

**DEVELOPMENT CONTROL COMMITTEE**

**Report of Head of Planning,
Regeneration
On 29th January 2008**

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ITEM NO: 1.

To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration
On 29 Jan 2008

REASON FOR BRINGING TO COMMITTEE: Raises issues of significance
resulting from a previous decision of committee

Application Number: 07/2586/AD/W1

Application Type: Advertisements

Applicant: Walsall Football Club

Proposal: Free standing two faced display
sign

Ward: Palfrey

Recommendation Summary: Refuse Advert

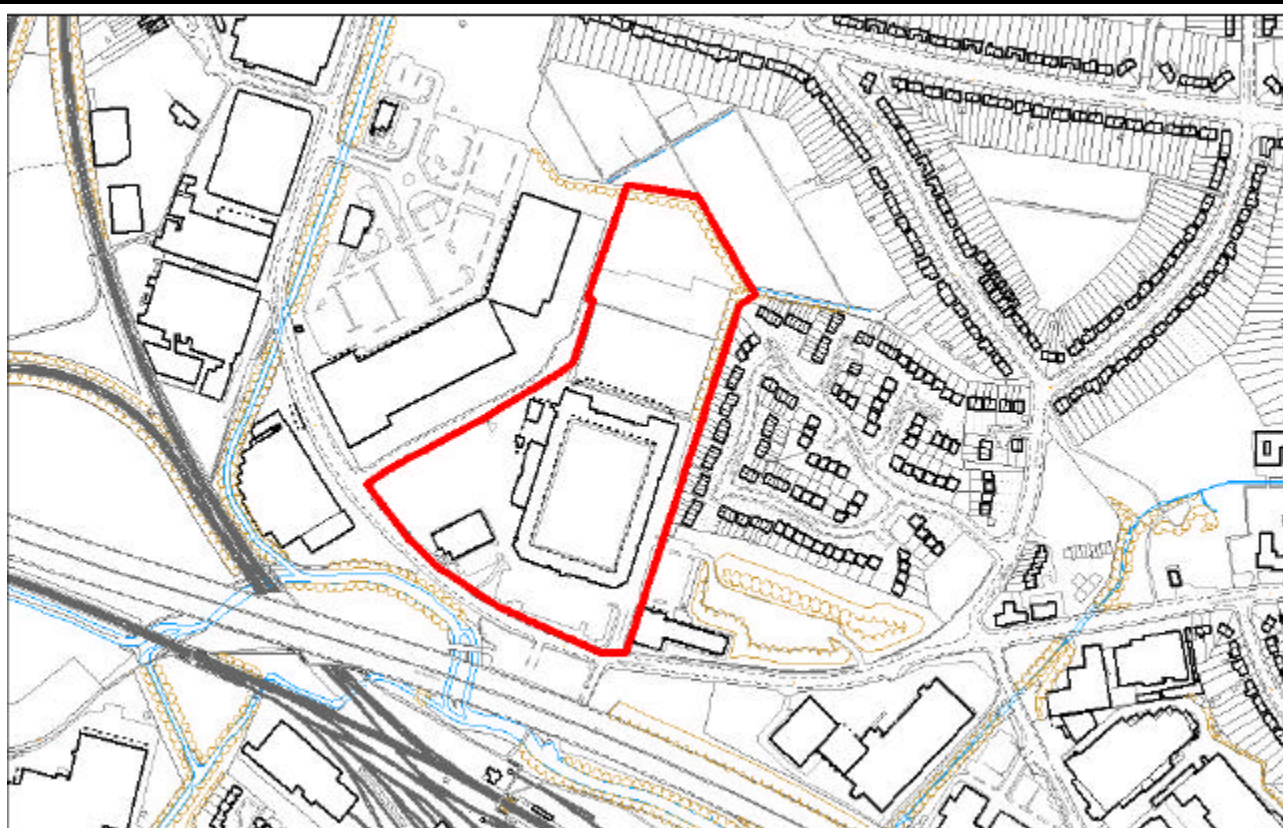
Case Officer: Bob Scrivens

Telephone Number: 01922 652488

Agent: John Sharpe

Location: WALSALL F.C. BANK'S
STADIUM, BESCOT
CRESCENT, WALSALL, WS1 4SA

Expired: 22/01/2008



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Status

An identical application was considered by your committee on 9/10/2007. It was recommended for refusal. Committee resolved to approve the application, and a decision was issued. The resolution indicated that the proposal “... *was not considered to be detrimental to highway safety or character of the area subject to a condition to ensure that three signs on the ‘Home-Serve’ stand should be removed prior to the erection of ...*” the proposal.

That decision was challenged by the Highways Agency, by way of the judicial review process, and that was reported in private session to your Committee, on 20/11/2007. Officers advised that the decision notice was flawed, in the way it set out the reasons for approving the proposal (though this was only one of the grounds for challenge set out by the Highways Agency). It was resolved that the Council should consent to judgement on this basis only, and the papers were presented to the High Court on 17th December by the Treasury Solicitors. It can therefore be expected that the Courts will return the application to the Council, so a new decision can be made on that application, including setting right any flaw.

In the prevailing situation, the Football Club have chosen to submit a new but identical application. Their purpose in doing so is to allow the Council the opportunity of issuing a new decision, reflecting the challenge made. If that decision is an approval, the opportunity offered would allow for a new decision avoiding the issues raised by the Highways Agency, which affected the previous decision.

You have a new report before you, on the new application. It has, inevitably, been revised in the light of the challenges to the previous report. The recommendation remains that the proposal should be refused, notwithstanding your resolution on the previous application. Members continue to have the choice of accepting that recommendation, or of rejecting it in favour of an alternative outcome such as approval.

In the light of the challenge to the previous decision, if Members wish to approve the present proposal, despite the recommendation, prudence would dictate that you are very clear and explicit in defining your reasons for that decision (more so than on the previous occasion, in order to forestall any challenge to the present application).

Application and Site Details

The proposal is a pair of large poster hoardings in a V-shape. The bottom edge of the posters is 11 metres above ground, and the posters are 12 metres tall, giving an overall height of 23 metres.

One poster is 30 metres across, the other is 35 metres and they would be displayed on the southern car park of the football club (nearest the M6). They would be made from a perforated fabric that allows some wind penetration in order to reduce wind loading, and they are supported on 5 steel columns. They will be illuminated by external static lighting. A similar material and effect was displayed on the Fort Dunlop building in Birmingham during construction works.

In support of the present application, the Club have commissioned a study by consultants. The conclusions are that:-

This note has been produced to support a planning application in relation to the erection of an advertisement sign at Walsall Football Club's Bescot Stadium grounds. From our investigation, the following conclusions can be drawn;

- The proposed design of the sign has not been amended from the August 2007 extant application;
- The proposed sign replaces the three existing signs and therefore will be less of a distraction to travellers at high speeds on the motorway;
- The V formation sign will face oncoming traffic more than the November 2003 approval which proposed a flat sign attached to the south stand of the stadium.
- The V formation orientation of the sign will enable the advertisement to face the oncoming traffic so it can be easily seen rather than drivers having to turn their heads;
- The writings on the sign will be proportionally bigger making it easier to read than the existing smaller signs and there will only be one advertisement displayed at any one time instead of the current existing three;
- The height of the advertisement will only be approximately 12 metres, which is similar to or shorter than most advertisements in the area;
- The sign will be located at a reasonable offset distance from the M6 motorway as compared with existing buildings and signs within motorway land;
- Due to the height of the proposed sign, there will not be any distraction to either the users of Bescot Crescent or Brockhurst Crescent since its visibility will be blocked by other tall commercial buildings in the area.

To conclude, the proposed sign will not have any adverse effects on the safety of highway users in its vicinity due to the removal of the existing signs, the proposed location and the use of the V formation. The V formation sign will provide less distraction to motorists than the approval that was given in November 2003 for a flat sign attached to the south stand. Overall the proposed new sign will actually reduce the distraction to highway users and therefore have a positive effect on road safety.

No changes to the design have occurred between the approval of the previous application and the resubmission of the new application and the application should be supported by Members."

The Club have also stated that "our ability to proceed with this project, and maximising the income it can earn, is crucial for the future financial stability and playing success of the club, and hence the part it can play in the on-going regeneration process currently taking place in the town." (*The significance which members can attach to this statement is addressed in the Observations section of this report.*)

During the vetting of the previous application, officers were in discussions with the club over the proposal, and the concerns of officers about the proposal (which are set out in the observations section). As a result, the club made a number of comments in support of the previous application, and these remain relevant:-

1. permission was given in 2003 for a 12 metre by 65 metre illuminated poster on the south wall of a proposed new south stand (taller than the present south stand) (*the new stand has not been built*)
2. the club argue this is no more than a variation of that permission and has the same overall size
3. the existing approved posters have suffered a detrimental commercial impact as a result of tree planting by the Highways Agency, the expansion of a nearby factory, and the increased number of posters along the M6 granted by Walsall Council
4. the proposed sign (by virtue of its V-shape) will be safer as drivers will not have to face sideways to see it
5. over 200,000 vehicles pass daily, J9 is the gateway to Walsall from the south and south-west
6. it will be the largest permanent hoarding in Europe
7. it will have a landmark status over and above the RAC building
8. it will be located 35 metres from the M6 (*officers consider the nearest point of the posters is 55 metres from the M6*)
9. the club is located in a predominantly industrial commercial area between the Broadwalk Retail Park and the Ramada Encore hotel
10. it faces the M6 which is on concrete pillars 20 metres tall
11. in this location "it is difficult to see how the proposed structure would have an adverse impact on the aesthetic value of the area"
12. the posters will not be seen from any dwelling
13. the club have never done anything they have seen as detrimental to their neighbours
14. the posters are focused on the M6 and will be less obtrusive to users of Bescot Crescent than the 2003 permission
15. the club plays a very active role in the community (in this respect they identify 10 programmes and activities they provide, sponsor, or take part in)
16. they see themselves as " ... an integral part of the local community, with a key role to play in acting as a flagship for the town, and being a source of civic pride for its people."

The Club have also employed a lighting consultant. The advice given is that:-

- 16 lights will be used on one face and 20 on the other
- half the lights will be on the upper and half on the lower edge of each poster, bracketed out 1 metre from the face of the poster, 0.75 metre above and below the poster
- luminance levels are specified

Relevant Planning History

The earlier version of this application (07/1871/AD/W3) was considered by your committee on 9/10/2007. It was recommended for refusal. It was approved (decision notice dated 16/10/2007). It is the application which is subject to judicial review (see Status section above).

In addition, the history of adverts on the Club site is as follows.

The poster hoardings on the roof of the south stand (three V-shaped pairs) were given consent over a period from 1992 to 1996.

In 1995, a monopole V shaped display in the car park (BC43256P) was approved,

In 1998 a second monopole (also a V-shaped display) in the car park was approved. It was built 2 metres higher than approved and a retrospective application made. The revised scheme was refused as impacting unacceptably on residents. After a representations hearing it was allowed (BC52670P) in 1998.

Another V shaped pair, also on a monopole in the car park was approved, but not implemented.

In 2004, a hoarding 65 metres long, 12 metres tall was approved (03/2212/AD/W4). It was proposed to be attached to the new south stand (also approved, but not implemented).

In addition, a sign on the front edge of the roof of the north stand is visible from the M6.

In their response to the current application (set out in the Representations section), the Highways Agency have referred to a number of other cases they regard as relevant, and these are as follows (though I have added details of further applications on those sites, which were not referred to by the Highways Agency).

Showcase

06/0906/ad/w5

96 sheet monopole (12.2 metres by 3 metres, single sided, illuminated) adjacent the M6.

Highways Agency objected.

Refused May 2006, delegated.

Appeal dismissed January 2007

- police and motorway unit object
- would not have long advance views
- compelling safety reasons to resist
- also discordant in views, and unduly imposing.

James Bridge

06/0445/ad/w5

Two illuminated portrait format posters (5m. wide, 7.5m. tall), adj. M6.

Highways Agency objected.

Refused May 2006, delegated.

Appeal dismissed Oct. 2006

- elevated M-way restricts space and makes dealing with any incidents more difficult
- traffic flows exceptionally high
- slowing traffic very close to proposed location

- will attract drivers attention
- Highways Agency records show cluster of collision incidents between J9 and J10 (both close to site)
- Inspector considers it is important drivers are not faced with demands on their attention over and above official highway signs
- high sided vehicles shut off some views for drivers which adds to distraction factor
- there is a risk of accidents
- on amenity, gas holders flanking site vary in height and signs will stand out on occasion, they would stand out incongruously and obtrusively.

NOT REFERRED TO BY HIGHWAYS AGENCY

07/0176/ad/w5

96 sheet poster in same place as James Bridge appeal

Highways Agency objects

Refused April 2007, delegated (reasons follow appeal decision above)

Middletons (close to Football Club site)

06/1857/ad/w4

Wall mounted, portrait format (5m. by 7.5m.) close to M6.

Highways Agency objected.

Refused December 2006, delegated.

Appeal dismissed May 2007

- close to J8 (M6 / M5)
- high level of merging and weaving traffic
- very prominent, would divert drivers attention
- high sided vehicles / intermittent views
- Inspector said "I agree with the Highway Agency that this is a very busy and difficult section of motorway that requires an exceptionally high level of driver concentration and where even a moment's hesitation or distraction could lead to an accident."
- would sit incongruously on building detrimental to visual amenity.

NOT REFERRED TO BY HIGHWAYS AGENCY

05/0928/ad/w4

2 poster hoardings on building (one 27 metres by 10, the other 7.5 by 10)

Refused June 2005 (distraction to drivers, visual clutter, design of building)

ALSO

05/2280/ad/w5

single portrait display 10m. by 12m on building

Highways Agency objected.

Refused January 2006 2005 (distraction to drivers, design of building)

West London

The Highways Agency have also referred to an appeal in West London. The relevant facts are:-

ON AMENITY

- Tower proposed 24 metres tall incorporating 2 poster displays, each 9 metres by 6 metres and illuminated
- Site adjoins the Great West Road, a main transport and business corridor
- Number of other substantial poster displays nearby
- Area characterised by large commercial buildings, scale of development is substantial and design bold
- Inspector concludes proposal would be jarring and intrusive, not a positive addition to the skyline

ON SAFETY

- Site adjoins M4 at a point where traffic conditions and volumes demand a drivers attention
- Lane widths, traffic volumes, traffic information signs and lack of hard shoulder require full concentration on road
- Proposal would be likely to distract drivers and be a significant traffic hazard

The appeal was dismissed.

In addition, given the level of detail now being explored in this report, it is appropriate to set out the relevant history of the wider area, over a longer period of time (this is not material included in the report on the last application, but is a response to the judicial challenge situation). It concentrates on relevant cases, rather than seeking to include all poster decisions.

Just south of James Bridge site

An application for 4 pole mounted posters (two V-shaped pairs) was refused in 2001, contrary to recommendation, (BC57202P) as being visually prominent, ugly, intrusive, diverting drivers attention.

Subsequently, a single sided 96 sheet illuminated monopole display was approved in 2002 (02/1905/AD/W3).

DSM Demolition (just south of J9 – close to Football Club site)

A double sided monopole was approved in 2005 (04/2486/AD/W5). It was amended to a portrait format sign (4.5 metres wide and 6.6.75 metres tall on application 05/0519/AD/W5 in 2005. The latter has been erected.

The Highways Agency objected to the first application (though not until the decision had been made). They continue to have concerns about the implemented display.

Bescot Crescent

A three sided display on a 15 metre monopole, at a factory opposite the Football Club, was refused in 2001, contrary to recommendation, but later allowed at a representation hearing, and approved in 2002 (02/0718/AD/W4).

An application for two pole mounted panels adjacent to the Centro car park at Bescot Station was submitted in 2001. This application was also refused but was allowed in 2002, following a representations hearing (02/0363/AD/W5).

Black Country Route

There was an application for the erection of a 96 sheet monopole display refused close opposite what is now Poundland, in 1997 (BCW611) on the basis that it would detract from the appearance of the area, counter to the regeneration of the land and buildings taking place in the set an undesirable precedent for similar applications along the vicinity; and BCR. It was dismissed at appeal. The Inspector stated that “in view of the proposed redevelopment of the area and the work being carried out by the (Black Country Development) Corporation to improve the amenity of the area, I consider that the large display would look out of place with the amenity improvements being undertaken”.

Subsequently, a double sided 96 sheet monopole poster display was approved adjoining Poundland (BC58076P, 2001).

Darlaston Road

In 1999, applications to retain 2 hoardings on Darlaston Road (BC54408P, and BC54872P), adjacent to the last house were refused on the basis that they were visible from long distances on Darlaston Road size / location / character??they they also impacted adversely on??detracted from the amenity of the area, and the immediately adjoining house. An appeal was dismissed. The posters were removed, under threat of prosecution.

Broadway West

On the corner of Broadway West and Wallows Lane, an illuminated monopole was refused in 1998 (BC51980P) for the reason that it would adversely impact on residential amenity and the image of the Town. This was dismissed at appeal. In the decision letter, the Inspector stated that the sign would be “intrusive in the local scene and out-of keeping with the locality”.

Finally, Members may have seen a number of monopole displays alongside the M5, in the Dudley area.

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

Unitary Development Plan

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

Policy 3.6 - schemes should, as far as possible, help to improve the environment of the Borough.

Policy ENV32 states poorly designed development which fails to take into account the context or surroundings will not be permitted

ENV36: Poster Hoardings.

a) Poster hoardings will not be permitted where they have a detrimental effect on either the amenity of an area and its residents or public safety. The most appropriate locations are likely to be in areas of mainly commercial character. Hoardings are unlikely to be permitted:-

III. In residential areas

V. On sites visible from motorways and on prominent sites on classified roads

National Policy

Planning Policy Statement 1: Creating Sustainable Communities both emphasise the need for good design, and development which is sustainable.

Planning Policy Guidance 19 outlines the Local Planning Authority determination of such applications. Paragraphs 15 and 16 suggest that "LPAs will consider the likely behaviour of drivers of vehicles who will see the advertisement ... the vital consideration, in assessing an advertisement's impact, is whether the advertisement itself, or the exact location proposed for its display, is likely to be so distracting, or so confusing, that it creates a hazard to, or endangers, people in the vicinity who are taking reasonable care for their own and others' safety".

Circular 3/2007 sets out the guiding principle that in making decisions on adverts "Local planning authorities are required to exercise their powers under the Regulations with regard to amenity and public safety, taking into account relevant development plan policies in so far as they relate to amenity and public safety, and any other relevant factors." (para 5).

On amenity, the circular advises:-

"The definition of "amenity" in regulation 2(1) includes both visual and aural amenity. Therefore as well as visual amenity, the noise generated by advertisements should be considered. "Public safety" is not confined to road safety. Crime prevention and detection are relevant; the obstruction of highway surveillance cameras, speed cameras and security cameras by advertisements is now included."

Appendix B sets out the relevant considerations to be taken into account with regards to the effect of advertisements on public safety. The key passage, in the context of this application is:-

MOTORWAYS

"6. Land alongside motorways is landscaped for reasons of safety and appearance. Only prescribed or authorised traffic signs are permitted on land acquired for motorways. Advertisements may, however, be permitted within a motorway "service area". Local planning authorities should ensure that on other land alongside motorways no advertisements which could adversely affect amenity, or constitute a danger to traffic are allowed. (See also paragraphs 147 and 148 of the Annex to this Circular.)"

Para. 147 is not relevant to the present case. However, para 148 states:-

"148. As there are road safety issues in displaying advertisements alongside motorways and other trunk roads the Highways Agency should be consulted about any application for express consent. The Highways Agency is unlikely to support any application for an advertisement which could distract drivers. ...

The road safety and amenity issues raised by these advertisements mean that it is unlikely that express consent to display them would be given."

Consultations

Transportation - object

(Will be a distraction to users of Bescot Crescent and compromise highway safety by its size and location , compounded by the alignment of the road and its proximity to the car park entrance. The siting would obstruct coach movements on this part of the car park. There are no details of the means of illumination.)

Highways Agency

Object to the application.

Given their concerns about the previous application, I have chosen to quote their response in full:-

"Thank you for the above consultation received on 5th December 2007. The Highways Agency welcomes the opportunity to provide comments on this application and to highlight and explain to the Council the Agency's very serious concerns regarding the implications of the proposals for the safety of users of the adjacent M6 motorway.

The Characteristics of the M6 in this Location

Before considering the proposals in detail, it may be helpful if I were to provide a little background in relation to this particular section of the strategic road network.

As I am sure the Council is fully aware, the M6 through Walsall is an important part of the national motorway network and forms an element of one of the country's two primary north-south motorway routes. It also provides links to other key parts of the national network and in particular the M5. In addition to its national role, the M6 is a key regional route serving the West Midlands conurbation and supporting the regional economy.

As a consequence of its position at the heart of the national road network, this stretch of the M6 is one of the busiest sections of motorway in the Country and is currently used by up to 180,000 vehicles per day.

The M6 through Walsall is also an urban section of motorway, where junctions are closely spaced, directional and instructional signage is frequent and the level of lane changing (weaving) is high. The location of the proposed sign is only a short distance from junction 9 and traffic that has joined the motorway at this point may still be weaving in order to reach its desired lane. This is then compounded by the fact that the proposed location of the sign coincides, almost exactly, with the point at which the M6 lane markings and overhead gantry signs split traffic flows into two, in advance of the fast approaching M6/M5 junction. The nearside lane at this point is identified for the M5 only and drivers are faced with an important lane selection decision. It is, therefore, a section of motorway which is not only extremely busy but is also one where drivers face a number of key choices and it is of paramount importance that their full attention is on the road / other traffic and not external distractions.

These issues are further compounded by the fact that this section of the motorway is elevated above the surrounding urban area. The edge of the motorway defined by concrete barriers positioned immediately to the rear of the hard shoulder. Elevated sections of motorway present particular hazards in that there is less scope for vehicles and their occupants to stand clear of the carriageway and, in the event of an incident, access for rescue and recovery work is restricted to the carriageway itself. Given this, accidents and incidents that do occur on elevated sections are often more severe and can take longer to resolve.

Planning Policy

Policy relating to roadside advertising is set out in DCLG Circular 03/2007, Planning Policy Guidance Note 19 'Outdoor Advertisement Control' and in the Councils own adopted UDP.

- Walsall Unitary Development Plan

Policy ENV36 states that ***“poster hoardings will not be permitted where they have a detrimental effect on public safety..... hoardings are unlikely to be permitted on sites visible from motorways”***.

This policy, which has been adopted by the Council **and** its members, provides very clear and specific advice relating to the acceptability of advert hoardings that are visible from motorways. The policy presumes against the approval of such adverts or indeed any advert that would endanger public safety.

- Department of Communities and Local Government Circular 03/2007

It is first important to note that the Circular makes it clear at paragraph 5 that the consideration of applications for advertisement consent should only take into account matters relating to amenity or public safety. Any economic benefit deriving from the display of an advertisement is not a matter that can legally be taken into consideration.

Paragraph 148 of the Circular considers the display of adverts alongside motorways. It states that, ***“The Highways Agency is unlikely to support any application for an advertisement which could distract drivers. The road safety and amenity issues raised by these advertisements mean that it is unlikely that express consent to display them would be given.”***

Further advice on the consideration of 'public safety' is given in Annex B of the Circular. Paragraph 1 explains that, ***“All advertisements are intended to attract attention. But particular consideration should be given to proposals to site advertisements at points where drivers need to take more care, for instance at junctions, roundabouts, pedestrian crossings, on the approach to a low bridge or level crossing, or other places where local conditions present traffic hazards.”***

Paragraph 6 adds that, ***“Local planning authorities should ensure that on land alongside motorways no advertisements which could adversely affect amenity, or constitute a danger to traffic are allowed.”***

- Planning Policy Guidance Note 19 – Outdoor Advertisement Control

PPG 19 states that ***“LPA’s will consider the likely behaviour of drivers of vehicles who will see the advertisement. The vital consideration is whether the advertisement itself is likely to be so distracting that it creates a hazard of endangers people in the vicinity who are taking reasonable care for their own and others safety”.***

As outlined above, there is a very clear policy presumption at both local and national level, that any advertising alongside motorways, which has the potential to distract drivers to the detriment of highway safety should be refused.

Other Material Considerations

- Research into Driver Distraction

The impact of driver distraction has already been extensively researched. In March 2007 Brunel University concluded that roadside advertising had a detrimental effect on driver’s performance and attention, making drivers more likely to crash. External distractions are believed to be responsible for 10% of all car accidents and this has been backed up by further research undertaken for the Scottish Executive.

- Appeal Precedent

There have been several other advertisement applications for hoardings alongside the M6 in this general area which have been considered at appeal. These include Middleton Buildings, Showcase Cinemas and James Bridge (copies of these decisions can be provided if required). All of these appeals were dismissed, at least in part, on highway safety grounds.

In the case of the latter appeal (which was for a site located between junctions 9 and 10 of the M6) the Inspector concluded (September 2006) that, ***“I consider that, having regard to the elevated and sub-standard nature of this heavily trafficked section of the motorway, the presence of the proposed advertisement displays, by virtue of their size, illumination, location and somewhat novel design structure, would unacceptably increase the risk of accidents.”*** It should be noted that the advertisement that was the subject of that appeal had two faces each measuring 7.5m by 5m which is significantly less than those proposed by this application.

In November 2007 two appeals for a 24m high advertisement display tower next to the M4 in west London were also held to pose an unacceptable level of harm to local amenity and highways safety. Inspector Susan Hesketh noted that the tower was adjacent to an elevated part of the M4 where traffic volumes were high. Given the number of traffic information signs and number of similar adverts nearby, she decided that the introduction of another display would overload drivers’ attention especially in adverse weather and so was detrimental to highway safety.

These appeal decisions give an indication of the weight and importance that is attached to highway safety issues by the Planning Inspectorate and endorses the Highways Agency's view that advertising such as that proposed in this application is likely to distract drivers and be detrimental to highway safety.

- The Fallback Position

During the consideration of the previous advertisement consent application, it was clear that in reaching its decision, the Council attached weight to the earlier grant of consent for an advert hoarding attached to the side of the proposed new football stand.

The Agency does not believe that the previously approved sign (to which the Agency also objected) and the latest proposal are comparable or that the existence of the previous approval should carry any material weight in the determination of this latest application. This latest sign is located closer to the motorway, is angled such that it will be significantly more prominent, will be visible from a greater distance and is not viewed in the context of a large building – i.e. the replacement stand.

All of these key differences result in the latest proposals being significantly more prominent and in the Agency's opinion significantly more likely to distract drivers than the proposals previously approved.

Assessment

The key consideration for the Agency is whether the proposed sign, by virtue of its particular position, size or design would represent a distraction to drivers using the M6. It is then necessary to consider whether any distraction that might occur, would be likely to result in detriment to highway safety, having regard to the specific road conditions and characteristics that are present.

In terms of the potential for distraction, it is noted that the sign is deliberately designed to target motorway users. Its elevated position on stilts above the carriageway, its angle towards oncoming traffic and its sheer size, all indicate that it is designed specifically to attract the attention of those using the motorway. Due to the advert's unprecedented scale, its height, illumination and its isolation from any associated buildings or landscape features, it is considered that it would represent a visually prominent and incongruous feature and an obvious source of distraction to drivers. Whilst the sign would be visible for some distance this does not mean that its message could be assimilated quickly by the driver. This will depend on the design of the particular advertisement displayed (which is beyond the scope of advert control) and, in any event, the driver's view of the sign would be intermittently disrupted by the presence of high-sided commercial vehicles. The extensive distance from which the sign is visible is more likely to simply increase the distance over which the sign represents a potential distraction.

This is a point acknowledged by the Inspector at the James Bridge appeal, ***“Once attracted to the appeal displays, drivers might well have their view of them intermittently obstructed by high-sided vehicles around them or***

on the opposite carriageway, encouraging them to attempt to view the displays for longer. Even at particularly busy times, when the speeds of all vehicles are inevitably lower than 70mph, it does not follow that drivers will necessarily have more time to assimilate the appeal displays, particularly in circumstances where several high sided vehicles are travelling close together.”

As has already been described earlier in this response, this stretch of motorway is elevated, heavily trafficked and at the start of the lane diverge for the M5. It is an area where drivers need to be particularly attentive to the road conditions and other motorists and any additional distraction at this point is liable to significantly compromise road safety and increase the risk of accidents.

Conclusions

In summary and conclusion the Council are asked to consider the following key points;

- This urban stretch of the M6 is elevated, carries up to 180,000 vehicles a day and lies at the start of the major lane diverge between the M6 and the M5. These particular characteristics make this a particularly complex and hazardous stretch of motorway where driver concentration is paramount.
- The advert is very deliberately designed to attract the attention of motorway users. Its size, angle to the road, illumination and location mean that it will represent a significant source of distraction to drivers.
- The introduction of this level of additional driver distraction into an already complicated and hazardous motorway section undermines highway safety and increases the risk of an accident occurring.
- The Councils own UDP policy and national policy in Circular 03/2007 makes it explicitly clear that in such circumstances advert consent should be refused.
- Planning Inspectors have previously concluded on at least three previous occasions that advert hoardings of this type and in comparable locations locally are detrimental to highway safety.
- Advertisement applications can only be considered having regard to amenity and public safety,
- The previously approved advert on the new stand is not comparable to the current proposals, given that it was further from the motorway, was not angled towards it and was seen in the context of the large building (the new stand) to which it would have been attached and formed an integral part.

For the above reasons the Highways Agency strongly recommends that this latest advertisement consent application be refused on the grounds that it

would be detrimental to highway safety and contrary to policy ENV36 of the UDP and advice contained in DCLG Circular 03/2007 and PPG19.

I hope that this letter has adequately explained the detailed reasons why the Agency is particularly concerned about the implications of this advertisement for the safety of motorway users along this section of the M6 and why the Agency took the decision it did to challenge the previous resolution to grant permission. I would be happy to answer any questions that either Officers or Elected Members may have regarding the Agency's concerns or to provide any additional information required.

Finally, I would be grateful if you would keep me informed as to when the application will be considered by your development control committee and provide me with a copy of the committee report once available."

Pollution Control - no objections. Seek the inclusion of a condition to control ground gas.

Building Control / Structures – a check of the structural capabilities of the structure should be carried out, prompted by the Safety of Sports Grounds legislation.

Centro – no objection

Public Participation Responses

A resident of the nearby housing estate to the east has commented that "this is the second application from Walsall Football Club, for a free standing illuminated sign in 3 months. How many more illuminated signs are they going to be allowed to erect? Where will the line be drawn in terms of the light pollution and the distraction theses may cause to the drivers on the motorway?" *The objector has been advised that this is a repeat application.*

The British Astronomical Association objects. They run a Campaign for Dark Skies. They feel the proposal will cause considerable light pollution over a fairly wide area, reducing the visibility of objects in the night sky. It could also set a precedent for other sports clubs. They point out that there have been many successes in this campaign, and most Local Authorities take steps to ensure waste light does not pass into the night sky.

Another representation has been made about lighting. The respondent finds it surprising that the application includes no details of the proposed illumination equipment, nor the design luminance. For such a large sign in close proximity to a major highway, the applicant must be able to demonstrate to the Planning Authority that it complies with the relevant Controls, Standards and Guidance. Reference is made to the need to consult the HA. The Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light (2005) makes recommendations about design arrangements. The interpretation is complex and requires a lighting engineer to assess the impact. In view of the road safety implications and the current high profile of wasteful lighting on the environment, the Council should insist that all these matters should be adequately addressed before the application can be considered. There are also issues concerning the mode of illumination in respect of safety and environmental

impact that should be considered In view of the extreme size of the sign a complete lighting design should be prepared by a professional lighting engineer

Determining Issues

- relevant basis for making the decision
- relevant history
- safety
- amenity
- lighting levels

Observations

Relevant basis for making the decision

It is clear from the legislative and policy basis that the only issues which can form the basis of a decision are amenity and public safety, clearly set out in circular 3/2007, already referred to. The reference to “any other relevant factors.” is wider, but still limited. It would be inappropriate to extend such consideration to, for example, financial matters. The Club’s comments in the opening of this report about the “financial stability and playing success of the club” are beyond those which can properly be taken into account.

Officers have also deleted from this report comments made about alternative versions of the current proposal. These were included with the intention of exploring alternative design issues, but there is no support for such an approach from the Club, and there was none from your committee at the last meeting. In addition, those passages were part of the reason the Highways Agency objected to the report.

Relevant history

Weighing the application against the issues of safety and amenity can be assisted by the history of the site or the area, or by judgements in appeals.

The History section of this report sets out much information.

The 2004 approval of a large poster hoarding on the new south stand is argued, by the Club, to specifically support the current proposal. They argue the present scheme is safer as being easier to assimilate.

The Highways Agency point to a number of cases dismissed on appeal, and argue this gives a measure of the safety of the proposal.

Planning decisions are made on the merits of the proposal, not on precedents. However, there are benefits in looking back at other cases, hence their inclusion in the report. One feature of the History which is notable is that there is a fairly consistent pattern of approvals for monopoles and similar in the period up to about 2003. Since then there have been no approvals (until the approval of the previous application for this poster display), and in the period since 2003 three appeals have been dismissed.

It is clear that driver safety is a key issue in relation to motorways. The appeal cases referred to all conclude displays of this sort should not be permitted, in the circumstances of the appeals. This is significant for the present proposal, though as there are no precedents in planning it is not a definitive, mandatory, conclusion.

Safety

The safety of road users (M6 and local roads) is important.

The objections of the Highways Agency have been recorded earlier in this report. Clearly, they hold strong views on the proposal and its effects on the M6. In part, they point to the policy base and the expectation that such signs should be refused. Reference has been made to Circular 3/2007, and in particular the issue of the safety of users of the M6. That circular makes it clear that local planning authorities should ensure that on land alongside motorways no advertisements which could adversely affect amenity, or constitute a danger to traffic, are allowed. The circular also advises that the Highways Agency is unlikely to support any application for an advertisement which could distract drivers, and that is the case here. However, the circular goes on to conclude that “.. it is unlikely that express consent to display them would be given.” That is, of course, a judgement based on the proposition that signs which have the adverse effects identified should not be supported. It remains a judgement for the decision maker whether such adverse effects exist in the case in question.

This Council's record on displays in this sort of situation is that some are unacceptable, while others are acceptable. A number of posters have been approved and erected in various locations along this stretch of the M6 (J7 to J10) in the period since 1992. It is clear that the Council has not previously considered that posters are detrimental to the safety of M6 users, **as a matter of principle**. Despite that, in individual cases there have been refusals of permissions, and some have been dismissed on appeal, as referred to by the Highways Agency, and set out in the History section.

In relation to this proposal specifically, the HA argue that

“The M6 through Walsall ... where junctions are closely spaced, directional and instructional signage is frequent and the level of lane changing (weaving) is high. The location of the proposed sign is only a short distance from junction 9 and traffic that has joined the motorway at this point may still be weaving in order to reach its desired lane. This is then compounded by the fact that the proposed location of the sign coincides, almost exactly, with the point at which the M6 lane markings and overhead gantry signs split traffic flows into two, in advance of the fast approaching M6/M5 junction. ... drivers are faced with an important lane selection decision it is of paramount importance that their full attention is on the road / other traffic and not external distractions.

The impact of driver distraction has already been extensively researched. In March 2007 Brunel University concluded that roadside advertising had a detrimental effect on driver's performance and attention, making drivers more likely to crash. External distractions are believed to be responsible for 10% of all car accidents and this has been backed up by further research undertaken for the Scottish Executive.

Its elevated position on stilts above the carriageway, its angle towards oncoming traffic and its sheer size, all indicate that it is designed specifically to attract the attention of those using the motorway. Due to the adverts unprecedented scale, its height, illumination and its isolation from any associated buildings or landscape features, it is considered that it would represent a visually prominent and incongruous feature and an obvious source of distraction to drivers. Whilst the sign would be visible for some distance this does not mean that its message could be assimilated quickly by the driver. This will depend on the design of the particular advertisement displayed (which is beyond the scope of advert control) and, in any event, the drivers view of the sign would be intermittently disrupted by the presence of high-sided commercial vehicles. The extensive distance from which the sign is visible is more likely to simply increase the distance over which the sign represents a potential distraction.”

In the James Bridge appeal, the Council and the HA were in agreement that such issues were important (as is still the case), and both parties argued the appeal should be dismissed on this issue, as part of the appeal submissions. Part of the HA submission was the report from the Scottish Office on the effect of external distractions (such as adverts) on drivers. It concludes that:-

- Data suggests external distraction is a major factor in accidents
- Roughly 10 to 30% of accidents had driver distraction as a contributory factor
- About one third of those cases involved external distraction
- It is likely the figures are an underestimate
- Posters pose a significant risk at junctions because they create visual clutter, making it harder for drivers to perceive traffic lights and other safety devices
- While more study is called for the report concludes clear guidelines are needed on location, number and type of signs at junctions.

The James Bridge case concerned a hoarding which would have been the first, and indeed the only one in that stretch of motorway. The same is true of the Showcase appeal, and (to a slightly lesser degree) the Middleton appeal.

However, in the present case, there are a number of other poster displays close to the application site. The proposal will not be seen in isolation, so the issue of what distractions will affect drivers is more complex than the single display in those appeal cases.

Some of the other displays are visible on the approach to the site (near Junction 9, there are 6 displays readily visible from one viewpoint).

Others are (visually) immediately adjoining the site, such that they would be in the view of drivers looking at the proposed poster. At one location (southbound on the M6 and close to the proposed poster site) there are 6 existing posters in view, clustered around the proposed display. Northbound there is a location where 4 displays are visible in a similar relationship to the proposal. The application before you stipulates that the three installations on the roof of the south stand (double sided V-shaped displays) will be removed if the present proposal proceeds. Around the proposal, instead of the 6 and 4 existing displays identified as immediately in view with the proposal, there would be instead be 3 and 1 (plus the proposal) after the removals are

effected. A key issue for the decision on this application is therefore whether or not there will be a more significant effect on road safety with the proposal in place.

Another important factor to be weighed is the fall back position that the Club are able to implement the new south stand and the associated sign (approved 2004 – size is 65 metres by 12 metres). The stand permission is valid until 2009, and the sign can be displayed until that date.

The Highways Agency, as part of their judicial review challenge, objected to the report on the previous application. They argued:-

- The 2004 permission is not comparable to the present application
- The 2004 permission is for a single poster parallel to the M6
- The present proposal (V shaped pair) has faces angled towards approaching users of the M6 and is therefore more visible
- The 2004 sign would have been seen in the context of the building and “There are therefore special circumstances in granting express consent ... the ... advertisement will be more integral to the structure on which it is attached.” The report on the last application for the present proposal did not seem to assess the difference between a poster on a building and a free standing display.
- The present proposal is free standing and closer to the motorway than the 2004 permission.

It can be argued that if the present proposal is approved, the Club could later build the new stand and then implement the 2004 poster permission. While this is legally possible, it is unlikely to happen as the commercial base for the 2004 permission has changed, and it is unlikely the Club would implement that advertisement permission as the new sign would part obscure the 2004 sign .

In terms of the fall back position, the 2004 permission would have certain effects, if it were implemented. The present proposal would have somewhat different effects. It is a fact that it is nearer the M6. The angling of the faces will reduce the amount of poster seen from any particular location, but it is likely the posters would be more visible than the 2004 poster, by reason of their proximity. However, officers consider that the proposed sign would be easier to read than the 2004 permission, or the 3 V-shaped displays on the roof of the existing south stand (though this clearly depends on the nature and content of the poster, and that is not amenable to planning control).

It is the conclusion of officers, based on these issues, that overall the current proposal, with the removal of the roof mounted displays and the prevention of implementation of the 2004 permission, will not increase the level of distraction at this location.

Without detracting from the recommendation to refuse for the reasons set out in this report, it is prudent to explore the implications of the issue of removal and non-implementation, against the possibility that members will reject that recommendation. Should approval be contemplated, and should that approval rely on the arguments set out, it is appropriate to secure the removal of the south stand posters. That can be achieved by a condition (and such a condition formed part of your October decision). It could also be achieved by a section 106 agreement. More importantly, members are advised that they should also secure the non-implementation of the 2004 permission for the large sign on the new south stand. That can not be controlled by a condition, and a section 106 agreement must be used, to secure that outcome

Also without detracting from the recommendation to refuse for the reasons set out in this report, it is prudent to explore the possibility that members will be persuaded there is a threat to road safety on the M6 and that this should also feature in a refusal. Depending on the specific issues that concerned members, that might be encapsulated in a concern that the proposal would create an unacceptable visual feature close to the motorway and that its prominence and presence would invite attention from passing motorists and be a distraction, to the detriment of highway safety.

The HA also argue that the display will not necessarily be more easily assimilated by drivers because it is larger. As the design of the poster and its content are not subject to planning control there is a possibility, for example, that a complex, tightly packed message could be displayed. However, the likelihood of such a display is neither more nor less than it is in the case of the existing displays. Conversely, the reduced number of poster displays will reduce the scope for such hard to read signs. The increased size, and closer location, may make such signs somewhat easier for drivers to assimilate. On balance, there is no justification to refuse the present application in that issue.

A further argument is advanced by the HA, that the proposal is seen in isolation from any associated buildings or landscape features (when viewed from the M6). However, there are numerous traffic control signs on the M6, and depending on the view point, these can have a markedly greater effect on the visual amenity of the area than the proposed poster.

In addition, there is a range of other poster displays (already referred to above). Of these displays, one in particular is relevant to this aspect of the case. A V-shaped display comprising two pole mounted panels (each being a 96 sheet poster - 12 metres by 3 metres) was approved in 2002, adjacent to the Centro car park at Bescot Station. The display is very close to the location of the proposed sign, but closer to the M6. Visually, it will almost always be in view when the current proposal is in view. Its smaller size, compared to the present proposal, is offset by its proximity to the M6. It has a significant visual effect. Overall, the sign will not be seen in isolation, and indeed its setting contains other similar structures. The argument that the HA advance is not a view which officers subscribe to.

Taking all of these arguments into account, on balance it is the view of your officers that the proposal will not adversely affect road safety on the M6, provided that the proposal is accompanied by the removal of the existing roof mounted signs on the south stand, and the non-implementation of the poster on the new south stand.

The effects of the proposal on Bescot Crescent also need to be assessed. Views of the proposed sign are somewhat restricted by the adjoining hotel, and the supporters club building. Trees along the frontage also restrict views of the scheme.

However, the proposed posters will be visible, albeit intermittently, from many points on the Crescent across the frontage of the Club.

Transportation object to the scheme because of the effects it will have on the safety of users of Brockhurst Crescent.

Amenity

When viewed from the M6, the proposal will be significant in drawing attention. However, it would be one of a series of such posters along the motorway corridor. Its effects will be significant, but it would be related to the scale of the motorway supporting structure, the football stadium and other adjacent buildings in the area such that it would be difficult to justify a refusal for this reason.

On the other hand, from Brockhurst Crescent, the visual impact of the proposal will be enormous, from wherever it is visible. At a total height of 23 metres, the posters are equivalent to a four or five storey building, significantly taller than most buildings in the town. In the immediate vicinity, the buildings and trees are all large in scale (factories, hotel and club and the M6 structure) but the posters proposed will dominate even those large structures. People using the street, the club car park, etc. will see it, and officers conclude, contrary to the view of the Club that the effect will be massive and adverse, to the detriment of the visual amenity of the area. The recommendation to refuse reflects this.

Lighting levels

Concerns have been expressed about light levels and their impact on the environment. The Club's submission appears to demonstrate a satisfactory situation. The Council's lighting engineer is examining the submissions made by the club, and the definitive position will be set out in the Supplementary paper.

Recommendation: Refuse Advert

1. Although views of the proposed sign from Bescot Crescent are restricted by the adjoining hotel, the supporters club building and trees along the frontage of the Club, the proposed posters will be visible from many points on Brockhurst Crescent. As a result, the proposal will adversely affect:-

- the safety of users of Brockhurst Crescent as it will be a distraction to users of Bescot Crescent, compounded by the alignment of the road and its proximity to the car park entrance
- the visual amenity of the area in that from Brockhurst Crescent, the impact of the proposal will be enormous, from wherever it is visible. At a total height of 23 metres, the posters will be significantly larger than most buildings in the immediate vicinity. Although these are all large in scale the posters proposed will dominate even these large structures. People using the street, the club car park, etc. will see the display, and the visual effect of this aggressively simple structure on the visual amenity of the area will be massive and adverse

As such the siting of the advert in this location would be contrary to policies GP2, 3.6, ENV32 and ENV36 of Walsall's Unitary Development Plan, Planning Policy Guidance Note 19 and Circular 3/2007.

2. The siting of the supports of the proposal will obstruct coach movements on this part of the car park to the detriment of the functioning of the car park, contrary to policy GP2 of the Walsall Unitary Development Plan.



ITEM NO: 2.

To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration
On 29 Jan 2008

REASON FOR BRINGING TO COMMITTEE: Major Application

Application Number: 07/2647/FL/E9

Application Type: Full application

Applicant: BOVIS HOMES LTD

Proposal: Proposed construction of 74 no.
1, 2, 3 and 4 bedroom dwellings with
associated parking

Ward: Bloxwich East

Recommendation Summary: Grant Permission Subject to Conditions and a
Planning Obligation

Case Officer: Barbara Toy

Telephone Number: 01922 652429

Agent:

Location: LAND
BETWEEN, WALKER
ROAD/BARRACKS LANE, WALSALL,

Expired: 17/03/2008



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Application and Site Details

The site comprises a roughly triangular area of land bounded by Walker Road, Barracks Lane and Guild Avenue. The site is now cleared but was formerly occupied by 44 residential units comprising semi detached and terraced houses.

The application proposes redevelopment of the site through the erection of 74 residential units within two new street blocks created by a new vehicle access road in the form of a 'mews' running between Barracks Lane and Walker Road.

The accommodation would comprise 2 x 1 bed flats, 40 x 2 bed flats, 4 x 2 bed houses, 21 x 3 bed houses and 7 x 4 bed houses (42 flats and 32 houses). 19 affordable housing units would be provided (12 rented flats, 3 rented 4 bed houses and 4 shared ownership flats). The proposals would provide a mix of two and three storey flats, detached, semi detached and terraced houses. Four gated secure parking courts would be provided as well as frontage parking and garages for the houses. 200% parking would be provided for each house and approx 135% parking for the apartments. Pedestrian access would be provided to both the street and the rear amenity/parking areas of the flats. Private rear gardens would be provided for each house and communal private amenity space for the flats as well as bin and cycle storage and landscaping.

The properties would front Walker Road, Barracks Lane and Guild Avenue as well as each side of the newly created vehicle access route through the site, creating two perimeter blocks. The proposed layout shows apartment blocks on the 3 main corners of the site addressing each of the corners.

The site is situated on the edge of the Blakenall local centre, with the north western corner of the site actually within the local centre boundary. The local centre provides a community centre, church, nursery school as well as local shops and services.

The surrounding area comprises existing predominantly two storey residential properties to the east on the opposite side of Guild Avenue and beyond. To the north is a large two storey modern building comprising the Blakenall Village Centre, which provides a medical centre, library, pharmacy as well as offices for local services. To the south are modern three storey apartments fronting Walker Road and to the west the Blakenall local centre.

The site area of 1.167 ha would provide a density for the proposed development of 63 dwellings per hectare.

Relevant Planning History

Various applications for demolition of the dwellings on the site.

07/2330/FL/E9, erection of 78, 1 2 3 and 4 bed dwellings and associated parking, Withdrawn 13-12-07.

Relevant Planning Policy Summary

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

Walsall Unitary Development Plan March 2005

Policy 2.1 and 2.2 state that the aims of the Plan include sustainable development, urban regeneration and environmental improvement.

GP1: The Sustainable Location of Development

Relates to sustainable development, the location of facilities where they are accessible to everyone and minimise the need to travel.

GP2: Environmental Protection and Policy 3.6

Requires new development to contribute to the improvement of the environment.

Policy 3.16 considers development in relation to its setting with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

GP3: Planning Obligations

Used to secure the provision of any on or off-site infrastructure, facilities, services or mitigating measures made necessary by the development.

GP7: Community Safety

Proposals are expected to have regard for the objectives to designing out crime.

Policy 3.114 good design can discourage crime and increase safety as well as accommodating the access requirements of all sections of the community.

Policy 3.115 the design of buildings and structures together with landscape design have a major role to play in the creation of an environment which is distinctive and creates a sense of place.

H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings.

Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved.

H4: Affordable Housing

25% of total dwellings shall be affordable homes.

H9: Minimum Densities

Indicates that housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites, but significantly higher densities exceeding 50 dwellings per hectare will be encouraged if close to local centres.

H10: Layout, Design and Dwelling Mix

Requires a high quality living environment to be created, well integrated with surrounding land uses and local character.

Policy 6.3, housing should be in locations that have good accessibility and are well related to local facilities, such as town, district and local centres.

ENV14: Development of Derelict and Previously-Developed Land and Policy 3.9

The Council will encourage the reclamation and development of derelict and previously developed land.

ENV18: Existing Woodlands, Trees and Hedgerows

Seeks to protect, manage and enhance existing trees and where developments are permitted which involve the loss of trees developers will be required to minimise the loss and to provide appropriate planting of commensurate value.

ENV32: Design and Development Proposals and Policy 3.16.

Considers development in relation to its setting with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

ENV33: Landscape Design

Good landscape design is an integral part of urban design and the Council will require planning applications to be fully supported by details of external layout and landscape proposals.

ENV39: Renewable Energy and Energy Efficiency

Encourage proposals for the development of renewable energy sources and for the efficient use of energy.

LC1(d): Urban Open Space

Residential developments will be required to make a financial contribution to enable the provision of new or improved urban open spaces.

Policy 8.8 and 8.9 indicates that residential developments will only be permitted where adequate school capacity and health care provision exists or can be provided. The Council will require developers to make a contribution to the costs of providing these facilities.

T7 – Car Parking

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

T13: Parking Provision

1, 2 and 3 bedroom houses	2 spaces per unit
4 bedroom houses and above	3 spaces per unit
Flats with communal parking	1.5 spaces per unit

Residential Development Standards, (April 2005)

Provides guidance to standards for residential dwellings. The main objective is to ensure the provision of space around dwellings provides adequate amenity space and an adequate level of privacy and daylight and as such the overall design and layout of a development, orientation, impact on the character of the area and amenities of surrounding occupiers will be considered.

Urban Open Space (SPD) (April 2006)

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

Education (SPD) (February 2007)

Requires a contribution towards local education facilities on residential developments of 10 units or above.

Healthcare (SPD) (January 2007)

Requires a contribution towards new or enhanced community healthcare facilities in developments of 1 hectare or 30 dwellings.

Affordable Housing (SPD) (July 2005)

Requires provision of affordable housing in developments of at least 1 hectare or 25 dwellings.

Regional Policy

The Regional Spatial Strategy for the West Midlands promotes the regeneration of the metropolitan area and sustainable development in accordance with national government guidance.

National Policy

PPS1: Delivering Sustainable Development, emphasis is given to the need to reject poor design and the need for sustainable development.

PPS 3: Housing, the objective of the revised guidance is to:

- Support further increased housing needed across the country
- Bring additional brownfield land back into use
- Increase the design and environment standards of new homes and neighbourhoods in order to move towards zero carbon development

PPG13: Transport, promotes sustainable patterns of development, which reduce the need to travel, especially by car.

Consultations

Transportation – No objections subject to conditions. A revised plan is required to include an autotrack to ensure a refuse vehicle can negotiate the proposed layout, the extent of adoptable highway, revised parking layout for plots 37 and 38 and parking for operatives, machinery etc during construction. The proposals would provide 200% parking for the houses and approx 135% parking provision for the apartments, which is considered acceptable.

Appropriate conditions attached.

Pollution Control – Scientific Team – no objections subject to mitigation to protect nearby dwellings from noise during construction, hours of working condition recommended.

Contaminated Land Team – no specific contaminated land requirements.

Fire Officer – Satisfactory access for fire appliance.

Education Walsall – The level of surplus places in local secondary schools is below 10%, therefore a contribution towards secondary school provision is required.

Landscape Officer – No objections.

West Midlands Police - no objections. The development is situated in a high crime area for both burglary and vehicle crime and therefore Secure By Design accreditation should be sought.

Housing – support for the application which is part of a comprehensive development in the area. This site shows a 25% provision of affordable housing and an overall provision across all the sites that exceeds 25%.

Drainage – no objections

Public Participation Responses

None.

Determining Issues

- The principle of residential development.
- The design and layout of the proposals
- Impact on surrounding occupiers
- Access and parking arrangements
- S106 Contributions

Observations

Principle of residential development

The application site comprises previously developed, now vacant land and would therefore satisfy the objectives of policies 3.9 and ENV14 of the UDP which encourage the reclamation and development of derelict and previously developed land. Policy H3 further encourages the provision of additional housing through the reuse of previously developed windfall sites and PPS 3 – Housing, encourages development of brownfield sites for residential purposes.

The site is in a predominantly residential area, close to local services, shops and bus routes and as such is considered a sustainable location. Residential development on the site is therefore appropriate, as it reflects the general character of the area.

The proposal would provide a density of 63 dwellings per hectare which is above the 30-50 dwellings per hectare suggested in Policy H9 (a) as suitable for most sites. The site is however well served by a local bus route and is partly located within the Blakenall local centre where higher densities exceeding 50 dwellings per hectare are encouraged in Policy H9 (c) i and PPS 3. The proposal would make efficient use of the land in this context.

Design and Layout.

The key principles of the layout and design of the scheme are to create active frontages to each of the three existing roads and the new 'mews', to enhance the street scene, provide a development of an appropriate scale and character to the surrounding pattern of development, create feature buildings to mark prominent corners, clearly define public and private spaces and create a safe and secure environment.

The inclusion of a new vehicle route through the site creates two distinct street blocks and allows all the properties to address the street frontages and most have private space to the rear.

The proposals provide a high degree of built form along the street frontages to reflect the surrounding pattern of development. The Walker Road frontages would comprise of three storey units facing the existing three storey modern residential development opposite. Three storey would also be provided fronting Barracks Lane, facing the existing Village Centre which is a large dominant building in the neighbourhood. Two storey properties would be situated on either side of the new 'mews', which would be narrower and where a reduced height would be more appropriate and two storey properties facing the existing two storey semi detached houses in Guild Avenue. The proposals would relate well to the scale of the existing surrounding development and are considered appropriate.

The junction of Barracks Lane and Walker Road is an important corner, visible for some distance from the west and from the local centre, a three storey apartment building is proposed on the corner providing a corner feature within the design to properly address the corner and create a landmark. On a similar basis the junctions of Walker Road/Guild Avenue and Guild Avenue/Barracks Lane would be addressed by apartment blocks angled around the corners to create corner features.

Whilst the properties would be of quite a traditional design of brickwork and gable roofs, picking up on key characteristics of the surrounding properties, the proposals would also have some modern elements, including cedar cladding, corner features and Juliet balconies.

The proposals offer some shared private amenity space for the apartments, to the rear with access from the buildings and each house would have its own private rear garden. Property type H whilst having the appearance of a house, due to its size is considered as a vertical flat with shared amenity space. The shared amenity space would provide an area of 88sqm for four units which is acceptable in this instance. All the amenity space and gardens would be provided within the secure street block. Whilst approx one third of the houses would have garden areas below the RDS requirement of 68sqm, this reflects the surrounding pattern of development where a mix of garden sizes exists. Residents would also benefit from a large area of public open space off Shakespeare Crescent, approx 350m to the east of the site. In this case the garden sizes are considered appropriate and it is also important to remember the overall aims of redevelopment and regeneration of the area.

It is understood that there is to be a contract between the two applicants (Bovis Homes and WHG) for Bovis to provide the redevelopment of the site including 19 affordable housing units. The layout indicates 12 x 2 bed flats for affordable rent, 3 x 4 bed houses for affordable rent and 4 x 2 bed flats for shared ownership, which would provide the 25% required to comply with Policy H4 and SPD for Affordable Housing. The flats would be situated on the corner of Barracks Lane and Guild Avenue and the corner of Walker Road and Guild Avenue and the houses would front Guild Avenue. The units follow the same design principles and requirements as the remainder of the development and would therefore be integrated into the overall scheme. The delivery of the affordable housing will be achieved via the Bovis/WHG contract. A safeguarding condition is attached support this position.

Impact on surrounding occupiers

As the proposals occupy the whole of a single street block and the scale of the proposed development is in context with the existing surrounding properties, it is the proposals would have no adverse impact on the amenities of the existing surrounding residential occupiers.

Access and Parking Arrangements

It is proposed to create a new vehicle access route through the site, running from Barracks Lane to Walker Road, as adopted highway, in the form of a shared surface creating a route with 'pinch' points with properties and parking on the frontages either side.

Parking would be provided in the form of four courtyards, driveways and garaging. 200% parking would be provided for each house to comply with policy and approx 135% parking for the apartments. Although slightly below the 150% requirement in Policy T13 of the UDP, it is considered appropriate by Transportation given the sustainable location so close to the local centre and public transport facilities.

The four parking courts to the rear of the buildings would have gated and secure access points from the main roads, whilst a few properties would have remote parking not immediately adjacent to the property, all the parking courts would be overlooked by surrounding properties, which would create a safe and secure space.

S106 Contributions

Education

The level of surplus places in local secondary schools is below 10% therefore a contribution of £116,287.90 is required towards secondary school provision within the local area, in line with Policy 8.8 of the UDP. The contributions would be spent within a 3 mile radius in terms of secondary schools.

Urban Open Space

An Urban Open Space contribution of £123,985.00 is required to comply with the Urban Open Space SPD policy and Policy LC1(d) of the UDP.

Healthcare

A Healthcare contribution of £69,558.30 is required to comply with Policy 8.9 of the UDP and Healthcare SPD.

Recommendation: Grant Permission Subject to Conditions and a Planning Obligation

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

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

2. Samples of all facing, roofing and surfacing materials (including the 'mews') shall be submitted to and approved in writing by the Local Planning Authority within two months of the date of this approval. The development shall be completed with the approved details and retained as such.

Reason: To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

3. Details for the disposal of both surface and foul water drainage shall be submitted to and approved in writing by the Local Planning Authority within two months of the date of this approval. The development shall be completed with the approved details and retained as such.

Reason: To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution.

4. Full details of existing and proposed levels of the site, roads, access routes and floor levels for the proposed dwellings, shall be submitted to and approved in writing by the Local Planning Authority within two months of the date of this approval. The submitted details shall include full details of any retaining structures required to ensure the stability of the site and any drainage or other works necessary to facilitate this development. The development shall be carried out and retained in accordance with these approved details.

Reason: In the interests of the amenity of the area and to ensure satisfactory development of the site.

5. A revised parking layout for plots 37 and 38 shall be submitted to and approved by the Local Planning Authority within two months of the date of this approval. The revised layout shall demonstrate acceptable parking and manoeuvring space and pedestrian routes to the frontage of the properties. Only the approved amended layout shall be implemented and thereafter retained.

Reason: In the interests of highway safety.

6. An Autotrack Drawing shall be submitted to and approved by the Local Planning Authority within two months of the date of this approval to show that a Walsall Council refuse vehicle (pantehnicon) can negotiate the proposed layout.

Reason: To ensure the satisfactory development of the application site.

7. A detailed layout plan shall be submitted to and approved by the Local Planning Authority within two months of the date of this approval to show parking for site operatives, machinery and visitors within the application site. The approved details shall be retained and kept available during construction of the development.

Reason: In the interests of highway safety.

8. A detailed plan to identify the extent of the adoptable highway within the 'mews' shall be submitted to and approved by the Local Planning Authority within a period of two months from the date of this approval.

Reason: To ensure the satisfactory development of the application site and define the permission.

9. Prior to first occupation of the premises hereby approved low level external lighting without excessive light spill shall be installed within the car parking courts of the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority and thereafter retained.

Reason: To safeguard the visual amenities of the area.

10. The development shall be constructed in accordance with the Code of Sustainable Homes '3 stars' or Eco Homes 'good' standard relating to energy efficiency / CO₂,

water efficiency, surface water management, site waste management, household waste management and use of materials, unless otherwise agreed in writing with the local planning authority.

Reason: In order to provide high performance sustainable homes and protect the environment in accordance with strategic policy aims 2.1, 2.2, 3.17 and 3.18 and policies GP2 and ENV39 of the Walsall Unitary Development Plan

11. Prior to the first occupation of the flats and houses hereby approved, the new vehicle access points shall be fully implemented and the car parking courtyards shall be surfaced, drained (by passing through interceptors) and all parking spaces shall be demarcated on the ground. One parking space shall be allocated for disabled parking within each parking court unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure satisfactory access to the site, satisfactory parking facilities for the development and prevent a continuous extended dropped kerb, in the interest of pedestrian safety.

12. Full details of a landscaping scheme shall be submitted to and approved by the Local Planning Authority within two months of the date of this approval. The scheme shall include paved areas, a detailed planting plan clearly identifying proposed planting areas, areas of turf, location of proposed trees, correct botanical names, sizes at planting and planting densities of all proposed planting, details of how trees would be staked and topsoil specifications. The scheme shall be completed in accordance with the approved details before the development is occupied, unless otherwise agreed in writing with the local planning authority, and retained as such. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to safeguard the visual amenity and natural environment of the area.

13. Details of the vehicle access gates and control system shall be submitted to and approved in writing by the Local Planning Authority within two months of the date of this approval. The development shall be completed with the approved details and retained in working order.

Reason: In the interests of securing the site.

14. All pedestrian access gates within the development shall be fitted with self closing and lockable gates prior to first occupation of any unit within the development. Details of the gates and their control system shall be submitted to and approved in writing by the Local Planning Authority prior to installation.

Reason: In the interests of securing the site.

15. The deliver of Affordable Housing for the site shall be provided in accordance with Drawing No GOSC/201 Rev B submitted on 15th January 2008.

Reason: In order to define the permission and comply with Policy H4 of the UDP and Supplementary Planning Document: Affordable Housing.

16. No electricity substation shall be positioned within 5m of any residential accommodation, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure no adverse impact on future occupiers from non-ionising radiation.

17 No demolition, engineering or construction 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 only take place between the hours of 0700 to 1800 weekdays and 0800 to 1400 hours Saturdays, unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: To safeguard the amenity of occupiers of premises within the vicinity.

18. The works hereby approved shall only be carried out in accordance with details contained within Drawings: GOSC/100/01, GOSC/250, 251, 252, 253, 254/Elevations, 255/Plans, 257, 258, 259, 260, 261, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 280, 286 and Design and Access Statement submitted on 14th December 2007 and Amended Drawings: GOSC/201 Rev B, Site Layout (fence key plan) Sight Lines, GOSC/256 Rev A, 262-1 Rev A, 283, 281 Rev A, 284 submitted on 15th January 2008..

Reason: In order to define the permission.

Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies 2.1, 2.2, 3.6, 3.9, 3.16, GP1, GP2, GP3, GP7, 3.114, 3.115, ENV14, ENV18, ENV32, ENV33, ENV39, H3, H4, H9, H10, LC1(d), 8.8, 8.9 and T13 of Walsall's Unitary Development Plan, and the Residential Development Standards and on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at www.walsall.gov.uk



ITEM NO: 3.

To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration

On 29 Jan 2008

REASON FOR BRINGING TO COMMITTEE: Major Application

Application Number: 07/1362/FL/W2

Application Type: Full application

Applicant: Cala Homes (Mids) Ltd

Proposal: Erection of 102 dwellings and associated infrastructure including a balancing pond.

Ward: Birchills Leamore

Recommendation Summary: Grant Permission Subject to Conditions and a Planning Obligation

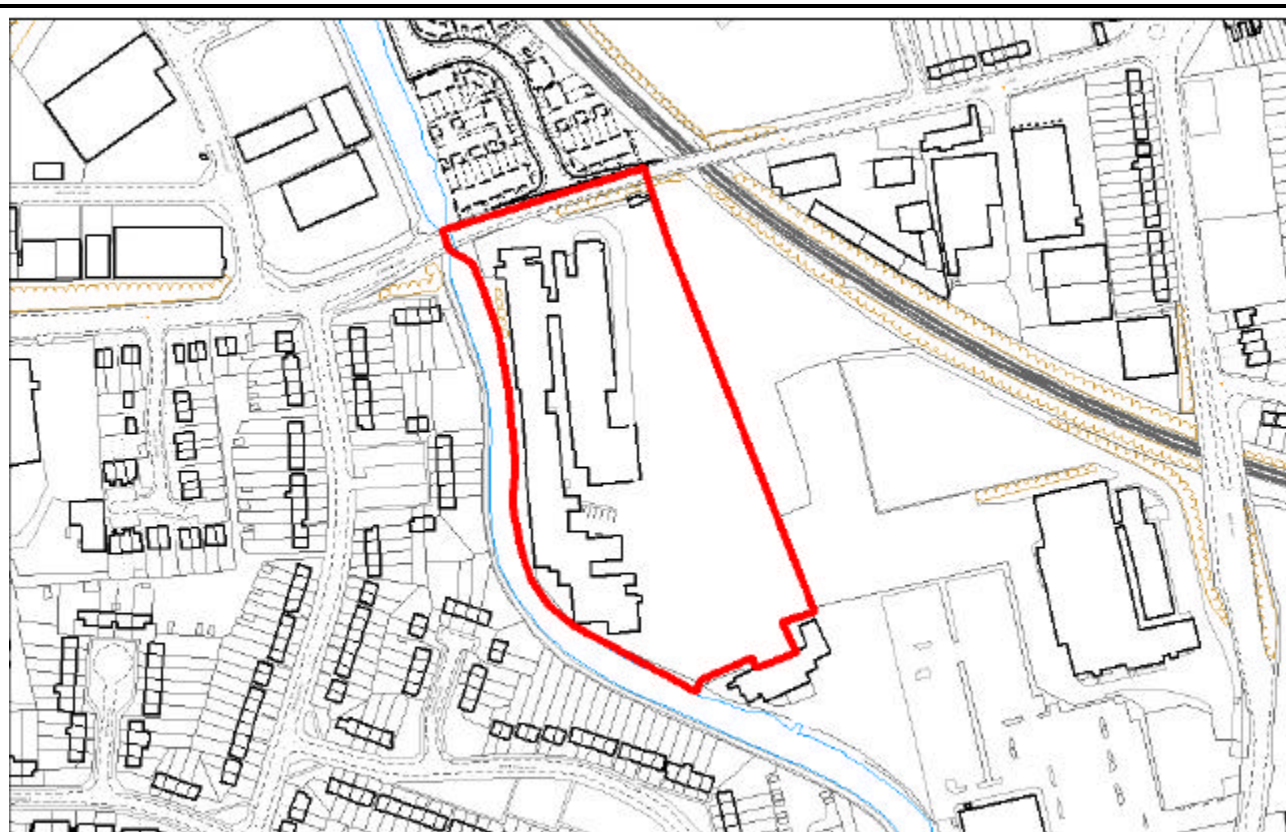
Case Officer: Andrew Thompson

Telephone Number: 01922 652403

Agent:

Location: Former Deeleys Castings, Leamore Lane, Bloxwich, Walsall

Expired: 10/10/2007



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Application and Site Details

The site is to the southern side of Leamore Lane opposite the development approved under planning permission reference 06/1118/FL/W2. The site is broadly rectangular in shape and bordered by the Wyrley and Essington Canal on two sides and British Car Auctions on the eastern boundary with the railway beyond. The towpath is on the opposite side of the canal to the development. There is a pedestrian route to the canal towpath on the west side of the canal bridge. Beyond the canal are a number of residential properties.

To the north of the site on the opposite side of Leamore Lane and on the western side of the canal, land is used for commercial purposes as part of an allocated area of Core Employment Land.

The site is to be served by a single access point centrally located on the Leamore Lane frontage on the northern boundary of the application site.

The proposals are for 102 residential units in a mix of 2, 3, 4 and 5 bedroom units on a development density of 45dph. The proposals include 189 car parking spaces (185%).

The proposals are a mix of two, two and a half, and three storey development with an emphasis towards the development fronting the canal and a centralised “home zone” concept. The designs are traditional house types with pitched roofs and the use of courtyard parking as private areas.

The proposals form a strong frontage to Leamore Lane with 3storey dwellings forming and defining the entrance to the site. The site levels fall down into the site and therefore the use of building plots 44, 45 and 46 will form the end vista as viewed from Leamore Lane whilst also creating the entrance to the central square area. The central square houses will be primarily 3-storey in design. The canal frontage will be a variety of styles and designs on a traditional canal-side theme with front doors facing onto the canal to promote active frontages and

The application is supported by a Design and Access Statement, Acoustics Report, Flood Risk Assessment, Ecological Appraisal, Tree Survey, Ground Investigation Report and a Statement of Community Consultation carried out at the pre-application stage.

Relevant Planning History

None on site

Site Opposite

06/1118/FL/W2 - Redevelopment of site for new residential development of 134 units and associated works, including access alterations. Granted – 11/06/2007

BC28247P Outline: Industrial Units Development with Associated Parking & Access Road Grant Subject to Conditions 11/9/90

Relevant Planning Policy Summary

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

Adopted Walsall UDP

The relevant planning policies include the General Principles for Development (Chapter 2 of the UDP) which encourage sustainable regeneration and seek to maximise the development of previously developed land in sustainable locations and promote high quality development. High quality design is at the core of the Principles for Development. The application site has no specific designation within the UDP therefore policy JP7 applies (seeks to protect employment land unless it would be more appropriate to consider alternative uses).

H3: Encourages provision of additional housing on previously-developed land, subject to (among other things) satisfactory residential environment, and no unacceptable constraint on the development of any adjacent site for its allocated or identified use. Policy H4 seeks to provide a level of affordable housing at 25% of the total dwellings proposed on the application sites. Policy H9 and H10 seek to encourage appropriate densities on developments with the proposed layout, design and mix.

Policy Env14 specifically encourages the development of previously developed land. Policy Env32 sets out design criteria and Policy Env33 seeks good landscape design. Policy Env39 seeks to ensure renewable energy and energy efficiency is encouraged as part of development

Chapter 7 of the UDP (Transportation) seeks to encourage alternative modes of transport to the public car. Policies T7 and T13 seek a well designed scheme in relation to car parking provision and policies T8 and T9 seek to promote walking and cycling respectively. Accessibility for all members of the community is reflected in policy T10.

Policy LC1 of the UDP is an important consideration in the provision of open space within the development.

The Affordable Housing SPD (July 2005), Urban Open Space SPD (April 2006), Education SPD (February 2007), Healthcare SPD (January 2007) and Residential Design Standards Document (April 2005) are all relevant.

Walsall Local Development Framework

The Urban Open Space SPD (April 2006), Education SPD (February 2007), Healthcare SPD (January 2007) and Residential Design Standards Document (April 2005) are all relevant.

Regional Spatial Strategy for the West Midlands (RSS11)

Promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes. There is no need for this application to be considered under the Conformity Protocol. A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

Policies UR1 and UR3 which seek to regenerate urban areas and in particular the major urban areas. Policies CF1, CF3, CF4 and CF5 seek to encourage housing in

sustainable locations. Policies QE1, QE2, QE3, QE4 and QE9 which seeks to improve the quality of the environment whilst preserving quality and historic buildings and locations. The policies also aim to enhance public spaces and urban green space. Policy EN2 seeks to conserve energy.

National policy

PPS1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. Paragraphs 33 to 39 also state the importance of good design. PPS 3 encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes. Applications for residential on employment land should be given favourable consideration, subject to criteria.

Paragraph 10 of PPS3 indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. This includes high quality housing that is well-designed and built to a high standard; a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas; a sufficient quantity of housing taking into account need and demand and seeking to improve choice; and housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

In considering high quality design, PPS3 (paragraph 16) guides that proposed development should be well integrated with, and complement, the neighbouring buildings and the local area more generally in terms of scale, density, layout and access and creates a distinctive character that relates well to the surroundings and supports a sense of local pride and civic identity.

PPG13, promotes development accessible transport locations, reducing the need to travel by car and promoting walking, cycling and public transport. This is supported by Manual for Streets (published May 2007) which promotes a flexible approach to design and materials that build a high quality environment. PPS23 (Planning and Pollution Control) and PPS 24 (Planning and Noise) also apply seeking to appreciate and conserve the historic environment and deliver development which does not raise issues in terms of polluted environments.

Circular 05/2005 (Planning Obligations) is of relevance in this instance with regard to the appropriate level of planning contributions that will be sought.

Consultations

Transportation- There are no Transportation objections to the principle of residential development on the site. However, there are several areas of detail concern which need to be resolved via the imposition of conditions. These relate to the construction of the signalised junction identified in the TA, the completion of a section 278 agreement and payment of commuted sum towards future traffic signal maintenance costs, the extinguishment of the private right of way from the adjacent car auction site to the existing access on Leamore Lane and the removal of the existing access and re-instatement of full footway construction, the completion of an acceptable travel plan, and plans showing the areas of highway that will be offered for adoption and refuse collection.

Pollution Control – No objection subject to conditions

Urban Design – No objection.

Ecology – Object – Consider that no effective attempt has been made to retain features of value for wildlife within the development site or to provide mitigation or management to maintain the vegetation along the southern and canal boundaries; insufficient information has been provided to demonstrate that there would be no adverse impact on protected species and no detailed landscape scheme has been provided.

British Waterways – Welcome the development and seek contributions towards canal improvements as part of the Section 106 Agreement.

Environment Agency – Requested balancing pond to overcome lack of Sustainable Drainage Systems (SUDS) and ensure adequate drainage. In principle the EA have no objections to the proposals shown on the above plan subject to the details being confirmed in full. Details have been submitted to the Environment Agency. The pond is to be a wet area following the appropriate design guidance.

Urban Open Space – Seek £255,865 in accordance with the Council's Adopted Supplementary Planning Document.

Healthcare - Seek £140,269.50 in accordance with the Council's Adopted Supplementary Planning Document.

Education – Seek £244,735.10 towards Secondary School provision in accordance with the Council's Adopted Supplementary Planning Document.

Housing Strategy – Seek 25% of the units towards affordable housing in accordance with the Council's Adopted Supplementary Planning Document. This should be integrated within the development and mixed across the property types and sizes.

Fire Service – Satisfactory for turning and manoeuvring of the fire appliance with clarification of fire access strategy to plots 8, 9, 68 to 81, 103 and 104 required.

WRC – Support the proposals in terms of the strategic aims.

Centro – No objection subject to the applicant agreeing to a residential travel plan.

Public Participation Responses

None.

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

Determining Issues

- The Principle of Residential Development
- Design and Layout of the Proposed Development
- Environment Agency comments

- Transportation comments
- Ecological comments
- Section 106 Agreement

Observations

The Principle of Residential Development

The development lies within the Walsall Regeneration Company "Canal Communities" regeneration area where residential development is to be supported. The principle of reusing brownfield sites for housing is generally supported by Government and council policies, provided a satisfactory residential environment for future occupiers can be secured, whilst protecting the operations of existing nearby users. The site is not an allocated employment site within the Adopted UDP and the proposals are considered to be consistent with Policy JP7(d) which considers that other uses, e.g. residential development, is appropriate and acceptable. The development proposed would be compatible with the David Wilson Homes scheme which is under construction on the opposite side of Leamore Lane.

Both national and local policies also identify the importance of sustainability. Centro have expressed some accessibility requirements. Officers suggest conditions relating to a residential travel plan and cycle parking.

The development density of 45 dwellings per hectare is considered to be satisfactory in policy terms.

Design and Layout of the Proposed Development

The overall concept is to produce a traditional styled development that builds a sense of place and context throughout the site. As such the design and layout of the proposals are centred on two principal areas.

Firstly the development aims to create an active and interesting frontage to the canal frontage with traditional architecture and pedestrian accesses to houses fronting the canal. This positive relationship to the canal will encourage use of the canal and give active overlooking to the canal towpath. The relationship to the canal is positive and would build on the principles of high quality design.

The second point is to create a central feature to the scheme where the pedestrian and vehicular space is blurred to create a shared surface and place which encourages interaction. This feature would be consistent with best practice and urban design techniques in improving the quality of the built form and producing high quality usable streets.

In addition there is clear evidence from examples already in place around the country that this development reduces car dominance, slows traffic speeds and encourages community interaction. As such it is considered that the proposed central area would create a sense of place to the development and should be encouraged.

Environment Agency comments

The applicant has submitted a Flood Risk Assessment which raised objections from the Environment Agency with regard to the amount of drainage and the lack of sustainable drainage systems (SUDS).

The drainage on the site will be designed to accommodate considerable levels of surface water and the balancing pond has been added to accommodate additional drainage requirements.

The reason for not incorporating SUDS is the level of ground contamination and that this would compromise the remediation strategy and works that is proposed to be installed.

Whilst it is encouraged that new developments use SUDS and this is an effective measure of reducing the level of groundwater in general into the overall sewerage network, it is noted that the Environment Agency have accepted and been actively involved in the design of the balancing pond. The Ground Contamination issues on the site are also noted by the Environment Agency and it is accepted that SUDS cannot be incorporated on this development. The inclusion of the balancing pond will overcome this issue.

In addition to the elements set out on the applicant's plan the Environment Agency have also calculated that around 79 of the proposed property plots could be provided with a water butt (with an overflow connected to the drainage system). Whilst the Environment Agency fully support the use of water butts on all new residential development sites, they cannot be included within final attenuation calculations, but could be taken into account when calculating lost capacity due to siltation within any drainage system.

Transportation comments

Transportation and Planning Officers have met with Cala Homes and their legal representatives to secure appropriate resolution of highways issues on the site. With regard to the existing access, Highways Officers have confirmed that the closure of the existing access under the relevant sections of the Highways Act will be an improvement to highway safety.

The principal issue is the right of access of British Car Auctions over the site to the current access on Leamore Lane. The new access will potentially improve the highway safety and ease of access for British Car Auctions and encourage them to use this access point which appears to have not been used in recent years. A condition as part of the S106 securing the extinguishment of the right of way is essential and has been agreed by the applicant. Additionally, the applicant will be required to remove the existing access and re-instate full footway construction.

The site is accessed from Leamore Lane opposite the access to the David Wilson Homes site, work on this site has commenced so the applicant will be required to construct the signalised junction indicated on Faber Maunsell drawing number 53402TBMD_006 Rev A, included in the TA. This will be via a section 278 agreement and will require satisfactory safety audits and designers' responses and a commuted sum towards future maintenance of the signal equipment.

Including garages, frontage parking and unallocated visitor spaces there are 189 car parking spaces, 185% overall provision. The maximum level of parking sought by the UDP would be 266 spaces. There are 68 four bedroom properties, each provided with 2 spaces compared to the UDP standard of 3 spaces, each flat over

garage is allocated one space with four visitor parking spaces. A parking strategy plan has been submitted showing the overall the level of parking provision is considered acceptable and Transportation Officers consider that this is acceptable.

The majority of the site fails to meet the standards sought in the UDP for walking distance from a bus stop. Consequently, and in conjunction with the reduced car parking provision, use of non car modes should be encouraged. A travel plan will be part of the Section 106 agreement.

A plan has been submitted relating to bin storage areas and the areas offered for adoption. Secure cycle storage should be provided for all units and a plan is required showing the areas to be offered for adoption.

The applicant has submitted and demonstrated that the Council's bin lorry can manoeuvre around the site and the applicant is aware of the Fire Service's comments with regard to properties fronting the canal. It is considered that adequate fire access can be achieved in accordance with Building Regulations Document B5.

There are no details of the depth of the balancing pond currently submitted and the applicant is detailing this in consultation with Officers and the Environment Agency. Protection measures will be put in place by the applicant to prevent driver losing control on the bend and entering the water, a condition added to this effect.

Overall it is considered that the proposals would be acceptable in Transportation Officers view subject to the imposition of conditions and the Travel Plan being included in the S106 legal agreement.

Ecological comments

As part of the submission the applicant has submitted an ecological assessment which has been considered in detail by the Council's Ecological and Landscape Officers.

The canal is a wildlife corridor and protected from damaging development in the adopted UDP. The canal is also a Site of Local Importance for Nature Conservation and therefore also protected from damaging development. The application site abuts directly onto the Site of Local Importance for Nature Conservation.

The canal is important visually and the fronting of houses onto this feature is supported, however, Ecological Officers consider that houses should be set well back from the buffer strip of 10metres to avoid damage to the trees and to discourage encroachment into the canal side vegetation.

It is noted that Ecological Officers advise that a strip of around 10 metres is required however Officers consider that this would be onerous and significantly in excess of the buffer on the approved David Wilson Homes scheme on the opposite side of Leamore Lane. Taking into account this approved development and the approval of Urban Design Officers to the layout and design, it is considered that the proposals are considered to be reasonable in its relationship to the canal and that a 10m buffer strip would compromise the deliverability of the overall development concept.

The frontages of the proposed houses range from 4 to 6 metres of the SLINC boundary. A full landscape scheme is conditioned accordingly.

The applicant's ecological consultants suggest the retention of the tree belt within and outside the application site, along the southern end of the site was visually important as it separated what would be a residential area from adjacent land uses.

The design of the proposals has no buildings on the southern boundary with a turning head, four parking spaces and balancing pond as the only development in close proximity to the southern boundary.

It is noted that ecological and landscape officers consider that it could be possible to incorporate the proposed balancing pond feature into a proper wetland which would augment the canal corridor. In this regard the balancing pond could be a positive environmental feature.

The Council's Ecological Officers also consider that a substantial landscape belt is required along the eastern boundary to separate the development from the large adjacent car park. It is noted that the previous use presented poor quality landscaping to this boundary and that Pollution Control Officers do not object to the application in terms of noise. Back gardens meet the Residential Design Guide standards and those properties that are side on to the eastern boundary are set off the boundary.

It is noted that the canal margin is well vegetated with emergent vegetation and trees and that this strip is largely outside the application site but along the southern boundary, it lies within the site. At the time of the site visit the trees were in full leaf and even though remediation and demolition work was taking place the offsite trees were retained and provided a good buffer to the canal.

It is noted that the findings of the bat survey showed that at least 2 species of foraging bats were discovered. This suggests that the site is used as a foraging area and the trees along the margins of the canal and the southern boundary of the site should therefore be properly retained within the development. It is proposed to condition bat boxes and new habitats be provided as part of the new development.

Whilst the findings of the water vole survey showed that no water voles were found in the canal by the application site and that there were no ideal habitats next to the application site. The site immediately to the north of Leamore Lane has a flourishing water vole population and population movement could be expected along the canal corridor. The proposals include locations which will be developed as habitats for water voles.

Ecological Officers consider that it is important that the frontage of the application site is retains features of value as a wildlife corridor and remains relatively free of disturbance from future residents and their pets. It is noted that the canal towpath on the opposite side of the canal provides unrestricted access to pets and residents, fishing under licence was also taking place at the time of the site visit and the towpath is also used for cycling and informal leisure activity. Therefore taking into account the existing activity on the canal, restricting activity on the application site would be impracticable and unreasonable and compromise the overall design of the proposals.

The applicant's ecological consultants also discovered a potential badger sett in the south-western corner of the site. The applicants are aware of the protected nature of this species but have undertaken remediation work on the site. Given the nature and extent of the remediation works necessary, it is likely that the sett has been destroyed as part of the remediation. The applicant is aware of the implications of this action.

Overall, whilst the development will not satisfy the objections of Ecological Officers, the applicant have made considerable effort, including excluding development from the southern boundary, including a balancing pond, and incorporating water vole habitats within the development to overcome the objections and the proposals.

When considered against the previous industrial use and the remediated quality of the land, it is considered by Officers that this will improve the overall natural environment. Therefore, on balance, the proposals are considered to be acceptable.

Section 106 Agreement

The applicant has submitted a financial viability report to the District Valuers for assessment. Based on the figures and plans submitted to the District Valuer they conclude that Cala's sales value of the Affordable Housing properties that some of the projected sales figures could be slightly on the low side. Nonetheless any increase in value is unlikely allow Cala to provide additional contributions based on the abnormal costs demonstrated.

Working through the appraisal, adopting the District Valuers' sales income and accepting Cala's building costs (including all externals including roads/drainage etc) as reasonable, Cala's fee level is very reasonable, so s106 costs at the full £680,869 would not be possible on this site.

Based on the advice of the District Valuers assessment, it is therefore agreed by Officers to seek 15 units (14.7%) to affordable housing and £400,000 towards other contributions as offered by Cala.

On this basis, it is proposed by Officers to seek the full £244,735.10 towards the Education contribution and the remainder (£155,264.90) split equally between Healthcare and Open Space, £77,632.45 each. This equates to 55% of the Healthcare contribution and 30% of the Open Space contribution sought.

It is noted due to the reduced level of s106 contributions being offered, particularly towards open space, that no contribution will be immediately directed to British Waterways.

In addition the S106 will contain a clause relating to the extinguishment of the existing right of way across the site and the provision of a Residential Travel Plan.

Conclusion

Overall the proposals continue the concept of the Walsall Regeneration Company's "Canalside Communities". The proposals have been amended to create a high quality residential environment, have overcome Transportation concerns and detailed objections of the Environment Agency. Whilst the development will not satisfy the objections of Ecological Officers, the applicant have made considerable effort to overcome the objections and the proposals, when considered against the previous

use and the remediated quality of the land will improve the overall natural environment to all. Overall the proposals are acceptable in the view of Officers.

Recommendation: Grant Permission Subject to Conditions and a Planning Obligation

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

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

2. Prior to the first occupation of the development, a Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be developed in partnership with this Council's Travel Wise co-ordinator and included in as part of a S106 Legal Agreement. This shall identify a package of proposed measures consistent with the aim of reducing reliance on the car, and should include details on:

- a) Public transport information and ticket details;
- b) Cycle provision; and
- c) Walking initiatives.

The approved measures shall be implemented within the first six months of the first occupation of the development. Following the expiry of this period of time, a review of the Plan shall be submitted to, and agreed in writing by, the Local Planning Authority. This will identify any refinements and clarifications deemed necessary to the Plan. The approved, revised plan shall thereafter be implemented in conjunction with the use approved under this permission, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to promote the use of alternative modes of transport.

3. No development shall be carried out until a detailed landscaping scheme for the site has been approved in writing by the Local Planning Authority. The scheme shall include tree protection methodology to be retained in or immediately adjacent to the boundary of the application site in accordance with BS 5837: 2005 'Trees in relation to construction', details of the water vole habitat areas, bat boxes and replacement habitat creation areas, and habitats for terrestrial invertebrates. The approved scheme shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority. All planted and grassed areas and associated protective fencing shall be maintained for a period of 3 years from the full completion of the approved scheme. Within this period:

- (a) grassed areas shall be maintained in a tidy condition;
- (b) planted areas shall be maintained in a tidy condition;

- (c) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- (d) any damage to protective fences shall be made good.
- (e) any tree works shall be carried out by a tree surgeon approved by the Head of Environmental Regeneration, or a person who is appropriately insured and competent in such operations

Reason: To ensure the satisfactory appearance of the development.

4. No fences, walls, barriers, gates or other forms of boundary treatment shall be installed or erected anywhere on the site until full details have been approved in writing by the Local Planning Authority. Installation or erection, and subsequent retention, shall be in accordance with the approved details.

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

5. The development shall be constructed in accordance with the Code of Sustainable Homes (April 2007) 3 stars standard relating to energy efficiency / CO₂, water efficiency, surface water management, site waste management, household waste management and use of materials, unless otherwise agreed in writing with the local planning authority.

Reason: In order to provide high performance sustainable homes and protect the environment in accordance with policy aims 3.17 and 3.18 and policy ENV39 of the Walsall Unitary Development Plan

6. Prior to built development commencing details of additional investigation and assessment of ground contamination and ground gas shall be submitted to and agreed in writing by the Local Planning Authority. A copy of the findings of the ground contamination investigation and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or landfill gas shall be forwarded to the Local Planning Authority within 1 month of completion.

Reason: In order to ensure satisfactory development of the site.

7. Prior to built development commencing 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 with the Local Planning Authority.

Reason: In order to ensure satisfactory development of the site.

8. Agreed remedial measures shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. 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: In order to ensure satisfactory development of the site.

9. Prior to development commencing, a noise survey shall be undertaken in accordance with guidance and procedures contained in Planning Policy Guidance PPG 24 and British Standard BS 7445:1991, (as amended) "Description and Measurement of Environmental Noise" to the written satisfaction of the Local Planning Authority. The results of the survey, including details of all instrumentation used, prevailing weather conditions and traceable calibration tests shall be submitted to the Local Planning Authority within 1 month of completion.

Reason: To ensure the satisfactory condition of the site, for future occupation and to protect the local environment.

10. No occupancy shall take place until suitable noise mitigation measures have been implemented to the satisfaction of the local planning authority for all habitable rooms in close proximity to noise sources identified in condition 10. Such measures shall take into account the guidance and criteria contained in British Standard BS 8233:1999 'Sound Insulation and Noise Reduction for Buildings - Code of Practice' and World Health Organisation 'Guidelines for Community Noise 2000' and shall be completed prior to the development coming into use.

Reason: To ensure the satisfactory condition of the site, for future occupation, and to protect the local environment.

11. Unless otherwise agreed in writing by the Local Planning Authority, no development shall be carried out until details of security oriented design measures and physical security measures for all buildings and public spaces have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented concurrently with the relevant element of the development, and thereafter retained.

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

12. 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 only take place between the hours of 07.30 to 18.30 weekdays and 08.00 to 16.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

13. This development shall not be carried out until samples of the facing materials to be used have been approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

14. No development shall be carried out until a scheme for external lighting has been submitted to and approved by the Local Planning Authority and the lights shall be installed and thereafter retained in accordance with the approved details.

Reason : To safeguard the amenities of the occupiers of adjoining premises and highway safety.

15. Prior to the commencement of development, details of the proposed balancing pond (including details of depth, confirmation as to whether this is a proposed wet pond or dry attenuation area, full supporting calculations be provided for the new drainage system, aeration facilities, retaining walls, boundary treatment and any lighting scheme) shall be submitted to and approved in writing by the Local Planning Authority. The pond shall be installed in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the development and to preserve and enhance the Conservation Area and neighbouring listed buildings.

16. Before this development is brought into use, the accessways, vehicle parking and manoeuvring areas shown on the approved plans shall be hardsurfaced in materials to be agreed in writing by the Local Planning Authority. The areas shall thereafter be retained and used for no other purpose. The parking spaces shall have been clearly marked out.

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

17. Prior to the commencement of development, a plan showing the areas to be offered for highways adoption shall be submitted to and approved in writing by the Local Planning Authority. The plan shall show details of refuse and re-cycling storage areas for those properties that front the road and do not have rear access should also be provided to demonstrate that residents' bins will not obstruct the footway or visibility splays. The areas shall be implemented in accordance with the approved details.

Reason: In the interests of highway safety.

18. Before work commences on site details of measures to control water run off from the site during construction (including details of the timing of construction of the proposed measures, and of their removal) shall have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approval, unless otherwise agreed by the Local Planning Authority.

Reason: To protect the water environment.

19. Prior to the commencement of development the details and locations of cycle stores, covered parking areas submitted to and approved by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

20. Prior to the commencement of development, or an alternative agreed timescale, the applicant shall construct the signalised junction indicated on Faber Maunsell drawing number 53402TBMD_006 Rev A to a standard to be agreed in writing by the Local Planning Authority. The proposals shall be implemented in accordance with the agreed timescale and details.

Reason: In the interests of highway safety.

Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision.

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP1, GP2, GP3, GP7, T7, T12 T13, ENV10, ENV18, ENV32, ENV33, JP7(d), H3, H9 and H10 of the Walsall Unitary Development Plan 2005, Policies QE3, QE4, QE5 and QE9 of the Regional Spatial Strategy for the West Midlands (RSS11), and Walsall's Urban Open Space SPD (April 2006), Education SPD (February 2007), Healthcare SPD (January 2007) and Draft Design Guide (November 2007) on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As the application was approved by the Development Control Committee, the report can be viewed on the Council's website at www.walsall.gov.uk <<http://www.walsall.gov.uk>>.

NOTES FOR APPLICANT:

A) Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "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.

B) When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model 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.

C) Noise Survey - In view of the topography of the site, monitoring positions used for the survey may need to be at the height of the receiver, this would entail locating the microphone at the same height of the proposed 4 storey flats and the monitoring must include the night-time period. The development may need to incorporate either one or

a combination of the following measures to afford adequate acoustic protection to the future occupants: courtyard style development to include all non-habitable rooms located on the external façade facing potentially noisy activities, brick only (i.e. 'single aspect') façade to face potential noise sources and the layout of individual buildings to act as a noise barrier to neighbouring properties.

D) Party wall and floor structures should have reasonable resistance to airborne and impact sound in accordance with Approved Document E of the Building Regulations 2000, (As Amended).

E) The site is adjacent to a bus shelter, which should be retained in its existing location. If this is not possible and the bus shelter must be relocated a standard 3 x 1.5m enclosed Transit shelter, at an approximate cost. The applicant and/or Council should liaise with Julie Smithers, Centro Bus Infrastructure Manager on telephone number (0121) 214 7123.

F) If the developer requires any advice on Travel Plans they should contact Louisa Stebbings, Walsall Metropolitan Borough Council's Business Travel Advisor, on 01922 652 561. Kerry Slater, Centro's TravelWise Officer, can also advise on public transport promotion initiatives and journey planning, and she can be contacted on (0121) 214 7409.

G) The Council consider the scheme should meet the terms of the Secured by Design concept, and will expect the submissions under this condition to meet that concept, or provide compelling justification for not doing so.



ITEM NO: 4.

To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration
On 29 Jan 2008

REASON FOR BRINGING TO COMMITTEE: Major Application.

Application Number: 07/2596/FL/E9

Application Type: Full application

Applicant: Jabez Cliff & Co Ltd

Proposal: Change of use of part of the stables building to saddlery and bridgework manufacturing, creation of new car park and new site access off Aldridge Road.

Ward: St. Matthews

Case Officer: Barbara Toy

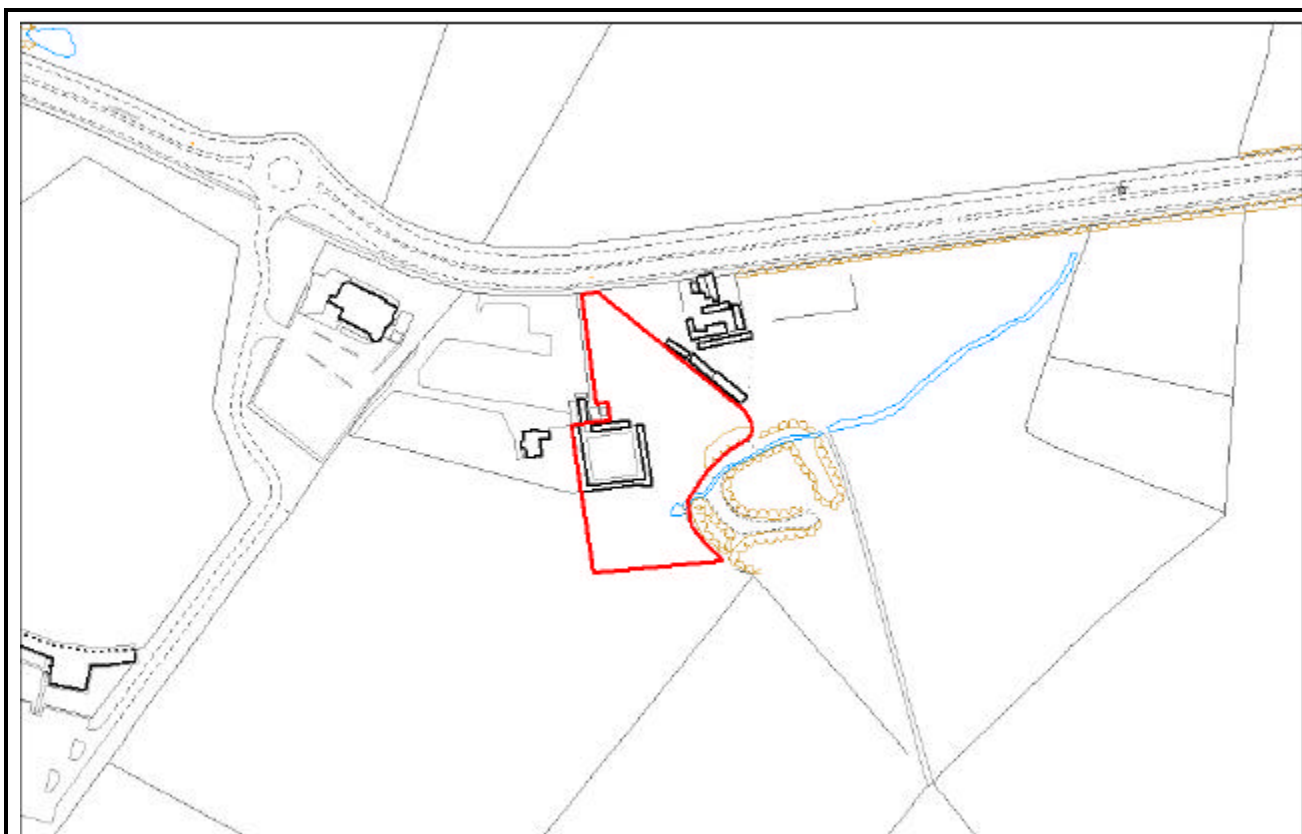
Telephone Number: 01922 652429

Agent: M.J. Meeson RIBA

Location: WHITBY RIDING
STABLE, ALDRIDGE
ROAD, WALSALL,

Expired: 05/03/2008

Recommendation Summary: Grant Permission Subject to Conditions, unless additional information is received which raises material considerations



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Application and site details

The site is situated on the southern side of Aldridge Road (A454) to the east of the Dilke Arms P H within the Green Belt.

Aldridge Road (A454) is a dual carriageway running east /west through the Green Belt. Immediately to the east of the site is Longwood Cottage, a residential property with associated land, some used for caravan storage (adjacent to the application site). The cottage itself is situated immediately adjacent to the road. To the west of the site is a Severn Trent Water pumping station with access off Aldridge Road and further to the west the remainder of the Whitby stables comprising of a house, grazing fields and fishing pool to the south. Beyond the stables site is the Dilke Arms PH, fronting Aldridge Road.

The site currently comprises 25 stables, workshop and store in a disused single storey building, an open barn/storage building to the rear, with additional garage buildings together with open storage, old vehicles, caravans etc and is generally unkept and in poor condition.

The application proposes the change of use of part of the main stable building to saddlery and bridle work manufacturing. The works would include minor works to the existing building to upgrade and infill part of the existing courtyard areas and convert some of the existing stables to workshops, offices, storage etc, creation of a new site access off Aldridge Road, creation of a new car park and landscaping works.

The exterior of the building would remain predominantly as existing with replacement windows etc. 12 stables would remain within the building, 11 would continue to be used independently for livery purposes and 1 would be utilised by the applicants for customers horses. The existing barn/storage building to the rear of the main building would remain and be used for hay storage etc for the horses. The existing detached workshops/garage structures that are in poor condition (situated in front of the main building) would be removed to provide 34 parking spaces, new access and landscaping. A new vehicle access would be provided onto Aldridge Road (to the east of an existing access into the adjacent pumping station).

The works would also include the closure of a gap in the central reservation on the Aldridge Road dual carriageway, approx 200m to the east of the site.

The site would be occupied by Jabez Cliff, a longstanding saddlery company within the Borough. This would involve the company relocating from their existing Town Centre location in Lower Forster Street. The company employ 40 local people and manufacture bespoke saddles. The facility would provide a new manufacturing area as well as stabling and riding facilities so that customers can visit the site and have their saddle made to fit themselves and their horse. Jabez Cliff's history has always been in Walsall, as part of the traditional leather industry of the town and they wish to remain in the Borough.

Relevant Planning History

BC17294P, new stables, tack repair shop, feed store, blacksmiths workshop, toilets and office. Approved subject to conditions 22-07-86.

BC24158P, tipping of material to raise level of land where appropriate to form all weather riding area. Approved subject to conditions 19-12-88.

BC27825P, erection of stables and stores. Approved subject to conditions 05-10-90.

BC27984P, extension of time for tipping to raise level of land to form all weather riding area, condition 4 on BC24158P. Approved 14-11-90.

BC43021P, retention of tipped material on field in excess of that granted under PA BC24158P and BC27984P. Approved subject to conditions 11-05-95.

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

Unitary Development Plan 2005

Policies 3.6 and 3.7 states that development should help to improve the environment of the Borough whilst seeking to protect people from environmental problems.

GP1: The Sustainable Location of Development

Locating facilities where they are accessible to everyone and minimise the need to travel.

GP2: Environmental Protection

Development should be sustainable and contribute to environmental improvement and have no adverse effect on the countryside and the Green Belt.

Policy 3.3 states that the character and function of the Greenbelt will continue to be safeguarded, as part of the wider West Midlands Green Belt. Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

Policy 3.16 requires high quality design.

Policy 3.23 states that the Green Belt has a positive role to play in terms of retaining attractive landscapes.

ENV2: Control of Development in the Green Belt

b): The re-use of existing buildings within the Green Belt will be acceptable provided that:

- i. This would not have a materially greater impact than the present use on the openness and purposes of the Green Belt.
- ii. It does not involve any building extension or associated uses of land around the building which would conflict with the openness and purposes of the Green Belt.
- iii. The buildings are of permanent and substantial construction and are capable of conversion without major or complete reconstruction.
- iv. The form, bulk and general design of the buildings are in keeping with their surroundings.

e) states where development is consistent in principle with the purposes of the Green Belt, the Council will require that its siting, design, form, scale and appearance is compatible with the character of the surrounding area.

ENV3: Detailed Evaluation of Proposals within the Green Belt

States that where development is acceptable in principle in the Green Belt (under Policy ENV2) the Council will also assess proposals for their impact on the Green Belt in terms of the following factors:-

- I. The detailed layout of the site.
- II. The siting, design, grouping, height and scale of buildings, structures and associated outdoor equipment.
- III. The colour and suitability of building materials, having regard for local styles and materials.
- iv. The opportunities to use redundant land and buildings for suitable alternative uses.

ENV18: Existing Woodlands, Trees and Hedgerows

Seeks to protect, manage and enhance existing trees and where developments are permitted which involve the loss of trees developers will be required to minimise the loss and to provide appropriate planting of commensurate value.

ENV32: Design and Development Proposals

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

ENV33: Landscape Design

Good landscape design is an integral part of urban design and the Council will require planning applications to be fully supported by details of external layout and landscape proposals.

T7 – Car Parking

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

T13: Parking Provision

B1(c) – 1 space per 30sqm of gross floor space.

National Policy

PPG2: Green Belts

Planning Policy Guidance Note 2 advises on the control of development in the Green Belt. The re-use of buildings should not prejudice the openness of Green Belts since the buildings are already there. It can help to secure the continuing stewardship of land. The alternative to re-use may be a building that is left vacant and prone to vandalism and dereliction.

Paragraph 3.8 states that the re-use of buildings inside a Green Belt is not inappropriate development providing:

- a) it does not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it
- b) strict control is exercised over the extension of re-used buildings, and over any associated uses of land surrounding the building which might conflict with the openness of the Green Belt and the purposes of land in it
- c) the buildings are of permanent and substantial construction, and are capable of conversion without major or complete reconstruction
- d) the form, bulk and general design of the buildings are in keeping with their surroundings.

Consultations

Transportation – no objections subject to a requirement to close the gap in the central reservation in Aldridge Road, approx 200m to the east of the site. Additional details are also required to demonstrate that an articulated vehicle can enter and leave the site in forward gear and the site access gates should remain open at all

times that the site is open for business. The traffic generation to the site will be limited and should not have any adverse impact on the local highway network. The closure of the gap in the central reservation would however prevent vehicles from making a U turn, which would be potentially dangerous.

Strategic Policy – The proposals satisfy the criteria of policies ENV2(b)b and PPG 2 with respect to the re use of existing buildings in the Green Belt. The Regional Spatial Strategy has no policies relevant to this application. The proposals would therefore not be a departure from the development plan.

Pollution Control – Scientific Team – no adverse comments.

Contaminated land Team – no specific contaminated land requirements.

Fire Service – satisfactory for fire service access

Environment Agency – low environmental risk

Environmental Health – no adverse comments.

Drainage – no adverse comments

Landscape Officer – The proposals show largely native species of trees and shrubs which would be appropriate to this Green Belt location, and would help to integrate the proposals into the surrounding landscape as well as enhance the visual amenity of the site. The proposals should therefore include all native species and all non-native species should be deleted from the scheme. The loss of a mature highway lime tree is regrettable, whilst only 1 tree this would further erode the original avenue concept. A replacement planting of a semi mature lime tree should be secured in an appropriate location to strengthen and continue this avenue planting in the future.

Representations

One letter of objection received from adjoining occupier.

Objections:

- Flooding on the land should be investigated prior to any consent being granted. Recent pipe work laid by current owner across the site to the old moat to alleviate flooding crosses third party land.
- Concern at narrow access point onto the dual carriageway, so close to existing access points. This may mean vehicles may have to wait on the road (which is very busy) whilst vehicles leave the site, a double width access should be provided.
- Site safety, a single 5 bar gate appears inadequate to prevent unauthorised access and may cause security issues to adjacent land and occupiers. Details of boundary treatment required.
- No objections in principle to saddle making company on the site, providing the company is small.

A site notice was displayed on the 17th January 2008, which expires on 7th February 2008, any additional representations received as a result will be reported in the supplementary papers. Any responses received following the Committee meeting that

raise material considerations would result in the application being reported back to Committee.

Determining issues

- Principle of the use within the Green Belt
- Design and Layout
- Access and parking
- Economic Implications

Observations

Principle of the use within the Green Belt

The proposals would comply with both national (PPG 2) and local (UDP Policy ENV2) policies relating to reuse of buildings within the Green Belt, and is not considered to be inappropriate development in the Green Belt, therefore not a departure from the Development Plan.

UDP policy ENV2 reflects the policy guidance in PPG 2.

The proposals involve the reuse of the existing building with only internal alterations and minor external works to the building. The proposals do include the removal of some existing derelict and unsightly structure, open storage and abandoned vehicles and would generally improve the overall appearance of the site.

The new elements of the proposals would be to create a new access and car park. The area for the car park on the frontage of the site already has a large percentage of hard surfacing together with derelict buildings and vehicles (to be removed). Whilst the new layout would create some tarmaced area for the new vehicle circulation areas, the parking spaces themselves would be surfaced with permeable granular stone, with new landscaping surrounding and within. The landscaping would be positioned to shield full views of the car park from the road and the existing building would obscure views from adjacent Green Belt to the south. The proposals would therefore have no greater impact on the openness and character of the Green Belt because of additional soft landscaping as well as more appropriate surface materials for the car park.

The proposals would involve little alteration to the existing building and only minor changes to the use of the surrounding land.

The existing building is a permanent substantial brick built structure with tiled roof, which is capable of conversion with only minor internal alterations and general external improvements (new windows etc). The form, bulk and general design of the building would remain as existing and would therefore be in keeping with the surroundings and would not adversely impact on the Green Belt.

The principle of reuse of the building and the minor alterations would therefore comply with Green Belt Policy.

The equestrian nature of the proposed use is best suited to a semi rural location, such as the application site. The site provides appropriate existing facilities for horses to be stabled and exercised, provides an existing building that can easily be converted,

would complement the existing uses in the vicinity and is situated in a sustainable location on a district distributor route that provides good transport links. The proposed use and alterations are therefore considered appropriate and compliant with Green Belt policy.

Design and Layout

The design and layout of the site would not significantly alter from the existing, but the overall appearance of the site would be improved through the removal of existing derelict structures, vehicles and general tidying up of the site. The new vehicle access from Aldridge Road and new car park would be the most significant alterations to the site, the proposed extensive landscaping and appropriate use of surfacing materials would soften the impact of this on the surrounding environment.

The new access would result in the loss of some trees and hedging along the front boundary and an existing mature street tree (lime) to ensure an appropriate width of access and visibility. The applicants have agreed to provide a replacement semi mature street tree in accordance with details to be submitted and appropriate condition is attached. The proposed landscaping scheme includes the provision of native species trees and shrubs to mitigate for the loss of existing and to integrate the new car park area into the surrounding landscape. It is therefore considered that the proposals would have no long term adverse impact on the surrounding landscape.

Access and Parking

The proposals include the upgrade of an existing footway crossing on Aldridge Road, creation of a new access route into the site and a new car park area on the front section of the site.

Thirty four parking spaces and appropriate vehicle circulation areas would be provided. Whilst the gross floor space of the building would require 50 spaces to comply with the B1(c) requirements of policy T13, more than half of the building would be utilised for stabling and not the manufacturing of saddles. Transportation therefore consider that the number of parking spaces to be provided would be appropriate for the size of the manufacturing area and the number of employees. The traffic generation to the site would be limited and should not have any adverse impact on the local highway network.

The site is situated in a sustainable location on a district distributor route, with a bus service, providing good transport links for visitors and servicing and public transport facilities for staff.

In the interests of highway safety the applicants have agreed to pay for the closure of a gap in the existing dual carriageway to prevent right hand turn through the central reservation, to ensure that vehicles visiting the site use the main traffic islands to the east and west of the site to turn rather than causing an obstruction to the free flow of traffic. An appropriate condition is attached to ensure that the work to close the gap is completed prior to first occupation of the site for the new use.

The site access gates would be set back a sufficient distance to accommodate a private car waiting for the gates to be opened or closed without obstructing the carriageway, but no larger vehicle. A condition is therefore attached to ensure that the

gates remain open during all times that the site is open for business, in the interests of highway safety and the free flow of traffic.

Economic Implications

The proposals would provide a new home for a long established Walsall company, which would assist in the retention of this traditional industry within the Borough.

To secure its own survival the company have developed a direct to end customer service, with bespoke saddles manufactured and sold directly to the customer. To ensure that the company continues to thrive and provide an improved service for customers and to set them apart from their competitors, a semi rural location is required which would provide associated stabling and paddocks for exercising the stabled horses. The company's existing town centre location could not provide this facility and is therefore no longer appropriate for the business.

The new location and facilities for horses on site would also enhance the company's research and development programme through the ability to trial and test new product designs on different shaped horses and over jumps etc, allowing new products to be brought to the market quicker than their competitors. With an increased emphasis on product development the company aims to become a centre of excellence for saddlery manufacturing, providing a complete custom fit product for both the horse and rider which would not be possible in their existing town centre location or on an industrial estate.

The company's existing town centre site is likely to be released for redevelopment for residential purposes, the principle of which is supported by Planning Services.

The application site is located approx 1¹/₂ miles to the east of the town centre and will ensure that the existing staff can transfer with the company.

Other Issues

Land drainage and flooding on the site and adjoining land has been raised as an issue by the objector. The applicants are aware that insufficient drainage exists currently and will be implementing a further drainage scheme for the site. An appropriate condition is attached to ensure full details are submitted for approval and implemented prior to first occupation of the site for the new use.

Recommendation: Grant Permission Subject to Conditions, unless additional information is received which raises material considerations

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

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

2. No development shall commence on site until satisfactory details of the disposal of both surface and foul water drainage to address existing problems at the site have been submitted to and approved in writing by the Local Planning

Authority. The development shall be completed with the approved details and retained as such.

Reason: To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution.

3. Prior to first occupation of the premises hereby approved external lighting shall be installed within the car parking area of the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority and thereafter retained.

Reason: To safeguard the visual amenities of the area.

4. No consent is given to the species selection shown on the landscape proposals drawing M7/969/01 submitted on 29th November 2007. Prior to implementation of the landscaping scheme, revised details of the species selection to include native species only and the number and size of each item shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed in accordance with the approved details before the development is first occupied, unless otherwise agreed in writing with the Local Planning Authority. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs of plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree. Shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to define the permission and to safeguard the visual amenity and natural environment of the area.

5. No development shall commence on site until details of a replacement semi mature street tree have been submitted to and approved by the Local Planning Authority. The tree shall be planted in accordance with the approved details before the development is first occupied, unless otherwise agreed in writing with the Local Planning Authority. The tree shall be maintained for a period of 3 years from completion of the scheme. Within this period if the tree dies, becomes seriously diseased, damaged or is removed shall be replaced with a replacement tree of the same or greater size and same species as that originally required to be planted.

Reason: In order to define the permission and to safeguard the visual amenity and natural environment of the area.

6. Twelve stables shall be retained within the main building at all times.

Reason: In order to define the permission and ensure continued compliance with Green Belt Policy.

7. Prior to commencement of any work on site details shall be submitted to and approved by the Local Planning Authority for the closure of the right hand turning gap in the dual carriageway on Aldridge Road to the east of the site. The approved details

shall be fully implemented (at the applicants expense) prior to first occupation of the site for the use hereby approved and retained.

Reason: In order to maintain highway safety.

8. Prior to commencement of any work on site, details (including an autotrack) to demonstrate that an articulated vehicle can enter and leave the site in a forward gear, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

9. The site access gates fronting Aldridge Road shall remain open at all times that the site is open for business.

Reason: In the interests of highway safety.

10. The works hereby approved shall only be carried out in accordance with details contained within Drawing Nos 1785-1, 1785-2 and Landscape proposals M7/969/01 submitted on 29th November 2007 and Design and Access Statement submitted on 29th November 2007.

Reason: In order to define the permission.

Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision.

The proposed development is considered to comply with the relevant policies of the development plan, in particular Policies GP1, GP2, ENV2, ENV3, ENV18, ENV32, ENV33, T7 and T13 of Walsall Unitary Development Plan March 2005, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.



ITEM NO: 5.

To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration
On 29 Jan 2008

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 07/2079/FL/W2

Application Type: Full application

Applicant: Mr P Sunner

Proposal: Change Of Use To Hot Food
Takeaway

Ward: Palfrey

Recommendation Summary: Grant Subject to conditions

Case Officer: Marilyn Kowalski

Telephone Number: 01922 652492

Agent: GD Designs

Location: 337 WEST BROMWICH
ROAD, WALSALL, WS5 4NW

Expired: 27/12/2007



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Application and Site Details

The application is for a change of use from newsagents at ground floor, to a hot food takeaway. No alterations to the layout are proposed. The applicant has confirmed that the hours of opening will be 11am - 11.00pm Monday to Friday and 11am to 11.30pm Saturdays and closed on Sundays.

Relevant Planning History

BC50646P Two storey side extension to provide additional sales area ground floor and a bedroom and shower at first floor Granted 1998

History of no 5 Walstead Road (the end unit in the block)

07/1495/LE/W9 Certificate of Lawfulness for an Existing Use: Fish and Chip Shop 5 Walstead Road, Walsall Granted 17th August 2007

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

Unitary Development Plan

GP1 is about the sustainable location of development. This encourages proposals which re-use existing buildings and locates developments in the established centres.

GP2 deals with environmental protection. The policy expects all developments to make a positive contribution to the quality of the environment and the principles of sustainable development. The policy identifies several considerations to be taken into account in the assessment of development proposals including the creation of pollution, accessibility, traffic impact, parking and the hours of operation proposed.

3.7 states that in considering development proposals, the Council will seek to protect people from unacceptable noise, pollution and other environmental problems.
Policy

ENV 10 is about Pollution. This sets out that development of an industry or facility which may cause pollution will only be permitted if it would not cause unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions. There are several strategic retail policies of general relevance, which seek to sustain and enhance the vitality and viability of the town centre. There are policies relating to the sequential approach.

Policy S6 shopping parades will be encouraged to continue to meet the day to day needs of their communities; where facilities such as post offices, pharmacies and banks are judged to serve a local need the Council may seek to restrict such changes of use.

Policy S10 is about hot food takeaways. These sets out that hot food takeaways will be appropriate in some shopping and commercial frontages subject to the following considerations:

- i) The use proposed must not adversely affect the amenities of existing or proposed dwellings (including those on upper floors above commercial premises) by reason of noise, smell, disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have due regard to the cumulative impact on residential amenity.
- ii) Where the Council is minded to grant planning permission, the closing time for hot food takeaways will be considered in relation to the amenities of nearby dwellings - both existing and proposed - where these are likely to be affected. In such locations, the Council will usually impose a condition requiring the premises to close at 23.00 hours Monday to Friday and 23.30 hours on Saturdays. Later opening hours and Sunday opening will be considered on their merits.
- iii) Permission will not be granted where the absence of adequate off-street parking would be likely to lead to on street parking in a hazardous location.
- iv) Permission will only be granted where ventilation and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment would not be detrimental to visual amenity.

Policy T13 sets out the Council's parking standards for takeaways.

National Policy PPS1 and PPS6 seek to promote the economy, but also protect residents from unreasonable adverse effects.

Consultations

Transportation – No objection

West Midlands Fire Service – Satisfactory

Pollution Control – No objections from contaminated land and no objections from Scientific Team.

Environmental Health - No objections provided satisfactory provision is made for the cleaning up of the extraction fumes from the kitchen by way of suitable grease and odour filtration, together with appropriate grease trap arrangements in the drain run, and any necessary noise attenuation on the extract flue motors should they be in a position where possible noise nuisance may occur. Condition also required regarding the flue terminating a metre above eaves.

Police Architectural Liaison Officer - The Antisocial Behaviour unit of Walsall Council have stated that there have been problems with the shops in this area. However they put some resources into the area during April and May 2007 and the problems have reported to have subsided. The locals have the best knowledge of the area but clearly the location has previously attracted antisocial behaviour, and is quite likely to attract it again. The planning application suggests that the take-away will be open until midnight, and because of this it will have to apply for a premises license. One of the

objectives under the licensing act is to prevent public nuisance - and even if the shop decides to change its hours to avoid having to get a license, they still should have a responsibility to the area to prevent the occurrences of crime and antisocial behaviour. Appropriate conditions should be placed on the take-away so that they have a responsibility to prevent crime and increase public safety through CCTV and responsible trading. They should reduce their litter impact on the area by providing litter bins (located in a safe area where it cannot be an arson risk), work with the local police team to prevent and deter crime and antisocial behaviour.

Public Participation Responses

I have received 4 letters and a petition containing 323 signatures objecting to the application on the following grounds:-

- a) The area does not need a second takeaway/will take trade from the existing fish and chip shop.
- b) Increased noise and disturbance particularly at delivery times early and late;
- c) the premises will be open longer than 10.30pm when other takeaways close;
- d) Increase in traffic and parking in a potentially hazardous location;
- e) Will interfere with the enjoyment of the surrounding area;
- f) The fish and chip nearby will be forced to change its opening hours to compete with this.
- g) Litter;
- h) Magnet for anti social behaviour;
- i) Poor neighbour use to the elderly people's nursing home opposite;

Determining Issues

Principle of use
Neighbouring amenity
Parking and highway safety

Observations

Principle of use

The premises are in a commercial area within a small shopping parade. As such the proposal can be supported under policy S6 and S10 subject to the specific provisos in those policies. These state that the use should not adversely affect the amenities of nearby dwellings (including those on upper floors above shops), by reason of noise, smell, disturbance or traffic impact. It goes on to say that where the Council is minded to grant planning permission near to existing or potential residential property, consideration will be given to the need to impose restrictions on late opening hours, and Sunday opening.

Neighbouring amenity

There are residential properties near to the development and above the proposal, and residents above the property and the one next door, have raised objections based on increased disturbance due to the opening hours proposed. The applicant originally stated that the opening hours would be 7 days a week from 11 am to 12am but he has amended this to 11am - 11.00pm Monday to Friday and 11am to 11.30pm Saturdays

and closed on Sundays, in line with policy. A condition to this effect has been proposed should the application be approved.

The Police Architectural Liaison Officer is aware of problems of anti social behaviour that have existed in the past in this area and could exist again. As the opening hours have been reduced and conditioned it is unlikely that a premises license would be needed as hinted at in his consultation response. Conditions have been suggested which are aimed at preventing crime and antisocial behaviour i.e. CCTV and litter bins, and an informative to the applicant has also been proposed asking for the occupier to work with the local police team to prevent and deter crime and antisocial behaviour.

There has been a "certificate of lawful existing use" application granted recently for a fish and chip shop at the opposite end of this parade of shops. Environmental Health state that they have not received any complaints from nearby residents to the use of the fish and chip shop. They have not therefore raised any objection to the change of use proposed, other than to suggest standard conditions. It is therefore considered that the use is acceptable in principle and suitable conditions to mitigate against possible affects of the use have been suggested.

A condition is suggested requiring details of the siting of the ventilation and extraction equipment.

Parking and highway safety

There is a small parking area in front of the property, large enough to park 3 cars, accessed from West Bromwich Road which is separated by bollards from the adjoining unit. Transportation do not object to the proposal.

Recommendation: Grant Subject to conditions

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

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

2. The premises shall not be open for business outside the hours of 0800 to 2300 Mondays to Friday, 0800 to 2330 Saturdays and shall not be open at all on Sundays.

Reason: To safeguard the amenities of the occupiers of adjoining premises.

3. No development shall be carried out until details of ventilation and fume control equipment, including noise attenuation measures, if necessary, have been approved in writing by the Local Planning Authority. The details shall ensure that the flue which takes the extract gases and fumes from the cooking range, vents these gases to air at a point not less than one metre above the first floor eaves of the building. The cowl at point of termination shall be painted with a suitable heat and weather resistant paint to blend in with surrounding

environment. The approved details shall be implemented before this development is brought into use, and thereafter retained in working order.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to reduce the potential for odour nuisance.

4. No development shall commence until details of a method to prevent grease entering the drainage system have been submitted to and approved in writing by the Local Planning Authority. The premises shall not be open for business until this approval has been given and the approved details have been fully implemented. The approved equipment shall thereafter be retained and maintained in accordance with manufacturer's or installers requirements.

Reason : To prevent grease entering into the drainage system in the interests of the free flow, capacity and the prevention of pollution of the system

5. No development shall be carried out until details of a CCTV camera have been submitted to and approved in writing by the Local Planning Office.

Reason: In the interests of crime prevention

6. No development shall be carried out until details of proposed refuse facilities have been approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

Reason: To ensure the satisfactory functioning of the development.

NOTE FOR APPLICANT:

You are advised to work with the local police team to prevent and deter crime and antisocial behaviour. For more details please contact Robert Pickersgill the Crime Reduction and Architectural Liaison 0845 113 5000 ext 7881 6573 r.pickersgill@west-midlands.pnn.police.uk

Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision.

The proposed development is considered to comply with the relevant policies and proposals of the development plan, in particular policies GP1, GP2, 3.7, ENV 10, S6, S10 and WA3, of Walsall's Unitary Development Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. If the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at www.walsall.gov.uk



ITEM NO: 6.

To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration
On 29 Jan 2008

REASON FOR BRINGING TO COMMITTEE: Significant community interest

Application Number: 07/2545/FL/H4

Application Type: Full application

Applicant: Mr M Mann

Proposal: Garage Extension, New Dining
Room & Conservatory

Case Officer: Jenny Townsend

Telephone Number: 01922 652485

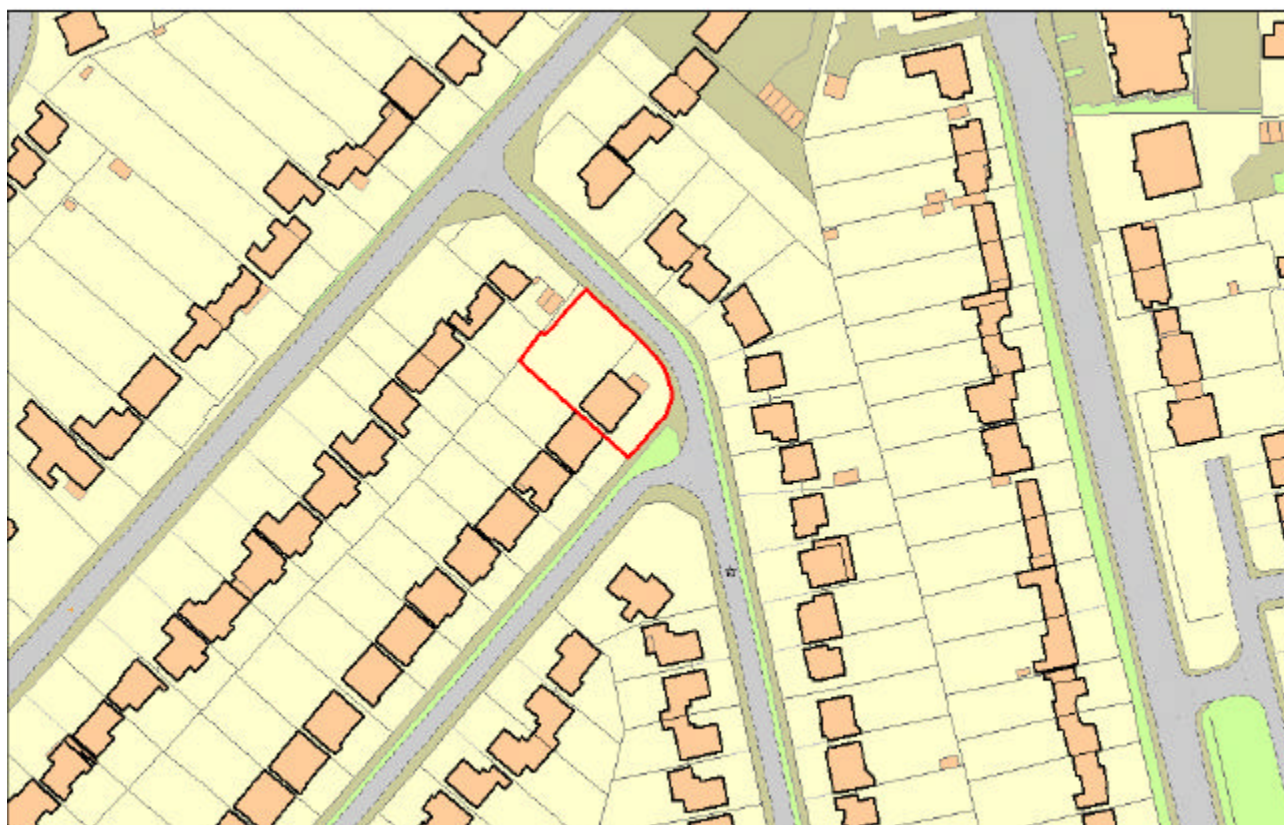
Agent: Barnett Taylor Associates

Location: 95 INGLEWOOD
GROVE, STREETLY, WEST
MIDLANDS, B74 3LW

Ward: Streetly

Expired: 15/01/2008

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

This application is for additions to a detached bungalow. The property has recently been extended by adding dormers in the roof to the front and rear. The current proposal is to extend on the ground floor.

The property lies at the end of a row with a road to the front and side. There is a flat roof garage to the side which is screened from the road by a 1.8 metre fence and hedge. The garage and dining room extension is to infill the recessed area between the rear of the existing garage and the rear of the main part of the property, whilst the conservatory is to project 3.5 metres out to the rear of the main part. The garage extension is to increase the depth of the garage by 1 metre, whilst the conservatory is to be 5 metres wide.

The conservatory will lie 8 metres away from the boundary with the adjoining bungalow number 93. The conservatory will face the side of 2 Inglewood Grove and the rear of 20 Wood Lane at a separation distance of approximately 26 and 28 metres respectively. The side of the garage and dining room extension will be separated from the front of numbers 3, 5 and 7 Inglewood Grove on the opposite side of the road by a separation distance of at least 25 metres.

Relevant Planning History

06/0017/FL/E3 Demolition of existing bungalow and construction of two new dwellings. Refused March 2006.

06/1105/FL/E12 New dwelling and vehicle access within rear garden of 95 Inglewood Grove. Refused August 2006.

06/2212/FL/H4 Dormer window to front elevation. Granted subject to Conditions February 2007.

A dormer has recently been added to the rear without the need for planning permission.

Relevant Planning Policy Summary

Unitary Development Plan Policies

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

ENV32: Design and Development Proposals.

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

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. 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 Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

Residential Development Standards

These include guidelines concerning design, including separation distances between facing habitable room windows. A minimum of 24 metres will usually be required between all facing windows of habitable rooms of adjacent dwellings. Habitable rooms include living room, bedroom, study, dining room, conservatory and kitchens.

Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

National Policies

PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

Consultation Replies

None.

Public Participation Responses

Representations have been received from the occupiers of 8 properties in Inglewood Grove, numbers 3, 15, 16, 17, 20, 47, 49 and 87. They refer to building work which has been ongoing for almost two years and claim that by continuing to develop the property bit by bit, the applicant will achieve what he was turned down for, with the bungalow turned into a house and the loss of the character and mix of properties in the area.

The occupiers of number 3 have also objected to the proposal because the property already has 2 garages, and the extension will contravene the building line and further overdevelop the property.

The occupier of number 15 refers to a window that has been installed at first floor level on the side elevation, and claims that the fence erected to the side has posts that require planning permission.

Determining Issues

- Design
- Impact on the Amenities of Nearby Residents.

Observations

Design

The flat roof of the garage and dining room extension would match the existing garage roof. The side of the extension is to be in line with the side of the existing garage.

The conservatory would be modest in scale in relation to the original property. There are conservatories of a similar size to the rears of several other properties in the row.

The extensions would lie to the rear of the existing building and would be screened from the street by the fence and hedge to the side. They would therefore have no impact on the character of the area.

Impact on the Amenities of Nearby Residents

The dining room extension is to include a window on the side elevation but this would be screened from the road and the dwellings opposite by the fence. Even without the fence, the separation distance between the proposed window and these dwellings would exceed the minimum separation required by policy. The separation distance between the conservatory, and 2 Inglewood Grove and 20 Wood Lane, would also exceed the minimum required by policy.

The 8 metre gap between the side of the conservatory and the boundary with number 93 means that there would be very little impact on this property.

With respect to the other concerns of the neighbours, disruption from building work is not a material planning consideration. Any further extensions would require the submission and approval of another planning application. The fence to the side of the application property does not form part of the current application and does not require planning permission.

The existing rear dormer, the first floor window in the gable wall to the side and the fence to the side did not require planning permission.

Recommendation: Grant Subject to conditions

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

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

2: The walls and roof of the extension, and the facing bricks of the conservatory shall comprise facing materials that match those which are used in the existing building as it

exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise previously agreed in writing by the local planning authority.

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

3: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

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

Summary of reasons for granting planning permission and the policies which are relevant to the decision

The proposed development is considered to comply with Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Residential Development Standards, and on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As the application was determined by the Development Control Committee, the report can also be viewed on the Council's web site at www.walsall.gov.uk/planning



ITEM NO: 7.

To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration

On 29 Jan 2008

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 07/2643/FL/H5

Application Type: Full application

Applicant: Mr R Kumar

Proposal: Two-storey side, single-storey
front and rear extensions

Ward: St. Matthews

Recommendation Summary: Grant Subject to conditions

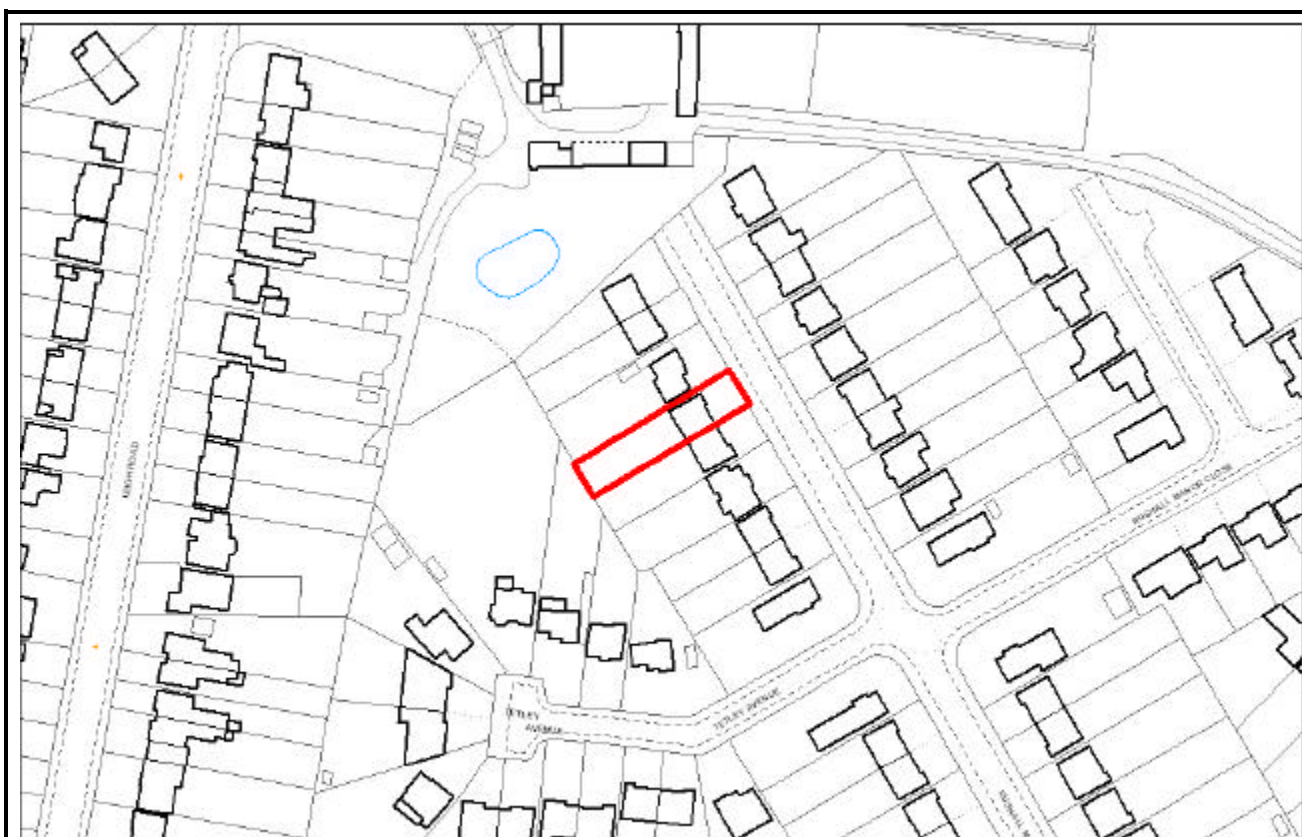
Case Officer: Owain Williams

Telephone Number: 01922 652486

Agent: Mr Kevin Bramwell

Location: 49 RUSHALL MANOR
ROAD, WALSALL, WS4 2HD

Expired: 01/02/2008



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Application and Site Details

This application is for an extension to a semi-detached house to provide an enlarged kitchen on the ground floor, an additional bedroom with a bathroom and en suite on the first floor, and a bedroom and shower room in the roof space. The porch is also to be rebuilt to the front. The total number of bedrooms is to be increased from three to four, together with an existing box room.

The application is similar to one refused by committee in November 2007, except that the first floor rear section that formed part of this refused application has been omitted.

The side part of the extension is to lie over the existing garage. The front of the first floor of the extension is to be set back 750mm from the front of the existing first floor. The rear of the ground floor of the extension is to project 3.4 metres out to be in line with an existing single-storey rear extension that lies next to the boundary with the adjoining house number 47, the other half of the pair, whilst the rear of the first floor is to be in line with the rear of the existing house. A projection of 3.4 metres at two storey level has been removed from the previous proposal which now leaves the extension flush of the existing house.

An 850mm gap is to be retained between the side of the extension and the boundary with the neighbouring house number 51. There is a similar gap between the boundary and the side of number 51 itself. The front of number 51 is approximately in line with the front of the application property. To the rear, the ground floor of number 51 is in line with the rear of the existing two-storey part of number 49, whilst the first floor of number 51 lies 1.8 metres further forward.

The two-storey part of the extension is to have a hipped roof to match the existing house, whilst the single-storey part is to have a mono-pitch roof.

Relevant Planning History

07/1904/FL/H5 - Two Storey Side, Part Two Storey Part Single Storey Rear Extension and Single Storey Front Extension – Refused Permission on the 22nd November 2007 for the following reason:

1. The Local Planning Authority considers that the proposed development would be detrimental to the amenity of the adjoining house number 51 due to loss of light, over dominance and massing, and would be out of character with the area. 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 application was identical to the current proposal except that it included a first floor section projecting to the rear.

Relevant Planning Policy Summary

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

Unitary Development Plan Policies

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

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

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. 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 Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

T7 - Car Parking

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

T13: Parking Provision

1, 2 and 3 bedroom houses	2 spaces per unit
4 bedroom houses and above	3 spaces per unit'

Residential Development Standards

These include guidelines concerning design, including roof shapes, terracing, and the length of extensions in relation to adjoining dwellings.

First floor extensions to the side of a house should avoid creating a terracing effect where this would detract from the character and appearance of the area.

A 45 degree code will be used to assess the impact of extensions on adjoining dwellings. Single-storey extensions that breach the code will be allowed provided they do not project more than 3.5 metres beyond the adjoining dwelling.

Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Planning Policy Statement 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

Consultations

None

Public Participation Responses

Representations have been received from the occupiers of 45, 46, 48 and 51 Rushall Manor Road, and 6 Tetley Avenue, objecting on the following main grounds:

- The closeness of the single storey extension to the fence;
- Increase in the amount of traffic and parking;
- Extensions would put pressure on drainage and sewer systems;
- The space within the house could be changed to accommodate more people;
- There would still be the potential to build above the ground floor extension and therefore achieve what they previously applied for;
- That the roof windows remain Velux and are of opaque glass not clear glass;

Determining Issues

- whether the design of the extension would be compatible with the existing dwelling and
- the character of the wider area;
- the impact on the amenities of nearby residents and
- parking

Observations

Whether the design of the extension would be compatible with the existing dwelling

The hipped roof of the extension would match the existing house. The extension is to be lower than the existing and its position set back from the front would make it subservient to the existing house.

The character of the wider area

The street comprises large detached and semi-detached houses, several of which have already been extended. The size of the house that would result from the extension would be similar to that of other houses nearby. The 1.8 metre gap that would remain between the side of the application house and the side of number 51 would be similar to the gaps between most of the other houses in the street.

The impact on the amenities of nearby residents

The previous application was refused solely because of the impact on number 51.

The current application omits the first floor rear section. The single-storey rear section would only project 3.4 metres past the rear of number 51 and would be located approximately 2 metres away from the neighbouring window. Although number 51 lies to the north-west, the gap that would remain between the two houses means that the

impact on number 51 would be acceptable. The extension would comply with the 45 degree code in relation to this house.

The extension would be separated from number 47 by the existing single-storey rear extension.

The Velux windows would lie flat in the roof plain and would not affect the privacy of the neighbouring houses so therefore would be unreasonable to condition as opaque.

With respect to the other concerns of the neighbours, any further extension to the house would need the submission and approval of another planning application. The adequacy of the drainage system would be assessed under the Building Regulations.

Parking

The existing garage is to be retained and there would be room to widen the driveway in front to provide the third parking space required to comply with the parking standards in the UDP.

Recommendation: Grant Subject to conditions

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

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

2. This development shall not be brought into use until the driveway has been enlarged to provide a total of at least 2 parking spaces, each hardsurfaced and measuring at least 2.4 x 4.8 metres. The spaces shall thereafter be retained as such.

Reason: To ensure the satisfactory provision of off-street parking and in accordance with policies T7 and T13 of Walsall's Unitary Development Plan.

3. There shall be no alterations that would prevent the use of the garage for parking unless the driveway has first been enlarged to provide a total of at least 3 parking spaces, each hardsurfaced and measuring at least 2.4 x 4.8 metres. The spaces shall thereafter be retained as such.

Reason: To ensure the satisfactory provision of off-street parking and in accordance with policies T7 and T13 of Walsall's Unitary Development Plan.

4: The walls and roof of the extension shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise previously agreed in writing by the local planning authority.

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

5: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

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

Summary of reasons for granting planning permission and the policies which are relevant to the decision

The proposed development is considered to comply with Walsall's Unitary Development Plan, in particular policies GP2, ENV32, H10, T7 and T13, and the Residential Development Standards, and on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services



ITEM NO: 8.

To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration

On 29 Jan 2008

REASON FOR BRINGING TO COMMITTEE: requires delicate judgement / called in by Cllr. Arif.

Application Number: 07/2297/FL/W6

Application Type: Full application

Applicant: Kurt and Jack Broadhurst

Proposal: Proposed rebuilding and conversion of barn 3 to form 3no dwellings (Amendment to Planning Consent 02/1710/FL/E3).

Ward: St. Matthews

Recommendation Summary: Refuse

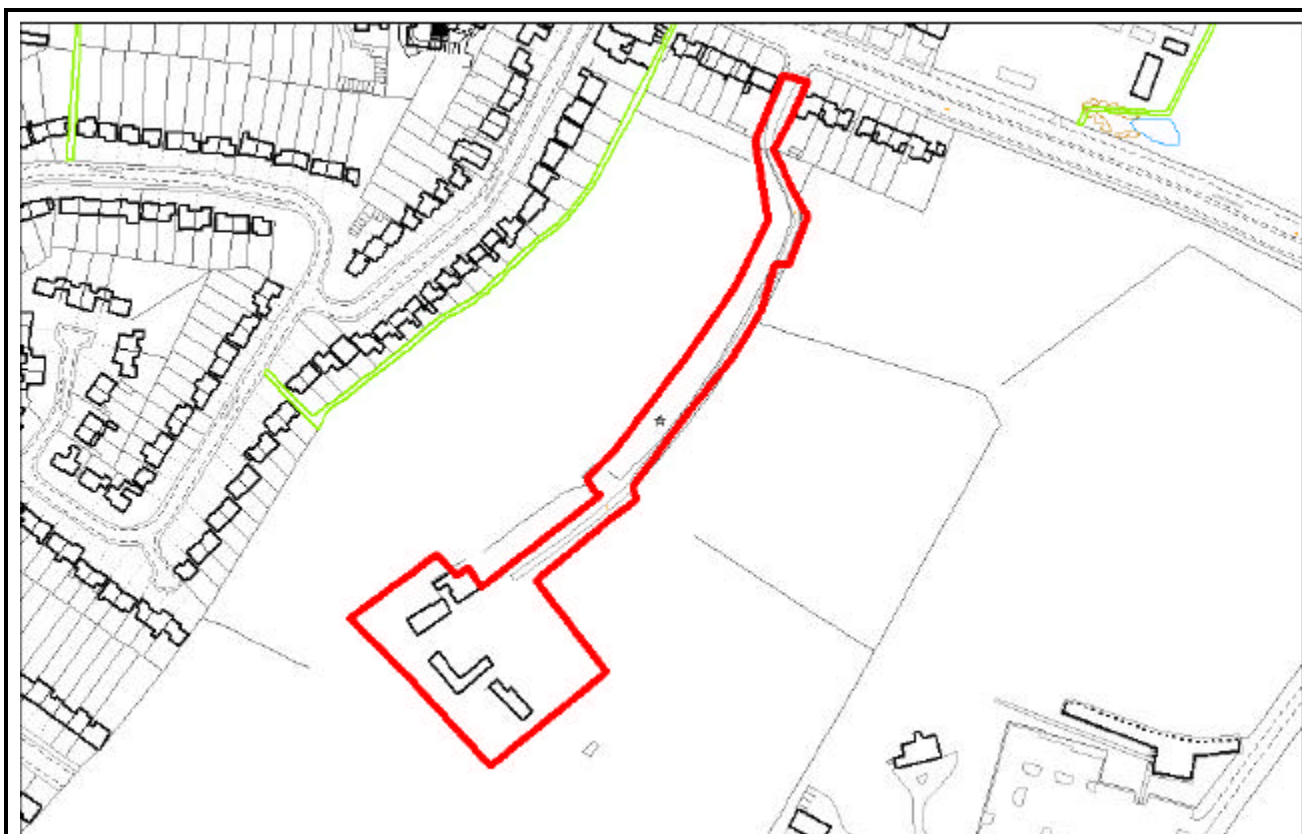
Case Officer: Val Osborn

Telephone Number: 01922 652436

Agent: Jonathan Stackhouse

Location: BARN NO.3,
CALDERFIELDS FARM, OFF MELISH
ROAD, WALSALL, WS4 2JJ

Expired: 07/12/2007



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Status

Councillor Arif is concerned that there are matters of public interest, and implications for the already existing buildings in this Green Belt area which may need future rebuilding following demolition. These issues are considered to require open and wider discussions by Committee.

Application and Site Details

The site is a complex of farm buildings, at the end of a 300 metre track leading from Aldridge Road (close to its junction with Mellish Road). The complex includes a farmhouse and barns. The farm is in low key use for animal feed growing. All of the buildings are rendered, with tile roofs. There are numerous trees in a close group around the buildings, restricting views of the buildings from the surrounding area.

To explain the scheme it is appropriate to begin with a few pieces of the history. Planning permission was given in 2005, for the conversion of three barns to 7 dwellings, and an improved access road. Work began, and two barns are now occupied as dwellings.

The third barn (proposed to be three houses) largely collapsed when work began on the conversion. It was removed for safety reasons. It is common ground with the developer that a new application is necessary for the rebuilding of the third barn, and an application was made to erect a new building (a near copy of how the converted barn would have looked under the 2005 permission). That was refused in August 2007 (as a new building would be contrary to Green Belt policy, adverse impact on protected trees, poor design).

Work had commenced on the rebuilding by then. It has continued since, such that the external shell is now largely complete, and some internal work is in hand.

The current application continues to propose the reconstruction of the third barn and its conversion into three dwellings, though changes in design have been made as a result of the refusal. Tiles reclaimed from the demolished barn have been re-used in roofing the new building (a recycling initiative as well as a design issue).

The application includes a letter (which predates the demolition of the barn but is later than the decision on the conversion application) from consulting engineers which explains the poor state of the building, the likelihood of collapse as a result, and argues that extensive demolition and rebuilding needs to be carried out to implement the conversion permission. The Design and Access statement argues that the barn was “ ... a complete, permanent and substantial structure. ... The inherent structural failings only became apparent once conversion works commenced, ... as conversion works had commenced prior to the collapse, ... implementation of planning consent 02/1710/FL/E3 has commenced. So what is now proposed is effectively the replacement of an existing dwelling.”

The submitted design and access statement and accompanying documentation refer to the traditional farm courtyard enclosure that the original buildings formed and the way in which the loss of this building would undermine the essential character of the group of buildings, in this rural location.

The application is supported by a tree assessment (from 2002). The applicants argue that the report is still relevant, that only one tree is potentially affected by the proposal, and the report does not identify it as having any merit.

The applicants argue that while Green Belt policy excludes new building such as this, the same policy advice also puts favourable emphasis on the reuse and replacement of existing dwellings (with some caveats). The implementation of the conversion permission was begun and therefore this is effectively replacing a dwelling that previously existed.

Relevant Planning History

02/1710/FL/E3, conversion of 3 existing barns to 7 residential dwellings, granted 2005.

07/1302/FL/E6, rebuilding of barn 3 to form 3 dwellings – refused August 2007 (new building contrary to Green Belt policy, paved areas impacting on trees, poor design).

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

Walsall Unitary Development Plan March 2005

GP2 – development should be sustainable and contribute to environmental improvement;

3.2 to 3.5 embody Green Belt policy, reflecting national policy as set out below

3.6 Development should help to improve the environment.

3.13 to 3.15 refer to building conservation and the need to protect the heritage of the Borough.

3.16 The Council will consider development in relation to the character and quality of the existing local environment, requiring a high quality of landscape design.

ENV1 defines the boundary of the Green Belt.

ENV2 (a) sets out the presumption against development, except for the following purposes:-

- I. Agriculture or forestry.
- II. Facilities essential for outdoor sport or recreation.
- III. Cemeteries or other uses which preserve the openness of the Green Belt and do not conflict with its purposes.
- IV. Limited extension, alteration or replacement of an existing dwelling, provided that this will not result in disproportionate additions, or a new dwelling materially larger than the original dwelling.
- V. Limited infilling or redevelopment of major existing developed sites, in accordance with Policy ENV4.

and that the re-use of existing buildings within the Green Belt will be acceptable provided that:-

- I. This would not have a materially greater impact than the present use on the openness and purposes of the Green Belt.
- II. It does not involve any building extension or associated uses of land around the building which would conflict with the openness and purposes of the Green Belt.
- III. The buildings are of permanent and substantial construction and are capable of conversion without major or complete reconstruction.
- IV. The form, bulk and general design of the buildings are in keeping with their surroundings.

It concludes that re-use for economic development purposes will usually be preferable, but residential conversions may be more appropriate in some locations, and for some types of building. Account will be taken of potential impact on the countryside, landscapes and wildlife; local economic and social needs; accessibility; the suitability of different types of buildings for re-use; and the preservation of buildings of historic or architectural importance or interest or which otherwise contribute to local character - in accordance with other policies of the Plan.

ENV3 also identifies that where development is acceptable in principle in the Green Belt (under Policy ENV2) the Council will also assess proposals for their impact on the Green Belt in terms of the following factors:-

- I. The detailed layout of the site.
- II. The siting, design, grouping, height and scale of buildings, structures and associated outdoor equipment.
- III. The colour and suitability of building materials, having regard for local styles and materials.
- IV. The opportunities to use redundant land and buildings for suitable alternative uses.
- V. The quality of new landscape schemes.
- VI. The impact on significant views, viewpoints and topographical features.
- VII. The cumulative physical effect of proposals in any one area.
- VIII. The implications for local facilities, particularly public services and infrastructure.
- IX. Any other relevant considerations identified in Policy GP2.

ENV18 – Development will not be permitted where it would damage or destroy trees protected by a Tree Preservation Order.

ENV22- Protected species – development will not be permitted unless it can be demonstrated that the proposed development will have no impact on local populations of protected species.

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

ENV33 requires that development also provide full details of landscape proposals.

H3 supports the provision of additional housing through the re-use of previously developed sites.

H10 requires new development to provide a high quality living environment, well integrated with local character.

T13 relates to car parking standards.

Residential Development Standards –set out requirements for space about dwellings, including the provision of garden spaces of 68 sq. m and a minimum garden length of 12m; Spaces created around buildings are equally important in the built environment.

National Policy

PPS1 on sustainable development requires good design to be part of the planning process.

PPS2- Green Belt is key in relation to this application. Relevant extracts are:-

1.4 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness.

1.5 There are five purposes of including land in Green Belts: *(those not relevant have been excluded)*

- to check the unrestricted sprawl of large built-up areas;
- to assist in safeguarding the countryside from encroachment;
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

3.1 *(There is)* a general presumption against inappropriate development within them. Such development should not be approved, except in very special circumstances.

3.2 Inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development.

New buildings

3.4 The construction of new buildings inside a Green Belt is inappropriate unless it is for the following purposes: *(those not relevant have been excluded)*

- ? Limited extension, alteration or replacement of existing dwellings (subject to paragraph 3.6 below);

3.6 Provided that it does not result in disproportionate additions over and above the size of the **original** building, the extension or alteration of dwellings is not inappropriate in Green Belts. The replacement of existing dwellings need not be inappropriate, providing the new dwelling is not materially larger than the dwelling it replaces. Development plans should make clear the approach local planning authorities will take, including the circumstances (if any) under which replacement dwellings are acceptable.

Re-use of buildings

3.7 With suitable safeguards, the re-use of buildings should not prejudice the openness of Green Belts, since the buildings are already there. It can help to secure the continuing stewardship of land, especially by assisting farmers in

diversifying their enterprises, and may contribute to the objectives for the use of land in Green Belts. The alternative to re-use may be a building that is left vacant and prone to vandalism and dereliction.

3.8 The re-use of buildings inside a Green Belt is not inappropriate development providing:

- ? (a) it does not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it;
- ? (b) strict control is exercised over the extension of re-used buildings, and over any associated uses of land surrounding the building which might conflict with the openness of the Green Belt and the purposes of including land in it (e.g. because they involve extensive external storage, or extensive hardstanding, car parking, boundary walling or fencing);
- ? (c) the buildings are of permanent and substantial construction, and are capable of conversion without major or complete reconstruction; and
- ? (d) the form, bulk and general design of the buildings are in keeping with their surroundings². (Conversion proposals may be more acceptable if they respect local building styles and materials, though the use of equivalent natural materials that are not local should not be ruled out).

3.10 Local planning authorities should include in their development plans policies for the re-use of buildings in Green Belts, having regard to the advice above and in Annex D of this PPG.

Annex D

Re-Use Of Buildings - Additional Advice

Agricultural buildings

Residential conversions

D3 The following advice from PPG7, The Countryside and the Rural Economy (January 1992), is relevant ...

"Local planning authorities should examine applications for changes to residential use with particular care. The advice in paragraph D4 of PPG7, is often particularly relevant to such proposals. New housing in the open countryside is subject to strict control (paragraph 2.18 of PPG7); it may be appropriate to apply similar principles to proposals for the conversion of existing rural buildings to dwellings, especially where such buildings are unsuitable for conversion without extensive alteration, rebuilding and/or extension. Residential conversions can often have detrimental effects on the fabric and character of historic farm buildings. While new uses can frequently be the key to the preservation of historic buildings, it is important to ensure that the new use is sympathetic to the rural character.

PPS3 on housing promotes sustainability and the re-use of brownfield land, as well as good design.

Consultations

Transportation – No objection.

Pollution Control – no objection.

Environmental Health – no adverse comments.

Fire Service – satisfactory.

Public Participation Responses

Two letters received object on the following grounds:-

1. The proposals are contrary to the principals of the approval for 02/1710/FL/E3, in so far as the developer undertook to re-use materials and maximum retention of buildings;
2. The bat population has declined since the barns were converted and is also alleged have been dislodged by the demolition of barn 3;
3. Queries are raised about demolition and rebuilding and the legality of the latter
4. The floor levels have been lowered considerably and the eaves levels raised in order to make a 2-storey building; *(it is clear from photos that the previous building was two storeys over a significant proportion)*
5. The farm and existing fields are a creeping housing estate; altering the Green Belt
6. This is not a conversion but a new build.
7. Access is on a dangerous road (drivers pass at excessive speed)
8. The need for office accommodation in housing is queried.

(The previous application included a plan of the proposed ground floor that identified one room in each dwelling in Barn 3 as an office. That plan has not been re-submitted. The submitted plans which show the ground floor layout do not provide any designation of the use of rooms. The potential for office content is still identified in the Design and Access statement, and it is argued that offices are a normal adjunct of many homes, that they were ancillary, and that they promote sustainability by reducing the need to travel to work.)

(Additional comments are made by one objector about nearby and unrelated properties. These are being addressed direct, outside this application.)

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

Determining Issues

Impact on the Green Belt

Impact on Natural Environment

Design considerations

Observations

Impact on the Green Belt

The proposal is for new build within the Green Belt, and this is recognised by the applicant.

The application essentially proposes the rebuilding of what was formerly an agricultural building. The building became structurally unstable following the demolition of parts.

The barn was one of a group of buildings whose form and function were inter-related within the farm courtyard and the shared access and relationship of doorway entrances to storerooms, equipment rooms and animal husbandry were influential in the form of the courtyard buildings. The conversion of the properties to separate residential uses has removed this functional relationship, but this was inherent in the permission for the conversion.

The application site is approximately 90m from houses fronting Fernleigh Road and the group of buildings that were Calderfields Farm and its barns can be seen from the public footpath running along the rear of the houses. They can also be seen from the Arboretum.

Green Belt policy in both the UDP and national policy provides a presumption against new buildings in the Green Belt (though there are exceptions addressed below). The essence of the Green Belt and its policy base is to ensure its character and openness. Inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted, demonstrating very special circumstances to justify inappropriate development showing that it is clearly outweighed by other considerations.

The applicant refers to the fact that planning permission has been granted for the conversion of the building to residential use. While that is a fact, it is of little relevance as it was a permission for the conversion of a building that no longer exists. The PPS provides (in this context):-

The re-use of buildings inside a Green Belt is not inappropriate development providing:

? (c) the buildings are of permanent and substantial construction, and are capable of conversion without major or complete reconstruction;

Policy ENV2 in the UDP identifies that the re-use of existing buildings within the Green Belt will be acceptable provided that:-

III. The buildings are of permanent and substantial construction and are capable of conversion without major or complete reconstruction.

While the conversion permission was given, it is clear (in retrospect) that Barn 3 did not meet this test of being capable of conversion without complete reconstruction. Had that been apparent at the time, the conversion might not have been approved.

Clearly, the applicants take a different view.

Policy also provides that the replacement of existing dwellings need not be inappropriate, providing the new dwelling is not materially larger than the dwelling it replaces. However, the dwellings in question do not exist (the commencement of the conversion is no longer relevant as the building has ceased to exist – and in any event, occupation never took place such that legally this part of the conversion was

never carried through). This provides no encouragement for the development now proposed.

ENV2 in the UDP provides (among other things) that “Limited extension, alteration or replacement of an existing dwelling (*my emphasis*) , provided that this will not result in disproportionate additions, or a new dwelling materially larger than the original dwelling.” is acceptable. However, for the reasons already advanced, there is no existing dwelling, and no entitlement to one.

The proposal has no effect on containing urban sprawl, or promoting regeneration, as it is a small site and of limited visibility.

The proposal would have a modest effect on the character and openness of the Green Belt, as viewed from houses on Fernleigh Road and the public footpath. It would have a slightly greater effect when viewed from the Arboretum. However, against the starting point that it is in principle inappropriate development, such modest impacts are sufficient.

Conversely, the applicants argue that the proposal will degrade the courtyard effect of the original group of buildings. While that is true to a degree, the limited views of this part of the courtyard from surrounding viewpoints means that the benefit from preserving the courtyard is negligible.

It can be argued that the proposal has little effect on the Green Belt as it can be seen from so few places. Given the history, that argument would suggest that an exception should be made in this case. However, the very clear position on new building in the Green Belt, that it is fundamentally at odds with what should be happening, must override that argument.

Overall, it is not considered that any very special circumstances exist to justify the application. The proposed development is therefore contrary to policy, and must be refused.

Enforcement action is also necessary, as work has begun. The requirements of the notice would be:-

- a Allegation - operational development comprising erection of new building for use as three houses
- b Remedy is removal of building, foundations, and associated underground works, removal of rubble and arisings from site
- c 3 months to comply

Impact on Natural Environment

Concern was expressed (on the previous application) that the proposed building and in particular the construction of foundations would impact on the trees that surround the property and which are protected by Tree Preservation Order. Foundation work is now complete and no further damage can result. While this may have been an issue, it is no longer.

The application proposes to continue with the mitigation measures proposed in the bat report produced for application 02/1710/FL/E3. As this would have happened (if Barn 3 had not collapsed) it is not appropriate to do other than accept it.

Design considerations

Despite the Green Belt considerations, the proposal's design features remain to be assessed.

The complex of barns, before conversion, were rendered with tile roofs. The render was likely to have been an addition since the original buildings, as the barns (certainly Barn 3) appeared to be brick built.

The proposed building is to be finished in render and tile, to match the existing converted barns, and the proposed conversion. There were concerns on the refused application that no commitment was given to re-using tiles. That has now been amended, and those tiles are in place.

Other revisions have now been incorporated in the design of the proposal (revised window openings and similar), such that the design of the scheme is acceptable, in design terms (though this does not affect the Green Belt conclusions).

Landscaping, as proposed, is modest, but consistent with the enclosed courtyard approach to this development.

The proposed gardens do not meet the Residential Design Standards, but in this situation, that is both inevitable (to provide larger gardens would require removal of some or all of the tree screen round the site) and acceptable (the amenity of the dwellings, in this farmland setting, allows the judgement to be made that there is no shortage of amenity).

Recommendation: Refuse

1. The current position is that Barn No. 3 no longer exists and therefore the proposal is one of an entirely new building. A new building would impact on the present character and openness of the Green Belt and of the visual amenity of the area. The new building would be used for residential purposes. Exceptions to the presumption against new buildings in the Green Belt relate to agricultural, outdoor sport and recreational, or other uses as defined by policy ENV2 (a) in the adopted Unitary Development Plan and PPS2. The proposed development is therefore inappropriate development in the Green Belt. No very special circumstances have been put forward to outweigh the harm this inappropriate development would have on the openness and character of the Green Belt. The proposed development is therefore contrary to policies 3.3, GP2, ENV2, and ENV3 of the Walsall Unitary Development Plan and Planning Policy Statement 2.



ITEM NO: 9.

To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration

On 29 Jan 2008

REASON FOR BRINGING TO COMMITTEE: Called In by Councillor Zahid Ali

Application Number: 07/2600/FL/W7

Application Type: Full application

Applicant: Midland Sandwich Company Ltd

Proposal: Erection of 1.5m metal palisade fence, with gate around forecourt.

Ward: St. Matthews

Recommendation Summary: Refuse

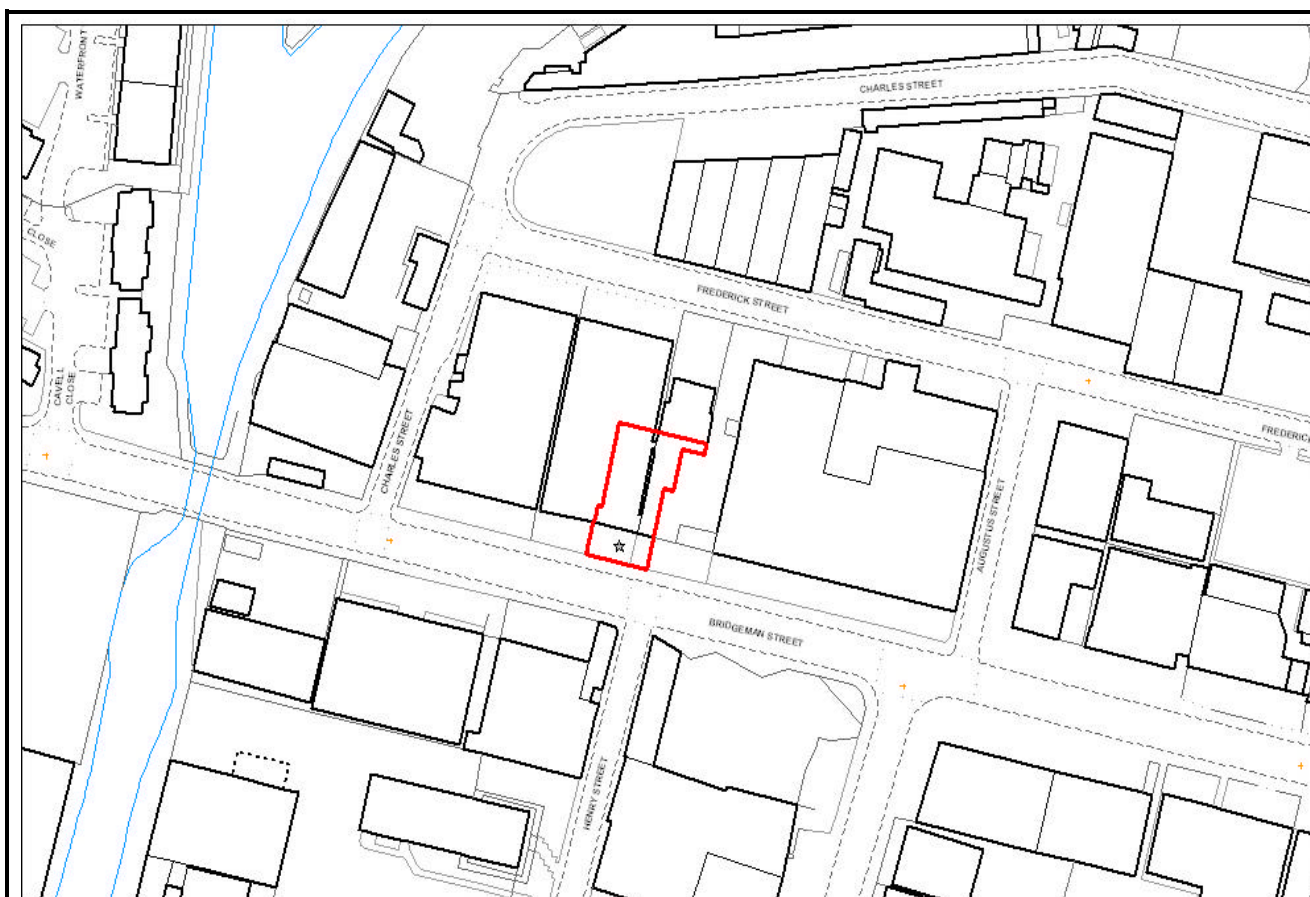
Case Officer: Andrew Thompson

Telephone Number: 01922 652403

Agent:

Location: 116-118, BRIDGEMAN STREET, WALSALL, WS2 9PG

Expired: 31/01/2008



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Current Status

Councillor Ali supports the application due to the problems of security in the area.

Application and Site Details

The proposal comprises 1.5m high galvanised steel palisade fence with sliding gates around forecourt of an industrial unit. The applicant advises that the fence is required to reduce vandalism and provide secure storage for company vehicles.

With the exception of low retaining walls, approximately 300mm to 400mm in height, there are no other means of enclosure on this side of Bridgman Street. There is palisade fencing to the commercial properties opposite which is approximately 1.8m and 2m in height. This adjoins the existing building which is closer to the front building line of Bridge Street.

The area is commercial in character and forms a significant element of the local highway network.

Relevant Planning History

07/0718/FL/W3 - Erection of 1.8m metal palisade fence with gate around forecourt. – Refused on grounds of visual amenity and highway safety. July 2007.

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

Adopted UDP

Policy GP2 and paragraph 3.6 require development to improve the environment. Adequacy of access will be considered and its relationship to ensure that highway safety will be maintained.

Policy ENV32 requires development to be appropriate to its surroundings and context. Paragraph 4.1 seeks to improve the environment of employment areas and enhance their image.

Paragraph 4.4 and Policy JP5 identifies the area as a Core Employment Area.

Consultations

Transportation: Object. The fence would obstruct visibility and would be detrimental to highway safety.

Pollution Control – No objection subject to an informative note detailing to the applicant the possibility of ground contamination.

WM Police – Have inspected recent crime reports and incident logs, and I can confirm that there has been one burglary at Midland Sandwich Company (the applicants) within the last two years. However there are no recorded incidents relating to vehicle crime at the premises.

Bridgeman Street and the area that surrounds it can be a seasonal hotspot for acquisitive crimes such as burglary and vehicle crime, and as such any business situated there is recommended to take a suitable approach to security.

It is considered that the 1.5m fence *could* prevent an opportunistic criminal, though it would not prevent/deter the more determined criminal. Burglaries in the area tend mostly to occur over night when the thieves can operate with the belief that they can commit crime with little risk of them being seen. In this scenario, it is likely that a 1.5m palisade fence would be largely ineffective and a burglar would be able to overcome this obstacle with relative ease.

If approved, the specifications of the fence should adhere to secured by design standards.

British Waterways – No objection

Inland Waterways Association – No objection

Representations

None

Determining Issues

- Previous reasons for refusal
- Impact on visual amenity
- Safety and security
- Highway safety

Observations

Previous reasons for refusal

The previous application was refused for the reasons of the height, materials and siting of the proposed fence and gates would create a dominant and incongruous feature in the streetscene, in contrast to the open character of this side of Bridgeman Street. The approval of this application would be detrimental to the visual amenity of the area. In addition the proposed fence and gates (at 1.8m) would obstruct intervisibility at the access to the site and would therefore be detrimental to highway safety.

The previous application proposed a 1.8m high fence, the applicant considers that the reduction of the fence to 1.5m overcomes these reasons for refusal. Officers do not consider that the proposals would be acceptable and would continue to harm the open character of this side of Bridgeman Street and adversely impact on highway safety.

Impact on visual amenity

The site is part of Town Wharf Business Park, which is a Core Employment Area where improvements are sought to appearance and security.

The north side of Bridgeman Street is very open in character. There are no high fences on the frontages of the units on this side and low retaining walls are limited in number and are approximately 300 to 400mm in height.

The fence would form a dominant and incongruous feature because of its height. The galvanised finish of the fence would be unsatisfactory in this prominent location and

would not help to improve the appearance of the area (though even if painted, it would remain unacceptable).

On the south side, opposite the site is a unit with a car park enclosed by identical fencing. This does not have planning permission. The appearance of this fence is mitigated by one of the buildings on the site being at back of pavement and by the presence of large poster hoardings on the next block. The existence of this fence would not mitigate the effect of the proposed fence on the opposite side of the road. Another similar fence is nearby on the south side, but this has a low brick wall, with pillar, and again is less obtrusive than the proposal.

Safety and security

At 1.5m in height, the fence would form a defensible boundary in some respects however this in itself would not prevent unauthorised access to the forecourt or prevent loitering as the applicant claims. The comments of the Police are noted in this respect.

It is often found that creating an easily visible and open environment aids in the speedy identification of unauthorised, antisocial activity and prevents the creation of hiding places. This is contrary to Secured by Design principles promoted by the Police.

Taking into account the low height of the proposed fence other methods without the fencing could be equally effective at prevent crime and antisocial behaviour. The Police help promote such methods. These can often be employed by the wider business community to promote active security and aid in the development of a wider business community.

It is therefore considered that the fence would not necessarily be a solution to the crime solutions and would not necessarily add to the security of premises. The issue does not outweigh the refusal reasons.

Highway safety

The proposed fence and gate would obstruct visibility for vehicles leaving and would therefore be detrimental to highway safety.

Although the fence and gates are intended to improve security this should not be achieved at the expense of highway safety.

Recommendation: Refuse

1. The height, materials and siting of the proposed fence and gates would create a dominant and incongruous feature in the streetscene, in contrast to the open character of this side of Bridgeman Street. The approval of this application would be detrimental to the visual amenity of the area and contrary to policies GP2, 3.6, ENV32, 4.1, 4.4 and JP5 of Walsall's adopted Unitary Development Plan.

2. The proposed fence and gates would obstruct intervisibility at the access to the site and would therefore be detrimental to highway safety. The approval of this application would be contrary to policy GP2 of Walsall's adopted Unitary Development Plan.



ITEM NO: 10.

To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration
On 29 Jan 2008

REASON FOR BRINGING TO COMMITTEE: Called In By Councillor Alan Paul

Application Number: 07/2583/FL/E11

Application Type: Full application

Applicant: Mr. M. Portsmouth

Proposal: Proposed construction of 4 no. 3
bed dwellings

Ward: Brownhills

Recommendation Summary: Refuse

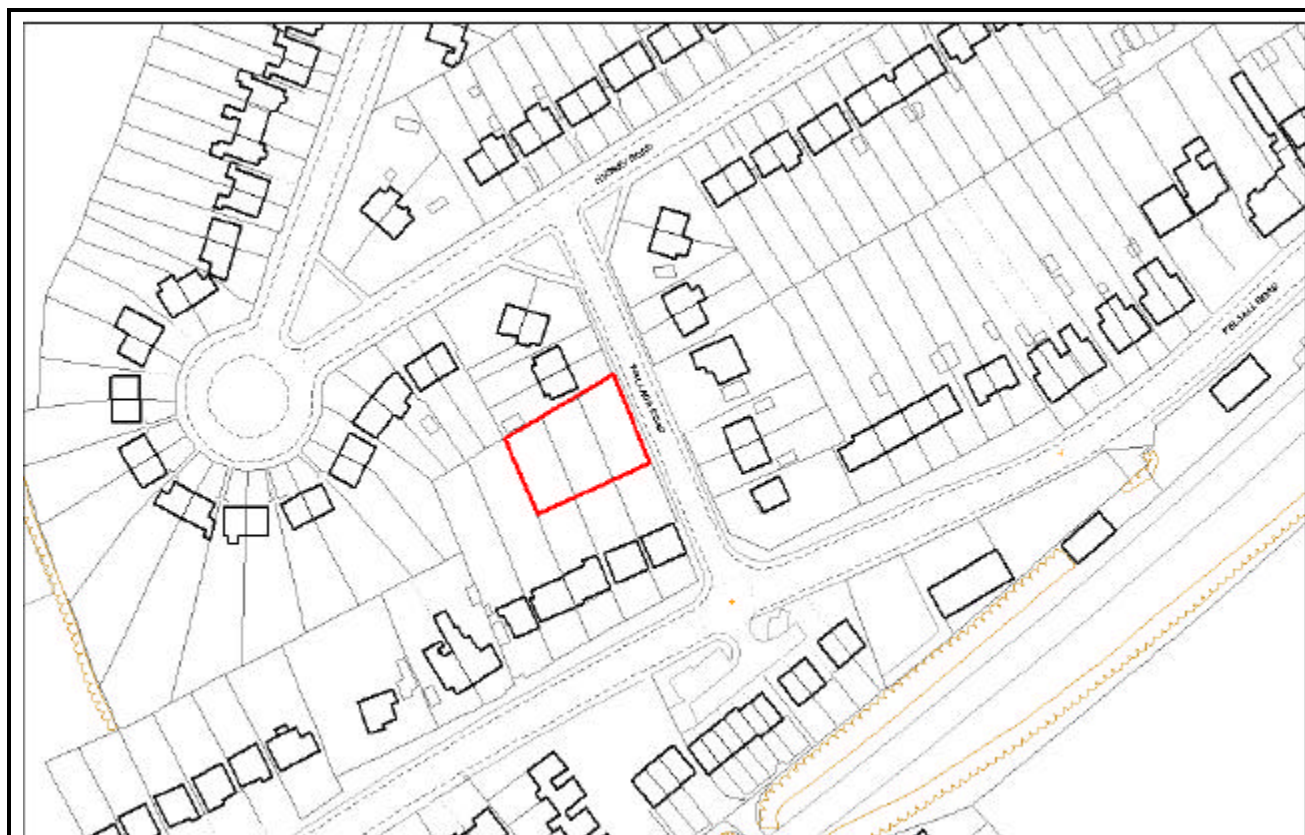
Case Officer: Alison Deakin

Telephone Number: 01922 652487

Agent: Mr. Richard Williams

Location: SITE ADJACENT 1
WALLACE ROAD, WALSALL, WS8 7JF

Expired: 21/01/2008



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Background

This application has been called in by Councillor Paul because it is considered that the current proposals have addressed the previous reasons for refusal of application 07/0140/FL/E11. Removable planting has been included between two plots on the site frontage, the bulk of the buildings have been reduced by omission of the front dormer windows, bin stores have been provided at the front of the site, a pedestrian path is provided across the front of the proposed dwellings and the continuous footway has been broken up by raised kerb stones between each property.

Application and Site Details

The application relates to an area of former garden land at the rear of 52, 54 & 56 Pelsall Road, Brownhills which fronts Wallace Road and is adjacent to 1 Wallace Road. The land has been fenced off from adjacent gardens and there is a variety of existing fencing and garden walls adjoining its perimeter. There is high close boarded fencing set almost at back of footway along the Wallace Road frontage, although there is a pair of ornate metal access gates within the centre of this frontage that give access onto an existing concrete pad and has an existing dropped kerb. Apart from the concrete pad the remainder of the land comprises rubble and earth. It is apparent that there was formerly a garage on the site. The site area is 0.64 hectares, the site frontage to Wallace Road is 22.8m and the site depth is 31m. The site is relatively flat.

There is a variety of detached and semi-detached two storey housing in the locality, a bungalow directly opposite the site in Wallace Road and more modern terraced housing on Pelsall Road.

The proposal is to erect a terrace of 4 no. three bedroom houses set back approximately 6.9m from the back of footway to allow parking for 8 vehicles on the site frontage. The proposed building is 18.8m wide, 9.1m in depth and 9.2m in overall height with a pitched roof and rear facing dormer windows. There is a slight projection of 565mm on the front of the two central plots and a bow window on the plot nearest the garden of 52 Pelsall Road. Ground floor accommodation comprises kitchen, w.c., hall and lounge, the first floor comprises two bedrooms and a bathroom and the loft space (second floor) accommodates a third bedroom with hipped roof dormer windows proposed at the rear of all dwellings.

A design and access statement has been provided in support of the proposal. This states that the buildings have been designed to be in keeping with properties on Pelsall Road, no side facing windows have been included in order to reduce potential overlooking and RDS standards are achieved in terms of separation distances and garden areas. It also advises four dropped kerbs are introduced to provide off-street parking, bin store areas are included and removable planters to the front elevation.

Relevant Planning History

04/1133/FL/E2 – Proposed 3 bedroom dormer bungalow rear of 52 Pelsall Road – Refused 04/08/04 due to the cramped form of development, which by reason of its siting, design and appearance would be out of character with the existing pattern of development and general appearance of the surrounding area

07/0140/FL/E11 - Erection of 4no 3 bedroom houses – Refused 23/04/07. Three reasons related to (1) over-dominance of off-street parking spaces and lack of landscaping or boundary definition between the public and private realm which has an adverse impact on the appearance of the street scene; (2) overall height and massing of the dwellings and bulk of the roof due to the incorporation of dormer windows would be obtrusive and out of keeping and (3) lack of separate pedestrian paths to the front of the dwellings, inadequate parking space sizes, inadequate space for storage of refuse bins, restriction of the access due to the position of the adjacent telegraph pole, lack of adequate pedestrian visibility splays and provision of a continuous footway crossing that have a negative impact on pedestrian and vehicle safety.

Relevant Planning Policy Summary

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

GP1: Relates to sustainable development- the location of facilities where they are accessible to everyone and minimise the need to travel.

GP2: The Council will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

- I. Visual appearance
- VI. Overlooking, loss of privacy, and the effect on daylight and sunlight.
- VII. Adequacy of access and parking facilities.

GP7: Development proposals will be expected to have regard for the objective of designing out crime.

3.114: Good design can discourage crime and increase safety as well as accommodating the access requirements of all sections of the community.

3.115: The design of buildings and structures together with landscape design has a major role to play in the creation of an environment which is distinctive, creates a sense of place.

3.16: The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design'.

ENV14: The Council will encourage the reclamation and development of derelict and previously developed land.

ENV32: Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Detailed criteria are listed for consideration when assessing the quality of design of any development proposal including:- the appearance, materials, height, proportion, scale and mass of the proposed buildings, the visual relationship of the proposal with adjacent areas, the street and the character of the surrounding neighbourhood, the effect on the local character of the area.

ENV33: Good landscape design is an integral part of urban design and the Council will require planning applications to be fully supported by details of external layout and landscape proposals.

H3: encourages housing provided through windfall opportunities provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

H10: The design of residential developments to create a high quality living environment, integrate with surroundings and local character in accordance with principles of good design.

T7: All development should satisfy the car parking standards set out in Policy T13. All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment.

T13: 1, 2 and 3 bedroom houses – 2 car parking spaces per unit

Residential Development Standards

These include guidelines relating to design and space around dwellings. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Regional Policy

The Regional Spatial Strategy for the West Midlands promotes the regeneration of the metropolitan area and sustainable development in accordance with national government guidance.

National Policy

PPS1 Delivering Sustainable Development, PPS3 Housing, PPG13 Transport, 'By Design' companion to PPG's, Urban Design Compendium, Safer Places- The Planning System & Crime Prevention.

Consultations

Transportation – Objects to the proposals in relation to access, parking, visibility and bin storage:

- The proposed new radius kerbed stones within the adopted footway do not comply with highway standards, and would be contrary to the interest of highway safety.
- There is insufficient space between the parking spaces to allow pedestrians to access the properties from the adopted highway.
- The proposed layout does not provide sufficient pedestrian visibility splays of 2.4m x 3.4m to serve either of the end dwellings in a northerly and southerly direction, due to the position of the proposed bin store, and adjacent boundary fences.
- There is insufficient provision for bin storage provided for the two central terraced properties, inadequate path width to allow movement of refuse bins and pedestrians across the frontage of the site.
- Resident's vehicles which are required to reverse past a telegraph pole, which restricts access to a parking space. It is unclear from the drawing of any proposed resiting of the telegraph pole.

- The proposed access, footway arrangements and general arrangements are not acceptable for the reasons given above, and would be likely to compromise the safe movement of traffic and the safe use of the highway by others.

Pollution Control – No objections.

Fire Officer – No objections.

Public Participation Response

Two letters of objection received from surrounding occupiers which are summarised below:

- Changes to the parking are only cosmetic and will still create a hazard for pedestrians when vehicles reverse off the driveways
- A service road arrangement like the one in Pelsall Road would be a better solution as only one access/exit point reduces potential highway hazards
- Concern re construction vehicles congesting the road and request for double yellow lines
- Incorporation of dormer windows will reduce privacy
- Concern over security of adjoining property boundaries and type of boundary treatment
- Poor visibility for reversing vehicles
- Inadequate parking could lead to on-street parking and congestion
- Too high density
- Smaller properties may be more suitable and more affordable

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

Determining Issues

- Principle of Residential Development
- Layout and Design
- Impact of the development on the amenity of surrounding occupiers
- Access and parking

Observations

Principle of Residential Development

The proposals generally seek to make effective use of previously developed land in an established urban area surrounded by residential properties. The proposed development also offers the opportunity to create an active frontage to this section of Wallace Road which would replace the high fencing thus improving surveillance of the street. Proposed residential development of this former garden land is therefore acceptable in principle in accordance with policies GP1, GP2, ENV14 and H3 of the UDP.

Layout and Design

The proposed siting of the buildings is 2m forward of the pair of semi-detached houses 1 & 3 Wallace Road. However, the gable wall of 52 Pelsall Road to the south of the site projects beyond this to within a metre of the back of footway in Wallace Road and in the circumstances the position of the proposed building reflects a suitable midway point between the two existing buildings.

Notwithstanding that the position of the building is acceptable the proposed layout and design fails to overcome the previous reasons for refusal of application 07/0140/FL/E11.

The surrounding street scene within Wallace Road is characterised by dwellings set back behind landscaped front gardens with boundary walls and fences defining the public/private space. Most properties have provision for off-street parking with garages and/or driveways, yet maintain an element of landscaping to the front gardens. The applicant has attempted to address previous reasons for refusal by breaking up the proposed car parking with kerb stones and removable planting consisting of shrubs and small trees in pots/planters.

However, there remains a row of 8 consecutive off-street parking spaces with no opportunity for boundary walls to define the edge of the property and the proposed "removable planting" is not adequate to break the parking up visually and is unacceptable. In the circumstances the expanse of car parking in front of the proposed dwellings will still be visually obtrusive and have an adverse impact on the appearance of the street scene. The incorporation of the bin stores at the front edge of the site and immediately in front of the two central properties is also obtrusive within the street scene. For these reasons the proposals are out of keeping with the character of surrounding dwellings and out of context contrary to policies 3.16, 3.115, ENV32, ENV33 and H10 of the UDP and the SPD on Residential Development Standards.

The applicant has amended the design of the proposed dwellings by replacing front facing dormer windows with roof lights only but has retained dormer windows in the rear roof elevation. Although the dormers are not visible within the street scene, given that the loft space is still being utilised for accommodation the overall height of the proposed dwellings remains at 9.2m, over 1m taller than the adjacent dwelling 1 Wallace Road and 1.25m taller than 52 Pelsall Road. Given this increased height and the overall scale and bulk of the buildings it is considered that they will be obtrusive within the street scene detrimental to the character of the surrounding area. Although the Design and Access Statement advises that the design reflects that of new properties on Pelsall Road the proposal does not reflect the characteristics of properties immediately adjacent to the site that have hipped roofs and chimneys. For these reasons the proposals are considered out of keeping within the surrounding context to the detriment of the visual amenities contrary to policies 3.16, 3.115, ENV32, ENV33 and H10 of the UDP and the SPD on Residential Development Standards.

Impact of the development on the amenity of surrounding occupiers

There is a 4.1m gap between 1 Wallace Road and the gable elevation of the nearest plot therefore the forward projection of the proposed dwelling is considered not to have any adverse impact on the outlook of the existing property. The position of the proposed buildings does not exceed the 45° code measured from the nearest

habitable room window in the front elevation of 1 Wallace Road or project beyond the rear elevation.

The existing dwellings on Pelsall Road have a rear garden boundary with the application site, the gable wall of the proposed dwelling on the southern end of the terrace being the closest. Many of the properties on Pelsall Road have ground floor extensions, 54 and 56 Pelsall Road are the closest to the proposed building and have conservatory extensions. Although the separation between the proposed gable wall of the end property and the conservatory at 54 Pelsall Road nearest the site is only 12m, this is only 1m short of the required separation referred to in the Council's SPD on Residential Development Standards and the gable wall is off-set from the conservatory extension. It is also considered that as the proposed dwellings are to the north of the garden and do not include side facing windows, there will be no adverse impact upon daylight or privacy to the existing property.

Although the position of the dwellings would allow a greater degree of overlooking the neighbour's gardens on Pelsall Road, views would be at an oblique angle and given the length of gardens to these properties it is considered that this would not cause serious harm from loss of privacy. The incorporation of the proposed dormer windows would allow a greater level of overlooking but again this would be at an oblique angle over distance. However, the overall bulk of the buildings, including incorporation of the second storey dormer windows are considered out of keeping for the reason specified in layout and design above.

Access and parking

In an attempt to address previous reasons for refusal the proposal has been amended to include provision of raised kerbs between each individual dwelling to prevent the need for a continuous footway crossover and inclusion of "removable planting" to visually separate the parking. However, the proposed raised kerb stones project within the adopted footway and are therefore detrimental to highway safety and the "removable" landscaping which is proposed within pots/planters is inadequate to provide a break between car parking spaces and in reality unlikely to be maintained once occupiers move in.

The parking spaces are too close together leaving no space between them to allow pedestrians to access the front of the properties without squeezing through parked vehicles. This would create conflict between pedestrians and vehicles. Although the proposed buildings have been set further back from the highway to allow a pedestrian path to be incorporated between the building frontage and the car parking spaces, for the reasons given above this pathway is not accessible from the adopted highway.

The proposed layout does not provide sufficient pedestrian visibility splays of 2.4m X 3.4m to serve either of the two end properties in a northerly and southerly direction given the proposed location of the bin store and the adjacent boundary fence along the side garden of 52 Pelsall Road. As the proposed vehicle crossovers are so close together they would also prove difficult for pedestrians to negotiate the footway with vehicles reversing. For these reasons the proposal creates a hazard in terms of pedestrian safety.

No details have been provided regarding relocation of an existing telegraph pole within the footway along the site frontage. This could potentially restrict vehicular access due

to the need to ensure vehicles do not reverse into the telegraph pole and could create a further potential safety hazard.

The bin storage provision identified on the supplied plan for the two central properties restricts the path width and does not allow sufficient space for pedestrians or movement of the refuse bins. The bins would also have to be squeezed past vehicles or would restrict the space available for parking and access.

For the above reasons the proposed access, footway arrangements and general arrangements would compromise the safe movement of traffic and safe use of the highway by others contrary to policies GP2, ENV32, H10, T7 and T13 of the UDP and to SPD on Residential Design Standards.

Conclusion

In light of the above it is considered that the proposals do not overcome the previous reasons for refusal of application 07/0140/FL/E11 and the application should be refused.

Recommendation: Refuse

1. The proposed layout by reason of the over-dominance of off-street parking spaces, lack of landscaping or boundary definition between the public and private realm will have an adverse impact on the appearance of the street scene out of keeping with the character of surrounding dwellings and out of context contrary to policies 3.16, 3.115, ENV32, ENV33 and H10 of the Walsall Unitary Development Plan and Supplementary Planning Document on Residential Development Standards.
2. The design of the proposed dwellings by reason of the overall height and massing does not reflect the character of surrounding properties in the immediate street scene. The proposed dwellings would therefore be obtrusive within the street scene and out of keeping within the surrounding context to the detriment of the visual amenities of the surrounding area contrary to policies 3.16, 3.115, ENV32, ENV33 and H10 of the Walsall Unitary Development Plan and Supplementary Planning Document on Residential Development Standards.
3. The proposed layout would compromise the safe movement of traffic and the safe use of the highway by others due to the projection of the proposed kerb stones within the footway, inadequate segregated pedestrian access to the footway, lack of pedestrian visibility splays, inadequate bin storage and restriction of vehicular access due to the position of the telegraph pole. The proposal is therefore contrary to policies GP2, ENV32, H10, T7 and T13 of the Walsall Unitary Development Plan and to Supplementary Planning Document on Residential Design Standards.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services.