	<p>a Full Travel Plan, and subject to:</p> <ul style="list-style-type: none"> <li>•Satisfactory assessment and evaluation of the heritage asset the moat and overcoming the outstanding objection raised by the Archaeology Officer;</li> <li>•Satisfactory revised drainage scheme taking account of moat location if necessary;</li> <li>•The amendment and finalising of planning conditions;</li> <li>•No further comments from a statutory consultee raising material planning consideration s not previously addressed;</li> <li>•Overcoming the outstanding objection raised by the Lead Local Flood Authority</li> </ul>
--	--	--	--	---	--

3	41	20/0061	STORAGE YARD REAR OF LOCAL HOMES, AIRFIELD DRIVE, ALDRIDGE  <b>Ward:</b> Aldridge Central And South	Proposed free standing lightweight demountable storage canopies to existing service area.	Grant Permission Subject to Conditions
4	51	20/0228	LAND AT FORMER CAPARO WORKS, BETWEEN THE WYRLEY AND ESSINGTON CANAL, MINER STREET, GREEN STREET AND OLD BIRCHILLS, WALSALL  <b>Ward:</b> Pleck and Birchills Leamore	Reserved Matters from outline application 11/1411/OL seeking consent for appearance, landscaping and layout for the residential development of 252 dwellings.	Planning Committee resolve to Delegate to the Interim Head of Planning & Building Control to Grant Planning Permission Subject to and subject to:  •The amendment and finalising of conditions •No further comments from consultees raising material planning consideration s not previously addressed
5	79	18/0056	UNIT 1 AND 2, LAND BETWEEN ACORN STREET AND ALBION STREET, WILLENHALL, WV13 1NP  <b>Ward:</b> Willenhall South	Outline - demolition of existing warehouse building and erection of a single block of 22 apartments (11no. 1no bedroom, 10no. 2 bedroom and 1no. 3 bedroom)	Planning Committee resolve to Delegate to the Interim Head of Planning & Building Control to Grant Planning Permission Subject to

					Conditions and subject to: The amendment and finalising of conditions
6	99	19/1206	LAND AT QUESLETT ROAD EAST, STREETLY, WALSALL <b>Ward:</b> Streetly	Removal of all existing structures including below ground tanking, remediation, and the erection of 53 apartments set within one 4 storey building and one 3 storey building in height separated by 53 parking spaces together with amenity spaces; landscape buffering and a reduction in height of the boundary trees.	Refuse
7	127	18/1282	LAND CORNER OF ARKWRIGHT ROAD/EDISON ROAD, WALSALL <b>Ward:</b> Birchills Leamore	Erection of a three storey block of flats to accommodate 9no. self contained flats with amenity, boundary treatment, parking and access off Arkwright Road	Refuse
8	147	19/0867	CAR PARK REAR OF 160 TO 174, WESTBROOK AVENUE, ALDRIDGE <b>Ward:</b> Aldridge Central And South	Erection of 2 no. 2 Bed 4 Person units and associated car parking, landscaping and highway works.	Grant Permission Subject to Conditions
9	163	19/0976	815, SUTTON ROAD, ALDRIDGE, WALSALL, WS9 0QJ <b>Ward:</b> Aldridge Central And South	New 5 bedroom dwelling.	Refuse

10	175	20/0258	63, LIME STREET, WALSALL, WS1 2JL <b>Ward:</b> Paddock	Single storey front and two storey side extensions.	Grant Permission Subject to Conditions to secure an obscurely glazed window, non-opening below 1.7m, in the first-floor rear bedroom of the proposed two storey side extension, retention of the parking space in the car port and retention of 3 parking spaces on the front driveway
11	187	19/0277	44, MELLISH ROAD, WALSALL, WS4 2ED <b>Ward:</b> St Matthews	First floor side extension including new front gable feature and altering to main roof, first floor rear extension, plus loft conversion.	Refuse
12	199	19/1158	HINGLEY COTTAGE, LINDROSA ROAD, STREETLY, WALSALL, B74 3LB <b>Ward:</b> Streetly	Demolition of redundant dutch style timber clad barn and installation of prefabricated 2 bed park home to be used as subservient accommodation to principle property, Hingleys Cottage. (Affecting Public Footpath Ald39)	Refuse



### Planning Committee

Report of Interim Head of Planning and Building Control on 23-Jul-2020

**Plans List Item Number: 1.**

**Reason for bringing to committee:** Major application

**Location:** OFFSHORE STAINLESS SUPPLIES LTD, LICHFIELD ROAD, BROWNHILLS, WALSALL, WS8 6JZ

**Proposal:** AMENDMENTS TO 15/0387/FL TO REMOVE OFFICE ACCOMMODATION AT FRONT AND REPLACE WITH EXTENDED INDUSTRIAL FLOOR SPACE AND PROVIDE REPLACEMENT OFFICE SPACE ON WESTERN SIDE AND ERECTION OF A CANOPY.

**Application Number:** 19/1565

**Applicant:** Offshore Stainless Steel Ltd

**Agent:** J smith

**Application Type:** Full Application: Major Use Class B2 (General Industrial)

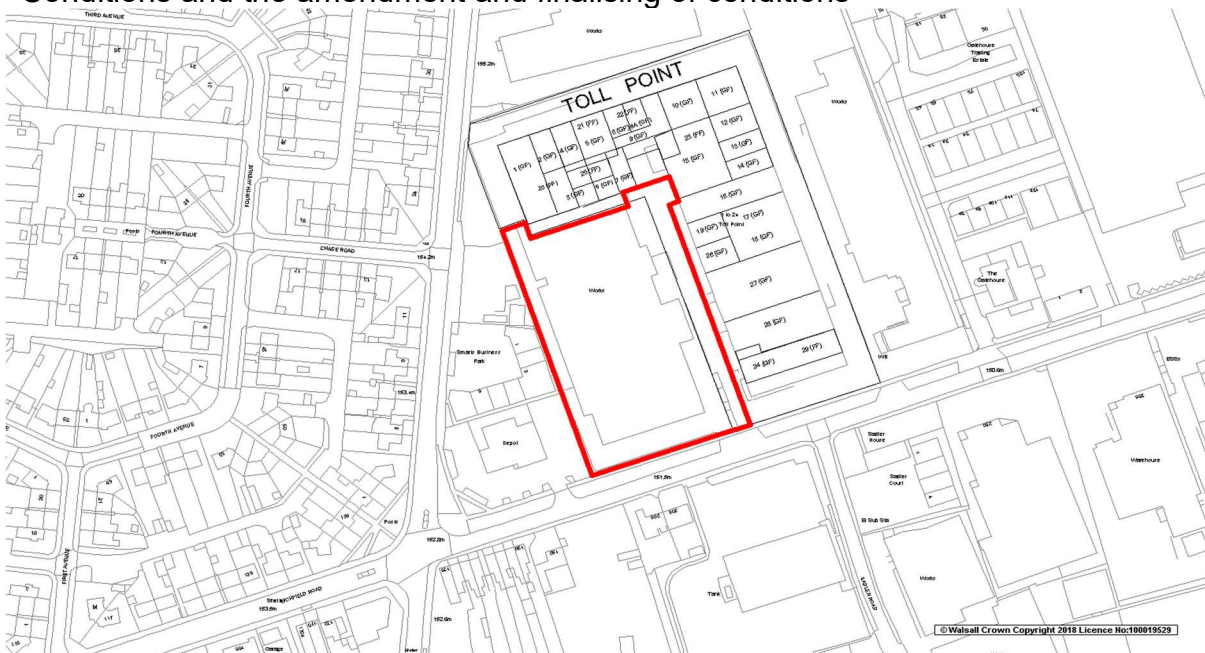
**Case Officer:** Devinder Matharu

**Ward:** Brownhills

**Expired Date:** 27-Apr-2020

**Time Extension Expiry:** 30-Jul-2020

**Recommendation Summary:** Planning Committee resolve to Delegate to the Interim Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and the amendment and finalising of conditions



## Proposal

Amendments to 15/0387/FL to remove office accommodation at front and replace with extended industrial floor space and provide replacement office space on western side and erection of a canopy on the eastern side.

## Site and Surroundings

The application site is on the northern side of Lichfield Road and is part of Chase Road/Lichfield Road Core Employment Area that contains a mix of small to large industrial units. To the east and north of the application site is Toll Point a large industrial building that has been subdivided into a number of smaller units, to the west is a vehicle garage (tyres, exhausts etc.). Directly across the road are a pair of semi-detached houses, numbers 206 and 208 Lichfield Road, further to the west and towards the junction with Chase Road and Ogle Road are ten further houses. Across the road and towards the east is a commercial vehicle hire premises. Lichfield Road (B4155) is a busy district distributor route that links the A5 to Brownhills.

## Relevant Planning History

BC16939P – Established Use Certificate for Manufacture of Metal Products. Lawful 11/6/1986

03/0259/FL/E5 – Erection of covered loading bay and inspection room, re-roofing of existing works, reorganisation of car park, erection of two metre fence. Granted subject to conditions 4/4/2003.

03/2084/FL/E6 – Alterations to Planning Permission 03/0259/FL/E5 – Granted subject to conditions 22/12/2003.

15/0387/FL - Resubmission of 14/0322/FL for: Removal of office accommodation to front and replacement with extended industrial floor space, extension to side, provision of new offices and security gates and fencing Granted subject to conditions 06-Oct-2017.

### Toll Point

BC49033P – Redevelopment of existing light industrial facility to provide additional industrial and office area. Granted subject to conditions 9/6/97

## Relevant Policies

### National Planning Policy Framework (NPPF)

[www.gov.uk/guidance/national-planning-policy-framework](http://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 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 9 – Promoting sustainable transport**
- **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](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- 3.6 and 3.7: Environmental Improvement
- ENV10: Pollution
- ENV14: Development of derelict and previously developed sites
- ENV32: Design and Development proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S4: The Town and District Centres: General Principles
- JP8: Bad neighbour Industrial Uses
- T1: Helping People to Get Around
- T7: Car Parking
- T8: Walking

PAGE 3 OF 211



- T9: Cycling
- T12: Access by Public Transport
- T13: Parking Provision for Cars, Cycles and Taxis

## **Black Country Core Strategy**

- CPS4: Place Making
- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- TRAN1: Priorities for the development of the transport network
- TRAN2: Managing transport impact of new development
- TRAN4: Creating coherent networks for cycling and walking
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- CEN2 Hierarchy of Centres
- CEN5 District and Local Centres

## **Walsall Site Allocation Document 2019**

IND3: Retained Local Quality Industry  
T4: The Highway Network

## **Supplementary Planning Document**

### **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**

Strategic policy – No objection

Highways England – No objection

Natural England – No objection

Fire Officer – No objection subject to fire appliance access

Archaeology – No objection

Sport England – No objection

Historic England – No objection

Transportation – No objection subject to planning condition relating to access and parking

Pollution Control – No objection subject to planning conditions to address noise.

## **Representations**

Three letters from two residents have been received objecting to the proposal on the following grounds:

- Noise and vibration from the draw bench
- Heavy equipment and machinery placed closer to homes
- Noise and disruption from works and traffic entering and leaving the site
- Occupiers don't adhere to time restrictions
- Vehicles stand on the road waiting to enter site causing congestion
- Concerns with proposed hours of operation
- Extra traffic

## **Determining Issues**

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

## **Assessment of the Proposal**

### **Principle of development**

The application property lies with the site identified as reference IN1.4 that is allocated as retained local quality employment land under SAD Policy IND3 and as such, the proposal is supported with a planning condition ensuring the proposed offices remain ancillary to the main use on the site.

### **Design**

The design of the proposed office is considered in keeping with the existing, given the offices are located towards the rear of the premises they will not be highly visible from the public realm, Lichfield Road. The nearest residential properties are opposite on Lichfield Road and the proposals will not be highly visible amongst the existing developed industrial site.

The proposed canopies are considered acceptable and in keeping with the existing commercial nature of the site.

Pollution Control have sought electric charging points, details of which can be secured by way of a planning condition.

**Impact upon neighbouring commercial and residential occupiers.**

The application proposes offices and a canopy to a general industrial building (B2). Objections have been received on the grounds that the existing operations have caused harm through vibration and noise and objecting to proposed hours of use.

This is a long established general industrial (B2) building in a core employment area. In regard to hours of operation and noise levels the building is unrestricted in planning terms. Pollution Control have previously received complaints about the premises, which identified that there was a fault with the foundations upon which some of the machinery is placed. This resulted in the transmission of vibration that could be sensed in the residential premises opposite the site and produced a noticeable “thump”. The applicant explained under the 15/0387 application that during the Christmas break/shut down the machine received a new foundation/base and secure fixings that ceased movement to the machine. The applicant also confirmed at that time a new machine was installed in March 2016 that is more efficient, cleaner and quieter than the former unit.

On the basis of the above improvements Pollution Control is of the opinion that sound emanating from the use of this machinery is no longer a planning concern.

The issues of noise and vibration from machinery within the site were previously addressed, where the noise report submitted at that time indicated that noise levels inside the factory close to the offices that are to be demolished average 83 dB(A) with short episodes of up to 89 dB(A). Information supplied by the applicant at the time indicated that the airborne sound reduction of the proposed cladding wall on the Lichfield Road façade is between 33dB and 36 dB and the proposed glazing is up to 40 dB.

The current application seeks removal of the offices at the front of the site and the erection of new offices at the rear with canopies opposite the main frontage of the building.

The applicant currently has unrestricted 24hr use, but proposes to operate between 06:00 to 24:00. In addition, concern has been raised that the company has gone back on an informal agreement in terms of hours of operating more heavy machinery, with residents concerned that the company would not follow all their proposals in the planning application. As this is an application for an extension it would not be possible to remove the lawful rights of the remainder of the building and to condition working hours for the extension only would be unenforceable; the noise level condition proposed would provide greater certainty and control.

While it is acknowledged that there are houses across the road, this is an allocated core employment site, a strategic area for industrial users and areas that provide a large number of jobs, furthermore, the site is separated from the nearest dwellings by a strategic highway. Pollution Control have sought the conditions attached to the previous planning permission are stipulated again to protect neighbouring amenity and also stipulated a planning condition to ensure there is a liaison officer from the company available to address neighbouring concerns during working hours.

The proposal is for offices and canopies and would not result in a significant further loss of amenity to neighbouring residential occupiers.

### **Access and parking**

The application amends the previous approval 15/0387/FL by relocating the office element to the side and rear and provide increased industrial floor space at the front. The revisions involve extending the premises from 4428 sqm to 4777 sq.

The site presently has 20 spaces and it is proposed to provide 28 spaces. The maximum UDP T13 parking policy requirement for the extended (B2) building is 51 spaces. The proposed 28 spaces = 55% of the policy requirement.

Parking spaces are also available at the adjacent units, which are rented by the applicant. The applicant has stated that the maximum number of staff on any one shift is 16 and that the proposed parking provision is adequate to serve the development. Furthermore, internal cycle storage is provided.

The access/egress points on Lichfield Road are existing and the proposal is for a one-way circulatory arrangement internally for HGV's to the application site with two-way access/egress retained for HGV's to the adjoining site.

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.

### **Conclusions and Reasons for Decision**

The principle of development and design are acceptable.

The use is established and it is considered that the proposed demolition of the offices at the front of the site and replacement with offices at the rear would not unduly harm the amenities of the neighbouring residential or commercial occupiers.

The parking and access arrangement are acceptable.

The proposal complies with the policies as set out 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 confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

### **Recommendation**

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

## 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:

- Elevations as proposed 1000-03 submitted 11/12/2019
- Location plan submitted 11/12/2019
- Factory GA plan as proposed submitted 11/12/2019
- Office GA Plans As Proposed 1000 – 02 submitted 16/12/2019
- Proposed site plan submitted 16/01/2020

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 the development hereby permitted 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 (particularly as the contaminated land investigation has indicated that land is contaminated)

- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- 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 hereby permitted, details of a Liaison Officer (which may be an existing member of staff) and who shall be available at all times during working hours for the purposes of engaging with local residents and dealing with concerns relating to operational matters shall be submitted to in writing and approved in writing by the local planning authority.

4b. The details of the approved liaison officer under part A including their name and contact number shall be made available to neighbouring residents.

4c. A Liaison Officer shall thereafter remain throughout the life of the development hereby approved.

Reason: To protect the amenities of neighbouring residential occupiers in accordance with Policies GP2, ENV10 and ENV32 of the UDP.

5a. Prior to first occupation of the development hereby permitted details of electric vehicle charging points, the development shall be submitted in writing to and agreed in writing by the Local Planning Authority.

5b. 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.

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 that match the existing materials 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 development first coming into use details of signage to be displayed at the main access point on Lichfield Road directing HGV's to the internal one-way circulation arrangement shall be submitted in writing and approved in writing by the local planning authority.

7b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details under part a.

7c. The approved signage shall be displayed prior to the development first coming into use and retained thereafter.

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

8. Prior to commencement of use the one way HGV circulation route as shown on the proposed block plan submitted 10-01-2020 and plan shall be implemented and the one way route shall be retained.

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

9a. The cycle store hereby approved shall be installed and available for use prior to the development hereby approved first coming into use.

9b. The cycle store shall not be used for any purpose other than cycle storage.

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

10a. Prior to the development first coming into use the numbered parking spaces on the approved block plan 1000-02 received on 10/01/20 shall be clearly demarcated on the ground.

10b. The spaces shall not be used for any purpose other than for the parking of vehicles.

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

11. All HGV and motor car turning and manoeuvring areas shown on the proposed block plan submitted 10-01-2020 shall at all times be kept clear of any materials, plant or equipment and shall be used for no other purpose.

Reason: To ensure adequate turning and manoeuvring space is available at all times to ensure the safe and satisfactory operation of the development and in accordance with UDP Policy GP2 and in the interests of highway safety.

12. At no time shall the gates at the access/egress point open outwards across the public highway.

Reason: In the interests of highway safety in accordance with Policy T4 of the SAD.

13. The glazing element of the façade shall have a minimum weighted apparent sound reduction index,  $R_w$ , of 25 dB.

Reason: To safeguard the amenities of the occupiers of adjoining premises in accordance with Policy ENV10 of the UDP.

14. The wall, cladding, glazing and roller-shutter doors shall be installed in accordance with the details approved under 15/0387/FL and an acoustic curtain behind the roller shutter doors shall be installed prior to the development hereby permitted first being brought into use. These measures shall thereafter be retained.

Reason: To safeguard the amenities of the occupiers of adjoining premises in accordance with Policy ENV10 of the UDP.

15. During the hours 23.00 to 07.00, plant, equipment, machinery and operations associated with the development shall not give rise to a Noise Rating exceeding NR45 as determined 1 metre from the facade of any occupied residential premises. The applicant shall demonstrate compliance with the above acoustic conditions at the written request of the Local Planning Authority. For the purpose of clarity, this shall be determined by measurement and/or calculation.

Reason: To safeguard the amenities of the occupiers of adjoining premises in accordance with Policy ENV10 of the UDP.

16. The roller shutter door facing Lichfield Road and serving the extension hereby permitted shall remain closed at all times except when required to be opened to allow a vehicle to access/egress and be closed immediately afterwards.

Reason: To safeguard the amenities of the occupiers of adjoining premises from noise in accordance with Policy ENV10.

17. The proposed offices hereby approved shall not be utilised for any other purpose other than ancillary offices for Offshore Stainless Supplies LTD, Lichfield Road, Brownhills.

Reason: To safeguard the vitality and viability of Brownhills District Centre in accordance with Policies S1, S2 and S4 of the UDP and Policies CEN2 and CEN5 of the BCCS.

#### **Notes for Applicant: Contaminated Land**

The area of this proposed development was and is being used for industrial purposes that may have resulted in localised ground contamination, which may present Health and Safety implications for persons undertaking ground works. No specific detail of ground conditions in the area is available other than that obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder or contractor undertaking any ground works in order that they may implement any Health and Safety at Work precautions they feel appropriate.



## **Notes for Applicant: Police**

Alterations require a review of security.

Updating of lighting, alarms and cctv systems within the old and new areas.

Structures and canopies can affect potential accessibility of the building. It can make areas darker and more concealed requiring a review of windows and doors at all levels.

External LED lights with daylight sensors to the external wall of the building in particular at entry and exits.

A monitored alarm system.

Alarm and cctv installers should be approved by NSI, SSAIB or both

See <https://www.nsi.org.uk/> and <https://ssaib.org/>

Recommend security using the principles of Secured By Design.

Providing reassurance to pupils and staff.

Below is a link to secured by design guides, including Schools, police approved crime reduction information.

<https://www.securedbydesign.com/guidance/design-guides>

Below is a link to secured by design commercial, police approved crime reduction information guidance.

[https://www.securedbydesign.com/images/downloads/SBD\\_Commercial\\_2015\\_V2.pdf](https://www.securedbydesign.com/images/downloads/SBD_Commercial_2015_V2.pdf)



### Planning Committee

Report of Interim Head of Planning and Building Control on 23-Jul-2020

**Plans List Item Number: 2.**

**Reason for bringing to committee:** Major development and Section 106 Agreement

**Location:** ACCIDENT AND EMERGENCY, MANOR HOSPITAL, MOAT ROAD, WALSALL, WS2 9PS

**Proposal:** ERECTION OF A TWO STOREY HEALTHCARE BUILDING WITH A ROOF TOP PLANT. DEMOLITION OF THE EXISTING EMERGENCY CANOPY. REFURBISHMENT OF THE EXISTING EMERGENCY DEPARTMENT BUILDING. THE DEVELOPMENT OF THE CURRENT CAR PARKING AND LANDSCAPING TO ACCOMMODATE THE NEW EMERGENCY DEPARTMENT AND AMU (ACUTE MEDICAL UNIT).

**Application Number:** 20/0412

**Applicant:** Leigh-Anne Schofield

**Agent:** Leigh-Anne Schofield

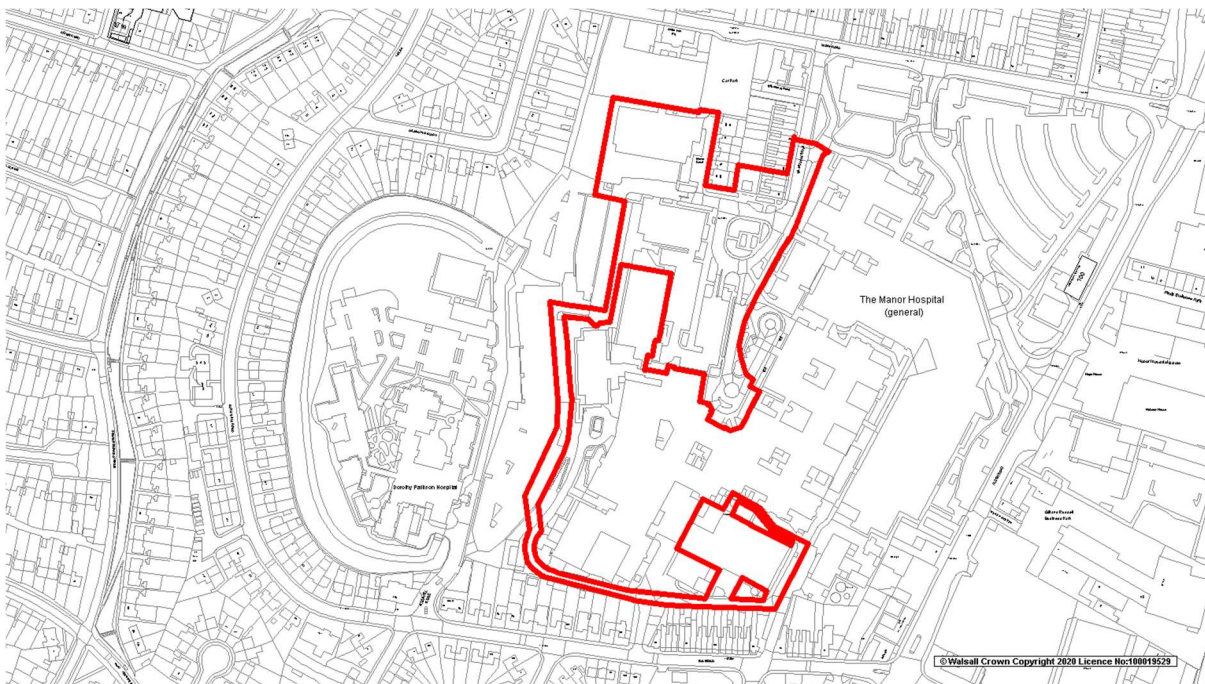
**Application Type:** Full Application: Major Use Class C2 (Residential Institutions)

**Case Officer:** Mike Brereton

**Ward:** Pleck

**Expired Date:** 06-Jul-2020

**Time Extension Expiry:**



## Recommendation

Planning Committee resolve to Delegate to the Interim Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and Section 106 to secure a Full Travel Plan, and subject to:

- Satisfactory assessment and evaluation of the heritage asset the moat and overcoming the outstanding objection raised by the Archaeology Officer;
- Satisfactory revised drainage scheme taking account of moat location if necessary;
- The amendment and finalising of planning conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Overcoming the outstanding objection raised by the Lead Local Flood Authority.

## Proposal

This application seeks the erection of a new accident and emergency building, along with the refurbishment of the existing accident and emergency building and the re-laying out of staff and visitor surface-level car parks.

A VIE oxygen tank, to be enclosed by 2.4m high boundary fencing, is proposed to the west of the proposed staff car park accessed off of Ida Road to the south. A secure plant enclosure is also proposed to the west of the new building. Full details of these elements of the scheme have not been provided as part of this application submission.

The proposed accident and emergency building will be located to the west of the existing main hospital building on an area of land currently used for patient and visitor parking (Car Park D), and will link into the to the existing accident and emergency department providing level access throughout. The proposal would create around 118 new jobs.

The proposed new building will be two storey in height (along with roof-top plant equipment) and is of a simple modern block structure with facing brick work at ground floor and feature cladding and render at first floor. The proposed building will measure around:

- Between 7m and 17m high to a flat roof;
- Flue chimneys up to 3m above roof height;
- Between 22m and 38m wide;
- 102m deep; and
- 5,640m<sup>2</sup> footprint.

The main access to the proposed building will be via Wilbraham Road, off Moat Road, with pedestrian access also available through the existing accident and emergency department. The surrounding landscaped areas will provide legible routes along with seating areas to enable patients to stop and rest where needed.

The proposal would result in the net loss of 40 x on-site vehicle spaces from the current 227 spaces within the red line site boundary, taking the total to 187 spaces. This would result in a reduction of spaces within the overall hospital site from 1,791 to 1,751. This application

proposes a Staff Travel Plan to promote sustainable transport modes along with the creation of 9 x new electric vehicle charging points.

This application has been submitted following a 2017 pre-application discussions with the Local Planning Authority and is to accommodate an anticipated 1.4% year-on-year change in attendance to the accident and emergency department at the hospital site from 2020/21 to 2023/24 equating to around 14,000 additional patient visits over this period when taken from the 2019/2020 baseline.

The submitted Design and Access Statement explains that this proposal is to ensure that the hospital can cope with local demand, and to accommodate a predicted increase in patient visits by Autumn 2022 as a direct result of the forthcoming opening of the Midland Metropolitan Hospital in Sandwell, and resulting change to the hospital's catchment area.

The applicant explains that in order for the improved facilities at this hospital site to be completed and open by the deadline of July 2022, enabling construction works must start on-site by the end of August 2020.

## Site and Surroundings

The application site is the Manor Hospital, located off Pleck Road in Walsall which occupies a mix of commercial uses along the road frontage and is also bounded by Moat Road to the north, Ida Road to the south, and Alumwell Road and Bassett Street to the west which are primarily residential areas.

The application site is generally flat with a gradual downward slope towards the north-east corner.

Following major re-development of the application site in 2010, the most prominent buildings on the application site are of a simple modern block form with external feature cladding.

A Grade II Listed building, known as the former Board of Guardians Offices, is present fronting Pleck Road at around 230m the north-east of the application site. The application site also includes areas of the site on which the medieval Walsall Manor House and Moat were historically sited, located around and within the current car park area to the north-west. There are no other known heritage assets or designations of relevance to this application site.

## Submitted Supporting Documents

- **Design and Access Statement (May 2020)** – explains how the development has been designed taking into account the context of the application site and surrounding area, and how it will provide an inclusive and accessible development.
- **Phasing Report (March 2020)** – sets out each proposed phase of the development and associated works.
- **Flood Risk Assessment (May 2020) and Drainage Strategy (WED-CCE-XX-DR-C-0100 Rev P02)** – sets out how surface and foul water will be managed to avoid localised flooding through the use of Sustainable Urban Drainage.

- **Environmental Noise Assessment (March 2020)** – explains the baseline noise position, and sets out the necessary measures to minimise additional noise impacts arising.
- **Acoustic Design Strategy Report Stage 2 (March 2020)** - considers the internal noise levels within the development itself.
- **Preliminary Ecological Survey (May 2020)** – concludes that no bats were present within the site, and recommends a number of enhancement and protection measures for wildlife.
- **Coal Mining Risk Assessment (December 2019)** – assesses the risk from past mining activities and sets out any necessary further ground investigations or remediation measures.
- **Transport Statement (March 2020)** – assesses transport related impacts of the proposed development.
- **Work Place Travel Plan (March 2020)** – includes the following targets over a five year period:

For staff:

- Increase in use of public transport to 55%. This equates to a 5% increase above existing levels.
- Increase in use of two-wheeled modes of transport to 24%.
- Decrease in sole occupant vehicle trips to 15%. This equates to a reduction of 5% from existing levels.

For patients and visitors:

- Increase in use of public transport to 30%. This equates to an increase of 4% above existing levels.
- Decrease sole occupant vehicle trips to 20%.
- Increase use of car share to 50%.

## Relevant Planning History

Reference	Proposal	Decision	Date
07/0606/RM/W1	Reserved Matters to Planning Application No. 06/0227/FL/W1 for partial redevelopment of the Hospital to improve healthcare facilities, educational and administration facilities, roads and car parking, demolition of older building...	Approve Reserved Matters Subject to Conditions	26 <sup>th</sup> June 2007
09/1432/FL	Demolition of existing redundant two storey building and reconfiguration of car park to provide additional car parking spaces (adjacent to A+E area)	Grant Permission Subject to Conditions	22 <sup>nd</sup> December 2009
13/0980/FL	Extension to hospital to create new integrated critical care unit (ICCU) comprising of 8 single bedrooms and 8 open bed bays, new entrance lobby and ancillary offices	Grant Permission Subject to Conditions	6 <sup>th</sup> September 2013

13/1273/FL	New single storey extension adjacent to A&E department	Grant Permission Subject to Conditions	1 <sup>st</sup> November 2013
14/0485/FL	Installation of new generator and chiller equipment on former laundry slab.	Grant Permission Subject to Conditions	3 <sup>rd</sup> June 2014
14/0905/FL	Proposed 30 Bed Modular Decant Ward and use of former laundry slab to provide additional car parking.	Grant Permission Subject to Conditions	12 <sup>th</sup> September 2014

## Relevant Policies

### **National Planning Policy Framework (NPPF)**

[www.gov.uk/guidance/national-planning-policy-framework](http://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 8 – Promoting healthy and safe communities**
- **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**
- **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. 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.

## **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Saved Policies of Walsall Unitary Development Plan**

- 3.6 to 3.8 Environmental Improvement
- GP2: Environmental Protection

- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV25: Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- 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**

- Vision, Sustainability Principles and Spatial Objectives
- CSP4: Place Making
- DEL1: Infrastructure Provision
- EMP5: Improving Access to the Labour Market
- 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
- ENV7: Renewable Energy
- ENV8: Air Quality

### **Walsall Site Allocation Document 2019**

RC1: The Regeneration Corridors  
 EN1: Natural Environment Protection, Management and Enhancement  
 EN3: Flood Risk  
 T2: Bus Services  
 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

## Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

## Air Quality SPD

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

## Consultation Replies

**Local Highway Authority** – No objection subject to a condition to ensure construction works are carried out in accordance with the submitted phasing plan and a Section 106 Agreement to secure a full staff travel plan (8<sup>th</sup> June 2020).

**Designing Out Crime Officer** – Recommends a number of security measures (4<sup>th</sup> June 2020).

**Lead Local Flood Authority** – Object due to insufficient drainage strategy (4<sup>th</sup> June 2020).

**Highways England** – No objection subject to a condition to secure a Construction Environment Management Plan and Construction Traffic Management Plan (2<sup>nd</sup> June 2020).

**Coal Authority** – No objection subject to conditions to secure intrusive site investigations (29<sup>th</sup> May 2020).

**Pollution Control** – No objection subject to a condition to secure a Construction Management Plan, and further conditions regarding noise and air quality measures (28<sup>th</sup> May 2020).

**Equality Officer** – Recommends the consideration of impacts on equality (9<sup>th</sup> June 2020).

**Severn Trent Water:**

- No objection to submitted surface and foul water drainage scheme (7<sup>th</sup> July 2020).
- No objection subject to a condition to secure a surface and foul water drainage scheme (27<sup>th</sup> May 2020).

**Natural England** - No comments to make (26<sup>th</sup> May 2020).

**Fire Authority** – Recommends a number of fire-related measures (18<sup>th</sup> & 20<sup>th</sup> May 2020).

**Historic England** - No comments to make (13<sup>th</sup> & 18<sup>th</sup> May 2020).

**Public Health** – No objection and recognises the contribution this development will make in terms of the development and sustainability of the local health economy and employment opportunities for residents. The submitted site plan demonstrates inclusivity and is in line with equal opportunities legislation and policies (15<sup>th</sup> May 2020).

**Archaeology Officer** – Object on the grounds that an archaeological desk-based assessment and trial trench is required for the site prior to determination (14<sup>th</sup> May 2020).

**Environment Agency** – No comments received to date. The Local Planning Authority is continuing to chase this consultee for their comments.

**Car Parks** – No comments received.

**Cadent** – No comments received.

**Economic Regeneration** – No comments received.

**Environmental Health** – No comments received.

**Friends of The Earth** – No comments received.

**Public Lighting** – No comments received.

**Community Safety Team** – No comments received.

**Strategic Planning Policy** – No comments received.

**Regeneration and Development** – No comments received.

**The Wildlife Trust** – No comments received.

**Waste Management** – No comments received.

**Transport for West Midlands** – No comments received.

## **Representations**

No comments received.

## **Determining Issues**

- Historic Environment
- Design, appearance and layout
- Impacts on nearby occupiers' amenity
- Highways
- Ecology
- Air Quality and Renewable Energy
- Flooding and Drainage
- Ground Conditions and Stability

## **Assessment of the Proposal**

### **Historic Environment**

The red line boundary encompasses the site of the medieval Walsall Manor House and moat, which was extant until the 1970s and which is located around and within the car park to the northwest. Excavations in the 70s demonstrated the survival of multiple phases of archaeology, including occupation that pre-dates the construction of the moat in the 14th century. The Archaeology and Historic Environment Officer explains that whilst the manor house and moat are not scheduled monuments, medieval moated sites such as this are of National significance, and there should therefore be a presumption in favour of preservation in situ if at all possible.

Where there is potential for a development site to include heritage assets of archaeological interest, Paragraph 189 of the NPPF places a duty on the Local Planning Authority to secure an appropriate desk-based assessment and, if necessary, field evaluation. This position is reflected in Saved Policy ENV25 of the Unitary Development Plan, which goes on to state that development would not usually be permitted where it would adversely affect such assets.

Attenuation tanks are proposed within the moat area to the north of the site as part of the proposed drainage scheme for this development. The proposed new accident and emergency building falls immediately outside the area of the moat, and the archaeological potential here is therefore currently unknown. Archaeological remains in this area may have been truncated in places by the 19th century Moat Colliery, however, it is also possible that any remains here have been preserved by being buried under colliery spoil instead. Figure 6 of the submitted Design and Access Statement shows that the proposed location of attenuation tanks to the north are to be situated on land which previously accommodated a cluster of three storey buildings formerly known as Manor Court

apartments, and explains that the internal area of the moat has been previously developed in the 19<sup>th</sup> century by terraced housing. Whilst this goes some way to demonstrate that some level of harm is already likely to have occurred over time to the moat, an updated assessment is considered necessary to consider any additional impacts arising directly from this current proposal.

This is in line with the recommendations of the Archaeology and Historic Environment Officer therefore recommends that in addition to the necessary site-wide desk-based assessment, a trial trench evaluation is also undertaken in this area to determine the presence/absence, date, nature, and depth of any archaeology that may be affected by the construction of the new building, so that preservation in situ can be considered in the design, or if not possible, strategies put in place to mitigate for the loss of heritage assets. The Archaeology and Historic Environment Officer explains that these would be required prior to determination of this application due to the size of the application site, complexity and importance of potential archaeological remains.

The applicant has confirmed that a desk based assessment will be submitted in support of this current application. Due to the nature of this application proposal to deliver an important and strategic health facility, and to assist the applicant in meeting their overall project timescales, it is recommended that additional time is provided to the applicant for the submission of a desk-based assessment, and the carrying out of a trial trench evaluation.

Whilst this information would still be required to be submitted prior to a decision being issued, the recommendation to Members of this Planning Committee set out at the top of this report seeks delegation to the Interim Head of Planning and Building Control to agree the acceptability of the information upon receipt, and the inclusion / revision of any necessary planning conditions regarding archaeology.

Overall, the proposal is considered acceptable subject to a satisfactory assessment and evaluation of the heritage asset in accordance with Saved Policy ENV25 of the Unitary Development Plan and Paragraph 189 of the National Planning Policy Framework.

### **Design, appearance and layout**

The overall proposed simple, modern design and appearance is considered acceptable and reflects the style of buildings present within the wider site following a major re-development project in 2010. The proposed indicative facing materials contained within the submitted Design and Access Statement are considered acceptable, and specific materials details would be secured by condition to ensure satisfactory appearance.

The building has been designed to provide staggered heights which steps the building mass away from the existing single storey accident and emergency department, and steps the first floor back along the whole eastern elevation. This is considered helps to break up the overall mass, provides visual interest and integrates the building sympathetically with the existing buildings, and the wider site. The overall building form is considered appropriate to serve its important health function, and relates well to this existing hospital site.

The siting of the proposed building and surrounding landscaped areas is considered to assist pedestrian movement into, and around the building. The presence of a cantilevered

entrance is considered to provide an attractive and prominent frontage which will help to aid overall legibility. The submitted indicative landscaping areas contained within the General Arrangement Plans, and Design and Access Statement, are considered to provide an appropriate overall mix of hard and soft landscaping features. Furthermore, the indicative planting mix in the Design and Access Statement demonstrates that a mix of tree species, shrubs and ornamental planting would be provided which will offer visual interest, and will help to ensure longevity of planting and resilience against disease. A detailed landscaping scheme would be secured by condition.

Whilst some details have been provided of potential boundary treatments and external furniture, their height, design and colour finish have not been provided in full and further conditions would therefore be included to secure specific details of this to ensure satisfactory appearance.

The submitted Design and Access Statement explains that the development has been designed to provide a fully inclusive and accessible development in accordance with the requirements of the Equality Act 2010. This includes the provision of stairs and ramp up to a level access point at the new entrance followed by an easy to follow wayfinding design, an internal lift for access to upper floors, and seating and stopping (rest) areas around the building for patients and visitors on route to and from the accident and emergency building. The specific details of external furniture, and their location, would be secured by condition. Vehicle drop-off points, and nearby parking spaces are also located in close proximity to the new entrance area to minimise the distance of travel by foot.

It is considered that the applicant has demonstrated that the proposed layout would ensure an inclusive and accessible access for all patients and visitors, as also confirmed by the Council's Public Health team who do not object to this application.

A VIE oxygen tank, to be enclosed by 2.4m high boundary fencing, is proposed to the west of the proposed staff car park accessed off of Ida Road to the south. A secure plant enclosure is also proposed to the west of the new building. Full details of these elements of the scheme have not been provided and will therefore be secured by condition.

The helpful recommendations of the Police regarding security measures, and the Fire Authority regarding fire-related measures, would be added as conditions for safety and security suggestions and notes to applicant for fire as these matters are considered to fall outside the scope of planning conditions as set out in government advice and guidance.

Overall, the proposal is considered acceptable subject to the recommended conditions, and accords with the provisions of Policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy, Saved Policies GP2, GP5, GP6, ENV17, ENV32 and ENV33 of the Unitary Development Plan, DW2 – DW9 of the Designing Walsall SPD and the National Planning Policy Framework.

### **Impacts on nearby occupiers' amenity**

The proposal for an additional building, and associated works, within an existing and operational hospital site is considered unlikely to result in any significant additional impacts on nearest neighbours' amenity over and above existing levels. No neighbour objections have been received.

The submitted noise survey demonstrates that the existing dominant source of noise at the application site arises from road traffic noise, along with additional noise from existing hospital plant equipment, and general people movement associated with the existing hospital use.

The submitted Transport Statement explains that the development would result in around an additional 25 x ambulance trips per day, and this is considered would be imperceptible to nearest neighbours' when compared against the existing level of noise and movement currently experienced at this major health facility. Conditions would be secured regarding a Construction Management Plan along with the use of appropriate external plant equipment and machinery to minimise any potential additional impacts on neighbours' amenity in line with the recommendations of the Council's Pollution Control team.

A further condition would be included to secure the submission of any external lighting to safeguard nearby neighbours' amenity.

Overall, the proposal is considered acceptable and accords with the provisions of Saved Policies GP2 and ENV10 of the Unitary Development Plan and the National Planning Policy Framework.

### **Highways**

This proposal would result in the net loss of 40 x on-site vehicle spaces from the current 227 spaces within the red line site boundary, taking the total to 187 spaces. This would result in a reduction of parking spaces within the overall hospital site from 1,791 to 1,751.

The applicant explains that whilst every effort has been made to retain existing vehicle parking spaces on-site, the constraints of the site along with the size of the required accident and emergency building, which is directly informed by the specific future operational requirements of the hospital, means that the loss of some parking spaces is unavoidable.

A Full Travel Plan would be secured by way of a Section 106 Agreement in line with the recommendations of the Local Highway Authority, and the applicant has agreed to these terms in an email dated 19<sup>th</sup> June 2020. The submitted Framework Travel Plan explains that it would help to reduce the number of vehicle trips, thus leading to a reduction in congestion in the locality. In combination with the creation of 9 x new electric vehicle charging points, this is considered would help towards mitigating the reduction in standard parking spaces whilst also ensuring a sustainable approach to the future operation of this strategic hospital site. The Local Highway Authority do not object to the proposed reduction in parking spaces subject to securing the above mentioned Travel Plan. A condition would also be included to secure the 9 x electric vehicle charging points.

There is no proposed change to the cycle / motorbike parking areas already provided within the site, which comprise of secure bicycle parking areas for 40 cycles and secure stands for motorbike parking located close to the main entrance to the hospital, and separate cycle parking for staff elsewhere on the site. This is considered acceptable, and the Local Highway Authority do not object to this level subject to securing the above mentioned Travel Plan which seeks to increase two-wheeled modes of travel to the site by up to 24% of the workforce over a five year period.

In terms of increased ambulance trips as a result of this development, the predicted additional 9000 emergency ambulance trips per annum equating to 25 per day (or one every six minutes), is considered would be imperceptible taking account of existing background traffic levels at this busy section of highway.

Further conditions would be included to secure a Construction Environmental Management Plan, and to ensure the construction works are carried out in accordance with a construction phasing report, in line with the recommendations of Highways England, and the Local Highway Authority.

On balance, the development is considered would not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable subject to the above mentioned conditions and Section 106 Agreement, in accordance with Policies DEL1, TRAN2 and TRAN5 of the Black Country Core Strategy, Saved Policies T11, T12 and T13 of the Unitary Development Plan and the National Planning Policy Framework.

### **Ecology**

The submitted Preliminary Ecological Survey explains that there is limited opportunity for protected species habitat and foraging within the application site, but that features such as buildings, shrub, trees and scrub do exist which provide suitable habitat for nesting birds during the nesting season. The results of the bat emergence survey show that no bats were identified to be present within the application site.

Recommendations of the Preliminary Ecological Survey regarding the removal of hanging tiles, and flashing by hand to the northern gable of the existing Emergency Department to safeguard any potential bats present, and appropriate habitat improvement to provide net biodiversity gains, would be secured by condition to safeguard protected species and to provide habitat enhancement through an appropriate planting species mix.

The recommendation for works to take place outside of the bird nesting season would be included as a note to applicant rather than a planning condition as this is already covered by separate legislation, and would not therefore meet the government's tests on planning conditions.

Overall, the proposal is considered acceptable subject to the conditions set out, and accords with Saved Policies GP2 & ENV23 of the Unitary Development Plan, ENV1 of the Black Country Core Strategy, EN1 of the Site Allocation Document, NE2 & NE5 of the Natural Environment SPD and the National Planning Policy Framework.

### **Air Quality and Renewable Energy**

The application site falls within an Air Quality Management Area, being a location which has levels of NO2 exceedance. In an effort to reduce the impacts of this development proposal, and to reduce overall emissions, the applicant has agreed to the installation of 9 x electric vehicle charging points within the application site. This is considered would also provide improved health benefits to patients, visitors, employees of the hospital and to surrounding residential occupiers in reducing reliance on traditional fuel-based vehicles and associated emissions. These 9 x electric vehicle charging spaces would meet the required 5% provision set out in the Air Quality SPD and would be secured by condition

along with the use of low emission boilers, and a Construction Management Plan, in line with the recommendations of the Council's Pollution Control team.

The submitted Design and Access Statement confirms that low and zero carbon technologies will be employed at the application site in the form of photo voltaic panels, combined heat and power or air source heat pump. A condition would be included to ensure that the development meets the requirements of Black Country Core Strategy Policy ENV7 to off-set the estimated residual energy demand of the development by at least 10%.

Overall, the proposal is considered acceptable subject to the conditions set out and accords with Saved Policies GP2 & ENV10 of the Unitary Development Plan, DEL1, ENV7 & ENV8 of the Black Country Core Strategy, Section 5 of the Air Quality SPD, DW10 of the Designing Walsall SPD and the National Planning Policy Framework.

### **Flooding and Drainage**

The application site falls within Flood Zone 1, an area of lowest probability of flooding. Due to the scale of the proposed development at over 5,000m<sup>2</sup> on an overall site area of around 1.6 hectares in size, a Flood Risk Assessment is required to accompany this application along with an appropriate sustainable drainage scheme.

The submitted Flood Risk Assessment concludes that any risk of additional flooding to the site and adjacent land arising from the development would be minimal, subject to ensuring that finished floor levels are set at 150mm above surrounding ground levels, and use of permeable paving areas to the proposed car parking and vehicle drop-off points in combination with attenuation tanks to the north and of the site as shown on the drainage strategy plan. Despite consulting the Environment Agency, and multiple reminders from the Local Planning Authority, no comments have been received to date. Following the submission of a revised drainage strategy, it is hoped that the Lead Local Flood Authority will withdraw their original objection subject to conditions to deliver an agreed drainage strategy, which may incorporate the measures set out within the submitted Flood Risk Assessment and drainage scheme. Severn Trent Water do not object to the submitted foul and surface water drainage scheme.

Given the proposed location of attenuation tanks in the historic moat area to the north of the application site, and the need for submission of further supporting information in relation to this heritage asset, members are recommended to resolve to delegate the authority to consider and agree any changes to the drainage scheme, and associated conditions, to the Interim Head of Planning and Building Control.

Overall, the proposal is considered acceptable subject to the conditions set out, and subject to any necessary changes to the drainage scheme being acceptable, in accordance with Saved Policies GP2 & ENV40 of the Unitary Development Plan, ENV5 of the Black Country Core Strategy, EN3 of the Site Allocation Document and the National Planning Policy Framework.

### **Ground Conditions and Stability**

The submitted Design and Access Statement explains that based on a desktop investigation, a 2014 contaminated land investigation, and a Coal Mining Risk Assessment, that no mitigation measures are required in relation to ground contamination



and that the only issue relates to the potential identification of any spoils and their disposal to an appropriate waste site. Pollution Control do not object to this and no conditions are considered necessary in this instance.

In terms of ground stability, the application site falls within a High Risk coal area, which the Coal Authority confirms contains an unrecorded and recorded coal mine workings at shallow depth and three mine entries within, or within 20m of, the application site. The Coal Authority concur with the recommendations of the submitted Coal Mining Risk Assessment, and do not object to the development subject to conditions to secure an intrusive site investigation, and any necessary remediation scheme to ensure the land is suitable for development. These conditions would be included as recommended to ensure the safety of users of the site.

Overall, the proposal is considered acceptable subject to the conditions set out and accords with Saved Policy GP2 of the Unitary Development Plan and the National Planning Policy Framework.

## **Conclusions and Reasons for Decision**

This proposal is considered acceptable subject to receipt of a satisfactory assessment and evaluation of the moat heritage asset within the application site, and of any necessary revised drainage scheme to take account of these findings, prior to a decision being issued on this application. This is reflected in the recommendation to members of this Planning Committee as set out.

It has been demonstrated that the proposed development is of an acceptable overall appearance, would not result in harm to the natural or built environment, to the amenity of nearby occupiers, or to the safety or operation of the highway network subject to the conditions and planning obligation as set out. The recommended planning conditions, and planning obligation to secure a full travel plan, are considered necessary to make the application acceptable, and to meet the governments tests contained within the National Planning Policy Framework.

On the above basis, the proposal is considered to meet the requirements of the Development Plan, and the National Planning Policy Framework and it is therefore 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 in response to concerns raised regarding impacts to the moat heritage asset and associated potential revisions to the drainage scheme, it has been agreed that further time can be provided for submission of the necessary supporting information with a view to enabling full support to be given to the scheme upon receipt of satisfactory information.

## Recommendation

Planning Committee resolve to Delegate to the Interim Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and Section 106 to secure a Full Travel Plan, and subject to:

- Satisfactory assessment and evaluation of the heritage asset the moat and overcoming the outstanding objection raised by the Archaeology Officer;
- Satisfactory revised drainage scheme taking account of moat location if necessary;
- The amendment and finalising of planning conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Overcoming the outstanding objection raised by the Lead Local Flood Authority.

## 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, unless otherwise specified within other conditions attached to this permission:

- WED-BDP-ZZ-XX-DR-A-00000 Rev P04 Existing Site Location Plan. Received on 29<sup>th</sup> June 2020
- WED-BDP-ZZ-XX-DR-A-00001 Rev P03 Existing Site Plan. Received on 29<sup>th</sup> June 2020
- WED-BDP-01-ZZ-DR-A-20401 Rev P02 Existing Sections. Received on 11<sup>th</sup> May 2020
- WED-BDP-01-00-DR-A-20103 Rev P03 GA Proposed Ground Floor. Received on 29<sup>th</sup> June 2020
- WED-BDP-01-00-DR-A-20104 REV P03 GA Refurbed ED. Received on 29<sup>th</sup> June 2020
- WED-BDP-01-01-DR-A-20110 Rev P10 GA Proposed First Floor. Received on 29<sup>th</sup> June 2020
- WED-BDP-01-02-DR-A-20120 Rev P05 GA Proposed Second Floor (Plant/Roof). Received on 29<sup>th</sup> June 2020
- WED-BDP-01-03-DR-A-20130 Rev P05 GA Proposed Roof. Received on 29<sup>th</sup> June 2020
- WED-BDP-01-B1-DR-A-20190 Rev P06 GA Drainage Level. Received on 29<sup>th</sup> June 2020
- WED-BDP-01-ZZ-DR-A-20321 P03 Proposed N-S Section AA. Received on 29<sup>th</sup> June 2020
- WED-BDP-01-ZZ-DR-A-20322 Rev P03 Proposed S-W Section BB. Received on 29<sup>th</sup> June 2020
- WED-BDP-01-ZZ-DR-A-20323 Rev P03 Proposed S-W Section CC. Received on 29<sup>th</sup> June 2020

PAGE 29 OF 211

- WED-BDP-01-ZZ-DR-A-20421 Rev P03 Proposed N Elevation. Received on 29<sup>th</sup> June 2020
- WED-BDP-01-ZZ-DR-A-20422 Rev P03 Proposed E Elevation. Received on 29<sup>th</sup> June 2020
- WED-BDP-01-ZZ-DR-A-20423 Rev P03 Proposed W Elevation. Received on 29<sup>th</sup> June 2020
- WED-BDP-ZZ-00-DR-L-90201 Rev P09 Landscaping Masterplan. Received on 30<sup>th</sup> June 2020
- WED-BDP-ZZ-00-DR-L-90211 Rev P08 Landscaping General Arrangement 01. Received on 30<sup>th</sup> June 2020
- WED-BDP-ZZ-00-DR-L-90212 Rev P08 Landscaping General Arrangement 02. Received on 30<sup>th</sup> June 2020
- WED-BDP-ZZ-00-DR-L-90213 Rev P08 Landscaping General Arrangement 03. Received on 30<sup>th</sup> June 2020
- WED-BDP-ZZ-00-DR-L-90214 Rev P07 Landscaping General Arrangement 04. Received on 30<sup>th</sup> June 2020
- WED-BDP-ZZ-XX-DR-A-00700 Rev P03 3D External Visual. Received on 29<sup>th</sup> June 2020
- WED-BDP-ZZ-XX-RP-A-00905 Rev P04 Design and Access Statement. Received on 29<sup>th</sup> June 2020
- WED-BDP-ZZ-XX-RP-A-00907 Phasing Report. Received on 11<sup>th</sup> May 2020
- WED-BDP-ZZ-XX-RP-Y2-00908 Preliminary Ecology Assessment Report. Received on 11<sup>th</sup> May 2020
- WED-BDP-ZZ-XX-RP-Y1-00909 Acoustic Design Strategy Report Stage 2. Received on 6<sup>th</sup> April 2020
- WED-BDP-ZZ-XX-RP-Y1-00910 Rev P01 Environmental Noise Assessment Report. Received on 11<sup>th</sup> May 2020
- 7624-02 Flood Risk Assessment. Received on 11<sup>th</sup> May 2020
- GRM/P0166/CMRA.01 Coal Mining Risk Assessment. Received on 6<sup>th</sup> April 2020
- Transport Statement. Received on 6<sup>th</sup> April 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 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. Parking and turning facilities for vehicles of site operatives and visitors
3. Loading and unloading of materials
4. Storage of plant and materials used in constructing the development
5. A scheme for recycling/disposing of waste resulting from construction works

6. Temporary portacabins and welfare facilities for site operatives
7. Site security arrangements including hoardings
8. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
9. Measures to prevent flying debris
10. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
11. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
12. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

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, and the National Planning Policy Framework.

4a. Prior to the commencement of development hereby permitted a Construction Traffic Management Plan (CTMP) shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Traffic Management Plan shall include:

1. Construction phasing
2. Routing plans
3. Construction traffic arrival and departure times

4b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Traffic Management Plan and the approved Construction Traffic Management Plan shall be maintained throughout the construction period.

Reason: To ensure that the M6 Motorway continues to serve its purpose as part of a national system of routes for through traffic, in accordance with Policy TRAN2 of the Black Country Core Strategy, T4 of the Site Allocation Document, Section 10(2) of the Highways Act 1980 and the National Planning Policy Framework.

5a: Prior to commencement of the development hereby permitted:

1. Details of intrusive site investigations for past coal mining activity shall be submitted in writing to and approved in writing by the Local Planning Authority

PAGE 31 OF 211

2. The approved details of intrusive site investigations shall be undertaken and a report of findings arising from the intrusive site investigations including the results of any monitoring shall be submitted in writing to the Local Planning Authority

3. Details of remedial works shall be submitted to and approved in writing by the Local Planning Authority

5b: Prior to the carrying out of building operations of the development hereby permitted the approved details of remedial works shall be carried out

5c: The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To ensure the safety and stability of the development, to safeguard the amenities of occupants and to comply with NPPF Paragraph 109 and saved policies GP2, ENV14 of Walsall's Unitary Development Plan and paragraphs 178 and 179 of the National Planning Policy Framework.

6a: Prior to commencement of the development hereby permitted details of a programme of site investigations and archaeological work shall be submitted in writing to and approved in writing by the Local Planning Authority.

6b: No development shall be carried out on site otherwise than in accordance with the approved details.

Reason: In order to secure an adequate record of the site's archaeology in accordance with saved policy ENV25 of Walsall's Unitary Development Plan and the National Planning Policy Framework.

7a: 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.

7b: 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.

7c: 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.

8a: Prior to commencement of the development hereby permitted full details of landscaping including both hard and soft landscape works, external furniture, and

earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority.

8b: Prior to the development hereby permitted first coming into use 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 and the National Planning Policy Framework.

9a: Prior to commencement of the development hereby permitted details shall be submitted to and agreed in writing by the Local Planning Authority to demonstrate energy consumption savings of at least 10% of the overall on-site energy demand for the development.

9b: The development shall be constructed in accordance with the approved details and thereafter retained as such for the life of the development.

Reason: To encourage sustainable development and reduce impacts on the environment and to accord with Policy ENV7 of the Black Country Core Strategy and the National Planning Policy Framework.

10a: Prior to commencement of the development hereby permitted details of external lighting, including the intensity of illumination and predicted lighting contours shall be submitted to and approved in writing by the Local Planning Authority.

10b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

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.

11a: 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, windows and doors shall be submitted in writing to and approved in writing by the Local Planning Authority.

11b: 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, to comply with saved policies GP2 and ENV32 Walsall's Unitary Development Plan and the National Planning Policy Framework.

12a: 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.

12b: 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.

12c: 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, and the National Planning Policy Framework.

13a: Prior to the commencement of building operations above damp proof course of the development hereby permitted details of the VIE Oxygen Tank and its enclosure to the south of the application site, and details of the proposed secure plant compound to the west of the application site, shall be submitted in writing to and approved in writing by the Local Planning Authority. Details shall include heights, positions and extents, materials and finishes.

13b: The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained for the lifetime of the development.

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 the National Planning Policy Framework.

14: Prior to the development hereby permitted first coming into use 9 x electric vehicle charging point shall be installed to serve users of the hospital and shall thereafter 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, the Air Quality SPD and the National Planning Policy Framework.

15a: Notwithstanding the details as submitted, prior to the installation of any external machinery and plant equipment on the site acoustic details shall have been submitted to and approved in writing by the Local Planning Authority. The details shall demonstrate noise due to external machinery and plant equipment at a distance of 1 metre from the facade of any habitable room window of any nearby dwelling are lower than the Noise Rating Curve level of NR35.

15b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained for the lifetime of the development.

15c: Prior to the first use of the external machinery and plant, a validation statement shall be submitted to and approved in writing by the Local Planning Authority. The validation statement shall demonstrate the approved machinery and plant equipment has been installed in the agreed locations, along with any noise mitigation measures.

Reason: To safeguard the amenity of nearby residential occupiers in accordance with Saved Policies GP2 and ENV10 of the Unitary Development Plan and the National Planning Policy Framework.

16: The development shall not be carried out otherwise than in accordance with the measures set out within Page 15 of the submitted Preliminary Ecological Appraisal.

Reason: To safeguard important and protected species and provide net biodiversity gains in accordance with Policy ENV1 of the Black Country Core Strategy, Saved Policy ENV23 of the unitary Development Plan, NE1 to NE6 of the Natural Environment SPD and the National Planning Policy Framework.

17a: The development hereby permitted shall be carried out otherwise than in accordance with the hereby approved Flood Risk Assessment (FRA) and Drainage Strategy and the following mitigation measures detailed within the FRA:

- i. Use of permeable paving to proposed car park and vehicle drop-off points and additional geocellular attenuation tanks.
- ii. Annual flow rate restricted to  $Q_{bar} 7.78l/s$  distributed between three discharge locations into the existing surface water drainage system.
- iii. Finished floor levels shall be set no lower than 150mm above local ground level.
- iv. Access and egress to and from the hereby permitted building shall be from the Moat Road entrance at all times.

17b: The approved details shall thereafter be retained for the lifetime of the development.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to accord with Policy ENV5 of the Black Country Core Strategy, EN3 of the Site Allocation Document and the National Planning Policy Framework.

18: The development shall be constructed to meet the following minimum security measures and thereafter retained for the life of the development:

- The design of the building shall prevent features which aid scaling, or climbing.

PAGE 35 OF 211



- All perimeter windows shall be independently certificated to BS 7950 Windows of Enhanced Security or LPS 1175 SR 2 or 3 as well as the relevant performance standard.
- All ground floor and vulnerable windows shall use minimum 6.8mm laminated glazing.
- Sills shall be steeply angled to prevent them being used as climbing aids, seats or litter points.
- All windows shall be fitted with restrictors.
- Windows to pharmacies, record rooms and similar shall use either barred protection or steel shutters certificated to LPS 1175 grade SR 2 or 3.
- Glazing and glazing sizes shall be kept to the minimum compatible with requirements of lighting, surveillance and visibility.
- External hospital doors shall be independently tested and certified to meet LPS 1175 SR 2 or 3.
- All glazing to doors shall be minimum 7.5mm thick.
- Emergency escape doors and frames shall be manufactured from steel and designed without visible external ironmongery.

Reason: To ensure the safety and security of the development itself and the safety and security of patients, visitors and employees in accordance with Saved Policy GP2 of the Unitary Development Plan, DW2 of the Designing Walsall SPD and the National Planning Policy Framework.

19: No boilers shall be installed in the hereby approved development 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: In the interests of creating a sustainable form of development and to conserve and enhance the natural environment in accordance with Policies ENV8 and DEL1 of the Black Country Core Strategy, the Air Quality SPD and the National Planning Policy Framework.

### **Notes for Applicant**

#### **Planning Obligation**

This planning permission is subject to the terms contained within the associated Section 106 Agreement.

#### **Nesting Birds**

All bird species are protected at their nest under the Wildlife and Countryside Act 1981. Due to the suitable habitat (buildings, introduced shrub, scattered trees and scrub) on site for breeding birds it is recommended that site works takes place outside the peak bird breeding season.

If site works to these habitats are to be undertaken within the nesting season, then an appropriately qualified ecologist will be required to undertake a site walkover to visually assess potentially suitable nesting habitat for active nests. If active nests are discovered, then site works must cease until the nest is deemed inactive.

PAGE 36 OF 211

### **Highway Authority**

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.

### **Severn Trent Water**

Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. You can obtain copies of the current guidance notes and application form from [www.stwater.co.uk](http://www.stwater.co.uk) or by contacting our Development Services Team on 0800 707 6600.

### **Pollution Control**

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

The electric vehicle charging point parking provision for commercial premises is 5% of points to comply with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw, with appropriate cable provision 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. 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 NOx boilers discharge NOx at or below 40mg/kWh. The latest models are future-proofed to the European Union's Energy-related Products Directive 2018 NOx levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NOx, and may be eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

### **Designing Out Crime Officer**

Burglar / emergency alarms combined with panic alarms for staff.

Fire alarm and sprinkler system.

Alarm and cctv installers should be approved by NSI, SSAIB or both

See <https://www.nsi.org.uk/> and <https://ssaib.org/>

Below is a link to secured by design guides, including Commercial and Hospitals, police approved crime reduction information.

<https://www.securedbydesign.com/guidance/design-guides>

Secured By Design security standards are explained.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

Secured by design for accredited products and member companies.

<https://www.securedbydesign.com/member-companies/accredited-product-search>

<https://www.securedbydesign.com/member-companies/sbd-members>

## **Fire Authority**

Approved Document B Volume 2, 2019 edition

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.

### **Section 15: Vehicle access Buildings not fitted with fire mains**

15.1 For small buildings (up to 2000m<sup>2</sup>, with a top occupied storey that is a maximum of 11m above ground level), vehicle access for a pump appliance should be provided to whichever is the less onerous of the following.

a. 15% of the perimeter.

b. Within 45m of every point of the footprint of the building (see Diagram 15.1).

15.2 For all other buildings, provide vehicle access in accordance with Table 15.1.

15.3 Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m (e.g. a 150m elevation would need a minimum of two doors).

### **Buildings fitted with fire mains**

15.4 For buildings fitted with dry fire mains, both of the following apply.

a. Access should be provided for a pumping appliance to within 18m of each fire main inlet connection point. Inlets should be on the face of the building.

b. The fire main inlet connection point should be visible from the parking position of the appliance, and satisfy paragraph 16.10.

15.5 For buildings fitted with wet fire mains, access for a pumping appliance should comply with both of the following.

a. Within 18m, and within sight of, an entrance giving access to the fire main.

b. Within sight of the inlet to replenish the suction tank for the fire main in an emergency.

15.6 Where fire mains are provided in buildings for which Sections 16 and 17 make no provision, vehicle access may be as described in paragraphs 15.4 and 15.5, rather than Table 15.1.

## **Design of access routes and hardstandings**

15.7 Access routes and hardstandings should comply with the guidance in Table 15.2. Requirements can only apply to the site of the works. It may not be reasonable to upgrade the route across a site to a small building. The building control body, in consultation with the fire and rescue service, should consider options from doing no work to upgrading certain features, such as sharp bends.

15.8 Where access to an elevation is provided in accordance with Table 15.1, the following requirements should be met, depending on the building height.

- a. Buildings up to 11m, excluding small buildings (paragraph 15.1): pump appliance access should be provided adjacent to the building for the specified percentage of the total perimeter.
- b. Buildings over 11m: access routes should comply with the guidance in Diagram 15.2.

15.9 Where access is provided for high reach appliances in accordance with Table 15.1, overhead obstructions (such as cables and branches) should be avoided in the zone shown in Diagram 15.2.

15.10 Dead-end access routes longer than 20m require turning facilities, as in Diagram 15.3. Turning facilities should comply with the guidance in Table 15.2.

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 2, Table 15.2)

The approval of Building Control will be required to Part B of the Building Regulations 2010 and/or Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 2, B5.i)

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)

Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 15 and "National Guidance Document on the Provision for Fire Fighting" published by Local Government Association and WaterUK:

<https://dl.dropboxusercontent.com/u/299993612/Publications/Guidance/Firefighting/nationalguidance-document-on-water-for-ffg-final.pdf>





## Planning Committee

Report of Interim Head of Planning and Building Control on 23-Jul-2020

**Plans List Item Number: 3.**

**Reason for bringing to committee:** Major Application

**Location:** STORAGE YARD REAR OF LOCAL HOMES, AIRFIELD DRIVE, ALDRIDGE

**Proposal:** PROPOSED FREE STANDING LIGHTWEIGHT DEMOUNTABLE STORAGE CANOPIES TO EXISTING SERVICE AREA.

**Application Number:** 20/0061

**Applicant:** Local Homes Ltd

**Agent:** Mr Howard Rathbone

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

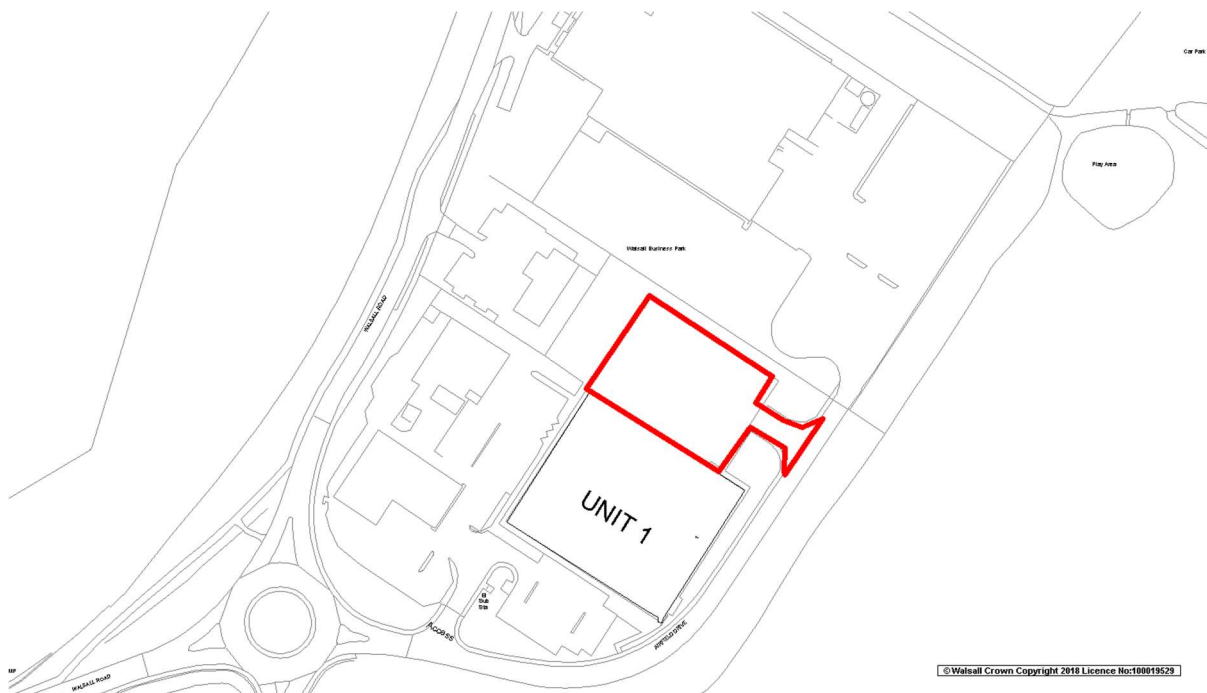
**Case Officer:** Gemma Meaton

**Ward:** Aldridge Central And South

**Expired Date:** 06-May-2020

**Time Extension Expiry:**

**Recommendation Summary:** Grant Permission Subject to Conditions



## Proposal

It is proposed to construct a new storage building in the rear service yard at the existing industrial site at Local Homes off Airfield Drive. The proposed storage building would 'L' shaped and sited 6m from the rear boundary of the property and 23m from the north western boundary. The building would be 60m in width at its widest and 30m at its narrowest, and a maximum of 24m in depth and a minimum of 12m. The covered storage would have total footprint of 1080m<sup>2</sup>.

The proposed building would be 11m in height to the apex and 6.0m to the eaves, with two gables facing the south west and north east of the site, parallel with the rear boundary. The side elevation and gable ends in the south west of the building would be fully open as it faced onto the rest of the service yard and existing factory building, as would the north western elevation and the southern portion of the south eastern elevation. The north eastern and a portion of the south eastern sides would be clad in grey profiled cladding. The roof of the building is proposed to be constructed from heavy duty translucent PVC meaning no rooflights or windows are required. No additional external lighting is proposed as part of the application.

The proposal would make use of 'Lauralu' construction techniques which entails a modular lightweight demountable structure on the existing hardstanding.

## Site and Surroundings

The site is situated off Airfield Drive in an area of large commercial units within the green belt. Permission BC27612P granted in May 1984 gave outline consent for "Redevelopment and Refurbishment for Uses falling within Class B1".

Built development on the application site includes a 5,120sqm B2/B8 (general industrial/storage & distribution) commercial building with ground floor reception, offices at first floor, associated external yards, car parking, and infrastructure.

The site is surrounded by defensive bunds installed to the roadside edge on the East and South boundaries. The bund on average is approximately 2.5m above road level and planted with a mixture of Oak, Alder, Birch, Ash, Hazel, Cherry, Rowan, and Hawthorn amongst others. Tree heights range between 3.5-m to 7.0m with the majority towards the upper end of this scale.

To the North is a large manufacturing warehouse occupied by Rotometrics which is on higher ground by approximately 2 metres and the building is 9.9 metres high, to the West is a 9.5m high office building and an 8.4m high building which is a car dealership. Beyond the site to the East are open playing fields with open countryside beyond. To the West is the major local trunk road the A454 linking Aldridge and Walsall, beyond which is open countryside. In the local area there are canals and agricultural buildings.

## Relevant Planning History

The site was acquired by the Council in 1932 for the purpose of developing an aerodrome. A number of hangars and associated buildings were constructed along the Walsall Road frontage during the period between 1936 and 1954 when the aerodrome was in use. From 1939 these buildings were also used for manufacturing purposes by Helliwells Works. In the late 1950s planning permission was granted for the alteration of the airport buildings to form offices and laboratories for technology and research. Planning agreements in 1960 and 1979 consolidated this restriction on the use of the site. A subsequent application was approved for a computer block in 1962. Between 1994 and 1997 several applications (BC27612P, BC43825P, BC45593P and BC50157P) allowed for the redevelopment of the area into an Industrial area to include B1 and B2 Business uses.

17/0052 - Erection of B2/B8 warehouse with ancillary offices and associated yard, car park and external works, Grant Permission Subject to Conditions, 03/05/2017.

17/1089, 17/1532, 18/0018 – Non-Material amendments to 17/0052 to move main entrance door and core, move cycle shelter and add plant enclosure, to relocate cycle shelter, extend service area, external lighting layout adjusted and paving extent reduced, remove dock levellers to the rear, to include 6 level access loading bays and to relocate the bin store. All Granted subject to conditions, the last being on 05/03/2018.

## Relevant Policies

### **National Planning Policy Framework (NPPF)**

[www.gov.uk/guidance/national-planning-policy-framework](http://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 6 – Building a strong, competitive economy**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**

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](http://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
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings

### **Black Country Core Strategy**

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- EMP3: Local Quality Employment Areas
- EMP4: Maintaining a Supply of Readily Available Employment Land
- EMP5: Improving Access to the Labour Market
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN3: The Efficient Movement of Freight
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island

## **Walsall Site Allocation Document 2019**

IND2: Potential High Quality Industry

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

### **Supplementary Planning Document**

#### **Designing Walsall**

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

#### **Consultation Replies**

**West Midlands Fire** – No objection subject to compliance with building regulations

**Pollution Control** – No requirements

**Coal Authority** – No objection

**Highways England** – No objection

**Highways officer** – No objection subject to a note to the applicant to keep the highway free of mud and water

**Strategic Planning Policy** - The site lies in the Green Belt, under SAD policy GB1 NPPF paragraph 145 will apply including potential exceptions or the need to justify as very special circumstances. The site is allocated as vacant potential high quality employment land, site reference IN13.2, under SAD policy IND2.

#### **Representations**

None

#### **Determining Issues**

- Principle of Development and the Green Belt
- Design and Character of the Area
- Parking and Access

## Assessment of the Proposal

### Principle of Development and the Green Belt

CSP2 of the BCCS: Development Outside the Growth Network provides support for: “A *limited supply of large-scale development opportunities through allocations on free-standing employment sites and other surplus land*”. The Site Allocation Document (SAD) identifies the site as IN13.2 which is part of a list of sites identified as “Vacant Potential High Quality Industrial Sites over 0.4ha”, where policy IND2 applies. IND2 safeguards these areas for High Quality Industry and requires that non-high quality industrial uses be discouraged. The site has subsequently been developed in line with the policy and now forms the existing Local Homes factory site. The proposed development would support this existing use, allowing for more efficient use of the existing factory site.

The development of the site for employment use is in accordance with BCCS Policy CSP2, and with the allocations of SAD Policy IND2 which can be attributed weight to a significant degree.

However, despite its allocation, existing use, and planning history, the site remains in the Green Belt.

National Planning Policy (in the NPPF, paragraph 145) says that the construction of new buildings in the Green Belt should be regarded as inappropriate, but with a number of exceptions, including “...*the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.*”

The NPPF definition of previously developed land in Annexe 2 is *land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.*

On the above basis the site has been previously-developed and the impact of the proposed development on openness becomes the indicator of its acceptability in terms of Green Belt policy and the applicability of the exception under paragraph 145, meaning that the justification of very special circumstances are not required in this case.

Nevertheless the continued operation of the not-for-profit manufacturer on the site, which provides pre-fabricated low-carbon building supplies is supported at this site.

When seen as part of the backdrop of existing development on and around the site, the covered storage building would not impact negatively on openness. The site is surrounded by existing industrial development to the south and west and the Rotometrics site, albeit on the other side of a vacant area directly to the north. The proposed building would be significantly lower in height than the existing, meaning that it would be assimilated into the existing built environment. The simple design of the building coupled with its open sides, translucent roof and lightweight demountable construction contributes to the mitigation of any perceived impact.

This view is supported by considerations of visual impacts on the green belt. The proposed building would be viewed in the context of the existing adjacent buildings within the envelope of the existing service yard. The earth bund surrounding the site and planted with maturing trees of up to 9.5m in height, which borders the site to the east, means that the development is significantly screened when viewed this side. Due to the existing relationship between this land and the existing commercial development, the scale of the proposal in this context and given the existing tree belt along Airfield Drive the visual impact is considered to be acceptable.

The proposed development would be at a smaller scale than the existing adjoining development and would help to complete the development of the overall site without increasing its impacts in terms of the openness and purposes of the Green Belt.

The proposed design is considered to be consistent with the existing development utilising a mix of materials and a complementary colour scheme on the facing elevations.

Although substantial weight should be given to any potential harm that the development might have on the Green Belt, national policy recognises that building on previously-developed sites need not be inappropriate. In this case the impact on the openness of the Green Belt is limited by the context as part of an area of development for employment, whilst the scale, design and surrounding landscaping limit visual impacts. The proposed employment development on this Green Belt site is considered to be supportable in principle.

### **Design and Character of the Area**

The footprint of the proposal is smaller than the surrounding buildings within the existing service yard and would be viewed in the context of an existing industrial estate. The height of the eaves at 6.0 metres, and apex at 11m would be screened by maturing tree line on top of the bund to the south east.

The materials and design details would be in keeping with the surrounding structures. The proposed building would be of lightweight construction and would feature large openings in the south east and north west elevations decreasing the impact on the surrounding area. The light grey colour profiled metal cladding proposed on the north eastern and south western elevations would be in keeping with the surrounding buildings and serve to diminish the visual impact of the building. It is recommended that a condition be added to provide full details of all the facing materials to be used in the construction to ensure that a high quality finish is achieved.

It is considered that the proposed building would sit comfortably within the site and would not harmfully impact on the character of the area.

### **Parking & Access**

The proposed development does not impact on the parking arrangement for the site. The existing parking area is just below the maximum UPD T13 parking policy requirement for B2 use at 54 spaces plus 6 disabled spaces (10%) and is considered acceptable by Highways Officers. The new building would make use of the hardstanding area in the current service yard.

It is recommended that a condition be attached in order to ensure that the building be used be used only for storage ancillary to the existing use which can be attached to permission if granted, in order to ensure that sufficient parking continues to be available to cater for the uses on the site.

Overall, the Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with the NPPF.

## **Conclusions and Reasons for Decision**

The proposed development would improve the efficiency of operations at an existing business site, in line with Policy with BCCS Policy CSP2, and with the allocations of SAD Policy IND2. The proposal would not impact negatively on the Green Belt and would preserve its objectives, in line with Policy GB1 of the SAD.

The proposal would be in line with the character of the site and wider area and would be consistent with Saved Policies GP2 ENV32 and ENV35 of the UDP and the Designing Walsall SDP.

The proposal would have no impact on the existing parking and turning areas and therefore would be consistent with the Saved Policy T13 of the UDP.

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

## **Recommendation**

Grant Permission subject to conditions

## **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.plans

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

Site Location Plan, deposited 05/03/20

Existing Service Yard Plan, PDS/20/1/1, deposited 02/02/20

Proposed Plans and Elevations, PDS/20/01/2, deposited 16/01/20

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)a. Prior to the commencement of building operations 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 cladding, roofing material, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.

(3)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.

(4). The development hereby permitted shall not be used otherwise than for the purposes of storage ancillary to the B2/B8 use of the main building on the property and shall not be used for any other purpose including any other purpose in Class B2 or B8 of Part B of Schedule 1 of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Order revising, revoking or succeeding that Order with or without modification.

Reason: To protect the amenities of the area, ensure that adequate on-site parking and servicing is available, and prevent unauthorised use that would be contrary to policies GP2, T7 and T13 of Walsall Unitary Development Plan.

(5)a. 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.

(5)b. 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.

### **Notes for Applicant**

1. The Applicant must ensure that no soil or other debris is washed or placed within the highway. Failure to prevent this incident could result in an offence and a notice being served on the Applicant under Section 151 of the Highways Act 1980.

2. The Applicant must ensure that no water is discharged onto the highway. Failure to prevent this discharge could result in an offence and a notice being served on the Applicant under Section 163 of the Highways Act 1980.



### Planning Committee

Report of Interim Head of Planning and Building Control on 23-Jul-2020

**Plans List Item Number: 4.**

**Reason for bringing to committee:** Major application

**Location:** LAND AT FORMER CAPARO WORKS, BETWEEN THE WYRLEY AND ESSINGTON CANAL, MINER STREET, GREEN STREET AND OLD BIRCHILLS, WALSALL

**Proposal:** RESERVED MATTERS FROM OUTLINE APPLICATION 11/1411/OL SEEKING CONSENT FOR APPEARANCE, LANDSCAPING AND LAYOUT FOR THE RESIDENTIAL DEVELOPMENT OF 252 DWELLINGS.

**Application Number:** 20/0228

**Applicant:** Mr Ulfig

**Agent:** Miss Heather Birch

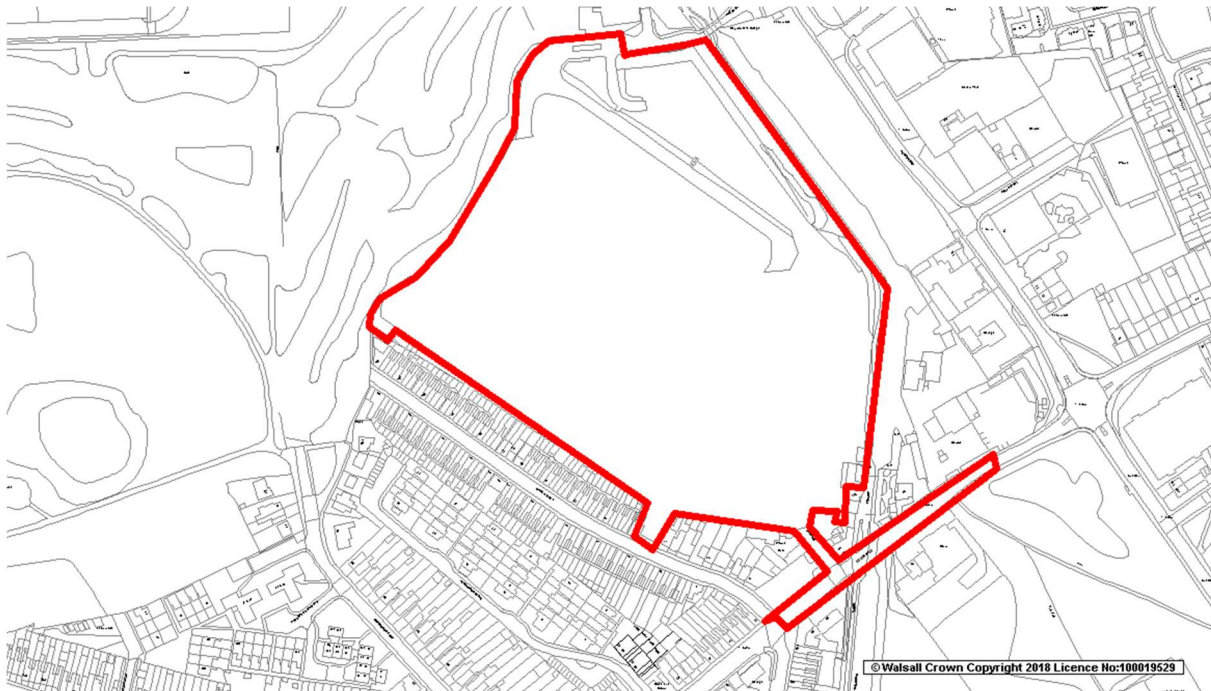
**Application Type:** Reserved Matters: Major Application

**Case Officer:** Gemma Meaton

**Ward:** Pleck, Birchills Leamore

**Expired Date:** 28-May-2020

**Time Extension Expiry:** 27-Jul-2020





## Recommendation

Planning Committee resolve to Delegate to the Interim Head of Planning & Building Control to Grant Planning Permission Subject to and subject to:

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

## Proposal

This application follows outline consent (11/1411/OL) for residential development of up to 252 dwellings, where access and scale were considered. The outline application was approved on 21-10-2019. This reserved matters application seeks to determine the outstanding matters; 'layout' for 252 dwellings, 'appearance' and 'landscaping'. The site is 6.6 hectares in extent. This application includes the following information:

### *'Layout'*

The outline application as approved indicated that the development would include 252 units comprising a mix of apartments and dwelling houses, from 2 to 4 storeys in height. The layout submitted also includes 252 dwellings and shows dwellings of two storeys and the apartment building, which is three storeys which is in line with the outline approval.

The proposed development comprises a range of dwelling types and sizes including apartments, terraced, semi-detached and detached dwellings as per the following:

20 no. 1 bedroom apartments (Wellbeing Block)  
30 no. 2 bedroom apartments (Wellbeing Block)  
66 no. 2 bedroom houses  
91 no. 3 bedroom houses  
45 no. 4 bedroom houses

The proposed layout shows vehicular access is to be provided off Green Street, Old Birchills, whilst the existing access via Rayboulds Bridge will be adapted to provide emergency access only, and a pedestrian link to the North of the canal and the accessibility to the Walsall-Wolverhampton bus route. This is in line with the approved access considerations detailed in the outline application.

The apartments are situated to the north-east corner of the site, close to Rayboulds Bridge and the pedestrian link over the canal. They are managed as a Wellbeing Centre proposed to be age restricted (50+) to meet a specific housing need within the Borough, and providing ancillary facilities such as communal rooms, integrated lifts and mobility storage.

The entrance to the development is flanked by built form, with the main entrance road forming a spine through the scheme. This primary road feeds secondary roads which travel east through the development, and maintain separate pedestrian walkways.

In the west, the scheme shows dwellings fronting onto the adjacent disused golf course, known as Reedswood Park, in order to provide further opportunities for pedestrian and vehicular linkages into that area in the future.

To the south-west of the site, the layout reflects the existing Victorian terraced urban-fabric, where a tighter urban grain assists in providing efficient use of land. This creates a layout in this area that is intended to reflect the scale of development in Miner Street, whilst applying modern urban design principles to maximise amenity.

#### *Appearance:*

The appearance of the proposed development is a mix of 202 two storey and 2.5 storey detached, semi-detached and terraced houses and 50 apartments in a single three storey block. The overall density of the proposed development would be 38 dwellings per hectare.

The housing design is traditional and mirrors the local pattern of development. Materials include a range of brick, render and tile, whilst other architectural features include projecting porches, gable roof features and render intended to create interest and variation through the development.

The Wellbeing block of apartments is arranged in a 'u' shape fronting onto the Wyrley and Essington Canal, and is also proposed to be of a mix of brick and tile, with varied colours of red and buff brick to create variation within the design. Although the wellbeing centre takes traditional design cues it has a more modern appearance than the remainder of the development with glass balconies projecting from the north and east elevations over the canal and over the internal courtyard. Windows are large and in general the elevations are uncomplicated.

#### *Landscaping:*

A detailed landscape plan has been provided which shows a large attenuation feature near the access to the site, landscape buffers along the canal towpath and to the north of the site close to Rayboulds Bridge. The attenuation feature is in line with the SuDs strategy for the site but also includes a wildflower meadow and new trees that contribute to the landscape features of the development.

Existing mature trees around the boundary of the site have been retained where possible. New hedgerows and trees are used as structural elements to define public and private spaces, while turfed areas are used to provide amenity spaces in private gardens and along access roads. Boundary treatments include 2m screen brick walls where private amenity space is bounded by access roads, 1.8m close-boarded fencing and partition panels between amenity areas and lower railings at the front of properties and at the canal boundary.

The wellbeing centre's central courtyard is landscaped as a public garden with new tree planting at its entrance, and a turfed area close to the main entrance. The centre is kept relatively free of boundary high boundary treatments and instead relies on the landscape features and low railings to delineate the area.

Design & Access Statement – Describes the site context and history, proposals, pre-application advice, economic regeneration, crime prevention, housing mix, ecology, landscape strategy.

Heritage Statement – An updated heritage statement has been submitted. It concludes the physical impact to Walsall Junction Conservation Area would not significantly affect its architectural or historic values and the non-designated heritage assets affected are of negligible value. The setting of designated heritage assets, Old Birchills Toll House and Boatman's Rest are not adversely affected and their setting may be enhanced by demolition of current buildings that detract from them.

Coal Mining Risk Assessment – submitted together with a letter from Georisk Management. Recoded mine entries have been taken into account in the layout, with 10m stand offs. The report identifies the known mine workings and potential workings throughout the site. Mitigation measures are proposed including capping and stabilisation works, and foundation design.

Supplemental Site Investigation Report – This supplements the original site investigation desk study. There were trial pits and light percussion boreholes undertaken to enable detailed investigation of sub-surface ground conditions. Ground gas monitoring was undertaken on the site on six occasions to supplement the monitoring programme of 2007. The results of the geochemical testing undertaken recorded elevated levels of metals across the Site within the made ground materials. Asbestos fibres were also detected in the made ground at twelve locations across the Site. . Proposals for dealing with these are included in the report.

Transport Assessment – Was submitted at outline stage, in line with the outline approval for the principle of development, access and scale. The Assessment identifies the site as being highly accessible to the local highway network with links to the strategic highway network. Traffic surveys and analysis of road traffic accidents have been carried out identifying no existing highway safety concerns that may be exacerbated by the proposals. Pedestrian and cycle links are close to the site and give access to Walsall town centre, there are frequent bus services and access to Walsall railway station. A new primary ghost island priority junction with Old Birchills is proposed plus a Traffic Regulation Order (TRO) along the extent of the primary access (double yellow lines). A secondary emergency access that will also provide pedestrian and cycle access is proposed off Rayboulds Bridge. Parking and cycle storage can be accommodated on site. Travel demand indicates approximately two additional vehicles every minute as a result of the proposals. The signalised junction at Green Lane/Hospital Street/Old Birchills operates over capacity and some phasing/timing adjustments may be required. The proposals will result in cumulative implications on Junction 10 of the M6 but as these impacts are expected as part of the wider growth of the local area and have been considered as part of the planned major highways scheme. In conclusion the proposals would have no significant impact on the surrounding highway network.

Ecological Appraisal – The appraisal identifies habitats of brownfield land subsequently vegetated with scrub and short perennial species with the exception of a belt of trees along the north-eastern boundary which benefits the green infrastructure along the boundary with the canal. There is limited potential for common amphibians, badgers are not currently resident on site, no evidence of roosting bats as the buildings on site have negligible potential to support roosting bats and trees have low potential to support roosting bats, no reptiles were recorded on site, nesting birds should be safeguarded. Japanese Knotweed is also present on site.

Precautionary measures during site clearance are recommended to protect all species including a review for new evidence of badger activity no less than 3 months prior to commencement of works, precautionary felling of trees, sensitive lighting, avoidance of vegetation removal during bird nesting season (Sept-Feb) and a Method Statement for removal of vegetation detailing best ecological practice. If works to the canal become necessary a survey and assessment for water voles and white-clawed crayfish should be undertaken prior to any works commencing.

Flood Risk Assessment and Drainage Strategy – Assesses risk of flooding at the site and identifies the site within Flood Zone 1 (low risk of fluvial and tidal flooding) and low risk of flooding from other sources. The report demonstrates that the proposed development can be achieved with no risk of flooding and without increasing flood risk to third parties. The Drainage Strategy demonstrates that the site can sustainably manage surface water arising from the development up to the 1:100+30% climate change storm event. The report concludes that the SuDS features proposed will provide a suitable level of surface water treatment, prior to discharge from the site.

Noise Assessment – Main sources of noise are identified as traffic on Green Lane and Old Birchills and industrial activity at Walsall Boat Builders. Without mitigation measures, dwellings closest to Green Lane may experience an adverse impact from these activities. Mitigation measures are recommended including enhanced glazing and an alternative means of ventilation. Mitigation measures would not be required for the proposed dwellings further into the site, away from Green Lane and Walsall Boat Builders.

Air Quality Assessment – Identifies construction phase and operational phase air quality measures. Specific mitigation measures are proposed for construction phase to reduce the effects from earthworks, construction and trackout. There will be negligible impact on air quality from development-generated vehicles and air quality effects within the site will not be significant. Mitigation measures are proposed in accordance with the Air Quality SPD.

Tree Survey – A survey of trees on the site was carried out including all trees within and adjacent to the Site boundary that were over 75mm diameter at breast height, and categorised according to the Cascade Chart for Tree Quality Assessment. Root protection areas were provided, and a tree retention and removal plan provided, which has informed the landscape plan.

## **Site and Surroundings**

The application site comprises the land formerly occupied by Caparo Industries and is bordered by Miner Street, the Wyrley and Essington Canal and Reedswood Park and Golf Course. To the southeast of the site is located a public house and the former lock museum and Top Lock Cottage. The site has now been largely cleared of buildings with only minimal structures remaining.

The site is accessed principally from Green Street, off Old Birchills. Also located on Green Street is a small car repairs business. The Caparo Industries southern car park (fronting onto Old Birchills) is not included in the application site. Rayboulds Bridge is an adopted public highway.

The existing site has a pedestrian entrance from Miner Street. Miner Street is a terrace of Victorian houses with a strong design character and built form. On the opposite side of the canal are further employment uses including Metafin Ltd and a boatyard.

Much of the canal, which bends around the site, is designated as a Conservation Area with the locks being listed. In addition Old Birchills Tollhouse (the former lock museum), Top Lock Cottage and Rayboulds Bridge are also Grade II Listed buildings. In addition a small portion of the south-eastern corner of the site is designated as a Limestone Mine Consideration Zone. The site is in Flood Zone 1.

This proposal has been screened under the Environmental Impact Assessment Regulations (2017) and found not to require an Environmental Statement as part of this planning application.

## **Relevant Planning History**

08/0163/OL – Outline Application for residential development of up to 310 dwellings (access and scale to be considered) – GSC & S106 Agreement 30/11/2010.

06/0397/ND/W7 – Screening Opinion for an Environmental Impact Assessment for the demolition of existing buildings and erection of 300 residential dwellings. EIA not required – March 2006

### Former Canal Museum

17/1330 (& 17/1331 Listed Building Consent) - Change of use from D1 (Canal Museum) to C3 dwelling house and erection of single storey rear extension - GSC 04/07/18.

### 206 Old Birchills

13/0936/FL (& 17/0937/LB Listed Building Consent) - Change of use from offices to residential including general refurbishment of the building and internal and external alterations – GSC 10/01/14. Various minor amendments granted subsequently.

11/1411/OL - Outline Application for residential development of up to 252 dwellings (access and scale to be considered) – GSC & a S106 21/10/2019.

## **Relevant Policies**

### **National Planning Policy Framework (NPPF)**

[www.gov.uk/guidance/national-planning-policy-framework](http://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 8 – Promoting healthy and safe communities**
- **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**
- **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](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors

- ENV25: Archaeology
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- H4: Affordable Housing parts g, h, i and j
- 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**

- CSP1: The Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- 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
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM5: Resource Management and New Development

### **Walsall Site Allocation Document 2019**

- RC1: The Regeneration Corridors
- HC1: Land allocated for New Housing Development
- EN1: Natural Environment Protection, Management and Enhancement
- EN3: Flood Risk
- EN4: Canals
- M1: Safeguarding of Mineral Resources
- 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

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW6 Legibility
- DW9 High Quality Public Realm

### Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications

### Affordable Housing

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

### Air Quality SPD

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



- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

## Consultation Replies

**Strategic Planning Policy** – No objection provided the details adhere to the conditions of the outline planning permission and the section 106 agreement.

**Severn Trent Water** - No objections, the condition relating to drainage can be discharged based on the information contained within the flood risk assessment.

**Archaeology** – No objection, no below-ground archaeological implications for this development, above ground heritage assets identified in the Heritage Statements that are to be removed (such as boundary features and industrial buildings) should be subject to a Level 2 building recording prior to demolition, Written Scheme of Investigation to be submitted.

**Historic Buildings** – no objections in terms of heritage, conservation area or listed building impacts.

**Network Rail** – No objection.

**Public Health** – No objection, note good quality housing

**Canal and Rivers Trust** – request additional information regarding landscaping, access to the canal, amendments to the noise impact study, and other design justification.

*Additional information was prepared by the applicant in order to satisfy these requests, and a re-consultation request sent to the trust. Any update will be reported in the supplementary paper and delegation is sought to resolve this matter.*

**Lead Local Flood Authority** – No objection subject to detailed surface water drainage design in accordance with the overall strategy and key design parameters set out in the Flood Risk Assessment and Drainage Strategy by RPS (AAC5469, Land off Old Birchills, Walsall, 1, 26th February 2020).

**Pollution Control** – No objection, subject to the continuation of conditions from 11/1411/OL notably, contaminated land (Conditions 6a, b, c, d) environmental management plan (Conditions 8a, b, c), acoustic mitigation to dwellings (Conditions 12a, b), Air Quality SPD (Conditions 14a, b), and Noise/vibration controls during engineering/construction works (Conditions 21, 22, 23, & 24).

**Coal Authority** - No objection subject to retention of conditions from the outline application.

**Highways Officer** – No objection subject to application of conditions relating to highway upgrades, parking provision, cycle shelters, and a construction management plan.

PAGE 60 OF 211

**Tree Officer** - Raised concerns regarding compromise of vegetation canal side due to proximity of wellbeing centre, proximity of attenuation pond to mature trees, impact of removal and replacement of walls on trees along the canal towpath, impact of existing trees on the southwest boundary on the amenity of residents, proximity of hardstanding to trees along northwest boundary, practicality of proximity of new trees to proposed houses.

*Additional information has been received from the applicant in response to the concerns raised and any amended comments will be reported in the supplementary paper and delegation sought to resolve this matter*

## **Representations**

One representation was received from a surrounding property owner objecting to the impact on light and privacy to existing dwellings on Miner Street.

## **Determining Issues**

- Principle of Development
- Layout and Residential Amenity
- Landscaping
- Appearance
- Ecology
- Heritage
- Planning Obligations
- Local Finance Considerations

## **Assessment of the Proposal**

### **Principle of Development**

The principle of redevelopment of this site for residential and the access to the site was previously considered at the outline planning stage and approved.

BCCS policy CSP1 seeks to create a network of regeneration corridors to provide for strategic local employment and new homes. The successful development of this site would contribute towards provision of new homes. The application site contains previously developed land and is allocated for new housing in the adopted Site Allocation Document reference HO181 under policy HC1. The capacity of the site has been accounted for in helping towards the delivery of sufficient housing numbers to meet the Boroughs future housing need. The Government requires all Council's to provide a rolling programme of sufficient housing numbers as part of the Council's development plan. The Site Allocation Document has recently been through Public Examination and carries significant weight in the decision making process.

The current proposal is supported in principle on planning policy grounds. The site is a vacant brownfield site that is in a highly sustainable area.

## Layout and Residential Amenity

The proposed layout makes efficient use of the site while providing housing that is in demand at densities which are appropriate to the local area and will help assimilate the development into the wider residential context. The design of internal roads utilises both linear and radial streets, creating a street pattern that is legible and easy to navigate by private car, pedestrians and cyclists. The proposed road network overlooks the Canal at key points.

The layout shows the position of the various house types and sizes that have been generally arranged so that dwellings face onto the public realm, ensuring safe and secure pedestrian and cyclist routes through the site, and encourages natural surveillance, speed-mitigation measures and an ability to navigate easily through the site with public and private spaces clearly defined.

In general, house types are mixed across the development to provide a varied and natural layout. Larger 3 and 4 bedroom detached homes are located on prominent corners and fronting onto the open space to the North West, which provides for improved aesthetic and makes good use of the more spacious corner plots for larger homes. Short terraces are in the centre of the blocks which frames the streets and provides structure to the urban grain of the proposal. A more uniform arrangement, with smaller semi-detached houses, is provided to the south west which mirrors the traditional Victorian forms in evidence along Miner Street.

Streets are provided with footways on both sides throughout, which while providing for pedestrians also ensures that there is good separation between frontages ensuring that an open character is created. Plots are provided with at least two off-street parking spaces per dwelling, with larger homes having three spaces and/or a detached garage, which would minimise parking on streets keeping them clear for traffic and pedestrians. Houses are also set back from the road edge between 4m and 10m providing for a generous and varied but coherent building line through the development, and allowing for additional landscaping visible from the public realm, and further contributing to spaciousness.

In general the plot layouts are considered appropriate and practical. All plots have direct access to the street, and an enclosed private amenity space. Amenity spaces are considered adequate and appropriate to house sizes with larger four-bedroom homes having between approximately 100m<sup>2</sup> and 140m<sup>2</sup> while smaller 2 bedrooms and terraced houses having smaller spaces of between 50m<sup>2</sup> and 100m<sup>2</sup>. While this is below the policy required by the Designing Walsall SPD, the shortfall is not widespread and is found in the smaller homes that are less likely to be occupied by families. In addition the development has access to additional open spaces and recreation areas for example the Wyrley and Essington Canal and is consistent with the urban grain of the area. Given the size of the amenity areas coupled with the ground gas considerations it is considered that the removal of permitted development rights for extensions is appropriate.

Separation distances between proposed dwellings to the rear are considered generous at 40-50m which would minimise overlooking and privacy impacts between rear gardens within the development and onto Miner Street to the south west. These distances also comply with the Designing Walsall SPD which required that separation is maintained to at least 24m between habitable room windows at two storeys and above. In particular it is

considered that the impact from the new houses in terms of light and privacy will not be significant owing mainly to this separation when considered against the back-drop of the existing impacts of the adjacent houses already on Miner Street.

A single, detached four bedroom dwelling is also proposed with access off Miner Street. The dwelling would be built in line with the existing terrace to the south east at 28-32 Miner Street and would not cause any harmful overlooking or privacy impacts to the surrounding neighbours. Three off-street parking spaces are provided as well as adequate servicing space. A first floor side window serves a bathroom on the southern side, and this is recommended to be obscure glazed.

The location of the Wellbeing Block at the Rayboulds Bridge Access provides for surveillance of the area while making use of the pedestrian link to Green Street and the facilities beyond. It would provide a key landmark to the area and act as a suitable entrance to the development from the north. The apartment block would have a pleasant outlook from windows and balconies adjacent to the canal to the east of the site.

On balance it is considered that the layout is practical and would create a positive environment for future occupiers without impacting negatively on the amenity of the surrounding area. The proposal would integrate into the surrounding urban fabric and not harm the character of the surrounding area.

## **Landscaping**

The proposed layout seeks to maintain trees along the north-eastern boundary where practicably possible and provides additional woodland planting to supplement provision. The proposed landscape buffers are considered to provide an appropriate transition between the canal and the development.

The proposed attenuation feature is in line with the SuDs strategy for the site but also includes a wildflower meadow and new trees that contribute to the landscape features of the development. The feature will improve the residential environment while providing additional recreation areas and form a suitable entrance to the development, adding to the landscape quality of Old Birchills when viewed externally and from the public and private spaces within the development.

Existing mature trees around the boundary of the site have been retained where possible, with appropriate root protection measures, this will ensure that the development appears grounded in the landscape rather than a new import to the area, especially before the planting reached full maturity. The use of hedgerows and trees as structural elements to define public and private spaces, also contributes to landscape quality, prioritising natural elements over hard landscaping.

Turfed areas are used to provide amenity spaces in private gardens and along access roads. Boundary treatments include 2m screen brick walls where private amenity space is bounded by access roads, 1.8m close-boarded fencing and partition panels between amenity areas which is considered appropriate and contributes positively to residential amenity. Lower railings at the front of properties and at the canal boundary ensure surveillance is maintained and an open active character is encouraged.

The wellbeing centre's central courtyard is landscaped as a public garden with new tree planting at its entrance, and a turfed area close to the main entrance. The centre is kept relatively free of boundary high boundary treatments and instead relies on the landscape features and low railings to delineate the area.

Concerns have been raised by the Tree Officer with regard to some of the detailed proposals and placement of some trees. Additional information has been provided and the amended comments of the officer are awaited.

On balance, the landscaping is considered to positively impact on the development, and provides a good residential environment while taking into account ecology of the area and flood mitigation requirements.

## **Appearance**

The proposed dwellings are proposed in a traditional form taking reference from the local vernacular both in terms of detailing and the construction materials and hard landscaping. The design strategy is to create a cohesive sense of place that compliments the existing neighbourhoods. The appearance of buildings adopts a similar vernacular and palette of materials to the local context with subtle contrast and visual interest brought in to maintain variation.

Design details are proposed including articulated frontages, bay windows, canopies and a variation in the roof lines of dwellings. High quality materials are proposed throughout the development that are distinctive and sustainable. Mainly red brick facing is proposed interspersed with some pale coloured render over portions of some elevations which provide additional interest. Detailing over windows and doors in contrasting arched soldier courses and lintels, as well as dark coloured doors add further interest and assist in tying the development into the surrounding Victorian architecture. Modern materials sit comfortably alongside the more traditional, contributing to the sense of place, variety and interest.

The wellbeing block adds variation in terms of scale and design to the overall scheme. The more modern design of the block when compared to the housing is a positive contrast while picking up on traditional design themes in terms of colour and materials. The block remains at an appropriate scale and would integrate well into the wider scheme.

The appearance of the proposed development is considered to be in line with the character of the area, would create a positive residential environment and demonstrates quality design while respecting traditional patterns of development and providing accommodation that is in demand in the area.

## **Ecology**

An ecological appraisal was carried out by a qualified specialist as part of the outline application, which identifies habitats and species present on site. The outline application confirmed that the principle of the development would be acceptable from an ecological point of view. The appraisal confirms limited potential for common amphibians, badgers are not currently resident on site, no evidence of roosting bats as the buildings on site have negligible potential to support roosting bats and trees have low potential to support

roosting bats, no reptiles were recorded on site and nesting birds should be safeguarded. Japanese Knotweed was also present on site.

Precautionary measures during site clearance are recommended to protect all species including a review for new evidence of badger activity no less than 3 months prior to commencement of works, precautionary felling of trees, sensitive lighting, avoidance of vegetation removal during bird nesting season (Sept-Feb) and a Method Statement for removal of vegetation detailing best ecological practice. If works to the canal become necessary a survey and assessment for water voles and white-clawed crayfish should be undertaken prior to any works commencing.

The recommendations and conclusions of the ecological appraisal remain valid and on this basis the ecology should not pose a constraint to development on site subject to conditions as recommended in the appraisal. This is in accordance with BCCS policy ENV1 and saved UDP policy ENV23 and SPD Conserving Walsall's Natural Environment.

### **Impact on Heritage Assets**

The site adjoins Walsall Locks Conservation Area and Old Birchills Tollhouse and former Boatman's Rest Listed Buildings.

The redevelopment of this derelict site for residential purposes is considered to offer an improvement to the area and will have a positive impact on the adjacent Heritage Assets, as was confirmed by the approval of the outline application. Adjacent Listed Buildings have consents for conversion to residential premises, as can be seen in the planning history. Conditions were applied to the outline permission to secure appropriate measures are undertaken to protect the surrounding conservation areas, and document potential heritage discoveries found as part of the redevelopment, these conditions remain relevant to the reserved matters decision.

### **Planning Obligations**

A S106 agreement was concluded as part of the outline application, and is not affected by this reserved matters application.

### **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 252 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 redevelopment for residential purposes has previously been accepted by Planning Committee in their resolution to grant outline permission in 2019 and the site is allocated for residential development in the Site Allocation Document. The proposal is supported in principle and accords with BCCS policy CSP1 and HC1 of the Site Allocations Document.

The layout is practical and would create a positive environment for future occupiers without impacting negatively on the amenity of the surrounding area. The proposal would integrate into the surrounding urban fabric and not harm the character of the surrounding area. . This accords with the principles of the NPPF and BCCS policies CSP4 and HOU2 and saved UDP policies GP2, ENV32 and H3.

The landscaping proposals are considered to positively impact on the development, and provides a good residential environment while taking into account ecology of the area and flood mitigation requirements, which is in line with saved policy ENV33 of the UDP, ENV5 of the BCCS and EN3 of the Site Allocation Document.

The appearance of the proposed development is considered to be in line with the character of the area, would create a positive residential environment and demonstrates quality design while respecting traditional patterns of development and providing accommodation that is in demand in the area, in line with the principles of the NPPF and BCCS policies CSP4 and HOU2 and saved UDP policies GP2, ENV32 and H3.

Potential harmful effects from pollution are addressed through safeguarding measures to be secured through conditions in accordance with BCCS policies ENV7 and ENV8 and saved UDP policies GP2, ENV10 and ENV14 and Air Quality SPD.

The coal mining legacy can similarly be addressed by requirement for appropriate intrusive investigations and mitigation to be secured through conditions in accordance with saved UDP policies GP2 and ENV14. Limestone matters will be addressed prior to commencement of any development. Flood Risk can be appropriately mitigated against in accordance with BCCS policy ENV5 and saved UDP policy ENV40.

Ecology should not pose a constraint to development on site subject to conditions as recommended in the ecological appraisal. This is in accordance with BCCS policy ENV1 and saved UDP policy ENV23 and SPD Conserving Walsall's Natural Environment.

The redevelopment of this derelict site for residential purposes considered to offer an improvement to the area and will have a positive impact on the adjacent Heritage Assets in accordance with saved UDP policy ENV29.

The S106 agreement has been completed.

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 up to 252 new homes.

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 confirmed to the applicant's agent that the submitted details are acceptable and subject to clarification on trees and measures adjacent to the canal no further changes have been requested be given to the scheme.

## **Recommendation**

Planning Committee resolve to Delegate to the Interim Head of Planning & Building Control to Grant Planning Permission Subject to and subject to:

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

## **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.plans

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

- Site Location Plan, LP – 02 Rev. A, deposited 28/02/2020
- Site Layout, SP03 Rev. R, deposited 25/06/2020
- Presentation Layout, PL500 Rev. B, deposited 04/06/20
- Boundary Treatment Plan, SP04 Rev. C, deposited 04/06/2020
- Boundary Treatment Elevations, BT02 Rev. B, deposited 04/06/2020
- Detailed Plot & POS Soft Landscape Proposals (1 of 2), 19-096-07 Rev. B, deposited 05/06/2020
- Detailed Plot & POS Soft Landscape Proposals (2 of 2), 19-096-08 Rev. C, deposited 05/06/2020
- Wellbeing Block Ground Floor Plans, PL-100 Rev. E, deposited 04/06/2020
- Wellbeing Block First Floor Plans, PL-101 Rev. E, deposited 04/06/2020
- Wellbeing Block Second Floor Plans, PL-102 Rev. -, deposited 04/06/2020
- House Type Barton Plans and Elevations, LH PL300 Rev. -, deposited 28/02/2020
- House Type Edis (A) Plans and Elevations, LH PL302 Rev. -, deposited 28/02/2020
- House Type Edis (B) Plans and Elevations, LH PL305 Rev. -, deposited 28/02/2020
- House Type Gainsborough Plans and Elevations, LH PL200 Rev. A, deposited 28/02/2020
- House Type Lambourne Plans and Elevations, LH PL203 Rev. A, deposited 17/06/2020



- House Type Lambourne (Open Plan) Plans and Elevations, LH PL204 Rev. A, deposited 28/02/2020
- House Type Lansdown Plans and Elevations, LH PL205 Rev. A, deposited 28/02/2020
- House Type Longmore Plans and Elevations, LH PL301 Rev. -, deposited 28/02/2020
- House Type Mottram Plans and Elevations, LH PL206 Rev. A, deposited 28/02/2020
- House Type Newbury (Opt. 1) Plans and Elevations, LH PL207 Rev. A, deposited 28/02/2020
- House Type Newbury (Opt. 2) Plans and Elevations, LH PL208 Rev. A, deposited 28/02/2020
- House Type Norgate Plans and Elevations, LH PL304 Rev. -, deposited 28/02/2020
- House Type Ramsey (Elev. 1) Plans and Elevations, LH PL210 Rev. A, deposited 28/02/2020
- House Type Ramsey (Elev. 2) Plans and Elevations, LH PL211 Rev. A, deposited 28/02/2020
- House Type Reedswood Plans and Elevations, LH PL303 Rev. A, deposited 28/02/2020
- House Type Ringwood Plans and Elevations, LH PL401 Rev. -, deposited 28/02/2020
- House Type Stockwood Elevations, LH PL215 Rev. A, deposited 28/02/2020
- House Type Stockwood Plans, LH PL216 Rev. A, deposited 28/02/2020
- House Type Sutton Plans and Elevations, LH PL400 Rev. A, deposited 28/02/2020
- House Type Walton Plans and Elevations, LH PL214 Rev. A, deposited 28/02/2020
- House Type Wentworth Plans and Elevations, LH PL201 Rev. A, deposited 28/02/2020
- House Type Wentworth (Open Plan) Plans and Elevations, LH PL202 Rev. A, deposited 28/02/2020
- Design and Access Statement, prepared by Anthem Lovell LLP, dated February 2020, deposited 28/02/2020
- Planning Statement, P20-0157 prepared by Pegasus Group, dated February 2020, deposited 28/02/2020
- Ecological Appraisal, 7997, prepared by Ecus Environmental Consultants, dated February 2018, deposited 28/02/2020
- Coal Mining Risk Assessment, BM11761-CMRA-006, prepared by Wardell Armstrong dated February 2020, deposited 28/02/2020
- Supplementary Site Investigation Report, BM11761 001, prepared by Wardell Armstrong dated February 2020, deposited 28/02/2020
- Air Quality Assessment, BM11761 003 V0.2, prepared by Wardell Armstrong dated February 2020, deposited 28/02/2020
- Archaeological Desk Based Assessment, BM11761 005, prepared by Wardell Armstrong, dated February 2020, deposited 28/02/2020
- Flood Risk Assessment and Drainage Strategy, AAC5469 Issue 1, prepared by rpsgroup, dated 26<sup>th</sup> February 2020, deposited 04/03/2020
- Heritage Statement, BM11761 004 V0.1 (draft), prepared by Wardell Armstrong, dated March 2020, deposited 21/04/2020
- Noise Assessment, BM11761 006 V2.0, prepared by Wardell Armstrong, dated June 2020, deposited 04/06/2020

- Transport Statement, J323200, prepared by Mode Transport Planning, dated February 2018, deposited 28/02/2020
- Preliminary Development Tree Survey (BS5837: 2012), prepared by Westside Forestry Ltd, dated September 2019, deposited 28/02/2020

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 commencement of the development hereby approved including any works on the area next to the former Boatmans Rest and the Toll House, the canalside frontage and land adjacent to Rayboulds Bridge, a programme of archaeological works and investigations in accordance with a written scheme of investigation and including a scheme for recording and identifying any artefacts or documentation meriting preservation shall be submitted to and approved in writing by the local planning authority.

3b. The development shall not be carried out otherwise than in accordance with the agreed scheme of investigation and recording.

Reason: To secure an adequate record of the site's archaeology in accordance with saved UDP policy ENV25.

4a. Prior to the commencement of any part of the development hereby approved, with regards to the Supplementary Site Investigation Report by Wardell Armstrong, a Remediation Statement, setting out details of measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation, shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

4b. The remedial measures as set out in the 'Remediation Statement' required by part (a) of this condition shall not be implemented otherwise than in accordance with the agreed timetable.

4c. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not previously identified is encountered, development shall cease until the Remediation Statement required by part (a) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

4d. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and agreed in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site and to protect human health and the environment and to ensure protection of Controlled Waters at all times, notably any groundwater where present within Secondary A drift or bedrock strata underneath the site in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

5a. Prior to the commencement of any part of the development hereby approved the following details shall be submitted to and agreed in writing by the local planning authority:

- i. the submission of a scheme of intrusive investigations for mine entries, high wall and shallow mine workings where necessary
- ii. the undertaking of these intrusive site investigations
- iii. a report of the findings arising from the intrusive site investigations
- iv. the submission of a layout plan which identifies appropriate zones of influence for the mine entries on site, and the definition of no build zones and definition of the location of the high wall and any necessary no build zone
- v. the submission of a scheme of treatment for mine entries on site for approval and any works required in respect of shallow mine-works for approval

5b. The agreed remedial works referred to in part (a) of this condition shall be implemented in accordance with the agreed details.

5c. A Verification Report or similar document shall be provided to the local planning authority to confirm the details of the remedial works have been implemented on site.

Reason: To ensure the satisfactory development of the site and protect against the coal-mining legacy on site, to comply with NPPF Paragraph 109 and saved policies GP2 and ENV14 of Walsall's Unitary Development Plan

6a. Prior to the commencement of any part of the development hereby approved an Environmental Management Plan shall be submitted to and agreed in writing with the Local Planning Authority to control noise, vibration, dust, and debris drag-out and shall include provision of wheel washing equipment at the access to the site.

6b. The Environmental Management Plan shall include control measures to address known and unknown deposits of asbestos in the soil.

6c. The Environmental Management Plan shall be implemented upon the commencement of works and remain in place until all demolition/construction and landscaping activities have been completed.

Reason: To protect the local environment, and the amenity of local residents and businesses in accordance with saved UDP policies GP2 and ENV10.

7a. Prior to the commencement of any part of the development hereby approved, a Construction Methodology Statement shall be submitted to and approved by the Local Planning Authority detailing the following measures:

- i. the parking of vehicles for site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development
- ii. Full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction
- iii. Details of proposed earthmoving and excavations
- iv. Details of protective measures to avoid impacts during construction
- v. A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed

vi. Persons responsible for nature conservation measures, inspection and maintenance of physical protection measures and monitoring of work practices during construction, provision of training to all construction personnel

7b. The agreed Construction Methodology Statement shall be implemented and shall be retained during the life of site clearance/demolition and construction in accordance with the approved details.

Reason: In order to minimise potential disruption to the free flow of traffic along the public highway and in the interests of highway safety in accordance with saved UDP policy T4 and to safeguard the environment and structural integrity of Walsall Canal in accordance with policy ENV4 of the BCCS.

8a. Prior to the commencement of any part of the development hereby approved a detailed surface water drainage design has been submitted to and approved by the Local Planning Authority. The design must be in accordance with the overall strategy and key design parameters set out in the Flood Risk Assessment and Drainage Strategy by RPS (AAC5469, Land off Old Birchills, Walsall, 1, 26th February 2020) (see note for applicant).

8b. The development shall not be carried out otherwise than in accordance with the approved details throughout the duration of the works.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and to safeguard water quality from fuels, oil and other chemicals from the site. To comply with NPPF10, BCCS Policy ENV5 and Saved UDP Policy ENV40.

9a. Prior to the commencement of any building or engineering operations above the damp proof course of the development hereby approved, full details of the acoustic glazing, acoustic ventilation, and acoustic boundary treatment to gardens, to be installed to the properties shall be submitted to and approved in writing with the Local Planning Authority.

9b. Prior to the first occupation of any part of the development hereby approved, the agreed glazing and ventilation shall be installed and a written Validation Statement shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of local residents, future residents, human health and the environment in accordance with saved UDP policies ENV10, GP2 and ENV32.

10a. Prior to the first occupation of any part of the development hereby approved all access ways, parking and vehicle manoeuvring areas associated with that dwelling, shall be 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.

10b. These areas shall thereafter be retained and used for no other purpose.

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

11a. Prior to the commencement of any building or engineering operations above the damp proof course of the development hereby approved, written details on measures to implement the requirements of the Black Country Air Quality Supplementary Planning Document for the proposed development shall be submitted to and agreed in writing by the local planning authority.

11b. Prior to first occupation no part of the development shall be carried out otherwise than in accordance with the approved details and shall thereafter be retained A written validation statement shall be submitted to the Local Planning Authority.

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

12a. Prior to the commencement of any part of the development hereby approved details of a scheme of mitigation for ecological impacts shall have been submitted to and approved in writing by the local planning authority as detailed in Section 4 of the submitted Ecological Appraisal prepared by Ecus Environment Consultants (February 2018) to cover the following matters;

- i. Protection measures for the Wyrley & Essington Canal SLINC
- ii. Site clearance to protect amphibians
- iii. Check badger activity up to 3 months before commencement of works
- iv. Precautionary approach to tree felling to protect bats
- v. Lighting scheme to avoid light spill to protect bats
- vi. Vegetation removal outside bird nesting season (Sept to Feb)
- vii. Clearance of scrub in accordance with a Method Statement to be agreed
- viii. Water Vole and White Clawed Crayfish surveys if works affect the Wyrley & Essington Canal
- ix. Removal of Japanese Knotweed

12b. In the event that the Ecological Appraisal prepared by Ecus Environment Consultants (February 2018) has expired then a further full Ecological Survey shall be carried out that also details the points at part (a) of this condition.

12c. Recommendations in the survey for the protection of habitats and protected species shall be incorporated where practicable into the design of the proposals.

Reason: In order to preserve and enhance the natural environment and safeguard any protected species in accordance with saved UDP policy ENV23 and SPD Conserving Walsall's Natural Environment.

13a. Prior to the Wellbeing flats first coming into use, full details of a cycle shelter, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and the facility shall be fully implemented in accordance with the approved details.

13b The cycle shelter facility shall thereafter be retained and used for no other purpose.

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

14a. Prior to the Wellbeing flats first coming into use, all access ways and parking areas serving the flats shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the adoptable highway or into any adoptable highway drain.

14b. These areas shall thereafter be retained and used for no other purpose.

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

15) Prior to the first occupation of any dwelling on the development ( with the exception of Plot 1 fronting Miner Street), details of all adoptable highway works and works within the existing highway shall be submitted in writing to and approved in writing by the Local Planning authority

The works shall include;

- The right turn lane at the site access on Old Birchills, approved in principle under 11/1411/OL and revised and detailed on submitted RPS drawing no. AAC5469\_RPS\_XX\_XX\_DR\_C\_700-01 Revision P01.02,
- All layouts, alignments, widths and levels, together with associated and necessary drainage calculations and arrangements,
- The modification of part of Rayboulds Bridge Road to provide a turning facility and associated works, together with the implementation of appropriate physical measures to convert Rayboulds Bridge Road to an emergency access link only detailed on submitted RPS drawing no. AAC5469\_RPS\_XX\_XX\_DR\_C\_700-01 Revision P01.02 – see also Highway Note 3 below.
- The adjustment to the signal timings/phasing at the Old Birchills/Hospital Street/Green Lane junction as recommended by the submitted Mode Transport Assessment.

15 b Prior to occupation Prior to the first occupation of any dwelling on the development (with the exception of Plot 1 fronting Miner Street) the approved works in part a of the condition shall be fully implemented

Reason: To ensure the satisfactory operation of the development and in the interests of highway safety and the free flow of traffic along the public highway in accordance with saved UDP policy T4.

16. Prior to the first occupation of any dwelling on the development, the Residential Travel Plan Statement referred to in paragraph 6.6 of the submitted Wardell Armstrong Transport Assessment, shall be submitted to and approved in writing by the Local Planning Authority. The measures and incentives contained within the Statement shall be implemented during the occupation stage of the development and shall cease only upon the occupation of the final dwelling.

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

17. All hand-held pneumatic machinery used in respect of demolition or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), including breakers and chisels, shall be of an integrally silenced design; breakers and chisels shall only be used with muted steels.

Reason: To protect the amenity of local residents, future residents, human health and the environment in compliance with Policies GP2 and ENV32 of the UDP

18. All plant and machinery in use shall be maintained and silenced in accordance with the manufacturers and/or supplier's instructions or recommendations. Mobile and portable air compressors, pumps and electricity generating sets shall be of a recognised proprietary low-noise design, and wherever practicable, mains electricity shall be utilised in preference to electricity generating sets.

Reason: To protect the amenity of local residents, future residents, human health and the environment, in compliance with Policies GP2 and ENV32 of the UDP

19. No operations or activities incorporating explosive blasting, drop-balling or thermic/thermal lances shall be undertaken.

Reason: To protect the amenity of local residents, future residents, human health and the environment, in compliance with Policies GP2 and ENV32 of the UDP

20. Levels of structure-borne vibration transmitted to occupied buildings from any demolition/stabilisation/piling/engineering works shall not exceed specified criteria for low probability of adverse comment, as prescribed within British Standard BS6472-1:2008 Guide to evaluation of human exposure to vibration in buildings – vibration sources other than blasting.

Reason: To protect the amenity of local residents, future residents, human health and the environment, in compliance with Policies GP2 and ENV32 of the UDP

21. 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 as defined by Schedule 2, Part 1 development within the curtilage of a dwelling house;

- Class A (enlargement, improvement or other alterations),
- Class D (porches),
- Class E (building incidental to the enjoyment of a dwelling house),
- Class F (hard surfaces incidental to the enjoyment of a dwelling house),

shall be installed in any part of this hereby approved development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved Walsall's Unitary Development Plan policy GP2 and ENV32.

22. 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 side facing first floor window serving the proposed bathroom on Plot 1 as shown on plan Planning House Type Edis (B) reference LHPL305 submitted on the 28/02/2020 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.

23a. Prior to the first occupation of any new dwellings details of external lighting for the development, including details of foundations, luminance in candelas and hours of operation shall be submitted to and approved in writing by the local planning authority.

23b. The development shall not be carried out otherwise than in accordance with the agreed details of lighting and shall be maintained for the life of the development.

Reason: To protect the integrity of the waterway structure and to protect wildlife and prevent unnecessary light pollution in accordance with policies GP2 and ENV32 of Walsall UDP and policy ENV4 of the BCCS.

### **Notes for Applicant**

#### **Fire Service**

Suitable water supplies for firefighting should be provided. This shall be subject to consultation with West Midlands Fire Service once a Water Scheme plan has been produced and approved by the relevant Water Company. Water supplies for firefighting should be in accordance with "National Guidance Document on the Provision for Fire Fighting" published by Local Government Association and WaterUK. For further information please contact the Water Office at the address given above or on telephone number 0121 380 6403.

#### **Highways**

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to enter into agreements under S38/S278 of the Highways Act 1980 with the Highway Authority for all works within the existing public highway and adoptable highway works. For further advice please contact Highway Development Control Team on 01922 655927.
3. Prior to the commencement of the development full engineering details of all adoptable highway works including layouts, alignments, widths and levels, together with all necessary drainage arrangements, shall be submitted to and receive technical approval in writing by the Local Planning Authority in consultation with the Highway Authority.
4. All adoptable street lighting shall be with the agreement in writing with Walsall Council's street lighting partner Amey.



5. The adoptable highway works above shall be implemented in accordance with a timetable to be agreed in writing by the Local Planning Authority and in accordance with the approved details and to the satisfaction of the Local Highway Authority.

6. Engineering details of the required highway improvement infrastructure works along Old Birchills, shown on Mode Transport Planning Proposed Ghost Right Island Arrangement preliminary drawing no. J32-3200-PS-001, including layout, alignments, widths and levels, together with all necessary drainage arrangements, shall be submitted to and be approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall include: improvements to the site access junction radii by realigning the kerb line along Old Birchills on the development side, the provision of a Ghost Right Turn Lane into the site by realigning the kerb line opposite the development side, the incorporation of uncontrolled pedestrian crossing facility(s) in the form of central refuge(s).

7. Full engineering details of the required vehicle access control measures required on Rayboulds Bridge Road, to prevent unauthorised vehicular access other than to emergency vehicles, shall be submitted to and be approved in writing by the Local Planning Authority in consultation with the Highway Authority, subject to the confirmation of an appropriate Traffic Regulation Order.

#### Contaminated Land

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

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

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

## Air Quality SPD

Pollution Control is of the opinion that the Application falls under the Type 1 category, therefore the Applicant needs to install at least one electric vehicle charging point per Plot and/or one charging point per 10 parking spaces for shared parking, and low NOx boilers. The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points.

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

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

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.

## Environmental Legislation Hours of Construction

No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and otherwise such works shall not take place other than between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. (\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday, Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

## Noise Mitigation

Mitigation measures need to make due consideration of Noise Assessment Report by Wardell Armstrong and the potential for the former Metafin Group Holdings Ltd site to become operational.

## Detailed surface water drainage design

The design should demonstrate:

- Surface water drainage system(s) designed in accordance with national and local standards, including the non-statutory technical standards for sustainable drainage systems (DEFRA, March 2015).
- SuDS design to provide adequate water quality treatment, in accordance with the CIRIA SuDS Manual Simple Index Approach and SuDS treatment design criteria.
- Limiting the discharge rate generated by all rainfall events to a level in accordance with the principles outlined in the Flood Risk Assessment and Drainage Strategy by RPS (AAC5469, Land off Old Birchalls, Walsall, 1, 26th February 2020).

Specifically, the rate should not exceed the greenfield QBAR rate of 30 l/s. The

PAGE 77 OF 211

calculated attenuation storage volume is to be based on the impermeable area of the final development layout.

- Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
- Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system. Site layout and levels should provide safe exceedance routes and adequate access for maintenance.

Please refer to our SuDS Handbook for further information:

<https://www.staffordshire.gov.uk/environment/FloodRiskManagement/Information-for-Planners-and-Developers.aspx>



### Planning Committee

Report of Interim Head of Planning and Building Control on 23-Jul-2020

**Plans List Item Number: 5.**

**Reason for bringing to committee:** Major application

**Location:** UNIT 1 AND 2, LAND BETWEEN ACORN STREET AND ALBION STREET, WILLENHALL, WV13 1NP

**Proposal:** OUTLINE - DEMOLITION OF EXISTING WAREHOUSE BUILDING AND ERECTION OF A SINGLE BLOCK OF 22 APARTMENTS (11NO. 1NO BEDROOM, 10NO. 2 BEDROOM AND 1NO. 3 BEDROOM)

**Application Number:** 18/0056

**Applicant:** Mrs Kaur

**Agent:** Tyler Parkes

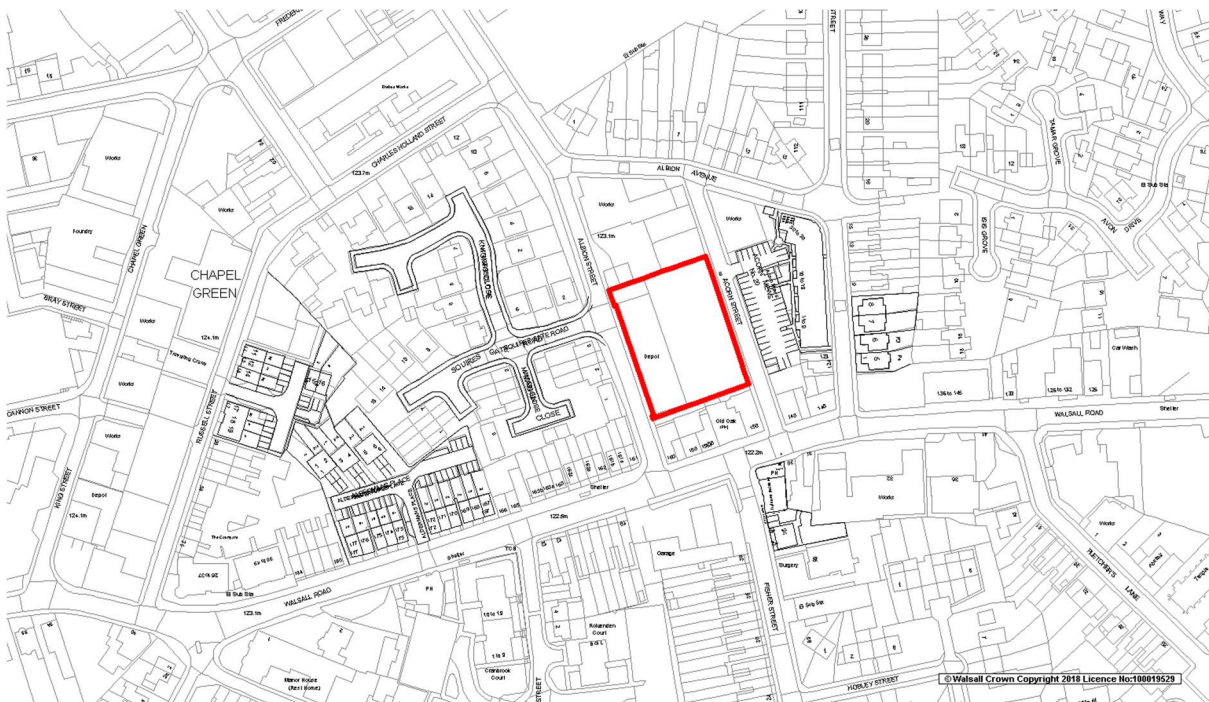
**Application Type:** Outline Permission: Major Application

**Case Officer:** Devinder Matharu

**Ward:** Willenhall South

**Expired Date:** 29-Apr-2018

**Time Extension Expiry:** 07-Aug-2020



## Recommendation

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

## Proposal

The application seeks outline approval for the consideration of the access, layout, appearance and scale for the demolition of existing warehouse building and erection of a single block of 22 apartments (11no. 1no bedroom, 10no. 2 bedroom and 1no. 3 bedroom).

The proposed development would include a part two storey and part three storey irregular shaped building to be positioned along the Acorn Street frontage with car parking and bin storage access from Albion Street.

The proposals include amenity space for ground floor occupiers and balconies for the occupiers at first and second floor.

The building would have a mixture of hipped and gable rooves and externally finished in brick and render panels.

The following documents have been submitted on support of the proposal:

- Desk Study & Initial Site Assessment' by Spilman Associates, August 2017, Ref.J17065/01.
- Environmental Noise Report, by Sharps Redmore Acoustic Consultants, 20 July 2017, Ref. 1717012.
- Flood Risk Assessment and Drainage Strategy
- Coal Mining Risk Assessment Report, which concludes that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works, including ground gas monitoring should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.
- Design and Access Statement, which addresses the proposal.
- Renewable energy statement, which addresses the scheme.
- Viability report.

## Site and Surroundings

Albion Street is located off the northern side of Walsall Road and sits parallel to Acorn Street. The northern end of Albion Street a distance of 130m from its junction with Walsall Road is Albion Avenue, a road that connects Albion Street and Acorn Street.

Albion Street is characterised by commercial and industrial uses on the eastern side along with some houses with predominately housing on the western side of the street.

The application site consists of a large brick building that occupiers the majority of the site. Access is from Acorn Street where there are double yellow lines along this part of the

PAGE 80 OF 211

street. The current building is set back from Acorn Street with a large forecourt and parking area to the frontage. The site is bounded by a wall and palisade fence.

Beyond the southern part of the site is a dwelling that is link attached to the retail unit that fronts Walsall Road but extends around onto Albion Street where there are openings fronting Albion Street.

The access road opposite the site serves a housing estate. The western side of Albion Street has double yellow lines.

Towards the northern part of the site is a commercial use where planning permission was granted in 2020 for a garage.

To the southern side of Acorn Street is a public house. Along Walsall Road in between Albion Street and Acorn Street are a number of retail uses some with residential above. This section of Walsall Road has double yellow lines.

One the opposite side of Acorn Street are flats known as Acorn Mews, three storey development with a parking area fronting Acorn Street.

The area is mixed commercial, industrial and residential in nature.

The site is located some 600m away from Willenhall District Centre.

## **Relevant Planning History**

### **Former Peter Rushton Limited, Albion Street**

Change of use from Storage/Distribution to workshop, garage service and repair centre.  
GSC January 2020

## **Relevant Policies**

### **National Planning Policy Framework (NPPF)**

[www.gov.uk/guidance/national-planning-policy-framework](https://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**

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](http://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
- ENV25: Archaeology
- ENV28: The 'Local List' of Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV38: Telecommunications Equipment
- ENV40: Conservation, Protection and Use of Water Resources
- JP8: Bad Neighbour Industrial Uses
- 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**

- Vision, Sustainability Principles and Spatial Objectives
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- HOU4: Accommodation for Gypsies, Travellers and Travelling Showpeople
- HOU5: Education and Health Care Facilities
- EMP3: Local Quality Employment Areas
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- 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

EN3: Flood Risk

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**

DW1 Sustainability

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



- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

### **Open space, sport and recreation**

#### OS1: Qualifying Development

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

### **Affordable Housing**

#### AH1: Quality of Affordable Housing

- AH2: Tenure Type and Size
- AH3: Abnormal Development Costs
- AH4: Provision Location
- AH5: Off Site Provision

### **Air Quality SPD**

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

## **Consultation Replies**

Coal Authority – No objection subject to planning condition relating to former coal mining activity.

Environment Agency – no objection subject to planning conditions relating to flooding, surface water and contamination.

Fire Officer – No objection subject to adequate water supplies and access for fire appliances.

Flood Risk Officer – No objection subject to a planning condition to ensure development is carried out in accordance with the approved flood risk assessment and drainage strategy.

Housing Officer – No objection, however the proposal requires a commuted sum towards affordable housing.

Pollution Control – No objection subject to planning conditions relating to contamination, air quality, construction management.

Police- No objection subject to Secure by Design.

Severn Trent Water – No objection subject to drainage condition for foul and surface water drainage.

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

## Representations

Nine letters from five neighbouring residents have been received objecting to the proposal on the following grounds: (officer comments in italics)

- Local services schools, GP surgeries etc at a stretch
- Other site better suited to flats
- Flats not in character
- Flats not required in Willenhall
- High turn over of occupancy with 1 bed flats
- Impact upon neighbouring amenity: noise, dust debris, bin store near neighbours and result in smells,
- Crime: increase crime, existing crime and anti-social behaviour, other flatted development in area subject to crime, and illegal activities, bike store will attract anti-social behaviour, Councillors given previous information on crime in Willenhall, attract unwanted criminals to the area
- Litter by people and Council unwilling to pick it up- *this is a matter for Street Pride, there is no evidence that the occupiers of the flats would exacerbate any existing litter issues.*
- Access and parking issues: increase in traffic, parking on double yellow lines, obstruct neighbouring driveways, double yellow lines in vicinity, increase of on street parking, contrary to policy T13, existing congestion, existing parking on double yellow lines, safety risk for pedestrians, Council unwilling to action parking on yellow lines, not enough parking, no visitor spaces
- devalue of property – *not a material planning consideration.*

## Determining Issues

- Principle of development
- Layout, appearance and scale
- Impact upon neighbouring residential and commercial occupiers
- Land contamination, mining and flooding
- Access and parking
- Planning obligations
- Local finance considerations

## Assessment of the Proposal

### Principle of development

There is no site-specific allocation in the existing UDP. However, Walsall's Site Allocation Document (SAD) indicates the site as forming part of a larger area (site IN77.1) to be considered for release from local industry under Policy IND4 and the provisions of BCCS policy DEL2. Redevelopment for housing will be acceptable in principle provided any remaining industry can be relocated to suitable alternative premises; there are no physical constraints that would make the site unsuitable, and other relevant requirements of Walsall's Local Plan are satisfied, notably the need to ensure that any alternative use does not constrain any existing industry.

### Layout, Appearance and Scale

The appearance and design of the proposed flats has been amended following negotiations with officers and is considered acceptable. The design provides character through the use of different materials along the frontages and proposed balconies which adds rhythm and depth together with the use of different roof heights and roof types which help break the massing of the proposed building. The proposal provides active frontages along Acorn Street and ground floor amenity areas to provide privacy and amenity to the occupiers to protect them from the parking area. The proposed scale of the development of two storey and three storey development would enhance the character and appearance of the street scene and is in keeping with the scale of surrounding premises. On this basis, the layout appearance and scale are considered acceptable.

The layout of the proposed scheme respects the relationship between amenity space and parking areas. The development respects the building lines along Acorn Street.

The Police architectural liaison officer has commented that the design is a good development. The flats provide surveillance of the front and rear of the site including the amenity space, bin storage, cycle and parking areas. Despite neighbour concerns about crime and anti-social behaviour the Police have no objection to the proposal provided extra measures are incorporated to reduce the threat of crime upon the development by including Secure by Design. There is no evidence to suggest that the proposed flats would exacerbate any existing issues regarding crime or anti-social behaviour in the area. The issue regarding the type of residents to reside in these proposed flats is a matter for the applicant and not a material planning consideration.

The noise report submitted identifies that the site is not affected by significant noise and standard thermal glazing can suffice to protect the amenities of proposed occupiers. Planning permission has recently been granted for a garage on the site to the north of the application, it is considered that the garage would not unduly harm the amenities of these proposed occupiers, as repair works to vehicles will be carried out within the existing buildings on site.

## **Impact upon neighbouring residential and commercial occupiers**

To protect the amenities of neighbouring occupiers a construction management plan will be sought by planning condition to seek details of how dust and debris will be mitigated. With regards to noise, any noise during construction works will be short lived and any significant issues with noises can be dealt with through Environmental Health Legislation.

The bins will be located towards the Albion Street frontage within the rear parking area. It is considered that the bin is placed a significant distance away from the neighbouring occupiers on the opposite side of the road and as such would not unduly harm the amenities of the neighbouring occupiers on the opposite side of Albion Street.

The proposed flats would not unduly harm the amenities of the neighbouring occupiers on both Albion Street or Acorn Street in terms of overlooking and loss of privacy as the views towards these properties would be across a road with interrupted views.

The rear of the Oak public house located at the junction of Walsall Road and Acorn Street has rear habitable room windows, the separation distance between these windows and the proposed development is 6m. It is considered whilst, the proposal does not meet the Council's 13m separation distance between habitable rooms and blank walls exceeding 3m high, it is considered on balance, the proposal is set off the boundary and ambient light would still be available and as such the proposal would not significantly harm the amenities of these neighbouring occupiers.

The applicant would need to consider entering into negotiations with nearby hot food premises and as the proposed scheme is bringing sensitive receptors to the area. From Web based mapping systems, it is noted that there are some businesses with hot food extraction points that back onto the development site, which currently do not meet DEFRA recommendations for hot food odour dispersal, due to height and having cowls on their efflux points. It should be noted that DEFRA recommendations for flue systems are that the flue discharge points should be at least one metre higher than any building within twenty metres and unimpeded, although the height requirements are negotiable provided a high-efficiency odour abatement system is installed. To ensure future residents will not be affected by odour from such businesses, the applicant will need to enter into negotiations with the businesses to improve their odour abatement and dispersal systems.

## **Land contamination, mining and flooding**

The contaminated land report identifies the need for intrusive investigations due to possible made ground and ground-gas, and there maybe issues on foundation design, as such Pollution Control have recommended suitable conditions to address such matters. A pre-demolition site survey will need to be carried out to identify any potentially hazardous material (e.g. asbestos) together with the production of a demolition method statement detailing actions to be taken to prevent localised contamination, which will be secured by planning conditions.

The Coal Authority have confirmed that intrusive site investigation works, including ground gas monitoring should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. They also advise should site investigations/gas monitoring confirm the need for remedial works/mitigation to treat the

areas of shallow mine workings/abate mine gas to ensure the safety and stability of the proposed development, these will need to be undertaken prior to commencement of development.

The site is located on alluvium, which consists of clay, silt, sand and gravel. The bedrock beneath these superficial deposits consists of sandstone of the Pennine Lower Coal Measure formation. Both the superficial and bedrock formations are designated as secondary aquifers. These are permeable strata capable of supporting water supplies at a local rather than strategic scale and in some cases forming an important source of base flow to rivers.

The site is in flood zones 2 and 3 from the river Tame. Recent modelling has been carried out on the Main River and Willenhall Brook watercourses locally and although the Environment Agency's mapping has not been amended as of yet, the indication is that the current FZ 2 and 3 will be removed or greatly reduced in this area. There may still be some risk from the culverted watercourse that runs east down, the proposals for floor levels are satisfactory from a surface water flooding viewpoint. The Flood Risk Officer has no objection to the proposal subject to the proposal being carried out in accordance with the flood risk assessment and drainage strategy to limit surface water runoff, which will be secured by planning condition.

The Environment Agency have stated that the proposal could be supported subject to planning conditions, as without the conditions, the proposed development on this site poses an unacceptable risk to the environment and as such the EA would object to the application.

### **Access and parking**

The proposal requires 36 parking spaces including disabled spaces to fully accord with UDP policy T13. The proposal is providing 30 spaces, which is acceptable, taking into account the site is relatively sustainable being about 600m from the edge of the District Centre and close to frequent bus services. The 2011 census shows that in this part of Willenhall South Ward only about 47% of households have access to car with 32% not having a car at all. The proposed provision of just over 100% is considered acceptable. Neighbouring occupiers have objected to the proposal on the grounds that there are no visitors' spaces and the proposal would increase traffic in the area. There is no evidence to suggest the proposal will increase traffic and the level of parking is acceptable to the Transportation officer who considers it will not cause significant harm to the surrounding road network.

Neighbouring occupiers have also raised concerns over on street parking and parking on double yellow lines. The proposal has sufficient parking to serve the development and the enforcement of unauthorised parking is a matter for the Civil Enforcement team to pursue. The development will also have the benefit of removing a level of unrestricted commercial vehicles from both Albion Street and Acorn Street.

The Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with the NPPF in this respect.

The Fire Officer has no objection to the proposal subject to adequate water supplies and fire appliance access; these matters can be resolved at Building Regulations stage.

Although an air quality assessment is not required for this proposal, to comply with the Air Quality Supplementary Planning Document, a requirement to include at least three electric-vehicle charging points at the site will be sought by planning condition.

### **Planning obligations**

The proposal for 22 residential units triggers the need to make provision for public open space. This equates to a commuted sum of £25,562.00 towards public open space to be payable under policies GP3 and LC1 of the UDP and the Public Open Space SPD.

The proposal for 22 flats also triggers the need to make provision for affordable housing in the form of a commuted sum of £173,593.75 towards affordable housing to be payable under Policy H4 and the Affordable Housing SPD.

The applicant has submitted a financial viability statement. This has been reviewed by the District Valuer whose report concludes the scheme is unviable and cannot support any amount of Affordable Housing provision nor the payment of any Section 106 Contributions towards public open space.

The proposal is below the threshold to secure commuted sums towards education and health care. There is no evidence to suggest that the proposal would put undue pressure on local services.

In the circumstances officers recommend that the proposals be approved without such provisions.

### **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 22 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 and the design of the proposed scheme are acceptable. The proposal would not unduly harm the amenities of existing or proposed occupiers. The proposal provides adequate parking to meet the needs of the development.

The proposal complies with the policies as set out in the policy section of this report.

PAGE 89 OF 211

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**

Amended plans have been sought to address officer's concerns.

### **Recommendation**

Planning Committee resolve to Delegate to the Interim Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:  
The amendment and finalising of conditions

### **Conditions and Reasons**

1. Prior to the commencement of development hereby permitted approval of the details of the following reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced:

1. Landscaping

Reason: Pursuant to Town & Country Planning (Development Management Procedure) Order 2015.

2a. Application for the approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

2b. The development hereby permitted shall be begun not later than the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

- Plans second floor and attic floor 10565/ 11/C submitted 16-04-2019
- Plans ground floor and first floor 10565/10/C submitted 16-04-2019
- Proposed elevations 10565-20 REV C 190415 submitted 16-04-2019
- Top view 10565-22 REV-B 190415 submitted 16-04-2019
- Perspective View 10565-31 REV-B 190415 submitted 16-04-2019
- Perspective Views 10565-30 REV-B 190415 submitted 16-04-2019
- Proposed elevations 10565-21 REV-B 190415 submitted 16-04-2019
- Location plan, block plan, site sections 10565/05/C submitted 18-03-2019

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).

PAGE 90 OF 211

4a. Prior to commencement of the development hereby permitted:

- i. Details of intrusive site investigations for past coal mining activity shall be submitted in writing to and approved in writing by the Local Planning Authority
- ii. the approved details of intrusive site investigations shall be undertaken and a report of findings arising from the intrusive site investigations including the results of any monitoring shall be submitted in writing to the Local Planning Authority
- iii. details of remedial works shall be submitted to and approved in writing by the Local Planning Authority

4b. Prior to the carrying out of building operations of the development hereby permitted the approved details of remedial works shall be carried out

4c. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To ensure the safety and stability of the development, to safeguard the amenities of occupants and to comply with NPPF Paragraph 109 and saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

5i. Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

5ii. Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of identified and/or potential hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

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

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

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



5vi. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site, to protect human health and the environment in accordance with Policy ENV10 of the UDP.

6a. Prior to commencement of the development hereby permitted a remediation strategy that includes a preliminary risk assessment, all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors and potentially unacceptable risks arising from contamination at the site shall be submitted to and approved, in writing by the local planning authority.

6b. A site investigation scheme, based on condition 6a to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site shall be submitted to and approved, in writing by the local planning authority.

6c. The results of the site investigation and the detailed risk assessment referred to in 6b an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken shall be submitted to and approved, in writing by the local planning authority.

6d. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in 6c are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

6e. Prior to the carrying out of building operations of the development hereby permitted the approved details of remedial works shall be carried out.

6f. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To prevent both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels water pollution in accordance with Policies ENV10 and ENV40 of the UDP.

7a. 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 (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)

7b. 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.

8a. 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.

8b. 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.

8c. 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.

9a. Prior to commencement of the development hereby permitted an air quality assessment shall be submitted in writing to and approved in writing by the Local Planning Authority. The assessment shall include details of recommendations for mitigation measures.

9b. Prior to occupation the approved mitigation measures shall be carried out to the satisfaction of the Local Planning Authority.

9c. 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 reduce potential negative health impact upon future occupants in compliance with the saved policy ENV10 of Walsall's Unitary Development Plan.

10a. Prior to the commencement of building operations above damp proof course, full details cycle shelter facilities for the use of residents and visitors which shall be covered and illuminated be submitted to in writing and approved in writing by the local planning authority.

10b. The development shall not be carried out otherwise than in accordance with the approved details and available to use prior to occupancy and shall thereafter be retained as installed for the lifetime of the development.

10c. The cycle shelter facilities shall be used for no other purpose.

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

11a. Prior to the commencement of building operations above damp proof course 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.

11b. Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

11c. 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.

12a. Prior to the commencement of building operations above damp proof course permitted the following details, shall be submitted to in writing and approved in writing by the local planning authority.

- i. a vehicle footway crossing to align with the new car park access point in Albion Street, to be installed in accordance with the Council's footway crossing specification SD11/8 dated January 2008,

- ii. the two existing vehicle footway crossings in Acorn Street to be made redundant as a result of the development shall be reinstated back to full kerb height.

12b. The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained as installed for the lifetime of the development.

12c. All works shall be to the satisfaction of the local planning authority and in accordance with all statutory requirements.

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

13a. Prior to commencement of the development hereby permitted, a written statement shall be submitted to and approved in writing by the local planning authority to demonstrate that discussions have been held with commercial hot food premises located within 20 metres of the proposed building, ensuring their odour extraction systems are of sufficient height and design to ensure future occupants will not be significantly affected by odours.

13b. Details of any agreements to improve the odour extraction systems with the commercial hot food premises shall be submitted to the local planning authority.

Reason: To ensure existing businesses are not penalised for the introduction of new sensitive receptors in accordance with Policies ENV10 and ENV32 of the UDP.

14a. 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.

14b. 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.

14c. 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.

15a. 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.

15b. 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.

---

16a. Prior to the development first coming into use, the car park and access ways shall be fully consolidated, hard surfaced and drained, so that surface water run-off from these areas does not discharge onto the highway or into any highway drain, together with the clear demarcation of all parking bays.

16b. These areas shall thereafter be retained and used for no other purpose.

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

17. The 2.4m x 43m visibility splay at the car park entrance on Albion Street, shown on drawing no. 05 Revision A, shall at all times be kept free of any structure or planting exceeding 600mm in height above footway level.

Reason: To ensure adequate inter-visibility at the access point in accordance with UDP Policy GP2 and in the interests of highway safety.

18a. 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.

18b. 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.

19. Any gates at the car park access point on Albion Street shall be set back at least 5m from the carriageway kerb edge.

Reason: To allow a standard sized motor car to pull clear of the carriageway in the event of the gates being in a closed position.

20. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Flood Risk Assessment (FRA)/Drainage Strategy October 2017 / 87221-Phol-AcornSt, Final v1.0 251017 / Unda Consulting Limited and the following mitigation measures detailed within the FRA:

- i. Limiting the surface water run-off generated by the site so that it will not exceed 2l/s and not increase the risk of flooding off-site.
- ii. Provision of an appropriate calculated volume of attenuation flood storage on the site to a 100yr + 30% standard.
- iii. Finished floor levels are set no lower than 150mm above local ground level.
- iv. Finished floor levels are set no lower than < 123.05 > m above Ordnance Datum

PAGE 96 OF 211

- v. Confirm which responsible body will maintain the surface water system over the lifetime of the development according to an acceptable maintenance schedule and that is achievable.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to reduce the impact of flooding on the proposed development and future occupants and to ensure lifetime maintenance of the system to prevent flooding issues in accordance with Policy ENV40 of the UDP.

### **Notes for applicant: Highways**

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be expected to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the dropped kerb footway crossing within the public highway. For further information please contact the Traffic Management Team on 01922 654675.

### **Notes for Applicant – Contaminated Land**

#### **CL1**

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

#### **CL2**

When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 Model Procedures for the Management of Land Contamination, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 Updated technical background to the

CLEA model and Science Report – SC050021/SR2 Human health toxicological assessment of contaminants in soil or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

#### **CL3**

Validation reports will need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported 'clean cover' materials, manufacturer's

specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

### **Note to Applicant Air Quality SPD**

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

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module. Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

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

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

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



### Planning Committee

Report of Interim Head of Planning and Building Control on 23-Jul-2020

**Plans List Item Number: 6.**

**Reason for bringing to committee:** Called in to planning committee by Councillor Andrew and a departure from the development plan. This is major application and is subject to a number of representations from the public which requires the application to be referred to the Planning Committee for determination and consideration of the Officer recommendation.

**Location:** LAND AT QUESLETT ROAD EAST, STREETLY, WALSALL

**Proposal:** REMOVAL OF ALL EXISTING STRUCTURES INCLUDING BELOW GROUND TANKING, REMEDIATION, AND THE ERECTION OF 53 APARTMENTS SET WITHIN ONE 4 STOREY BUILDING AND ONE 3 STOREY BUILDING IN HEIGHT SEPARATED BY 53 PARKING SPACES TOGETHER WITH AMENITY SPACES; LANDSCAPE BUFFERING AND A REDUCTION IN HEIGHT OF THE BOUNDARY TREES.

**Application Number:** 19/1206

**Applicant:** Queslett Road Limited

**Agent:** Cerda Planning Limited

**Application Type:** Full Application: Major Use Class C3 (Dwellinghouses)

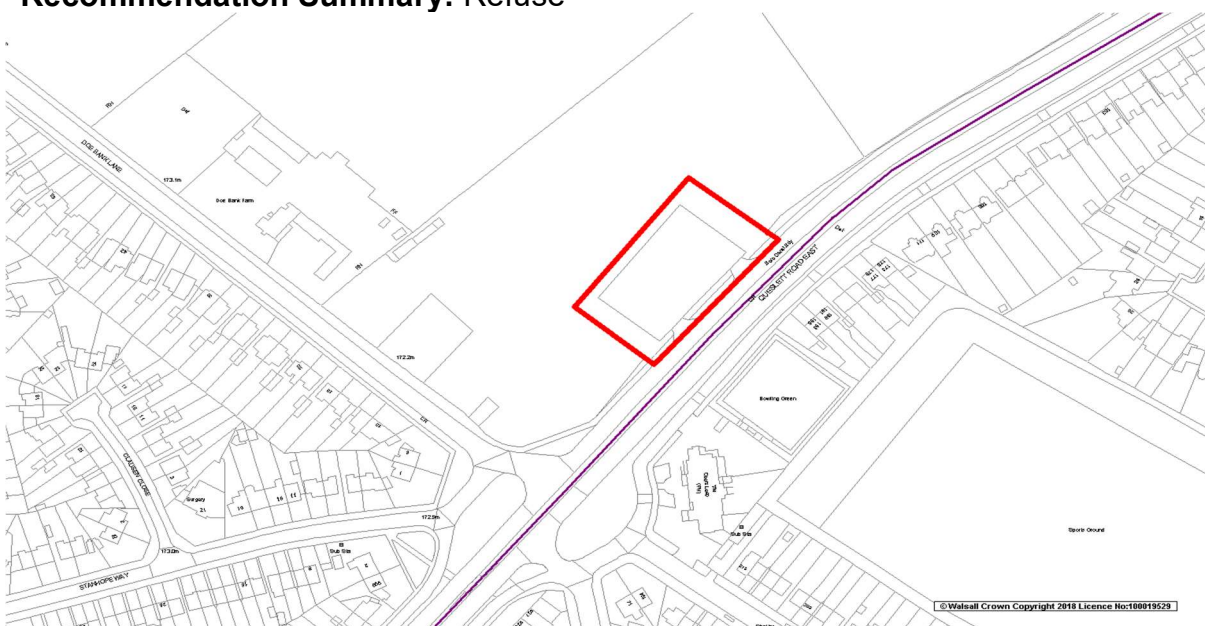
**Case Officer:** Andrew Watson

**Ward:** Streetly

**Expired Date:** 15-Jan-2020

**Time Extension Expiry:** 28-Feb-2020

**Recommendation Summary:** Refuse





## Proposal

Planning permission is sought for the erection of 53 apartments set within one 4 storey building and one 3 storey building in height separated by 53 parking spaces together with amenity spaces; landscape buffering and a reduction in height of the boundary trees following the removal of the existing structures including below ground tanking and remediation.

The site is a former petrol filling station, which had a small office and pumps has been cleared to ground level. The current proposal site extends beyond the original petrol filling station forecourt into the adjacent fields.

The proposal is for the removal of all existing structures, including below ground tanking, remediation and the construction of 53 apartments set within two blocks of 3 and 4 storeys in height served by 53 parking spaces with access from Queslett Road. The proposal also includes provision of cycle storage, refuse storage, plant room and landscaped areas, although no private amenity space for future residents

As part of the proposals the existing conifer trees on the site border are to be reduced in height.

The applicant claims the new residential development is to be aimed at the over 55's and consists of the following breakdown of accommodation per floor:

Ground Floor – 4no. units in total on the floor  
4no. 2 bed units

1st Floor – 19no. units in total on the floor  
12no. 1 bed units  
7no 2 bed units

2<sup>nd</sup> Floor – 19no. units in total on the floor  
12no. 1 bed units  
7mo. 2 bed units

3<sup>rd</sup> Floor – 11no. units in total on the floor  
9no. 1 bed units  
2no. 2 bed units

Total number of units is 53.

The proposed layout of the development consists of two residential blocks adjacent to each other in a reversed 'L' shape, with a central undercroft, which is to be used for car parking for residents along with any deliveries and landscaping. Part of the residential block, to the rear of the site is built over the car park, which is at the natural ground level. The shape of the blocks and their orientation has been influenced by the opportunity to take advantage of the view towards the expansive green field behind the development,

The applicant explains the design of the residential blocks are to have larger windows and deep reveals to introduce a contemporary aesthetic to the development.

The 4 and 3 storey block is to be faced in red brick with a shallow pitched standing seam roof whilst the 2 storey elements with the undercroft parking is to be faced in buff brick with a flat roof, which to be used for a shared amenity and roof terrace.

Each block will one entrance, which leads into a communal lobby and then access to the whole structure. All apartments will be one or two bedroom that is to be laid out over with a unit to each side of the corridor.

In respect of the access onto Queslett Road East (A4041), two bell-mouth accesses are currently shown that lead to a dual-carriageway, a left-in / left-out arrangement would be required which has been proposed within the Transport Statement produced by MJM Consulting. The first access would be the left in and the second the left out. This in and out system existed and worked for the petrol filling station.

The application is supported by the following documents: -

Design and Access Statement  
Planning Statement

#### Drainage Impact Assessment

A new attenuation tank will be provided within the car parking area to attenuate and restrict surface water low off site, with a maximum storage volume of 222m<sup>3</sup>. The new site drainage system and associated attenuation will be designed to accommodate storms with a return period up to 100 years, with an additional allowance of 40% for climate change. The proposed flow rate off site is 0.6l/sec.

Subject to the above mitigation measures the development should not be subject to significant flood risk and furthermore should not increase the flood risk to the surrounding area.

Foul water will be connected directly to the adjacent Severn Trent foul sewer.

#### Noise Assessment

The existing noise climate is dominated by vehicle traffic on the surrounding highway network. Noise can be successfully mitigated by the specification on enhanced and standard double glazing. Dwelling background ventilation can be supplied by way of attenuated wall vents or trickle vents.

Due to the anticipated increase in traffic as result of the proposed development, traffic impacts upon the existing receiver will represent a worse case increase of between 0.1dB.

#### Ground Investigation Report

The site comprises an area of vacant land most recently by a now demolished petrol filling station. Site observation suggest that fuel storage tanks are located beneath the south eastern section of the site and are likely to have been concrete filled.

Low concrete block walls have been constructed around the four former pump islands and tank filling point and filled with apparently imported demolition material. Surplus demolition material is stockpiled in the north eastern section of the site and numerous fragments of suspected asbestos cement sheet were observed within this stockpile as within each fire concrete block structure. The client advised that these works were undertaken to facilitate the opening of a car wash site, however it is understood that this option is no longer being pursued.

The proposed development comprises a three/four storey apartment building over the north western and north eastern sections of the site, with ground level car parking across the remainder of the site and also beneath the north western section of the building.

The findings of the preliminary risk assessment:

The site was occupied by agricultural land and two small farm buildings until the end of the mid-20<sup>th</sup> century when a dairy was constructed extending on to adjacent land. The site was redeveloped in the late 1970s to comprise a petrol filling station which traded until about 2000. The petrol filling station was demolished in 2003 and the site has remained vacant since.

The fire service indicates that six underground tanks were installed beneath the site in 1977. These are reported to have been filled with water in 2001 following closure of the petrol filling station and removed in 2003. However, site observations suggest that the tanks may not have been removed, but may have been filled with concrete.

The contaminant-pathway-receptor linkage can potentially be completed for this site with respect to human health, the development end use and groundwater receptors as a result of on-site and off-site sources of contamination.

#### Preliminary Risk Assessment

The site is generally a low risk to human health from contamination caused by off-site activities and a low to moderate risk to ground water

#### Travel Plan prepared by MJM Consulting Engineers

The Travel plan appraises the current accessibility of the development site, describing the opportunities for sustainable travel for future residents consideration is then given to how these options can be promoted to residents, in order to encourage and facilitate sustainable travel behaviour, thereby reducing any potential detrimental impact from the development on the local transport network in terms of congestion, air pollution or road safety.

#### Transport Statement prepared by MJM Consulting Engineers

Demonstrates how the development is aligned with current national and local planning policy. Although the former use remains undeveloped and is not in-keeping with the surrounding residential land use. The development of the site for much-needed privately owned flats for those aged over 55 years will provide a marked improvement on the existing land use.

The Transport Statement has confirmed that the likely traffic generation of 14 two-way trips in the morning and 16 two-way trips in the evening and distribution of those trips will not result in a material or severe impact in the operation of the adjacent road network which is the prevailing planning test when considering the requirements of the NPPF nor exacerbate any safety issues.

The statement and design drawings have confirmed that a new access arrangement, akin to the left-in and left-out arrangement can be used safely by residents, visitors and servicing vehicles.

In conclusion the proposed development complies wholly with the principle of sustainable development and thus the planning application should not be refused on highway grounds.

#### Tree Survey Report prepared by Encon Associates Limited

The report concludes that there are 7 individual trees and 4 groups containing 51 trees, i.e. 58 trees in total and within proximity of the application boundary, which have been assessed.

There are no trees on the site protected by a Tree Preservation Order but the site is situated within the Great Barr Conservation Area and therefore all trees have a protected status.

Of the 58 trees surveyed, 2 are required to be removed to enable the construction for the development.

Replacement tree planting is recommended and has been included within the separate Landscape Design Drawing.

#### Ecological Appraisal prepared by Encon Associates Limited

The site comprises a former service station where the buildings have been demolished leaving small areas of scrub and grassland habitats. The habitats on the site are not considered of ecological value outside of the zone of influence of the development, but could be used by nesting birds to be present on site, which could be harmed as a result of the proposals.

Measures to mitigate the risk to nesting birds are also recommended.

### **Site and Surroundings**

The site is 0.2ha in area and was a former petrol filling station, although the application site goes as far as the conifer hedge to the north-west and south-west and includes part of the adjacent field, which is beyond the area used for the forecourt. The topography of the former petrol filling station is flat following the demolition of the previous petrol station kiosk and pumps, although the forecourt and below ground tanking remains. All of the above ground structures have been removed and cleared away. The petrol station had two vehicular accesses, one in and one out. The site is on top of a very gradual rise on Queslett Road East, when travelling in both directions on Queslett Road.

There are also a row mature conifers trees immediately to the north-west and south-west, which are outside the applicants ownership help to screen the petrol station from the south and west.

The site is situated to the west of Queslett Road East, Streetly, which is part of the A4041 and runs south-west towards West Bromwich. It is a dual carriageway with a grass verge central reservation and is subject to a 40mph speed restriction.

Whilst Streetly is primarily a residential area, this location is defined by fields and the forecourt of the former petrol filling station. Across the dual carriageway and some minor roadways, approximately 210metres walk from the site are from key amenities such as a Post Office, pharmacy and small convenience shop. The public house is approximately 300 metres walk from the site, across the dual carriageway and some minor roadways, with nearby school and nurseries, approximately 1,000m (0.6miles) to The Streetly Academy and 800m (0.6miles) to the east. There are a row of two storey semi-detached residential properties on the opposite side of Queslett Road East along with open fields to the north and west with further housing to the south.

The site is situated within the designated Green Belt and Great Barr Conservation Area.

The site is located within Flood Zone 1, which is not at a high risk of flooding.

### **Relevant Planning History**

None since the petrol station has been closed and buildings demolished above ground.

### **Relevant Policies**

#### **National Planning Policy Framework (NPPF)**

[www.gov.uk/guidance/national-planning-policy-framework](http://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 8 – Promoting healthy and safe communities**
- **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. 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.

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- 3.2 to 3.5 The Countryside and Green Belt
- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV7: Countryside Character
- ENV9: Environmental Improvement Initiatives
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV25: Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV29: Conservation Areas
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- H4: Affordable Housing
- H10: Layout, Design and Dwelling Mix
- 7.4 Strategic Policy Statement
- T1 - Helping People to Get Around
- 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
- LC8: Local Community Facilities

### **Black Country Core Strategy**

- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- CSP5: Transport Strategy
- HOU1: Delivering Sustainable Housing Growth

- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality

### **Walsall Site Allocation Document 2019**

RC1: The Regeneration Corridors

HC1: Land allocated for New Housing Development

HC2: Development of Other Land for Housing

HC3: Affordable Housing and Housing for People with Special Needs

OS1: Open Space, Sport and Recreation

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

EN5: Development in Conservation Areas

T2: Bus Services

T4: The Highway Network

T5: Highway Improvements

### **Supplementary Planning Document**

#### **Designing Walsall**

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

#### **Open space, sport and recreation**

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value



- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

### **Affordable Housing**

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

### **Air Quality SPD**

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

## **Consultation Replies**

### **Highway Authority – Objects for the following reasons:**

A swept path analysis (MJM-00-B2-DR-C-1450) has been carried out but on a different layout to that shown on 190007-PL-05-Rev.A. The correct layout needs to be tracked and that swept path submitted for a refuge truck to enter and leave the site.

Two bell-mouth accesses are currently shown but as this is a dual-carriageway we would prefer a left-in / left-out arrangement which has been proposed within the Transport Statement produced by MJM Consulting. The first access would be the left in and the second the left out. Both accesses need to be *physically shaped* so that it is physically impossible to carry out the wrong manoeuvre.

The Developer will need to enter into a section 278 agreement with the Local Highway Authority to carry out some off-site highway works that are required as a product of this development. The Pheasey Post Office and other shops are accessed via a pelican crossing across the Queslett Road. The route from the Development to the shops requires upgrading in the form of tactile crossings. Some of the footways will require reconstruction which can be done as part of the access works.

The 'call ahead' gate system is unacceptable. In the event of a power failure vehicles would be stranded and potentially overhang into the dual carriageway. How long will the gates take to open and from what range can the gates be opened? There is also no off-highway stacking available and what happens when a delivery vehicle or the refuse wagon arrives? Gates are not practicable and certainly not in this instance. A further complication is the proximity of Doe Bank Lane to the first access.

**Pollution Control** – Satisfied that the Air & Acoustic assessment accurately characterises the acoustic climate at the site it is marked as draft and it does not assess the proposal in

the context of '*Planning & Noise Professional Practice Guidance on Planning & Noise New Residential Development*'. The applicant will need to assess the proposal in this regard before Pollution Control can offer further recommendations regarding noise.

Concerning air quality and the Black Country Air Quality Supplementary Planning Document (SPD), Pollution Control is of the opinion that this is a type 1 application. The applicant will therefore need to install electric vehicle charging points and low NOx boilers in the development.

Whilst Pollution Control is satisfied with the contaminated land investigation and its findings, following removal of the underground storage tanks and fuel lines, the applicant will need to carry out further survey work at locations that cannot be currently explored. In addition, to date, Pollution Control has not received the supplement to the report detailed above. The applicant will also need to provide a remediation statement for dealing with both the imported demolition material and any unforeseen contamination encountered.

**West Midlands Fire Service** – No objections and recommends an informative note.

**Lead Local Flood Authority** – The proposed development will only be acceptable if the following measures as detailed in the Drainage Impact Assessment submitted with this application and subsequent correspondence are incorporated in an acceptable surface water drainage scheme, to be secured by way of a planning condition on any planning permission.

**Archaeology (City of Wolverhampton)** – Recommend that while there have been previous buildings on this site, there is a potential for unknown archaeological remains of a range of periods to survive within the site boundaries. The presence of archaeology wouldn't form a major constraint on development, however a programme of archaeological work to identify, and mitigate if necessary, any remains present should be requested as a condition of planning consent (should consent be granted).

The Walsall Historic Environment Record records little in the immediate vicinity, and likewise the Birmingham Historic Environment Record across the border. There was an early 19th century farmstead immediately to the southwest, possibly contemporary with Doe Bank Farm (Grade II listed building).

However, in a broader context, the housing estates to the southwest, southeast, and northeast are early to mid-20th century, and were built before archaeological work as part of development was a requirement. Absence of evidence, therefore, is not necessarily evidence of absence. Certainly beyond the urban areas, in Sutton Park to the east and Barr Beacon to the west, there is a huge amount and diversity of archaeological sites. These include the Roman road Ryknield Street (700m to the east), and the potentially Anglo-Saxon Pinfold Lane quarry to the west. There is also well documented prehistoric, medieval and post-medieval activity in the wider area.

The previous dairy building did not extend throughout the whole of the site boundary, and there are therefore areas (specifically on the north-eastern boundary) where truncation relating to this activity may be limited.

This conclusion may change depending on the results of any archaeological desk-based assessment that gets submitted as part of this planning application.

**Public Health** – As this is a major development we would request that a Health Impact Assessment be undertaken by the applicant. Public Health can be contacted to advice on this process and some documentation already submitted may already contribute to this.

**Severn Trent Water** – No objections subject to a condition to cover the submission of drainage plans for the disposal of foul and surface water flows and the scheme shall be implemented before the commencement of development.

Severn Trent also advise that there may be a public sewer located within the application site.

**Strategic Planning Policy** – Recommend refusal on the grounds that the proposal represents inappropriate development in the Green Belt and is poor design that does not reflect its context because of its massing and height. It would therefore be contrary to national and local policy.

**Housing Strategy** – Need to seek an off-site contribution. Registered Providers have indicated in the past that they are not prepared to take leasehold units within a freehold block. Therefore a commuted sum will be sought to provide affordable housing elsewhere in the borough. The commuted sum is **£490,250**, calculated as 53 units x 25% affordable housing requirement x by £37,000 theoretical subsidy requirement per unit.

**Environment Agency** – No objections.

This site is therefore considered to be reasonably sensitive with respect to controlled waters receptors.

The information submitted identifies that the site has been occupied by a petrol filling station. Within the above referenced report it is noted that the underground fuel storage tanks are likely to be still in situ, potentially in-filled with concrete. Further details have not been provided as to the number of tanks, condition and potential contamination risk associated with them.

A limited site investigation scheme has been conducted, including installation of some boreholes, excavation of trial pits, and sampling and analysis of soil samples against a contamination suite. Groundwater was not identified during this investigation and therefore no assessment of impact to groundwater at this site has been carried out. It should be noted that groundwater is expected to be at between 15 and 20m below ground level within the sandstone formation in this location. The site investigation works are noted to be limited at this stage.

As a minimum for any remediation works at this site, we would expect the underground fuel storage tanks to be excavated as well the various fuel storage infrastructures such as pipe works. Furthermore, soil sampling from the excavation extents will be necessary, following removal of the existing fuel infrastructure, including any hydrocarbon impacted soil encountered.

We would expect an assessment of the risk associated with any contamination identified following the removal of this fuel infrastructure, followed by a risk assessment, options appraisal and remediation strategy given details of any remediation proposed to be submitted to us for review. Following this, verification of the site remediation works will be required.

Given the sensitive setting with respect to controlled waters receptors, we would recommend that the following conditions are included on any planning permission granted.

Planning permission could be granted to the proposed development as submitted if planning condition to cover further site investigation works is included. Without this condition, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

**Historic England** - Do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

**Campaign to Protect Rural England** – Does not believe permission should be granted because the proposal does not meet the criteria for releasing land from the Green Belt and, if granted, would have significant visual impact and be out of keeping with its setting on the edge of the countryside.

The previous development, a petrol station, has a smaller footprint than the proposed site and would likely have been a single storey building unlike the proposed modern blocks of three and four-storeys - with no other building nearby of similar proportions, the development would have a significant impact on the openness of the Green Belt.

Green Belt Policy, Paragraph 79 of the Updated Planning Statement (24.09.19) contends that the site should be treated as if the filling station was still there because its removal was a planning breach. The site should be considered in relation to (d) of Para 145 of the NPPF: ***‘the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces’***.

The planning statement considers it under Para 145 (g), as redevelopment of previously development land, in which case, to be appropriate it needs to:

- *not have a greater impact on the openness of the Green Belt than the existing development; or*
- *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*

The Planning Statement (Para 84) concludes that the new development *‘will have a materially greater impact on the openness of the Green Belt’*.

Thus, the development needs to meet a local affordable housing need, which it is not.

CPRE Staffordshire object to the application as it stands - the height of the building presents an unacceptable impact on open countryside and adversely impacts on the landscape benefits of the Green Belt (as considered in Para 141 of the NPPF) so should be refused.

## **Representations**

43 letters of representation have been received from local residents including Friends of the Earth, making the following comments: -

### **Green Belt Issues:**

- Under paragraph 145 part d the replacement of the building with new building is in the same use and not materially larger than the one it replaces. This development does not meet that requirement.
- The development will have a materially greater impact on the openness of the Green Belt and therefore fails the first of the two tests set out in para 145 g of the NPPF. It will have a greater footprint than the existing hardstanding.
- It also fails to meet the second test set out in para 145 g because the substantial harm cannot be offset.
- There are no 'Very Special Circumstances'.
- The substantial harm the development would cause is not outweighed by an affordable housing need.
- The site is slightly removed from the urban boundary and is wholly within the Green Belt which is protected.
- The development is too big for the Green Belt.
- The site is a brown field site given it had premises on it before.
- The development will have an impact on the Green Belt with an increase in height over the former petrol station.
- The effect on the Green Belt will be substantial due to the height of what is proposed.
- The Green Belt needs to be kept.
- It will spoil the Green Belt.
- The petrol station covered a smaller area of the site than the proposed housing.
- The site is slightly removed from the urban boundary.

### **Design Issues:**

- Object on the grounds of the height and style of the block flats. It would be totally out of keeping with buildings in the area.
- Object to the modern design of the flats.
- The apartments will be twice the height of the surrounding properties.
- The development is too high and will be an eye soar for the neighbouring properties.
- Due to the topography the development will be highly visible and it will have a negative impact on the area.
- The block is ugly and far too tall. Far fewer residential units in a much smaller building may well serve to improve amenity.
- The design should be more sympathetic to Doe Bank Farm.
- It looks like an office block or inner city college building.

- The need for housing is understood but a smaller lower rise development that is more aesthetically pleasing and closer to the Queslett Public House would be more appropriate.
- The development will not have a minimal impact on the countryside. This is incorrect as it will have a significant impact.
- There are large windows in the elevations of the building, which overlook the existing development.
- The development will overshadow, be overbearing and overlooking.
- The proposed development is not in keeping with the existing surroundings.
- The application is totally out of character with the area.
- Impact from overlooking.
- The adjacent development consist of two storey housing and a two storey public house.
- Any development should be restricted to a maximum of 3 storeys in height.

#### Highways Issues:

- There is only one parking space per apartment and what happens if there are more than one car?
- 53 Flats need 53 parking spaces.
- Currently suffer from parking problems from use of the pub, school drop off and pick up.
- It will not be possible to park on the dual carriageway and visitors will park on Dow Bank Lane, Cooksey Lane, Brockwell Road and Stanhope Road.
- The area is also a bus route.
- The area is an accident black spot.
- Since the garage has closed the whole section of the road had become much safer.
- The construction phase would attract heavy vehicular traffic with lorries waiting to enter the site.
- Two nearby side roads are bus routes and parking will impinge on road safety.
- It is difficult to exit Doe Bank Lane on to Queslett Road and the number large vehicles in short distance will make it worse.
- Any parking on Queslett Road would also lead to safety problems.
- The previous petrol station caused a number of incidents on the road.
- There are now more vehicles on the road and travel at much higher speeds.
- The road has changed from a lane to a very major road that is used by huge lorries and a lot of cars.
- It is difficult for people including school children and elderly residents to cross the road safely.
- There is no provision for visitor parking.
- The impact of highway safety as Queslett Road has very fast traffic.
- The entrance and exit will be directly off a busy dual carriageway.
- Access across the dual carriageway via the central reservation was stopped and closed to reduce accidents.
- Queslett Road is a pedestrian route for many young children/students attending local schools.
- Some local roads are too narrow for two vehicles to pass.
- Queslett Road cannot handle more traffic.
- Additional parking must be provided for residents and vehicles.

#### Landscape Issues:

- The plans also show the trees within the neighbouring land will be cut down to allow light into the development but the landowner has not given permission.
- Not happy about trees being cut down.
- Reducing the height of the trees is not acceptable to maintain the Green Belt aesthetics, they should be left.
- The trees are not within the ownership of the applicant and do not agree to them being cut down.

#### Wildlife Issues:

- It will spoil the surrounding area and nature.
- Wildlife can be found in the surrounding area this will be disturbed and their habitat destroyed.
- Impact on all wildlife.

#### Other Issues:

- There is no guarantee of any affordable housing provision.
- The site is not viable to provide 25% affordable housing as required by the SPD.
- Disruption, noise and dust during the construction works.
- The local doctor's surgery is already overstretched with waiting lists as long as three weeks to get a routine doctor's appointment.
- Schools and doctors will require additional resources to supply additional services.
- Impact on local services such as gas, electricity, water and broadband provision.
- The agent refers to the site as being Queslett Road, Streetly, which is incorrect it should be Queslett Road East.
- The correct notification has not been served by the applicant regarding land ownership.

### **Determining Issues**

- Green Belt
- Heritage Assets
- Affordable Housing Provision
- Design and Character of the Area and impact on the amenity of future occupiers of the apartments
- Amenity of Nearby Residents.
- Highway Safety
- Pollution Control
- Trees, Wildlife and Ecology Issues
- Other Matters
- Section 106 Obligations

### **Assessment of the Proposal**

#### **Green Belt**

This site lies within the Green Belt as defined by Walsall Site Allocation Document (SAD) Policy GB1 with the land to the north, east and south being outside the Green Belt area.

The NPPF and the Development Plan both contain a presumption against inappropriate development in the Green Belt as it is by definition harmful to the Green Belt and should not be approved except in very special circumstances. NPPF (2019) Paragraph 145 (g) allows for limited infilling or the partial or complete redevelopment of previously developed land (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.

The Government attaches great importance to Green Belts and the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.

Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Para 144 of the NPPF states – *‘When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.’*

Previously developed land is defined in the NPPF as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.

An aerial photograph taken in 2000 indicates, when operating as a filling station the single storey building in-situ at that time occupied a relatively small part of the site with the remainder consisting as a concrete pad. Subsequent aerial photos indicate that the building was cleared by 2004 and the site has since remained vacant. As such, apart from the concrete pad and any underground storage tanks that may remain, there has been no existing footprint or structures on the site since the previous building was removed some 16 years ago.

Unlike the original petrol filling station, which was single storey and did not fill the site the proposed development is much more dense given it is between 3 and 4 storey maximum in height filling the majority of the site and over spilling into the adjacent land. A surface level car park known as an ‘under croft’ is to be provided with very little or no part of the ground area being used to provide any curtilage area once landscaping has been added. The roof top of the two storey building is to be used and laid out to provide a domestic curtilage area.

The existing residential development to the east, south and west mainly consists of two storey semi-detached. Consequently, it is considered the proposed development town centre block of flats will be out of character with the existing domestic scale development in the locality.



As a result the proposed development would have a greater impact on the openness of the Green Belt over the existing development. The previous petrol filling station was a small single storey building that did not completely cover all of the site as there were open areas around the structures. The redevelopment of the site would result in a much taller structure that would result in the whole site being developed.

The applicant argues in the submitted Planning Statement at paragraph 76 that for development to be appropriate on previously developed land it is necessary for the redevelopment scheme to have no materially greater impact on the Green Belt than the previous structure.

The Planning Statement goes on to argue in paragraph 77 that the proposed development would not have a greater impact on the openness of the Green Belt. This cannot be true given the difference in the size and scale between the previous development and the proposed development. The existing was a small single storey structure that did not spread across the site with large open areas around the existing building, whilst the proposed buildings are 3 to 4 storeys in a large block which would fill the site and encroach on the adjacent land. The height of the proposed building presents an unacceptable impact on open countryside and adversely impacts on the landscape benefits of the Green Belt. The impact upon the openness of the Green Belt from a much larger and taller structure resulting in substantial harm to the Green Belt.

The applicant has not submitted any 'very special circumstances' to support the proposal other than a brief statement in the Planning Statement that the development would deliver residential accommodation for older persons. It goes on to state that there are two important and interrelated issues; first the substantial and increasing need for older persons accommodation and secondly, the lack of accommodation not only to meet current demands but also future needs.

Government ministers have stated that housing need does not by itself provide very special circumstances to justify development in the Green Belt. Walsall currently has sufficient land for all forms of housing to meet the needs set out in the adopted BCCS to 2026. Any additional land requirements will be addressed through the review of the BCCS. It should be noted that, as part of the initial work on the BCCS review, a "call for sites" has been undertaken. One of the sites that has been submitted is the area surrounding the application site which has been named as "Columba Park" by the submitters. However, no decision has been made about the suitability of any of the call for site submissions. If the land owner wishes to pursue redevelopment for residential for the petrol filling station, they too should submit the site as part of the call for sites to be considered as part of the BCCS review.

In conclusion, the policies of the Development Plan and the guidance within the NPPF set out what type of development would be acceptable within the Green Belt and whether there are any very special circumstances to be considered. Even though the site is considered to be previously developed land, the current proposal for a three and four-storey building covering the majority of the site would have a much greater impact on openness than the previous small single storey structures. The site lies in a highly prominent location on top of a hill surrounded by open fields on the edge of the conservation area and within the setting of a listed building. Nearby development (which is not in the Green Belt) is almost entirely only two-storey. The proposed development is

considered to be inappropriate within the Green Belt and no very special circumstances have been put forward other than the residential accommodation is for the elderly, which the council already has sufficient land to provide this and given it does not comply with paragraph 145 (g) relates to limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would have a greater impact on the openness of the Green Belt than the existing or previous development. As such the proposed development is considered unacceptable to both Development Plan policy and guidance within the NPPF for the reason set out above.

### **Heritage Assets**

The site is within the Great Barr Conservation Area and within the setting of the Grade II Listed Building Doe Bank Lane Farmhouse and Farm buildings, which are designated heritage assets under the NPPF. Unfortunately a full Heritage Statement, which should be drafted by a suitably qualified specialist that documents the historic, evidential, communal and aesthetic value of the heritage assets and then assess the harm on these values which in turn affects their significance and any mitigation to reduce this harm has not been provided.

In considering the potential impact of new development affecting a heritage asset para. 193 of the NPPF states – *‘When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.’*

Where a proposal results in less than substantial harm para 196 of the NPPF states – *‘Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.’*

As the application lies within a conservation area and within the setting of a listed building, it is requirement that it should be supported by a Heritage Statement which documents the historic, evidential, communal and aesthetic value of the heritage assets and then assess the harm on these values which in turn affects their significance and any mitigation to reduce this harm. Based on the proposal as submitted, without the heritage statement to provide the assessment, it is considered the town centre scale residential block is likely to impact on the heritage assets. Unfortunately without a heritage statement it is not possible for this Authority to fully assess any impacts upon the nearby heritage assets as required by Paragraphs, 192 and 193 – 202 of the NPPF. Therefore, the application should be refused for this reason given it is contrary to Policies ENV2 and ENV3 of the Black Country Core Strategy, Policies EN29 and EN27 of Walsall’s Unitary Development Plan.

### **Affordable Housing Provision**

As submitted, the applicant will not be providing any affordable housing, which is a concern despite there is a need for a contribution given the size of the proposed development in order to comply with the development plan.

The scale of the project at 53 apartments is such that the proposals trigger Section 106 requirements for affordable housing and nothing has been or is to be provided. The Housing Strategy Officer is requesting a commuted sum to provide affordable housing elsewhere in the borough, an off-site contribution as generally affordable providers would not share a flatted block. The commuted sum required is £490,250.

The applicants have argued that the particular constraints on site such as the need for the removal of the existing structures, including below ground tanking remediate the ground and make good make the development unviable. Therefore on the grounds of viability it is not possible to deliver the full requirement of contribution for affordable housing. Given the fundamental objections to the proposal for green belt and heritage asset impacts, this has not been tested and would need to be tested independently should the proposal be recommended for an approval.

### **Design and Character of the Area and impact on the future occupiers of the development**

The character of this part of Queslett Road East is defined by open land. Although the garage has long-since been removed a remnant of its existence remains in the hardstanding indicating that the site has not overgrown and been greened – over, technically classing the site as brownfield although without footprint.

The site lies in a prominent location on top of a hill surrounded by open fields on the edge of the conservation area and within the setting of a listed building. Nearby development (which is not within the Green Belt) is almost entirely domestic in scale being only two-storey semi-detached units.

Even though the site is considered to be previously developed, the current proposal for a three and four-storey building covering the majority of the site would have a much greater impact on openness than the previous structures as set out earlier in the report.

The proposed development would introduce a dense town centre style development of two conjoined 3-4 storey apartment blocks positioned centrally within the site over undercroft parking and bins stores/facilities located at ground floor level. The building would be centrally positioned on the site, essentially filling the majority of the site within what is considered to be the countryside rather than within a developed area.

It would appear from the layout of the flats that not much thought has been given to crime and disorder especially for a building that would be reasonably remote. It is possible to gain access to the whole residential accommodation from any of the entrance points which leads to long internal corridors. Therefore the breaking down the internal access routes and corridors to a smaller amount of units served from their own cores should have been considered and undertaken for a building of this style and remoteness in order to protect any future occupiers. Ideally it should not be possible for someone to enter the building from one access point and gain full access to all of the floors and all apartments. This will help with making the development safe and secure given its relatively isolated location. The pedestrian access point's should be clearly visible from the street and have video call systems to each apartment, whilst also benefitting from secure by design entrance doors, apartment front doors, post boxes in each stair core, alarms and where necessary any accessible windows.

The flats are single aspect and ideally they should be dual aspect which helps with mitigating noise, solar gain issues whilst giving future occupiers the opportunity to have different views. Those flats at the frontage have a road to look at and don't have the benefit of views over the adjacent fields. They would also suffer from the majority of the road noise, whilst the ground floor flats looking into the car park would also suffer from the noise and disturbance from the car park and the servicing of the site for bin collection and deliveries.

Apartment developments require a minimum of 20sqm of amenity space per dwelling in accordance with the SPD Design for Walsall, annex D. The lack of residential amenity space within this development is clearly unacceptable as it provides no private secure external space for residents to sit out, dry washing, provide space for storage or provide some external space for private exercise. The exception of the top floor left hand unit provided with the sole private amenity area of approximately 432 square metres.

The space provided within the site consists of 2-3m wide green landscaped strips on the outer boundaries, which is also considered unsuitable for private amenity space for the occupiers of the flats. There is a 5m wide green strip of land, which is located outside the perimeter of the site on the highway verge facing onto Queslett Road East there is little other amenity green space internally for the residents of the 53 apartments proposed. Highway verge cannot be used to offset secure private amenity for the future occupiers of the flats.

Such a monolithic structure would have nothing in common in terms of its density scale with the previously cleared small filling station it would replace; be a prominent structure within the setting of the nearby listed building and be at variance in terms of its character and scale with the established mid-20<sup>th</sup> century residential developments present in Doe Bank Lane to the south or on the opposite side of Queslett Road East. The proposal would have nothing in common with the Green Belt in this location and they are contrary to Councils design policy and guidance in respect of the design and positioning of residential development and contrary to guidance contained within the NPPF in respect of overall design or size of the proposed development.

### **Amenity of Nearby Residents**

The proposal will introduce a residential development on a site that previously had a petrol filling station with no housing. The nearest existing residential development is approximately 40m plus on the opposite side of Queslett Road, with more housing on the left hand side of Doe Bank Lane, which is approximately 90m away.

There would be windows in all four elevations and to every floor whilst the existing development faces the existing roads. Given the proposed separation distances there would be no harmful overlooking of the neighbouring properties due to the existing layout and topography of the existing development.

The proposed side elevations of the proposed development would meet the Council's 45 degree guidance and separation distance between the proposed and existing development, as referred to in the Designing Walsall SPD.

The impact of this proposal on neighbours' amenity is considered to be limited in this instance.

## Highway Safety

In respect of the access/egress onto Queslett Road East (A4041), two bell-mouth accesses are currently shown. As this is a dual-carriageway, a bell mouth would be unsuitable and a left-in / left-out arrangement would be required which has been proposed within the Transport Statement produced by MJM Consulting. The first access would be the left in and the second the left out.

Whilst the submitted Transport Statement maintains the provision of 53 parking spaces, one per dwelling at the reduced size of 4.8 x 2.2m is acceptable for this development given the reasons that the development would be for over 55s. Unfortunately, this cannot be a justification in planning terms as the council cannot condition or control the development to over 55's as this would not comply with the Equality Act, plus both national and local planning policies do not have an over 55 policy for housing. The council has to assess the application as open market housing. If the developer subsequently markets the housing for over 55's this will be a matter for them alone. The applicant also assumes reduced traffic movement given the age of the residents, again this would be in breach of the Equality Act and cannot be taken into account. Consequently, the applicant would have to amend the car park layout to provide spaces that are 4.8metre by 2.4metres. The Transport Statement also argues that the proposed parking is more than that required for residential homes (1 space per 3 dwellings). This argument is wrong in that it seeks to conflate residential development for 53 open market apartments, whether marketed at the over 55s or not, with residential care home facilities which are operated differently and have different parking provisions for residents and staff. This application is for 53 flats and with the requirement of 1.5 spaces per dwelling would amount to a minimum parking provision of 80 residential parking spaces.

The proposed 'call ahead' gate system is considered to be unacceptable as a method of providing vehicular access and egress to this site. In the event of a power failure vehicles would be stranded and potentially overhang into the dual carriageway. Also additional details would be needed in respect of the time scale of gate opening and the distance in which the gates can be opened by remote control. Also need to understand who can open and close the gates for the servicing of the site.

There is also no off-highway stacking space available raising the question of what happens when a delivery vehicle, refuse wagon or other large vehicle arrives at the site and is required to wait whilst entry is being negotiated. These gates are not considered to be practicable in respect of providing access and egress to the development off a busy dual carriageway.

The application site for 53 apartments on a constrained site located within the countryside with vehicular access from a dual-carriageway (Queslett Road East (A4041)) which is subject to a speed restriction of 40mph and with two existing bell mouth accesses, in a left in and a left out formation. The development would not be complainant with the highway safety requirements for the site for the following reasons; results in an intensification of vehicle trips to and from the site and problem for delivery vehicles, refuse vehicles and other large vehicles attempting to enter the site, the proposed gated entrance and exit system is to be controlled by a call ahead system, which may result is problem for vehicles have to wait off a dual-carriageway causing a problem for the free and safe flow of traffic expected on that road. In addition, due to the nature of a dual-carriageway there is no stacking space for vehicles either exiting on to the site or off it raising further concerns

about stacking on the highway to the detriment of highway safety. The provision of 53 car parking reduced sized spaces falls below the current requirement based on UDP policy T13 1.5 spaces per unit resulting in a short fall of a minimum of 27 spaces, potentially more when the layout is amended to take account of 4.8metre by 2.4metres. As such it is highly likely that approval of the development will result in increased unnecessary reversing movements and vehicles stopped or trying to park on the dual-carriageway or even vehicles of different types parked and waiting on the dual-carriageway to enter the site, contrary to highway safety and policy TRAN2 of the Black Country Cores Strategy and policies T7, T10 and T13 of Walsall's Unitary Development Plan

### **Pollution Control**

The application is supported by a report from Air & Acoustic Consultants (Queslett Road, Walsall, Noise Assessment - 6th October 2019, Project Number 100294). Whilst the Council's Pollution Control is satisfied that this noise assessment accurately characterises the acoustic climate at the site.

In addition, the report does not assess the proposal in the context of ProPG: 'Planning & Noise Professional Practice Guidance on Planning & Noise New Residential Development', issued by the Association of Noise Consultants, Institute of Acoustics and Chartered Institute of Environmental Health in May 2017. Therefore the application fails to assess the proposal in this regard before and we unable to comment any further on recommendations regarding noise.

With regard to contaminated land, the application includes a report from DTS Raeburn Limited (Report on a ground investigation carried out at a site on Queslett Road, Birmingham, August 2019, Contract NE13234/1). In summary the report concludes that the soils, due to the low level of soil contamination, are suitable for retention beneath the proposed development and present a low risk to both short and long-term human health.

Whilst the Council's Pollution Control is satisfied with the contaminated land investigation and its findings, following removal of the underground storage tanks and fuel lines, further work is needed to carry out further survey work at locations that cannot be currently explored. In addition Pollution Control have not received the supplement to the report detailed above and therefore it is not possible to provide any advice concerning the remediation statement for dealing with both the imported demolition material and any unforeseen contamination encountered.

Consequently and notwithstanding the submitted Noise Assessment and Ground Investigation Report it is considered that the proposal should be refused because the noise assessment fails to address the proposal in the context of ProPG: 'Planning & Noise Professional Practice Guidance on Planning & Noise New Residential Development' and fails to assess the proposal in this respect and no ground investigation has been carried out concerning the fuel tanks and their removal. Pollution Control require this information before the issue can be concluded or the application be determined. As a result the proposal is considered to be unacceptable given it does not meet the requirements of Policy ENV10 of Walsall's Unitary Development Plan.

### **Trees, Wildlife and Ecology Issues**

There are unlikely to be any adverse ecological issues provided that the cypress trees around the edge are removed care will be required to avoid disturbance to breeding birds. However, issues have been raised by adjoining landowners in respect of their ownership of the land and these trees which would require clarification before this application progresses to allow the local planning authority to fully assess the impacts of the development on the trees and the wider locality. According to the application the correct Certificate has been served and the other owners have also been notified.

As a general rule of practice, any agreed removal of the cypress trees shall be carried out in a phased way and replaced with a native hedge/ standard trees to be more in keeping, both visually and ecologically with this area of countryside. A landscape scheme should also be submitted to incorporate a tree survey to BS 5837: plant species of value for wildlife.

The cypress trees will probably be required to screen a building this size from the open green belt landscape and the council will need to ascertain whether the trees are likely to survive in close proximity to the building. It is likely that given the development fills the site, there is little scope to undertake and tree planting to assist with the development assimilating into the green belt and conservation area setting.

### **Other Matters raised during the public consultation process**

The comments regarding local Doctor's surgeries being overstretched, lack of school places and the connection to services such as gas, electricity, water and broadband are noted. Whilst there is a potential for there to be an additional burden on local medical facilities, the Council does not have planning policies to secure financial contributions to upgrading local medical provision. Connections to local statutory services will be a matter for the developer and the statutory providers and not for the planning system.

The comments regarding the site address is noted and notwithstanding what has been said, the address is as set-out on the planning records and the submitted site plan helps to identify the site.

With regards to the service of the correct notification by the applicant are noted. According to the application form Certificate B has been completed and the details of the owners have been provided. If there are any landowner issues with the application, this will be a private matter between the applicant and the landowner. This may result in the development not coming forward, which is outside the scope of the Local Planning Authority.

### **Section 106 Obligations**

The development of 53 houses on a site of 0.2ha is such that the proposed development is of a size to require Section 106 requirements for affordable housing and off-site open space.

A contribution to off-site open space would be required in accordance with BCCS Policy DEL1, UDP Policies GP3 and LC1, and the Open Space SPD. Based on the proposed development and the Council's ready reckoner, the urban open space contribution would be £79,557.00.

Whilst the affordable housing contribution would be £490,250, which is being sought for an off-site contribution given that all of the 53 units are to be provided in one block. The off-site contribution would be required in accordance with BCCS Policy HOU4, UDP Policy H4, SAD Policy HC3 and the Affordable Housing SPD.

Planning obligations may only constitute a reason for granting planning permission if they meet the 3 following statutory tests to make the development acceptable in planning terms:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

These tests are set out in The Community Infrastructure Levy Regulations 2010 (as amended) Regulation 122 and National Planning Policy Framework paragraph 56.

Based on the three tests in the legislation, it is considered that an urban open space contribution and affordable housing are considered necessary to make the development acceptable in planning terms.

The agent has advised within the Planning Statement that due to the viability of the development along with delivering the project it is not possible to deliver the full requirements of the Section 106 contributions. With that in mind the applicant has provided a Viability Assessment has been provided, which has not been assessed by an independent body given the fundamental objections to the overall proposal. Should the application go forward for approval, the development would still need to be independently assessed to assess whether the development can sustain any S106 contributions.

It advises in the NPPF at paragraph 57 where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.

## **Conclusions and Reasons for Decision**

Refusal is therefore strongly recommended on the grounds that the proposal represents inappropriate development in the Green Belt and is poor design that does not reflect its context because of its massing and height. It would therefore be contrary to national and local policy.

As such the development is considered not to meet the aims and objectives of the National Planning Policy Framework, Policies ENV7, ENV10, ENV29, ENV32, T7, T10 and T13 of the Walsall UDP, Policies ENV2, ENV3 and TRAN2 of the Black Country Core Strategy,



Policy GB1 of the Site Allocations Document Designing Walsall SPD and the NPPF all of which require some form of justification to be provided but is missing from this submission.

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**

Officers have been considering the application, which has raised a considerable amount of public interest and is also it is contrary to numerous policies of the Development Plan and NPPF given it is in the Green Belt, impact on the designated heritage assets, design, highway safety and Pollution Control. A recommendation of refusal is being put forward given the proposed development is contrary to the Development Plan.

### **Recommendation**

Refuse

### **Reasons for Refusal**

1. The is located within the Green Belt, which forms part of the West Midlands Green Belt and is an important component of the Borough's environmental network, providing for the continued role of agriculture and maintaining a rural character. The National Planning Policy Framework (NPPF) at para 145 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, apart from a limited number of exceptions and part (g) sets out one of those exceptions. For instance, these can be limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development. Even though the site was considered to be previously developed land, there are no buildings currently on the site and the current proposal for a three and four-storey building covering the majority of the site would have a much greater impact on openness than the previous small single storey structure. The site lies in a highly prominent location on top of a hill surrounded by open fields on the edge of the conservation area and within the setting of a listed building. Nearby development (which is not in the Green Belt) is almost entirely only two-storey. The proposed development is considered to be inappropriate within the Green Belt with no very special circumstances have being put forward other than the elderly residential accommodation which does not comply with paragraph 145 (g) As a result the proposed development is fundamentally at odds with the NPPF on protecting the Green Belt, Policy ENV7 of Walsall's Unitary Development Plan and Policy GB1 of the Walsall's Site Allocation Document 2019.
2. The site lies in a highly prominent location on top of a hill surrounded by open fields on the edge of the conservation area and within the setting of a listed building. Nearby development (which is not within the Green Belt) is almost entirely only two-storey semi-detached units. The proposed development would introduce a dense town centre style development of two conjoined 3-4 storey apartment blocks positioned centrally within the site over undercroft parking and bins stores/facilities located at ground floor level

PAGE 124 OF 211

filling a large proportion of the site. Such a monolithic structure would have nothing in common in terms of its density scale with the previously cleared small filling station it would replace; be a prominent structure within the setting of the nearby listed building and be at variance in terms of its character and scale with the established mid-20<sup>th</sup> century residential developments present in Doe Bank Lane to the south or on the opposite side of Queslett Road East. The proposal would have nothing in common with the Green Belt location and be contrary to Councils design policy and guidance in respect of the design and positioning of residential development and contrary to guidance contained within the NPPF in respect of development of land within the Green Belt. As such the proposed development is contrary to Policy ENV32 of Walsall's Unitary Development Plan, Policy ENV2 of the Black Country Core Strategy, Designing Walsall SPD and the NPPF in relation to achieving well-designed places.

3. The site is situated within the Great Barr Conservation Area and within the setting of a Grade II Listed Building known as Doe Bank Lane Farmhouse and Farm buildings, which are classed as designated heritage assets in the NPPF without being supported by a Heritage Statement that documents the historic, evidential, communal and aesthetic values of the heritage assets, including archaeology and then assess the harm on these values which in turn affects their significance and any mitigation to reduce them. Without a heritage statement it is not possible for the Council to fully assess any impacts upon the nearby heritage assets as required by Paragraphs, 192 and 193 – 202 of the NPPF. As such the proposed development is contrary to Policies ENV2 and ENV3 of the Black Country Core Strategy, Policies EN29 and EN27 of Walsall's Unitary Development Plan and the policies in the National Planning Policy Framework 2019 on conserving and enhancing the historic environment.
4. The premises are located in within the countryside on a constrained site located within the countryside with vehicular access from a dual-carriageway (Queslett Road East (A4041)) which is subject to a speed restriction of 40mph and with two existing bell mouth accesses, in a left in and a left out formation. The development would not be complainant with the highway safety requirements for the site for the following reasons; results in an intensification of vehicle trips to and from the site and problem for delivery vehicles, refuse vehicles and other large vehicles attempting to enter the site, the proposed gated entrance and exit system is to be controlled by a call ahead system, which may result is problem for vehicles have to wait off a dual-carriageway causing a problem for the free and safe flow of traffic expected on that road. In addition, due to the nature of a dual-carriageway there is no stacking space for vehicles either exiting on to the site or off it raising further concerns about stacking on the highway to the detriment of highway safety. The provision of 53 car parking reduced sized spaces falls below the current requirement based on UDP policy T13 1.5 spaces per unit resulting in a short fall of a minimum of 27 spaces, potentially more when the layout is amended to take account of 4.8metre by 2.4metres. As such it is highly likely that approval of the development will result in increased unnecessary reversing movements and vehicles stopped or trying to park on the dual-carriageway or even vehicles of different types parked and waiting on the dual-carriageway to enter the site, contrary to highway safety and policy TRAN2 of the Black Country Core Strategy and policies T7, T10 and T13 of Walsall's Unitary Development Plan.
5. Whilst a Ground Investigation report has been provided it is considered that the proposal should be refused for the potential impact following the removal of the

underground fuel tanks and Pollution Control require this information before the issue can be concluded. As a result, the proposal is considered to be unacceptable given it does not meet the requirements of Policy ENV10 of Walsall's Unitary Development Plan.

6. Whilst a Noise Assessment has been provided it is considered that the proposal should be refused because it does not assess the proposal in the context of ProPG: 'Planning & Noise Professional Practice Guidance on Planning & Noise New Residential Development. Pollution Control require this information before the issue can be concluded. As a result, the proposal is considered to be unacceptable given it does not meet the requirements of Policy ENV10 of Walsall's Unitary Development Plan.
7. A development of 53 units on a site of 0.2ha is such of a size that requires a Section 106 Contribution for affordable housing in accordance with Black Country Core Strategy Policy HOU4; Walsall Unitary Development Plan Policies GP3 and H3; Walsall site Allocation Document HC3 and the Affordable Housing SPDs. The applicant has advised that for reasons of viability it is not possible to provide the requirement in accordance with Black Country Core Strategy Policies HOU4 and DEL1; Walsall Unitary Development Plan Policies GP3 and H3; Walsall site Allocation Document HC3 and the Affordable Housing SPD.
8. A development of 53 units on a site of 0.2ha is such of size that it requires a Section 106 Contribution towards off-site open space, which in this instance would need to be a financial contribution rather than an on-site provision. in accordance with Black Country Core Strategy Policy ENV6; Walsall Unitary Development Plan Policy LC1 and the Open Space SPD. The applicant has advised that for reasons of viability it is not possible to provide the requirement in accordance with Black Country Core Strategy Policy ENV6; Walsall Unitary Development Plan Policy LC1 and the Open Space SPD.



### Planning Committee

Report of Interim Head of Planning and Building Control on 23-Jul-2020

**Plans List Item Number: 7.**

**Reason for bringing to committee:** Major application and called in by Cllr Jeavons on the grounds of public interest.

**Location:** LAND CORNER OF ARKWRIGHT ROAD/EDISON ROAD, WALSALL

**Proposal:** ERECTION OF A THREE STOREY BLOCK OF FLATS TO ACCOMMODATE 9NO. SELF CONTAINED FLATS WITH AMENITY, BOUNDARY TREATMENT, PARKING AND ACCESS OFF ARKWRIGHT ROAD

**Application Number:** 18/1282

**Applicant:** M Josebury and Partners

**Agent:** Sueshire Services

**Application Type:** Full Application: Major Use Class C3 (Dwellinghouses)

**Case Officer:** Devinder Matharu

**Ward:** Birchills Leamore

**Expired Date:** 18-Jan-2019

**Time Extension Expiry:** 18-Aug-2020

**Recommendation Summary:** Refuse



## Current Status

The planning application was first reported to planning committee on 17 June 2019 where it was resolved to delegate to officers to negotiate an amended design to try to address the reasons officers recommended refusal of the scheme at that time. There were eight recommended reasons for refusal summarised as follows:

1. The proposed three storey development will be out of character with the existing single storey and two storey developments in the area along Edison Road and Arkwright Road. Furthermore, the positioning of the proposed three storey development would result in overlooking and loss of privacy of the rear gardens of numbers 36 Arkwright Road and 46 Edison Road.
2. The proposed three-storey development by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area. The proposed development by reason of the continuous ridgeline and uninterrupted length of elevations at 19.2m and 18m would be out of scale, have inappropriate massing, and the overall design at a visually significant location in Beechdale would be visually prominent and obtrusive in the street scene, and especially given the gradient of the site and that the site slopes upwards towards the junction with Arkwright Road.
3. The proposed amenity space fails to meet the Council's residential standards. The use of the proposed amenity area in close proximity to ground floor habitable rooms would result in overlooking and loss of privacy to these ground floor occupiers. Furthermore, the position of the proposed amenity space adjacent the bin stores and car parking area to the north of the site would be shaded for the majority of the day and unlikely that occupiers of the flats will utilise this space with no enclosure for privacy.
4. The proposal fails to provide adequate landscape for buffer treatments to the adjoining private garden areas of 36 Arkwright Road and 46 Edison Road close to areas of rear garden space where they would have a reasonable expectation of peace and quiet as well as providing ineffective space for planting along the site perimeters and frontage. The positioning and use of the bin and cycle stores would unduly harm the amenities of neighbouring residential occupiers of 36 Arkwright Road by the positioning and use of these structures.
5. The proposed car parking spaces 7 and 8 adjacent the boundaries of both 36 Arkwright Road and 46 Edison Road would result in loss of amenity by way of noise and general disturbance from the use of this parking area by the comings and goings together with car doors banging, car radios etc to these neighbouring occupiers. Furthermore, the positioning of car parking space 12 adjacent the rear ground floor habitable rooms would result in loss of amenity by way of noise and general disturbance from the use of this parking area by the comings and goings together with car doors banging, car radios etc to these proposed occupiers.
6. The proposed development fails to meet the Council's 45 degree code from the ground and first floor flats of both the three storey and two storey part of the development from habitable room windows and would result in loss of light and amenity to these proposed occupiers.

7. The proposed development fails to provide adequate car parking provision for the development and fails to provide adequate vehicle visibility from the proposed access.
8. The proposed development would result in unacceptable demand on limited public open space provision in the locality in the absence of any alternative provision to address these shortfalls.

The LPA have had ongoing negotiations with the planning agent since this was last reported to planning committee. The negotiations have gone as far as they can with numerous amended plans having been received by the LPA in order to try and find a solution to overcome the previous reasons for refusal. The scheme is being brought back to planning committee, as the amended design proposals have failed to overcome some of the previous reasons for refusal.

The scheme has been reduced from ten to nine self-contained flats with amenity, parking and access.

The following report has been updated to consider the current amended proposals.

## **Proposal**

The proposal seeks the erection of 9 flats comprising 8 no 2 bedroom self-contained flats and 1 no 1 bed room self-contained flat with amenity, boundary treatment, parking and access off Edison Road.

The proposed building is irregular in shape and fronts both Arkwright Road and Edison Road. The building would be set 1.8m off the side boundary with number 36 Arkwright Road and would be two storeys high fronting Arkwright Road for 14.4m in length. The part of the development at the junction of Arkwright Road and Edison Road would also be two storeys high and would measure approximately 9.5m in length.

Part of the development fronting Edison Road would be three storeys high measuring 9.8m in length with the remainder of the development fronting Edison Road being two storey high at a length of 7.7m. The proposed development would be set 1.4m further forward of 36 Arkwright Road.

The two storey part of the development would measure 5m to the eaves and 7.6m to the pitch, the three storey element would measure 7.6m to the eaves and 10.2m to the pitch.

The proposed building would be set back from the highway along Arkwright Road and along Edison Road

A communal amenity area of 96 square metres would be provided towards the rear of the flats adjacent 36 Arkwright Road with a small defensible space outside the ground floor bedroom windows. The bin area has been relocated adjacent the parking area.

The proposed vehicular access would be 4.2m wide and located to the western part of the site adjacent to the public footpath. A total of nine parking spaces have been provided. Pedestrian access points to the flats from Arkwright Road and Edison Road are also included. The plans do not show any disabled parking facilities.

The existing trees to the rear of the site along the boundary with 46 Edison Road and 36 Arkwright Road would be retained. The proposal would include planting within the frontage of the site and western and north western corners adjacent to the public footpath and number 46 Edison Road.

A low boundary is proposed along Edison Road and Arkwright Road frontage. A new 2m high close board fence will be erected along the public footpath to the west of the site and the existing 2m high fence along the northern boundary of the site will remain.

A coal mining risk assessment has been submitted which identifies the area of the site could be affected by previous coal mine workings.

A Design and Access Statement has been submitted which states:

- Planning permission was granted in 2007 for 11 flats
- One parking space per dwelling

## **Background**

A previous application for development of 12 flats on the site was refused in 2018, reference 18/0497. The difference between that refusal and the current scheme are:

- Number of flats reduced from 12 to 9
- Car parking spaces have been reduced to 9 accounting for the reduction in the number of flats proposed.
- The car parking area has been redesigned to relocate it to the western part of the site and set the car spaces away from the boundary with 36 Arkwright Road and 46 Edison Road.
- The bin store has been repositioned from the rear boundary with 36 Arkwright Road adjacent the existing trees along the boundary with 36 Arkwright Road and the proposed amenity area for residents.
- The amenity area has been repositioned from the north western corner of the site to the northern part of the site adjacent 36 Arkwright Road.
- The building has been set back into the site along the frontage of both Edison Road and Arkwright Road and repositioned to form a corner building.
- The building has been reduced in height from a three storey building to a part 2 storey building adjacent 36 Arkwright Road and three storey building fronting Edison Road.
- The proposal provides dual aspect to each flat.
- Balconies have been introduced on the front elevation.
- The access has been repositioned from Arkwright Road to Edison Road.

## **Site and Surroundings**

The site is an irregular shaped parcel of land fronting Edison Road and Arkwright Road. Parts of the site fronting Arkwright Road is hard surfaced. The rest of the site is overgrown and there are some trees in the middle of the site and at the northern part of the site adjacent 36 Arkwright Road. There is a lamp post at the back of pavement outside of the site on Arkwright Road. There is a telegraph pole outside of the site on the grass verge on Edison Road. A low level boundary wall fronts Edison Road.

Adjacent the western part of the site is a public footpath, part of the fence has been removed with the fence posts remaining.

Vehicular access to the site is from Edison Road.

The application site slopes upwards from west to east towards the junction with Arkwright Road and north to south towards Edison Road.

To the western boundary of the site is a public footpath that connects the numbers 46 to 56 Edison Road to the main street.

The site extends to the northern boundary adjacent numbers 36 Arkwright Road and 46 Edison Road. These houses front the main street and the private rear gardens sit parallel with the application site. A 1.8m high close board fence forms the site boundary with these neighbouring properties. Both these neighbouring properties have windows in the side gable elevations facing the application site.

To the west of the site is Rock Church, a single storey building set back into the site from the side and front boundaries.

The area is residential in character with main two storey semi-detached and terraced houses with front gardens and drives. The designs of the houses are mainly gable roofs set down with the gradient of the land with open and low front boundary treatments.

Opposite the site on Edison Road is public open space.

Beechdale local centre is located the other side of the public footpath that runs to the western part of the application site.

## **Relevant Planning History**

05/0297/OL/W1- Outline: Erection of 13 no. 2 bedroom self-contained flats. Refuse permission 2005-07-20 for the following reasons:

1. *The layout shows with 13 flats the site is largely filled by the combination of parking and buildings. This is inherent of any realistic design for the proposed development and represents overdevelopment of the site for the following reasons:*
  - *amenity areas for the residents, one is very small, and divorced from the flats into a random corner of the site that cannot otherwise accommodate parking, due to its shape, while the other area is also small, between the two blocks, and walled off from the road to create privacy but is as a result oppressive, and limited in value as outdoor space.*
  - *The storage area for the bins is immediately adjoining the rear of one flat block of flats likely to lead to unreasonable degree of impact to those flats*
  - *The size of the building leads to a narrow access to the car park, inadequate space intended to serve so many cars*

05/2009/OL/W1- Outline: Erection of 11 no. 2 bedroom self contained flats (including approval of siting and means of access). Grant Permission Subject to Conditions 2007-07-27



07/1186/RM/W6- Proposed erection of 11 two-storey and three-storey flats. Refuse Permission 2007-09-28 for the following reasons:

- 1. The proposed development is sited differently and the access to the site is also sited in a different position from that approved 05/2009/OL/W1. The proposed reserved matters is therefore unauthorised by the outline consent.*
- 2. The development would by the continuous ridgeline and uninterrupted length of elevation at 21m, be out of scale, have inappropriate massing, and present bland and uninteresting elevations of poor design at a visually significant location in Beechdale. The proposal would be a poor response to the site circumstances in that changes in level, opportunities from aspect, context and location fail to be represented in the design. The proposal would present an inactive street frontage from where there is no pedestrian access and which would be out of character with the locality. The proposed entrance across the car park at the northern most rear entrance would be insecure and fail to provide a safe access for pedestrians using the site, as well as rendering the rear of the properties similarly insecure.*
- 3. The proposal fails to provide adequate private amenity areas for future occupiers of the site, fails to provide adequate landscape for buffer treatments to the adjoining private garden areas of 36 and 46 Edison Road close to areas of rear garden space where they would have a reasonable expectation of peace and quiet, and proposed boundary treatment and bin store on the western boundary with the footpath that would be of poor design, dominant and incongruous in the street scene and obstructive to view.*
- 4. The proposed development by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area.*
- 5. The proposed development provides a 900mm high wall to Edison Road frontage and returning along the right of way on the western boundary of the site, obstructing the required pedestrian visibility.*
- 6. The proposal does not provide for cycle provision to serve the proposed development*
- 7. The development would place unacceptable demand on limited educational capacity and public open space provision in the locality in the absence of any financial contributions to address the shortfalls.*

08/0522/RM- Reserved Matters to 05/2009/OL/W1 - design and appearance and landscaping. Refuse Permission 2008-06-23 for the following reasons:

- 1. The development would by the continuous ridgeline and uninterrupted length of elevation at 22m, be out of scale, have inappropriate massing, and present bland and uninteresting elevations of poor design at a visually significant location in Beechdale. The proposal would be a poor response to site circumstances in that changes in level, opportunities derived from aspect, context or location fail to be represented in the design. The proposal would present an inactive street frontage for a significant part of the elevations, which would be out of character with the locality. The proposed entrances to the rear elevation would be insecure and fail to provide a safe access for pedestrians using the site, as well as rendering the rear of the properties similarly insecure and subject to noise and loss of amenity because of the proximity of the pathways available for use by the public.*
- 2. The proposal fails to provide adequate private amenity areas for future occupiers of the site, fails to provide adequate landscape for buffer treatments to the adjoining private garden areas of 36 and 46 Edison Road close to areas of rear garden space*

PAGE 132 OF 211

*where they would have a reasonable expectation of peace and quiet, and proposed boundary treatment and bin store on the western boundary with the footpath that would be of poor design, dominant and incongruous in the street scene and obstructive to view.*

- 3. The revised siting of the building reducing the depth of the frontage space between 1.7m and 1m fails to provide for effective landscaping. The locality is characterised by street frontages that have wide verges containing hedges, lawns, shrub planting as well as trees in the street scene. The proposed development would therefore be in marked contrast to this character, to the detriment of the amenity of the area.*
- 4. The proposed planting areas indicated for the frontage of the site would be inadequate to enable a visually significant high quality landscape scheme.*
- 5. The proposed development by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area.*
- 6. The proposed development provides a wall to Edison Road frontage and returning along the right of way on the western boundary of the site, for which there are no details.*

18/0497 - Erection of a three storey block of flats to accommodate 12 self-contained flats, 6no, 2bed and 6no 1 bed with amenity, boundary treatment, parking and access off Arkwright Road. Refused 06-08-18 for the following reasons:

- 1. No Coal Mining Risk Assessment Report has been submitted as part of the application to demonstrate whether there are any underlain uses or activities which may affect the stability of the land and which identifies the hazards and the level of risk to the development and strategies and timescales for dealing with them.*
- 2. The proposed three storey development will be out of character with the existing single storey and two storey developments in the area along Edison Road and Arkwright Road. Furthermore, the positioning of the proposed three storey development would result in overlooking and loss of privacy of the rear gardens of numbers 36 Arkwright Road and 46 Edison Road.*
- 3. The proposed three storey development by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area. The development would by the continuous ridgeline and uninterrupted length of elevation at 22m, be out of scale, have inappropriate massing, and present bland and uninteresting elevations of poor design at a visually significant location in Beechdale. Furthermore, the proposed three storey development would be visually prominent and visually obtrusive in the street scene, and especially given the gradient of the site and that the site slopes upwards towards the junction with Arkwright Road.*
- 4. The isolated amenity space fails to provide adequate private amenity areas for future occupiers of the site, and furthermore, it is very unlikely that occupiers of the proposed flats will utilise this amenity space adjacent where vehicles will park in with no enclosure to provide privacy for potential occupiers.*

5. *The proposal fails to provide adequate landscape for buffer treatments to the adjoining private garden areas of 36 Arkwright Road and 46 Edison Road close to areas of rear garden space where they would have a reasonable expectation of peace and quiet as well as providing ineffective space for planting along the site perimeters and frontage. The positioning and use of the bin and cycle stores would unduly harm the amenities of neighbouring residential occupiers of 36 Arkwright Road by the positioning and use of these structures.*
6. *The proposed car parking abutting the boundaries of both 36 Arkwright Road and 46 Edison Road would result in loss of amenity by way of noise and general disturbance from the use of this parking area by the comings and goings together with car doors banging, car radios etc to these neighbouring occupiers.*
7. *The proposed development would result in unacceptable demand on limited public open space provision in the locality in the absence of any alternative provision to address these shortfalls.*

## **Relevant Policies**

### **National Planning Policy Framework (NPPF)**

[www.gov.uk/guidance/national-planning-policy-framework](http://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 9 – Promoting sustainable transport**
- **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](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV10: Pollution
- 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
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- CSP1: The Growth Network
- CSP4: Place Making
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

### **Walsall Site Allocation Document 2019**

HC1:Land allocated for new housing development

## Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

## Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

## Open space, sport and recreation

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

## Air Quality SPD

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

- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

## **Consultation Replies**

Archaeology – No objection

Coal Authority – No objection subject to a planning condition regarding remedial works.

Community Safety – No objection but refers to secure by design as this area is known historically to have issues with crime and ASB with a number of properties being targeted particularly in close proximity to the Right of Way.

Fire Officer – No objection subject water supplies for firefighting to be in accordance with national guidance.

Flood Risk Officer – No objection subject to tests to be carried out to ascertain whether infiltration as a means of surface water disposal is possible and subject to SuDS.

Highways England – No objection

Historic England – No objection

Housing Standards – No objection but makes comments that the two flat bedrooms have smaller second bedrooms.

Public rights of way – No objection but makes comments on security, surveillance and lighting of the adjacent footpath.

Pollution Control – No objection subject to planning conditions on air quality, contaminated land and development activity.

Police- No objection subject to secure by design.

Natural England – No objection

Network Rail – No objection

Severn Trent Water – No objection subject to a drainage condition in relation to foul and surface drainage.

Strategic Policy – No objection

Sport England – No objection

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

## **Representations**

Two letters of objection have been received to the amended scheme objecting to the proposal on the following grounds:

- Homes required and not flats
- Flats encourage unwanted behaviour
- Three storeys not in keeping with the area
- Block out sunlight
- Overlooking
- Loss of privacy
- Existing anti-social behaviour issues and encourage youths to congregate

Five letters to the original proposal from four residents have been received objecting to the proposal on the following grounds:

- Proposal fails to overcome previous reasons for refusal
- Design issues including: Out of character, High rise flats not consistent with other development, All buildings have front and rear gardens and communal areas, no open space to the front of the premises
- Sink mines have appeared in Arkwright Road due to old mine shafts
- Three storey development results in overlooking of neighbouring properties
- Development squeezed onto site
- Plot is too small for development
- Too many properties on a small plot
- Residents want to be kept informed of progress of application
- No space around buildings to minimise noise pollution
- Fly tipping of waste
- Parking issues including never enough space for residents who currently reside, congestion, parking problems both night and day, one space per flat not enough, entrance to the proposed car park has minimal visibility of nearby roads, vehicle visibility, parking on unsecure car park will result in anti-social behaviour

Cllr Jeavons has called the application in for the following reason:

- Significant public interest
- Anti-social behaviour
- Fly tipping
- Proposed development would resolve above issues

## **Determining Issues**

Whether the proposal overcomes the previous reasons for refusal and recommended reasons for refusal considered at June 2019 committee in respect of:

- Land stability
- Character of the area and impact upon neighbouring occupiers in respect of overlooking and loss of privacy
- Design
- Amenity
- Landscape and position bin and cycle stores
- Car parking and impact upon neighbouring occupiers
- Public open space provision.

Other matters:

- Principle of development
- Loss of trees
- Impact upon neighbouring and potential occupiers
- Access, parking and public rights of way
- Local finance considerations

## **Assessment of the Proposal**

Whether the proposal overcomes the previous reasons for refusal and recommended reasons for refusal considered at June 2019 committee in respect of:

### **Land stability**

The planning agent has submitted a coal mining risk assessment. The Coal Authority have withdrawn their original objection to the scheme and have no objection to the proposed scheme subject to a planning condition for site investigations.

The proposal overcomes this previous reason for refusal.

### **Character of the area and impact upon neighbouring occupiers in respect of overlooking and loss of privacy**

The height of the building has been reduced from a three storey building to a part 2 storey building adjacent 36 Arkwright Road and three storey building fronting Edison Road.

The extent of the proposed three storey development along Edison Road is still out of character with the existing single storey and two storey developments along Edison Road.

The positioning of the proposed three storey development would result in overlooking and loss of privacy to the rear gardens of numbers 36 Arkwright Road and 46 Edison Road.

The developer was recommended to include the three storey aspect of the development at the junction of Edison Road and Arkwright Road to provide a focal point for the development at this prominent corner location and reduce the potential impact on the character of the area and upon neighbours but has declined to amend this part of the scheme.

The proposal fails to overcome this previous reason for refusal.

### **Design**

The design of the scheme has been amended where the building has been set back into the site along the frontage of both Edison Road and Arkwright Road and repositioned to front Arkwright Road and Edison Road to provide a corner building. The proposal provides dual aspect to each flat and balconies have been introduced on the front elevation as an additional amenity feature for future residents.

The amended scheme whilst it shows sections of two and three storey development has a continuous ridgeline 14m in length for the proposed two storey element. The proposed three storey element breaks up the continuous ridgeline along Edison Road.



The proposed three storey element along Edison Road would be out of character with the existing single storey and two storey development.

The proposal by reasons of its scale, massing and design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area. The proposed three storey element along Edison Road would be visually prominent and visually obtrusive in the street scene, and especially given the gradient of the site which slopes upwards towards the junction with Arkwright Road and the step forward from the existing building line.

The proposed development would be positioned 1.4m further forward than 36 Arkwright Road; as such, the proposal would be visually intrusive and visually detrimental within the street scene. The proposal fails to reflect the character of the existing pattern of development along both Arkwright Road and Edison Road.

As referred to above, the developer was recommended to consider relocating the three storey element to the junction of Edison Road and Arkwright Road and the two storey element to be divided into bays, which would further break up the mass of the continuous ridgeline. The developer has declined to make such changes.

The proposal fails to overcome this previous reason for refusal.

### **Amenity**

The amenity area has been repositioned to the northern part of the site adjacent 36 Arkwright Road.

The Council's Residential Standards recommends 20 square metres of amenity space per flat. The amended plan shows 96 square metres of communal amenity space for the proposed nine occupiers, which equates to 10.6 square metres of amenity space per flat, contrary to the Council's residential standards. Whilst the three flats on the ground floor have some defensible space to protect their amenity, the proposed open communal amenity area would be overlooked from the ground floor kitchen windows

The proposed amenity area is an open communal area, where occupiers from different flats using the amenity area adjacent the ground floor habitable rooms will result in overlooking and loss of privacy for these ground floor occupiers.

Whilst the amenity space is not isolated, it would fail to provide an adequate private useable amenity area for potential occupiers without compromising the amenity of ground floor occupiers. Furthermore, the private amenity area is adjacent the rear pathway and in close proximity to the car parking area and to the northern side of the site which would be shaded through the majority of the site by the three storey building.

The proposal fails to overcome this previous reason for refusal.

### **Landscape and position bin and cycle stores**

The amended plan illustrates the retention of existing planting along the boundaries with numbers 46 Edison Road and 36 Arkwright Road.

The proposal seeks some new planting in the very far north western corner of the site.

The site frontage includes some soft landscaping, which is welcomed by the Arboricultural Officer. The bin store has been relocated adjacent the parking area.

Whilst, no details of landscaping have been submitted, if planning permission was to be granted, further details of the exact locations and species of planting can be sought by way of planning conditions.

It is considered that the proposal overcomes the previous reason for refusal.

### **Car parking and impact upon neighbouring occupiers**

The car parking has been redesigned and moved away from the neighbouring boundaries with 36 Arkwright Road and 46 Edison Road with no additional landscape buffer.

The proposal overcomes the previous reasons for refusal.

### **Public open space provision.**

The proposal has been reduced from ten to nine flats and as such no longer triggers the requirement for public open space contributions so has overcome this previous reason for refusal.

### **Principle of development**

The site is allocated for residential development as site HO205 under policy HC1 of Walsall's adopted Site Allocation Document (SAD). Policy HC1 states that the design of developments should take account of the site's context and surroundings, and help to create places where people choose to live. Each site should achieve a density of at least 35 dwellings per hectare, except where part of the site is needed to provide open space or other facilities in accordance with other policies of this Plan. The site is also included as a site suitable for residential development on the Brownfield Land Register.

Table 8 attached to Black Country Core Strategy Policy HOU2 states that very high densities in excess of 60 dwellings per hectare are only appropriate within a Strategic Centre or Town Centre. However, this site is immediately adjacent to Beechdale Local Centre and benefits from a high frequency bus service to Walsall Strategic Centre. Also as it proposes a flatted development inevitably this generates a higher density.

Chapter 11 of the NPPF (July 2018) encourages making effective use of land. Paragraph 118 d) states that planning policies and decisions should promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained.

The high density of the proposed development is therefore acceptable in principle, subject to detailed design issues including the impact of the proposal on the amenity of adjacent dwellings.

The proposal is in a sustainable location as it is within walking distance of Beechdale Local Centre.

Outline planning permission was granted for siting and means of access under planning reference 05/2009/OL/W1 for 11 flats in 2005.

In 2007 and 2008 planning permission for reserved matters were refused for a number of reasons outlined in the history section of the report. In 2015, the planning developer engaged in discussion to submit an amended scheme on this site and was made aware of the previous reasons for refusal. Despite officer negotiations with the developer and agent the current scheme has failed to address all of the earlier reasons for refusal.

### **Loss of trees**

The site has self-set Sycamores, Elder and Rowan none of which would merit retention or protection and as such, the arboricultural officer has no objections to the application.

### **Impact upon neighbouring and potential occupiers**

Car parking space 9 is located adjacent the rear ground floor habitable rooms. The positioning of this car parking space in close proximity to the ground floor occupiers of the proposed development would result in loss of amenity by way of noise and general disturbance from the use of this parking area by the comings and goings together with car doors banging, car radios etc to these proposed occupiers.

The middle flats of the ground and first floor flats of the three-storey development fail to meet the 45-degree code between the kitchen windows and adjacent part of the building. Kitchen windows are classed as habitable rooms. As such, the proposal would result in loss of light and outlook to the kitchens of these flats detrimental to future occupiers' residential amenities contrary to policy.

The proposal fails to overcome this previous reason for refusal.

### **Access, parking and public rights of way**

Saved policy T13 of the UDP requires 1.5 spaces per dwelling for a development of this nature where spaces are unallocated which would require 15 car parking spaces and 2no disabled parking spaces.

Although there is a marginal shortfall in car parking provision against the requirements of policy T13 of the UDP it would not be possible to sustain an objection on these grounds as these proposals would not have an unacceptable impact on highway safety nor result in a severe cumulative impact on the road network.

Looking through the UK Census Data website the car ownership data 84% of households have either no vehicle or one vehicle only and any additional parking can be accommodated within the existing estate roads.

Given that the Highway Officer has removed his objection, the proposal overcomes the previous reason for refusal.

The Fire Officer has made comments regarding fire appliance access and water supplies, these are issues which can be resolved through Building Regulations.

The Public Rights of Way Officer comments upon the security, surveillance and lighting of the adjacent footpath on Edison Road. The building has been moved away from the western part of the site with the car parking being placed on the western side of the site; as such, the proposal should not unduly affect the footpath.

### **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 9 new homes.

The Government has indicated that, for 2018-19, 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 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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 proposed three storey development will be out of character with the existing single storey and two storey developments in the area along Edison Road and Arkwright Road. Furthermore, the positioning of the proposed three storey development would result in overlooking and loss of privacy of the rear gardens of numbers 36 Arkwright Road and 46 Edison Road.

The proposed three storey development by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area. The development would by the continuous ridgeline and uninterrupted length of elevation at 14m, be out of scale, have inappropriate massing at a visually significant location in Beechdale. Furthermore, the proposed three storey development would be visually prominent and visually obtrusive in the street scene, and especially given the gradient of the site and that the site slopes upwards towards the junction with Arkwright Road.

The proposed development would be positioned further forward than 36 Arkwright Road; as such, being visually intrusive and visually detrimental within the street scene. The proposal fails to reflect the character of the existing pattern of development along both Arkwright Road and Edison Road.

The proposal fails to provide adequate private amenity areas for future occupiers of the site, and furthermore, it is very unlikely that occupiers of the proposed flats will utilise the amenity space adjacent where both vehicles will park and where pathways to the rear of the building are positioned with no enclosure to provide privacy for potential occupiers. Furthermore, the proposed amenity area will be in shade for the majority of the day, as such unlikely to be utilised by proposed occupiers. The middle flats of the ground and first floor flats of the three-storey development fail to meet the 45-degree code between the kitchen windows and adjacent part of the building. Kitchen windows are classed as habitable rooms. As such, the proposal would result in loss of light and outlook to the kitchens of these flats detrimental to future occupiers' residential amenities contrary to policy.

The proposed car parking space adjacent the rear ground floor habitable rooms would result in loss of amenity by way of noise and general disturbance from the use of this parking area by the comings and goings together with car doors banging, car radios etc to these proposed occupiers at all times of the day and night.

Whilst reasons for refusal relating to coal mining, landscaping, car parking and provision of open space have been overcome by the amended plans the proposals has failed to address other reasons referred to above hence officers are unable to support the amended proposals.

## **Positive and Proactive Working with the Applicant**

### **Refuse**

Despite extensive negotiations with the developer and their agent and provision of a comprehensive letter outlining why the proposal fails to entirely overcome the previous reasons for refusal officers are unable to fully support the proposals as they fail to address earlier reasons for refusal or comply with policy.

## **Recommendation**

Refuse

## **Reasons for Refusal**

1. The proposed three storey development will be out of character with the existing single storey and two storey developments in the area along Edison Road and Arkwright Road. Furthermore, the positioning of the proposed three storey development would result in overlooking and loss of privacy of the rear gardens of numbers 36 Arkwright Road and 46 Edison Road. The proposed development would be contrary to the aims and objectives of the National Planning Policy Framework, Policies DEL1, DEL2, CSP4, ENV2 and ENV3 of the Black Country Core Strategy and Saved Policies GP2, ENV14, ENV17, ENV32, ENV33, ENV40 and H3 of the Unitary Development Plan, Policies DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9 and DW10 of Designing Walsall SPD.
2. The proposed three storey development by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area. The development would be out of scale, have inappropriate massing at a visually significant location in Beechdale. Furthermore, the proposed three storey development would be visually prominent and visually obtrusive in the street scene, and especially given the gradient of the site and that the site slopes upwards towards the junction with Arkwright Road. The proposed development would be contrary to the aims and objectives of the National Planning Policy Framework, Policies DEL1, DEL2, CSP4, ENV2 and ENV3 of the Black Country Core Strategy and Saved Policies GP2, ENV14, ENV17, ENV32, ENV33, ENV40 and H3 of the Unitary Development Plan, Policies DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9 and DW10 of Designing Walsall SPD.

3. The proposed development would be positioned further forward than 36 Arkwright Road; as such, being visually intrusive and visually detrimental within the street scene. The proposal fails to reflect the character of the existing pattern of development along both Arkwright Road and Edison Road. The proposed development would be contrary to the aims and objectives of the National Planning Policy Framework, Policies DEL1, DEL2, CSP4, ENV2 and ENV3 of the Black Country Core Strategy and Saved Policies GP2, ENV14, ENV17, ENV32, ENV33, ENV40 and H3 of the Unitary Development Plan, Policies DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9 and DW10 of Designing Walsall SPD.
4. The proposal fails to provide adequate private amenity areas for future occupiers of the site, and furthermore, it is very unlikely that occupiers of the proposed flats will utilise the amenity space adjacent where both vehicles will park and where pathways to the rear of the building are positioned with no enclosure to provide privacy for potential occupiers. Furthermore, the proposed amenity area will be in shade for the majority of the day, as such unlikely to be utilised by proposed occupiers. The proposed development would be contrary to the aims and objectives of the National Planning Policy Framework, Policies DEL1, DEL2, CSP4, ENV2 and ENV3 of the Black Country Core Strategy and Saved Policies GP2, ENV14, ENV17, ENV32, ENV33, ENV40 and H3 of the Unitary Development Plan, Policies DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9 and DW10 of Designing Walsall SPD.
5. The proposal fails to comply with the Council's 45 degree code on light from the middle floor flats of the proposed development resulting in loss of light and outlook to the kitchens of these flats detrimental to future occupiers' residential amenities. The proposed development would be contrary to the aims and objectives of the National Planning Policy Framework, Policies DEL1, DEL2, CSP4, ENV2 and ENV3 of the Black Country Core Strategy and Saved Policies GP2, ENV14, ENV17, ENV32, ENV33, ENV40 and H3 of the Unitary Development Plan, Policies DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9 and DW10 of Designing Walsall SPD.
6. The proposed car parking space adjacent the rear ground floor habitable rooms would result in loss of amenity by way of noise and general disturbance from the use of this parking area by the comings and goings together with car doors banging, car radios etc to these proposed occupiers at all times of the day and night. The proposed development would be contrary to the aims and objectives of the National Planning Policy Framework, Policies DEL1, DEL2, CSP4, ENV2 and ENV3 of the Black Country Core Strategy and Saved Policies GP2, ENV14, ENV17, ENV32, ENV33, ENV40 and H3 of the Unitary Development Plan, Policies DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9 and DW10 of Designing Walsall SPD.





# Walsall Council

Economy and Environment, Development Management

## Planning Committee

Report of Interim Head of Planning and Building Control on 23-Jul-2020

**Plans List Item Number: 8.**

**Reason for bringing to committee:** Significant community interest

**Location:** CAR PARK REAR OF 160 TO 174, WESTBROOK AVENUE, ALDRIDGE

**Proposal:** ERECTION OF 2 NO. 2 BED 4 PERSON UNITS AND ASSOCIATED CAR PARKING, LANDSCAPING AND HIGHWAY WORKS.

**Application Number:** 19/0867

**Applicant:** WALSALL HOUSING GROUP LTD

**Agent:** Jennings Design Associates

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

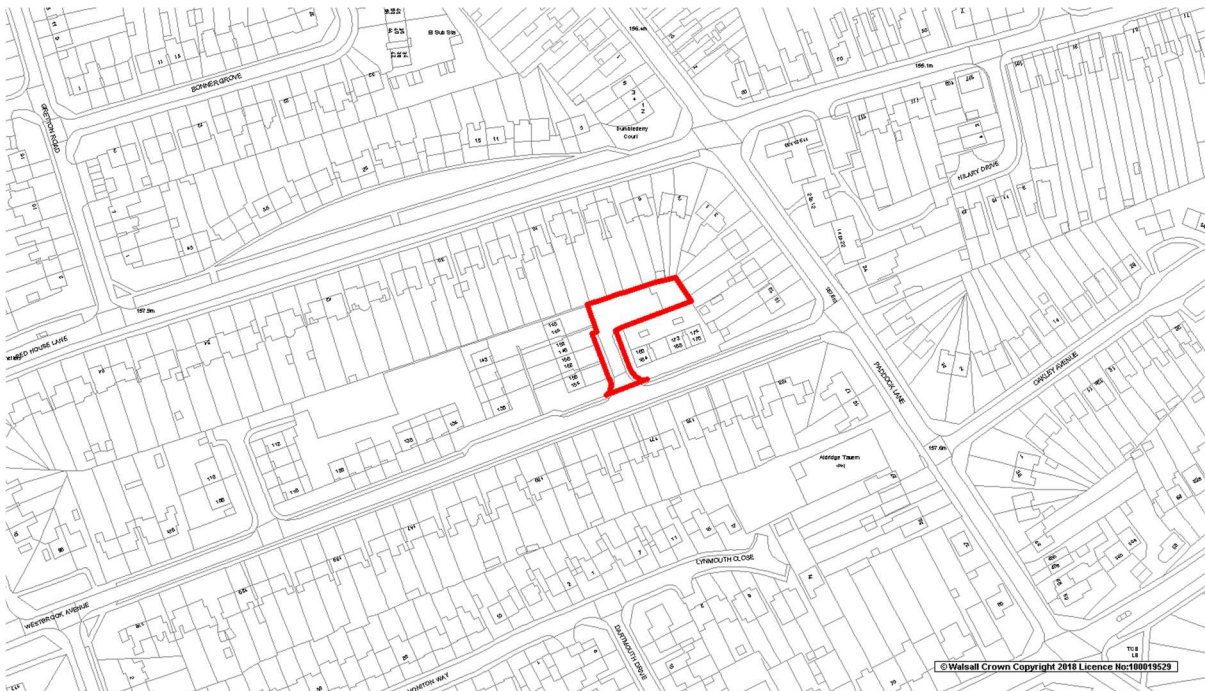
**Case Officer:** Devinder Matharu

**Ward:** Aldridge Central And South

**Expired Date:** 09-Sep-2019

**Time Extension Expiry:** 30-Jul-2020

**Recommendation Summary:** Grant Permission Subject to Conditions





## Proposal

Erection of 2 no. 2 Bed 4 Person units and associated car parking, landscaping and highway works.

The proposed dwellings would be 4.6m in width, 9.2m in length, 5.8m to the eaves and 9.1m to the pitch. The dwellings would have a rear garden of 17m in length and total amenity areas of 102 and 105 square metres respectively. Two parking spaces are to be provided in front of the northern plot on the site. A bin store is to be provided within the access road to the rear of numbers 150 and 146.

The proposed houses would sit to the rear of numbers 2 to 14 (even) Redhouse Lane, 160 to 174 and 144 to 150 Westbrook Avenue and 5 to 9 (odd) Paddock Lane.

A boundary plan identifies existing boundaries around the site with neighbouring properties to remain and new fencing between the proposed properties to be erected.

This site forms part of a large project by the applicant to redevelop former garage courts to provide new homes, utilising the efficiencies and benefits of AMC (Advanced Methods of Construction). This means that the majority of house construction takes place in a factory using a hybrid of pods and panels. The central pods containing the kitchen and bathrooms are structurally formed from LSF (lightweight steel frame) to which a series of LSF panels wrapped in insulating material with the uPVC windows and composite doors inserted in the factory. The entire unit would be wrapped in brick slips, render or cladding, which can be varied to be site specific. On site the central pods would be placed on the foundations and the panels then fixed to the pods to provide the finished house, ready to move in to. The pitched, tiled roofs (with solar panels) would also be brought to site in panels and put together on site.

The following documents have been submitted with the application:

Arboricultural Report which concludes of the 23 tree features on site at the time of the survey, 13 low quality C grade and U grade individual trees and one C grade group will need to be removed to facilitate the proposed development. The proposed layout includes post development replanting of 9 high quality standard trees, which, with aftercare, will grow to be better specimens than the trees which they are replacing. Therefore, the proposed tree losses will not have a significant negative impact on the long-term trees cape of the area.

Ecological appraisal which concludes the site comprises mostly of hard standing, a habitat of negligible ecological value. A small area of communal garden mostly comprising managed amenity grassland was also considered to be of negligible ecological interest. During the survey no protected species were identified using the site, including nesting birds. Whilst the data search returned no records of bats for the site, several bat records exist nearby including a bat roost. It is therefore recommended that low level directional lighting during the construction phase is used at night to prevent disturbance to bats.

Design and Access Statement, which address the proposal.

Phase I geo-environmental site assessment, which address the proposal.

Coal mining report, which concludes, are no know mines nearby or any ground gas.

Drainage strategy, which states foul and surface water to be connected to combine sewer.

## Site and Surroundings

Westbrook Avenue is located off the western side of Paddock Lane and provides a through link to Redhouse Lane. The application site is located closest to the Paddock Lane end of Westbrook Avenue and off the northern side of Westbrook Avenue behind numbers 160 to 174.

The site is a car park with a number of trees along the side boundaries. The boundary treatment with neighbouring properties is a 2m high close board fence.

The site is 62m outside of the nearest bat zone identified on the Council's protected species layer.

The area is residential in character with two storey terrace dwellings along Westbrook Avenue with bungalows beyond the two storey flats to the west of the site. Redhouse Lane and Paddock Lane are characterised by a mixture of two storey semi-detached dwellings and bungalows.

## Relevant Planning History

None

## Relevant Policies

### National Planning Policy Framework (NPPF)

[www.gov.uk/guidance/national-planning-policy-framework](http://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**
- **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](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- Vision, Sustainability Principles and Spatial Objectives
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- 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

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

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

#### Air Quality SPD

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

### Consultation Replies

Arboricultural Officer – No objection subject to planning conditions relating to protecting trees and planting.

Fire Officer – No objection but makes comments on design, water supplies and fire appliance access.

Pollution Control – No objection subject to planning conditions relating to air quality, contaminated land and construction management plan.

Severn Trent Water – No objection but makes comments that the drainage strategy does not provide flow rates, as such drainage details will need to be secured by planning condition.

Strategic Policy – No objection

Transportation – No objection subject to planning condition relating to tactile paving.

## **Representations**

Fifteen letters from eight neighbouring occupiers have objected to the proposal on the following grounds (officer's comments in italics):

- Not right place for houses
- Brownfield land should be used for housing *This is brownfield land.*
- Already high density housing in area
- Squeezing in houses
- Overdevelopment
- Out of character
- No side elevation plans
- Concerns over boundary treatments
- Impact upon neighbouring amenity including: blocking sunlight to gardens, shading from trees, loss of privacy, overlooking, noise and disturbance
- Tree issues including: loss of trees, maintenance of new planted trees, WHG do not maintain green spaces, overgrown vegetation causes nuisance to neighbours, concerns over the type of trees to be planted, require fast growing trees to provide screening, how tree roots would damage neighbouring gardens
- Ecology issues including: bats in the area, nesting birds in the area
- Access and parking issues including: congestion, where are residents going to park, loss of parking for residents, visitor parking
- Devalue of property – *not a material planning consideration in this case.*

## **Determining Issues**

- Principle of development
- Design and character of the area
- Impact upon neighbouring occupiers
- Impact upon trees and ecology
- Access and parking
- Local Finance Considerations

## **Assessment of the Proposal**

### **Principle of development**

The application site is in a residential area surrounded by a mixture of housing types. The site sits to the rear of numbers 160 to 174 Westbrook Avenue with access onto Westbrook Avenue. Paragraph 117 of the NPPF states the LPA 'should promote an effective use of land in meeting the need for homes' with paragraph 118 stating 'give substantial weight to the value of using suitable brownfield land within settlements for homes and promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example car parks)..'

In this case, the site is a parking area, which is underused and as such would be better used for housing development.

The housing density in the area is 34 dwellings per hectare, the density for the application site is 40 dwellings per hectare. The scheme proposes two dwellings that despite being marginally higher density is considered appropriate in the area.

### **Design and character of the area**

The proposal seeks to provide two dwellings that would be set off the boundaries with the neighbouring properties. The design of the proposed dwellings being two storeys high would be in character with the existing pattern of development along this section of Westbrook Avenue. Furthermore, the site is surrounded by two storey residential development.

The proposed rear garden requirements are compliant with the Residential Standards as set out in Annexe D of Designing Walsall SPD. The site can comfortably accommodate two dwellings, parking and amenity space.

It is considered that the design and layout of the proposed dwellings are acceptable and in keeping with the existing character of the area.

### **Impact upon neighbouring occupiers**

The boundary plan shows that the existing boundaries to the site will remain with new fencing to be erected between the proposed new plots.

The elevation plans show no first floor side windows to the proposed dwellings, as such, the proposal is unlikely to result in overlooking and loss of privacy to the occupiers of both 10 and 12 Redhouse Lane and Numbers 160 to 166 Westbrook Avenue.

From the rear of numbers, 144 and 148 the proposed dwellings would be 25m away, complying with the 24m habitable room to habitable room separation distance as set out in Annexe D of Designing Walsall SPD by 1m. The separation distance between the rear of the proposed dwelling and the rear of numbers 5 and 7 Paddock Lane would be 41m, exceeding the habitable room to habitable room separation distance by 17m. It is considered that the proposed development would not unduly harm the amenities of these neighbouring residential occupiers in respect of overlooking or loss of privacy.

Any shading from the proposed dwellings would fall within the application site and within the rear part of gardens of the properties along Redhouse Lane due to the orientation of the sun. It is considered that the proposal would not unduly harm the amenities of neighbouring residential occupiers.

The indication of tree planting to the front and rear will help provide screening between the site and neighbouring properties in the future. The far end of neighbouring gardens would be shaded at certain times of the day due to the orientation of the sun. It is considered that these trees would not result in unacceptable shading to warrant refusal of the application.

The units will be constructed in pods in a factory and only assembled on site, so the construction period would be shorter less likely to impact upon neighbouring amenity.

### **Impact upon trees and ecology**

The proposal seeks to include new planting to compensate for the loss of trees on the site, whilst amended plans have been received seeking to retain trees on site. The proposed building has been relocated to the southwest by approximately 2m. This has created larger rear garden spaces with an indication of tree planting adjacent to the rear (east) and flank (south) boundaries. The layout of the frontage has also been amended to provide more soft landscaping space with the indication of tree planting around the northwest corner.

The building is now located a little over 5m from the tree identified as T14 within the arboricultural report, which is at the outer edge of the current crown spread. Given the Council's aim to maintain a clearance of up to 2m from a building to the crown of a tree, this would indicate the crown would have to be reduced by up to 2m to allow the erection of scaffolding and to maintain a sufficient clearance for any future occupiers. However, these are prefabricated units that will be brought on site. If the crown were reduced by 1.5m in this area, this would be considered acceptable. The amended plan also indicates that trees T16, T17 and T23 (as referenced in the arboricultural report) is to be retained, which is welcomed. Trees T14 and T23 (as referenced in the arboricultural report) are in close proximity to each other and their retention as a small group is welcomed.

With regards to trees T16 and T17, given their location on the south side of the site, and their proximity to the proposed dwelling, it is anticipated that these trees will either be severely pruned or removed in the near future based on light levels alone. It may be prudent to allow these trees to be removed with replacement planting already indicated along the south boundary.

Neighbouring occupiers have raised concerns over the maintenance of trees and existing issues of non-maintenance and the impact this has upon neighbouring occupiers. Walsall Housing Group own the site and any responsibility of landscape management is an issue for them to address. Furthermore, with new occupiers the site is likely to be better maintained.

Details of the tree species to be planted have not been submitted and will be secured by way of a planning condition.

On balance, the proposal is acceptable although a condition should be added to any consent requesting detailed landscaping proposals in line with the indicative tree-planting layout on the submitted plan, and tree protection details.

The Ecology report highlights there may be nesting birds in the vicinity and any works on will be undertaken outside of the bird-nesting season, a note to this effect can be attached to the planning decision in accordance with Policy ENV23 of the UDP. The site sits 62m outside of the nearest bat buffer zone. Neighbouring occupiers have confirmed in writing that there are bats in the trees within their rear gardens. Despite this the ecology report does not recommend any further bat surveys to be undertaken. The ecology report also makes reference to low level lighting to protect foraging bats in the area. A planning condition can be attached securing bat and bird boxes to the southern elevations of the proposed dwellings in compliance with the Development Plan and Conserving Walsall's Natural Environment SPD. It is considered

### **Access and parking**

There is adequate parking to meet UDP T13 parking policy requirements. Neighbouring occupiers have raised concerns over loss of parking and concerns as to where residents will park, as well as raising issues of congestion. Westbrook Avenue has no road restrictions and parking is available on the street frontage. There is no evidence to suggest that the proposal will result in congestion over and above existing levels to warrant refusal of the application. There are a number of dwellings along Westbrook Avenue that have converted their front gardens into driveways.

The access road and parking area is not an adopted public highway and is to remain a private access road.

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.

### **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 2 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 residential development, the design and layout is considered acceptable and in keeping with the character of the area.

The proposal would not unduly harm the amenities of neighbouring residential occupiers to warrant refusal of the proposed scheme.

The proposal seek compensatory planting as well as retaining trees on site.

There is adequate parking for the proposed development.

The proposal complies with the policies as set out 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 confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

## Recommendation

Grant Permission Subject to Conditions

## 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:

- Location plan 1097/A/DR/000/A submitted 13-01-2020
- Proposed site plan 1097/A/DR/003/A submitted 13-01-2020
- Proposed general arrangement and swept path analysis VN\_PN1789-D101 submitted 13-01-2020
- Boundary treatment details 1097/A/DR/008/A submitted 15-07-2019
- Boundary treatment plan 1097/A/DR/007/A submitted 15-07-2019
- Proposed floor plans 1097/A/DR/004/A submitted 15-07-2019
- Proposed elevations 1097/A/DR/005/A submitted 15-07-2019
- Arboricultural planning statement submitted 13-01-2020
- Coal mining assessment submitted 28-06-2020
- Phase I geo environmental site analysis submitted 28-06-2020

PAGE 156 OF 211

- Preliminary ecology appraisal submitted 28-06-2020
- Design and Access Statement submitted 28-06-2020

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 drainage strategy submitted 28-06-20219, 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.. No development shall commence until a desk study and site reconnaissance has been conducted to identify the potential for contaminants and/or ground gases likely to present a risk to proposed structures or future occupants of the development to be present on site. Results of the desk study and site reconnaissance shall be submitted to and agreed in writing with the Local Planning Authority prior to built development commencing.

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

4c. Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority for written confirmation.

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

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

4f. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part B) of this condition is encountered development shall cease until the Remediation Statement required by part D) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

4g. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use.

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with Policies ENV10 and ENV14 of the UDP.

5a. 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. Measures to prevent flying debris
2. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
3. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)

5b. 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.

6a. 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.

6b. Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

6c. 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.

7a. Prior to commencement of the development hereby permitted details of protective fencing and ground protection measures, for example geomembrane or scaffold boards to be installed around all retained trees shall be submitted in writing to and approved in writing by the Local Planning Authority.

7b. The development hereby permitted shall not be carried out otherwise than in accordance with the development the agreed protective fencing and ground protection measures under part A of this condition following the completion of all tree removal works as indicated on submitted plan 1097-A-DR-003 Rev D Proposed Site Plan submitted 13-01-2020.

7c. Prior to the commencement of works on site and after the installation of the tree protection measures approved under part A of this condition, the Council's Arboricultural officer shall be notified in writing to allow a full inspection of the protection measures.

7d. The approved protection measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

7e. Nothing shall be stored or placed in any area fenced in accordance with this condition nor shall any fires be started, no tipping, refuelling, disposal of solvents or cement mixing carried out and ground levels within those areas shall not be altered, nor shall any excavation or vehicular access be made.

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

8a. Prior to first occupation of the development hereby permitted details of electric vehicle charging points and low NOx boilers, to be provided for each dwelling shall be submitted in writing to and agreed in writing by the Local Planning Authority.

8b. Prior to first occupation of the development the approved electric vehicle charging points and low NOx boilers 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.

9. No tree indicated as being retained on proposed site plan drawing number 1097-A-DR-003 Rev D Proposed Site Plan submitted 13-01-2020 shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars. Any topping or lopping shall be carried out in accordance with British Standard 3998:2010 (Tree Work).

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

10. Prior to the first occupation of either of the dwellings hereby approved, the tactile pedestrian crossing as shown on Proposed site plan 1097/A/DR/003/A submitted 13-01-2020 shall be installed

Reason: To improve pedestrian accessibility to the development and the general public in accordance with Policy GP2 of the UDP and Policy T4 of the SAD.

11. Prior to occupation of either of the proposed dwellings hereby approved, bat boxes shall be fixed to the southern elevation of the proposed dwellings hereby approved. 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.

12. No external lighting shall be installed within the site, on any boundary or on the exterior of the proposed dwellings hereby approved.

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

### **Notes for Applicant: Development Management**

Any site clearance shall take place outside of the bird nesting season.

### **Notes for Applicant – Contaminated Land**

CL1- Ground investigation surveys should have regard to current Best Practice and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 Code of practice for site

investigations; Construction Industry Research and Information Association Assessing risks posed by hazardous ground gasses to buildings (Revised) (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential

retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2 When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 Model Procedures for the Management of Land Contamination,

The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 Updated technical background to the CLEA model and Science Report – SC050021/SR2 Human health toxicological assessment of contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to

PAGE 160 OF 211

impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

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

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

### **Notes for Applicant – Air Quality SPD**

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points: An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module. Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

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.

### **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.





# Walsall Council

Economy and Environment, Development Management

## Planning Committee

Report of Interim Head of Planning and Building Control on 23-Jul-2020

**Plans List Item Number: 9.**

**Reason for bringing to committee:** Called in by Councillor Pardeep Kaur on the grounds that delicate judgement is required and Green Belt impacts

**Location:** 815, SUTTON ROAD, ALDRIDGE, WALSALL, WS9 0QJ

**Proposal:** NEW 5 BEDROOM DWELLING.

**Application Number:** 19/0976

**Applicant:** Kulbinder Kaur

**Agent:** Lapworth Architects

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

**Case Officer:** Mike Brereton

**Ward:** Aldridge Central And South

**Expired Date:** 18-Nov-2019

**Time Extension Expiry:** 31-Jul-2020

**Recommendation Summary:** Refuse





## Proposal

This application seeks the replacement of an existing detached 3 x bedroom dormer bungalow with a 5 x bedroom detached three storey house.

This application is a revised submission following previous refusals, and also an approval for a replacement 4 x bedroom detached dwelling under reference 14/0953/FL which allowed a footprint of 122.3m<sup>2</sup>. The most recent refused replacement dwelling under reference 15/1725 had a footprint of 129.8m<sup>2</sup>.

The existing bungalow is of an overall simple design with pitched main roof and a small flat roof side extension is shown on the submitted existing plans to the north-east elevation as a utility. However, this side extension appears to have already been removed from the site by the applicant as confirmed at an officer's site visit on 9<sup>th</sup> January 2020.

A double-pitched rear single storey extension has recently been added to the bungalow following prior approval under application reference 16/1528. However, the submitted plans show this extension to be 8.2m deep which exceeds the 7.8m previously applied for, and exceeds the maximum 8m allowance under permitted development rights. This will be investigated further to establish the status of these works.

Based on submitted plans, the existing buildings within the application site measure around:

### ***Existing main bungalow building:***

- 6.9m high to ridge
- 9.9m wide
- 6.9m deep
- 68m<sup>2</sup> footprint
- 171m<sup>3</sup> volume (including dormers)

### ***Previous side extension to bungalow (now demolished):***

- 2.4m high to flat roof
- 1.6m wide
- 5.5m deep
- 8.8m<sup>2</sup> footprint
- 21m<sup>3</sup> volume

### ***Existing rear extension to bungalow (potentially unauthorised development):***

- 3.9m high to ridge
- 9.9m wide
- 8.2m deep
- 81m<sup>2</sup> footprint
- 247m<sup>3</sup> volume

### ***Existing detached garage:***

- 2.8m wide
- 5.4m deep

- 15m<sup>2</sup> footprint
- No elevations or dimensions have been provided so the volume is unknown

**Total Existing Buildings Footprint = 173m<sup>2</sup>**

**Total Existing Buildings Volume = 439m<sup>3</sup>**

The proposed replacement 5 x bedroom three storey dwelling would include a front gable feature with square bay windows at ground and first floor, a flat roof open porch to front with pillars and a Juliet balcony with double glazed doors above at first floor, dormers to front and rear, a flat roof rear section and an attached garage with dormer above.

The replacement dwelling would measure around:

- 8.7m high to main roof ridge (5.2m to eaves)
- 7.1m high to garage roof ridge (2.5m to eaves)
- 3.4m high to single storey rear flat roof section
- Between 12.1m and 13.6m wide
- Between 17.7m and 19.1m deep
- Footprint of 242m<sup>2</sup>
- Volume of 1,558m<sup>3</sup>

**Total Proposed Building Footprint = 242m<sup>2</sup> (a 40% increase above existing)**

**Total Proposed Building Volume = 1,558m<sup>3</sup> (over 250% increase above existing)**

## Site and Surroundings

The site is on the north western side of Sutton Road, just to the south west of the traffic light controlled junction with Longwood Road, and sits within a service road off the main road. To the frontage, the application property is set back from the road with a landscaped front garden, sweeping driveway and a large mature oak tree located close to the road.

The property sits within a line of detached dwellings (a mix of houses and bungalows) which forms a ribbon of development leading into Longwood Road. The application site is within the West Midlands Green Belt, and land to rear is also open countryside land. The opposite side of Sutton Road also comprises open countryside.

Both the adjacent residential properties are of differing styles but are both two storey houses which make use of dormers, and low eave heights, to accommodate the first floors, a characteristic of other dwellings along this section of Sutton Road.

## Relevant Planning History

Application Ref	Proposal	Decision	Decision Date
14/0335/FL	Proposed front and rear two storey extensions.	Refuse Permission	2014-05-06

14/0953/FL	Erection of replacement detached 4 bed house and retention and extension to existing detached garage.	Grant Permission Subject to Conditions	2014-11-26
15/1725	Erection of replacement detached 4 bed house and retention and extension to existing detached garage amendment to Planning Application 14/0953/FL.	Refuse Permission	2016-04-04
16/0719	Single Storey Rear Extension: 8.0m in depth, eaves height of 4.0m and maximum height 2.5m.	Prior Approval: REFUSED	2016-07-26
16/1528	Single Storey Rear Extension: 7.8m in depth, eaves height of 2.5m and maximum height 4m.	Prior Approval NOT REQUIRED	2016-11-03

**Application 14/0335/FL was refused for the following reasons:**

- 1. The proposed extensions are a disproportionate addition to the original house due to their size, length and massing which fill the entire plot width giving a cramped appearance in relation to the surrounding houses and surrounding Green Belt. The design of the proposed extensions also proposes two forward projecting gables which would be detrimental to the character of the Green Belt. For these reasons the proposals are contrary to the aims and objectives of the National Planning Policy Framework, policies CSP4, ENV2 and ENV3 of the Black Country Core strategy and saved policies GP2, ENV2, ENV3 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Guidance: Designing Walsall.*
- 2. The proposed extensions by virtue of their excessive size, length, height, massing and proximity to the neighbouring properties would have an overbearing impact on the outlook from the conservatory at 817 Sutton Road and upon the outlook and daylight to the front bedroom and ground floor window at 817 Sutton Road. The rear extension would also harm the outlook from the primary bedroom window on the north east side of 813 Sutton Road by virtue of its proximity to the neighbours property. For these reasons the proposals are contrary to the aims and objectives of the National Planning Policy Framework, policies CSP4 and ENV3 of the Black Country Core strategy and saved policies GP2 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Guidance: Designing Walsall.*
- 3. The proposed south east gable projection would have a detrimental impact on the character and appearance of the wider street scene by virtue of the height of the extension and its design including the absence of any features. Accordingly, the extension is contrary to Policy H10 of the adopted UDP.*

**Application 15/1725 was refused for the following reasons:**

- 1. The proposed extensions by virtue of their excessive size, length, height, massing and proximity to the neighbouring property would have an overbearing impact on the outlook and would result in loss of light to the adjoining property at 817 Sutton Road. For these reasons the proposals are contrary to the aims and*

PAGE 166 OF 211

*objectives of the National Planning Policy Framework, policies CSP4 and ENV3 of the Black Country Core strategy and saved policies GP2 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Guidance: Designing Walsall.*

*2. The proposed extensions are a disproportionate addition to the original house due to their size, length and massing and the design of the proposed extensions and would be detrimental to the character and appearance of the Green Belt. For these reasons the proposals are contrary to the aims and objectives of the National Planning Policy Framework, policies CSP4, ENV2 and ENV3 of the Black Country Core strategy and saved policies GP2, ENV2, ENV3 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Guidance: Designing Walsall.*

**Application 16/0719 was refused for the following reasons:**

*1. The proposed 8 metre depth is considered excessive running close to the shared boundary with number 813, at between 2.5 and 4 metres high the proposal would result in a loss of light and overbearing impact to the kitchen window of this house and to the patio area. The extension would also breach the Council's 45 degree rule in relation to the kitchen window of number 813. For these reasons the proposal is contrary to the National Planning Policy Framework in particular paragraphs 56, 57, 58 and 64, the Black Country Core Strategy policy ENV2 and Walsall's saved Unitary Development Plan, in particular policy ENV32, and the Supplementary Planning Document, Designing Walsall DW3.*

*2. The proposed extension would be a disproportionate addition to the original house due to its depth and footprint larger than the original house and would be detrimental to the character and appearance of the Green Belt. For these reasons the proposals are contrary to the aims and objectives of the National Planning Policy Framework, policies CSP4, ENV2 and ENV3 of the Black Country Core strategy and saved policies GP2, ENV2, ENV3 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Guidance: Designing Walsall.*

## **Relevant Policies**

### **National Planning Policy Framework (NPPF)**

[www.gov.uk/guidance/national-planning-policy-framework](http://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 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**

PAGE 167 OF 211

- **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](http://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
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- Vision, Sustainability Principles and Spatial Objectives
- CSP4: Place Making
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

## **Walsall Site Allocation Document 2019**

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

#### **Designing Walsall**

- DW1 Sustainability
- DW3 Character
- DW4 Continuity
- DW10 Well Designed Sustainable Buildings

### **Consultation Replies**

**Local Highway Authority** – No objections and no conditions required (16<sup>th</sup> October 2019).

**Fire Authority** – No objections and no comments to make (16<sup>th</sup> October 2019).

**Severn Trent Water** – No objection and no drainage condition required. Advises a public sewer may be present within the site (18<sup>th</sup> October 2019).

#### **Planning Policy:**

The submitted amended plans do not address our previous objection which remains (22<sup>nd</sup> June 2020).

Object due to proposed replacement dwelling being materially larger than the one it would replace and therefore contrary to the Development Plan and the NPPF (30<sup>th</sup> October 2019).

**Birmingham and Black Country Wildlife Trust** – Object to lack of bat survey (3<sup>rd</sup> November 2019).

## Representations

1 x objection has been received from a neighbour on the following grounds:

- Inaccurate plans;
- Inaccurate site boundary;
- Detrimental impacts on light and outlook;
- Overlooking and loss of privacy;
- Breach of 45 degree rule;
- Side windows should not come within 1m of a boundary for fire prevention and other reasons;
- 2m increased main ridge height;
- Excessive size and too close to boundary;
- Would set a precedent;
- Poor design; and
- Larger than previous refusal.

## Determining Issues

- Green Belt
- Design and Appearance
- Neighbours' Amenity
- Ecology
- Highways

## Assessment of the Proposal

### Green Belt

The NPPF seeks to prevent harm to the Green Belt, and states that inappropriate development 'should not be approved except in very special circumstances'. NPPF Paragraph 145 lists a number of exceptions which are not considered as inappropriate and states that *"the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces"* is not inappropriate development. Policy GB1 of the Site Allocation Document mirrors the NPPF Green Belt provisions.

This current proposal represents around a 40% increase above the existing footprint, and over 250% increase above the existing building volume.

The overall scale, height, mass and bulk of the proposed replacement dwelling is excessive, and significantly larger than the original building which is therefore materially larger than the existing building, thus failing the NPPF test.

Furthermore, it is considered that the proposed excessive scale, height and mass would result in significant harm to the character and openness of the Green Belt.

This current proposal goes significantly beyond the scale of the previous approval in 2014 which was at the upper limits of what is considered acceptable at this site, and also goes significantly beyond previously refused applications for a replacement dwelling at this site.

This proposal is therefore inappropriate development in the Green Belt and there are no very special circumstances which would outweigh the harm arising. The Council's Planning Policy Team object to this current proposal on this basis.

This proposal fails to overcome the reasons for the previous refusals at this site and is contrary to Policy GB1 of the Site Allocation Document and the National Planning Policy Framework.

### **Design and Appearance**

The overall proposed appearance of a three storey executive style house at this location is considered does not reflect the local vernacular and fails to respect the character of the area.

Furthermore, the excessive increased height would make the replacement dwelling an unwelcome prominent feature in this street scene which currently features a mix of bungalows and modest two storey houses with predominantly traditional features. The height of the proposed external chimney stack which sits below the main roof ridge further demonstrates, and accentuates, the overall excessive height of the proposed dwelling.

The proposed replacement dwelling is considered to be of an over complicated design that does not reflect the dwellings in the surrounding area, and the position of dormers within the excessive roof heights results in a top-heavy and disproportionate appearance.

A neighbour has objected on the grounds of inaccurate submitted plans. Revised plans have been submitted for this current application, and there are still considered to be some omissions and potential inaccuracies as explained at the top of this report. However, sufficient information is considered to be contained within the latest plans to allow for the necessary assessment to be carried out, and for a decision to be made on this current application. This neighbour's objections regarding height, design, and size have all been considered above, and found to be unacceptable for the reasons as set out. In terms of setting a precedent, it should be noted that each planning application is judged on its own merits.

Overall, the proposal is considered to be poor design which would result in harm to the character of the area, and to the surrounding countryside, contrary to Saved Policies GP2, ENV7 and ENV32 of the Unitary Development Plan, CSP4, ENV2 and ENV3 of the Black Country Core Strategy, DW3 and DW4 of the Designing Walsall SPD and the National Planning Policy Framework.

### **Neighbours' Amenity**

The position of proposed side facing window serving the habitable dressing room area, and roof lights serving habitable rooms in the second floor facing No.813 are considered would result in overlooking / perceived overlooking, and loss of privacy to this neighbour, particularly to the outdoor amenity area serving this neighbouring property. The proposal would also breach the 45 degree rule to this neighbours nearest rear facing habitable kitchen window resulting in additional loss of outlook. Due to the plot orientation, and proximity to the shared boundary, the proposal would result in additional loss of light and shadowing to this neighbour during early morning.



The blank side elevation of the proposed replacement dwelling would also sit at around 2.8m from existing side facing habitable windows serving No.817, significantly below the 13m separation required in the Designing Walsall SPD. The proposal would also breach the 45 degree code to a first floor habitable bedroom window to front resulting in additional loss of outlook. Due to the plot orientation and proximity to the shared boundary the replacement dwelling would result in additional loss of light and shadowing to this neighbour's nearest habitable windows from early afternoon to late evening.

In response to the comments made by the objector regarding the boundary between 813 and the site it has been confirmed in previous applications that the boundary identified on the submitted plans are accurate and includes a dog leg on the frontage of the property, which appears to reflect the records held by the Council. Any land ownership dispute is a civil matter between the parties concerned.

A neighbour's objection regarding loss of light, outlook and privacy have all been considered above and found to be unacceptable in this instance for the reasons set out. Comments made stating that windows are not acceptable within 1m of a boundary are noted, however this is not a stipulation of the Council's adopted planning policies and guidance, which have all been taken into account above in the assessment of this current proposal.

Overall, due to the excessive proposed scale and proximity to the shared boundaries, the proposal is considered would result in additional impacts to neighbours' amenity and is contrary to Saved Policies GP2 and ENV32 of the Unitary Development Plan, CSP4 and ENV3 of the Black Country Core Strategy, Appendix D of the Designing Walsall SPD and the National Planning Policy Framework.

### **Ecology**

Notwithstanding the comments made by the Birmingham and Black Country Wildlife Trust, a bat survey has been submitted for this application which concludes that there were no bats identified within the application site, and that the site has low to negligible potential for bats. This would not therefore form a refusal reason on this decision.

### **Highways**

There is sufficient room within the site to accommodate a policy compliant level of parking to serve the proposed dwelling, and this would not therefore form a refusal reason on this decision. The Local Highway Authority do not object to this proposal.

## **Conclusions and Reasons for Decision**

This application fails to overcome previous refusal reasons, and represents a significantly larger proposal than previously approved and refused applications for replacement dwellings at this site. This current proposal would result in significant additional harm to the character and openness of the Green Belt, to the character of the area and surrounding countryside and to neighbours amenity. The proposal is contrary to the Council's Development Plan, and to national planning policies and guidance as set out in this report.

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 advised the applicant's agent that the proposal is wholly unacceptable, and offered an opportunity to address the Council's concerns, or to withdraw this application and re-submit taking account of the Council's advice. The applicant has decided to proceed without making any changes, and has submitted revised plans to more accurately reflect the existing buildings on site. The officer therefore recommends that planning permission should be refused for the proposal in its current form.

## **Recommendation**

Refuse

## **Reasons for Refusal**

1. The proposed excessive size, bulk, height and massing of the replacement dwelling when combined with the plot orientation and proximity to the neighbouring properties would result in breaching the 45 degree code to nearest habitable windows, and loss of light, outlook and privacy to neighbours at No.813 and No.817. For these reasons the proposals are contrary to Saved Policies GP2 and ENV32 of the Unitary Development Plan, CSP4 and ENV3 of the Black Country Core Strategy, Appendix D of the Designing Walsall SPD and the National Planning Policy Framework.
2. The proposed replacement dwelling represents a significantly larger building than existing buildings, and goes significantly beyond the scale of the previous approval granted under application reference 14/0953/FL in 2014 which was at the upper limits of what is considered acceptable at this Green Belt site. This proposal is therefore inappropriate development in the Green Belt and there are no very special circumstances which would outweigh the harm arising. For these reasons the proposals are contrary to Saved policies GP2 and ENV32 of the Unitary Development Plan, CSP4, ENV2 and ENV3 of the Black Country Core Strategy, Policy GB1 of the Site Allocation Document and the National Planning Policy Framework.
3. The proposal is poor design due to its three storey height and top heavy disproportionate appearance and over complicated executive style house appearance, which fails to reflect the character of the area resulting in harm to the character of the area and to the surrounding countryside, contrary to Saved Policies GP2, ENV7 and ENV32 of the Unitary Development Plan, CSP4, ENV2 and ENV3 of the Black Country Core Strategy, DW3 and DW4 of the Designing Walsall SPD and the National Planning Policy Framework.





### Planning Committee

Report of Interim Head of Planning and Building Control on 23-Jul-2020

**Plans List Item Number: 10.**

**Reason for bringing to committee:** The applicant is Cllr. Khizar Hussain's father

**Location:** 63, LIME STREET, WALSALL, WS1 2JL

**Proposal:** SINGLE STOREY FRONT AND TWO STOREY SIDE EXTENSIONS

**Application Number:** 20/0258

**Applicant:** Mr Abdul Khaliq

**Agent:** APEXTODAYLTD

**Application Type:** Full Application:  
Householder

**Case Officer:** Rebecca Rowley

**Ward:** Paddock

**Expired Date:** 29-Apr-2020

**Time Extension Expiry:** 25-Jun-2020

**Recommendation Summary:** Grant Permission Subject to Conditions to secure an obscurely glazed window, non-opening below 1.7m, in the first-floor rear bedroom of the proposed two storey side extension, retention of the parking space in the car port and retention of 3 parking spaces on the front driveway.



## Proposal

This application assesses the plans to build a single storey extension to the front of the dwelling house and a first-floor extension to the north east side elevation, above an existing carport and rear ground floor extension.

### Dimensions

#### Single storey front extension

This extension would create an extra reception room on the ground floor.

Depth: 2.9m

Width: 5.37m

Height to eaves: 2.7m

Maximum height: 3.1m

- The extension would have a concrete tiled monopitch roof. All facing materials to match existing dwelling
- Two habitable room windows are proposed in the principal elevation at the ground floor.

#### First floor side extension

This extension would create two new bedrooms to make the dwelling a 7-bedroom house.

Depth: 13.5m

Width: 2.6m at the rear (for a depth of 5.2m), sloping out to 3m at the front.

Height to eaves: 5.1m (same height as existing roof eaves)

Maximum height: 6.5m

Step down from the main roof line: 0.2m at the ridge

- The roof would be dual pitched, breaking into the existing north east facing side of the roof. The new roof ridge would run perpendicular to the existing main house roof ridge. This would create a new side gable
- The extension would be in alignment with the original principal elevation of the dwelling and stepped in 1.2m from the existing first floor rear elevation.
- The extension will rise up from the rear pitch of the existing single storey dual pitched roof on the ground floor side.
- Facing materials to match existing dwelling
- One habitable room window is proposed in the principal elevation and one obscurely glazed window serving a habitable room in the rear elevation. No side facing windows are proposed.

## Site and Surroundings

Lime Street is located in the Chuckery area of Walsall, in an area characterised by high density residential houses. Lime Street (and many surrounding streets) consist predominantly of traditional terraced housing, with a number of 1960s high and lower rise

flat blocks in the locality. Intermittently, newer built dwellings have been erected on individual plots of land.

The application dwelling, 63 Lime Street and its opposite neighbour, 66 Lime Street are 1960's style in fill houses at the far northwest end of Lime Street accessed a shared T-shaped driveway between the two dwellings. There is a separation distance of approximately 25m between the principal elevations of the 2 dwellings. Beyond their north east boundaries, is Chuckery Primary School grounds and buildings. To the south west side of the application site, is a public right of way between Tantarra Street, at the rear of the application dwelling, passing the sides of both houses and emerging on Selborne Close, at the rear of no.66. The principal elevation of no. 63 sits some 7.5m in front of 61 Lime Street on the opposite side of the public right of way.

Immediately behind the rear boundary of the application site is an electricity substation. The application sites north-eastern rear garden boundary is shared is shared with the rear garden of 74. Tantarra Street, with an angled separation distance of approximately 14.6m between the rear facing windows of each house.

The application house is a traditional brick and tile construction of a simple design with the roof ridge running from front to rear, creating front and rear gable ends. The house has benefitted from a two-storey rear extension, elongating the dwelling with the roof ridge remaining consistent, plus the addition of a further single storey mono-pitch rear extension. There is a mono pitch carport to north east side with a single storey dual pitched roof extension behind. The hard-surfaced area to the front of the house is approximately 9.5m x 7m.

## **Relevant Planning History**

### Application Site

- 02/0022/FL/H3 – Part single and part two storey rear extension – refused permission on the grounds that the proposed extension would reduce the separation distance between the rear windows of the application house and 74 Tantarra Street to approximately 16m – 20/02/2002
- 02/0382/FL/H3 – Part single and part two storey rear extension (amendment to 02/0022) – granted permission – 26/04/2002
- 04/1572/FL/H1 – Single storey rear extension – granted permission – 19/08/2004

## **Relevant Policies**

### **National Planning Policy Framework (NPPF)**

[www.gov.uk/guidance/national-planning-policy-framework](http://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 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**

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 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. 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 “PSD” 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**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Black Country Core Strategy**

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness

### **Saved Unitary Development Plan**

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- 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 SPD are consistent with the NPPF.

### **Consultation Replies**

Pollution Control – No Objections

Local Highway Authority – No Objections

### **Representations**

Representations have been received from a couple of neighbours and Paddock Housing Co-operative objecting to the proposal (*Local Planning authority comments in italics and brackets*)



- Concern is that Lime Street is a cul de sac and is a very congested street with vehicles parking on both sides and this on its own is a massive issue. *(Noted and outside the scope of this current planning application)*
- Number 63 and 66 are at the top of the cul de sac. *(Noted)*
- My main concern is that my driveway is SHARED with number 63 in the style of a letter T. Upon entering the driveway number 63 is on the left and my house number 66 is on the right. *(Noted)*
- Already have ongoing problems with gaining access to my front door due to the large white van that is permanently parked there and the cars of carers that visit the house throughout the day. *(This is a civil matter between the two land owners)*
- Number 63 has carers that constantly visit the property throughout the day. The cars of the carers usually block my access to get to my front door on many occasions. *(This is a civil matter between the two land owners)*

*This is a civil matter and not a material planning consideration. Number 63 Lime Street has sufficient parking space available for the proposed size of dwelling in accordance with saved UDP policy T13, which outlines the requirement for at least 3 parking spaces of 4.8m x 2.5m for a dwelling with 4 or more bedrooms. Number 63 Lime Street would have at least 3 spaces of this size according to the plans submitted. Highways have been consulted on this application and have no objections to the proposal.*

- In order for me to agree to planning permission for the single storey front and 2 storey side extensions, that I am given a 100 % guarantee that whilst the building work is taking place I and any of my visitors will not encounter any problems in gaining access to my section of the driveway to my front door and exiting my driveway. *(The Local Planning Authority processes and determines planning applications in accordance with local and national planning policies. Access via a shared driveway is a civil matter between the two landowners)*

- I do believe that the white van will have to be moved before the building work commences. Number 63 has told me that the white van is out of order and it has been stationary there for nearly a year. *(This is outside the scope of the planning legislation. The applicant is required to demonstrate off road parking in accordance with UDP T13 policy)*

- If it (*white van*) remains there once the building work commences the builders vehicles who will be working on the extension will have to block the driveway. Therefore my access to my front door will be blocked. *(This is a civil matter between the land owners)*  
I cannot agree to the extensions being built unless a plan/guarantee is put in place to ensure that our shared driveway is not allowed to become blocked restricting me accessing and exiting my home. I would like to be informed in advance what plans will be put in place. *(This is a civil matter between the land owners and the local planning authority can condition the applicant provides off road parking spaces in accordance with UDP T13 policy. In addition a note to the applicant could be added to any permission granted, to ensure that access to the shared driveway is not blocked at any time during the construction period, for any reasons relating to the construction of the extensions)*

- The grounds for objecting is the tenants at 74 Tantarra Street would be adversely affected by the proposed single storey front and two storey side extensions. The tenants at 74 Tantarra Street would be severely overlooked by the proposed extensions.

*(The single storey front extension would not be visible from any position within the boundary of no. 74 Tantarra Street, so this part of the proposal could not impact on these residents. The rear window is considered in this assessment.)*

-The view of back of the property proposes a window on the application. I object to the window which will be overlooking my garden where I have grandchildren playing.

-It will be looking straight into my bedrooms and kitchen which will be an invasion of my privacy.

-I feel that the distance between the said window is not at a lawful distance to my property.

*(Considered in this assessment)*

-In a previous application from the client, we objected due to a window proposed and this was replaced by a frosted glass window where the tenants could not see into our property. We agreed to this but still have children and adults leaning out of the window invading the privacy of our property.

*(Considered in this assessment)*

## **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 detached 1960's application dwelling sits at the end of Lime Street, behind a shared wall with the adjacent public right of way. Access to the site is a shared T-shaped driveway which also provides access to 66 Lime Street. Visibility of the ground floor of the dwelling is partially obscured from Lime Street by the boundary wall to its south west side.

The proposed front ground floor mono pitched extension is of simple design across the width of the existing dwelling, projecting 2.9m onto the hard-surfaced area in front of the existing principal elevation. It is considered, this would not be an overbearing addition to the existing dwelling, as it would be mostly obscured by the boundary wall to the public right of way. Overall on balance, it would not cause harm to the street scene or character of the area.

The proposed first floor side extension would sit on top of the existing carport and single storey rear extension. The dual pitched roof of the existing ground floor rear extension, which creates a gable on the north east side elevation, would be replaced by the first-floor extension and a new shallow dual pitched roof would be built, creating a higher, larger gable on this elevation. This style of roof reflects the existing dwelling and would be lower than the existing main roof ridge, maintaining subservience to the building.

The first-floor side extension would have limited visibility from public vantage points limiting potential impacts to the local character. It would be visible from some neighbouring houses, and from the grounds of the adjacent primary school. It is considered the

extension would be seen in the context of the existing extended house to limit impacts on the local character. All facing materials would be consistent with the existing dwelling.

On balance, it is considered that the proposed extensions would not cause harm to the character of the area or the visual amenity of the street from the public vantage point, in accordance with NPPF12, BCCS CSP4 and ENV2, saved UDP policy ENV32 and SPD Designing Walsall Policy DW3.

#### Amenity of Nearby Residents

The proposal does not breach the 45-degree code for any neighbouring dwellings. It is considered to not cause harm to the visual outlook of neighbouring residents by way of the 45-degree code. Given the south east to north west orientation of the application dwelling, it is considered that the proposed extensions would have no more impact on the availability of light to neighbouring residents than the existing house, in accordance with saved UDP policy GP2.

There would be a front habitable window to window separation of approximately 22m between the proposed ground floor front extension and the ground floor windows of the opposite neighbours at no. 66. It is considered this separation would be acceptable, reflecting the current situation as the Designing Walsall SPD appendix D separation distances are applied more stringently at the rear than the front. There would be a front habitable window to window separation of approximately 25m between the proposed first floor bedroom window and the habitable first floor windows of no. 66. This accords with Designing Walsall SPD appendix D and considered to not cause further harm.

The proposed first floor rear habitable room window, would overlook the rear garden of 74 Tantarra Street and have a window to window separation of approximately 16m to the rear habitable room windows at 74 Tantarra Street. Due to the alignment of the rear elevation of the application house with the rear garden boundary of no. 74 Tantarra Street, this relationship already exists between the first-floor rear windows and the garden and does give rise to the potential for overlooking. It is considered that this window would create the potential for further harm to the privacy from overlooking of the occupiers of the house, detrimental to their amenity, conflicting with saved UDP policy GP2. To mitigate this harm, a condition would be included to ensure that this window is obscurely glazed to Pilkington level 4 or equivalent, with a top hung high level opening lite to protect the amenity of the neighbouring residents from overlooking and occupiers of the extension being able to hang out of the window.

No side windows have been proposed, so there is no potential for overlooking the grounds of the adjacent primary school and a condition can be imposed to prevent any additional windows/doors being added.

#### Parking

In accordance with saved UDP policy T13, a 7-bedroom dwelling would require at least 3 off road parking spaces measuring a minimum of 4.8m x 2.5m. This requirement is fulfilled by the front hard surfaced area remaining after construction of the single storey extension to the front of the dwelling and the carport that the applicant has confirmed will remain in use for parking. A condition will be included requiring the car port to remain available for parking, plus ensuring the front car parking spaces also being available for the parking of vehicles. The neighbours' concerns about their access being blocked by visitors to the

applicant's house, is a civil matter between the two owners and outside the scope of the planning legislation. Should the public right of way be blocked or there be issues with indiscriminate parking on the public highway, this will be a matter to raise directly with other agencies to deal with at the time of the incident.

## **Conclusions and Reasons for Decision**

In weighing the material planning considerations, taking into account the local and national planning guidance, consultee responses and representations received, it is considered that this application to build a single storey front extension with monopitched roof and a first floor side extension with a glazed window to the front and an obscurely glazed window to the rear, according to the plans submitted, would not cause harm to the character of the dwellinghouse or the wider area, result in any loss of visual amenity or light availability for neighbouring occupiers and not cause harm to their privacy, subject to obscure glazing being used in the rear first floor bedroom window. The proposal is considered would not impact negatively on Highway safety.

As such the development is considered to meet the aims and objectives of the National Planning Policy Framework policy 12, BCCS policies CSP4 and ENV2 policies GP2, ENV32 and T13 of the saved Unitary Development Plan and the SPD, Designing Walsall's policy DW3 and Appendix D.

The use of safeguarding conditions in respect of the approved materials and plans 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 it is considered that the application should be recommended for approval.

## **Positive and Proactive Working with the Applicant**

Officers have spoken with the applicant's agent and in response to concerns raised regarding the potential for overlooking the rear garden of 74 Tantarra Street, from the proposed first floor rear window and also the separation distance between this window and the rear windows of the dwelling at 74 Tantarra Street not meeting the required separation distances to protect occupants, amended plans have been submitted which enable support to be given to this part of the scheme. A parking plan was also requested and submitted to demonstrate that there would be sufficient off-site parking available for this 7 bedroom dwelling.

## **Recommendation**

Grant Permission Subject to Conditions to secure an obscurely glazed window, non-opening below 1.7m, in the first-floor rear bedroom of the proposed two storey side extension, retention of the parking space in the car port and retention of 3 parking spaces on the front driveway.

## 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: This development shall not be carried out otherwise than in conformity with the following approved plans:

- Proposed Side Double Storey and Front Single Storey Extension (Proposed Plans and Elevations), drawing number LS63-200A revision A, submitted 05/05/2020
- Part Proposed Ground Floor Plan, including parking plan, submitted 23/06/2020
- Proposed Site Plan, including parking plan, submitted 23/06/2020

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: Notwithstanding the plans submitted the development hereby permitted shall not be carried out otherwise than in accordance with the carport available for the parking of a motor vehicle (4.8 metres by 2.4metres) and shall thereafter be retained for the lifetime of the development.

Reason: To safeguard the provision of a minimum of 3 off-road parking spaces and safeguard the amenity of the occupants of nearby dwellings in accordance with the requirements of Saved UDP policy T13.

---

4: Notwithstanding the plans submitted, the front hard-surfaced driveway shall be available for the parking of three motor vehicle (each 4.8 metres by 2.4metres) and shall thereafter be retained for the lifetime of the development and used for no other purpose.

Reason: To safeguard the provision of a minimum of 3 off-road parking spaces and safeguard the amenity of the occupants of nearby dwellings in accordance with the requirements of Saved UDP policy T13.

---

5: The walls and roof of the extension shall not comprise facing materials other than those that match, in size, colour and texture as those which are used in the existing building and shall be retained as such after completion of the extension.

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

---

6: The first floor, rear elevation, bedroom window hereby approved shall be a top hung non-opening below 1.7m, obscurely glazed to meet Pilkington level 4 or equivalent and be retained thereafter.

Reason: To safeguard the amenities of the occupiers of adjoining premises, and the privacy of occupiers of the application property, and to comply with policy GP2 of Walsall's Unitary Development Plan.

---

7: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

---

### **Notes for Applicant**

1: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, there shall be no impedance of access to the driveway shared with the neighbouring dwelling no. 66 Lime Street by vehicles or materials resulting from the construction of the extension hereby approved, at any time.

Reason: To safeguard the amenities of the occupiers of the neighbouring premises

2: The Applicant must ensure that no soil or other debris is washed or placed within the highway. Failure to prevent this incident could result in an offence and a notice being served on the Applicant under Section 151 of the Highways Act 1980.

3: The Applicant must ensure that no water is discharged onto the highway. Failure to prevent this discharge could result in an offence and a notice being served on the Applicant under Section 163 of the Highways Act 1980.





# Planning Committee

**Plans List Item Number: 11.**

**Case Officer:** Jasmine Kaur  
**Ward:** St Matthews  
**Expired Date:** 07-Jun-2019  
**Time Extension Expiry:** 15-Aug-2019

The map shows a residential area with several streets. A red outline highlights a specific plot of land. The map includes house numbers and street names.

Streets shown include Leigh Court, Shelter, and Ruswood Close. The red outline is located on a street that runs horizontally across the middle of the map, between the top and bottom sections. The street is labeled "Shelter" and "140.3m". The red outline is located on a plot of land that is bounded by the street to the north and east, and by a curved road to the south. The plot is labeled "39".

Other street names visible include "Leigh Court", "Shelter", and "Ruswood Close". House numbers are visible on many of the plots, including 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

© Walsall Crown Copyright 2020 Licence No:100019529



## Proposal

First floor side extension including new front gable feature and alterations.

First floor side extension over the existing garage and games room nearest to Rushwood Close measures 13.2m in depth and proposed extension would have close proximity to the rear garden of Rushwood Close.

The height taken from front elevation measures 7.1m high and 5.3m at eaves level. The height from the side wall facing Rushwood Close measures 7.5m at highest level. The extension would encompass hipped roof with gables in the front and rear elevation. The width of the side extension is 4.5m wide.

The first floor rear extension adjacent to No 40 Mellish road measures 5m in depth along the boundary, total width of the extension including the ensuite is 8.4m, the height is 7.5m and 5.6m at eaves level.

The current proposal reflects the previously refused applications in scale, height and position. The planning history indicates that applicant is consistently submitting the similar proposal

### **07/1523/FL/H1: First floor side and rear extension and lean-to roof over single storey rear extension: Permission Refused 5 October 2007 for following reasons:**

The proposed first floor extension would have an overbearing impact on the adjoining houses and gardens in Rushwood Close, in particular numbers 2 and 4, because of the short length of the gardens of these houses, the height and mass of the extension and its close proximity to the boundary, and its projection beyond the rear of the existing house. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Residential Development Standards.

The extension would be detrimental to the health and amenity of the protected tree in the garden of 2 Rushwood Close because of the need to heavily prune the crown of this tree in order to accommodate the extension. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2 and ENV18.

### **Appeal dismissed 11 September 2008 Appeal reference APP/V4630/A/08/2071559) for following reasons:**

I share the Council's view that the overall design, scale and external materials of the proposal, when considered in relation to the host property and the street scene in general, are acceptable. However, the two-storey addition would project a considerable distance from the main rear elevation of the house and it would also be close to the neighbouring properties of Rushwood Close, which have shallow rear gardens.

The occupiers of Numbers 2 and 4 Rushwood Close in particular would be faced with the large expanse of brickwork of the side elevation of the two storey extension when looking out of the rear of their properties and when enjoying their back gardens. Given the positioning of these dwellings in relation to the appeal property, I am satisfied that the proposal would not unacceptably reduce the levels of natural light available to their occupiers and would not significantly increase overlooking. Nevertheless, it would have an overbearing effect and would unduly harm their outlook. For this reason, I find the proposal contrary to policies ENV32 and H10 of the Walsall Unitary Development Plan (UDP) and the supporting document titled 'Residential Development Standards'.

A mature sycamore tree is located in the rear garden of Number 2 Rushwood Close. It is the subject of a Tree Preservation Order, and in my view, makes a positive contribution to the local area. The canopy of this tree overhangs the curtilage of the appeal property and as a result, its crown would have to be heavily pruned in order for the second storey extension to be built. No technical evidence has been submitted to convince me that the longevity of this tree would be safeguarded if the development proceeded. On this basis, I take a precautionary approach and conclude that the proposal also conflicts with policy ENV18 of the UDP.

**08/1440/FL: Proposed first floor side extension over garage and retention of ground floor extension to rear: Permission Refused 9 December 2008**

The proposed first floor extension would have an overbearing impact on the adjoining houses and gardens in Rushwood Close, in particular number 2, because of the short length of the garden of this house, the height and mass of the extension and its close proximity to the boundary. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document "Designing Walsall".

The extension would be detrimental to the health and amenity of the protected tree in the garden of 2 Rushwood Close because of the need to heavily prune the crown of this tree in order to accommodate the extension. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2 and ENV18.

The application has failed to include evidence to determine the possible presence of bats. The application is therefore contrary to Walsall's Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document "Conserving Walsall's Natural Environment".

**09/0011/FL: Proposed first floor side extension over garage: Permission Refused 8 April 2009**

The proposed first floor extension would have an overbearing impact on the adjoining houses and gardens in Rushwood Close, in particular number 2, because of the short length of the garden of this house, the height and mass of the extension and its close proximity to the boundary. The development would therefore be

contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document "Designing Walsall".

The application has failed to include evidence to determine the possible presence of bats. The application is therefore contrary to Walsall's Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document "Conserving Walsall's Natural Environment".

## **Site and Surrounding**

The application site is a 2-storey detached dwelling which is located on the Mellish Road, with the side of the property adjacent to Rushwood Close. The locality is characterised by detached dwellings with a mix of large and small plots which come together to form an area of established residential character.

Application site shares a boundary with the rear gardens of Rushwood Close particularly No 2-4. The extension would be between the side of the application house and the boundary with the rear gardens of houses in Rushwood Close. These gardens are relatively short. The rear garden of number 2 Rushwood Close, the house that would most directly face the extension, is currently only 8.6 metres deep. The adjacent house, 4 Rushwood Close would face the side elevation of the rear part of the extension. They have a conservatory that would provide an approximately 9.2 metre separation to the proposed extension.

There is a protected sycamore tree in the rear garden of 2 Rushwood Close next to the side of the existing garage at number 44.

The application site has already been extended and altered.

## **Relevant Planning History**

07/1523/FL/H1: First floor side and rear extension and lean-to roof over single storey rear extension: Permission Refused 5 October 2007

### **Refusal Reasons:**

The proposed first floor extension would have an overbearing impact on the adjoining houses and gardens in Rushwood Close, in particular numbers 2 and 4, because of the short length of the gardens of these houses, the height and mass of the extension and its close proximity to the boundary, and its projection beyond the rear of the existing house. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Residential Development Standards.

The extension would be detrimental to the health and amenity of the protected tree in the garden of 2 Rushwood Close because of the need to heavily prune the crown of this tree in order to accommodate the extension. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2 and ENV18.

**Dismissal Reasons:**

I share the Council's view that the overall design, scale and external materials of the proposal, when considered in relation to the host property and the street scene in general, are acceptable. However, the two storey addition would project a considerable distance from the main rear elevation of the house and it would also be close to the neighbouring properties of Rushwood Close, which have shallow rear gardens.

The occupiers of Numbers 2 and 4 Rushwood Close in particular would be faced with the large expanse of brickwork of the side elevation of the two storey extension when looking out of the rear of their properties and when enjoying their back gardens. Given the positioning of these dwellings in relation to the appeal property, I am satisfied that the proposal would not unacceptably reduce the levels of natural light available to their occupiers and would not significantly increase overlooking. Nevertheless, it would have an overbearing effect and would unduly harm their outlook. For this reason, I find the proposal contrary to policies ENV32 and H10 of the Walsall Unitary Development Plan (UDP) and the supporting document titled 'Residential Development Standards'.

A mature sycamore tree is located in the rear garden of Number 2 Rushwood Close. It is the subject of a Tree Preservation Order, and in my view, makes a positive contribution to the local area. The canopy of this tree overhangs the curtilage of the appeal property and as a result, its crown would have to be heavily pruned in order for the second storey extension to be built. No technical evidence has been submitted to convince me that the longevity of this tree would be safeguarded if the development proceeded. On this basis, I take a precautionary approach and conclude that the proposal also conflicts with policy ENV18 of the UDP.

08/1440/FL: Proposed first floor side extension over garage and retention of ground floor extension to rear: Permission Refused 9 December 2008

**Refusal Reasons:**

The proposed first floor extension would have an overbearing impact on the adjoining houses and gardens in Rushwood Close, in particular number 2, because of the short length of the garden of this house, the height and mass of the extension and its close proximity to the boundary. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document "Designing Walsall".

The extension would be detrimental to the health and amenity of the protected tree in the garden of 2 Rushwood Close because of the need to heavily prune the crown of this tree in order to accommodate the extension. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2 and ENV18.

The application has failed to include evidence to determine the possible presence of bats. The application is therefore contrary to Walsall's Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document "Conserving Walsall's Natural Environment".

09/0011/FL: Proposed first floor side extension over garage: Permission Refused 8 April 2009

## Refusal Reasons

The proposed first floor extension would have an overbearing impact on the adjoining houses and gardens in Rushwood Close, in particular number 2, because of the short length of the garden of this house, the height and mass of the extension and its close proximity to the boundary. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document "Designing Walsall".

The application has failed to include evidence to determine the possible presence of bats. The application is therefore contrary to Walsall's Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document "Conserving Walsall's Natural Environment".

## Relevant Policies

### National Planning Policy Framework (NPPF)

[www.gov.uk/guidance/national-planning-policy-framework](http://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**

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. 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.

## **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Saved Policies of Walsall Unitary Development Plan**

## **Local Policy**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

## **Black Country Core Strategy**

- ENV3: Design Quality

## **Saved Unitary Development Plan**

- GP2: Environmental Protection
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- H10: Layout, Design and Dwelling Mix
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

## **Supplementary Planning Document**

Designing Walsall  
DW3 Character

- Appendix D

## **Consultation Replies**

Pollution Control: No objection

Ecology: the bat survey was submitted by applicant.

Tree officer:

- The protected Sycamore tree is situated approximately 1m from the boundary wall with the applicants property. The crown extends into the applicants property by approximately 1-1.5m in an area level with the first floor area.
- The tree has an estimated stem diameter of 300mm, giving it a root protection area of 40.7m<sup>2</sup>, which equates to a circle with a radius of 3.6m or a square with 6.4m sides. However, given the presence of an existing single storey extension between the tree and the main dwelling to no. 44, it is likely that the presence of root material will be limited (although this is wholly dependent on the depth of the existing foundations, built circa 1998 under Building Regs 049821B/0). Any foundation deeper than 500-600mm is likely to have severed a significant amount of root material at the time with the foundation restricting future root growth.
- Given the close proximity of the tree to the boundary, if the above application for a first floor side extension was allowed, it is likely that the Council and/or tree owner will be placed under pressure to allow severe pruning or felling of the tree due to various issues such as dampness, tree debris in gutters blocking downpipes, anxiety in adverse weather conditions, shading etc. The tree provides a useful amount of amenity value and its removal will be detrimental to the overall aesthetic and landscape value of the area.
- As the tree is in third party ownership, and we cannot control what the owner does with their own tree, the Council should be careful in allowing building works which will have a detrimental effect on third party property. Application cannot be supported.

## **Representations**

Three objection letters were received from the occupants of Rushwood Close:

The proposal is same as three previous refused planning applications and appeal was also dismissed. Occupiers of No 4 & 2 will face large expanse of brickwork of the side elevation, which is a mere 30 feet from my conservatory, having an overbearing effect which would unduly harm our outlook;

The applicant has not submitted technical evidence to demonstrate that the listed mature sycamore tree located in the rear garden of Number 2 Rushwood Close could be safeguarded if the development proceeds;

Failure to meet the Local Development (Walsall) Planning Policy – ENV32 due to:-

- The appearance of the proposed extension.
- The height and proportion, scale and mass of the proposed building/structure.
- The visual relationship of the proposed development with adjacent trees, the street and character of the surrounding neighbourhood.
- There is a distance of seven metres between our house and the two- storey proposal.
- This will result in overshadowing, loss of light and some evening sun.
- The mass of brickwork to be used, only millimetres away from the boundary fence and a distance of seven metres from the end of our house, is in our view extremely unsightly and overbearing both in height and width to 2 Rushwood Close.
- The appeal has already been dismissed for the same proposal

## **Determining Issues**

- Design and Character of Area
- Amenity of Nearby Residents
- Protected tree

## **Assessment of the Proposal**

### **Design and Character of the Area**

The adopted planning policies Policy of the saved UDP policy 'H10 Layout, Design and Dwelling Mix' the Council will expect the design of residential developments, including residential extensions to create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in UDP Policy ENV32 'Design and Development Proposals.' Supplementary Planning Guidance 'Designing Walsall' also states that the development proposals must appraise the character of an area by assessing typical building heights, rhythms, materials as well as details and architectural solutions. Whilst the Council accepts that these properties would be significantly impacted, and Council will not permit development which would have an unacceptable adverse impact on the residential amenities. Saved UDP Policy ENV32 alludes that the Council when assessing the quality of design ensure that proposal height and mass of the structure is well coordinated in terms of visual relationship and does not affect living conditions of the adjoining properties.



## **Residential Amenity**

Rushwood Close residents have objected to the proposal concerned with the impact this proposal would have on their living conditions.

The proposed first floor side extension would be built up to the shared boundary with Rushwood Close. The distance between the rear habitable room windows of 2 Rushwood Close and the proposed extension is 8.6 metres, given the proposed depth, height, large expanse of brickwork (measuring 13.2 metres in depth from the front elevation to the rear elevation of the proposed extension) of the side elevation of the two storey extension, would result in sense of enclosure which is considered to be unduly harmful to the outlook of the neighbour. In addition, the Council's Designing Walsall SPD seeks to achieve a minimum 13 metres from habitable room windows to blank walls of 3 metres high or more. This shortfall contributes to the harmful outlook for the occupiers of 2 Rushwood Close. 4 Rushwood Close also has rear conservatory providing a shorter separation distance of 9.2 metres to the proposed two storey extension, 4 metres shortfall of the Designing Walsall SPD for windows to blank walls.

Therefore, the occupiers of Numbers 2 and 4 Rushwood Close in particular would be faced with the large expanse of brickwork of the side elevation of the two storey extension when looking out of the rear of their properties and when enjoying their shallow back gardens. Given the positioning of these dwellings in relation to the application site, it is considered would have an overbearing effect and would unduly harm the outlook of the Rushwood Close residents to the detriment of their amenities. Consequently, the proposed side extension is contrary to UDP policies ENV32 and H10 and Designing Walsall supplementary planning document. It was accepted by the planning inspector that the proposal would not unacceptably reduce the levels of natural light available or increase overlooking to the Rushwood Close occupiers. Nevertheless, it would have an overbearing effect and would unduly harm their outlook. The applicant may claim there are personal circumstances for the construction of the side extension. An applicants personal circumstances would not outweigh the harm to the environment, as the harm will outlast any personal circumstance. In this instance the proposal has a detrimental impact on the adjacent neighbours and a protected tree which is considered would outweigh any personal circumstance the applicant may wish to claim.

In relation to the rear extension adjacent to No 40 Mellish Road; the extension would have limited on the amenity of the adjoining dwelling. Due to the variations in the footprints of the dwelling, the rear addition would only extend beyond 2m from the rear wall of No 40. The part of the rear extension would be aligned with existing footprint of No 40. No objection is raised to the rear extension.

Overall proposal is considered to have detrimental impact on the living conditions of the adjoining dwellings in terms of overbearing effect and loss of outlook which is contrary to the saved UDP policies ENV32 and H10 and Designing Walsall supplementary planning document.

## Protected Tree

The proposal contradicts with saved UDP policy GP2 'Environmental Protection' & ENV18: Existing Woodlands, Trees and Hedgerows as it would impact the mature sycamore tree which is located in the rear garden of the 2 Rushwood Close. The Tree officer has raised objection to the proposal.

The canopy of this tree overhangs the curtilage of the application property and as a result, its crown would have to be heavily pruned in order for the second storey extension to be built. Sycamore tree is protected by tree preservation order and it is considered to make a positive contribution to the local vicinity. Applicant has not provided any technical evidence to demonstrate how the longevity of the tree would be safeguarded if the development proceeded. The UDP policy GP2 clearly denotes that the protection and enhancement of the environment is central to the strategy of the Plan. In this case, there is applicant has failed to meet the requirements which form part of the material assessment in determining this planning application.

## Conclusions and Reasons for Decision

Applicant has submitted the same proposal which has been previously refused via planning application; 07/1523/FL/H1, 08/1440/FL and 09/0011/FL and the 2008 dismissed planning appeal reference APP/V4630/A/08/2071559. The applicant has not made any significant changes to the proposal which would overcome the reasons for refusal other than making the extension larger.

The first floor side extension is fails meets the policies requirements and it would have adverse impact on the quality of life of the adjoining neighbours in terms of overbearing effect and loss of outlook which is contrary to the saved UDP policies GP2, ENV32 and H10. Black Country Core strategy ENV3 Design Quality and Designing Walsall SPD.

Furthermore applicant has not provided technical report to demonstrate how the mature Sycamore tree which is protected by the tree preservation would be safeguarded from the proposed development; therefore proposal contradicts saved UDP policies GP2 & ENV18.

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

Applicant's agent has been contacted several times by the LPA to amend the proposal to address the previous reasons for refusal and the planning inspectors dismissed appeal. The applicant was also given the option to consider extending to the rear of the dwelling which would not have close relationship with neighbouring gardens on Rushwood Close. In response the side extension has now been extended by a further 2.8 metres over the existing ground floor extension, replacing a hipped roof with a rear gable roof adjacent to Rushwood Close. The applicant's agent has acknowledged that on the 4<sup>th</sup> June *"I have gone ahead and taken instructions from my client and he does not propose to make further changes. Please can you proceed with getting the application registered at the next available Committee for determination."*

PAGE 197 OF 211

## Recommendation

### Refuse

- 1 The proposed first floor extension would have an overbearing impact on the adjoining houses and gardens in Rushwood Close, in particular numbers 2 and 4, because of the short length of the gardens of these houses, the height and mass of the extension and its close proximity to the boundary, and its projection beyond the rear of the existing house. The development would therefore be contrary to Saved policies of Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, Black Country Core strategy ENV3 and 'Designing Walsall' supplementary planning document.
- 2 The extension would be detrimental to the health and amenity of the protected tree in the garden of 2 Rushwood Close because of the need to heavily prune the crown of this tree in order to accommodate the extension. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2 and ENV18.



### Planning Committee

Report of Interim Head of Planning and Building Control on 23-Jul-2020

**Plans List Item Number: 12.**

**Reason for bringing to committee:** Called to Planning Committee by Councillor Johal as it needs delicate judgement as previously developed land and community support for application

**Location:** HINGLEY COTTAGE, LINDROSA ROAD, STREETLY, WALSALL, B74 3LB

**Proposal:** DEMOLITION OF REDUNDANT DUTCH STYLE TIMBER CLAD BARN AND INSTALLATION OF PREFABRICATED 2 BED PARK HOME TO BE USED AS SUBSERVIENT ACCOMMODATION TO PRINCIPLE PROPERTY, HINGLEYS COTTAGE. (AFFECTING PUBLIC FOOTPATH ALD39)

**Application Number:** 19/1158

**Applicant:** Mr Gifford

**Agent:** Central Design Consultants

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

**Case Officer:** Andrew Watson

**Ward:** Streetly

**Expired Date:** 22-Nov-2019

**Time Extension Expiry:** 31-Jan-2020

#### Recommendation Summary: Refuse



## Proposal

Planning permission is sought for the demolition of an existing timber stable used for storage timber barn and the installation of a prefabricated 2 bed park home that is to be use as subservient accommodation in association with the principle dwelling known as Hingley Cottage.

The building is to replace an existing single storey stable building. The existing building is currently used for storage purposes and consists of a timber framed and panelled structure with a part pitched roof towards the front and a shallow mono pitched roof towards the rear of the structure. Given the lack of plans of the existing structure Officers have had to measure the submitted details, which includes a block plan. The existing structure measures 10.7 metres front to rear, 8.1 metres wide, giving a floor plan of 86.67 square metres. The existing structure is approximately 2 metres eaves height for the mono pitch part, rising to 2.2 metres high where it meets the pitched roof element and then 4.67metres to the ridge.

The proposed pre-fabricated park home measures 15.24m long with an overhang of 0.3m to each side by 6.49m wide with a 0.5m overhang to each side (roof coverage 16.84m by 7.09m), giving a total floor area of 98.9 square metres. The height to the ridge is 4.18m and according to the plans the building is to be built of a brick plinth, which is approximately 0.5 metres giving an eaves height of 3 metres (approx).

The accommodation will provide for a living area that includes a sitting area and a kitchen with a dining table, bathroom, utility room one double bedroom with an en-suite and twin bedroom with a walk-in wardrobe.

The external facing materials are to consist of timber cladding under a profiled cladding sheet roof with a brick plinth below the structure.

Access to the site from Lindrosa Road is via a single vehicle width stone track lined with trees that is also a Public Right of Way and definitive Public Footpath 39 Aldridge runs along the access track. The public footpath continues towards the east where the driveway turns 90 degrees towards the existing dwelling. The site contains an altered and extended dwelling with an enclosed swimming pool to the east. There area existing stables and other outbuildings to front of the existing dwelling.

The application is supported by a Green Belt Policy Statement and a Preliminary Ecological Appraisal with Roost Assessment.

### Green Belt Policy Statement

Concludes that whilst larger than the building to be replaced the proposed Park Home will have little or no additional impact upon the openness of the Green Belt and will further enhance a site that has seen enhancement from a dilapidated cottage farm building and stable to what is seen today, which sits well within its setting and promotes wild life via open meadows, wild flower meadows and a fully restored pond.

### Preliminary Ecological Appraisal with Roost Assessment

Prepared by Focus Environmental Consultants following visits on 25 February 2020 and 34 March 2020. It is understood that that development proposals are for the demolition of the existing barn with subsequent replacement of a single dwelling.

Sutton Park SSSI and Sutton Park NNR are located approximately 945m to the south-east. Due to the small-scale of the development, it is considered highly unlikely that the proposals will impact on the Sutton Park SSI and Sutton Park NNOR or affect their conservation status.

No bat droppings were recorded within the property and a good view of the roof void was obtained. The void is unfavourable for roosting bats due to its construction (fibrous cement and narrow metal beams) and draughty nature. Opportunities for roosting bats appear to be limited.

Pond 1, which is located 43m to the north of the site is considered to have 'Poor' suitability for great crested newts. Therefore, great crested newts are unlikely to be present within the water body.

Nesting and foraging habitat with the development footprint is limited. Compensation in the form of bird boxes have been recommended.

The report recommends one bird box to be installed at the site for new nesting bird opportunities and one bat box to be installed at least 4m above ground-level.

### **Site and Surroundings**

Hingleys Cottage is situated to the eastern side of Lindrosa Road, Streetly and behind the existing residential dwellings which face towards the road. Lindrosa Road mainly consists of two storey semi-detached dwellings although there are a number of detached single storey dwellings adjacent to the access track towards the application site. The existing residential units are constructed from red brick under a concrete tiled roof.

Hingleys Cottage and adjacent field to the east are situated within a clearing from the surrounding woodland area. There are a row of trees between the application site and the existing residential dwellings on Lindrosa Road.

There is a railway line that is 162m to the east beyond the field and trees. The public right of way does cross the railway line.

### **Relevant Planning History**

BC51959, for the proposed refurbishment of Hingley's Cottage, demolition of outbuildings and erection of 4 horse boxes was refused on 23 April 1998 and an appeal was also dismissed on 21 January 2000.

BC57933, for the refurbishment of and extension to Hingley's Cottage, erection of 4 timber framed horse boxes and widening of access track was refused on 4 August 1999 and an appeal was also dismissed on 21 January 2000.

10/1251, for conversion of former Hingley's Cottage to dwelling house and removal of trees was withdrawn.

11/0711, for conversion of Hingley's Cottage to a dwelling and removal of trees (amendment to 10/1251) was granted on 6 September 2011.

11/1274, for the material alterations (retrospective) and erection of 2 new horse boxes plus hay storage room was approved on 21 December 2011.

12/1268, for the replacement of Nissen building with new brick building to create bedroom accommodation, glazed corridor link and creation of subterranean swimming pool was approved on 19 December 2012.

13/0771, for the replacement of Nissen building with brick building to create bedroom accommodation, glazed corridor link and creation of swimming pool ( removal of subterranean elements and re-design of proposals) was approved on 22 May 2014.

## **Relevant Policies**

### **National Planning Policy Framework (NPPF)**

[www.gov.uk/guidance/national-planning-policy-framework](http://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**
- **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. 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.



## **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- 3.2 to 3.5 The Countryside and Green Belt
- 3.6 to 3.8 Environmental Improvement
- GP2: Environmental Protection
- ENV7: Countryside Character
- ENV10: Pollution
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T7 - Car Parking
- T10: Accessibility Standards – General

### **Black Country Core Strategy**

- Vision, Sustainability Principles and Spatial Objectives
- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design 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

### **Supplementary Planning Document**

#### **Conserving Walsall's Natural Environment**

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

## **Designing Walsall**

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

## **Consultation Replies**

### **Highway Authority – No objection**

**Pollution Control** – Requires a pre demolition site survey to be carried out and the production of a method statement detailing actions to be taken and time scale to prevent or minimise environmental impact. Conditions for the incorporation of electric vehicle charging points and ultra-low NOx boilers are also required.

**Public Rights of Way Officer** – Definitive Public Footpath 39 Aldridge runs along the access track to the proposed development, within the blue site outline. The proposed demolition of the Dutch style barn and installation of a prefabricated park home are unlikely to affect the definitive public footpath in the long term, although there may be some impacts upon the public footpath during the demolition and installation works.

During construction of the proposed development, there may be requirements for permits to work in the Public Footpath, and/or for a temporary closure order to be implemented.

### **Natural England – No Comments**

**Archaeology (City of Wolverhampton)** – Hingley Cottage is on the Walsall Historic Environment Record as a house and brick kilns, shown on the Aldridge and Great Barr Tithe map of 1843 and owned by Charles Juxon who also owned Harwick Farm. Elements of the original 19<sup>th</sup> century building appear extant (although likely altered and very extended), and a pool to the north of the buildings is probably a former clay pit.

However the likelihood of below-ground archaeological deposits relating to the local brick industry or earlier unknown deposits over the rest of the site is low, and the area that would be affected by the proposed development is small and potentially truncated by the current structure.

Therefore there are no archaeological implications for this site.

### **Severn Trent Water – No objections**

**Strategic Planning Policy – Original comments 15 November 2019** The site lies in the Green Belt. Paragraphs 145 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. An exception to this is g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.

Openness is not defined in the NPPF. However, paragraph 001 of Planning Practice Guidance on Green Belt revised 22 07 2019 states that openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume; the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and the degree of activity likely to be generated, such as traffic generation.

No details of the size of the existing barn have been provided. However, aerial photographs show that it has a smaller footprint than the application proposal. There have already been substantial additions made to the property in recent years, including extensions to Hingleys Cottages itself and the provision of "horse boxes" which together are much larger than the original cottage. The addition of two further bedrooms and a large living room in the current proposal would increase the number of residents and visitors to the site, thereby increasing the amount of activity including traffic.

As such the proposal would represent inappropriate development in the Green Belt contrary to SAD Policy GB1 and NPPF paragraph 145.

### **Updated comments 02 July 2020**

The amended plans do not address our earlier objection. The only substantial addition appears to be the inclusion of a document titled "Green Belt Policy Statement". This does not address the fact that the proposed mobile home would increase activity on the site. Proximity to housing in Lindrosa Road (which is not in the Green Belt) does not make the proposal acceptable. The statement also claims that the site is an agricultural holding: this is incorrect. Keeping horses as a hobby does not comprise an agricultural use.

## **Representations**

No comments received

## Determining Issues

- Green Belt
- Principle of development
- Design and Character of the Area
- Impact on Neighbouring Amenity
- Impact on Highway Safety
- Ecology

## Assessment of the Proposal

### Green Belt

This site lies within the West Midlands Green Belt as defined by Walsall Site Allocation Document (SAD) Policy GB1 with the land to the north and south being within the designated Green Belt, whilst residential development to the west and land beyond the railway line is outside the Green Belt area.

The NPPF and the Development Plan both contain a presumption against inappropriate development in the Green Belt as it is by definition harmful to the Green Belt and should not be approved except in very special circumstances. NPPF (2019) Paragraph 145 (g) allows for limited infilling or the partial or complete redevelopment of previously developed land (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.

The Government attaches great importance to Green Belts and the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.

Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Para 144 of the NPPF states – *‘When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.’*

Previously developed land is defined in the NPPF as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.

The proposal is to replace the existing timber stable building currently used for storage with a single storey prefabricated 2 bed park home.

According to the agent's written submission the existing building has a floor space of 90.55 square metres, whilst the height of the ridge is 4.673m above ground level. The replacement building has a floor area of 98.8 square metres with an overall height of 4.183m, which is larger in floor area but lower than the existing.

Using the proposed plans the proposed park home measures 15.24m long with an overhang of 0.3m to each side by 6.49m wide with a 0.5m overhang to each side (roof coverage 16.84m by 7.09m), giving a total floor area of 98.9 square metres. Whilst the existing building measures 8.1m wide by 10.7m long, giving a total floor area of 86.67 square metres.

The proposed building is a single storey building with a traditional shallow pitched roof whilst the existing is single storey with a traditional pitched roof with a single storey rear extension under a mono pitched roof.

The applicant has not provided plans of the existing building apart from an outline on the site location plan so it has not been possible to work out the exact volume of the existing building and to make an assessment between the existing and proposed structures. Based on what has been submitted, it is clear that the proposed structure is larger than the building it is to replace.

When considering the impact of development on the openness of the Green Belt the National Planning Guidance advises the courts have identified a number of matters which may need to be taken into account when making this assessment, include openness is capable of having both spatial and visual aspects – on other words the visual impact of the proposal may be relevant, as could its volume; the duration of the development and its remediability – taking into account any provisions to return the land to its original state or to an equivalent (or improved) state of openness; and the degree of activity likely to be generated, such as traffic generation.

The site at Hingley Cottage has already been substantially altered with a number of large additions made to the property in recent years, including extensions to Hingley Cottage itself and the provision of "horse boxes", which together are much larger than the original cottage. The addition of the proposed residential unit will include two further bedrooms and a large living room, which would increase the number of residents and visitors to the site, thereby increasing the amount of activity including traffic. The addition of further residential accommodation also further impacts on the green Belt with further domestication of the Green Belt which in itself is a harm to the openness and visual impact of the green belt.

The amendments submitted now a document titled "Green Belt Policy Statement". This document fails to address the fact that the proposed mobile home would increase the activity on this site including the impact from further domestication of the green belt. Proximity to existing housing in Lindrosa Road (which is not in the Green Belt) does not make the proposal acceptable. The statement also claims that the site is an agricultural holding: this is incorrect because the keeping horses as a hobby does not comprise an agricultural use.

In conclusion of the Green belt issues, the policies of the Development Plan and the guidance within the NPPF set out what type of development would be acceptable within the Green Belt and whether there are any very special circumstances to be considered.

The current proposal for a replacement of the existing stable building used for storage would result in the development having a much greater impact on the openness of the Green Belt. It is accepted that the site has seen built additions over the past years, resulting in a larger development than before, an extended dwelling, swimming pool complex, large pond area and stable development and a greater domestication of the Green belt. Now the development is to replace an existing storage building with a larger structure in the form of a park home, albeit with a tied occupancy.

The site, which may have previously been in agricultural use, it is now residential and within the Green Belt whilst the nearby residential area is outside the Green Belt.

The proposals increase the domestic appearance of the smallholding and urbanisation of the Green Belt with its disproportionate additions to the site resulting in an urbanising effect of the domestic curtilage in this sensitive Green Belt location that is detrimental to the character and openness of the Green Belt.

The proposed development is considered to be inappropriate within the Green Belt and no very special circumstances have been put forward other than the Green Belt Statement, which briefly explains the existing and proposed development. The proposal does not comply with paragraph 145 (g) relates to limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would have a greater impact on the openness of the Green Belt than the existing development, which itself has been subject to modification and an increase in size.

As such the proposed development is considered unacceptable to both Development Plan policy and guidance within the NPPF for the reason set out above.

### **Principle of Development**

The proposal is to replace an existing timber stable building used for storage with a of a prefabricated 2 bed park home that is to be use as subservient accommodation in association with the principle dwelling known as Hingleys Cottage. Notwithstanding the site being located within the Green Belt the provision of a mobile home to be used in connection with the occupation of the main dwelling is considered acceptable in principle, subject to a condition requiring the park home is tied to the existing Hingleys Cottage and not let out separately.

### **Impact on the character and appearance of the area**

The proposed replacement of the existing timber building with a pre-fabricated park home would further change the character of the area which is an existing dwelling with substantial extensions and outbuildings within the green belt by further domestication and urbanisation of the green belt. The occupation of the park home is to be occupied in association with the main dwelling on site, even though it is a two bedroomed structure with its own living accommodation. Should the application be approved, a condition would be required to tie the park home to the existing dwelling to save letting it out separately which would further erode the green belt.

### **Impact on Neighbouring Amenity**

The nearest residential property is Hingleys Cottage, which is 21m to the north of the proposed pre-fabricated dwelling and is occupied by the applicant.

The Pollution Control Officer has not objected to the proposals.

The distance between the proposal and this and other residential properties is sufficient to ensure no significantly adverse impacts from the proposal in terms of overlooking, overbearing, overshadowing or loss of light. The use of the land in terms of noise and disturbance is considered not to have any further detrimental impact.

### **Impact upon highway safety**

The exiting access that currently serves the existing development is for part of its length shared by a public footpath, which carries on towards the east when the driveway turns 90 degrees north.

There is ample parking and turning space within the site for this unit and the existing dwelling along with the stables.

The location of the pre-fabricated unit would not have an impact on the public right of way that uses part of the access drive given the distance between them. The Public Rights of Way Officer advises the proposed demolition of the timber stable building used for storage and installation of a prefabricated park home are unlikely to affect the definitive public footpath in the long term, although there may be some impacts upon the public footpath during the demolition and installation works.

The Highway Authority do not object to the proposals put forward.

The proposed is considered acceptable in terms of Development Plan policy and the NPPF.

### **Protected Species**

This is a site where a preliminary Ecological Appraisal with a preliminary Roost Assessment dated March 2020 by Focus Environmental Consultants was submitted in support of the application. The conclusions of the report is satisfactory, however, it recommends one bird box to be installed at the site for new nesting bird opportunities and one bat box to be installed at least 4m above ground-level.

There are no ecological objections to this development providing any relevant planning conditions are incorporated into the permission granted.

## **Conclusions and Reasons for Decision**

Refusal is therefore strongly recommended on the grounds that the proposal represents inappropriate development in the Green Belt and it would therefore be contrary to national and local policy.

As such the development is considered not to meet the aims and objectives of the National Planning Policy Framework, Policy ENV7 of the Walsall UDP, Policy GB1 of the Site

Allocations Document and the NPPF all of which require some form of justification to be provided but is missing from this submission.

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**

Officers have been considering the application, which is contrary to numerous policies of the Development Plan and NPPF given it is in the Green Belt. A recommendation of refusal is being put forward given the proposed development is contrary to the Development Plan.

### **Recommendation**

Refuse

### **Reasons for Refusal**

1. The current proposal for the replacement of the existing timber structure with a larger pre-fabricated timber unit that is to be used as a dwelling would have a much greater impact on openness along with the existing altered and already extended structures. The proposals increase the domestic appearance of the smallholding and urbanisation of the Green Belt with its disproportionate additions to the site resulting in an urbanising effect of the domestic curtilage in this sensitive Green Belt location that is detrimental to the character and openness of the Green Belt.

The proposed development is considered to be inappropriate within the Green Belt and no very special circumstances have been put forward given it does not meet any of the exceptions for appropriate development within the Green Belt. As a result the proposed development is fundamentally at odds with the NPPF on protecting the Green Belt, Policy ENV7 of Walsall's Unitary Development Plan and Policy GB1 of the Walsall's Site Allocation Document 2019.