

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 04 February 2021

Plans List Item Number: 1.

Reason for bringing to committee

Major Application

Application Details

Location: FORMER ALLOTMENTS REAR OF 1 TO 9, CRICKET CLOSE, WALSALL

Proposal: PROPOSED ERECTION OF 29 DWELLINGS (COMPRISING 22 OPEN MARKET DWELLINGS AND 7 AFFORDABLE UNITS) WITH LANDSCAPING, ACCESS ROADS, CAR PARKING AND ASSOCIATED INFRASTRUCTURE

Application Number: 20/0522

Case Officer: Helen Smith

Applicant: Cricket Close LLP

Ward: Paddock, Palfrey

Agent: Natasa Vlahovic

Expired Date: 06-Aug-2020

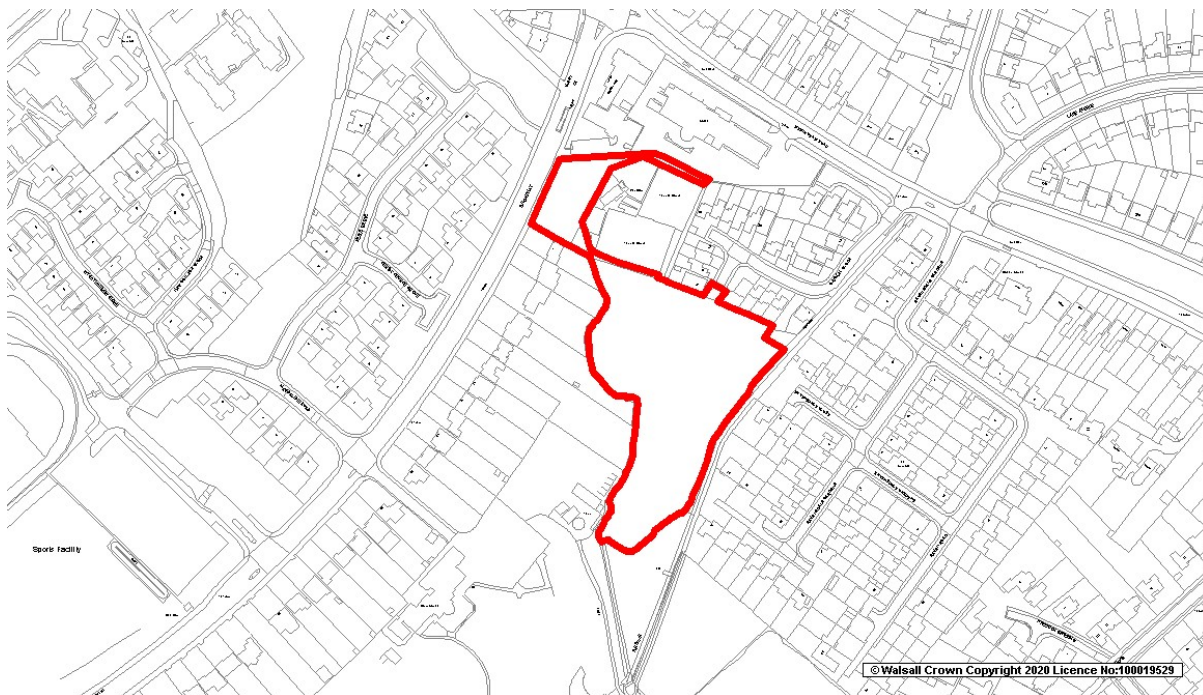
Application Type: Full Application: Major Use Class C3 (Dwellinghouses)

Time Extension Expiry:

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and S106 to secure urban open space contribution, affordable housing and landscape management company to manage landscaping subject to;

- Securing comments from the Council's Arboriculturist, Highways Officers
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Address Pollution Control concerns once they have secured further soil samples
- Finalising the District Valuer's Advice



Proposal

At the Planning Committee meeting of 10th December 2020, members deferred determination of this application to allow for discussions with the applicant to consider an alternative access other than Cricket Close.

The planning agent has confirmed that their client has listened to the committee's concerns relating to road safety and traffic impacts for residents of Cricket Close especially during the construction phase of the project. They have confirmed that access to the site via the Broadway is not possible for two reasons;

1. When commenting on a previous application (Planning application reference no. 17/0845) the Highway Authority provided the following assessment of an access from The Broadway:

"The Highway Authority considers that the introduction of a new priority junction at this location onto Broadway, even for a relatively modest number of dwellings, is unnecessary. Broadway is a classified A road and Strategic Highway link that already experiences considerable delays and congestion particularly during peak periods. Internal highway disciplines have been consulted and the consensus is that creating a new priority junction this close to the Birmingham Road / Broadway twin roundabout junction and a staggered pedestrian crossing, would simply add further congestion and delays with the potential of increased collision risks..."

2. An access from The Broadway would require the use of the former Tennis Club land parcel. Our current proposals do not include the former tennis club land parcel because to do so would raise policy issues relating to the loss of a sports facility.

To address concerns of residents in respect of construction traffic a temporary constriction traffic access road has been proposed from the Broadway.

Notwithstanding the issues relating to a permanent access from The Broadway, the Applicant is able to confirm that all construction traffic will use a 'left in' and 'left out' junction onto The Broadway and not Cricket Close. A drawing has been provided to show arrangements for a temporary access onto The Broadway and a temporary wide haul road into the application site. The planning agents have confirmed that these arrangements can be implemented without encroaching on the former tennis courts which will be fenced off during the construction phase of the project and construction traffic would be prohibited from using Cricket Close.

The agents have proposed the inclusion of three conditions detailed hereunder:

Condition 1. "the extension and continuation of the existing lane separation hatching on Birmingham Road between the Cricket Close junction and the Hotel access to the west. The extended hatching to include a ghost right turn lane at the Cricket Close junction together with a Keep Left central island on the east bound approach to the junction and any kerb realignments as necessary."

Condition 2. "the provision of tactile pedestrian dropped kerbs across the service road access junction serving nos. 2 to 6 Cricket Close, together with any minor footway extension works to accommodate the crossing"

Condition 3. "the provision of a tactile pedestrian crossing across Cricket Close at the termination of the existing footway outside no. 1 Cricket Close across the bend"

The Local Highway Authority (LHA) have confirmed that the above proposed Condition 1 works are likely to be overridden by SPRINT and would not form part of the proposal however proposed conditions 2 and 3 would be required if approved and will therefore be considered against the government's tests on planning conditions and updated if necessary.

The LHA have confirmed that following consultation with Walsall Road Safety Team they will not accept a permanent new access onto Broadway as this is a key safety corridor and a permanent new access would increase the risk of accidents. Furthermore, saved UDP Policy T4 aims to limit the introduction of new permanent access roads onto classified roads such as the Broadway. The LHA will only consider a temporary access via Broadway and the primary and permanent access to this site is considered to be, in terms of highway safety, to be from Cricket Close.

The introduction of a new permanent access from Broadway is considered will create turning movements that could not be supported at this location because of the risk of accidents. Furthermore, if a permanent access was permitted through Cricket Close and the proposed new development, there is the likelihood this would create a 'rat run' for drivers wishing to avoid delays at the roundabout.

Plans have been revised in order that the proposed temporary construction road falls within the red line defining the application site.

Consultees and neighbours have been re-consulted on these additional plans, the consultation period expires 9/2/2021. Any further comments received from neighbours will be reported in the Supplementary Paper. The following updated consultee comments have been received;

Highways

The Local Highway Authority have confirmed they will not accept direct access onto Broadway for all the development traffic on road safety and capacity grounds and will only consider this access for construction traffic on a temporary and controlled basis. The Local Highways Authority have commented that the revisions to the proposed temporary construction access route, as shown on amended drawing no. D50 Rev. B deposited on 25/01/2021, are acceptable along with the proposed associated operating Method Statement of the same date, subject to planning permission being approved.

The housing development traffic (with the exception of Plots 28 and 29 off Broadway), will be through Cricket Close, the development of 27 houses effectively being an extension to the close. Cricket Close is an adopted public highway and designed for residential traffic. The additional traffic impact on Cricket Close and the Cricket Close/Birmingham Road junction as a result of the development has been assessed. In terms of predicted vehicle trip generation based upon 27 dwellings using TRICS database, it is predicted that the development will generate 15 additional two-way trips in the am peak traffic period and 14 in the pm period. This equates to 1 additional trip every 4 minutes on the local highway network in the peak traffic periods, with around a 50% split between east and westbound trips.

The Cricket Close/Birmingham Road junction has been tested with the predicted additional traffic and is predicted to operate within capacity. It is considered the proposed development is unlikely to have a detrimental effect on the safe and efficient operation of Cricket Close being largely imperceptible to the existing highway users and residents.

On the basis that West Midlands Fire Service are in agreement that an appropriately positioned fire hydrant overcomes the necessity for an emergency access link to the development then the Highways Authority support the proposal subject to the inclusion of planning conditions in respect of the construction of adoptable highway infrastructure, installation of street lighting, provision of parking and manoeuvring areas, provision of a construction methodology statement and incentives to promote sustainability credentials. The Fire Service has been contacted for further comments and have responded as detailed below.

Fire Officer

West Midlands Fire Service have raised no objections to the proposal subject to compliance with Approved Document B, Volume 1, Dwellings, 2019 of Building Regulations covering fire safety matters with and around buildings. Further clarification has been sought from the Fire Officer in respect of Highway Officers concerns, but their response has been the same by advising compliance with Approved Document B.

Sports England

Sports England have commented that it would not be possible to play tennis on 3 of the tennis courts if the temporary road is installed and if the road is left in place post development, it would permanently remove the ability to play tennis on the courts. As

the applicants have not come forward with a plan for the future of the tennis courts, they have advised that it is their role to protect the ability to play tennis or other sport on this site. As a consequence, Sports England will require a planning condition to ensure that the court area affected by the temporary road is reinstated post the development work, if approved. If this recommended condition is not imposed on any planning consent, then Sports England would consider this development has not met their planning policy and they would object to the application.

Pollution Control

Acoustics

Pollution Control Officers have considered the acoustic information provided and recommend the inclusion of planning conditions in respect of passive mechanical ventilation once suitability has been determined. Once these aspects are resolved and prior to occupancy, if approved, a planning condition requiring the submission of an acoustic validation could be included to establish whether the acoustic performance is acceptable and installed in accordance with manufacturer's instructions.

Air Quality

With regard to air quality Officers do not have any major concerns about air quality in this location and planning conditions were previously recommended in respect of electric vehicle charging points and low NOx boilers. Informative notes relating to these conditions will included, if the application is approved.

Ground Contamination

Additional soil sampling information has been provided in respect of ground contamination however this supplementary information does not indicate that the area fronting Broadway has been sampled where plot no's 28 and 29 are proposed. Officers concur with the proposed actions to address land contamination matters for the part of the proposed development site that has been investigated. To take this forward the applicant will be required to provide a Remediation Statement/Strategy to confirm that the recommended actions will be implemented and detail the required works. This document will need to include any requirements for the area of the site fronting Broadway.

In these circumstances Pollution Control officers consider the submitted reports are not sufficient at this stage to remove the requirement for a proposed contaminated land condition which would therefore be attached to any permission.

Tree Officer

Comments have been received from the Council's Tree Officer advising there appears to be a discrepancy between the number of trees on site and those shown on drawings. There are trees protected by TPOs on the northern part of the development site and the proposed location of Units 28 & 29 will result in all tree removals in this area. T29, the large individual tree is a TPO tree although it appears this tree can be retained. However, H7, to the left of the tennis courts (not shown on the Site Plan) is indicated in the Tree Survey as Leylandii which are not

protected. However, there are other deciduous trees to the left of H7 that have not been surveyed and appear to be protected. Even trees that are not within the red line boundary but still pose a constraint to the development, are a material consideration in the planning process.

These issues require further clarification and shall be updated in the supplementary paper.

Clean and Green/Waste Management

They have advised each property will require a minimum of a 140ltr grey bin for general waste and a 240ltr green bin for recycling. Bins will need to be presented on collection day at the nearest point accessible to the refuse collection vehicle.

Archaeology

The Archaeologist has confirmed there is no change to their earlier recommendation that a condition be placed on planning consent requiring a program of archaeological work comprising a watching brief on ground works. This would ensure that any archaeological remains exposed/truncated are preserved by record.

Planning Obligations

As previously advised in the supplementary paper the applicant submitted a viability assessment that has been independently assessed, confirming that the proposed development is viable and can deliver planning policy compliant contributions for 25% social rent affordable housing, urban open space contributions. Whilst the applicant recognises this position, they would prefer the 25% affordable housing to have a shared ownership tenure.

The council's independent assessor also considered this housing tenure and confirmed, if 25% shared ownership is agreed, the development is viable and can pay an off-site contribution of £300k towards affordable housing. As an alternative to this, the applicant has asked for 25% of the development to be shared ownership tenure and to provide an off-site payment of £100k towards affordable housing, as the council's assessor, in following government advice has not been able to consider land costs in this instance, given the applicant has owned the land for several years.

The applicant states, their offer is made, confirming that the development is more likely to be built out rather than the policy compliant options. Hence planning committee need to confirm for the Section 106, one of the following options, either:

- a. Policy compliant contributions
- b. 25% shared ownership affordable housing and £300k off-site contribution towards affordable housing
- c. The developers' offer of 25% shared ownership affordable housing and £100k off-site contribution towards affordable housing

The Council's independent assessor has subsequently advised that they consider the difference in value between the affordable housing as social rent tenure and shared ownership tenure, as estimated by the Applicant within their FVA, is £377,300 so £100,000 looks light.

Highways England, Historic England, Natural England, Network Rail and the Fire Officer have no objections or further comments in respect of the proposed amended plans.

Representations

(Officers comments in italics)

Councillor Martin has made the following comments in respect of the amended plans;

- Residents of Cricket Close are not objecting to the proposal to develop this site *(noted)*
- Residents are objecting to the access and exit to the development via Cricket Close on highway safety grounds *(the Local Highways Authority have raised no objections on highway safety grounds and only in respect of fire safety)*
- This proposal was refused however deferred to look at highway safety and the proposed amendment as set out does not in any way address this issue *(the proposal was deferred by planning committee for further consideration on highway access rather than refused and the proposal is to introduce a temporary access road for construction traffic to reduce disturbance to residents)*

Objections have been received from 9 residents to the amended proposal on the following grounds;

- Can planning committee arrange a site visit to see issues first- hand? *(officers site photographs and presentation provide the necessary context for members of the Planning Committee)*
- Resident interested in buying corner 5B Plot (plot 28) – *comment noted*
- Proposed construction access road is temporary, and objections remain as traffic from the new properties would be through Cricket Close, a quiet cul-de-sac - *(comment noted and is covered in the report)*
- Walsall Council has allowed building and construction to the detriment of the area and implemented traffic and road alterations which have turned the area into gridlock and increase in pollution simply for monetary gain, without considering residents – *(The Local Highways Authority has no objections on highway grounds to the proposal)*
- Access from the Broadway is acceptable not only for site traffic but for the new residents *(comments noted, and this has been covered in the report)*
- Safety concerns of an additional access road onto Broadway as siting another junction on this busy road is dangerous. Traffic calming measures must be introduced to protect cyclists, pedestrians and residents moving on and off their driveways *(comments noted, and the proposed new road would be temporary).*
- Volume of traffic through their small close on/off Birmingham Road is already dangerous with those already living on Cricket Close let alone adding to that with future builds. All previous objections remain *(these matters are covered in the report).*
- Tall sound-proof fencing requested for properties backing onto Broadway which are over 8 feet tall to protect residents' privacy and security *(A supporting plan has been provided by the resident detailing the proposed*

location for this tall fence to the rear of 7 & 9 Broadway. Perimeter boundary treatment would be covered as part of the planning condition however it is unlikely a fence of that height would be supported in a residential setting, if approved)

- Does not address the direction of the committee of 10/12/2020 for long term access to the site.
- The temporary road proves that access from the Broadway is possible.
- Amendment fails to address requirements regarding social housing delivery made by committee
- Applicant is trying to force the project through by changing small details rather than addressing the principle objections namely the future of the tennis court, the access to the site, and social housing provision.
- Numerous accidents coming out of Cricket Close and Ravensdale Gardens and traffic lights need to be considered
- Significant increase in the number of cars each household has on Cricket Close over the last 36 years (*comment noted*)
- Caution needed where residents come off their drives where there is a blind bend (*comment noted*)
- Already difficult to exit the close via Birmingham Road at peak times (*comment noted*).
- New Sprint bus along the A34 will only increase the build-up of traffic as areas of the route will be narrowed (*Sprint route changes are not a material planning consideration for this application*)
- Alternative access consultation for the Broadway was carried out by Steve Woods Consultants in October 17 and evidence supporting this was stated in his findings (*Mr Woods comments were based on the original application for more houses, not the current proposal before planning committee*)
- Unrealistic photos of Cricket Close, it has never been known for there to be no vehicles parked on any drives or the road and they are obviously air brushed out (*case officers have made site visits during the assessment of the application*)
- Traffic surveys need to be carried out more than once at realistic times and not with Covid restrictions in place (*comment noted*)

Conclusion

The proposed revision to include a temporary access road for construction traffic is considered will alleviate any disturbance for residents on Cricket Close during the construction phase if the application is approved.

The Local Highway Authority have confirmed they will not accept direct access onto Broadway for all the development traffic on road safety and capacity grounds and will only consider this temporary access for construction traffic on a temporary and controlled basis only.

Concerns raised by Highways Officers regarding fire appliance emergency access have not been resolved. An Emergency Access was deemed necessary under the previous proposals and Highways Officers have questioned why it is not deemed necessary now. The Fire Officer has raised no objections to the proposed scheme and has subsequently been contacted twice for clarification on this change. The Fire Officer has responded each time only to state that compliance with Approved

Document B, Volume 1, Dwellings, 2019 Building Regulations is required which would be added as a note to applicant on any approval.

The recommendation is to grant permission as follows;

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and S106 to secure urban open space contribution, affordable housing and landscape management company to manage landscaping subject to;
 - Securing further comments from the Council's Arboriculturist
 - The amendment and finalising of conditions;
 - No further comments from a statutory consultee or neighbour raising material planning considerations not previously addressed;
 - Address Pollution Control concerns once they have secured further soil samples for the area fronting Broadway

THE ORIGINAL REPORT FOLLOWS:

Reason for Bringing to Committee: Major Application

2. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and S106 to secure urban open space contribution, affordable housing and landscape management company to manage landscaping subject to;
 - Securing comments from the Council's Arboriculturist and Highways Officers
 - The amendment and finalising of conditions;
 - No further comments from a statutory consultee raising material planning considerations not previously addressed;
 - Address Pollution Control concerns once they have secured further soil samples
 - Finalising the District Valuer's Advice

Proposal

Proposed construction of 29 dwellings with associated landscaping, access roads, car parking and infrastructure.

The proposed site includes 2 new dwellings to the north east of the site fronting Broadway and are served by a separate shared vehicle access from Broadway. A total of 27 dwellings are proposed for the southern element of the application site and would be accessed from Birmingham Road (A34) via Cricket Close.

The proposed house type comprises a mix of type and size including 2, 3, 4 and 5 bedroom properties. Houses include both two and two and a half storey dwelling with a mix of designs including detached and semi-detached properties. Of the proposed 29 new dwellings the submitted plans indicate that seven x 2 bedroom, affordable houses are proposed, located on plot no's 5, 6, 7, 24, 25, 26 and 27.

71 parking spaces are proposed plus 2 parking spaces proposed for 11 Cricket Close, an existing dwelling with a limited frontage for off-street parking. Plot no's 2, 3, 4, 5, 7, 26 and 27 would have one off-street parking space provided and the plans detail four further visitor spaces near to plots 14 and 16.

New trees and soft landscaping are proposed around car parking which is positioned to the front and sides of the proposed dwellings. Separate garages with utilities are proposed for plot no's 10, 11, 12, 13, 14, 16, 28 and 29.

A combination of 1.8 metre high walls and 1.8 metres high close boarded timber fencing topped with 300mm trellis are proposed as boundary treatment for the site along with 450mm knee high timber railings along the southern boundary of plot no. 28.

Plot 29 is located approximately 36 metres from the boundary of Metro Inn Hotel located near to the corner of the Broadway and Birmingham Road junction.

A green buffer is proposed around the periphery of the site to the east, south and west along with a green corridor separating the proposed development from properties on Ravensdale Gardens and Ravensdale Close.

This application is supported by the following documents;

Planning Statement Incorporating a Statement of Community Involvement, prepared by Planning and Development Ltd, dated May 2020

This statement concludes that the proposal have a number of significant benefits and should be supported by the Local Planning Authority for the following reasons;

- Proposals are squarely aligned to the Development Plan strategy to encourage housing development at sustainable locations
- Walsall Council has identified the site as an opportunity for residential development and is land allocated for housing by Policy HC1 of the adopted Site Allocations Development Plan.
- Proposals constitute sustainable development and will place homes in a location which is very accessible to public transport and the services and facilities within the local neighbourhood. NPPF makes it clear that
- Proposals will make a contribution to the Council's public purse through payment of New Homes Bonus.
- Development will provide a high quality development that is sensitive to the sites location and its surroundings
- Proposals avoid developing on Green Belt designated land.

In summary the statement concludes the proposals are in accordance with national and local planning policy. They will deliver material planning benefits which weigh in favour of Planning permission being granted.

Transport Statement prepared by Hydrock on 30/03/2020 which states;

- Sustainability assessment shows that the site is accessible by non-car modes and provides an alternative to car travel (e.g. journeys to work) and as such promotes the aim of reducing car travel

- The traffic impact assessment shows the development would generate 15 vehicles in the AM peak, and 14 vehicles in the PM peak, which equates to approximately 1 vehicle trip joining the local highway network every 4 minutes during both the morning and evening peak hours.
- No additional 'NET' trip assessments have been undertaken to take into account what the existing site i.e. the Tennis Club could generate

Framework Travel Plan prepared by Hydrock on 30/03/2020

The document states;

- The proposed development site is located in an accessible location within Walsall and is well located to make use of the existing public transport links and pedestrian/cycle routes
- Proposal complies with both the local and national policies summarised in the document (section 2)

Document aims to develop and deliver a framework residential travel plan for annual review and an annual action plan prepared and agreed. The aim is to introduce a package of measures for the site to promote sustainable travel choices and reduce reliance on the car.

Design and Access Statement Rev 1 by BM3

This document comments upon the design of the proposed development in terms of the site, local character and context, environmental impact, accommodation mix, scale, materials, car parking, outdoor space and the public realm.

Preliminary Ecological Assessment prepared by Dr. Stefan Bodnar, February 2020 (updated)

The report states that;

- The value of the site in ecological value to wildlife is generally low with the woodland and riparian stream habitats of moderate value
- Retention and protection of mature trees, woodland and enhancement of boundary features are important in terms of maintaining connective features of the site and screening of the development.

In conclusion the report states;

- Further surveys and reports are recommended in order to fully determine the presence of any protected species and the implications of the proposed development on these species
- Bird nesting season; clearance will have to be outside mid-March to mid-July
- No Statutory or Non Statutory Designated Nature Conservation Sites within the site or that will be impacted upon
- Habitats within the site indicate the area is used for bat foraging and commuting

Dusk and Dawn Emergent Bat Survey prepared by Dr Stefan Bodnar in July 2017

This report concludes that bat activity was present on both visits however the survey confirmed there were no bat roosts associated with the site. Part of the site is extremely well-lit from street lighting which splays and may account for the lack of bat activity in habitats that might otherwise be suitable. No mitigation is required although enhancement with bat boxes could be undertaken.

Dusk and Dawn Emergent Bat Survey prepared by Dr Stefan Bodnar in June 2020

The updated bat activity survey revealed 4 bats present on the first occasion and 3 bats on the second visit with low activity. The conclusions were the same as in July 2017 in that part of the site is extremely well-lit from street lighting which splays and may account for the lack of bat activity in habitats that might otherwise be suitable. No mitigation is required although enhancement with bat boxes could be undertaken.

Reptile Survey prepared by Dr Stefan Bodnar & Dr Louise Sutherland, June 2017 states that;

No reptiles or great crested newts were discovered during the survey but there is still a small possibility these species may be on site in very small numbers or could move into the habitats within the site at some point in the future and the appropriate safeguards will need to be employed.

Manual Reptile Survey by Dr Stefan Bodnar & Dr Louise Sutherland, May 2020 states that;

No reptiles were recorded during this survey and it is assumed that it is likely that reptiles are absent from this site or are at a very low population density. In addition there were no great crested newts recorded on site during the survey and it is considered the lack of reptiles and amphibians is likely to be a result of the site's relative isolation for these species. Safeguarding conditions are recommended during the development works, if approved.

Construction Traffic Management Plan prepared by Hydrock dated 23/03/2020

This report documents the systems and controls to be adopted to minimise any adverse environmental effects associated with construction traffic during the construction of the proposed development.

Site Investigation prepared by ASL, February 2020

This report provides foundation construction advice for the proposed development and advises that the disposal of surface water to soakaways or other infiltration systems is unlikely to be suitable for the proposed development. Contamination assessment has resulted in recommended mitigation measures.

Desk Study Report prepared by ASL, February 2020

This report considers the site, geology, hydrology, and hydro-geology and site history. The report recommends an intrusive ground investigation ahead of any development works to determine the founding properties of the underlying ground conditions and to determine the actual contaminative ground conditions, along with

an assessment of hazardous ground gas, although the risk to identified receptors is generally considered to be very low.

Flood Risk Assessment and Drainage Strategy by Hydrock dated 26/03/2020

The report states that provided an approved SUDs is employed the proposed scheme will;

- Be safe and resilient to flooding in the critical design flood event with an acceptable level of residual risk
- Not increase flood risk through loss of floodplain storage, impedance of flood flows or increase in surface water run-off

And the proposed development is concluded in the report to meet the flood risk requirements of the NPPF.

Energy Statement prepared by Focus Consultants, April 2020

Report identifies potential options for meeting Policy ENV7

- Through the use of solar photovoltaics
- Through the use of an enhanced fabric and services specification

Noise Report prepared by John Waring Acoustic Consultant dated 9/6/2017

The report concludes the following;

- Gardens should be fenced with a 2 metre high close boarded fence of surface density 7.0kg/m². If preferred a brick wall would be equally effective
- Double glazing would be sufficient to bring noise levels within the dwellings to below the maximum design noise levels provided specialist ventilation units are used
- This should be considered to be a minimum standard of glazing and so be more certain of achieving the average noise levels and peak night time noise level.
- Assessment of the noise impact of the nearby Metro Hotel has concluded that following guidance given in BS4142 there is likely to be a low impact on the surrounding residents

Arboricultural Assessment by Dr Stefan Bodnar, February 2020

- During constructions works the root protection areas (RPA), 'Construction Exclusion Zones' are to be protected by barriers and ground protection
- Hard surfacing within the RPA shall be designed to avoid root loss
- Hard surfacing in these areas shall be permeable and gas porous and edge supports such as kerbs or edgings on foundations and haunchings shall not be use within the RPA

Site and Surroundings

This irregular shaped piece of land is located to the south east and approximately 1.6 miles from Walsall Town Centre measuring 1.42 hectares. Walsall Golf Course

lies to the south of the application site within designated Green Belt. This site was Urban Open Space within the UDP however was subsequently allocated for housing by Walsall's Site Allocation Document adopted in 2019. The southernmost tip of the application site lies within designated Green Belt.

The site includes an un-used patch of land to the north with abandoned allotments to the south. This site falls within Flood Zone 1. To the western and eastern edges of the development there are two streams, the Full Brook and its tributary. The Full Brook is designated as part of a Wildlife Corridor.

Adjacent to the site lies 5 tennis courts which were previously used by Walsall Tennis Club. The highest point of the site is to the north-west corner of the site and the site slopes down to the south and west.

The site is heavily overgrown with scrub vegetation and there are a number of protected trees to the northern element of the application site fronting Broadway.

There are residential dwellings located to the north, east and west of the application site along with Metro Inns Hotel to the north, accessed separately from Birmingham Road. The A34 between Walsall and Birmingham benefits from access to public transport links including a bus stop close to the entrance of Cricket Close.

Relevant Planning History

Former Allotments R/O 1-9, Cricket Close, Land At & Including Walsall Tennis Club, Birmingham Road & Land To The East Of Broadway, Walsall

17/0845 – Proposed erection of 50 dwellings with car parking, access roads, public open space and associated infrastructure – withdrawn 16/5/19 at the applicant's request as mitigation for the loss of the tennis club could not be identified and secured at that time

Land Between 1 & 3 and Between 9 & 11 Cricket Close, Walsall, WS5 3PU

11/0017/FL - Construction of a two storey detached dwelling with ancillary on site car parking for 2 vehicles, and a new access to the allotment gardens – Granted subject to conditions 31/03/11 but not implemented.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**

- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

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

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes

removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.2 to 3.5 The Countryside and Green Belt
- 3.6 to 3.8 Environmental Improvement
- 3.11 Forestry and Trees
- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- H4: Affordable Housing
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Space
- LC4: Allotment Gardens

Black Country Core Strategy

- CSP4: Place Making
- CSP5: Transport Strategy
- HOU1: Delivering Sustainable Housing Growth

- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

HC1: Land allocated for New Housing Development

HC3: Affordable Housing and Housing for People with Special Needs

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

EN1: Natural Environment Protection, Management and Enhancement

EN3: Flood Risk

T4: The Highway Network

T5: Highway Improvements

Supplementary Planning Documents

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity

- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Appendix D: Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. The requirement to design longer rear gardens to reflect an area's character is applicable and the guidelines should not mean to be the maximum achievable distances.

Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above (this standard will be applied more robustly at the rear than across roads at the front), 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20 sq. metres useable space per dwelling where communal provision is provided.

Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

Affordable Housing

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

Air Quality SPD

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

Consultation Replies

Highways England – No objections

Transportation – To be updated at planning committee

Planning Policy – No objections and advise a S106 agreement will be required in respect of affordable housing and off-site open space.

Pollution Control –To be updated at planning committee

Tree Preservation Officer –To be updated at planning committee

Ecology – No objections subject to additional survey work being undertaken.

Flood Risk Manager – No objections subject to the inclusion of a planning condition in order to secure implementation of the scheme in accordance with the submitted documents if approved.

Historic England – No objections

Housing Strategy – To be updated at planning committee

Severn Trent Water – No objections subject to the inclusion of a planning condition and informative note in respect of sewage

Natural England – No objections as there are no significant impacts on statutory designated conservation sites or landscapes

Public Health – No objections

Police Architectural Liaison Officer – No objections and recommend Secured by Design principles

Rail Infrastructure Manager – No objections

Sport England – No objections

West Midlands Fire Service – No objections and require the inclusion of an informative note

Archaeology - No objections subject to the inclusion of a planning condition to include a watching brief on ground works.

Representations

(Officer comments in italics)

Objections have been received from 13 neighbours on the following grounds;

- Entrance and exit points via Cricket Close are not practical and potentially hazardous
- Turning right onto Birmingham Road (A34) from Cricket Close will become increasingly more difficult due to an increase in traffic volume
- No right hand filter on the A34 to speed up the traffic flow
- Safety of children and residents. Roads are typically narrow with cars parked

- Misled as the letter states 29 dwellings but it has come to light that this relates to Phase 1 and that Phase 2 will follow shortly (*The local planning authority can only consider the application before it. If phase 2 comes forward at a later date, that would be as a separate planning application*)
- Additional traffic re-routed from M6 after an incident always causes significant disruption to Birmingham Road (*This a separate matter to the determination of the current planning application*)
- Existing problems with the sewage system causes problems (*The development would have to comply with the requirements of Building Control legislation and the requirements of Severn Trent Water*)
- Disruption from construction traffic (*A construction management plan would form part of an approval*)
- Parked cars obstruct emergency vehicles and the refuse lorry (*This is outside the scope of the planning application and would be managed by third party agencies*)
- University overflow parking (*This is outside the scope of the planning application and the University has increased on-site parking to the front*)
- Parking will worsen if the Government stops people parking on the kerb (*not a material planning consideration to the determination of this planning application*)
- Devalue house prices (*not a material planning consideration*)
- Increased traffic volume because of new Sprint bus to Birmingham and what impact will this have on local traffic? (*Sprint route changes are not a material planning consideration*)
- Existing parking is difficult with around 30 houses and without extra housing and tradesmen's vehicles. (*not a material planning consideration, the development has to demonstrate it has its own parking provision*)
- Need to protect this green land (*This land has been designated for housing development in Walsall's SAD, Policy HC1 and site reference HO305*)
- With Covid-19 there should not be increased dwellings in the area and furthermore controlling the region population numbers. (*This is not a material planning consideration and Government policy is to increase the numbers of houses available*)
- Loss of trees detrimental to the area
- Will Cricket Close become a 'Park and Ride' for the Sprint bus? (*not a material planning consideration and the Council is processing an application for new housing at this location*)
- Pollution of the stream from further housing (*no evidence to substantiate this claim*)
- Reversing out of drive will become more hazardous (*This is outside the scope of the planning application*)
- Safest access would be via the Broadway (*There is no evidence put forward to substantiate this claim, the Local Planning Authority can only determine the planning proposal before them*)
- Loss of wildlife and the buffering and screening between new and existing developments from woodland (*a green buffer around the east, south and west boundaries of the site would be maintained and protected species are considered in the body of the report*)
- Extra load on the stream during storm conditions (*no evidence to substantiate this claim. All developments must demonstrate they do not exacerbate flooding*)

- Some existing houses only have space to park one vehicle and on-street parking is vital to current residents (*The parking of current residents is outside the scope of the planning application. The proposed development is weighed against the Councils policies*)
- Increased traffic congestion with close proximity to Lake Avenue, Ravensdale Gardens and Springvale Avenue (*Birmingham Road is part of the Strategic Highway Network and it is considered that the addition of 29 further houses, if approved would have a nominal increase in traffic volume*)
- Potential Phase 2 of the development on the former Tennis Club would put further pressure will be placed on the road network in the area (*The local planning authority can only consider the application before it. If phase 2 comes forward at a later date, that would be as a separate planning application and residents would be notified in accordance with the national planning requirements at that time*)
- Unresolved issue with the drainage into the brook at the head of the close and this should be resolved before any planning permission is approved. (*All developments must demonstrate they do not exacerbate flooding and cannot be required to overcome existing issues off site*)
- Boundary Treatment Document and Transport Statement have inaccurate drawings which suggest 11 Cricket Close has a longer private drive than exists. No. 11 has been extended and the proposal would remove any useable frontage parking for no. 11
- Not enough junction spacing on Birmingham Road (A34) and this would not be an issue if access was taken from Broadway
- The controlled pedestrian crossing on Broadway is ideally located for pedestrian and permeability purpose (*This is outside the scope of the application and the Local Planning Authority can only determine the planning proposal before them*)
- Birmingham Road already over capacity with extensive queuing (*Birmingham Road is part of the Strategic Highway Network and it is considered that the addition of 29 further houses, if approved would have a nominal increase in traffic volume*)
- Sprint bus will result in the loss of pavement on the Birmingham Road (A34) Walsall direction and not enough consideration given to the upcoming future of the Cricket Close and Birmingham Road junction (*Sprint route changes are not a material planning considerations for this application*)
- Danger of a rat-run being created (*The proposal does not show a through route from Birmingham Road to Broadway*)
- Object to 2 car parking spaces being allocated to 11 Cricket Close around the corner from their property as the front of the house is covered by CCTV and this is would not have adequate crime prevention
- No submission of bat surveys, reptile surveys and noise report (*bat surveys, reptile surveys and noise reports have been provided in support of the application*)
- Lack of consideration of school places in the area for phase 1 and 2 of the proposed development (*no adverse comments received from Education Walsall*)
- No available spaces for any reception to Year 6 places (*no adverse comments received from Education Walsall*)
- Drainage problems with the brook and allotments (*All developments must demonstrate they do not exacerbate flooding*)

- Two blind corners and parked cars. The Council puts money before safety and should any type of accident occur the Council will be taken to court as being complicit as they knew full well the dangers that this proposal will cause. *(No evidence provided to substantiate the claims. The local highway authority is advising the local planning authority regarding highway safety matters)*
- As no details of subsequent phases are given residents are unable to adequately comment on the full implications if additional housing is still proposed on the former Tennis Club Site particularly how this part of the site would be accessed rendering the application process undemocratic and fundamentally flawed *(The local planning authority can only consider the application before it. If phase 2 comes forward at a later date, that would be as a separate planning application and residents would be notified and would be able to comment on it)*
- Proposal has again failed to meet Walsall's planning parking provision contained in TG13 which is a minimum standard that should be fulfilled
- Application relies heavily on garage parking space which will be under-utilised *(The local planning authority can only consider the application before it)*
- Several properties only have 1 space per property which is below minimum requirements and it is insufficient to offset these deficiencies against increased parking at larger properties and rely on average densities
- Transport and access survey does not consider the implication of additional traffic travelling at speed along Cricket Close and the impact on residents. Survey indicates more than a third of all vehicles on the surrounding network are above the speed limit yet there is no mention of how this will be alleviated to make the junctions safer or reduce speed. *(Birmingham Road is part of the Strategic Highway Network and it is considered that the addition of 29 further houses, if approved would have a nominal increase in traffic volume)*
- The Transport Statement makes no mention of the lack of parking
- The report suggests that cyclists will be able to use the surrounding road network because of the width of the carriageways but neglects to point out that excessive speeding and frequent accidents already prevent keen cyclists using this form of transport *(Traffic violations are dealt with by different legislation)*
- Phased development yet application frequently refers to the reduced number of properties *(The local planning authority can only consider the application before it. If further phases come forward at a later date, that would be as a separate planning application and residents would be notified and would be able to comment on it)*
- Not clear how the Tennis Club part of the site would be accessed *(The local planning authority can only consider the application before it. The tennis club does not operate from the site currently. If a future proposal comes forward at the tennis club and it requires planning approval, neighbours will be notified in accordance with the national legislation and would be able to comment on it)*
- Outline proposals for subsequent phases must be released even if they will not be pursued until the Tennis Club has formally relocated *(The local planning authority can only consider the application before it. If further phases come forward at a later date, that would be as a separate planning application and residents would be notified and would be able to comment on it)*
- No space to install a single electric vehicle charging point in a communal area, these should be provided for every property in the proposal *(The Council's Air Quality SPD includes for all new houses to have electric*

charging points for vehicles and there is no requirement to deliver a communal electric point)

- Travel plan is tokenistic and only directed at initial occupants with no long term or sustainable impact on travel behaviours (*Highways do not require a Travel Plan for 29 dwellings*)
- No mention in the report of the Sprint bus development and will have a huge impact on traffic along Birmingham Road resulting in the survey results included in the report being void (*Sprint route changes are not a material planning consideration*)
- The sections on the report on biodiversity results have been redacted and the resident is aware that bats, owls, parakeets, foxes, hedgehogs as well as a large population of birds and insects all nest within the site. There is no mention of this broad biodiversity and the mitigation to be taken to protect it. (*GDPR legislation requires the council to redact sensitive data when publishing on the website*)
- Developer should be required to utilise non-gas heating methods such as ground source heating within the design and build stage (*This would require the Government to change legislation. The councils Air Quality SPD encourages the use of low NOx boilers*)

Determining Issues

- Principle of Development
- Impact on the Character and Appearance of the Area
- Impact on Residential Amenities
- Green Belt
- Noise
- Air Quality
- Drainage and Flood Risk
- Ground Conditions
- Coal
- Ecology
- Trees
- Archaeology
- Access and Parking
- Planning Obligations
- Local Finance Considerations

Assessment of the Proposal

Principle of the Development

The site is allocated for new housing development as site reference HO305 in SAD Policy HC1: Land Allocated for New Housing Development. Policy HC1 considers that each site should achieve a density of at least 35 dwellings per hectare and in this instance the proposal would have a density of 41 houses per hectare.

Notwithstanding UDP Policy LC1: Urban Open Spaces, the later SAD policy supersedes the UDP policy for the delivery of housing. The former allotments on this site are decommissioned and have not been in use for a long time and the Council has re-designated this site for a housing scheme.

The proposal is supported in principle for housing on strategic planning policy grounds subject to a Section 106 agreement to secure the provision of affordable housing in accordance with SAD policy HC3 and BCCS policy HOU3.

The proposal involves the redevelopment of an open area of land adjacent to former Walsall Tennis Club site. The tennis club is shown edged in blue on the proposed site layout plan, and whilst in the same ownership, the tennis club site is not included in this planning application to be redeveloped.

This is a sustainable location within an existing residential area with access to shops in Walsall Town Centre, schools and with bus stops within walking distance. The principle of housing in this location is considered acceptable, subject to impact upon the character of the area, ecology, flood risk, residential amenity, access and parking.

A previous application for the redevelopment of the site, including the tennis club land was withdrawn as mitigation for the loss of the tennis club could not be identified and secured at that time. The application site sits on land contained outside of the tennis club and there will be no loss of sports facilities requiring mitigation. In this case, proposed housing is comparable to the proximity of the tennis courts to the existing housing and Sports England consider the proposed relationship would be acceptable. The proposal does not prevent access to the tennis courts ensuring the existing sports facility is not adversely affected by this current proposal.

The principle of 29 dwellings on an identified site for residential use within an existing sustainable residential area is considered would be acceptable and accords with the aims of local and national planning policies.

Impact on the Character and Appearance of the Area

This application proposes a two and two and a half storey dwellings which are a mix of detached and semi-detached houses. Plot numbers 28 and 29 would have a separate vehicular access from Broadway with plots 1 to 27 accessed from Birmingham Road (A34) and Cricket Close.

The application site is surrounded by a mix of residential properties of varying age and design along with Metro Inn Hotel to the north of the application site. It is considered that the introduction of additional infill housing on this unused former allotment site would integrate with the existing character of the area and urban form. The proposed buildings, whilst of their own style and character, are considered on balance to contribute to the existing mixed architectural character of the area. The stand-off buffer adjacent to the water course would retain a green corridor through the site.

The current proposal would have a higher housing density of 41 houses per hectare than existing houses on Cricket Close at 22 houses per hectare. This proposed density would be in accordance with the requirements of SAD Policy HC1 which considers that each site should achieve a density of at least 35 dwellings per hectare

The proposed green buffer around the development would be considered would soften the appearance of the proposed development and it is considered that this proposal would reflect the overall urban pattern of the existing development. This

proposal is an infill development which would sit within the existing urban landscape and its density is considered appropriate and in accordance with SAD Policy HC1. This level of density is considered would not constitute overdevelopment of the site when considering neighbouring housing densities.

The proposed 7 affordable units would be of similar design and scale to a number of properties identified for market sale and their appearance are considered tenure blind which helps social integration.

The proposed two storey houses range between 7.7 and 8.9 metres high whilst the two and a half storey properties would be between 9.4 and 9.7 metres high. House types are mixed across the site which is considered would assist with providing a stronger neighbourhood.

The Police Architectural Liaison Officer has recommended that the rear and sides of properties bordering accessible areas will be more vulnerable and trellis to the top of fencing in these areas is a recommended security measure, which can be secured via a planning condition. In addition external LED lights with daylight sensors to the external front, rear and side walls of the houses is recommended to provide security for residents particularly when entering and leaving, and parking areas, which can be secured via a planning condition. In addition, the security of windows and doors, plus burglar alarms can also be secured via conditions.

Whilst a materials schedule has been provided, it is considered that there is insufficient details on specific materials types and colours. However a safeguarding condition can require further details, if approved.

Planning conditions can be included in respect of the provision of details of the proposed facing materials to be used in the development along with details of the proposed finished floor levels and ridge and eaves heights of the buildings

Impact on Residential Amenities

The Cricket Close residents' comments have been weighed in the overall assessment of the proposal. The nearest housing to the proposal is located along Cricket Close, Broadway, Ravensdale Close and Ravensdale Gardens. It is considered there's sufficient separation distance between the proposed new dwellings and existing housing. Consequently it is considered that the proposal would have a limited impact on the outlook or privacy of existing occupiers.

The proposed development would provide secure private amenity spaces for new residents. Private gardens serving new houses vary in size. The Council's recommended minimum rear garden size is 12 metres in length or have an area of 68 square metres, as referred to in Appendix D of Designing Walsall SPD. Plot numbers 10 and 24 would have rear gardens at 46 square metres, whilst the remaining plots would be 60 square metres or greater. Whilst the private amenity space for some dwellings is less than recommended it is considered on balance acceptable as the site has a green buffer surrounding the site and the overall provision for the development is considered meets Designing Walsall.

Some separation distances between rear facing habitable room windows in this development would be a minimum of 22.1 metres across private gardens. There is a recommended minimum separation distance of 24 metres between facing habitable

room, rear, windows referred to in Appendix D of Designing Walsall. However the majority of proposed new dwellings in this instance would exceed the 24 metres separation distance. Overall the proposal is considered on balance to accord with the aims and objectives of council guidance taking into account the small shortfall of separation distances limiting any impact on residents' amenity.

This cul de sac development would provide passive surveillance for both existing residents of Cricket Close and those on the proposed development, if approved. People passing and re-passing along the public highway contribute to natural surveillance for neighbours and locality, including the proposed two additional parking spaces proposed for 11 Cricket Close. Furthermore the proposed cul-de-sac layout of the proposal would prevent Cricket Close becoming a rat-run.

The Planning agents have confirmed they own the parcel of land adjacent to 11 Cricket Close and recognise there is a right of access to no. 11. The applicants recognise that access cannot be prevented or restricted and the area cannot be built upon. It must remain as an access to the applicants land beyond (the development site) and no. 11. The occupiers of 11 Cricket Close are unable to rely on this part of the applicant's land for parking. The planning agents have confirmed, the only proposed works to be undertaken in this area are to bring it up to adoptable highway status, if approved.

The applicants boundary information matches the red outline shown on the location plan submitted for 2017 planning application (*reference no. 17/0799*) submitted by the occupiers of 11 Cricket Close. Number 11 have been utilising the applicants land for parking and this will now become highway, if approved.

The 2017 planning application at 11 Cricket Close concluded, this proposal would enlarge existing bedrooms rather than add additional bedrooms and whilst there was limited off-street parking on the frontage, the Local Planning Authority was unable to request any additional parking as the existing garage would be retained and the parking situation would not significantly worsen as a result of their proposed domestic extension.

The site no longer being vacant land is considered would contribute to the safety and security of adjacent residents as there is currently no natural surveillance of the land. This land currently allows for unauthorised access or egress for third party individuals who may wish to carry out anti-social behaviour. The proposed new development is considered would allow for natural surveillance and increasing safety and security of the space.

Planning conditions which meet the 6 tests can be included in respect of the provision of details of the proposed facing materials to be used in the development along with details of the proposed finished floor levels and ridge and eaves heights of the buildings.

On balance the proposal is considered acceptable and would have a limited impact on residential amenity for existing and proposed new residents.

Green Belt

The area to the south of the application site, along with Walsall Golf Club, are within land which is designated Green Belt. No development is proposed within designated

Green Belt as part of this proposal and consequently the application does not have to carry out a green belt assessment. The application site is surrounded by 20th Century housing to the north, east and west boundaries and as this is an infill proposal it is considered it would have a limited impact upon the existing openness of the Green Belt. Furthermore it is considered that the management of the wildlife corridor would enhance the area.

Noise

To be updated at planning committee

Air Quality

To be updated at planning committee

The applicant will need to install electric vehicle charging points and low NOx boilers in the development and these elements can be addressed via a safeguarding planning condition that meets the 6 tests.

Drainage and Flood Risk

This site is located within Flood Zone 1. Hydraulic modelling of the watercourses on two sides of the site, confirming flooding affecting areas of the proposed development site. The Lead Local Flood Agency (LLFA) has commented that the updated Flood Map for Surface Water shows significant ponding towards the eastern, western and southern sections of the site associated to watercourses in this location and their confluence. The unnamed watercourses converge to the south to form Full Brook. The flooding is expected to be from the watercourses in these locations and not surface water run-off.

The LLFA has reviewed the updated information submitted in support of the planning application and have no objection to the LPA granting permission subject to a planning condition, to ensure the development is implemented in accordance with the requirements of the approved drainage scheme shown in the Flood Risk Assessment and Drainage Strategy, Hydrock, 26th March 2020 and Technical Design Note, Hydrock, 18 September 2020. A safeguarding condition meeting the 6 tests can be imposed.

Ground Conditions

Pollution control have asked for further soil sampling before offering commentary regarding ground conditions.

Coal

This site is in a coal development low risk area and standing advice from the Coal Authority will be provided, if approved.

Ecology

The Council's Ecologist has advised that an EcoRecord data search has revealed that the site is a Potential Site of Importance (PSI) and that the Full Brook is designated as part of a Wildlife Corridor. Consequently it is recommended that an assessment of the habitat quality and whether this is likely to be of value at a local level. The survey date for the habitat survey falls just outside the optimum survey time and it will be necessary to re-survey the site during the optimum survey time for vegetation surveys to ensure a robust assessment of the sites importance, in

accordance with the timing requirements of Conserving Walsall's Natural Environment SPD.

The Ecologist has advised that the Full Brook and the watercourse buffer should be protected during construction and consideration to lighting must be made to ensure the wildlife corridor is not lit. These measures can be included within a Construction Environmental Management Plan and conditioned.

It is recommended that a pre-construction badger survey is undertaken as the submitted survey found evidence of foraging badger on the site with no evidence of setts within 30 metres of the site boundary. The Ecologist recommends that pre-construction badger, reptile and bat surveys are undertaken as recommended in the reports. The reptile survey should consider the presence of slow worms. These can be secured as part of the determination of the application.

The ecologist has advised that the initial bat, reptile and habitat reports provided have been updated to address their concerns. However the submitted reports acknowledge that there is a need for additional surveys prior to the commencement of construction, if approved.

Planning conditions are recommended to require an invasive plant survey to consider the presence of plant species including Japanese Knotweed and Giant Hogweed prior to commencement of works, if approved.

Site clearance and dismantling works should be undertaken outside the bird nesting season. The bird nesting season extends between mid-February and September inclusive and this can be conditioned, if approved.

The applicant's Ecologist has confirmed that current landscaping plan is indicative only and require revision to meet the needs of the site's ecology. A revised landscape plan should be submitted which safeguards the semi-natural broadleaved woodland to the south of the site and adjacent to the streams and which shows adequate enhancements in areas of open space to compensate for the impacts of the proposed development. The requirement for a revised landscape plan can be conditioned.

Further enhancements could include bat and bird boxes along with wildlife friendly planting which can be conditioned. Overall, in weighing the planning balance of the proposal, it is considered the development and the proposed natural environment enhancements would bring a positive benefit to the local ecology, flora and fauna of the location.

Trees

Comments to be updated once received from the Council's Arboriculturist.

Archaeology

The Council's Archaeologist has advised there are no heritage assets recorded within the development site area, and whilst there is evidence of medieval agricultural activity in the golf course and fields to the south (ridge and furrow, and earthworks), the potential for unknown archaeological remains of Roman, medieval, or post-medieval date are low. However they have advised that the proximity of the watercourses means that this may have been an attractive area or focus for

prehistoric activity (such as Bronze Age burnt mounds), with the additional potential for waterlogged environmental remains, which would be very significant if present. As the area has always been fields and then allotments, below-ground truncation here may be fairly minimal.

It is therefore recommended that a condition be placed on planning consent requiring a program of archaeological work comprising a watching brief on ground works. This would ensure that any archaeological remains exposed/truncated are preserved by record.

Access and Parking

To be updated at planning committee.

A planning condition can be included to ensure that that this development, if approved, is constructed in accordance with the access road, parking and vehicle manoeuvring areas being consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain, together with the clear demarcation of all parking bays.

The Local Highway Authority is working on public transport improvements to the A34 carriageway. This fall outside the scope of the current planning application and a matter for the Local Highways Authority to ensure these works are Highway safe.

Planning Obligations

This development triggers the Council's policies regarding contributions towards Urban Open Space and 25% Affordable Housing.

Open Space contributions for a development of this size, within this ward, requires a contribution of £93,799.00 (defined by Urban Open Space SPD) towards open space improvements in the neighbourhood. Within a 0.85 km radius of the application site are the following designated Urban Open Space; New College Close (145 metres from the application site), Greenslade Road (0.56km from the application site), and Highgate Drive (0.58 km from the application site). The LPA advise any open space contributions could be spent to improve and maintain these locations and are considered to be related to the proposed development and can be an off set for any private amenity shortfalls in the development.

To comply with the Council's affordable housing policy, 25% of the units on site should be for affordable social rent. Housing Strategy have advised they are supportive of the over provision of affordable housing on this site (48%) but considers that both tenures do not match the requirements for the East of the borough, where it should be 100% 'social rent' (not the affordable rent or shared ownership offered).

The applicant has submitted a viability assessment which considers that both schemes (social rent or affordable rent) are not viable largely due to the significant amount of infrastructure works compared to the relatively low number of units. The report comments that the applicant is supportive of delivering affordable units at this site however on the alternative basis that the affordable units are for shared ownership. Furthermore the report considers that the impacts of the current pandemic on the residential market over the coming months could impact upon funding and finance which would most likely increase the cost of development.

The Council's independent assessor, has reviewed the applicant's financial viability assessment and concluded there are no viability issues in respect of the proposed scheme to justify the requested change the affordable housing tenure of the 7 dwellings from social rent to shared ownership. The applicants have advised that Shared Ownership homes would be their preferred tenure in the required delivery of affordable homes on this site.

The applicant has accepted the findings of the Council's independent assessor, and asks, if the applicant provides 7 shared ownership properties rather than social rent would the Council accept the difference in value between the social rent and shared ownership tenures (£377,300) as a commuted sum payment, for the Council to invest in social rent elsewhere in the borough. Whilst the LPA confirms the development is viable and can secure social rent as policy compliant housing tenure, it would be a decision for planning committee to confirm whether they would prefer to offer the applicants alternative affordable housing offer of shared ownership and offsite payment of £377,300.00.

The applicants have advised that by way of demonstrating their commitment to the borough, they would include the seven Shared Ownership properties, but with an additional contribution of £100,000 (one hundred thousand pounds) towards the provision of social housing or other community related projects elsewhere in the borough.

In addition to the contributions, the S106 will include a landscape management company clause for the developer and future occupants to be party to the company for the management of land in perpetuity within the redline, that's not part of the individual dwelling curtilages to save the council having the future burden of maintaining the remaining land around the development.

Local Finance Considerations

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

This application proposes 29 new homes.

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

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

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the proposed development would integrate with the character of the area. The proposed buildings

whilst of their own style and character are considered to contribute to the existing mixed architectural character of this area and this development would be appropriate. The proposal is considered would have a limited impact on the amenity for neighbouring occupiers and subject to no statutory consultee raising material planning considerations not previously addressed.

As such the development is considered to meet the aims and objectives of the National Planning Policy Framework (para 127), policies CSP4, CSP5, HOU1, HOU2, TRAN2, TRAN4, TRAN5, ENV1, ENV2, ENV3, ENV5, ENV6, ENV7 and ENV8 of the Black Country Core Strategy and saved policies 3.6 to 3.8, GP2, GP3, GP5, GP6, ENV10, ENV11, , ENV18, ENV23, ENV32, ENV33, H4, T1, T7, T8, T9, T10, T11, T12, and T13 of Walsall Unitary Development Plan, policies HC1, HC3, GB1, EN1, EN3, T4 and T5 of Walsall's Site Allocation Document and Supplementary Planning Documents Designing Walsall, Conserving Walsall's Natural Environment, Open Space, Affordable Housing and Air Quality. Taking into account the above factors it is considered that the application should be recommended for approval.

The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment with the inclusion of safeguarding conditions.

Positive and Proactive Working with the Applicant

Officers have worked with the applicant and their agent and in response to concerns raised amended plans and additional ecological information have been submitted which enable a positive recommendation to be made.

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and S106 to secure urban open space contribution, affordable housing and landscape management company to manage landscaping subject to;

- Securing comments from the Council's Arboriculturist, Highways Officers
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Address Pollution Control concerns once they have secured further soil samples
- Finalising the District Valuer's Advice

Conditions and Reasons

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

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

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

- Planning Application form dated 7/5/2020
- Location Plan, drawing no. D000, deposited 7/5/2020
- Site Layout Plan, drawing no. D01 Revision AA, deposited 27/11/2020
- Planning Statement incorporating Statement of Community Involvement by Planning & Development Ltd, dated May 2020, deposited 7/5/2020
- 20yr Baseline Flood Extent, 14378-XX-XX-FR-DR-0001 Revision P01, deposited 7/5/2020
- 100yr Baseline Flood Extent, 14378-XX-XX-FR-DR-0002 Revision P01, deposited 7/5/2020
- 100yr+35 Baseline Flood Extent, 14378-XX-XX-FR-DR-0003 Revision P01, deposited 7/5/2020
- 100yr+75 Baseline Flood Extent, 14378-XX-XX-FR-DR-0004 Revision P01, deposited 7/5/2020
- 1000yr Baseline Flood Extent, drawing no. 14378-XX-XX-FR-DR-0005 Revision P01, deposited 7/5/2020
- 20yr Post Development Flood Extent, 14378-XX-XX-FR-DR-0006 Revision P01, deposited 7/5/2020
- 100yr Post Development Flood Extent, 14378-XX-XX-FR-DR-0007 Revision P01, deposited 7/5/2020
- 100yr+35 Post Development Flood Extent, 14378-XX-XX-FR-DR-0008 Revision P01, deposited 7/5/2020
- 100yr+75 Post Development Flood Extent, 14378-XX-XX-FR-DR-0009 Revision P01, deposited 7/5/2020
- 1000yr Post Development Flood Extent, drawing no. 14378-XX-XX-FR-DR-0010 Revision P01, deposited 7/5/2020
- Garage and Utility Plan, drawing no. D10 Rev. B, deposited 7/5/2020
- House Type 2B A AF Plans and Elevations drawing no. D09 Rev. F, deposited 7/5/2020
- House Type 2B N OM Plans and Elevations drawing no. D02 Rev. G, deposited 7/5/2020
- House Type 3B N2 SO Plans and Elevations drawing no. D04 Rev. F, deposited 7/5/2020
- House Type 3B WN OM Plans and Elevations drawing no. D06 Rev. F, deposited 14/8/2020
- House Type 4B 2.5S OM Plans and Elevations drawing no. D12 Rev. G, deposited 14/8/2020
- House Type 4B 2S OM Plans and Elevations drawing no. D07 Rev. G, deposited 14/8/2020
- House Type 5B 2.5S OM Plans and Elevations drawing no. D08 Rev. F, deposited 14/8/2020
- ICP SUDS Mean Annual Flood Data, deposited 07/05/2020
- Landscape Plan, drawing no. D900 Rev B, deposited 7/5/2020
- Severn Trent Water Sewer Record, issued 12/06/14 and deposited 07/05/2020
- Hydrock Consultants Ltd Storm Sewer Design, East, deposited 7/5/2020
- Hydrock Consultants Ltd Storm Sewer Design, West, deposited 7/5/2020
- Street Elevations 1, 2 & 3, drawing no. D20, deposited 14/8/2020
- Street Elevations 4 & 5, drawing no. D21, deposited 14/8/2020

- Street Elevations 6 & 7, drawing no. D22, deposited 7/5/2020
- Topographical Survey, drawing no. 0001, Rev 1, deposited 7/5/2020
- Tree Survey prepared by Dr Stefan Bodnar, February 2020, deposited 7/5/2020
- Hydrock Construction Traffic Management Plan, dated 23/3/2020, document reference 14378-HYD-XX-XX-TS-TP-7001.P1, deposited 7/5/2020
- ASL Desk Study Report Land Off Cricket Close, ASL Report no. 116-14-067-11Rev. 2, February 2020, deposited 7/5/2020
- Drainage Strategy by Hydrock, document reference 14378-HYD-XX-XX-DR-D-2200 Rev. P01, deposited 7/5/2020
- Energy Statement by Focus, April 2020, deposited 7/5/2020
- Flood Risk Assessment and Drainage Strategy by Hydrock, dated 26/3/2020, document reference 14378-HYD-XX-XX-RP-FR-0001, deposited 7/5/2020
- Framework Travel Plan by Hydrock, dated 30/3/2020, document reference 14378-HYD-XX-XX-FTP-TP-6001.P2, deposited 7/5/2020
- Traffic Noise and Industrial Noise Assessment by John Waring, Issue 1, dated 9/6/2017, deposited 7/5/2020
- ASL Site Investigation, Land off Cricket Close, ASL Report no. 116-14-067-09Rev. 1, February 2020, deposited 7/5/2020
- Hydrock SUDS mitigation, drawing no. 14378-HYD-XX-XX-CA-D-5100 Rev. P01, deposited 7/5/2020
- Hydrock Transport Statement dated 30/3/2020, Document Reference 14378-HYD-XX-XX-TS-TP-4001.P2, deposited 7/5/2020
- Design and Access Statement, Rev 1, deposited 10/09/2020
- Dawn/Dusk Emergent Bat Survey by Dr Stefan Bodnar, June 2020 and deposited 18/11/2020
- Boundary Treatment, drawing D14 Rev. N, deposited 30/11/2020
- Hydrock Technical Design Note, dated 9/11/2020, document reference C-14378-HYD-XX-XX-TN-TP-1001.P01.01, deposited 18/11/2020
- Materials Schedule, drawing no. D30, deposited 27/11/2020
- Preliminary Ecological Assessment (Extended Phase 1 Ecological Survey) by Dr Stefan Bodnar February 2020, revised November 2020 deposited 18/11/2020
- Manual Reptile Survey by Dr Stefan Bodnar, May 2020 Revised November 2020 deposited 18/11/2020

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

3: a) Prior to commencement of the development hereby permitted and notwithstanding the information provided, a bat survey shall be undertaken by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy to determine the presence or absence of roosting or hibernating bats. Details of mitigation measures and contingency plans shall be submitted in writing to and agreed in writing by the Local Planning Authority.

3: b) Should bats be found on site during the course of construction the approved mitigation measures and contingency plans shall be implemented

3: c). The development shall not be carried out otherwise than in accordance with the approved details.

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

4: a) Prior to commencement of the development hereby permitted and notwithstanding the information provided, a badger survey shall be undertaken by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy to determine the presence or absence of badgers and their setts. Details of mitigation measures and contingency plans shall be submitted in writing to and agreed in writing by the Local Planning Authority.

4: b) Should badgers be found on site during the course of construction the approved mitigation measures and contingency plans shall be implemented

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

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

5: a) Prior to commencement of the development hereby permitted and notwithstanding the information provided, a habitat survey shall be undertaken at the optimum time as prescribed by Table 2: Optimum Survey Times for Vegetation Surveys, page 33 of Conserving Walsall's Natural Environment, by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy to assess the plant species and plant communities present. Details of mitigation measures and contingency plans shall be submitted in writing to and agreed in writing by the Local Planning Authority.

5: b) Should important or rare plant species be found on site during the course of construction the approved mitigation measures and contingency plans shall be implemented

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

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

6: a) Prior to commencement of the development hereby permitted and notwithstanding the information provided, a reptile survey shall be undertaken by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy to determine the presence or absence of reptiles including slow worms. Details of mitigation measures and contingency plans shall be submitted in writing to and agreed in writing by the Local Planning Authority.

6: b) Should reptiles be found on site during the course of construction the approved mitigation measures and contingency plans shall be implemented

6: c) The development shall not be carried out otherwise than in accordance with the approved details.

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

7: a) Prior to commencement of the development hereby permitted, drainage plans for the discharge of surface water and disposal of foul sewerage shall be submitted to and approved in writing by the Local Planning Authority.

7: b) The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

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

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary portacabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures
- xiii. Re- covering of holes, escape from holes, tree/hedgerow protection, newts, bats etc.
- xiv. Scheme for the ecological protection of the Full Brook Wildlife Corridor and watercourse buffer from site preparation, clearance, and during construction.

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

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

9: a) Prior to commencement of the development hereby permitted a survey shall establish whether there are any invasive species such as Japanese Knotweed and Giant Hogweed on the site and shall be submitted in writing to the Local Planning Authority for approval.

9: b) If any invasive species are identified in the survey report a detailed method statement for the long term eradication and management of any invasive species on the site shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall include proposed measures to prevent the spread of any invasive species and measures to ensure that any soils brought to the site or used from within the site are free of seeds, roots or stems of any invasive plant covered by the Wildlife and Countryside Act 1981. Any Japanese Knotweed to be removed utilising "dig and dump" shall not be removed from the site otherwise than to a landfill site licensed to accept it.

9: c) No works shall be carried out on site until the detailed method statement has been approved.

9.d) The agreed works shall thereafter be carried out and retained for the lifetime of the development.

Reason: To ensure the effective removal of and to prevent the spread of any invasive species in the interests of avoiding harm to the environment and in accordance with UDP policy GP2 and ENV23 of Walsall's Unitary Development Plan

10: a) Prior to the commencement of any building or engineering operations of the development hereby approved details of the proposed finished floor levels, ridge and eaves heights of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding properties.

10: b) The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

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

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

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

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

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

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

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

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

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

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

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

14: a) The development hereby permitted shall not be brought into use until the approved drainage scheme shown in the Flood Risk Assessment and Drainage Strategy, Hydrock, 26th March 2020 and Technical Design Note, Hydrock, 18th September 2020, have been implemented.

14: b). The development shall not be carried out otherwise than in accordance with the approved details included in the Management and Maintenance Schedule outlined in the Technical Design Note.

Reason: To reduce the risk of surface water flooding to the development and surrounding properties for the lifetime of the development to comply with Walsall's Unitary Development Plan saved policies GP2 and ENV40.

15: a) Prior to the first occupation of any dwelling of the development, the development shall be constructed with the access road, parking and vehicle manoeuvring areas being consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain, together with the clear demarcation of all parking bays.

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

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

16: a) Prior to the first occupation of the development hereby permitted, a scheme of bat and bird boxes to be incorporated into the development site shall be submitted in writing to and approved in writing by the Local Planning Authority.

16: b) The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

16: c) The entrances to bat and bird boxes shall be kept clear from obstructions at all times.

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

17: a) Prior to the commencement of the hereby approved development above damp-proof course, details of the number, type and location of the proposed electric vehicle charging points shall be submitted in writing to and approved in writing by the Local Planning Authority.

17: b) Prior to the first occupation of any dwelling of the development, the development shall be constructed in accordance with the agreed electric vehicle charging points and thereafter retained and available for the use of future occupiers of the development and used for no other purpose.

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

18: Site clearance and dismantling works shall be undertaken outside the bird nesting season. The bird nesting season extends between mid-February and September inclusive but is weather dependant and nesting may take place outside this period. If nesting birds are discovered, clearance works should be delayed until the young have fledged.

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

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

- Gas and liquefied petroleum gas (LPG) boilers with maximum NOx emissions no greater than 56 mg/kWh
- Oil-fired boilers with maximum NOx emissions no greater than 120 mg/kWh.

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

20: Notwithstanding the information shown on submitted plans, the development hereby permitted shall not be carried out otherwise than to meet the following minimum security measures and thereafter the security measures shall be retained;

- All external doors to individual dwellings to be PAS24; 2016
- All ground floor windows and over accessible roofs to be PAS24; 2016
- All ground floor windows and over accessible roofs including French doors and patio doors to have not less than one pane of 6.4mm laminated glass.
- Dusk until dawn lights (white light source) to be installed adjacent to each door including either side of garage doors
- Recycling and refuse areas to be secured at the rear of the properties in a lockable storage facility
- 1.8m high closed board fencing with 0.3m trellis topper to be erected around the perimeter (inside of the boundary hedging) of each dwelling.
- All access gates shall be of the same construction of the perimeter fencing, self-closing, facing the street, lockable with a key front and rear, designed to not create any climbing aids
- No Lead or metal shall be used on the ground floor.
- All the dwellings shall be suitably with an intruder alarm by a registered SSAIB or NSI engineer to British Standard (BS EN 50131 Grade 2)
- All energy meters shall be placed at the front of the dwellings

Reason: To ensure the safety and security of the development and its occupiers in compliance with NPPF 12 and saved policy ENV32 of Walsall's Unitary Development Plan.

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

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

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

22: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no additional side facing windows, doors, or other openings other than those shown on the approved plans, shall be installed in any part of this development.

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

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

- Class A (enlargement, improvement or other alterations),
- Class B (additions to the roof),
- Class E (building incidental to the enjoyment of a dwelling house), shall be installed in any part of this development.

Reason: To safeguard the openness of the Green Belt, ecology and amenities of the occupiers of adjoining premises and to comply with saved UDP policies 3.2 to 3.5, GP2, ENV23 and ENV32 of the Walsall Unitary Development Plan and Policy GB1 of Walsall SITE Allocation Document.

Notes for Applicant

Police Architectural Officer

Below is a link to Secured by Design guides, including Housing, police approved crime reduction information.

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

The applicant to refer to crime prevention and home security advice contained within SBD New Homes.

Please see:

https://www.securedbydesign.com/images/downloads/HOMES_BROCHURE_2019_NEW_version_2.pdf

Secured by Design security standards are explained.

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

Severn Trent Water

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

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent. Please contact Planning.apwest@severntrent.co.uk where we will look to respond within 10 working days. Alternately you can call our office on 0345 266 7930

West Midlands Fire Service
Approved Document B, Volume 1, Dwelling-houses, 2019.

Requirement B5: Access and facilities for the fire service

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

Requirement

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

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

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

Intention

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

a. External access enabling fire appliances to be used near the building.

b. Access into and within the building for firefighting personnel to both:

i. search for and rescue people

ii. Fight fire.

c. Provision for internal fire facilities for firefighters to complete their tasks.

d. Ventilation of heat and smoke from a fire in a basement.

If an alternative approach is taken to providing the means of escape, outside the scope of this approved document, additional provisions for firefighting access may be required. Where deviating from the general guidance, it is advisable to seek advice from the fire and rescue service as early as possible (even if there is no statutory duty to consult)

Section 13: Vehicle access

Provision and design of access routes and hard-standings

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

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

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

Overall

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

Water

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

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

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

Sprinklers

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

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

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

The approval of Building Control will be required to Part B of the Building Regulations 2010

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 1, Section 7)

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

Knotweed

Wildlife and Countryside Act 1981 section 114 (2) states that it is illegal to allow Japanese knotweed to spread in the wild. If knotweed is discovered on the property it should be dealt with in accordance with the act

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and S106 to secure urban open space contribution, affordable housing and landscape management company to manage landscaping subject to;

- Securing comments from the Council's Arboriculturist, Highways Officers
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Address Pollution Control concerns once they have secured further soil samples
- Finalising the District Valuer's Advice

End of officer Report



Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 04 February 2021

Plans List Item Number: 2.

Reason for bringing to committee

Major Application

Application Details

Location: THE BOWMAN, MYATT AVENUE, ALDRIDGE, WS9 0DR

Proposal: OUTLINE APPLICATION FOR DEMOLITION OF EXISTING PUBLIC HOUSE AND CONSTRUCTION OF 12 NO. APARTMENTS (ACCESS, LAYOUT AND SCALE TO BE DETERMINED)

Application Number: 19/1168

Case Officer: Leon Carroll

Applicant: P Singh

Ward: Aldridge Central And South

Agent: Shaun Gill

Expired Date: 12-Jan-2020

Application Type: Outline Permission: Major Application

Time Extension Expiry: 30-Oct-2020

Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and s106 to secure Open Space contribution and subject to:
 - The amendment and finalising of conditions;
 - Satisfactory completion of a Section 106 agreement for open space contribution, and;
 - Subject to no further objections from consultees to amended plans received



Proposal

This outline proposal relates to the demolition of the existing vacant public house and the construction of a building comprising 12 residential apartments. Eight of the apartments are to have one bedroom, with the remaining four apartments having two bedrooms. Matters relating to access, layout and scale are under consideration as part of this application, with appearance and landscaping reserved for later consideration.

Site and Surroundings

The existing site features a vacant public house known as The Bowman, situated in a predominantly suburban residential area. To the east of the site is a parade of shops with maisonettes above, whilst other nearby dwellings comprise a mixture of terraced and semi-detached houses and blocks of flats.

Relevant Planning History

None.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

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

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and

victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV17: New Planting
- ENV32: Design and Development Proposals
- LC1: Urban Open Spaces
- LC8: Local Community Facilities
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
-

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing

Supplementary Planning Documents

Designing Walsall

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

Air Quality SPD

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

Open space, sport and recreation

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

Consultation Replies

Highway Authority – Originally objected but requested various amendments described in the officers assessment below which the applicant has provided to overcome the HA concerns.

Severn Trent Water – No objections to the proposals subject to the inclusion of the following conditions:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

Public Health - Officers noted that the proposal would contribute to the local housing supply and there would be opportunities for local employment in the construction of these properties. Officers raised questions regarding accessibility and connectivity, bike storage and electric vehicle charging points. Officers requested good quality landscaping.

Strategic Planning Policy - The loss of the public house will need to be justified in accordance with UDP policy LC8. Subject to this justification being provided, the proposal can be supported on strategic planning policy grounds under various local and national policies, including BCCS Policies CSP2 (as a small-scale development opportunity) and HOU1, SAD Policy HC2, and the NPPF paragraphs 117 and 118. The site next to a shopping parade and the form of the proposed development would appear to be in keeping with this. As the proposal is for fewer than 15 dwellings, under BCCS policy HOU3 no affordable housing is required. A contribution to off-site open space is however required by BCCS policy DEL1 and UDP policies GP3 and LC1.

Pollution Control - Pollution Control requires the applicant to install low NOx boilers and electric vehicle charging points. Conditions are recommended to control impacts during construction activities.

Housing Strategy – the team had no comments as the development falls below the affordable housing threshold.

West Midlands Police Architectural Liaison Officer – no objections.

Representations

One letter of support was received along three letters of objection. Grounds for objection were as follows:

- Loss of the public house/community facility.
- Loss of privacy.
- Lack of parking.
- Highway safety.

Determining Issues

- Principle of development
- Impact on amenity
- Layout and Scale
- Access and Highway safety
- Planning Obligations
- Local Finance Considerations

Assessment of the Proposal

Principle of Development

Policy HC2 of the Walsall Site Allocations Document states that the provision of housing on previously developed sites not allocated for housing under policy HC1

will be encouraged provided the site is not allocated or safeguarded for other uses in the Plan and the proposal is acceptable in terms of other adopted policies.

In counterpoint to the above, saved policy LC8 of the Walsall Unitary Development Plan states that proposals involving the loss of local community facilities, including public houses, clubs and other meeting places, will only be permitted if it can be demonstrated that, among other criteria, there is no longer a need for the facility, or for any other community use which could be appropriately provided on the site in accordance with other policies of this Plan or it would not be possible to retain the facility, or provide an alternative community facility because, despite all reasonable efforts, this would not be viable.

The applicant has advised that the site is currently disused having become unviable as a drinking establishment. It is notable that the application was submitted in September 2019, well before the onset of the worldwide coronavirus pandemic which has had a devastating effect on the hospitality industry. Whilst public houses undoubtedly provide important community meeting points there has been a wider trend of the loss of such businesses across the country for some years as social habits have changed for many people. In the current circumstances it is considered unlikely that a buyer or tenant would come forward to resurrect the public house as a going concern. The applicant has been asked to submit a statement justifying the loss of the public house which will be added to the supplementary paper prior to the February committee meeting. Given the current economic and societal situation, and that the site has fallen into disrepair and been the subject of vandalism, the proposed redevelopment of the site for housing is considered to be acceptable in principle.

Impact on Amenity

The proposed development is bounded to the east by a parade of shops with maisonettes above, which presents a blank gable elevation towards the application site. As such the proposal is not considered to affect any habitable rooms in the adjacent dwelling to the east. At first floor level above the commercial units below and to the rear of this row of maisonettes are the gardens for those dwellings. Whilst the proposed apartment windows facing north west will have some view over the nearest of these gardens the impact will not be any greater than that which the maisonettes themselves overlook each others gardens. The closest proposed windows in the north east elevation of the proposed building will be 16.5m from the side boundary of the nearest maisonette garden which is considered to be adequate to preserve the privacy of the occupants of that dwelling.

The proposed windows in the north west elevation of the apartment building will be over 26m from the side boundary of 81 Gretton Crescent to the north therefore the proposal will not result in overlooking of that dwelling. Separation distances from windows in the front elevation of the proposed apartment building are also considered to be acceptable.

To the north west of the site is 81 Gretton Crescent, a two storey dwelling which has a habitable room window in the south east facing side elevation at first floor level. The side of the proposed apartment building would be only 10m from this window and as such the proposal as originally submitted with a two storey gable at this point was considered likely to have an adverse impact on the living conditions of the occupants of No 81. The applicant has therefore submitted a revised elevation plan showing a hipped roof and lowered eaves to this elevation, which has reduced the

potential impact on the occupants of No 81 and the amended scheme is considered to be acceptable. The proposal is not considered to result in any loss of outlook or overshadowing, and is in accordance with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and Policy DW2 of the Designing Walsall Supplementary Planning Document.

Layout and Scale

The surrounding area features a mixture of two storey houses and three storey apartment buildings, and as such the proposed part two storey and part three storey apartment building is considered to relate well to the existing streetscene in terms of scale and appearance. Site Allocations Document Policy HC2 requires a minimum housing density of 35 dwellings per hectare on 'windfall' site such as this. The application site is 0.112 of a hectare, and the proposed 12 dwellings comfortably exceed the minimum density requirement. The proposed apartment building is set back from the highway with a grassed frontage which reflects the existing layout of neighbouring houses and apartment buildings. In conclusion the scale and layout of the proposed development is considered to be in keeping with its surroundings and in accordance with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and policies DW3 and DW4 of the Designing Walsall Supplementary Planning Document.

Access and Highway Safety

The Highway Authority was satisfied with the proposed access to the development but initially objected on the grounds that the proposed 9 parking spaces were insufficient to serve 12 apartments, the lack of covered cycle shelter or refuse/recycling store and the lack of a segregated pedestrian footpath between the building entrances and the public highway. Officers also noted that the car parking spaces shown on the original layout plan were longer than necessary.

The applicant subsequently submitted an amended site plan which overcame the above issues by increasing the number of spaces to 12, providing a separate pedestrian access to the rear of the building and making provision for cycle storage and bin storage. Highway officers recommended further slight amendments to reposition the visitor parking space and the disabled parking space and to exclude a small part of the red line boundary which had erroneously been drawn across third party land. These amendments were received and the revised proposal is considered to be acceptable in terms of highway safety.

Planning Obligations

The proposed development of 12 dwellings requires a financial contribution for off-site open space totalling £18,448 which will be secured by a Section 106 agreement.

Local Finance Considerations

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

This application proposes 12 new homes.

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

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

Conclusions and Reasons for Decision

The proposed development will contribute to the Authority's housing targets and whilst the demolition of the public house will result in the loss of an existing community facility, it is considered unlikely that any viable community oriented organisation or business will be introduced on this site in the foreseeable future. Balanced against the need to provide adequate housing for the needs of the district, the loss of the public house is considered acceptable in this instance. The proposal is not considered to result in any adverse impact on residential amenity or community and highway safety. Taking into account the above factors it is considered that the application should be recommended for conditional outline approval.

Positive and Proactive Working with the Applicant

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

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and s106 to secure Open Space contribution and subject to:

- The amendment and finalising of conditions
- Satisfactory completion of a Section 106 agreement for open space contribution, and
- Subject to no further objections from consultees to amended plans received

Conditions

Time Limits

1. a) Application for the approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
- b) The development hereby permitted shall be begun not later than the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

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

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

Approved Plans

- 3: The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:
Location Plan received 26th January 2021
Proposed Site Plan Dwg No CA-1921-03 Revision C received 24th January 2021
Proposed Elevations Dwg No CA-1921-02 Revision A received 24th January 2021
Proposed Floor Plans Dwg No CA-1921-01 received 6th September 2019

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

Drainage

4. a) Prior to the commencement of the development hereby permitted drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.
- b) The development shall not be carried out otherwise than in accordance with the approved details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.
- c) The development hereby permitted shall not be occupied until the approved drainage has been installed in accordance with the approved plans.

Reason: To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem in accordance with saved policies GP2 and ENV40 of the Walsall Unitary Development Plan and Policy ENV5 of the Black Country Core Strategy.

Cycle Store

5. a) Prior to the first occupation of any flat on the development hereby permitted, full details of the covered and illuminated cycle shelter for the use of residents indicated on Proposed Site Plan Dwg No CA-1921-03 Revision C received on 24th January 2021 shall be submitted in writing to and approved in writing by the Local Planning Authority.

b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development. The cycle shelter facility shall thereafter be retained and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with UDP saved policy T13 of the Walsall Unitary Development Plan and policy TRAN4 of the Black Country Core Strategy.

Bin Store

6. a) Prior to the first occupation of any flat on the development hereby permitted, full details of the bin storage facility for the use of residents indicated on Proposed Site Plan Dwg No CA-1921-03 Revision C received on 24th January 2021 shall be submitted in writing to and approved in writing by the Local Planning Authority.

b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development. The bin storage facility shall thereafter be retained and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with saved policies GP2, T7 and T13 of the Walsall Unitary Development Plan.

Parking Laid Out

7. a) Prior to the first occupation of any dwelling on the development hereby permitted, the parking areas and vehicle manoeuvring space shall be consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain, together with the clear demarcation of all parking bays. The vehicle parking and manoeuvring areas shall thereafter be retained and used for no other purpose for the life of the development.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with saved policies GP2, T7 and T13 of the Walsall Unitary Development Plan.

NOx Boilers

8. Notwithstanding the details as submitted no boilers shall be installed in any of the units hereby permitted, save for:

- Gas and liquefied petroleum gas (LPG) boilers with maximum NOx emissions no greater than 56 mg/kWh
- Oil-fired boilers with maximum NOx emissions no greater than 120 mg/kWh.

Reason: To conserve and enhance the natural environment in accordance with policies ENV8 and DEL1 of the Black Country Core Strategy.

EV Charging Points

9. a) Prior to first occupation of the development hereby permitted full details of electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority.

b) The approved electric vehicle charging points shall be installed in accordance with the approved details and shall be retained and maintained for the lifetime of the development.

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

Secure By Design

10. Notwithstanding the information shown on submitted plans, the development hereby permitted shall not be carried out otherwise than to meet the following minimum-security measures and thereafter the security measures shall be retained;

-All external doors to individual flats and the external doors to the building to be PAS24; 2016

-All ground floor windows and over accessible roofs to be PAS24; 2016

-All ground floor windows and over accessible roofs to have not less than one pane of 6.4mm laminated glass.

-There should be an area of defensible space in front of all ground floor rear facing windows

-No Lead or metal should be used on the ground floor,

-Dusk until dawn lights (white light source) to be installed adjacent to each external door

-Mail boxes shall be located at the primary entrance/exit lobby point of the building, covered by CCTV, 1.5mm steel letterboxes of robust construction, lockable individual letterboxes, secure, anti-identity theft proof and wall mounted

-All external doors including those to the shared passage shall have a door entry phone system and electronic lock release

-All the dwellings shall be suitably with an intruder alarm by a registered SSAIB or NSI engineer to British Standard (BS EN 50131 Grade 2)

Reason: To ensure the safety and security of the development and its occupiers in compliance with NPPF 12 and saved policy ENV32 of Walsall's Unitary Development Plan.

CEMP

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

1. Construction working hours
2. Parking and turning facilities for vehicles of site operatives and visitors
3. Loading and unloading of materials
4. Storage of plant and materials used in constructing the development
5. A scheme for recycling/disposing of waste resulting from construction works
6. Temporary portacabins and welfare facilities for site operatives
7. Site security arrangements including hoardings
8. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
9. Measures to prevent flying debris

10. Dust mitigation measures
 11. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
 12. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures
- b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

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

Asbestos

12. a) Prior to commencement of the development hereby permitted an asbestos survey shall be carried out and an asbestos Method Statement detailing actions to be taken and timescales for the taking of such action shall be submitted in writing to and approved in writing by the Local Planning Authority.
- b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved asbestos Method Statement.
- c) Any asbestos identified shall be removed in accordance with current best practice and regulations.
- d) Prior to commencement of demolition of the existing building a validation report confirming that all asbestos on site has been safely disposed of shall be submitted in writing to and approved in writing by the Local Planning Authority.

Reason: To prevent potential contamination of the ground due to any potentially hazardous materials associated with the buildings or their previous use in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

Notes for Applicant

Severn Trent Water

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

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the

decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

Notes for Applicant – Air Quality SPD

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

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

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near

the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be

capable of handling 3-phase power if supply is subsequently upgraded.

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

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

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning

Guidance,

- Black Country Air Quality Supplementary Planning Document (SPD),

- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply

Equipment Association (April 2015),

- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment

Installation.

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and s106 to secure Open Space contribution and subject to:

- The amendment and finalising of conditions
- Satisfactory completion of a Section 106 agreement for open space contribution, and
- Subject to no further objections from consultees to amended plans received

End of officer report

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 04 February 2021

Plans List Item Number: 3.

Reason for bringing to committee

Major application

Application Details

Location: REDHOUSE NURSING HOME (UK) LTD, 55, REDHOUSE STREET, WALSALL, WS1 4BQ

Proposal: PROPOSED CHANGE OF USE FROM NURSING HOME (USE CLASS C2) TO PROVISION OF A 35 BEDROOM HOUSE IN MULTIPLE OCCUPATION (HMO) (SUI GENERIS) FOR PEOPLE SHARING ASSOCIATED AMENITY, RECREATION, TRAINING AND LAUNDRY FACILITIES

Application Number: 20/0802

Case Officer: Fiona Fuller

Applicant: Rahul Sahay

Ward: Palfrey

Agent: Hepburn Daoudi Architects Limited

Expired Date: 15-Oct-2020

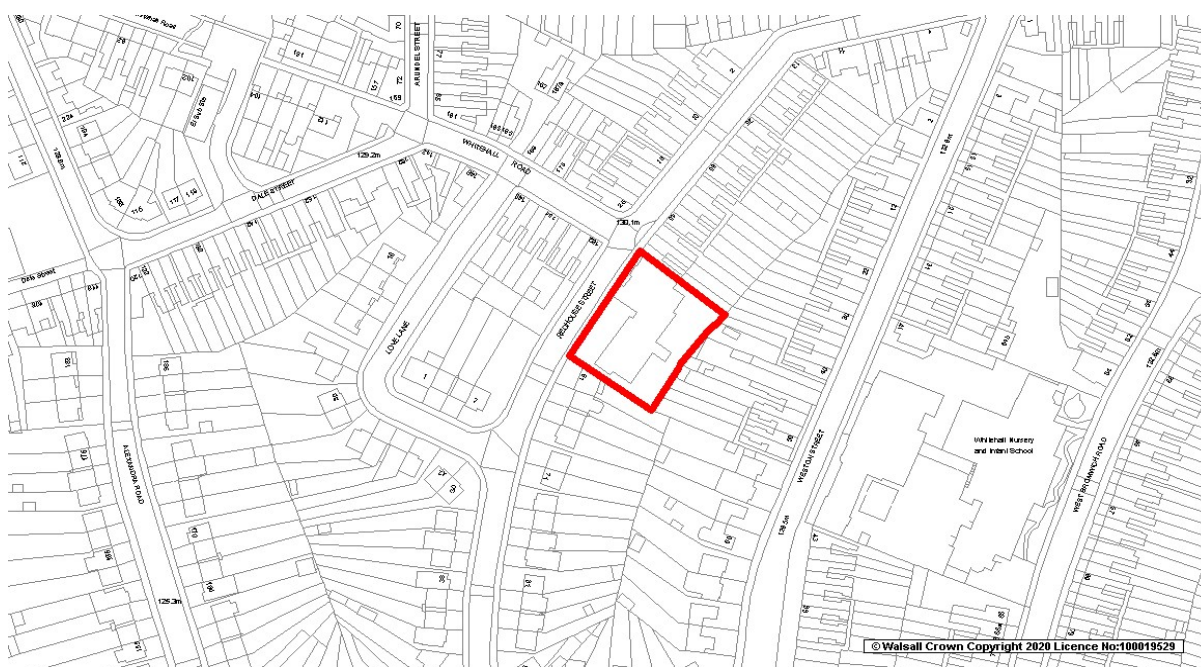
Application Type: Full Application: Major Use Class C2 (Residential Institutions)

Time Extension Expiry:

Recommendation

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

- The amendment and finalising of conditions; and
- No new material considerations being raised by consultees



Proposal

The applicant seeks planning permission for the proposed change of use from a nursing home (Use Class C2) for the provision of a 35 bedroom House in Multiple Occupation (HMO) (sui generis) for people sharing associated amenity, recreation, training and laundry facilities.

The applicant has provided the following documents to support the application:

- Design and Access Statement
- Management Plan
- Planning Statement

Site and Surroundings

The application site is a modern two storey red brick building and gardens situated in a predominantly residential area. The area is predominantly characterised by rows of terraced dwellings fronting directly onto the street, though to the south of the site there are a number of mid-20th century semi-detached and terraced dwellings with larger front and rear gardens.

The application site currently has a car park to the rear accessed via an undercroft from Redhouse Street, with a further parking area to the front. The site has small garden area to the rear along with a rear conservatory.

The application site is not in a conservation or the application building is not a listed building or adjacent to a listed building.

Relevant Planning History (*Officer Comments in Italics*)

- BC54314 for variation of condition 11 of BC37581 – premises shall be used as a Nursing Home and no other purpose was granted on 15 June 1999.
- 05/0908 for the demolition of 53 Redhouse Street, erection of two storey side extension, re-siting of vehicular cross over was approved on 05 July 2005.
- 06/0629 for the demolition of 53 Redhouse Street and extension to provide additional bedrooms, en-suites and lounge, re-siting of vehicular crossover was refused on the grounds on 3 July 2006 and the subsequent appeal was dismissed on 15 November 2006.
- 07/0240 for the demolition of 53 Redhouse Street and erection of ground floor and first floor extension to provide additional bedrooms, en-suites and lounge was granted on 12 June 2007.
- 08/1741 for two storey side and single storey rear extensions (amendment to 07.0240 was refused on 16 January 2009 on the grounds of highway safety.
- 09/0532 for two storey side and single storey rear extensions (amendment to 07/0240) was granted on 04 September 2009. Conditions 1 and 2 discharged under 09/1441.

- 11/1365 for demolition of 61 Redhouse Street and erection of two storey side extension adjacent nursing home, including conversion of bathroom to bedroom, installation of 2 windows on front elevation and creation of parking area was granted on 1 March 2012.
- 18/099 for works to protected trees part approved and part refused on 21 March 2018.
- 19/1266 for Change of use from Nursing Home (C2) to 11 no. 1 Bed Apartments and 3no. 2 Bed Apartments (C3) – currently undetermined (*applicant confirms this application is now unlikely to be pursued due to unforeseen circumstances*)

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

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

On planning conditions the NPPF (para 55) says:

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

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

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

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Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV18: Existing Woodlands, Trees and Woodlands
- ENV32: Design and Development Proposals
- H7: Hostels and Houses in Multiple Occupation
- T7 - Car Parking
- T9 – Cycling
- T10: Accessibility Standards – General

- T13: Parking Provision for Cars, Cycles and Taxis
- 8.3 Urban Open Space

Black Country Core Strategy

- CSP3: Environmental Infrastructure
- CSP4: Place Making
- DEL1: Infrastructure Provision
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV3: Design Quality
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

EN1: Natural Environment Protection, Management and Enhancement

HC2: Development of Other Land for Housing

HC3: Affordable Housing and Housing for People with Special Needs

T2: Bus Services

T4: The Highway Network

T5: Highway Improvements

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW8 Adaptability

Air Quality SPD

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

Consultation Replies

WEST MIDLANDS FIRE SERVICE: No objection but offered informative

COAL AUTHORITY – No coal mining risk assessment is required.

WMBC COMMUNITY SAFETY – No objection and offered advice.

PUBLIC HEALTH – No objection.

NATURAL ENGLAND – No comment but offered informative.

POLLUTION CONTROL - No objection.

PLANNING POLICY – No planning policy issues

POLICE DESIGNING OUT CRIME OFFICER (DOCO) – No objection but offered security measures informative

HIGHWAY AUTHORITY (TRANSPORATION) – No highway impact

TOWN CENTRE MANAGER – No objection.

NETWORK RAIL – No comment

HOUSING STANDARDS – No objection subject to a Premises Management Plan condition being imposed and a HMO licence being completed and submitted by the applicant.

SEVERN TRENT WATER - No objection and offered advice

AREA PARTNERSHIP St Matthew's/Paddock/Pa – No response received at the time of preparing this report

Representations

78 neighbours were notified via letter and site notice. Letters of objection were received from 6 addresses. Grounds for objection were as follows (*officer comments in brackets and italics*):

- Type of people/ and their lifestyle using the proposed development/ risk of anti-social behaviour from the users (*this would be minimised through an appropriate management plan*)
- Objectors cited users will have young families (*this is considered would reflect the residential nature of the locality*)
- All neighbours should have received copy of the plans/ notified/ letters sent all residents in Whitehall Road and Collins Street/ no knowledge of the application apart from the site notice (*the Local Planning Authority has met its statutory duty to notify nearby residents through letters, site notice and local press advert*)
- Planning department will only receive response from a few (*the opportunity to comment on this planning application is available to all*).
- There should be more time in the consultation period (*additional comments can be made throughout the determination period*).
- There will be loss of light or overshadowing.
- Devalue property (*This is not a material planning consideration*)
- Impact on security/safety/mental health on the residents.
- Inadequate parking and access on the street/ generate extra traffic/ impact in parking
- Overlooking/loss of privacy.
- Objectors lived the area for a long time (*this is not a material planning consideration*)

- Risk of a possible expansion in the future (*each application must be assessed on its own merits*)
- The proposed change of use is not appropriate for the area/ doesn't want the change of use to go ahead/ residential family setting
- Poor advertisement of the application property is the reason the premise was not sold (*this is not a material planning consideration*)
- The applicant owns four/ five properties on the street. The father –law has several properties (*this is not a material planning consideration*)
- Will not bring any jobs (*this is not pertinent to the nature of this current application before the Local Planning Authority*)
- Objector will support the original application of apartments for over 55s (*each application must be assessed on its own merits*)
- Noise and disturbance resulting from the end users (*a premises management plan condition should reduce any potential amenity issues*)

Determining Issues

- Principle of Development
- Design and Character of the Area
- Amenity of Nearby Residents
- Community Safety
- Highway Safety

Assessment of the Proposal

Principle of Development

The site is within the development boundary and is unallocated on the Walsall Site Allocations Document, whilst its last known use was as a nursing home falling under Use Class C2. The site is sustainably located in an established residential area, with various local amenities such as shops, schools, pubs and places of worship within 300m. The site is also accessible by public transport with the nearest bus stop approximately 175m away on Weston Street.

The proposal is a proposed change of use from a nursing home (Use Class C2) for the provision of a 35 bedroom House in Multiple Occupation (HMO) (sui generis) for asylum seekers arriving into Walsall. In addition, the users benefit from sharing associated amenity, recreation, training and laundry facilities.

In the original proposed description, there was a lack of clarity on the intended use. The Council's Strategic Planning Policy team were consulted and questioned whether the proposal is for a hostel rather than a HMO. This point was relayed to the agent, who responded accordingly with a detailed response. A suitable description has now been agreed with the applicant and the Local Planning Authority, which is presented in this report.

The proposal falls within the realms of a HMO as opposed to a hostel because on a day to day basis the users are actively encouraged to live independently. They will be cooking their own meals, they will have their own bedrooms and 11 of the bedrooms include en-suite facilities. The users will be actively supported to use the resources (i.e. training/ launderette) to further help towards their independence.

There is no exact period the users will be staying at the premises but it is likely it will be on a longer term basis as oppose to a 'short term stay.' Throughout the numerous communication with the applicant, the case officer ascertained that the applicant has extensive experience in the medical/ care field.

The applicant explains the end users are likely to stay for at least 6-12 months.

On balance, the proposal is considered to be acceptable in principle subject to a full assessment of the impact on the local environment as set out below.

Design and Character of the Area

The proposal includes no changes to the external appearance of the existing building along with minor internal alterations to accommodate the intended use. The existing building is a brick facing and a pitched roof. It reflects the buildings around the application site/ building. The proposed internal alterations to the existing building will not impact on the visual amenity of the site surrounding. The proposal is therefore in accordance with saved Policy ENV32 of the Walsall Unitary Development Plan, Policy ENV3 of the Black Country Core Strategy, the Designing Walsall Supplementary Planning Document and Section 12 of the National Planning Policy Framework.

Amenity of nearby Residents

Objections were received from neighbours on the grounds of overlooking and loss of privacy, noise and disturbance. The proposal will not include any external development/ alterations therefore the development will not result in any additional overshadowing of neighbouring properties. Therefore it would be unlikely any impact on occupiers of the neighbouring property.

Whilst the proposal amounts to a change of use, the former use as a nursing home is residential in nature, and the impacts on the occupants of nearby dwellings are predominantly related to the use of the private amenity space and bin stores. The bin stores have been designed to be fully concealed to reduce the noise impact on neighbours. This point fully satisfied the Town Centre Manager's query.

Furthermore, the proposal is considered unlikely to result in undue additional noise and disturbance for neighbouring residents over and above the former use.

Community Safety

The proposed change of use from a nursing home to a 35 bedroom House in Multiple Occupation (HMO) is not considered to result in any community safety implications. The Police Designing Out Crime Officer (DOCO) requested additional information which the applicant provided in the form of a management plan.

On receipt of the document, the (DOCO) expressed concerns based on the content in the management plan. It is important to note, some of the DOCO's response wasn't planning related but the case officer wanted to give the applicant an opportunity to address the comments.

The applicant provided a detailed response i.e. regarding the end users and the case officer forwarded to DOCO. On receipt of the additional information the DOCO raised no objection and suggested that all bedrooms have en-suites, secure locks on the internal doors. Once again these measures were internal arrangements which are not planning issues but the case officer included suggestions in the informative section for the agent's perusal

Furthermore, a key to any HMO development is the satisfactory operation and management of the premises by operator. The Housing Standards Officers would like the applicant sign up to PMP – Premises Management Plan for the property will ensure the safety and protection of the residents and surrounding residential occupiers and the appropriate level of management for the premises and complete and submit a HMO licence

The PMP should include a procedure for dealing with any breaches of the tenancy agreement such as bad behaviour etc. and includes safeguarding measures such as monitored CCTV. The wording of the plan will be agreed between Housing Standards Team, applicant and any other party (ies) and will be secured by condition.

Furthermore, it is also considered necessary to include a security measures condition and an informative as recommended by the Police to help minimise any amenity issues.

Highway Safety

The Highway Authority was consulted and was fully satisfied that the proposal will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF. The proposal is therefore in accordance with Saved Policies T7 and T13 of the Walsall Unitary Development Plan, Policy TRAN2 of the Black Country Core Strategy, Policy T4 of the Walsall Site Allocation Document and the National Planning Policy Framework.

Conclusions and Reasons for Decision

The proposed change of use is not considered to have any significantly adverse impact on the character of the area, residential amenity or community or highway safety. Taking into account the above factors it is considered that the application should be recommended for approval subject to conditions as set out in the report.

Positive and Proactive Working with the Applicant

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

Recommendation

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

- The amendment and finalising of conditions; and
- No new material considerations being raised by consultees

Conditions and Reasons

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

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

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

- Drawing No.PL05 – Drawing: Proposed Site Plan – Date: July 2020
- Planning Statement – received 16th July 2020
- Management Plan – received 20th October 2020
- Drawing No.PL01 – Drawing: Proposed Location Plan – Date: July 2020
- Drawing No.PL03 – Drawing: Existing Floor Plans and Elevations – Date: July 2020
- Drawing No.PL02 – Drawing: Block Plan – Date: July 2020
- Application Form – Date: 15th July 2020
- Design and Access Statement – Date: May 2020
- Drawing No.PL04 – Drawing: Proposed Floor Plans and Elevations – Date: July 2020

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

3: Prior to commencement of the development hereby permitted a Premises Management Plan (PMP) shall be submitted to and agreed in writing by the Local Planning Authority and shall thereafter be maintained in operation for the lifetime of the development.

Reason: To ensure the safety and security of the development, its occupiers and local residents in compliance with NPPF 12 and saved policy ENV32 of Walsall's Unitary Development Plan.

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

- All ground floor windows and over accessible roofs to have not less than one pane of 6.4mm laminated glass.
- There should be an area of defensible space in front of all ground floor rear facing windows
- All ground floor windows and over accessible roofs to be PAS24; 2016

Reason: To ensure the safety and security of the development and its occupiers in compliance with Saved Policy GP2 of the Unitary Development Plan, DW2 of the Designing Walsall SPD and the National Planning Policy Framework.

Notes for Applicant

West Midlands Fire Service:

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

Requirement B5: Access and facilities for the fire service

Section 13: Vehicle access

Provision and design of access routes and hard-standings

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

13.2 For flats, either of the following provisions should be made.

a. Provide access for a pumping appliance to within 45m of all points inside each flat of a block, measured along the route of the hose.

b. Provide fire mains in accordance with paragraphs 13.5 and 13.6.

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

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

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 2, Table 15.2)

Section 14: Fire mains and hydrants – flats

Provision of private hydrants

14.8 A building requires additional fire hydrants if both of the following apply. a. It has a compartment with an area of more than 280m².

b. It is being erected more than 100m from an existing fire hydrant.

14.9 If additional hydrants are required, these should be provided in accordance with the following. a. For buildings provided with fire mains – within 90m of dry fire main inlets.

b. For buildings not provided with fire mains – hydrants should be both of the following. i. Within 90m of an entrance to the building.

ii. A maximum of 90m apart.

14.10 Each fire hydrant should be clearly indicated by a plate, fixed nearby in a conspicuous position, in accordance with BS 3251.

14.11 Guidance on aspects of the provision and siting of private fire hydrants is given in BS 9990.

Community Safety:

There are a number of area within the immediate area of the building which will offer cover for residents if they do need to imbibe which should also be monitored, for example the area to the rear and just outside, wherever there is planting cover and also the gap between this property and the adjacent building. I would advise that the owner/management maintain good relations with police and local authority and produce an enforceable code of conduct for residents which would include engaging in any criminal or anti-social behaviour both inside and outside of the premises.

Natural England:

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>.

West Midlands Police

Recommend the use of a reception area to reduce potential problems within the building and ensure the single occupancy to rooms is maintained.

Other information on Asylum Accommodation is available at the below link.
<https://www.gov.uk/government/publications/an-inspection-of-the-home-offices-management-of-asylum-accommodation-provision>

Security:

Any external doors to the building to be PAS24; 2016

Dusk until dawn lights (white light source) to be installed adjacent to each external door

- Mail boxes shall be located at the primary entrance/exit lobby point of the building, covered by CCTV, 1.5mm steel letterboxes of robust construction, lockable individual letterboxes, secure, anti-identity theft proof and wall mounted

- Recycling and refuse areas shall be a lockable storage facility

- All external doors including those to the shared passage shall have a door entry phone system and electronic lock release

- All the building shall be suitable with an intruder alarm by a registered SSAIB or NSI engineer to British Standard (BS EN 50131 Grade 2)

Housing Standards Team

That a premises management plan which states clearly how ASB and other related issues will be managed be submitted by the applicant for consideration by the relevant council sections and partners including the Police.

That the premises will require an HMO licence and so the owner will need to ensure that it complies with the Amenity Standards for HMO and that they apply and obtain the relevant licence from the council before the premises is occupied by more than 4 unrelated persons.

Recommendation

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

- The amendment and finalising of conditions; and
- No new material considerations being raised by consultees

End of Officers Report

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 04 February 2021

Plans List Item Number: 4.

Reason for bringing to committee

Called in by Councillor Gurmeet Singh Sohal due to significant public interest

Application Details

Location: LAND TO REAR OF 5 AND 7 JESSON ROAD, WALSALL, WS1 3AY

Proposal: PROPOSED ERECTION OF 3 NO. DWELLINGS INCLUDING GARAGES AND INCORPORATING LANDSCAPING ON LAND AT REAR OF 5 TO 7 JESSON ROAD.

Application Number: 20/0745

Case Officer: Leon Carroll

Applicant: Ajon Properties Ltd

Ward: St Matthews

Agent: Lapworth Architects

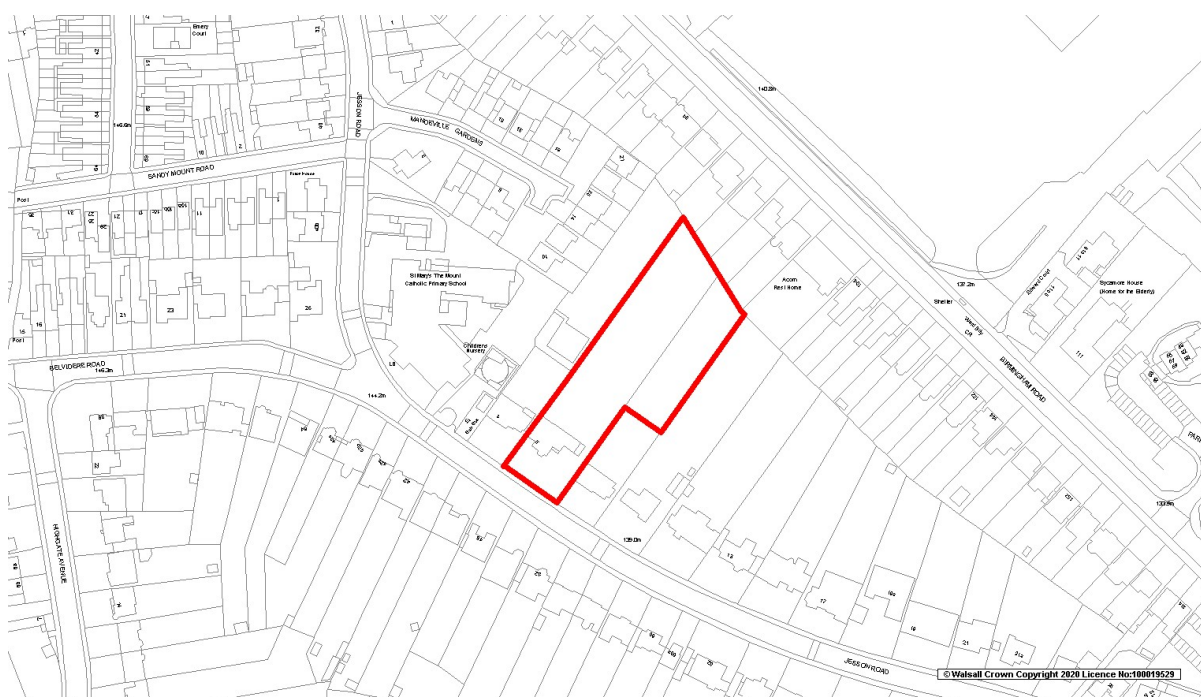
Expired Date: 27-Aug-2020

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

Time Extension Expiry: 19-Nov-2020

Recommendation

Refuse Permission



Proposal

The proposal relates to the construction of three detached bungalow dwellings with integral garages on land to the rear of 5 to 7 Jesson Road along with access, landscaping and parking. Each of the dwellings has been designed with double fronted gable front elevations, and access to the development is proposed via a new access road located between Nos 5 and 7 Jesson Road, with a turning head within the site. Plot 1 is proposed to have four bedrooms whilst plots 2 and 3 would have three bedrooms.

Site and Surroundings

The site comprises the domestic curtilages to the rear of No 5 and No 7 Jesson Road and the entire site is covered by a group Tree Preservation Order. Jesson Road is characterised by large detached dwellings with very long rear gardens on both the northern and southern side of the road, which is lined with mature trees.

Relevant Planning History

10/1156/OL: Outline application (Considering layout, access and scale) for three detached dwellings with access between 5 & 7 Jesson Road. Refused 19/10/10
Reasons for refusal: Loss of gardens due to piecemeal uncoordinated backland development; Overlooking; Loss of trees; Impact on protected species; Intensification of an inadequate access.

12/1251/FL: Proposed demolition of 7 Jesson Road and erection of 8no new houses, including garages and infrastructure. Refused 27/06/13
Reasons for refusal: Unacceptable backland development and erosion of established private gardens; Loss of trees; Impact on neighbour's amenity.

14/0847/FL: Proposed demolition of no. 7 Jesson Road and erection of 5no. new houses including garages, gardens and infrastructure. Refused 24/09/14
Reasons for refusal: Unacceptable backland development; harm to highway safety due to poor access.
Appeal dismissed 10/07/15.

18/0892 (7 Jesson Road): Two storey side and rear extensions and front porch.
Approved 20/09/18

20/0876: Fell 4 conifer trees, and 1 unknown tree (as identified on the submitted sketch plan), in the rear garden of 7 Jesson Road. Grant Permission for Work(s) to Protected Trees 26/11/20

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

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

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

- sexual orientation

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV16: Black Country Urban Forest
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General

Black Country Core Strategy

- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV3: Design Quality

- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality
- MIN5: New Proposals for Mineral Development

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing
 EN1: Natural Environment Protection, Management and Enhancement
 EN3: Flood Risk
 T5: Highway Improvements

Supplementary Planning Documents

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

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

Air Quality SPD

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

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

Consultation Replies

Highway Authority – object on the grounds of poor visibility from the proposed access. Officers noted that similar proposals have been refused in the past and one case was dismissed on appeal when the Inspector assessed that the combination of the narrow access, restricted visibility and the proximity of the site to a nearby school combined to render the proposal unacceptable in terms of highway safety. Officers consider that despite justification provided by the applicant in submitted Transport Statement that the development cannot be carried out without harm to highway safety.

Coal Authority – No objection, standing advice recommended.

Pollution Control – No objection. Conditions are required to install ultra-low NOx boilers and electric vehicle charging points, and to control impacts during construction activities.

Tree Officer – No tree survey or tree protection measures have been submitted. Private amenity spaces for Plots 1 and 2 are located close to mature and maturing trees which will cast significant shade. Consequently, there is likely to be future pressure placed on the Council to allow severe pruning or felling of trees that make a useful contribution to the amenity, aesthetic and landscape value of the area. I therefore recommend refusal of this application based on the impact on the protected trees and the lack of supporting information.

West Midlands Fire Service – No objection.

Severn Trent Water – No objection.

Planning Policy – Officers had no site specific comments but signposted relevant policies. Officers noted that the proposal will add to the supply of housing so can potentially be supported by NPPF paragraph 59, subject to detailed consideration of the potential impact on trees and the amenity of neighbouring properties.

Representations

65 letters of objection were received from 44 addresses. Grounds for objection were as follows (officer comments in *italics*):

Matters addressed in the report:

- Not in keeping with surroundings/overdevelopment
- Impact on trees
- Highway safety
- Traffic congestion
- Impact on wildlife
- Loss of privacy

Other matters:

Precedent – Whilst every development proposal must be judged on its own merits based on the relevant material considerations, the Planning Inspector dealing with the appeal against refusal in 2014 acknowledged that an approval of that scheme could set a precedent for other developments which would further erode the character of the area, resulting in a series of access drives along Jesson Road.

Determining Issues

- Principle of development
- Design, Appearance and Impact on Local Environment
- Residential Amenity
- Highway Safety
- Trees and Ecology
- Flood Risk
- Local Finance Considerations

Assessment of the Proposal

Principle of Development

The proposal would add to the supply of housing so could potentially be supported by paragraph 59 of the National Planning Policy Framework, subject to detailed consideration of the potential impact of the proposal on local character, trees and the amenity of neighbouring properties.

Design, Appearance and Impact on Local Environment

The attractive character and appearance of Jesson Road derives from the spacious plots and traditional dwellings which face the tree lined street. The current proposal is of a smaller scale than previously refused schemes on this site but would still not be well connected with the surrounding streets, and would not have an active street frontage which is typical of the existing street scene and surrounding environs. Other culs-de-sac in the area, such as there are, have a more open relationship with their surroundings than the proposed development which would be accessed via very narrow access road between the existing dwellings at 5 and 7 Jesson Road. The current application has failed to address the previous reasons for refusal in 2014 and the findings of the planning inspector at the appeal stage in 2015.

The proposed development would therefore be poorly related to the prevailing character of the area, and would represent inappropriate backland development which would erode the spatial characteristics of the large domestic gardens enjoyed by dwellings on both sides of Jesson Road. The bungalow style dwellings would also be at odds with the vast majority of dwellings on the street which are predominantly large two storey structures.

Whilst the proposed development would provide an adequate standard of amenity for its future occupants in terms of internal accommodation it is considered that the proximity of the existing mature protected trees to the private amenity space of plots 1 and 2 would provide unsatisfactory living conditions for the future occupants of those dwellings,

Furthermore the density, appearance and layout of the three bungalow dwellings would be out of keeping with its surroundings and would be contrary to saved policies GP2 and ENV32 of the Walsall Unitary Development Plan, policies, CPS4 and HOU2 of the Black Country Core Strategy and policies DW3, DW4 and DW6 of the Designing Walsall Supplementary Planning Document.

Residential Amenity

A large number of objections were received from the occupants of nearby dwellings, including concerns that the proposal would result in a loss of privacy. The three proposed dwellings are all single storey, therefore existing and proposed boundary treatments are likely to provide some form of screening from overlooking of outdoor amenity spaces at neighbouring dwellings. The proposed dwellings are positioned such that separation distances between windows in the development and windows in neighbouring dwellings are adequate to prevent overlooking and are in accordance with the requirements set out in Appendix D of the Designing Walsall Supplementary Planning Document. The proposed dwellings are single storey and therefore will not result in any significant additional overshadowing of neighbours or cause a loss of outlook. The proposal is therefore acceptable in terms of residential amenity.

Highway Safety

The most recent application for residential development of the site was refused on highway safety grounds, and an appeal to the planning inspectorate dismissed for the same reason. Jesson Road is characterised by large detached houses with wide frontages, and the road itself is lined with mature trees. Approximately 50m to the north west is a primary school. No 5 Jesson Road currently has a horseshoe shaped driveway with two accesses onto the highway. The three proposed dwellings are to be accessed via a narrow access drive between Nos 5 and 7 Jesson Road, and will join the highway in the approximate location of the easternmost driveway of No 5. The applicant has submitted a transport statement which has been considered by the highway authority who have advised that the justification therein does not outweigh their concerns. The proposed access would serve three dwellings rather than one, and this intensification of use, combined with poor visibility for vehicles using the access and pedestrians, cyclists and drivers on the highway are likely to be harmful to highway safety. Highway officers noted that at the beginning and end of the school day Jesson Road is extremely busy and there are a large number of vehicles parked at the side of the road, as parents arrive to drop off and collect pupils. The planning inspector in 2015 also raised concerns regarding this matter and concluded that taking all the above factors into consideration the development could not be carried out without having a detrimental impact on highway safety. Whilst the current proposal would result in a net increase of three dwellings rather than four as proposed in 2014, the applicant has not been able to overcome the previous concerns and the proposal is unacceptable for the same reasons as before.

Trees and Ecology

The entire site is covered by a group Tree Preservation Order and the presence of mature trees on site has the potential to provide roosting opportunities for bats. The applicant has not submitted a tree survey or any form of ecological assessment. Saved policy ENV23 of the Walsall Unitary Development Plan requires all developers to ensure “the layout of all new development takes full account of existing

features of value for wildlife or geology. Where loss or damage of existing features is unavoidable, the Council will require mitigation measures which adequately compensate for the features lost.

Policy ENV1 of the Black Country Core Strategy states “that adequate information must be submitted with planning applications for proposals which may affect any important habitat, species or geological feature to ensure that the likely impacts of the proposal can be fully assessed. Without this there will be a presumption against granting permission.”

Saved policy ENV18 of the Walsall Unitary Development Plan states that “development will not be permitted if it would damage or destroy trees or woodlands protected by Tree Preservation Order”. The application has not been accompanied by any form of tree survey or tree protection measures therefore it has not been possible to properly assess whether trees would be adversely affected during the construction phase of the development. The proposed site plan shows indicative canopy and root protection areas but it is not clear on what evidence these are based.

The proposal suggests that a number of trees will be relocated, however no information on the health or value of these trees has been provided, nor any methodology of how they are to be relocated, therefore it must be assumed that there is significant risk to these trees, and their relocation cannot be supported.

Further to the potential harm to the existing protected trees on site during construction, the Council’s Arboriculturalist has expressed concerns that the proximity of mature protected trees to the private amenity space of both Plots 1 and 2, and the orientation of the plots in relation to the path of the sun, are likely to result in future pressure to lop or fell the protected trees due to overshadowing and perceived threat. The trees make a key contribution to the aesthetic character and landscape amenity of the area and the risk to the trees is considered to be unacceptable. Whilst an application was approved in 2020 to remove three conifer trees and a bush on the north eastern boundary of the existing garden of 7 Jesson Road, there still remain a number of mature, protected trees on site.

Therefore given the lack of appropriate detail and mitigation measures for the potential significant harm to protected trees and protected species the proposal is contrary to saved policies GP2, ENV16, ENV18 and ENV23 of the Walsall Unitary Development Plan, policy ENV1 of the Black Country Core Strategy and the National Planning Policy Framework.

Flood Risk

The site, which is in Flood Zone 3, is not in an area known for flooding and there are no watercourses nearby. It is therefore considered that the development would be acceptable in terms of flood risk if accompanied by an appropriate foul and surface water drainage scheme.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to ‘local finance considerations’ when determining planning applications. In Walsall

at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes three new homes.

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

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

Conclusions and Reasons for Decision

The proposal represents inappropriate backland development which would fail to integrate with the existing pattern of development and would have an adverse impact on highway safety, trees and protected species.

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

Positive and Proactive Working with the Applicant

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal, and with previous similar proposals, and discussing those with the applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the full details of the harm identified within the reasons for refusal – which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

Recommendation

Refuse

Reasons for Refusal

1. The proposal represents inappropriate backland development which would cause harm to the character and amenity of the local area, would erode the spatial characteristics of the existing site and would be poorly related to its surroundings in terms of design, density and layout, contrary to saved policies GP2 and ENV32 of the Walsall Unitary Development Plan, policy CSP4, ENV3 and HOU2 of the Black Country Core Strategy, policies DW3, DW4 and DW6 of the Designing Walsall Supplementary Planning Document and section 12 of the National Planning Policy Framework.
2. The proposal would, by reason of inadequate visibility from the proposed vehicular access to the site, cause significant harm to the highway safety of drivers, cyclists

and pedestrians contrary to saved policies GP2, T10 and ENV32 of the Walsall Unitary Development Plan and policy TRAN2 of the Black Country Core Strategy.

3. The application as submitted provides insufficient information which has prevented its proper consideration by the Local Planning Authority. In particular, the application fails to provide relevant information relating to protected species which may be affected by the development. The proposal is therefore contrary to saved policies GP2 and ENV23 of the Walsall Unitary Development Plan, policy ENV1 of the Black Country Core Strategy and paragraph 175 of the National Planning Policy Framework.

4. The application as submitted provides insufficient information which has prevented its proper consideration by the Local Planning Authority. In particular, the application fails to provide relevant information relating to the protected trees on site. The proposal is therefore contrary to saved policies GP2, ENV16 and ENV18 of the Walsall Unitary Development Plan.

Recommendation

Refuse: Planning Permission

End of Officers Report

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 04 February 2021

Plans List Item Number: 5.

Reason for bringing to committee

Council owned land

Application Details

Location: WALSALL COUNCIL, CAR PARK, NEWPORT STREET, WALSALL

Proposal: TEMPORARY (2 YEAR) RETENTION OF CHANGE OF USE FOR OPEN STORAGE AND PLACEMENT OF CONTAINERS FOR USE BY MARKET TRADERS AND WIDENED PEDESTRIAN ACCESS GATE.

Application Number: 20/1091

Case Officer: Rebecca Rowley

Applicant: Walsall Council

Ward: St Matthews

Agent:

Expired Date: 17-Jan-2021

Application Type: Full Application: Change of Use

Time Extension Expiry: 28-Feb-2021

Recommendation

Grant Planning Permission Subject to Conditions



Proposal

This application is a re-submission following the previous temporary planning permission expiring on 31 March 2019 for the use of the land on the corner of Newport street and Lower Hall Lane for storage for use by the town centre markets personnel.

This application proposes a further temporary 2 year storage for market purposes comprising

- 4 no. large metal storage containers (20ft x 8ft)
- 5 no. small metal storage containers (10ft x 8ft)
- 20 no. '1100 litre' bins (3.28ft x 3.94ft)

Unfortunately, the new Walsall market and associated storage has suffered a delay which will have been exacerbated by the current circumstances relating to Covid-19, hence the requirement for an extension on the current temporary use of this site.

In order to provide a continuous level of storage to the market traders who currently hire containers, this temporary consent seeks to allow the continued use of the site for temporary storage until the new market and storage area is implemented.

Access to the site will be required on a 24 hour basis.

The existing ground surface treatment and boundary treatment would be retained although, this application requests permission to widen the existing 1.5m wide gap in the eastern corner of the boundary wall for the pedestrian access gate by 0.7m to a width of 2.2m.

One tree at the south east corner of the boundary and one tree at the north west corner will be crown lifted where required.

Site and Surroundings

The application site is a Council owned site which is on the corner of Newport Street and Lower Hall Lane within Walsall Town Centre is a cleared site being approximately 261m² in size and having been used for the storage of market goods for the past almost 5 years following a permission granted in 2015 and an extension to this use granted in 2017 as detailed in the planning history.

The site lies within the Bridge Street Conservation Area with Church Hill Conservation Area and Grade II Listed Buildings directly opposite along Lower Hall Lane to east. Government Offices at Lower Hall Lane (occupied by the Pension Service) exist across the road to south of the site along with a privately owned commercial building to west (No.12 Newport Street) and offices currently occupied by Age Concern (No.50 Lower Hall Lane) to north. Black 2.1m high railings and vehicle gates are present on the site.

The previous consent included an 8m high lighting column and creation of pedestrian access gate at Lower Hall Lane.

Relevant Planning History

05/1662/FL/W1 – Placement of 2 off 20ft and 7 off 10 ft storage containers on the former motorcycle park. Erection of security fencing and gated entry on former motorcycle park. Placement of 5 off 20ft, 1 off 24ft and 5 off 10ft storage containers adjacent to markets car park – granted permission – 27/10/2005

15/0138/FL - Temporary change of use for up to 2 years for open storage comprising 4 large steel containers (20ft x 8ft), 5 small steel containers (10ft x 8ft), 20 '1100' bins, erection of lighting column and creation of pedestrian access gate at Lower Hall Lane for use by the Council's Market Service – granted permission – 10/03/2015

15/0726/FL - Removal of condition 4a and 4b of planning permission 15/0138/FL relating to lighting columns no longer being erected – granted permission – 09/07/2015

17/0137 - Temporary retention of change of use for open storage and placement of containers for use by market traders – granted permission – 31/03/2017

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 16 – Conserving and enhancing the historic environment**

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

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

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV27: Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- S1: Definition of Town Centre Uses
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles

Black Country Core Strategy

- CSP4: Place Making
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN4: Regeneration of Town Centres
- ENV2: Historic Character and Local Distinctiveness

Walsall Town Centre Area Action Plan 2019

- AAP1: Walsall Town Centre Boundary
- AAPS1: Primary Shopping Area
- AAPS2: New Retail Development
- AAPS3: The New Walsall Market
- AAPLV5: Protecting and Enhancing Historic Character and Local Distinctiveness
- AAPLV6: Securing Good Design
- AAPLV7: Enhancing the Public Realm
- AAPINV2: St Matthews Quarter
- AAP1: Pedestrian Movement, Access and Linkages

Supplementary Planning Documents

Designing Walsall

- DW3 Character

Other relevant Legislation

- The National Planning Policy Framework and relevant planning practice guidance, Use of Planning Conditions, 23 July 2019

Consultation Replies

- Local Highway Authority – support
- Historic England – no comments to make
- Walsall Civic Society – no comments received
- Public Lighting – no comments received
- Market Traders Association – no comments received
- Tree Preservation Officer – no comments received
- Town Centre Manage – no comments received
- West Midlands Police – no comments received
- Friends of the Earth – no comments received

Representations

Neighbouring occupants were notified of the proposal and a site notice displayed.

No representations were received.

Determining Issues

- Principle of Use

- Impact on the Bridge Street and Church Hill Conservation Areas and nearby Grade II Listed Buildings
- Impact on amenity of local occupants
- Highway Safety/Parking

Assessment of the Proposal

Principle of Use

The application site lies on the corner of Newport Street and Lower Hall Lane, falling within both the Town Centre Primary Shopping Area and St Matthews Quarter boundaries, as identified in the Walsall Town Centre Area Action Plan, although right on the outer edge of the boundary of both.

In accordance with the Town Centre Area Action Plan policies AAPS1, The Primary Shopping Area, as shown on the Policies Map, forms the main focus of activity in the centre and the approach to development in and around the town centre should be to protect and enhance its function as the heart of Walsall Town Centre. Policy AAPINV2, St Matthews Quarter highlights similar requirements to deliver retail functions in this area. Although this proposed use is not retail, nor could it be considered to positively contribute to the street scene, a storage area for the market traders is a requirement to enable the functioning of the market in accordance with policy AAPS3 and in an indirect way, could contribute to the generation of visitor numbers to the Primary Shopping Area. The Walsall Town Centre AAP supports the proposal as it will allow the council to deliver its aspirations with regards to the siting of a permanent location for the town centre market.

Newport Street is a one-way street entered from an area surrounded by retail use. The application site itself is at the top end of Newport Street and was used as a carpark prior to its current use. There are no retail units in the immediate vicinity, rather it is surrounded by offices, residential and education uses. This proposed use is already in existence and is considered would not prejudice retail function. Whilst it is considered that the continued use would not enhance the Conservation Area or nearby heritage assets, neither would it cause any further harm beyond the current use which has previously been considered acceptable.

Under section 72 of the Town and Country Planning Act 1990 the local planning authority may grant planning permission for a specified temporary period only, for example, in cases such as this proposal where it is expected that the planning circumstances will change in a particular way at the end of that period. In this case, it is expected that future development will provide provision for market trader storage in another area of the town centre. Plans for this development have already been delayed and this delay has been further prolonged by the impacts of the Covid-19 pandemic. The National Planning Policy Framework and relevant planning practice guidance provides the following guidance on the use of planning conditions: "It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities)."

There are no current proposals for any use of this site which would be considered closer to the requirements of the AAP and it is considered therefore that a temporary permission for continued use of this site as storage for market traders, is consistent with the function of a town centre in accordance with UDP policies S1, S3 and S4, would benefit the economy and the market at this time of uncertainty and this benefit

is a clear rationale for contradicting the PPG. It is considered necessary for this temporary consent to be extended to allow for the continued operation of the existing Market on The Bridge.

Impact on the Bridge Street and Church Hill Conservation Areas and Impact on nearby Grade II Listed Buildings

Heritage assets and design were previously considered and concluded as acceptable. By allowing a further two-year temporary consent the proposal will continue to support the regeneration of the Walsall Market and delivery of retail consents at Lower Hall Lane. It will assist in progressing the town centre retail growth target and accord with policy CEN3, Primary Shopping Area policies, Development Opportunity WA10 and Spatial Objectives 1 and 5 of the BCCS to create a vibrant and attractive town centre offer.

The only proposed change to the site would be an additional 0.7m width added to the pedestrian access gate which is considered would have limited visual impact on the current appearance of the site or the locality. It is considered that continuation of the existing use would have no further impact on the character of the Bridge Street or Church Hill Conservation area or nearby Grade II listed buildings, nor cause further harm than the situation which has existed for almost 5 years. This proposal is considered would meet the requirements of the Town Centre AAP policy AAPLV5, BCCS policies CPS4 and ENV2 and saved UDP policies GP2, ENV27 and ENV32 and the SPD Designing Walsall policy DW3

Impact on Amenity of Local Occupants

The application site is surrounded by a mixture of office use, education use and some residential, although there are no immediate adjacent residential neighbours. The council accepts that living in a town centre location surrounded by commercial uses, the level of amenity for residents will not be the same as those living in a suburban location. Although access to the site is required 24 hours a day, it is expected that the times of highest use would be early in the morning prior to the market opening and late in the afternoon/early evening after market closing time. Highest use at these times is considered would limit any impact of traffic or noise from the site on the amenity of users/occupants of the nearby offices or education uses. Bins to be stored on site will be emptied whilst in use on the market and no waste will be stored at the application site which reduces the potential for odour nuisance emanating from the site.

The existing use has not raised any complaints from local occupants in the previous 5 years and it is therefore considered that continuation of the same use would not create any further amenity concerns for local occupants beyond the existing situation.

Highway Safety

Although there is a vehicular access gate onto the site from Newport Street, when the containers are in situ, there is insufficient space within the site for the turning circle of a vehicle and therefore, vehicle entry to the site is not permitted. Both Newport Street and Lower Hall Lane are subject to parking restrictions in the form of double yellow lines, although these restrictions do allow for loading and unloading, which is considered to be sufficient for the purposes of the market traders. Considering the times that the site is most likely to be accessed by the market

traders which would be early in the morning and late in the evening it is considered that there should be sufficient space for loading and unloading for short periods. The existing use has not raised any highway concerns and the Local Highway Authority have expressed their support for temporary retention of this use.

Conclusions and Reasons for Decision

The application has demonstrated sufficiently that the continued of use of the site for storage or market traders' containers will serve a town centre need and is unlikely to result in any significant additional harm to the character of the Bridge Street or Church Hill Conservation Areas. There will be no substantial changes to the site as part of this proposal, with the ground surface treatment and boundary treatment being retained, with the exception of a 0.7m increase in the width of the pedestrian access gate. The proposal is for no more than 2 years, and is an interim measure as part of wider regeneration projects around the permanent solution for Walsall market, which will support the vitality and performance of Walsall town centre. Its use will allow the market to operate, provide employment opportunities and will not have any additional impact on surrounding occupants and residents above what they may already experience.

As such the key material planning considerations and consultee responses have been weighed in assessing the planning application and it is considered that the proposed development accords with the aims and objectives of the National Planning Policy Framework, Black Country Core Strategy CEN3, CSP4 and ENV2, Walsall Town Centre Area Action Plan policies AAPS1, AAPS3, AAPLV5 and AAPINV2, Saved Unitary Development Plan GP2, ENV27 and ENV32 and the supplementary Planning Document Designing Walsall and on balance is considered to be acceptable.

The use of safeguarding conditions in respect of the temporary nature of the use, appearance of the site and measures to protect pedestrian safety will ensure that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

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

Positive and Proactive Working with the Applicant

The nature of the application has not required proactive working with the applicant to enable full support to be given to the scheme.

Recommendation

Grant Permission Subject to Conditions

Conditions and Reasons

1: The temporary open storage use hereby approved shall cease on the site and the land cleared prior to the expiration of 2 years from the date of this decision.

Reason: The permanent use of the site for open storage would be inappropriate in this Town Centre location and the Conservation Area in accordance with Walsall Town Centre Area Action Plan policies AAPS1, AAPS2, AAPLV5 and AAPINV2.

2: The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Location Plan, submitted 19/10/2020
- Design and Access Statement, submitted 07/09/2020
- Site Layout Plan (SK27/01/15), submitted 07/09/2020

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

3: The existing powder coated painted black railings shall be maintained and retained for the lifetime of the development.

Reason: To protect the character of the Bridge Street Conservation Area and accord with Town Centre Area Action Plan policy AAPLV5, UDP policy ENV32 and BCCS Policy ENV2.

4: The increased width pedestrian gate hereby permitted shall be retained and shall be inward opening only (shall not open out over the public highway), and shall be self-closing and key-code operated for the lifetime of the development.

Reason: In the interest of safety and security and to accord with Walsall Town Centre AAP policies AAPLV6, AAPLV7 and AAPT1.

5: The site shall not be used for any purposes other than for storage purposes in association with Walsall Council's Market Service and Market Traders at any time.

Reason: To define the permission.

Notes for Applicant

None

Recommendation

Grant Planning Permission Subject to Conditions

End of Officers Report



Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 04 February 2021

Plans List Item Number: 6.

Reason for bringing to committee

Called in by Councillor Khizar Hussain

Application Details

Location: 13 , SOMERS ROAD, WALSALL, WS2 9AU

Proposal: PROPOSED SINGLE STOREY REAR EXTENSION

Application Number: 20/1218

Case Officer: Jobe Elwell

Applicant: Ishmail Mohammed

Ward: Pleck

Agent: Spector Design Ltd

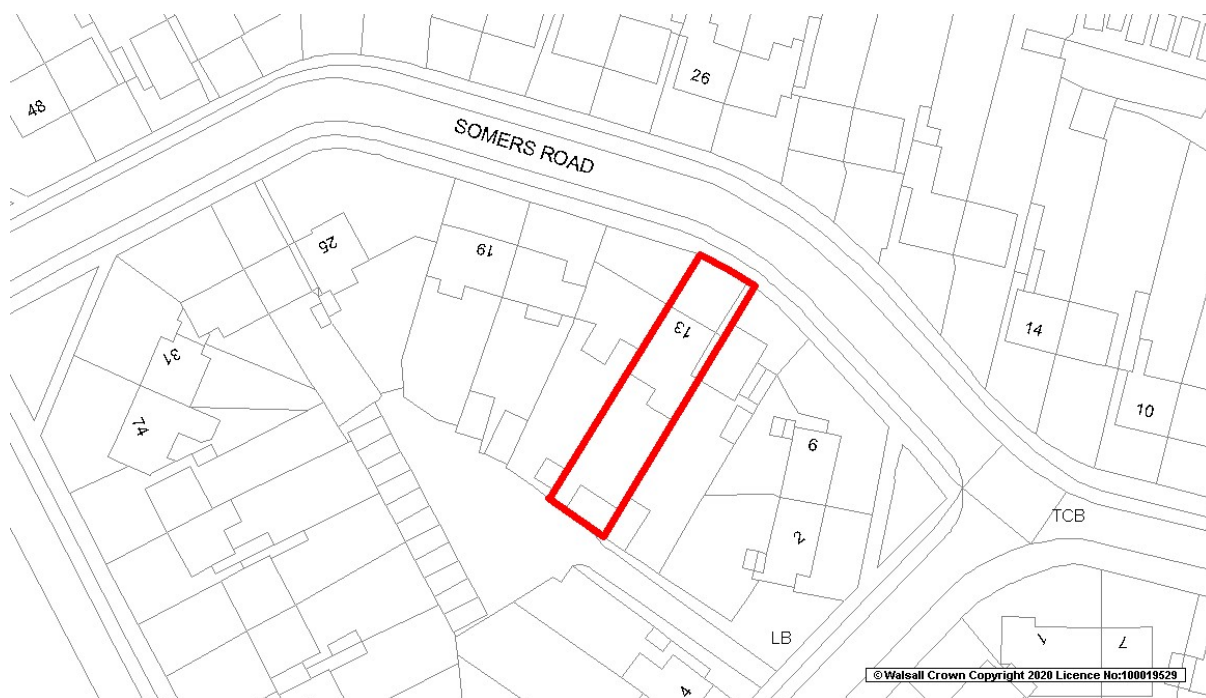
Expired Date: 20-Nov-2020

Application Type: Full Application:
Householder

Time Extension Expiry: 18-Jan-2021

Recommendation

Refuse Permission



Proposal

Proposed single storey rear extension to provide additional space for a disabled occupier.

Proposed Dimensions

4.1m wide
8.9m deep (12.3m deep from original rear wall)
3.0m high to flat roof

Site and Surroundings

The application site is a mid-terrace dwelling, situated within a street scene comprising of semi-detached and terraced houses of similar size, design and facing materials.

Relevant Planning History

05/0392/FL/H2 - Extension to lounge and new kitchen – GSC on 03/05/2005

05/1179/FL/H2 - Extension to lounge, new kitchen with bedroom above – Refused on 01/08/2005

05/1592/FL/H2 - First floor rear extension – GSC on 16/09/2005

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

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

On **planning conditions** the NPPF says:

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- GP6: Disabled People
- ENV32: Design and Development Proposals
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

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

Consultation Replies

Housing Improvement

- The grant award will only be to the level of a small single story extension to the rear to increase the existing living room to create a bedroom and convert the existing ground floor bathroom to a wet room.

Representations

None Received

Determining Issues

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

Assessment of the Proposal

Design of Extension and Character of Area

The proposed single storey rear extension is considered to reflect the character of the existing dwelling which benefits from other recent extensions, providing the facing materials will be consistent with those used for the existing house. The extension will not be visible from public vantage points and thus would not impact on the street scene.

Amenity of Nearby Residents

This proposal breaches the 45-degree code in respect to the nearest habitable window at No.15 by approximately 8.8m which exceeds the 3.5m depth usually deemed acceptable in such instances. This fails to comply with the Designing Walsall SPD and is considered to present a detrimental impact to this neighbour's rear outlook. Furthermore, due to the length of proposed extension which would run along a substantial length of the shared boundary with No.15, the outlook from this neighbour's existing conservatory would also be adversely affected. The proposal breaches the 45-degree code by approximately 3.4m from the mid-point of the rear panel of the conservatory. This is also considered to present a detrimental impact to this neighbour's outlook. It is acknowledged that No.15's hedge runs along the boundary, however this cannot be relied on to acceptably screen the view of the proposed extension as the footings of the extension may sever the roots of the hedge.

Whilst the proposed extension would also breach the 45-degree code in respect to the nearest habitable window of No.11, it would be visually obscured by the existing single storey rear extension. Therefore, the nearest rear window of No.11 would not be adversely affected.

The proposed extension also has the potential to result in additional shading and loss of light of No.15's nearest habitable window and the windows of the conservatory between the late morning and early afternoon due to the plot orientation. This presents further adverse impacts to this neighbour's amenities.

There would be one additional side facing window and door, looking towards No.11. Although this would face onto the approximate 1.8m – 2.0m high boundary fence at a distance of approximately 3.8m away. This is considered acceptable to not adversely impact this neighbour's privacy.

Overall, the impact to the rear visual amenities of No.15 is considered to be unacceptable and would unnecessarily impede the enjoyment of their dwellinghouse, subsequently not complying with the Designing Walsall SPD and policy GP2 of Walsall's Unitary Development Plan.

Parking

The proposal adds an additional bedroom, potentially taking the number of bedrooms up to 4 or more, considering the existing first floor rear extension. Therefore under the terms of the saved UDP Policy T13, 3 off-street parking spaces are required. There is adequate parking space for 2 cars within the curtilage of the dwellinghouse. Although, whilst not fully complying with the provisions of T13, this would not be a defensible reason to issue a refusal on this ground as it is likely to be difficult to demonstrate how this would have an unacceptable impact on road safety.

Planning Balance

Whilst recognising this proposal is intended for a disabled occupier, the Council's Housing Improvement team has made it clear that funding would only be provided for a small extension to the existing living room to accommodate a ground floor bedroom along with the conversion of an existing ground floor bathroom to a wet room. This indicates that the necessary provisions for the disabled occupier could be accommodated within a smaller extension along with further internal revisions which is likely to be more acceptable in planning terms.

No further plans have been submitted by the applicant despite a request from the Local Planning Authority for amended plans to consider a smaller rear extension taking the above into account.

On balance, it is considered that the benefits arising to the occupier do not outweigh the harm arising to neighbours amenity in this instance.

Conclusions and Reasons for Decision

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

The proposed development does not comply with the 45 degree code guidelines in respect to the neighbouring ground floor rear windows at No.15 Somers Road. The total depth of 12.3m is considered to have a detrimental impact to the outlook and light availability to neighbouring habitable rooms. Therefore, the residential amenities will not remain protected and the proposed development is not in accordance with saved UDP policies GP2 and ENV32 and SPD Designing Walsall.

There is not adequate space for three parking spaces within the curtilage of the dwellinghouse. However, it is difficult to demonstrate that this presents an unacceptable harm to highways safety.

The applicants have failed to submit amended plans. Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Refuse

Officers have spoken with the applicant's agent and requested amended plans to reduce the depth of the extension to address the neighbour amenity issues raised. Whilst the request was acknowledged by the applicant's agent, no amended plans have been received and this application cannot be supported in its current form.

Recommendation

Refuse Planning Permission

Reasons for Refusal

1. The proposed rear extension would result in unacceptable additional impacts to the amenities of the neighbouring property at No.15 Somers Road. The proposal breaches the 45-degree code to this neighbours nearest habitable windows resulting in detrimental harm to the rear outlook of these rooms along with a reduction in natural light between late morning and early afternoon. This is considered to pose an unacceptable harm to this neighbours amenities. Consequently, the proposal is not in accordance with policy GP2 of Walsall's Unitary Development Plan and with Appendix D of the Designing Walsall SPD.

Recommendation

Grant Planning Permission Subject to Conditions

End of Officers Report