



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning  
and Building Control,  
Regeneration  
On 26 June 2007

**REASON FOR BRINGING TO COMMITTEE:** Major Application

**Application Number:** 07/0136/WA/E9

**Case Officer:** Barbara Toy

**Application Type:** Waste Applications

**Telephone Number:** 01922 652429

**Applicant:** Chemtech Waste Management Ltd

**Agent:** S A Simmonds Ltd

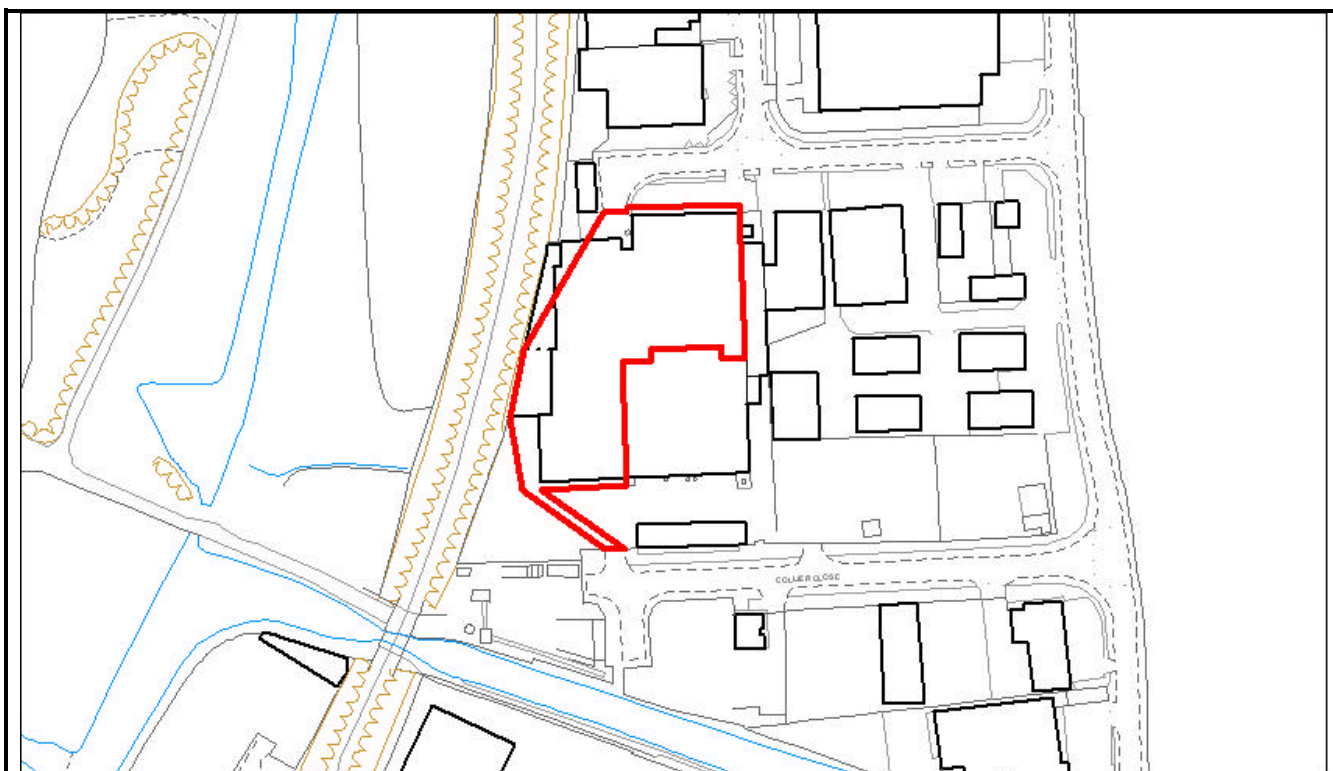
**Proposal:** Change of use of part of building to  
Hazardous Waste Transfer Station

**Location:** COPPICE SIDE  
INDUSTRIAL ESTATE, J.B. PATTERNS  
LTD, COLLIER  
CLOSE, WALSALL, BROWN HILLS, WEST  
MIDLANDS, WS8 7EU

**Ward:** Brownhills

**Expired:** 25 April 2007

**Recommendation Summary:** Grant Permission subject to conditions



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## **Application and site details**

The site is situated on the northern side of Collier Close, an industrial area situated at the southern end of the Coppice Side Industrial Estate, which is identified within the UDP as a Core Employment Area.

The site is largely surrounded by other industrial uses including metal work, engineering, plant hire and skip hire/waste transfer station.

The site comprises part of a large industrial premises formerly occupied by a foundry, with a small part of the premises occupied by a manufacturer of bio diesel from waste vegetable oils.

Part of Brownhills Common and The Slough Site of Importance for Nature Conservation (SINC) is situated immediately to the west of the site, comprising a former railway embankment with a greenway along the top and well vegetated embankments. The Wyrley and Essington canal is situated to the south of Collier Close.

The application proposes the change of use of part of the building to a Hazardous Waste Transfer station, to be operated by Chemtech a waste management company who's head office is situated to the south east of the site in Collier Close. Chemtech have a sister company, Envirosel Ltd, based in Dudley which provides an existing transfer station, the current proposals would provide an additional facility.

The application includes the removal of various lean to buildings and structures to the west of the main building to allow vehicle access through the site. The buildings are currently built up to the boundary and are in a poor state of repair.

The use would involve no physical treatment of the chemical waste, only sorting, bulking and storage in defined segregated areas, prior to distribution for recycling or disposal.

The proposals include vehicle access into the site from West Coppice Road and out via Collier Close and 12 on site car parking spaces. A maximum of 10 vehicle movements per week (in and out) by delivery vehicles maximum capacity. Maximum storage capacity of the facility would be 400 tonnes.

The site would require a maximum of 15 staff at full capacity with vehicle movements restricted to Mon - Sat 0600 - 2200 hours and Sun and bank holidays 0700 - 1300 hours. Activities within the building would be 24 hour.

The site layout includes designated bunded storage bays, offices and laboratory, area for skips for recycling of steel/plastic, loading/unloading area and drum crushing and shredding area.

The site would be subject of an IPPC Permit which would regulate the site.

## **Relevant planning History**

Chemtech site Collier Close, adjacent to the application site.

05/1924/FL/E7 new warehouse approved 30-11-05.

45m x 20m x 9m max height on the same site as the current proposals, approval not yet implemented.

06/1399/WA/E9 erection of hazardous waste and treatment transfer station, refused 20-10-06. Insufficient information provided to demonstrate compliance with Policy WM3 of UDP and failure to demonstrate that the use could be accommodated within the site without any consequent hazard to all users of the adjoining highway network.

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

**Unitary Development Plan 2005**

GP2 - Environmental Protection, all development to make a positive contribution to the quality of the environment and principles of sustainable development.

3.7 indicates protection of people from unacceptable noise pollution and other environmental problems.

ENV10: Pollution, development of an industry will only be permitted if it would not release pollutants into the air, water, soil, whether on site or elsewhere, which would cause unacceptable harm to health and safety of the natural environment.

**JP5 - Core Employment Areas**

Locations of strategic importance and good accessibility.

Paragraph 4.4 defines core employment uses as industrial and distribution, Use Classes B1 (b), B1 (c), B2 and B8. Proposals for other uses will only be permitted when they are uses that are ancillary or complimentary to the development of an existing business.

JP8: Bad Neighbour Industrial Uses, the location of potentially bad neighbour uses will be given very careful consideration taking into account the particular environmental implications of individual proposal, such uses should be within an existing employment area, and should not have a detrimental effect on the environmental quality of employment areas. Uses should not have an adverse, or potentially adverse, environmental impact on housing, schools, facilities for sport and recreation.

10.1 states that an integrated approach towards the minimisation and management of waste will be adopted when considering proposals for waste management facilities, having regard to relevant guidance at the national and regional levels and the Council's own integrated waste management strategy.

10.2 The pre-treatment, recycling and disposal of waste should take place close to its source. Consideration will be given to the merits of small scale facilities which can be more easily integrated into the urban area.

10.3 there will be a progressive movement of waste management methods up the waste hierarchy with greater emphasis on reduction, re-use and recovery and an overall reduction on the reliance on landfill.

10.4 work towards targets for waste minimisation, the reuse of materials, recycling and composting.

10.10 From April 1996, the Environment Agency has had responsibility for waste regulation.

### T13 - Parking Standards

B2 - 1 space per 50msq up to 250msq then 1 space for every 100msq of gross floorspace.

### ENV32: Design & Development Proposals

Poorly designed development or proposals that fail to properly take account of context or surroundings will not be permitted.

Criteria when assessing design include: height, proportions, scale and massing of buildings, integration and co ordination of buildings and external space and integration of existing natural and built features of value.

### WM1: Consideration of Proposals for Waste Management Activities

The establishment or extension of such facilities will be permitted if they represent the best practicable environmental option with no unacceptable adverse impact on the environment or amenities and should be contained within buildings rather than carried out in the open.

### WM3: Special Waste

New or expanding facilities for the treatment of special waste will be required to demonstrate that they can operate successfully without detriment to the environment or the health, safety, general well being and amenity of local people and wildlife.

## **National Policy**

### PPS10: Planning for sustainable waste management

Paragraph 1 the overall objective on waste, as set out in the strategy for sustainable development, is to protect human health and the environment by producing less waste and using it as a resource wherever possible. Through more sustainable waste management, moving the management of waste up the 'waste hierarchy' of reduction, reuse, recycling and compositing, using waste as a source of energy.

Paragraph 3 Regional planning bodies and planning authorities should, to the extent appropriate to their responsibilities, prepare and deliver planning strategies that help deliver sustainable development through driving waste management and help implement the national waste strategy.

Paragraph 28 waste planning and pollution control authorities should work closely to ensure integrated and timely decisions under the complementary regimes.

## **Consultations**

**Transportation** - No objections to amended layout, previous concerns regarding car parking and commercial vehicles have been addressed by the applicant. Safeguarding conditions re marking out of parking spaces, provision of disabled parking space and provision of cycle storage facility required.

**Natural Environment** - Site adjacent to Brownhills Common and The Slough SINC and former railway embankment with a greenway along the top, well vegetated. A mature oak tree overhangs the site boundary. It is essential that the proposed development does not cause damage to the SINC.

The separation of the building from the boundary by the vehicle access drive would be beneficial to the SINC, but still need to ensure that no damage to the SINC through discharge of any waste.

**Pollution Control** - No objections

**Fire Officer** - Satisfactory access for fire appliance.

**Environment Agency** - no objections, a waste management licence, a permit under the Pollution Prevention and Control Regulations will be required.

**British Waterways** - Some concerns regarding the proximity of the proposed use to the canal network, need to ensure that suitable protection is installed to ensure no leakage into the canal.

**Strategic Policy** - No objections in principle to the use of the premises as a waste management facility. Although this is a sui generis use within a core employment area, policy JP5 permits uses that are ancillary or complimentary to the development of an existing business, The head offices of the parent waste management company are already situated to the south east of the site in Collier Close. There is however to consider the likely impact of the use on the environment and adjacent occupiers in line with policies WM1 and WM3 and PPS10. Provided that the storage arrangements are safe and unlikely to cause environmental or amenity problems, no conflict with policy.

### **Representations**

Site notice posted and press notice published.

Surrounding occupiers notified of both the original submission and the amended plans. 1 objection received and 3 letters of comment on behalf of 1 adjoining occupier.

Objections include:

- A new transfer station is not needed
- Adverse impact on surrounding engineering companies, inability to employ new staff
- Adverse impact on adjacent natural environment
- Health risks to animals and humans from products.

Comments include:

- Concern raised over the location of the proposed vehicle access barrier off West Coppice Road, which may impact on parking and access to adjacent premises.

*(The position of the access barrier has been amended to resolve this dispute.)*

### **Determining Issues**

The determining issues here are:

- Principle of the use
- Site layout and use
- Impact on surrounding occupiers and SINC
- Access and Parking
- Compliance with Waste Management policies.

### **Observations**

#### **Principle of the use**

The site is situated within a Core Employment Area. The proposed use involves waste treatment (sorting and bulking of chemical waste) regarded as a B2 use and waste transfer which is regarded as sui-generis. Although waste transfer is not normally considered acceptable within a core employment area as it is a sui-generis use in this case the proposals relate to the expansion of an existing waste management company and JP5 explains that uses that are ancillary or complementary to the development of an existing business are acceptable in principle. There are therefore no objections in principle to the proposed use.

### **Site Layout and Use**

Activities within the site would include receipting, sorting, storage, bulking and transfer of hazardous and non hazardous commercial industrial waste for disposal or recycling.

Wastes would be collected from producers in small steel or plastic drums. On arrival vehicles would be unloaded and drums stored following inspection (laboratory testing to identify chemicals), in designated bays according to their chemical properties. The bunded storage bays to the northern end of the building would be arranged so that no chemicals that can react are situated adjacent to each other in line with HSE and EA guidance. The IPPC permit that will regulate the site will stipulate that all wastes must have an ultimate destination before they are accepted at the site.

Wastes may be grouped into loads or may be bulked onto a vacuum tanker or larger container. Surplus containers generated by the bulking operation would be crushed or shredded for recycling on site.

Delivery vehicles would enter the site via West Coppice Road, unload within the site under a covered area adjacent to the western boundary with the SINC, and leave the site via Collier Close creating a one way system within the site.

Solvents would be stored in a covered bunded storage area to the western side of the building to ensure adequate ventilation and compliance with guidelines. Two large skips would be a permanent feature within the building for recycling of crushed containers.

The site layout is therefore considered appropriate and acceptable for the proposed use.

### **Impact on Surrounding Occupiers and SINC**

The removal of the existing structures adjoining the site boundary would create a separation between the buildings and the SINC and improve the overall appearance of the site, removing existing unsightly structures and improving the visual backdrop to the SINC and Greenway route.

All entrances to the building and storage areas would be sealed with 'roll-over bunds' to contain any accidental spillage.

The proposed use would be well regulated by EA and HSE and it is considered that the proposed use would have no adverse impact on the surrounding natural environment or SINC. The site was previously used as a foundry with other heavy industrial premises surrounding and a skip hire/waste transfer station existing to the south off Collier Close. It is therefore considered that the proposed use would have no greater impact on the amenities of the surrounding occupiers.

### **Access and parking**

The application proposes a one way system for all vehicles visiting the site, in via West Coppice Road and out into Collier Close. 12 parking spaces would be included within the site and transportation have raised no objections to the amended scheme.

### **Compliance with Waste Management Policies**

Policy WM3 related to Special Waste and indicates that applications for treatment of special waste will be required to demonstrate that they can operate successfully without detriment to the environment or the health, safety, well being and amenity of local people and wildlife.

The site is situated within a Core Employment Area with no residential properties within the vicinity. The proposals show an internal layout of the building to comply with EA and HSE regulations with bunded storage areas and 'roll-over bunds' to each entrance of the building to contain any accidental spillage. It is considered that the proposals would have no adverse impact on the adjoining natural environment and SINC. The removal of existing poor buildings along the site boundary would improve the separation between the SINC and the proposed development and provide an improved visual backdrop to the SINC.

The proposals relate to the expansion of an existing waste management facility of sub-regional if not regional importance as there are only a limited number of specialist facilities of the type within the West Midlands. A facility such as this is necessary if Walsall's current and potential future waste planning requirements are to be met.

The site would be subject of an IPPC Permit which would regulate the site.

It is therefore considered that the proposals would comply with waste management policies.

### **Recommendation: Grant Permission subject to conditions**

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

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

2. No development shall take place until details of one disabled car parking space and cycle storage facilities have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to first occupation of the site for the use hereby permitted and thereafter retained.

*Reason:* In order to ensure satisfactory provision of facilities for disabled parking and cycle storage.

3. No development shall take place until details of a vehicle barrier along the western boundary of the site have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to first occupation of the site for the use hereby permitted.

*Reason:* In order to protect the adjoining Site of Importance for Nature Conservation.

4. No development shall take place until details of the 'roll-over bund' to be installed at each entrance to the building have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to first occupation of the site for the use hereby permitted.

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

5. No development shall be carried out until details of signage to be installed on both West Coppice Road and Collier Close to identify the one way traffic circulation within the site, have been submitted to and approved by the Local Planning Authority. The sign(s) shall be installed in accordance with the approved details prior to first use of the access points hereby approved.

*Reason:* In order to secure the satisfactory development and use of the application site.

6. The maximum storage capacity of the site shall be 400 tonnes.

*Reason:* In order to define the permission.

7. The parking spaces hereby approved shall be marked out prior to first occupation of the site for the use hereby permitted and thereafter retained.

*Reason:* In order to ensure satisfactory parking facilities within the site.

8. No open storage shall take place within the application site at any time.

*Reason:* In order to safeguard the visual amenity of the area.

9. The site shall be laid out in accordance with the submitted plans: SAS/Chem/02 Rev B (Block Plan), SAS/Chem/03 Rev A (Floor plan) and SAS/Chem/05 (Proposed Elevations) prior to first occupation of the site for the use hereby permitted and no alterations shall be made without the prior written approval of the Local Planning Authority.

*Reason:* In order to secure the satisfactory development, use and occupation of the application site.

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

The proposed development is considered to comply with the relevant policies of the development plan, in particular Policies GP2, 3.7, ENV10, JP5, JP8, 10.1-10.4, WM1 and WM3 of Walsall Unitary Development Plan March 2005, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

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





**To: DEVELOPMENT CONTROL COMMITTEE**

**Report of Head of Planning  
and Building Control,  
Regeneration  
On 26 June 2007**

**REASON FOR BRINGING TO COMMITTEE: Major Application**

**Application Number:** 07/0196/FL/W7

**Case Officer:** Andrew Thompson

**Application Type:** Full application

**Telephone Number:** 01922 652403

**Applicant:** KA Investments Ltd

**Agent:** I D Architects (Midlands) Ltd

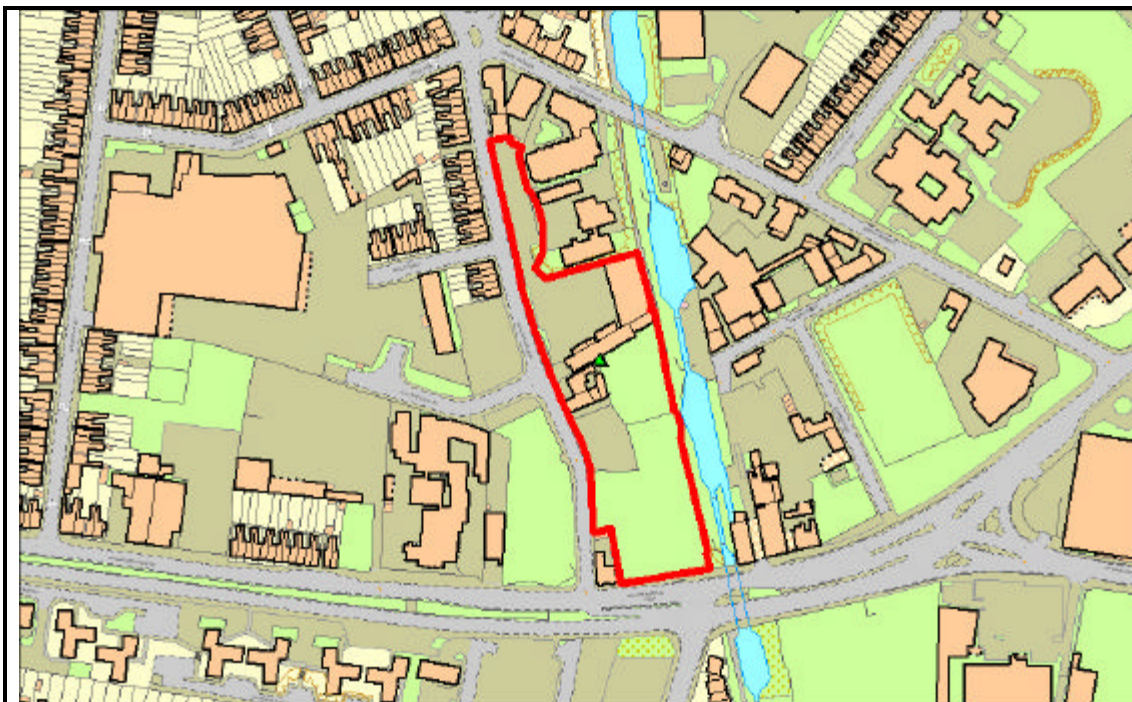
**Proposal:** Proposed development of 92 flats and 30 houses and associated external works.

**Location:** SITE AT  
WOLVERHAMPTON ROAD  
& HOLLYHEDGE  
LANE, BIRCHILLS, WALSALL, WEST  
MIDLANDS

**Ward:** Birchills Leamore

**Expired:** 11 May 2007

**Recommendation Summary:** Refer to Secretary of State Grant Permission Subject to Conditions and a Planning Obligation



**Crown**

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## **Application and Site Details**

The application site is 1.04 hectares, and is northeast of Wolverhampton Road and Hollyhedge Lane. The site extends from the Wolverhampton Road frontage along Hollyhedge Lane to the northern edge of St Andrews Church. The application site excludes the Orange Tree Public House.

The application site adjoins the Walsall Locks Conservation Area and the listed canal locks between the application site and Smith's Flour Mill. The site slopes upwards from the Wolverhampton Road frontage to the north end of the site with St Andrews Church and vicarage being some 3 metres higher than the highest part of the application site.

The scheme was originally assessed with officers by Midlands Architecture and Design Environment (MADE) as part of their Design Review process, and on the basis of their comments and views of officers the proposals have been amended to improve the development and create a higher quality of development.

The proposals are for 122 dwellings, comprising 92 apartments and 30 houses, in 8 blocks. The density would be approximately 117 dwellings per hectare and the car parking would be at approximately 121% (a total of 147 spaces). The proposals are of a contemporary design including a variety of heights and materials but proposals reinstate the water area of the historic wharf, dating to the early Victorian period, as a canalside water feature, but this will not link into the canal at the request of British Waterways.

The main block (Block 1) fronting Wolverhampton Road would be six storeys in height, at the tallest point, and incorporate an undercroft feature in the corner coupled with a glazed and lightweight structure to that corner. The proposals would be the same height as the traditional elements of Smith's Flour Mill. Roof gardens and terraces would also be incorporated as part of the design providing quality outdoor space away from the busy and noisy atmosphere of Wolverhampton Road. The main bulk of the building steps down to 4 storeys in height adjacent to the Orange Tree Public House so as not to dominate the neighbouring building (though it is only two storey). A central glazed atrium will provide a link for residents from the Wolverhampton Road frontage to the car parking at the rear of the site.

To the north of Block 1, four storey apartments (Blocks 4 and 5) would face the canal in lightweight, glazed structures with communal amenity areas to the rear in addition to roof terraces. On the Hollyhedge Lane frontage (Blocks 2 and 3) would be 3 storeys, 3 bedroom houses, each with individual gardens and terraces/balconies at first floor level. All of the houses would have individual entrances to create active frontages. The gardens are approximately 7.5m in length and have an area of approximately 26.5square metres.

Blocks 6 and 7 are slightly further north on the site. The principal frontages (i.e. to canalside, Hollyhedge Lane and within the development) are 3 storey, 3 bedroom houses with the corner treatments being apartment blocks. The proposals are designed so that each of the ground floor apartments has their own separate pedestrian entrance with a communal entrance for the upper floors. This is designed to add distinction and additional activity to the ground floor. The upper floors also contain communal roof terraces, in addition to a communal area around the car parking which provides the main area of amenity space of some 115square metres. Gardens of the houses are small at 4.5m in length and approximately 18square metres in

area. The proposals also provide a covered parking area immediately adjacent to the St Andrews Vicarage which would act as a natural shield to the car parking. In addition this provides a green roof which would be capable of attracting wildlife.

Block 8 comprises 12 single aspect 2-bedroom apartments in a three storey block. This is due to the narrowness of the site and also the level changes to the rear (i.e. upwards to St Andrews Church) which would prevent any reasonable outlook from the building. The proposals would allow for reasonably sized living accommodation and bedrooms and the communal halls and stairwells would be at the rear. Accesses to the flats would be to the north and south elevations creating additional overlooking to the car parking areas and the amenity area to the north, in front of the main façade of St Andrews Church.

The applicant has indicated in their Design and Access Statement that it is their intention to develop the area on the opposite side of Hollyhedge Lane for residential development in two further Phases (Phases 2 and 3). At this present time, land ownership on the opposite side of the site has not been resolved and Phases 2 and 3 and as such the indicative masterplan shown in the Design and Access Statement and the capacity of those developments are not part of this application.

### **Relevant Planning History**

06/0730/FL/W6 - 9 houses and 35 flats - Refused 23<sup>rd</sup> August 2006.

The application was on the northern portion of the application site and was refused for its impact on the Walsall Locks Conservation Area and St Andrews Church and general site layout and design issues. These issues were created by the small size of the application site.

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

#### **Unitary Development Plan**

Development will be guided by principles of sustainability, minimising need to travel by car, maximising re-use of vacant land and buildings without prejudice of beneficial use of adjoining land or buildings. Relevant considerations are set out in Policy GP1

Development schemes should, help improve the environment of the Borough whilst not allowing development that has an adverse impact. Relevant considerations are set out in Policy GP2

Planning obligations will be used to secure provision of on or off-site infrastructure, facilities, services or mitigating measures made necessary by development. These may include transport infrastructure, open space, drainage works, affordable housing, education facilities, health care facilities and other forms of social and community infrastructure. Relevant considerations are set out in Policy GP3

Para 8.8 'Residential developments will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved educational facilities or other forms of social and community infrastructure the Council will require developers to make a financial contribution to the costs of providing these facilities'.

Development is expected to design out crime, through maximising surveillance of public

areas, maximising defensible space, care in design and layout to avoid hiding places for criminals, measures to combat crime need to maintain good urban design. Relevant considerations are set out in Policy GP7

All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment. Policy T7

Development is expected to preserve or enhance the character and appearance of a conservation area in terms of the impact of the new buildings on special townscape, scale, massing, siting, layout, design and choice of materials. Relevant considerations are set out in Policy ENV29

Poorly designed development which fails to take account of the context or surroundings will not be permitted. Especially in conservation areas, town centre, visually prominent, in the vicinity of listed buildings. The quality of the proposal will assess appearance, height, proportion, scale, mass, materials, external space, safety, security and local character. Relevant considerations are set out in Policy ENV32

Investment in housing within and close to town, district and local centre will be encouraged, both on new sites and through the conversion of existing buildings. Relevant considerations are set out in Policy S8

Encouragement for the provision of additional housing through the re-use of previously developed windfall sites and conversion of existing buildings. Relevant considerations are set out in Policy H3

The design of residential developments to create a high quality living environment, integrate with surroundings and local character in accordance with principles of good design. Relevant considerations are set out in Policy H10

JP7: Protect employment land unless it would be more appropriate to consider alternative uses.

6.3: Housing supply: particular attention to opportunities close to town, district and local centres.

Proposals Map: Southern part of site (approx. 0.45 ha) is allocated for employment use under proposal JP1; site E20.

### **Regional Spatial Strategy for the West Midlands (RSS11)**

Promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

There is no need for this application to be considered under the Conformity Protocol. A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

CF1: focus new home building in the Major Urban Areas. In Walsall the MUA is limited to the built-up areas and excludes the Green Belt.

CF3: A - make adequate provision for additional house building as per Table 1; B iii - maximise use of previously-developed land; C - make the most efficient use of land within the Major Urban Areas.

CF4: optimise opportunities for recycling land and buildings for new housing development.

CF5: deliver affordable housing.

### **Regional Spatial Strategy Review / Black Country Study**

The Regional Spatial Strategy is under review. The Draft Phase 1 Revision is currently subject to Examination in Public. The Draft Revision seeks to take the approach in the current RSS further forward in the design and delivery of high quality environments.

### **National policy**

PPS1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. In paragraph 13 (indent four) PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted.' Paragraphs 33 to 39 also state the importance of good design.

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes. Applications for residential on employment land should be given favourable consideration, subject to criteria.

Paragraph 10 of the new PPS3 indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. The specific outcomes that the planning system should deliver are:

1. High quality housing that is well-designed and built to a high standard.
2. A mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas, both urban and rural.
3. A sufficient quantity of housing taking into account need and demand and seeking to improve choice.
4. Housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.
5. A flexible, responsive supply of land - managed in a way that makes efficient and effective use of land, including re-use of previously-developed land, where appropriate.

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

Circular 05/2005 (Planning Obligations) is of relevance in this instance with regard to the

appropriate level of planning contributions that will be sought.

### **Consultations**

**Transportation** - No objection in principle subject to conditions relating to the locations of bin stores and wheelie bin hard standing areas, the re-instatement of the 5 deleted parking spaces, a residential travel plan, the introduction of a 'yellow box' keep clear carriageway markings and confirmation from the statutory undertakers that the private houses to the north of the site, adjacent to the canal will be served from the adjacent flat area.

**Highways Agency** - No objection subject to the submission of a satisfactory residential travel plan.

**Pollution Control** - Conditions for noise and ground contamination. Air quality surveys need to be carried out.

**Environment Agency** - No objection subject to conditions.

**Drainage** - No comments

**Conservation** - No objection subject to details of materials/finishes and details such as lighting, seating and boundary treatments

**Building Control** - No objections

**Housing** - This site should provide 25% affordable housing, in the form of shared ownership units on site. These should be a mixture of houses and flats. Housing are aware that a financial appraisal has been submitted.

**Education** - The level of surplus places in local secondary schools is below 10% and therefore we do require a contribution towards secondary school provision. A contribution of £131,542.40 should be sought.

**Centro** - No objection. There are several bus services operating along Hollyhedge Lane past the site with a combined frequency of four buses an hour in the peaks and daytime Monday to Saturday and one bus per hour at all other times. As the number of proposed residential units exceeds 100 the developer should be required to develop a Residential Travel Plan and promote sustainable travel to and from the development.

**Green Space** - A contribution of £168,941 should be sought in line with the Council's Supplementary Planning Document.

**British Waterways** - Supports the proposed development, in principle, as it presents an opportunity for the regeneration of this part of Walsall and the canal environment. British Waterways considers the proposal will have the potential to act as a catalyst in the transformation of this area. The development would potentially contribute to making this site an attractive and exciting environment for waterside residential living and assist in the enhancement of the adjacent canal environment and the towpath as a leisure, recreational and visitor attraction. Seeks a S106 contribution for works in relation to the canal.

**Inland Waterways Association** - Supports the proposed building heights and footprints and

the proposed site layout. Objects to the contemporary design and its relationship to the listed locks and Conservation Area.

**Healthcare** - A contribution of £92,616.30 would be sought in line with the Council's Adopted SPD.

**WRC** - Object to the contemporary design, the relationship to the canal and landscaping strategy, re-use of historic water feature, the corner features, and use of the home zone concept.

### **Representations**

One letter of objection from an industrial occupier opposite the site, adjacent to Smith's Flour Mill. They raise concerns with regard to the fumes and pollution arising from their operations and the impact on the canal and residential amenity.

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

### **Determining Issues**

- Loss of employment land
- Density
- Accessibility
- Contemporary Design and Relationship to Historic Features
- Transportation and highway safety
- Car parking provision
- Environmental amenity
- Regeneration benefits
- Future development potential
- S106 Agreement

### **Observations**

#### **Loss of Employment land**

The frontage to Wolverhampton Road is allocated under UDP Proposal JP1, Site E20 for employment use, but the application site is not in a Core Employment Area. Policy therefore generally safeguards employment land, but in part (d) recognises that there may be circumstances in which it will be more appropriate to consider other uses, such as housing. The Economic Report in support of the application, paragraphs 3.10-3.13, explains that the site is not now suitable for employment, including office uses, and that there would be no market for such uses. Officers concur with this opinion. Therefore, to continue the regeneration of this part of the borough, it is the view of officers that residential development is appropriate in this location and should be pursued. It is considered that this would be consistent with UDP policy JP7(d) and with the other relevant UDP policies, including giving particular attention to residential development opportunities close to town, district and local centres. In the context of housing policies, the proposed development would not be a departure from the development plan.

Land nearby, including at Waterfront Way and the Flour Mill has been redeveloped for residential, so the character of the area is changing and is expected to change through

potential future development.

In terms of PPS 3, the UDP and other policies about the efficient use of land, it is clear that the allocated site has remained vacant for a considerable period and appears to have little prospect of reuse for employment. Residential development would therefore be a more appropriate use of the land.

### **Density**

The proposed density is approximately 117 dwellings per hectare.

The site is less than 400 metres from the Primary Shopping Area for Walsall town centre; it is immediately to the north of the Waterfront redevelopment and adjacent to the redevelopment of Smith's Flour Mill (which is a density of 119dph).

Considering the density of the adjacent Smith's Flour Mill and the proximity to the town centre it is considered that the application site is sufficiently close to town and local centres in terms of policy H9, and fitted to the emerging character of the area to justify a density above 50 dwellings per hectare. The proposed density is considered to be appropriate in this instance.

### **Accessibility**

The site is adjacent to and within walking distance of frequently served bus stops, and therefore is in accordance with policy T12. It is also within a 1 km walk of both bus and rail stations and 400m to the Primary Shopping Area. The site satisfies Development Plan Policies including Policy T10. The proposal will create canalside linkages and promote the use of the canal for walking and cycling and the use of the canal as a recreational corridor. The proposals would also be capable of being accessed from Wolverhampton Road and would have good linkages to Hollyhedge Lane and to Birchills Local Centre for day to day needs.

### **Contemporary Design and Relationship to Historic Features**

It is recognised that Smith's Flour Mill, St Andrews and the listed locks present an important historic character to the area. It is important to respect these features.

It is considered that a pastiche of these features (an alternative approach to the design of the scheme) would lessen their impact, reducing their historical significance and importance. As such the contemporary, lightweight design is welcomed. The re-introduction of the historic wharf is welcomed and whilst not linked to the canal, harks back to the industrial heritage of the area and promotes the development as a high quality canalside environment.

In relation to St Andrews Church, the designs and layout have been arranged such that the west façade to Hollyhedge Lane is not concealed by the proposals. The Church represents an important feature to Hollyhedge Lane and incorporating this gap in the built form with landscaping will aid the interpretation of the church and will help the development link with the surroundings. The use of positive, natural landscaping and public art will aid the development of the street scene and build the character of the area.

On the Wolverhampton Road frontage at the corner with the canal, it is proposed to create an undercroft feature supported by columns. This relief in the built form is necessary in this location as the levels rise significantly at the point that pedestrians / cyclists using the canal emerge from under the Wolverhampton Road Bridge. This feature would have an access point for residents and create a feature and approach to the development.



The proposed bridge over the reinstated wharf water feature will be subject to a public art competition reflecting the industrial heritage. As such it is considered that this feature will help relate the development closely to the industrial heritage and historic features.

Overall, the proposals adopt a contemporary approach that is reflective of the historic nature of canalside heritage but builds a modern development that meets present day needs and uses good urban design principles.

### **Transportation and highway safety**

Manual for Streets (published 29<sup>th</sup> March 2007) supersedes DB32 (May 1992) and its companion guide Places, Streets and Movement (September 1998), the guide advocates a high quality, design led approach that promotes streets being designed not just to accommodate the movement of motor vehicles. Manual for Streets emphasises that it is important that proposals place a high priority on meeting the needs of pedestrians, cyclists and public transport users, so that growth in these modes of travel is encouraged. In particular the guidance recommends developing street character types on a location-specific basis with reference to both the place and movement functions for each street; encouraging innovation with a flexible approach to street layouts and road widths and the use of locally distinctive, durable and maintainable materials and street furniture and recognising the importance of the community function of streets as spaces for social interaction; promoting an inclusive environment that recognises the needs of people of all ages and abilities.

As such, reducing street widths aids the creation of high quality residential environments. Using shared surfaces and high quality materials are promoted and considered to be the most efficient and best approach to reducing traffic speeds and securing highway safety in residential environments.

The Highways Agency note that the application site is located in a sustainable location close to Walsall Town Centre. The Phase 1 trip generation and potential traffic impact on the Strategic Road Network can be described as 'moderate'. The Agency recognises the wider regeneration benefits for the area and requests a residential travel plan to be submitted.

### **Car parking provision**

It is noted that the Highways Agency are concerned that the level of car parking is too high, considering the location of the site in relation to the Town Centre. However it is noted that the car parking provision is below the maximum UDP standards in Policy T13. It is also noted that the proposals are comparable to the car parking provision of Smith's Flour Mill which approved 100% car parking provision. As such the car parking provision proposed is considered appropriate for an edge of centre site, within 400m of the application site and with the improved canalside linkages would help promote walking and cycling and with the enhanced links to the canal the proposals will aid the use of the canal as an attractive area of urban open space. A residential travel plan to promote alternative modes of transport such as walking and cycling will be included within the Section 106 Agreement.

Transportation Officers have requested the reinstatement of 5 car parking spaces alongside the canal frontage. These were removed following consultation with British Waterways and the need to ensure high quality, uncluttered design along the canal frontage. Reinstating these spaces would lessen the design quality and create a potential target for antisocial behaviour on the canal. Therefore on balance it is considered appropriate not to reinstate these spaces.

### **Environmental Amenity**

Concerns have been raised by an existing industrial occupier (AGS (Zinc Alloys) Ltd) on the opposite side of the canal regarding the impact their emissions could have. Under the assessment for Smith's Flour Mill (between the site and the foundry) , Pollution Control officers carried out modelling to assess air pollutant levels for nearby receptors (permission reference 06/1674/FL/W2). No breaches of relevant air quality standards have been identified and a suitable residential environment was identified. Considering that, it is considered that a suitable residential environment can be achieved on this site. On the advice of Pollution Control Officers further air quality surveys are conditioned to identify any mitigation to enhance the environment. It is therefore considered that the proposals would be capable of creating an acceptable residential environment.

### **Regeneration benefits**

The site is currently underutilised and poorly maintained industrial land that creates a poor quality canalside frontage and detracts from the recreational value of the canal. The creation of linkages to the canal in conjunction with the redevelopment of Smith's Flour Mill will create a positive canalside corridor and gateway. It will progress the WRC's wider regeneration objectives of Canalside Communities development as part of the wider town centre development, linking both the more adventurous styles and designs of the Waterfront proposals with the Victorian terraces of Birchills. Maximising the potential of this brownfield land with the use of roof terraces and green roofs will develop the site in a more sustainable manner than other approaches.

In addition to the on site benefits the proposals will aid the local centre in Birchills (to the north of the application site) and promote the regeneration of the wider area and other sites in and around the town centre by bringing forward high quality residential development. The proposals will also have a positive impact on the regeneration of the town centre, and will be seen as a continuing extension of the Waterfront regeneration programme.

### **Future development potential**

The applicant has highlighted that it is their long-term aim to redevelop on the opposite side of Hollyhedge Lane as part of a wider masterplan for the area. Whilst in initial stages at the time of writing this report, the redevelopment and regeneration of the area on the opposite side of Hollyhedge Lane will allow residential development to come forward as part of an agreed development brief with Phase 1 (this application) as the basis for creating innovative and high quality design. The potential future masterplan approach for the area, in partnership with the Council, is welcomed.

### **Section 106 Agreement**

Having received a financial appraisal for the site it is acknowledged that the level of contributions towards Affordable Housing, Education and Urban Open Space sought should be reduced. Whilst Officers do not concur with the policy assessment advanced in the appraisal, the abnormal costs approach £2million which is a significant amount, even for a development of this size. The primary costs relate to ground remediation, reinstatement of the canal wharfs, and ground stabilisation work. As such the applicant has offered to £84, 470.50 in total (the equivalent of 50% of the Open Space contribution) and officers recommend that this amount is agreed.

Due to the scheme being submitted at a similar time to the adoption of the Healthcare SPD, it would not be appropriate to seek Healthcare contributions.

However, schemes for public art and a residential travel plan will be incorporated into the agreement.

British Waterways are also seeking contributions in relation to works and the canalside environment. Some of the contribution offered (in effect a portion of the Open Space contribution) could be directed towards British Waterways, as it is recognised that the canal is an important area of open space immediately adjacent to the application site.

It is important that Members consider how to distribute the proposed payment.

Scenario One would be the whole contribution being offered, going to British Waterways (in effect using all of the money for open space purposes).

Scenario Two would be to direct funds as follows:

1. Open Space for Strategic Open Space projects: £41,235.25
2. British Waterways: £20,617.62
3. Education: £20,617.63 towards secondary school provision.

Members are invited to choose.

### **Conclusion**

In conclusion, the proposals will have positive regeneration benefits and will be a high quality development on the edge of the town centre on a design-led basis. The application would promote the use of canals and would be reflective and respectful to the historic elements in the immediate vicinity whilst not attempting to replicate the historic elements in an unsympathetic manner.

The loss of employment land is not resisted and although the relevant justification has been brought forward, the application is a Departure from an allocation within the Unitary Development Plan and therefore the proposals need to be referred to the Government Office.

### **Recommendation: Refer to Secretary of State Grant Permission Subject to Conditions and a Planning Obligation**

1. This development must be begun not later than 5 years after the date of this decision.

*Reason:* Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, and reflecting the potential for delays in land assembly.

2. Prior to the commencement of any development on site details shall be submitted to and approved in writing by the Local Planning Authority for the conservation and efficient use of energy and natural resources and sustainable development, to a minimum of Ecohomes Very Good Standard and 5 stars standard as amplified by the Code for Sustainable Homes (January 2007) or subsequent document, micro energy generation, on site composting, grey water systems, SUDS and locally produced building materials. The development shall then be implemented in accordance with the approved details.

*Reason* To ensure the satisfactory development of the site.

3. Prior to the first occupation of each dwelling, noise mitigation measures shall be installed so that

internal noise levels of each dwelling, measured in accordance with British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 (or relevant subsequent legislation) shall not exceed:-

- (a) within the bedrooms a Continuous equivalent Noise Level,  $L_{Aeq(5\text{ minutes})}$  of 35 dB together with a maximum instantaneous level of 45 dB  $L_{AFmax}$  between the hours of 23.00 to 07.00;
- (b) within the living rooms a Continuous equivalent Noise Level,  $L_{Aeq(1\text{ hour})}$  of 45 dB between the hours of 07.00 to 19.00; and
- (c) within the living rooms a Continuous equivalent Noise Level,  $L_{Aeq(1\text{ hour})}$  of 40 dB between the hours of 19.00 to 23.00;

*Reason:* To safeguard the amenities of the occupiers of development.

4. Details for the disposal of both surface water and foul sewage are to be submitted to and agreed by the Local Planning Authority prior to the commencement of the development hereby approved.

*Reason:* To ensure that 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.

5. No development shall be carried out until full details of the proposed boundary treatment of the site (including the boundary treatment to the proposed water features and roof terraces) have been approved in writing by the local planning authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

*Reason:* To ensure the satisfactory appearance of the development.

6. No development shall be carried out until a detailed landscaping scheme for the site (including the proposed roof terraces) has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

- (a) grassed areas shall be maintained in a tidy condition;
- (b) planted areas shall be maintained in a tidy condition;
- (c) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- (d) any damage to protective fences shall be made good.

*Reason:* To ensure the satisfactory appearance of the development.

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

*Reason:* To ensure the satisfactory appearance of the development.

8. Prior to the occupation of any apartment building, the location of a communal satellite dish to serve the apartments units shall be submitted to and agreed by the Local Planning Authority. The approved dish shall be installed before the occupation of the first apartment. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 and succeeding or amending legislation, no other satellite dish shall be installed on the buildings.

*Reason:* To ensure the satisfactory appearance of the building, to ensure amenities of future residential occupiers, to prevent a proliferation of satellite dishes on the building and to ensure satisfactory functioning of the development

9. Prior to the commencement of development the details and locations of cycle stores, covered parking areas and bin stores shall be completed submitted to and approved by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development.

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

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

11. Before this development is brought into use, the access ways, vehicle parking and manoeuvring areas shown on the approved plans shall be surfaced in a suitable impervious hardwearing material to be agreed in writing by the Local Planning Authority. The areas shall thereafter be retained and used for no other purpose. The parking spaces are to be clearly marked out.

*Reason:* To ensure the satisfactory functioning of the development.

12. No construction or engineering works (including land reclamation, stabilisation, preparation, remediation, deliveries or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday, and such works shall otherwise only take place between the hours of 07.00 and 18.00 weekdays and 09.00 to 16.00 on Saturdays unless otherwise agreed in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development outside these permitted hours.

*Reason:* To safeguard the amenities of neighbouring occupiers.

13. Prior to the commencement of development details of the proposed balconies shall be submitted to and approved in writing by the Local Planning Authority. The balconies shall be implemented in accordance with the approved details.

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

14. Prior to the commencement of development details of street furniture (including proposed signage) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

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

15. Prior to the commencement of development, details of the proposed water features (including details of depth, aeration facilities, retaining walls, boundary treatment and any lighting scheme) shall be submitted to and approved in writing by the Local Planning Authority. The feature shall be installed in accordance with the approved details and thereafter retained.

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

16. Prior to the commencement of development details of the proposed principal staircase within the glazed corner feature of Block 1 of the proposed scheme shall be submitted to and approved in writing

by the Local Planning Authority. The staircase shall be implemented in accordance with the approved details.

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

17. Prior to built development commencing details of remedial measures to deal with the identified and potential hazards of any land contamination and/or landfill gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority. Agreed remedial measures shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use.

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

**Note for applicant**

When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

18. Prior to the commencement of development:

- (a) An air quality survey and modelling shall be undertaken, to demonstrate the impact or otherwise of the development on air quality objectives in respect of Nitrogen Dioxide and PM<sub>10</sub> required by the provisions of the Environment Act 1995.
- (b) the methodology for such a survey and modeling shall have been submitted to and agreed in writing by the Local Planning Authority. The survey and modeling shall be undertaken in accordance with the approved details
- (c) Suitable mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in accordance with the approved timetable, which should be no later than the first occupation of the development.

*Reason* To ensure the satisfactory development of the site.

NOTE FOR APPLICANT: 'Habitable rooms' for the purposes of this condition shall be interpreted as living rooms and bedrooms.

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

NOTE FOR APPLICANT: It may be necessary for you to notify **Building Control Services** of your intention to demolish (Section 80 of the Building Act 1984). This should be done as soon as possible but **not less than** 6 weeks before commencement of the demolition work. Helpline number 01922 652408.

NOTE FOR APPLICANT: Your attention is drawn to the Party Wall etc. Act 1996. If you intend to carry out building work which involves:

- Work on an existing wall shared with another property;
- Building on the boundary with a neighbouring property;

You must find out whether that work falls within the scope of the Act. If it does, you must serve the statutory notice on all those defined by the Act as adjoining owners. You may wish to seek professional advice. However, two guidance booklets have been published entitled 'The Party Wall etc. Act 1996: Explanatory Booklet' or 'A Short Guide to the Party Wall etc. Act 1996', both are available from the DOE Publications Despatch Centre, Blackhorse Road, London, SE99 6TT. Tel. 0181 691 9191. Fax. 0181 694 0099.

NOTE FOR APPLICANT: This consent is given on the basis that all parts of the development including the guttering (foundations and fascia) are carried out on land within the ownership of the applicant.

NOTE FOR APPLICANT: The applicant/developer is advised to contact Steve Lugg British Waterways third party works engineer in order to ensure that any necessary consent is obtained and that the works comply with British Waterways' 'Code of Practice for Works affecting British Waterways'.

NOTE FOR APPLICANT: Please be advised that St Andrews Church on the northern boundary of the site has a single bell that rings at 09.00, 12.00 and 18.00 hours on weekdays and 10.25 hours on Sundays. No complaints have ever been received regarding noise from this bell but you may wish to consider additional sound insulation measures for the dwellings nearest to the Church in light of this information.

NOTE FOR APPLICANT: You are advised to refer to the agreement under Section 106 of the Town and Country Planning Act 1990 which was completed in conjunction with the development.

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

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP1, GP2, GP3, GP7, T7, T12 T13, ENV18, ENV29, ENV32, ENV33, JP1, JP7(d), S8, H3 and H10 of the Adopted Walsall Unitary Development Plan (March 2005) and Policies QE3, QE4 QE5 and QE9 of the Regional Spatial Strategy for the West Midlands (RSS11), on balance, having taken into account all material planning considerations, the proposal is acceptable.

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



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning  
and Building Control,  
Regeneration  
On 26 June 2007

**REASON FOR BRINGING TO COMMITTEE: Major Application**

**Application Number:** 07/0187/FL/W7

**Case Officer:** Andrew Thompson

**Application Type:** Full application

**Telephone Number:** 01922 652403

**Applicant:** Mr. & Mrs. B. Thandi

**Agent:** Robert Swan Architects

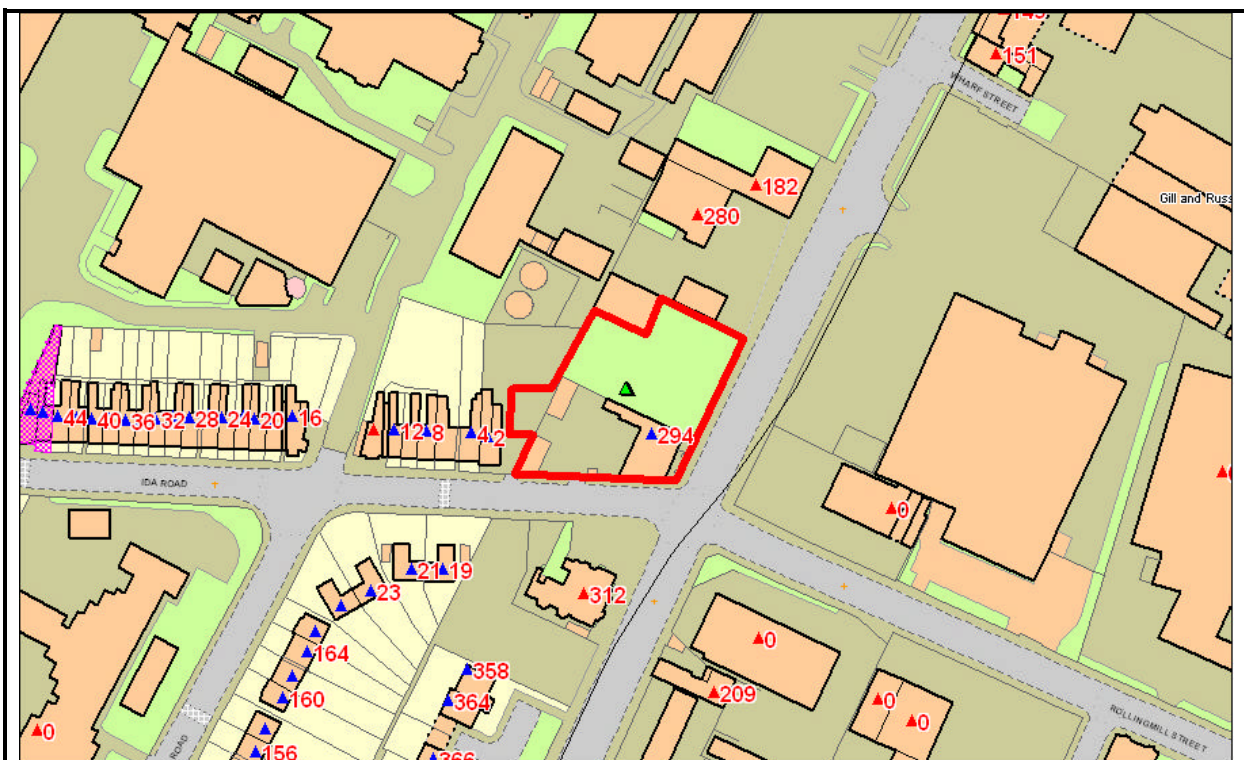
**Proposal:** 22 no. Residential Units and 1 no. Retail Unit

**Location:** LAND CORNER OF, PLECK ROAD, WALSALL, WEST MIDLANDS

**Ward:** Pleck

**Expired:** 16 May 2007

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



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### **Application and Site Details**

The application site is on the corner of Pleck Road and Ida Road on a site currently occupied by a general store and flat in a traditional two storey building. In addition the area to the rear of the site is currently occupied by a car wash. The application site neighbours a property on Ida Road and a small canopy is proposed at their entrance, for privacy reasons.

The proposals are for 22 residential units (14 one-bed units, 6 two bedroom units and 2 three bedroom units) over three and four storeys and a replacement retail unit of 107sqm. The proposals are a contemporary design. The development density is 146dph and 29 car parking spaces are shown (including two disabled parking spaces) at 131% provision.

The proposals would be accessed off Ida Road, under an “arch” entrance feature with flats above. The access proposed is a modified existing access point which will also be gated for added security. The gate will be automated and slide to maximise the space available.

### **Relevant Planning History**

06/0385/OL/W7 - OUTLINE: 23 Flats in 3 storeys plus penthouse plus 3 no. Retail Units - Withdrawn

06/0396/FL/W7 - 13 No. Flats in 3 Storeys Plus Penthouse - Withdrawn

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

#### **Adopted Walsall UDP**

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

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

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

Policy S6(c) says that new small-scale local facilities will be permitted where a range of requirements will be met, including that the proposal is of a scale and kind to meet a local need, that the need could not be better met in a nearby centre.

Chapter 7 of the UDP (Transportation) seeks to encourage alternative modes of transport to the public car. Policies T7 and T13 seek a well designed scheme in relation to car parking

provision and policies T8 and T9 seek to promote walking and cycling respectively. Accessibility for all members of the community is reflected in policy T10.

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

### **Regional Spatial Strategy for the West Midlands (RSS11)**

Promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

There is no need for this application to be considered under the Conformity Protocol. A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

CF1: focus new home building in the Major Urban Areas. In Walsall the MUA is limited to the built-up areas and excludes the Green Belt.

CF3: A - make adequate provision for additional house building as per Table 1; B iii - maximise use of previously-developed land; C - make the most efficient use of land within the Major Urban Areas.

CF4: optimise opportunities for recycling land and buildings for new housing development.

### **Regional Spatial Strategy Review / Black Country Study**

The Regional Spatial Strategy is under review. The Draft Phase 1 Revision is currently subject to Examination in Public. The Draft Revision seeks to take the approach in the current RSS further forward in the design and delivery of high quality environments.

### **National policy**

PPS1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. In paragraph 13 (indent four) PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted." Paragraphs 33 to 39 also state the importance of good design.

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes. Applications for residential on employment land should be given favourable consideration, subject to criteria.

Paragraph 10 of the new PPS3 indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. The specific outcomes that the planning system should deliver are:

1. High quality housing that is well-designed and built to a high standard.
2. A mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas, both urban and rural.

3. A sufficient quantity of housing taking into account need and demand and seeking to improve choice.
4. Housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.
5. A flexible, responsive supply of land - managed in a way that makes efficient and effective use of land, including re-use of previously-developed land, where appropriate.

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

PPS6 seeks to promote strong and diverse town centres whilst being accessible to all and promoting the need for high quality design.

PPG13, promotes development accessible transport locations, reducing the need to travel by car and promoting walking, cycling and public transport. This is supported by Manual for Streets (published May 2007) which promotes a flexible approach to design and materials that build a high quality environment

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

### **Consultations**

**Pollution Control** - No objection subject to conditions

**Education** - A contribution should be sought in line with the Council's SPD

**Fire Service** - A fire access needs to be agreed in line with the Fire Service as the proposals all areas are not within 45metres of an accessible point.

**Greenspace** - Contribution should be sought in line with the Council's SPD.

### **Representations**

None.

### **Determining Issues**

- Retail development and local need
- Development Density and Design
- Relationship to neighbouring properties
- Section 106 Agreement

### **Observations**

### **Retail development and local need**

It is acknowledged that the application site is out of centre in retail policy terms and that any additional development would need to meet a local need. However the retail floorspace proposed is a replacement of existing. Therefore the tests which would be applied to new floorspace are not necessary in this instance. It is acknowledged that the existing retail element is a general store providing for a wide range of convenience and everyday goods, clearly providing an everyday need, and therefore a restriction on the type of goods to be sold at the premises would be inappropriate in this instance.

### **Development Density and Design**

In terms of the building form, the proposed building has taken various cues from the surrounding terraces and lined up the storeys and fenestration to reflect and maintain this character. The residential units are dual aspect, which is positive in terms of solar gain and natural ventilation.

Given the location of the site close to the town centre, and on a primary route the development density is appropriate in this instance. The use of roof terraces would be an appropriate use of amenity space for the upper flats and the use of balconies is an appropriate feature. The communal amenity space also adds to the quality of the proposed development.

The use of entrances onto the street and the use of the corner shop will aid the creation of active frontage to the street scene. Overall the proposals will represent an appropriate high quality development that will add to the character of the area.

### **Relationship to neighbouring properties**

The proposals have been carefully designed to reduce overlooking to the adjoining Ida Road property, and this is reinforced by the entrance canopy proposed for that property. The proposed flats fronting Pleck Road are 24 metres from the rear boundary. This exceeds guidance in Residential Design Standards. In addition the ground floor level slopes towards Pleck Road which will reduce the visual impact of the proposals.

In addition it is considered that the proposals will not result in an adverse impact in terms of light to neighbouring properties.

As such it is considered the proposals would form an appropriate relationship to neighbouring properties.

### **Section 106 Agreement**

It is noted that the proposals are for 14 one bedroom units, 6 two bedroom units and 2 three bed units. Therefore there will only be 8 units which will generate an education contribution. This is below the threshold of 10 units. As such a contribution for education is not sought in this instance.

The application was received on 1<sup>st</sup> February 2007, at a similar time to the adoption of the Healthcare SPD. In addition the proposals have been the subject of a wide range of pre-application discussions which have delayed the submission. Therefore for these reasons it is not proposed to seek Healthcare contributions in this instance.

Open space contributions are sought at £22,432.

## **Conclusion**

In conclusion, the proposals will have positive regeneration benefits and will be a high quality development on the edge of the town centre on a design-led basis. The application would be reflective and respectful to the more traditional architecture in the immediate vicinity whilst not attempting to replicate these in an unsympathetic manner.

## **Recommendation: Grant Permission Subject to Conditions and a Planning Obligation**

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

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

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

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

3. Prior to the development being brought into use, noise mitigation measures to protect internal areas shall be installed in accordance with the Acoustic Report, prepared by RW Gregory, submitted in support of the proposals hereby approved. Any amendment to the details submitted shall be submitted to and agreed in writing prior to the development being brought into use.

*Reason:* In order to safeguard the amenities of future residential occupiers.

### ***Notes for applicant***

*With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:*

*a). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(5\text{ minutes})}$ , of 35 dB together with a maximum instantaneous level of 45 dB  $L_{AFmax}$ , between the hours 23.00 to 07.00;*

*b). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(1\text{ hour})}$ , of 45 dB between the hours 07.00 to 19.00; and*

*c). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(1\text{ hour})}$ , of 40 dB between the hours 19.00 to 23.00.*

*Sound level measuring instrumentation shall conform to either 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level*

*meters' and/or BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' and/or Class 2 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications (or any superseding standards as applicable) which shall have been verified in accordance with British Standard BS 7580 ' Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' within a preceding 2 year period.*

*Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:*

*Planning Policy Guidance Note PPG 24 'Planning and Noise'. 1994;*

*Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005*

*British Standard BS 7445: 2003 'Description and Measurement of Environmental Noise'.*

*British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures;*

*British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use*

*British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits.*

*British Standard BS 4142: 1997 - Method for Rating industrial noise affecting mixed residential and industrial areas  
Calculation of Road Traffic Noise, 1988*

*Calculation of Railway Noise, 1995*

*This is not an exhaustive list.*

*Noise surveys should adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation points, and may also need to take account of changes in noise levels on account of height above ground floor level. Additionally, a noise survey may have to take into consideration changes in a noise climate between normal weekdays and weekends, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys will be required by the local planning authority in some instances to corroborate a continuous single noise survey.*

*Submitted noise measurement data must include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of verification checks pursuant to British Standard BS 7580 Part 1: 1997 Specification for The verification of sound*

*level meters Part 1 Comprehensive procedure conducted within the previous 12 month period, and recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum.*

3. No development shall be carried out until full details of the proposed boundary treatment of the site have been approved in writing by the local planning authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

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

4. Notwithstanding the notation on the deposited plans no development shall be carried out until samples of the facing materials to be used have been approved in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development.

5. No development shall be carried out until a detailed landscaping scheme for the site has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

- (a) grassed areas shall be maintained in a tidy condition;
- (b) planted areas shall be maintained in a tidy condition;
- (c) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- (d) any damage to protective fences shall be made good.

*Reason:* To ensure the satisfactory appearance of the development.

6. Prior to the commencement of any development on site details shall be submitted to and approved in writing by the Local Planning Authority for the conservation and efficient use of energy and natural resources and sustainable development, including consideration of Ecohomes Very Good Standard and 3 stars standard as amplified by the Code for Sustainable Homes (January 2007) or subsequent document, micro energy generation, on site composting, grey water systems, SUDS and locally produced building materials. The development shall then be implemented in accordance with the approved details.

*Reason:* In order to comply with guidance within policies ENV39 and ENV40 of Walsall's Unitary Development Plan, PPS1 and the Code for Sustainable Homes in terms of sustainable development and use of natural resources.

7. Prior to the commencement of development a plan showing all visibility splays for new principal access onto Ida Road shall be submitted to, and approved in writing by the Local Planning Authority. The visibility splays at the proposed access point with Bentley Lane, shall be maintained clear of any structure over 600mm.

*Reason:* In the interests of highway safety

8. Prior to the first dwelling being occupied on the development hereby approved, a Residential Travel Plan developed in partnership with this Council's Travel Wise co-ordinator shall be submitted to, and agreed in writing by the Local Planning Authority. This shall identify a package of proposed measures consistent with the aim of reducing reliance on the car, and should include details on:

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

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

*Reason:* To ensure the satisfactory functioning of the development

9. Details for the disposal of both surface water and foul sewage are to be submitted to and agreed by the Local Planning Authority prior to the commencement of the development hereby approved.

*Reason:* To ensure that 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.

10. Prior to the occupation of the building, the location of a communal satellite dish to serve the apartments units shall be submitted to and agreed by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the building, to ensure amenities of future residential occupiers, to prevent a proliferation of satellite dishes on the building and to ensure satisfactory functioning of the development

11. Prior to the commencement of development the details and locations of cycle stores, covered parking areas and bin stores shall be completed submitted to and approved by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development.

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



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

NOTE FOR APPLICANT: If your application includes demolition work, it may be necessary for you to also notify Building Control Services of your intention to demolish (Section 80 of the Building Act 1984). This should be done as soon as possible but not less than 6 weeks before commencement of the demolition work. Helpline number 01922 652408.

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

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP1, GP2, GP3, GP7, T7, T12 T13, ENV18, ENV29, ENV32, ENV33, JP1, JP7(d), S6, S7, H3 and H10 and Policies QE3, QE4 QE5 and QE9 of the Regional Spatial Strategy for the West Midlands (RSS11), on balance, having taken into account all material planning considerations, the proposal is acceptable.

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

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning  
and Building Control,  
Regeneration  
On 26 June 2007

**REASON FOR BRINGING TO COMMITTEE: Major Application**

**Application Number:** 07/0598/FL/W2

**Case Officer:** Val Osborn

**Application Type:** Full application

**Telephone Number:** 01922 652436

**Applicant:** Yourspace Plc

**Agent:** Paul Harrison

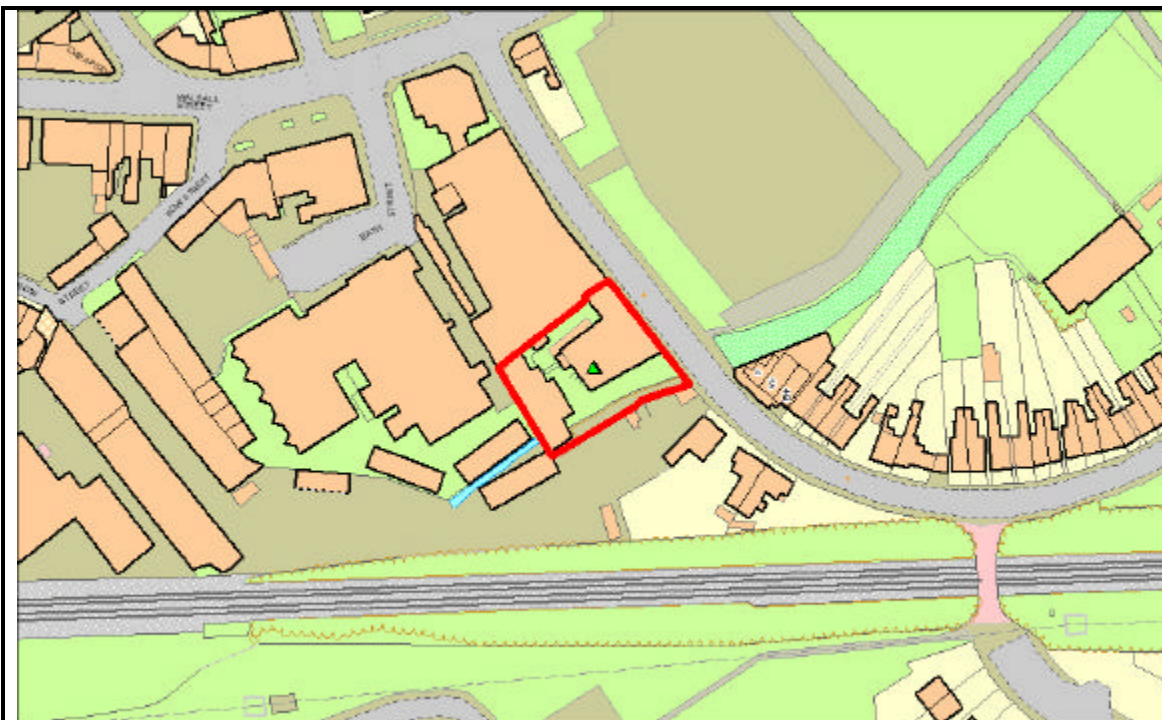
**Proposal:** Proposed new residential tower comprising 90 units with car parking plynth

**Location:** WEST MIDLANDS HOUSE (SOUTH SIDE), GIPSY LANE, WILLENHALL, WEST MIDLANDS, WV13 2HA

**Ward:** Willenhall South

**Expired:** 02 July 2007

**Recommendation Summary:** Refuse Permission



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Status - Called in by Councillor Creaney who considers that the proposal would have an inadequate access, increase traffic, would have an unacceptable impact on neighbours and be overdevelopment.

### **Application and Site Details**

The site is to the south of Willenhall Town Centre and is part of an existing 3 storey former lock factory known as West Midlands House, fronting Gipsy Lane. To the south, the factory is separated from the adjacent service yard and two industrial units by an open section of channel of the diverted River Tame. Further south are terraced houses with small garden frontages to their front door access.

To the east and across the road from the factory is a car park, ( and lorry park after 6pm ) and the playing fields in front of St Giles Church.

To the west of the factory is Willenhall Leisure Centre and Library in Bath Street. These buildings are two storey civic frontages, and the prevailing character of Willenhall Conservation Area to the north-west is similarly predominantly low rise of two and three storey. Multi storey blocks of flats at St Giles and St Anne's Court appear in the skyline to the south-west, with St Giles at 90m distance.

The site is within the area defined as Willenhall Town Centre and to the south west of and outside of Willenhall Conservation Area.

The application proposes the demolition of one third of the factory building and the erection of a 14 storey ellipse shaped glazed tower on top of a plinth, to provide 90 flats. Overall the tower and plinth would be 56m in height and 19 storeys.

The residential tower's main axis would be oriented across the site, north south, so that units which have floor to ceiling glazing would receive east-west sun. Three apartments would be at the first level of the tower with access to the plinth level open space.

The plinth would be multi-level (7 split levels, levels -2 and -3 below ground) and appear as three storey from the street, with the roof on the plinth providing landscaped open space for residents as well as communal covered terrace. The plinth provides 113 parking spaces with pedestrian and vehicular entrances at street level on Gipsy Lane frontage.

Cycle storage for 22 bikes and refuse facilities are within the plinth feature.

The applicant has submitted additional information. In the Design statement the client comments that "the factory is nearing the completion of £1.25m refurbishment to provide grade A serviced office space with a café, tropical garden and glazed atrium. The opportunity for residents to live and work in West Midlands House will be actively promoted. Willenhall centre is in decline but only small scale redevelopment may be feasible. The larger development of West Midlands House will enhance and diversify the role of the centre and is located close to the town centre. Residents of West Midlands House can live, work and shop all within walking distances.

The tower provides a focal point for the redevelopment of West Midlands House and is symbolic of the regeneration of Willenhall... The glazed tower, with its slipped elliptical form

provides a truly modern piece of architecture that highlights the progressive attitude, positive intentions and commitment to the area of the developer. The floor to ceiling glass cladding will create a high level of permeability to the tower.... The orientation of the tower has been arranged to minimise shadows”.

The applicant has submitted an environmental assessment which, based on the assessment and proposed use, concludes that the site presents a low risk to controlled waters and a medium/low risk to human health.

The Flood Risk Assessment considered that there was no significant risk of river flooding to the site. A model confirmed that the culvert running along the south of the site had the capacity to contain the 100 year event.

The Transport Assessment comments that “access would be designed to comply with visibility splay and other safety requirements. Car parking to a standard of 113 spaces including 25 disabled and 1 visitor space per 4 dwellings ... is sufficient for the development in this highly accessible location. The site is a highly sustainable location and would not result in a significant highway impact”.

The Noise Assessment was conducted over 48hour and 3 hour periods and the report considers that appropriate internal noise criteria have been proposed and are likely to be achievable.

The site is 0.11ha ( 0.3acres). density is very high, but tall buildings make such calculations misleading.

### **Relevant Planning History**

05/1458/FL/W6 - extensions and alterations to existing office building to provide café and improved office accommodation, granted 15 September 2005.

### **Relevant Planning Policy Summary**

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

#### **Unitary Development Plan**

**2.2:** Lists six key strategic themes that will be used to evaluate development proposals. These include creating, sustaining and enhancing a high quality natural and built environment, including a high standard of design.

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

**GP2:** The Council will not permit development which would have an unacceptable adverse impact on the environment and lists the considerations which will be taken into account in the assessment.

**GP3:** Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

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

**3.6:** Development and redevelopment schemes should, as far as possible, help to improve the environment.

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

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

**ENV18:** The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows.

**3.113** New development provides opportunities for high quality architectural and landscape design to contribute to the environmental and economic well-being of the Borough for the benefit of residents and visitors, alike. Good design responds positively and imaginatively to the context in which development takes place.

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

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

**ENV29:** Development should preserve or enhance the character and appearance of a Conservation Area.

**ENV32:** Development needs to take account of its context and surroundings and indicates the criteria to be taken into account in assessing proposals.

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

**ENV40:** Adequate foul and surface water drainage infrastructure should be provided.

**JP7:** It may be appropriate to consider alternative use of employment sites for housing due to the relationship of the site with surrounding land uses or because the site is not well located to meet the needs of modern industry.

**Para 5.3** Encouragement of housing within and close to local centres.

**S2:** Willenhall Town Centre plan identifies this site as part of an industrial regeneration area.

**Para 6.3:** Housing should be in locations that have good accessibility and are well related to local facilities, such as town, district and local centres.

**H3:** The Council will encourage the provision of additional housing through the re-use of brownfield previously developed windfall sites, subject to a satisfactory environment being achieved.

**H4:** On sites suitable for provision of an element of affordable housing the Council will normally negotiate with developers for 25% of total dwellings to be affordable homes.

**H9:** Housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites.

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

**7.1:** Seeks to promote an efficient highway network;

**8.8:** Residential developments will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved educational facilities or other forms of social and community infrastructure the Council will require developers to make a financial contribution to the costs of providing these facilities

**8.9:** Where demand is created, the Council may require developers to contribute towards the cost of provision of community healthcare facilities.

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

**T13:** Advises on parking requirements.

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

### **Residential Design Standards**

These include guidelines relating to design and space around dwellings.

### **Regional Policy**

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

### **Supplementary Planning Document for Urban Open Spaces**

Identifies the requisite local standards and contributions that developers will be required to make towards provision and improvement of open spaces.

### **Supplementary Planning Document for Affordable Housing**

Guides delivery of affordable housing to appropriate locations in the Borough and provides for balanced, mixed communities.

### **Supplementary Planning Document for Education**

Sets out the contributions that developers will be required to make towards the provision and improvement of local education facilities.

### **Supplementary Planning Document for Healthcare**

Seeks to provide adequate healthcare facilities and sets out requirements for contributions from potential developers.

### **National Policy**

PPS1 Delivering Sustainable Development, PPS3 Housing, PPS6 Planning for Town Centres and Retail Development, PPG9 Nature Conservation, PPS10 Planning for Sustainable Waste Management, PPG13 Transport, PPG14 Development on Unstable Land, PPG15 Planning and the Historic Environment, PPG16 Archaeology & Planning, PPS23 Planning and Pollution Control, PPS24 Planning and Noise, PPS25 Development and Flood Risk, 'By Design' companion to PPG's, Urban Design Compendium, Safer Places- The Planning System & Crime Prevention.

### **Consultations**

**Pollution Control** - No objections.

**Regeneration, Conservation-** Object. The site does not properly take account of its context or surroundings.

The introduction of a landmark contemporary building in Willenhall is an exciting, if challenging, concept. It offers the potential for increased visual interest and variety in the townscape but, as the design and access statement notes, successful integration could be difficult in the context of a largely mid 19<sup>th</sup> - early 20<sup>th</sup> century, relatively small scale built environment.

Although the Gipsy Lane site lies outside the Willenhall conservation area boundary, it is sufficiently close to allow views of the proposed development from within the area. In some

instances these views could be striking with the bold new development successfully framed by earlier buildings. However, the potential for positive views is limited by the layout and topography of the area. It is likely that most of the views from within the conservation area will reveal only part of the tower which, visually cut off from its base, will loom over the smaller historic properties providing an unsympathetic and incongruous backdrop.

Within Gipsy Lane itself the properties become smaller and of a residential nature as one progresses away from the junction with Walsall Street. The proposed tower would offer a sharp contrast in form, scale and materials.

The tower would dwarf the two locally listed buildings, The County PH and Library, making them appear smaller and less visually imposing. This would particularly affect the character of the Library which as the former town hall was intended to convey an air of authority.

Although the proposed design is visually striking and appealing, presenting an elegant, slipped elliptical glass-clad tower on a contrasting, solid plinth, it seems to me that this is a design for a contemporary city context which is unsuited to the proposed site on the edge of a conservation area in an impressive historic Black Country town. It is considered that, Willenhall conservation area is too important and too sensitive to permit large scale development of this kind in the immediate area.

**Regeneration, Urban Design -Object.** The proposal fails to take into account the character of the surrounding area. Whilst new innovative development is encouraged, this is only where it is appropriate and nothing in the application's D&A statement justifies this building form. Willenhall has a strong character that is highly prized in the public perception and this development does not respect or enhance that.

The design places massive emphasis on the height of the building and the street level has been severely neglected at its expense. It will have bland and inactive frontages at ground floor level which is not in keeping with the character of Willenhall.

The Design & Access statement makes reference to the development providing a landmark for Walsall and but no analysis whatsoever of its impact upon the skyline, any views it may create and more importantly, any existing views of value it may block. No graphical explanation of what its wider impact upon the whole of Willenhall and the surrounding area from which it will be visible is given. This is critical to understanding what this impact will be before determining whether or not the development would be an acceptable addition to the built environment.

There is not any justification for the scale of this building or detailed and thoughtful consideration given to the wider impacts it will have.

In terms of sustainability, the D&A statement gives no mention of how sustainable technologies will be used in the construction - a landmark building such as this should be seeking to optimise this sort of opportunity, otherwise I suspect that its carbon footprint will be enormous.

The D&A statement makes no reference to shadow impacts of the building and gives no graphical analysis of this. Impacts upon microclimate, overshadowing, potential impacts upon wind flow, temperatures and sunlight are all factors that affect the urban quality of a place for the better or for the worse and no mention has been made of this, without any evidence to show it has been considered in evolving the design.

The Design & Access statement states that open space will be “under the tower” which raises the question as to whether it would be a quality amenity space for the residents or whether it would be cast in shadow for the majority of the day.

**Education Walsall** - The level of surplus places in local primary schools is above 10% so no contribution is required for this phase. However, the level of surplus places in local secondary schools is below 10% therefore a contribution is required towards secondary school provision. The contribution calculation is sensitive to the type and mix of dwellings to be built. It involves combining the expected pupil yield for the development by a Building Cost Multiplier provided by the DfES at the start of every financial year. Based on current prices, a contribution of £70,745.47 is required.

**Police Architectural Liaison Officer** - The applicant will be to achieve Secure by Design and Park Mark standards and the proposals are accepted on this basis.

**Environment Agency** - Objection. The Environment Agency acknowledges that the open section of channel adjacent to the site now only receives surface water flows (Section 2.8 of the FRA). The construction of the 'River Tame Tunnel Wolverhampton Arm' diverted river flows away from Willenhall into the Darlaston Brook downstream. The site is therefore not considered to be located within the floodplain of the River Tame. However, further information is required to clarify whether or not the site is at risk of flooding from surface water inflows to the culvert and open section.

**Centro** - No objection. The site is well served by a number of regular bus services linking Wolverhampton and Walsall.

**Inland Waterways Association** - no comments.

**National Grid** - no comments as risk negligible.

**West Midlands Fire Service** - satisfactory access providing fire-fighting shaft including lift and access to dry riser inlet within 18m of an appliance, to be provided.

### **Public Participation Responses**

Nine letters received object on the following grounds;

- Overdevelopment of the site;
- Redevelopment should be kept at a scale similar to the surrounding area- this is out of character with the area;
- An obtrusive 20 floor block of flats will intrude into the private spaces of nearby terraced housing, leading to loss of privacy;
- The number of people living in a small area will cause a lot of noise and disturbance to Gypsy Lane, which is currently a quiet street;
- Increase the traffic in Gypsy Lane, which is a one way route in part, would increase hazards for children walking into town and would lead to other traffic using the entire length of Gypsy Lane;
- Loss of value;
- Create vandalism as this type of property creates that outcome;
- The adjacent drop forging enterprise operates within strict environmental controls ( ISO 14001) and residents of the development so close to the factory may be subject to the noise levels from this industry;



- Construction would cause disruption;
- Concern for the security of the underground and multi-storey car park.

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

### **Determining Issues**

- Principle of residential development;
- Design and layout ;
- -Access and other transportation issues;
- Impact on neighbouring conservation area
- Impact on nearby properties
- Impact on landscape
- Outstanding matters- Transportation and Flood Risk Assessment
- 106 contributions.

### **Observations**

#### **Principle of residential development**

The proposal would provide new investment that would support the vitality and viability of Willenhall District Centre. It is also accessible to public transport. The site is within the District Centre. The principle of the scheme is therefore acceptable.

#### **Design and layout**

The proposed tower could provide a landmark building for Willenhall, with a striking contemporary design using entirely glazed elevations for the tower. However the Design and Access statement fails to justify the scale of this building or consideration to the wider impacts it will have within its context.

The scheme will have bland and inactive frontages at ground floor level, with a blank concrete wall and louver feature at pedestrian level between the vehicular entrance to the underground car park and the double door entrance to the foyer. This is in marked contrast to the direct frontage access and window frontages at street level that is characteristic of Willenhall District Centre, the nearby civic area to the rear and north and the majority of Gipsy Lane. The street frontage to the development will be dominated by blank elevations to a car park and an unobtrusive, indiscriminate pedestrian and vehicular entrances to the tower, thereby being illegible to street traffic, particularly pedestrians. This is not an acceptable aspect of design.

The design and submitted information does not make clear the attributes that will meet Secure by Design principles, particularly in respect of the bicycle store, and vehicular and pedestrian entrances for the scheme.

In terms of sustainability, the D&A statement gives no mention of how sustainable technologies will be used in the construction - a landmark building such as this should be seeking to optimise this sort of opportunity.

The D&A statement does not explain, beyond assertions, shadow impacts of the buildings and does not give a graphical analysis of this. There is no further study of how the development would impact upon microclimate. In addition to overshadowing, there may be potential impacts upon wind flow, temperatures, sunlight, nor any evidence to show it has been considered in evolving the design.

The proposal therefore fails to be of a high quality design overall or substantiate the claims made from the design.

### **Impact on neighbouring conservation area**

The Conservation officer objects to the scheme because of its visual impact on the setting of the Conservation Area and considers that the development is out of character with its context. "Willenhall Conservation Area is too important and too sensitive to permit large scale development of this kind".

The tower will be glimpsed from parts of the Conservation Area and provide a marked and modern contrast in scale, materials and form to the locality. The Conservation Officer comments that "the proposal is sufficiently close to allow views of the proposed development and these views could be striking with bold new development successfully framed by earlier buildings". The submitted information has yet to demonstrate this point. "Whilst the potential for these views is limited by layout and topography, the tower will often be seen without the plinth base". It is likely that the plinth will only be seen from Gipsy Lane frontage and partially from across the adjacent car park and the tower would be the predominant feature.

### **Impact on nearby properties**

The application does not contain any graphical or other representation of the impacts on the surrounding area, in terms of sun/shade or overlooking into existing private gardens. The proposal's east facing elevation will inevitably allow for overlooking to some degree into nearby rear gardens on Gipsy Lane.

Gardens to existing houses are between 35m and 45m away at the nearest point. The proposed tower would be angled north-south, so that only half of the elevation on the east side of the building would overlook the nearest gardens, of 140 and 141 Gipsy Lane.

However the case for the development's impact on the amenity of nearby properties has not been made.

### **Impact on landscape**

The submitted information describes the proposal - The floor to ceiling glass cladding will create a high level of permeability to the tower, avoiding any monolithic quality. However no assessment has been made of the over visibility and impact of the tower from the local area of views and vistas further afield. The impact on landscape is an important consideration and the application fails to demonstrate its impact or argue its acceptability.

### **Outstanding matters- Transportation and Flood Risk Assessment**

Transportation comments raise issues that could be resolved through minor amendments to the scheme. The issues are not considered to be fundamental to the scheme's principles of design.

Environment Agency has objected to the application and, at the time of writing this report, the applicant has not resolved the outstanding matters with the Agency.

### **106 contributions**

The applicant does not agree to contributions in respect of Urban Open Space, (calculated as £ 106,722 ) or Healthcare (59,182.20 ). Additionally there is no 'in principle' draft agreement for any element of provision for Affordable Housing.

## **Conclusion**

The scheme offers significant regeneration opportunity for Willenhall and in that respect it is supported. However outstanding matters related to design, Secure by Design and impact of the scheme are outstanding. Further evidence in respect of the Flood Risk Assessment is being sought to resolve outstanding matters. However Agreements in respect of 106 contributions have been rejected.

## **Recommendation**

On the basis of the information in the application to date the recommendation is for refusal. However members are invited to consider whether there are additional issues such as:

- the relative heights of nearby buildings and height of the proposed tower;
- the scale of the plinth in relation to nearby houses;
- the relationship of the proposed tower to Willenhall Conservation Area and the views of the building from the Conservation Area.
- The iconic nature of the design for the tower, and the significance it will have in promoting Willenhall.

## **Recommendation: Refuse Permission**

### **Reasons for Refusal**

1. The proposed development proposes bland and inactive frontages at ground floor level which is not in keeping with the character of Willenhall District Centre, Willenhall Conservation Area or the majority of Gipsy Lane. The application fails to justify the scale of the building or consideration to the wider impacts it will have within its context in terms of views of the building or landscape impacts. The proposed development fails to meet Secure by Design principles or provide a landscaped environment to provide adequate levels of private open space for occupiers. The proposed development would have an adverse impact on the amenity of the occupiers of nearby houses, by reason of the impact on sunlight, the creation of shadow and the overlooking into rear gardens. As such the proposed development is contrary to policies 2.2, GP2, GP7, 3.6, 3.16, 3.113, 3.114, 3.115, ENV32, ENV33, and H10 of Walsall Unitary Development Plan 2005 and Planning Policy Statements 1 and 3 and related companion guides.

2. The information contained in the Flood Risk Assessment is inadequate and further information is required to clarify whether or not the site is at risk of flooding from surface water inflows to the culvert and open section. As such the proposed development would be contrary to policy ENV40 of Walsall Unitary Development Plan 2005 and Planning Policy Guidance Note 25.

3. The development makes no provision for a financial contributions to education and healthcare facilities or the provision of urban open space and affordable housing as required by policies GP3, LC1 and H4 of the Unitary Development Plan and adopted supplementary planning guidance for education, health, open space and affordable housing. This has not been pursued and therefore the development is contrary to those policies.

(Note For Applicant : the Council recognises that Reason for Refusal no. 5 could be achieved on the site and has adopted a policy to secure this provision through a Section 106 Agreement)

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

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning  
and Building Control,  
Regeneration  
On 26 June 2007

**REASON FOR BRINGING TO COMMITTEE: Major Application**

**Application Number:** 07/0639/FL/W2

**Case Officer:** Marilyn Kowalski

**Application Type:** Outline Application

**Telephone Number:** 01922 652436

**Applicant:** Willenhall Regeneration Company

**Agent:** Planning Prospects Ltd

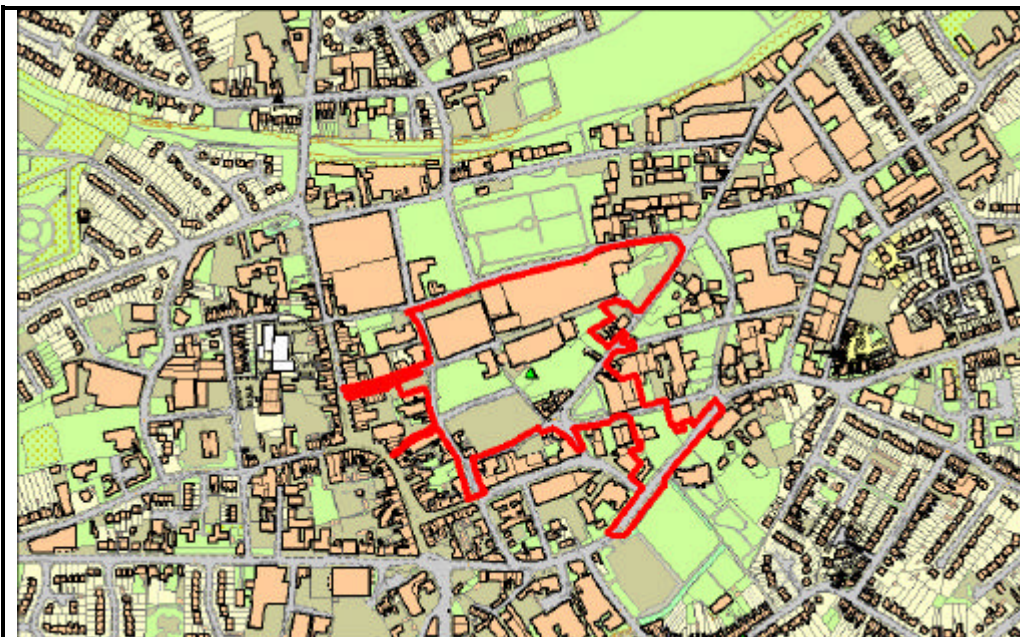
**Proposal:** Outline: Demolition of existing buildings and provision of retail (use class A1), residential (use class C3), premises for retail, service or office use (use classes A1, A2, A3, A4, A5 or B1), link road, car parking and other associated works.

**Location:** LAND BETWEEN, WOOD STREET, UPPER LICHFIELD STREET & LOWER LICHFIELD STREET EXTENDING TO, WALSALL STREET, WILLENHALL, WEST MIDLANDS

**Ward:** Willenhall South

**Expired:** 17 July 2007

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



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## **Application and Site Details**

This is an outline application for residential development and a large food retail store with all matters reserved for future approval except for, the access arrangements to the retail element, which are to be taken into account at this stage.

The application site is located on the eastern side of Willenhall District Centre. The site is bounded by Wood Street to the north, Lower Lichfield Street to the east and south, and Upper Lichfield Street to the west. In addition the site extends southwards from Lower Lichfield Street to Walsall Street including a strip of land principally between Leve Lane and Church Street. This will incorporate a proposed link road Walsall Street being the main east/west route in the area. In addition it extends westwards along both Union Street and Angel Passage. The total site area is approx 5.66 ha., with the residential component comprising 0.963 ha of this.

It is currently occupied by various industrial buildings formerly associated with lock manufacturing and other industrial uses and there are large areas of open land within the site used for car parking or storage.

Part of the site is in the Willenhall Conservation Area and three listed buildings are sited on the western boundary.

The proposals form phase 1 of what is anticipated to be a three phase scheme.

**For phase 1** an illustrative site layout has been submitted with the application which shows how the development could be laid out. The residential development shows the following:-

- the conversion of the Yale building fronting Wood Street into approx. 47 apartments and 24 x 2 - 3 storey dwellings
- an access off Lower Lichfield Street.

The food retail development is shown as:-

- one 74,000sq ft retail food store with service yard
- 542 district centre car parking spaces
- new link road joining Walsall Street with Wood Street
- new road junction on Walsall Street, mid way between Leve Lane and Church Street which would bisect Doctors Piece and Lower Lichfield Street, and form a new junction on Wood Street opposite the cemetery.
- Customer access to the food store from the link road and the remodelled western section of Doctor's Piece and Lower Lichfield Street;
- illustrative elevational drawing for the food store

The plan is also annotated indicating that the development includes:-

A road improvement to and from Union Street to Lower Lichfield Street to create pedestrian friendly environment;

Improvement to Angel passage to create pedestrian friendly environment/improvement to walls;

Improvement to Union Street to create pedestrian friendly environment;

Various documents have been submitted with the application including:-

### **Planning and Retail Statement**

This gives an outline of the site and surroundings, the proposal, policy base, general planning and retail assessment. It concludes that the proposal complies with policy and offers potential to regenerate the District Centre. A draft legal agreement is outlined.

#### A Design and Access Statement

This describes the constraints and opportunities which have been taken into account in formulating the scheme.

#### Transport Assessment

This concludes that that the development complies with policy and all junctions will operate within capacity in the future, apart from the existing junction of Temple Bar/Moat Street/Pinson Road which is predicted to operate “no worse” with the addition of the development traffic.

#### Noise and vibration Assessment

This concludes that through the use of various mitigation measures it is possible to meet the desired design criteria and provide an acceptable level of amenity for future residents.

#### Desk Top Flood Risk and Drainage Appraisal

This concludes that the site is within a Flood Risk Zone 1 and that there is no documented evidence of flood risk at the site. The redevelopment of the site in the manner shown is entirely appropriate and agreements for a reduction in surface water flows can reasonably be achieved. The development will not increase flood risk within the catchment.

#### Cultural Heritage Statement

This concludes that the application area has low/negligible potential for early buried archaeological remains up to the post medieval period. There is moderate potential for late post medieval/modern industrial archaeological remains of local significance. The primary impact of the development proposals stem from changes in the streetscape and road layout. These changes have been mitigated by an as-existing record of the current streetscape and road system that will effectively preserve the current layout by record. The proposals seek to enhance the visual amenity value of listed buildings within the vicinity of the site and thus on balance the scheme is considered to be beneficial to the improvement of the setting of the listed buildings and providing a contemporary but sympathetic backdrop to the conservation area.

It is proposed that as part of the link road construction, a section of Doctors Piece and Lower Lichfield Street will be closed as will the junction of Walsall Street and Leve Lane. All traffic wishing to access the “John Street town centre loop” (*as named by the applicant*) will have to divert onto the new link road and take access via Doctors Piece. The food store will be accessed via a new roundabout at the junction of Doctors Piece /Leve Lane/Lower Lichfield Street, with part of Doctors Piece being widened to form the main route from the store to the new link road. Adjacent to the site, buses from the south enter the Leve Lane/John Street/Upper Lichfield Street/Lower Lichfield Street town centre loop, with the main bus stop located on Upper Lichfield Street. This will be maintained within the development, although buses will have to divert from Leve Lane on to the new link road to access the wider highway network. Buses from the north currently use the Upper Lichfield Street/Union Street loop. It is proposed to divert these services along Upper Lichfield Street onto Lower Lichfield Street to then use the new link road and Wood Street to rejoin their original route.

**Potential subsequent phases** are indicated on an illustrative master plan which has been submitted with the application this shows further development of the site for:-

Café/retail 2,450 sq ft. (single storey) along part of Angel Passage (phase 2A);

Petrol Filling station off Doctors Piece (Phase 2B);

Health and fitness development on the corner of the new link road and Walsall Street (Phase 3)

Adjoining this area, but outside the site and illustrating future possibilities, an additional development on the corner with Union Street and Upper Lichfield Street indicates proposed retail/office 4,500sq. ft gross internal per each floor (2 storey).

### **Relevant Planning History**

06/0710/ND/W2 - Is an Environmental Impact Assessment required for mixed use development including the provision of a new link road (*same applicant as the current application*) Decision: EIA NOT NECESSARY. Date of Decision 5<sup>th</sup> July 2006.)

06/0658/OL/W2 Outline: Residential Development at Assa Abloy Ltd., Wood Street, Willenhall, (covered part of the application site) REFUSE:

"1. The Unitary Development Plan seeks to encourage the growth and development of the town and district centres in the Borough. The prime concern is sustaining or enhancing their vitality and viability. A comprehensive approach to development is encouraged and, whilst individual proposals will be considered, the Council would need to be satisfied that a more comprehensive scheme cannot be achieved and that future more comprehensive development options are not prejudiced. Those tests have not been met by the proposal. Accordingly, the Council considers :-

- ⌚ there is scope in the potential development of this site and adjoining land for a significant and important long lasting change in the role and function of the centre which would be difficult to realise elsewhere and which should be fully investigated before less comprehensive development of the site is approved
- ⌚ approval of the present proposal could prejudice a more comprehensive approach
- ⌚ the present proposal does not maximise the re-use of derelict, vacant and under-used urban land and buildings to help the best use of urban land and does not realise the potential of these areas to contribute to the overall strategy for the centre, and as a result, the full development potential of the site to contribute to the overall strategy for the centre and its future strength, vitality and viability is not realised

The proposal is therefore contrary to policies GP1(C), 5.1, 5.2, WH4(VI), 17.7 and 17.8 of the Unitary Development Plan.

2. The Unitary Development Plan seeks to encourage the growth and development of the town and district centres in the Borough and the prime concern is sustaining or enhancing their vitality and viability. Development in support of centres should be sensitively integrated with the centre. A comprehensive approach to development is encouraged. The application site is part of a larger land ownership parcel (the remainder being the subject of a separate application to develop). While the implementation of the proposal for mixed use development offers a limited measure of support to the district centre functions of Willenhall, the Council is not confident that the mixed use proposal will be delivered unless the implementation of the two applications is linked by a section 106 agreement, and such an agreement has not been



signed. In the absence of such an agreement, development could proceed with no regard to the need for comprehensive development around the centre, and the proper planning of the centre.

The proposal is therefore contrary to policies GP1(C), 5.1, 5.2, 5.3, WH4(VI), 17.7 and 17.8 of the Unitary Development Plan.”

06/0659/OL/W2 Outline - Mixed use development comprising: Residential development, Class D2 Leisure, Class A2 Financial and Professional Services, Class B1 Office, Class A3 Restaurants and Class A4 Pubs and Bars at C. E. Marshall Ltd, Wood Street, Willenhall (covers part of the site)

REFUSE for the same reasons as above.

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

### **Unitary Development Plan**

GP1 - Development will be guided by principles of sustainability, minimising need to travel by car, maximising re-use of vacant land and buildings without prejudice of beneficial use of adjoining land or buildings.

GP2, GP7, 3.16, ENV18, ENV32 and H10 - Development schemes should, help improve the environment of the Borough whilst not allowing development that has an adverse impact.

ENV25, ENV26, ENV33 archaeological remains to be preserved and development should seek to minimise impacts on the historic environment and enhance local character wherever possible.

GP3 identifies the use of section 106 agreements to support development and infrastructure.

Policies 2.2, 3.7, 3.6, and ENV10 seek to protect residents from unacceptable noise and pollution, whilst ensuring development makes a positive contribution to the quality of the environment..

Policies 3.13, 3.14, seek to safeguard the archaeological and architectural heritage of the Borough.

3.116 seeks to ensure the design of buildings takes into account the context and surroundings.

Policy 5.2 seeks to enhance the vitality and viability of local centres.

Policy S1 defines appropriate town centre uses.

Policy S2 (c) defines local centres to meet the day to day convenience shopping and local service needs of their communities.

Policy S3 Developments should be well integrated into existing centres

Policy S5 boundaries of local centres are drawn tightly to concentrate investment and within these areas the retention, enhancement and further development of shops will be

encouraged.

Policy S10 advises that restaurants and takeaways will be appropriate in Town, District and Local Centres-

JP7 - Use of Land and Buildings in Other Employment Areas

(d) windfall sites or buildings will normally be safeguarded for appropriate employment uses however sometimes other uses such as housing may be acceptable...alternative uses must satisfy other relevant policies and not constrain the operation of neighbouring businesses, or appropriate future commercial investment.

GP3 and 8.8 - Planning obligations will be used to secure provision of on or off-site infrastructure, facilities, services or mitigating measures made necessary by development. These may include transport infrastructure, open space, drainage works, affordable housing, education facilities, health care facilities and other forms of social and community infrastructure

T7 - All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment. Policy T13 also sets parking standards.

T10 (c) Accessibility standards for all transport modes should continue to be met throughout the life of a development. This envisages the use of commuted payments to support the provision of transport infrastructure where appropriate. (However, detailed study to underpin such requirements has not yet been done, and this can not therefore be invoked.)

H3 - Encouragement for the provision of additional housing through the re-use of previously developed windfall sites and conversion of existing buildings.

The Council has also adopted its Residential Design Standards (RDS).

WH4 (vi) designates an area (significantly bigger than the area of the two current applications) labelled:-

**'East of the District Centre.** This area has a wide range of uses, including employment, services and car parking. It has the potential for great change, given the changing requirements of many traditional industries and general social trends. Although the Council will encourage existing employment uses to remain and will facilitate their expansion where appropriate, when sites are vacated other forms of development might be appropriate in principle - for example leisure, residential or non-food retail warehousing (for outlets which might not be accommodated in the primary shopping area). The extent to which these alternative uses could be satisfactorily accommodated within the area will be determined by a number of factors including: their functional relationship with the Primary Shopping Area; adjacent land uses; and the improvement of vehicular access to and within the area. Any redevelopment must retain, and preferably enhance, public car parking in the area, in terms of quality, quantity and location. The Council will explore with developers the possible closure of redundant highways and their inclusion within development sites. It will also seek improvements to other highways to enhance access to the area.'

**Regional Spatial Strategy** for the West Midlands was published in June 2004.

Policy UR1 - Urban Renaissance in the Major Urban Areas (MUA's)

Policy CF1 - Scale and range of new housing development

## Policy QE1 - Environment

Overall, these seek improvements to the design and sustainability of the urban areas.

### **National Policy**

(PPG/PPS) - PPS1 on delivering sustainable development and good design.

PPG3 & PPS3 (draft) on residential seek to increase density suggesting 30 to 50 dph., though higher numbers are envisaged close to town and district centre, and to transport nodes.

PPG13 on transportation seeks to minimise the use of the car by the sustainable location of development.

Other related documents are PPG25 Development and Flood Risk, 'By Design' companion to PPG's, Urban Design Compendium, Safer Places, The Planning System and Crime Prevention and By Design - Urban Design in the Planning System: Towards Better Practice.

### **Consultations**

**Transportation:** No Transportation objections to the principle of the proposals. However, there are several conditions that need to be imposed on any permission. These relate to a safety audit of the proposed road works, confirmation of the capacity of the Walsall Street / Bilston Street / New Road modified junction, swept paths of the proposed turning heads on the closed sections of Doctor's Piece and Leve Lane, progression of the required traffic regulation orders and highway extinguishments, swept paths of buses using the proposed diversion routes, operation and control of the food store car park, servicing arrangements for the new development and existing businesses affected by the proposals, approval to the revised access to St Giles school car park, the provision of a lay-by on Walsall Road to serve St Giles Church, travel plans for all elements of the development and details of the public realm improvements shown on the submitted plans and a timetable for their implementation.

**Pollution Control:** No objections to this proposal subject to conditions relating to noise mitigation and Contaminated Land

**Regeneration - Built Environment:** No objection to the principle of a retail-led mixed use development this site. There are concerns currently, however, that the proposed layout and access will have serious detrimental impacts upon the character of Willenhall. Further discussion and negotiation is required to ensure that the details of the development are improved in a manner that benefits the urban quality and regeneration initiative of Willenhall.

**Physical Regeneration and Strategy Team (Policy):** The scheme needs improvements from a design, functionality and commercial point of view.

**Environmental Health and Consumer Services:** Awaited.

**Fire Service:** No objection, satisfactory for fire service access providing access for a pump appliance is to within 45m of all areas.

**Education Walsall** - A contribution of £51,953.71. is required towards secondary school provision.

**Housing:** Support the application 25% of total units should be on site affordable housing. These should be fully integrated within the development and will need to include a proportion of houses.

**Centro:** No objection. The development site is within the minimum standards for accessibility by public transport. There are 3 bus terminus presently located on Walsall Street, Moat Street and Upper Lichfield Street. These would require redevelopment into the proposed development. The existing bus routes will also need to be retained and improved if possible. *(This is the case)*. Centro have facilitated discussions at the early stages of this development proposal with the developer and the main bus operator in the area and these should continue. The application site is situated to the south of the proposed Metro route and within easy walking distance. It is therefore disappointing that the proposed 5Ws Metro route is not mentioned in the Transport Assessment. This could significantly enhance the public transport accessibility of the proposed development if implemented. There are also proposals for a new heavy rail station at Willenhall on the Walsall to Wolverhampton line. Centro recommends that Walsall MBC should consider whether a financial contribution towards the ongoing improvements being made towards public transport infrastructure in the area as well as towards the long-term development of the public transport network should be sought. It is also noted that the application includes a large car park. Whilst it is recognised that this is indicative at this stage, it is stated in PPG 13 that 'the availability of car parking has a major influence on the means of transport people chose for their journeys... Reducing the amount of parking in a new development (and the expansion and change of use in existing development) is essential, as part of a package of planning and transport measures, to promote sustainable travel choices'. Centro recommends that this matter be given further consideration before detailed proposals are submitted. Centro welcomes the willingness of the applicant to identify travel plan requirements as set out in Appendix G of the application information and recommends that these are taken forward.

**Police Architectural Liaison Officer:** No objection. This is a multi phase development with more planned. Willenhall suffers more than any other district centre from theft from car crime. The reason is that car parks for shoppers are placed at various isolated locations around the town and are not very well observed. There are many escape routes, alleys, pathways etc leading to and from them which has made them vulnerable. Much has been done to tackle this, but it still remains a big problem. In Lower Lichfield Street (the entrance of this proposed retail outlet), there used to be a town centre CCTV camera this is now missing. It was eventually removed as it had been involved in a number of road traffic accidents. The CCTV system should be reinstated as the car park will become a magnet for car crime. The cabling is still there, so it should be possible to bring it back into use. The installation of additional cameras would be of great benefit.

### **Representations**

I have received 4 letters of representation to date, 2 in favour and 2 against the application. The grounds of support are as follows:-

New shops and housing estate is a brilliant idea;  
Support the proposal;

The grounds of objection are as follows:-

The new link road will compromise the deliveries of goods to a local business;

Concern about customer access;

Disruption during construction;

(The above concerns are being addressed by the developer and it is anticipated that a satisfactory outcome can be negotiated)

This company is based on Lower Lichfield Street and would effectively be on the T Junction created by the new link road.

Concerns about ability to park;

Froysell Street has restricted parking;

Concerns about ability of customers to park near the premises

Deliveries and Collections would be difficult particularly for bulky items;

(These issues are addressed in the observations section of the report)

In addition at a recent meeting of the Willenhall Traders reactions are reported to have been mixed but erring on the side of being against the proposals. The Council's Town Centre Management Team will hopefully be able to allay some of the concerns

### **Determining Issues**

- Principle of development
- Planning History
- Conservation issues/design quality
- Residential amenity
- Noise / land contamination
- Access / parking
- Security
- Obligations
- Referral to the Secretary of State

### **Observations**

**Principle of development:** The principle of a food supermarket in this location was supported in a report by Martin Robeson, which was commissioned by the Council when several food stores were being proposed in various locations around Willenhall Town Centre. The conclusions in that study underpinned the approval of the Lidl store in New Street and the refusal of the mixed use and residential scheme on Assa Aloy, earlier this year. In making those decisions the Council was choosing to support the general conclusions in the study.

The principle of reusing brownfield sites for housing and other purposes is generally supported by Government and council policies, provided a satisfactory residential environment for future occupiers can be secured whilst protecting the operations of existing nearby users.

Housing is an acceptable use in principle, in the area governed by policy WH4 (and the wider policy base supports higher density development in this area, close to the centre, and the transport routes which serve that centre). Retail is also supported in principle.

WH4 identifies a series of sites around Willenhall centre, for a number of different uses.

WH4(vi) is the largest by a sizeable margin. It is defined as being suitable for redevelopment for leisure, residential and non food retailing (though this is not an exhaustive list).

To ensure the health of Willenhall town centre, it is essential that as full a package of mixed proposals are achieved as possible in the first instance.

Both national and local policies also identify the importance of sustainability. The site is located approx. 250m to the east of Willenhall town centre shopping area. Centro have expressed some accessibility requirements. I have suggested conditions relating to a residential travel plan and cycle parking. I have suggested conditions to promote these issues. I have also suggested notes for the applicant regarding the need for pedestrian links to public transport at the reserved matters stage. Centro have also asked for funding towards upgrading bus services (see my comments in the 'obligations section').

**Planning History:** Two earlier applications for the development of land on adjoining sites within the Wood Street area, and the site of the current proposal, were refused permission last year. Both were in outline with all matters reserved, one for residential and one for a mix of uses including residential but also B1, D2, A2, A3, and A4. The reason for refusal centred on two issues. The first reflected the Council's view that a comprehensive treatment of this part of Willenhall is required to maximise the potential of the site and hence the benefits to the centre. The second related to the fact that the two applications were not linked, again giving rise to concern in terms of achieving a comprehensive development, as well as the delivery of the mixed scheme. These decisions were informed by consultants advice to the council which, in general terms, considered that the scheme before you should be fully investigated prior to the grant of alternative development that might frustrate, or give the wrong signals about a preferable scheme.

**Conservation Issues/Design Quality:** The area covered by the site has local importance in historical and architectural terms and because of its association with the lock industry. The existing and surrounding street pattern forms part of Willenhall's historic heritage. This needs to be understood and incorporated wherever possible into the proposed development. Illustrative plans have been submitted with the application showing how the residential and retail elements may be laid out on site.

Officers have concerns about aspects of the siting of the food store and its linkages into the town centre and the proximity of the service yard to proposed residential properties. Also the illustrative residential layout is lacking in amenity space and garden dimensions are too tight on several plots. As the built development is mainly in outline at this stage, apart from the roads serving the retail part of the development, the design and siting of the buildings are matters which can be dealt with at the reserved matters stage.

A list of good urban design principles are set out below for reference in devising a Reserved Matters Scheme

- A. The Urban Design and Built Heritage Officer is concerned that the historical street pattern in the vicinity of the town centre will be lost and that the proposed layout does not reflect the industrial and historic character of the area. The priority of all new development should be to recognise and enhance existing positive character with respect to the site within which it will be located and how it relates to its surrounding environment. Where a locality lacks any distinctive good character, new development should seek to establish a new positive identity that can inspire future developments nearby.
- B. Willenhall benefits from a strong character full of positive features that have shaped the character of the town and contributed to its urban quality over centuries. The historic street pattern is one particular urban characteristic that has shaped this character, which regrettably the proposed development takes no account of. The

proposed road shatters the formation and connection of historic streets such as Doctor's Piece, replacing the road network with a four-lane route that cuts directly through the urban grain. Not only would the character of this area be eroded but, especially concerning, the link road would connect with Wood St immediately adjacent to the cemetery. The centre of Willenhall does not benefit from many open green spaces, let alone those with historical associations, and the cemetery currently provides a tranquil and contemplative space which the public can readily be seen using. Future development proposals in this area should be seeking to maximise the character of and the benefit offered by the cemetery rather than undermining it by locating a road junction intended for heavy traffic use adjacent to it. The junction at the opposite end of the road comprises a vast expanse of concrete and would not be considered, in Design and Conservation terms, to provide the best setting for the church. Clearly the scheme has been highway-led rather than design-led and in view of the continuing shift in government guidance away from highway-led schemes to design-led initiatives, this is most disappointing.

Whilst it is acknowledged that the scheme is in outline with all matters except access reserved, an indicative scheme and elevations have been submitted. Given that these details are all inter-connected with the access, it is felt necessary to comment on these details at this stage also:-

- C. Angel Passage and Union St are contained within the red line and it is understood that public realm improvements will be part of the overall development. This is welcomed, along with the principle of creating a public square although discussion with the Council to ensure any such works integrate with the wider public realm strategy for Willenhall will be critical. If possible, Bell Alley should be brought into these improvement works by way of a comprehensive development.
- D. The location of the food store pays no regard to the cemetery or attempts to increase its potential as an asset to Willenhall's character. The rear elevation faces Wood St - thus undermining the quality of any potential future development around the cemetery - and to exacerbate the detrimental impact of the road junction opposite the cemetery, the service yard has been indicated in this area also. The continued use of Wood St by service vehicles would undoubtedly remove the tranquil character that the cemetery currently provides to Willenhall. The Urban Design and Built Heritage Officer has severe reservations about the need to provide the service yard in this location when the scheme is centred on a major highway-led design based around a four-lane link road.
- E. The indicative location of the food store fails to take the opportunity to reinforce the special character of Willenhall by enclosing Upper Lichfield St. It is well documented that large scale single use buildings are by their very nature impermeable and difficult to adapt for future uses and consequently The Urban Design and Built Heritage Officer has significant reservations about the proximity of this type of building in such close proximity to the centre of Willenhall without other smaller uses being incorporated to provide active frontages that better relate to the character of the town centre. Should this application be approved early discussions prior to the submission of reserved matters are essential to ensure that a high quality detailed development comes forward.

With regard to conservation, the site lies adjacent and partly within the Willenhall Conservation Area and the development should be seeking to relate to and enhance the character established within that Conservation Area. The above comments are reinforced in conservation terms concerning the historic street pattern and traditional building form.

Illustrative plans have been submitted with the application showing the potential refurbishment of the Yale works on Wood Street, indicating how the building can be converted into 42 x 1 and 2 bedroom apartments over 3 floors. This is welcomed as the building is of particular architectural merit, local significance and interest which relates to its distinctive industrial architecture, its contribution to the street scene, and its association with the lock industry. Its retention is considered critical in terms of preserving the character of Willenhall, particularly the area around the cemetery and Wood St. Whilst it is appreciated that the building is not locally listed and not in a conservation area, there would be conservation objections if the building were proposed to be demolished. It is felt that the retention of the façade (at least) is a minimum requirement of the development of this site and a condition is recommended.

The enhancement of the public realm around the listed/locally listed buildings along Upper Lichfield St is welcomed and it is requested that thorough discussions are held with the Council to ensure that the public realm improvements in this area integrate with a wider public realm strategy for Willenhall.

The improvements to the roads linking the development with the town centre, notated on the plans, are welcomed. It is anticipated that the work will primarily be designed to increase visual amenity and safety of the routes. Some of this work will be carried out by the developer through a landscaping scheme and some of the works may be carried out by the Council through a financial contribution towards environmental improvements, enhancement to the cemetery area and town centre management initiatives.

A landscaping plan has been drawn up by the developer exploring how the links will be treated in these terms. Also an overview of the existing trees across the site has been submitted. Whilst not a formal, detailed tree assessment it does nonetheless consider the main areas of coverage. However, given the limited number and quality of specimens across the site and the fact that the development would be comprehensively landscaped, it is felt that any tree loss will be more than compensated for in the overall landscaping scheme for the development.

### **Residential Amenity**

The illustrative residential layout indicates that some of the rear garden distances fall short of those required by the Residential Design Standards, and no amenity space is provided for the apartments. However, as this is an illustrative layout, the matters can be addressed at Reserved Matters stage. I would expect to see a highly urbanised development (suitable for this central location) that carried with it some amenity area for the apartments, and lower parking rates. These are typical characteristics to be expected of a site on the fringe of a district centre.

The service yard for the supermarket is located on the opposite side of the new link road from the proposed residential development. Pollution Control have not raised objections, but have suggested noise mitigation conditions.



It is recommended that careful consideration be given to the layout, design and orientation of the final scheme. I have also suggested a condition regarding the times at which certain activities such as deliveries and refuse collections are made, to prevent disturbance to nearby residents during sensitive hours of the day.

Overall, it is considered that a satisfactory scheme can be achieved.

### **Noise / land contamination**

There are some dispersed existing residential areas within a 500m radius around the site. The acoustic climate at the site is dominated by road traffic noise. This provides continuous background noise, notably at night-time.

Pollution Control have no objections to the proposals and have suggested conditions regarding noise mitigation and Contaminated Land.

### **Access / parking**

The application is in outline only with all matters reserved except access to site A, the retail element. Potential phases 2A (petrol filling station) and 2b (suggested cafe / retail accessed off Angel Passage) and 3 (health and fitness development) are excluded from the application boundary and are not listed as being supported by the Transport Assessment submitted as part of the application. No assumptions should be made about the transportation aspects of these potential developments (although for robustness, the estimated traffic generated by the food store is based on surveys from other food stores with petrol filling stations).

The proposal seeks detailed permission for the construction of a new link road between Walsall Street in the south to Wood Street in the north. The junction of the new road with Walsall Street is proposed to be signal controlled, with additional turning lanes and pedestrian facilities. The junction with Wood Street will be a simple priority junction. A further signal controlled junction is proposed along the new link road to provide the main access to the food store car park. A condition requiring a safety audit of the highway changes is required. The new highway and modifications to the existing highway will be subject to agreements under the Highways Act 1980. A commuted sum for future maintenance of traffic signals will be required.

The estimated traffic generated by the development has been assigned to the adjacent highway network and various junctions have been analysed using industry standard modelling programmes. The junctions are specified in the TA, which concludes that all but one of the junctions analyzed has sufficient capacity to accommodate the development traffic in the opening year of 2008 and a design year of 2013. This includes the junctions on the new link road.

The analysis indicates that the mini roundabout junction of Temple Bar / Moat Street / Pinson Road is likely to be operating over capacity (on the Temple Bar approach only) in 2008, with no development traffic. The addition of development traffic could exacerbate this problem. However, the capacity problem occurs only in the morning peak and, as the main element of the development is a food store and few people make a specific shopping trip in the morning peak, the impact on the junction of the development traffic is not considered significant and to request mitigation measures would be out of scale with the impact.

The mini roundabout junction of Walsall Street/ Bilston Street / New Road has now assessed,

based on certain assumptions. The Bilston Street approach to the roundabout may suffer some capacity problems in 2013 in the weekday evening peak. This results primarily from the need to provide road space for bus stops and needs to be confirmed when the detail plans for the junction have been agreed.

The indicative site layout requires the extinguishment of some public highways, in order for the development to proceed. This will need to be progressed under the planning legislation following grant of planning permission. The closure to vehicular traffic of Leve Lane at its junction with Walsall Street and the eastern section of Doctors Piece (which is severed) at its junction with the new link road is also required for safety reasons. This can be achieved via Traffic Regulation Orders and turning heads will be created. (A condition requiring swept paths of the proposed turning heads is requested to assess their suitability. )

Additional or modified Traffic Regulation Orders will also be required to control waiting and loading in certain locations. (A schedule and plan of suggested TROs has been requested from the applicant and the appropriateness of this will be considered.) It is anticipated that the new and modified TROs will be drafted by the applicant's consultant, checked and processed by the Council (at the applicant's expense).

The construction of the new link road severs some existing bus routes and the proposed public realm / pedestrian improvements in Union Street to improve the connectivity to the town centre require the diversion of another route. The existing and proposed routes are shown in the TA. The applicant has indicated that these changes have been discussed with Centro and the main bus operator and confirmation of their agreement to the proposals has been requested. In any event, the agreement of all the operators affected will be required if a public inquiry in to the TROs and highway extinguishments is to be avoided. Swept paths of buses running along some of the diversion routes have been requested.

Although the exact locations of bus stops have yet to be agreed, the proposed route changes go part way to providing more convenient interchange facilities in and better penetration of Willenhall centre. The main bus route through Willenhall, the Wolverhampton - Walsall 529 service, is not affected and the operator may be reluctant to divert this service to provide a more comprehensive interchange. However, this possibility should be discussed.

For information, the route of the proposed Midland Metro runs to the north of the site and is not affected by the proposals.

The indicative layout shows a car park of 542 spaces. For a food store of 6870 sq. m, this is above the UDP / PPG 13 maximum figures (at one space per 14 sq.m). However, the existing Council owned car park off Clemson Street is included in the overall site and if the capacity of this car park is netted off, then the new parking provision is well below the maximum figures, commensurate with the town centre location, public transport provision and policy initiatives to reduce dependence on the private car. The operation of the car park should be subject to Council approval and a condition is recommended to this effect. Cycle parking is not shown and will be required in accordance with UDP requirements.

The submitted plans indicate the location of the store and proposed servicing arrangements. Further details of servicing arrangements, including swept paths will be required as part of any reserved matters applications. Similarly, servicing details of any existing / remaining premises that are affected by the proposals.

The developer has brought it to the Council's attention that some works on the periphery of the site may be required and these could need the submission of further planning applications in order to overcome relocation/access issues.

A safer access for the St Giles C. of E. Junior Mixed and Infant School on Walsall Street is needed. The frontage of St Giles Church is within the signalised junction and waiting by wedding parties or funeral corteges outside the church will obstruct the junction and cause safety problems. To compensate, it is proposed to construct an on highway lay-by for church use only, adjacent to the church but outside the junction, using Council owned land. Although this is outside the site boundary, relocation of the access will be essential to the safe operation of the traffic signals. The applicant's consultants have prepared a suggested new access and car park layout. The proposal will also necessitate some alterations to the City Alloys site on Doctors Piece. A Grampian condition will be necessary requiring the applicant to demonstrate that they can deliver this work before the proposed development is commenced.

The TA contains a framework travel plan as a pre-cursor to more comprehensive Travel Plans to be prepared on or just after occupation in conjunction with occupiers and the Council. A condition is requested to this effect for all separate elements of the development.

The submitted plans indicate public realm improvements including semi-pedestrianisation of Upper Lichfield Street and Union Street. These are welcomed but TROs are suggested to prohibit the majority of through traffic, the new link road will function as the alternate route.

Some concerns have been expressed by a nearby business about parking. However, it must be borne in mind that the scheme is in outline only. When the final layout and the density of the units is taken into account issues such as this will be revisited so that other access points, and parking issues may be considered. The link road could affect the business, but it will probably provide much easier access for delivery vehicles. It is not anticipated that Lower Lichfield Street will have any different parking restriction than currently exists at the present time. It is therefore expected that Lower Lichfield Street may actually have a reduced level of traffic as most commercial vehicles will use the link road and the main road Walsall Street to enter and exit the town. In addition, a customer car park for shoppers is being provided in the town centre. This can also be used to the convenience of local businesses for short periods of time as well.

Regarding parking charges for the supermarket car park, a condition requiring a car parking management scheme to be submitted is proposed.

## **Security**

The Police Architectural Liaison Officer has raised the issue of car crime in the area. He feels that this is because car parks for shoppers are placed at various isolated locations around the town and are not very well observed. He requires the town centre CCTV camera to be reinstated due to fears of an increase in car crime. A condition requiring the installation of additional cameras is proposed.

## **Referral to the Secretary of State**

If members are minded to approve the application it will be necessary to refer the application to the Secretary of State under the Shopping Direction.

## Obligations

There is a need for a S106 Agreement to ensure contributions from the housing element of the scheme towards Healthcare, Education, Open Space Environmental improvements and Affordable housing in compliance with policy, if this development exceeds the trigger levels. A commuted sum for future maintenance of traffic signals will also be required.

The exact amounts are not clear at this stage (and indeed some issues may not arise as the policies contain minimum trigger levels) but a section 106 agreement is needed to ensure delivery. In order to ensure that all components of the development are delivered in a sensible time scale, phasing needs to feature within the Agreement.

Centro recommends that Walsall MBC should consider requiring a financial contribution towards the ongoing improvements being made towards public transport infrastructure in the area as well as towards the long-term development of the public transport network should be sought. The mechanism for the requirement for such a contribution is not yet in place (an SPD exercise would be needed), therefore such a requirement cannot be sought at this stage.

## Conditions

The decision will take time to put together and this list will need to be refined, however, conditions are likely to be as follows:

Timing to the subsequent Reserved Matters

Submission and approval of Reserved Matters, including any particular development or construction issues to be considered in detail later.

Control over the scale and format of the retail and residential component.

Approvals of materials, lighting and landscaping and requirement for the maintenance of landscaping.

Details of operating , service and delivery activity.

Working hours limitations on construction, deliver times and refuse collections, engineering activities, and controls over deposits on highway.

Any additional assessments, environmental appraisals or site investigations and remediation works required by pollution control.

Details of secure cycle parking, refuse and waste facilities.

Control over installation of plant, machinery and equipment external storage.

Completion of highways, parking, access and pedestrian link works prior to the relevant elements of the development being brought into use.

Car parking management scheme.

Green travel plan

Retention and refurbishment of the Yale works on Wood Street or if uneconomical/impractical retention of the façade of the building.

Boundary treatment.

Archaeological watching brief to be maintained during the excavations of foundations and any significant remains to be preserved, by record in accordance with UDP policy ENV26

CCTV

Several conditions regarding transportation issues will also be required as set out in the report.

Grampian condition about the required the works to in the vicinity of St Giles Church.

This is not an exhaustive list and further conditions may be necessary as matters progress.

In addition, informatives requiring discussions with Centro to continue, fire service comments etc will be required.

### **Conclusion**

The proposal is redeveloping previously used land in accordance with policy. It complies with PPG3, the UDP and PPS3 and has the potential to provide a high quality development that will enhance the area. It is considered that a scheme that is well integrated into the existing pattern of development surrounding the site can be achieved and that this will need careful consideration at the detailed design stage.

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

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning  
and Building Control,  
Regeneration  
On 26 June 2007

**REASON FOR BRINGING TO COMMITTEE: Major Application**

**Application Number:** 07/0693/OL/W5

**Case Officer:** Karon Hulse

**Application Type:** Outline Application

**Telephone Number:** 01922 652492

**Applicant:** Servis Property Ltd

**Agent:** Harris Lamb Planning  
Consultancy

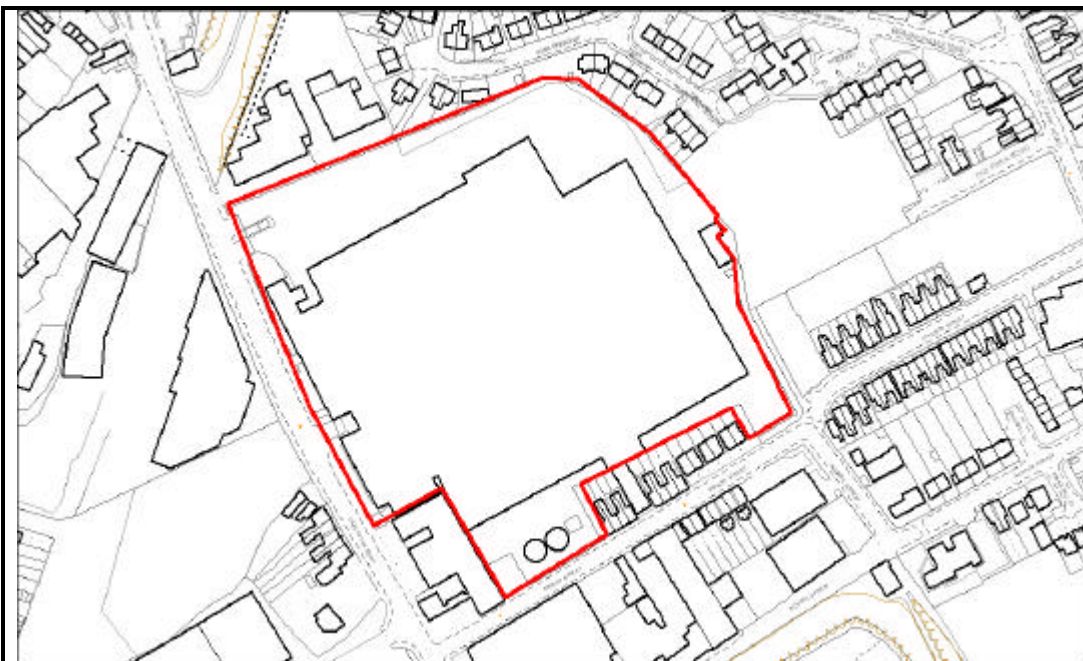
**Proposal:** Outline: Residential Development  
including location of access point

**Location:** LAND AT SERVIS UK  
LTD,DARLASTON  
ROAD,WEDNESBURY,WALSALL,WEST  
MIDLANDS,WS10 7SR

**Ward:** Darlaston South

**Expired:** 20 July 2007

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



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## **Application and Site Details**

This application seeks outline consent for the residential redevelopment of land at the Servis UK site on Darlaston Road, Darlaston. Means of access is for approval at this time. Layout, design, external appearance, and landscaping are reserved for a later stage. The illustrative scheme deposited with the application shows:

- Access into the site would be in a similar location to the existing main delivery access
- creation of a linear street scenes with housing either side, small squares with housing around and courtyards
- a mix of approx 224 houses and apartments possibly at 2, 2½ and 3 storey, 1, 2, 3 and 4 bedrooms.
- courtyards of communal parking and private parking
- emergency access onto Bright Street

The density based on the illustrative drawing would be 54 dwellings per hectare (dph).

The site is currently occupied by Servis UK for packaging, storing and distribution of household goods such as washing machines and fridge freezers. The main offices for the company are based along the frontage of Darlaston Road. It is a roughly square site with its main frontage and access onto Darlaston Road. To the north, east and south east is residential with open space bordering the site along its immediate eastern boundary. To the northwest, west and immediately south is existing industrial uses.

The existing residential properties around the site are predominantly 2 storey and a mix of 50's, 60's and 70's style dwellings (some previously Local Authority owned others privately owned). There is a public footpath running along the northern boundary connecting Darlaston Road with York Crescent.

Darlaston district centre (the library) is approximately 200mts away along the main Darlaston Road.

Parking would be between 150 and 200% either within the curtilage of dwellings or in courtyards behind the units (a design device intended to reduce the impact of the car and allow the layout to reflect more closely the nearby surrounding urban grain).

Transport assessment and ground investigation and test report have been submitted with the application.

A Flood Risk Assessment, report on existing noise climate and transport statement have been submitted, and it has been concluded that a site investigation will be required.

A Planning Statement has been submitted identifying this as a realistic and viable opportunity to re-develop a previously developed site and that the site will positively contribute to providing and creating new residential opportunities and significantly improving the visual amenity of the local area.

The concept behind the layout is to reinforce the urban grain of the streetscene along Darlaston Road with properties fronting onto the highway with parking being provided behind in small secure parking courts. A similar approach would be intended along the Bright Street

frontage. The layout will allow for permeability through and around the site and identifies areas where the principle of home zones could be introduced.

The illustrative drawings do not indicate any open space within the site however it abuts the Kings Hill JMI school playing field and Kingshill Park is approximately 100 metres to the south.

### **Relevant Planning History**

None relevant to the determination of the use of the for residential.

### **Relevant Planning Policy Summary**

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

#### **Unitary Development Plan**

GP1 - Development will be guided by principles of sustainability, minimising need to travel by car, maximising re-use of vacant land and buildings without prejudice of beneficial use of adjoining land or buildings.

GP2, GP7, 3.16, ENV18, ENV32 and H10 - Development schemes should, help improve the environment of the Borough whilst not allowing development that has an adverse impact.

JP7 - Use of Land and Buildings in Other Employment Areas

(d) windfall sites or buildings will normally be safeguarded for appropriate employment uses however sometimes other uses such as housing may be acceptable...alternative uses must satisfy other relevant policies and not constrain the operation of neighbouring businesses, or appropriate future commercial investment.

GP3 and 8.8 - Planning obligations will be used to secure provision of on or off-site infrastructure, facilities, services or mitigating measures made necessary by development

LC1 and 8.3 protection of and provision of urban open space

T7 - All parking provision designed and sensitively integrated into the townscape or landscape...Policy T13 also sets parking standards.

T10-T12: Accessibility standards.

H3 - Encouragement for the provision of additional housing through the re-use of previously developed windfall sites and conversion of existing buildings.

H9: Density

The Council has also adopted its Residential Design Standards (RDS).

#### **Regional Spatial Strategy**

RSS 11 (embodied in RPG 11) contains strategic planning policies for the West Midlands Region.



A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

CF1 - focus new house building in the Major Urban Areas.

CF3 - a) make adequate provision for additional house building as per Table 1; b) maximise use of previously-developed land; c) make the most efficient use of land within the Major Urban Areas.

CF4 - optimise opportunities for recycling land and buildings for new housing development.

CF5 - to deliver affordable housing.

The Regional Spatial Strategy is currently under review. The Draft Revision seeks to take further the approach in the current RSS, which is to promote housing-led regeneration in the Black Country to reverse or halt trends of out-migration by focusing new development on centres and key corridors.

The Phase One Revision will not replace the policies listed above.

### **National Policy**

(PPG/PPS) - PPS1 on delivering sustainable development and good design.

PPS3 on has recently superseded Planning Policy Guidance 3 (December 2006), the objective of the revised guidance is to:-

- support further increased housing needed across the country,
- bring additional brownfield land back into use,
- increase the design and environmental standards of new homes and neighbourhoods in order to move towards zero carbon development,
- deliver more affordable homes in rural and urban areas,
- support more family housing, including more play spaces, parks and gardens for children
- give local authorities more flexibility about how and where to deliver the homes that are needed.

PPG13 on transportation seeks to minimise the use of the car by sustainable location of development.

PPG24 advises on noise standards

Other related documents are PPG25 Development and Flood Risk, 'By Design' companion to PPG's, Urban Design Compendium, Safer Places, The Planning System and Crime Prevention and By Design - Urban Design in the Planning System: Towards Better Practice.

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

### **Consultations**

**Transportation** - awaiting additional information on the transport assessment

**Fire Service** - concerns regarding satisfactory Fire Service access, details of emergency access required.

**Pollution Control Division** - no objections subject to conditions

**Housing** - no objections subject to affordable housing provision

**Education Walsall** - a financial contribution towards secondary education required at reserved matters stage

**Greenspaces** - a financial contribution to open space will be required, this is based on bedroom numbers therefore needs to be addressed at reserved matters stage

**Drainage** - no objections

**British Waterways** - no objections

**Centro** - no objections

**Environment Agency** - no comments received

**Regeneration** - no objections

### **Public Participation Responses**

I have received four letters of representation, two in support of the proposals and two who have concerns. The concerns are primarily from a local commercial company opposite the site on Darlaston road and believe that residential development is inappropriate as the surrounding area is commercial / industrial and there could create future conflict and prejudicial to the operation of businesses on the estate.

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

### **Determining Issues**

- Policy
- Principle of the development
- Design quality
- Residential amenity
- Noise / land contamination
- Access / parking / public footpath
- Obligations

### **Observations**

#### **Policy**

The site is not identified as a core employment area however historically it has always been occupied by industrial uses. The site has been marketed without any interest for industrial use, government guidance supports the re-use of brownfield sites for housing provided a

satisfactory residential environment for future occupiers can be secured, whilst protecting the operations of existing nearby users.

In terms of the RSS (RPG 11) / UDP target for new housing provision up to 2011 there is no compelling need for further residential development. The UDP target is 10,100 and completions plus commitments add up to 15,336; even applying a discount in line with Government policy the target is comfortably exceeded. However, the main reason for allowing more residential development is to support the regeneration of the borough, including through the provision of affordable housing. The full amount of affordable housing will be required through the Section 106 Agreement.

The approach to regeneration in the Black Country promoted through Regional Spatial Strategy Review Phase 1, which will heavily influence the Black Country Core Strategy, is for major transition from employment to residential and it would be consistent with the Black Country Study work for this area to become residential

Having considered all of the above it is concluded that a satisfactory level of protection can be provided for both future and existing occupiers and therefore in terms of policy the proposals can be supported.

### **Principle of Residential**

The site is occupied by Servis UK a local company which manufactures domestic appliances. To the north, north east, east and south east of the site is residential with industrial to the west along the Darlaston road frontage.

The principle of reusing brownfield sites for housing is generally supported by the Government and council policies, provided a satisfactory residential environment for future occupiers can be secured, whilst protecting the operations of existing nearby users.

The scheme, whilst in outline only, has been designed with those principles in mind. Both national and local policy also identifies the importance of sustainability. The site is approximately 200 metres from the edge of the Darlaston District centre shopping area, and a main bus facility. It is considered to be a sustainable site offering residents opportunities to use different modes of transportation.

Based on the illustrative drawing the density would be approximately 54 dwellings per hectare and this proposal would be in accordance with policy and therefore the principle is acceptable.

### **Design quality**

This is an outline application and design is reserved for future consideration. However, the ideas underpinning the layout of the site clearly embody concepts that should result in a well designed development. Such concepts as Home Zones to create defensible and safe areas have been integrated into the scheme, it allows legibility and permeability and as a whole has many positive points and does not raise any immediate concerns. It is well supported by the Design and Access Statement and appears to demonstrate that much careful consideration has been given to the design and layout of the site for residential use.

Views through the site are either terminated with focal buildings, or arrangements of buildings, or penetrate through the site to the open space to the east to strengthen the relationship between the residential development and the open space.

The use of the perimeter block has resulted in strong building lines with good continuity and built form and massing of the proposed housing types would appear in the context of the surrounding area. The rhythm of plot grains established by the existing residential properties in Bright St has been respected and built upon by the row of properties adjoining their rear boundary.

The layout of the scheme respects the urban character of the surrounding area in general and the scheme should be successful in establishing positive character on the site that currently lacks any of merit.

### **Residential amenity**

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

The submitted illustrative drawing indicates plots with garden sizes between 10 metres and 15 metres which mostly accords with RDS requirements however there are some points regarding the illustrative layout that could be improved and therefore exploration of such revisions prior to the reserved matters stage should be recommended and pursued.

The apartment blocks will also need suitable areas of private communal amenity space, and these again need to be defined.

### **Noise / land contamination**

The ground investigation assessment recognises the need for further intrusive investigations and as the application is in outline only that the future development can be satisfactorily addressed by the imposition of a number of conditions on any planning approval.

### **Access / parking / public footpath**

*Access* - Access to the site from Darlaston Road is acceptable and will not have any detrimental impact on highway safety. There are good visibility splays along Darlaston Road in both directions.

An emergency access will be provided from off Bright Street, the details of this will be required as part of the reserved matters application.

There is a good network of public transport services which run around the area, the main bus station is approximately 200 metres away in the town centre.

*Parking* - The scheme will give a strong street frontage both along Darlaston Road, Bright Street and within the site and would offer maximum security and natural surveillance throughout the site. Internally within the site, there would be a mix of dwellings served either by private drives or communal parking areas all of which would be positioned and orientated so as to gain maximum natural surveillance of those areas. Most communal parking areas are accessed through an archway (FOG - flat over garage) which has first floor accommodation above, this in itself provides natural surveillance of residents vehicles, also because the parking areas are quite small unauthorised persons can be easily detected. However, issues such as gates, should they be required, can be addressed at Reserved Matters stage.

*Public Footpath* - The location of the existing public footpath is probably not best related to the application site and could result in future problems particularly from a security point as it would run along the back of new dwellings on the site which would create a security issue. The reserved matters application may wish to consider the future of this footpath and if it is necessary to be retained, which it does appear to be a well utilised path, then consideration should be given to possibly divert the public footpath onto a new route through the development. A diversion order would be needed, and the scheme should provide an attractive, overlooked route through the site. However should it be that the footpath is to remain along its current line, improvements such as surfacing, methods to prevent vehicles parking on or using it and lighting to encourage legitimate use and improve surveillance should be required. This will improve security for its users as well as protecting those residential properties which may share a boundary with it.

### **Security**

There are a number of issues regarding Secure By Design initiatives however as this is an outline application such issues as rear garden security, alleyways, public footpaths, communal parking areas etc can be addressed prior to the submission of the reserved matters application.

As there is a lack of open space within the site this could result in children using the town centre, it would therefore be preferable to see some open space provided within the site. This should be an element which needs to be taken into consideration when designing the scheme at the reserved matters stage

### **Obligations**

The scheme is subject to policy GP3 and the Urban Open Space supplementary planning document which in this case requires financial contributions towards secondary education facilities in the area, healthcare supplementary planning document to meet new health care facilities and provision and improvements to or provision of urban open space within the proximity of the application site. It is also subject to policy H4 of the Unitary Development Plan and Affordable Housing (SPD) July, 2005 which requires provision of affordable housing in developments of at least one hectare or 25 dwellings. These will be secured by way of a Section 106 Agreement which is currently being drafted by the applicants.

### **Conclusion**

The proposal is redeveloping previously used land and therefore complies with PPG3, the UDP and draft PPS3 and would provide a high quality development that will enhance the area. The application indicates an illustrative layout of the site which would be well integrated into the existing residential surrounding the site, the principle is therefore acceptable and supported.

### **Recommendation: Grant Permission Subject to Conditions and a Planning Obligation**

1. a) Application for approval of the Reserved Matters shall be made within 2 years of the date of this decision. The development must be begun not later than:

b) The development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the reserved matters application, or the last reserved matters approval.

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

2. The built development authorised by this permission shall not be commenced until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- a) The siting of the buildings;
- b) The design of the buildings;
- c) The external appearance of the buildings;
- d) The means of access to the buildings;
- e) The landscaping of the site

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

3. This development shall not be carried out other than in conformity with the approved plans and documents, except as may be required by other conditions of this permission or by any subsequent approved amendment/permission.

*Reason :* Pursuant to the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4. a) Following demolition of existing structures and prior to built development commencing, a investigation, ground contamination survey and assessment of landfill gas, having regard to current best practice and approved in writing by the Local Planning Authority shall be undertaken to confirm the suitability of the proposed remediation and mitigation measures. A copy of the findings of the site investigation, ground contamination survey and landfill gas assessment, together with an assessment of the hazards arising from any land contamination and/or landfill gas shall be forwarded to the Local Planning Authority as soon as they become available.

b) Prior to built development commencing details of remedial measures to deal with the identified and potential hazards of land contamination and/or landfill gas present on the site together with a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority.

c) Remedial measures shall be implemented to the satisfaction of the Local Planning Authority in accordance with an agreed timetable.

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

*Reason.* To ensure the satisfactory development of the site.

7. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall otherwise only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 13.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason.* To protect the amenity of adjoining neighbours.

8. No development shall take place until suitable noise mitigation measures to protect internal areas as identified in the noise assessment report prepared by Gifford, reference 14024/E/RO1, have been agreed in writing with the local planning authority, and the development shall not be occupied until such measures have been fully implemented.

*Reason.* To ensure the satisfactory development of the site.

9. Prior to any demolition operations or activities commencing, a method statement shall be agreed in writing with the local planning authority for the purposes of controlling grit, dust and fume. The agreed method statement shall be implemented and thereafter maintained throughout the duration of demolition operations and site clearance activities.

*Reason.* To ensure the satisfactory development of the site.

10. The Reserved Matters submission shall include details of secure cycle storage facilities for approval by the Local Planning Authority, the agreed scheme shall be implemented before the development hereby permitted is brought into use, and thereafter retained.

*Reason:* To ensure the satisfactory provision of cycle storage facilities shall be agreed in writing by the Local Planning Authority and the agreed scheme shall be implemented prior to the development being brought into use, and thereafter retained.

11. The Reserved Matters submission shall include a scheme for the provision and implementation of a surface water run-off limitation. The scheme shall be implemented in accordance with the approved programme and details.

*Reason:* To prevent the increased risk of flooding.

12. The Reserved Matters submission will include details of what measures are being taken to incorporate sustainable urban drainage systems in the development, and the approved details shall be implemented before the dwelling they relate to is occupied, and thereafter retained , in working condition as appropriate.

*Reason:* To promote the use of such drainage systems.

13. The Reserved Matters application shall include full details of emergency access for the Fire Service including the control of the access from Bright Street should that be relevant.

*Reason :* To ensure the satisfactory appearance, safety, security and functioning of the development.

14. No built development shall be carried out until full details of the proposed boundary treatment of the site have been approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

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

15. No built development shall be carried out until a schedule of facing materials to be used in

external walls and roofs have been submitted to and approved in writing by the Local Planning Authority.

*Reason :* To ensure the satisfactory appearance of the development.

16. The Reserved Matters submission shall include a detailed landscaping scheme for the site, has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with any agreed phasing or within one year of any part of the development being brought into use or such period of time as may be agreed in writing by the Local Planning Authority

*Reason :* To ensure the satisfactory appearance of the development.

17. No built development shall be carried out until a scheme for external lighting for the flats and garage courts has been submitted to and approved by the Local Planning Authority and the lights shall be installed before occupation of the first dwelling on the site, and thereafter retained, all in accordance with the approved details.

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

18. No development shall be carried out until a protocol to ensure that the immediately surrounding highways are not adversely affect by the accidental deposition of materials from vehicles leaving the site in connection with the construction phase. (this may involve the use of a wheel wash, road sweepers, etc.) has been submitted to and approved in writing by the Local Planning Authority.

*Reason :* To prevent mud being deposited on the public highway and in the interests of highway safety.

19. No demolition, engineering, or construction works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours of 08.00 to 18.00 weekdays and 09.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason:* To safeguard the amenity of the area.

20. No development shall be commenced until a Residential Travel Plan to promote sustainable travel to and from the development has been submitted to and approved in writing by the Local Planning Authority. For further information on such initiatives contact Louisa Stebbings, Walsall Metropolitan Borough Council's Business Travel Advisor, on 01922 652 561.

*Reason :* To promote sustainable travel alternatives

21. During construction, facilities shall be provided to prevent any recycled, processed, or re-processed waste materials (including liquids) entering onto public footpaths, the public highway or other premises beyond the curtilage of the development site, including



watercourses, drains and sewers, unless by discharge consent issued by the relevant agency.

*Reason* To control potential pollution.

22. There shall be no ground fires on the development site for the purpose of waste disposal, during the remediation and construction of the development.

*Reason* To control potential pollution.

23. Before this development is brought into use, the accessways, vehicle parking and manoeuvring areas shown on the approved plans shall be surfaced in tarmacadam (or alternative impervious hardwearing material to be agreed in writing by the Local Planning Authority). The areas shall thereafter be retained and used for no other purpose. The parking spaces have been clearly marked out.

*Reason:* To ensure the satisfactory functioning of the development.

24. All planted and grassed areas and associated protective fencing will be maintained for a period of 5 years from the full completion of the scheme approved under condition 11. Within this period:

- (a) grassed areas will be maintained in a tidy condition by regular cutting and any areas that fail to establish will be reinstated;
- (b) planted areas will be maintained in a tidy condition by regular weeding;
- (c) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed will be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- (d) any damage to protective fences will be made good.

*Reason :* To ensure the success of the landscaping and planting scheme, and the establishment of the plants.

25. There shall be no more than 25 dwellings built on the application site, unless the applicant has entered into a section 106 planning agreement to provide appropriate contributions towards

- education facilities in the area and
- affordable housing on the site, or a contribution towards affordable housing off site

*Reason :* To ensure that the educational and housing needs of the potential occupiers of a large development on the site are met.

26. There shall be no more than 30 dwellings built on the application site, unless the applicant has entered into a section 106 planning agreement to provide appropriate contributions towards healthcare in the area.

*Reason :* To ensure that the health of the potential occupiers of a large development on the site are met.

27. There shall be no more than 10 dwellings built on the application site, unless the applicant has entered into a Section 106 Agreement to provide off site open space provision in

accordance with policy LC1 And 8.3 of the Unitary Development Plan and Urban Open Space supplementary Planning Document adopted April, 2006.

Reason : To ensure adequate amenity space provision for the potential occupiers of the development.

28. Prior to the commencement of any development on site details shall be submitted to and approved in writing by the Local Planning Authority for the conservation and efficient use of energy and natural resources and sustainable development, including consideration of Ecohomes Very Good Standard and 5 stars standard as amplified by the Code for Sustainable Homes (January 2007) or subsequent document, micro energy generation, on site composting, grey water systems, SUDS and locally produced building materials. The development shall then be implemented in accordance with the approved details.

*Reason:* In order to comply with guidance within policies ENV39 and ENV40 of Walsall's Unitary Development Plan, PPS1 and the Code for Sustainable Homes in terms of sustainable development and use of natural resources.

## NOTES FOR APPLICANT

- A. Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 - Planning and Pollution Control; British Standard BS10175: 2001 'Investigation of potentially contaminated sites - Code of Practice'; British Standard BS5930: 1999 "Code of practice for site investigations"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings" (CIRIA C659); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.
- B. When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.
- C. (\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday).
- D. With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:
  - a). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(5 \text{ minutes})}$ , of 35 dB together with a maximum instantaneous level of 45 dB)  $L_{AFmax}$ , between the hours 23.00 to 07.00;

b). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(1 \text{ hour})}$ , of 45 dB between the hours 07.00 to 19.00; and

c). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(1 \text{ hour})}$ , of 40 dB between the hours 19.00 to 23.00.

- E. Sound level measuring instrumentation shall conform to either 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level meters' and/or BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' and/or Class 2 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications (or any superseding standards as applicable) which shall have been verified in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' within a preceding 2 year period.

Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:

*Planning Policy Guidance Note PPG 24 'Planning and Noise'. 1994;*

*Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005*

*British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise".*

*British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures;*

*British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use*

*British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits.*

*British Standard BS 4142: 1997 - Method for Rating industrial noise affecting mixed residential and industrial areas*

*Calculation of Road Traffic Noise, 1988*

*Calculation of Railway Noise, 1995*

This is not an exhaustive list.

*Noise surveys should adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation points, and may also need to take account of changes in noise levels on account of height above ground floor level. Additionally, a noise survey may have to take into*

*consideration changes in a noise climate between normal weekdays and weekends, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys will be required by the local planning authority in some instances to corroborate a continuous single noise survey.*

*Submitted noise measurement data must include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of verification checks pursuant to British Standard BS 7580 Part 1: 1997 Specification for The verification of sound level meters Part 1 Comprehensive procedure conducted within the previous 12 month period, and recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum.*

- F. Responsibility and subsequent liability for safe development and secure occupation rests with the developer and/or landowner. Although the Local Planning Authority has used its best endeavours to determine the application on the basis of the information available to it, this does not mean that the land is free from instability or contamination, or other constraints.
- G. In cases where the question of stability or contamination has been a material consideration resolution of these issues does not necessarily imply that the requirements of any other controlling authority would be satisfied, and the granting of planning permission does not give a warranty of support or stability or of freedom from contamination.

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

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP1, GP2, GP3, GP7, 3.16, ENV18, ENV32, H10, JP7, 8.8, T7 and H3 of Walsall's Unitary Development Plan, the adopted Residential Design Standards (RDS) and the Regional Spatial Strategy for the West Midlands and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

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



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning  
and Building Control,  
Regeneration  
On 26 June 2007

**REASON FOR BRINGING TO COMMITTEE: Significant Community Interest**

**Application Number:** 06/1386/FL/E11

**Case Officer:** Alison Deakin

**Application Type:** Full application

**Telephone Number:** 01922 652487

**Applicant:** Mr Zac Finney

**Agent:** Philip Brown Associates

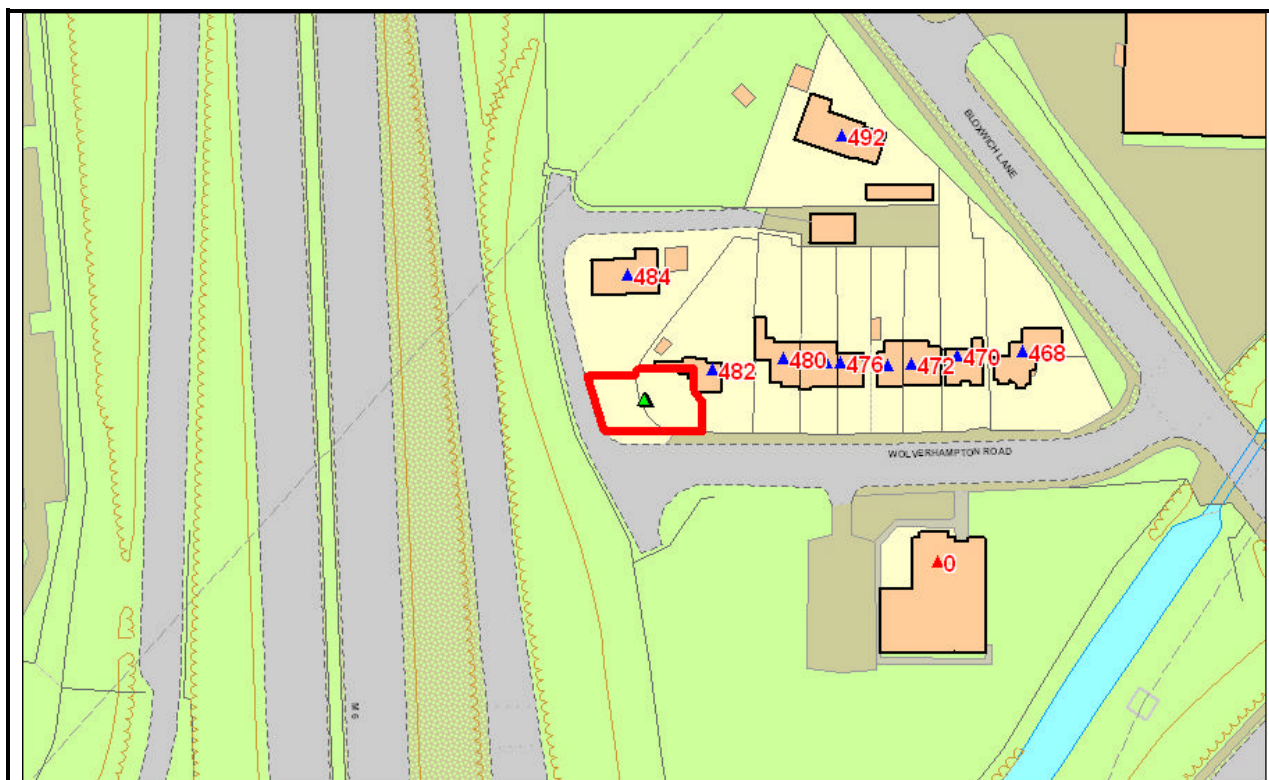
**Proposal:** Permanent retention of residential  
gypsy caravan site

**Location:** 56 CARTBRIDGE  
LANE, WALSALL, WEST MIDLANDS

**Ward:** Rushall-Shelfield

**Expired:** 11 October 2006

**Recommendation Summary:** Refuse, Enforce and Prosecute



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### **Application and Site Details**

The applicant seeks planning permission for the permanent retention of the residential gypsy caravan site at 56 Cartbridge Lane, Rushall. The site located at the rear of the gardens of dwelling houses at 40-54 Cartbridge Lane and is accessed by a driveway that runs between the side boundary of 54 Cartbridge Lane and an allotment site to the south. The site is located entirely within the Green Belt. Beyond its boundaries there is a footpath within open space that forms part of the Greenway network. The application site area is 0.5 hectares.

Planning permission for temporary use of the site for a residential gypsy caravan site was granted on appeal in August 2004 under planning permission reference 02/1709/FL/E2. At that time the site had been occupied by Mr Finney and his family who had carried out works to level, lay a gravel surface and fence the site and buildings. There was also an existing single storey building, 3 touring caravans, a large static caravan plus a camper van and several vehicles (including cars and vans) on the site. In allowing the appeal the Inspector precluded any development of the site other than for 4 residential mobile homes and specified that no other caravan, chalet or mobile home should be brought on to the site for any purpose (including storage or residential use) without the approval of the Local Planning Authority. Although the proposals included conversion of an existing building on site to a laundry/shower room, the Inspector only allowed for development of the 4 residential mobile homes.

A recent site visit found two mobile homes on the site, plus a two storey wooden clad building of a different character to the residential chalets, two mobile caravans, two motor homes, two sheds and several motor vehicles (including cars and vans).

The Inspector in 2004 found that there was an unmet local need for gypsy sites in the borough, a lack of alternative sites, lack of adequate development plan policies to bring forward new sites, a family need for accommodation which maintains the extended family unit and Mr Finney's medical needs were considered to outweigh the harm to the Green Belt by reason of inappropriateness and constituted very special circumstances necessary to justify a temporary planning permission. The temporary planning permission was for two years and expired on 4 August 2006.

The submitted drawings indicate siting of 4 chalets (mobile homes) around the perimeter of the site with a central vehicle turning area and 8 car parking spaces. The existing single storey rendered building on the western part of the site is to be converted to form a communal laundry, ladies and gents shower rooms and caretakers store. It is intended that the caretaker will reside in one of the chalets. A children's play area is situated in the north-eastern corner of the site. All of the chalets have grassed areas around them with clear pathways between. There is an existing conifer hedge along the eastern site boundary inside the fence line. A bin store is shown to be located adjacent the access road on the western edge of the site and two lighting columns are proposed.

The site layout has not presently been implemented entirely as per the submitted drawings. The bins store and lighting columns are not yet in place, the parking bays have not been marked out or the pathways between chalets. Chalet no.3 is a log cabin with a first floor window, chalet no.1 has not been installed (there is a motor home parked in this position) with two caravans located adjacent and the conversion of the existing building to communal laundry/shower has not yet taken place.

Supporting information submitted with the application states that there is a need for Mr Finney and his family to remain on site because of the following very special circumstances:

- The Council has not yet completed a Gypsy and Traveller Accommodation Assessment (as Government advice requires under Circular 01/2006)
- The Council has not commenced work on preparing site allocations to identify specific sites on which gypsy and traveller accommodation needs can be met.
- Phase 1 of the refurbishment of the Council's Willenhall Lane site has not yet been completed and new pitches will not become available for letting until phase 3 has been completed which would appear to give little prospect of the accommodation shortage being met in the foreseeable future.
- The Finney family's medical problems continue to be getting progressively worse making their need for a permanent site more acute than it was in 2004. Letters have been provided from Walsall Hospitals NHS Trust and Rushall Medical Centre, confirming the health problems of Mr and Mrs Finney, and Mrs Lee (Mrs Finney's sister). The applicants consider that the above considerations are the very special circumstances necessary to justify retention of the site on a permanent basis and outweigh the harm to the Green Belt caused by the proposals which are accepted to be inappropriate development.

### **Relevant Planning History**

BC21122P - Continued use of land for stabling of horses - granted subject to conditions 15/3/88.

Prior to submission of application 02/1709/FL/E2 the site had been occupied intermittently by travellers. Enforcement officers investigated periods of occupation at the site between October and December 1999, August and September 2000, and between November 2001 and February 2002. On each occasion the use ceased before formal enforcement action was taken.

02/1709/FL/E2 - Proposed change of use to stationing of 4 no. residential chalets (mobile homes) and conversion of existing building to laundry/shower rooms/store - LPA Refused 13/02/03 - Granted on Appeal 4 August 2004. The appeal also considered Enforcement Notices (see below).

Following the Council's refusal of application 02/1709/FL/E2 on 13 February 2003 two Enforcement Notices were issued on 19 May 2003. The first,

- Notice A, required removal of all caravans, mobile homes and chattels from the site and cease the use of the site for residential purposes; remove all vehicles from the site associated with the unauthorised use of the site and remove from the site all structures and materials associated with the unauthorised use of the site including any debris or rubbish to ensure the site is left in a clean and tidy condition. The second, - Notice B, required grubbing up the existing hardstanding, then placing top soil and re-seeding in grass that part of the site. Both Notices were to have been complied within 6 months.

Mr Finney lodged appeals against the refusal of planning permission 02/1709/FL/E2 and against the two Enforcement Notices. The appeal against refusal of planning permission was allowed for a temporary period of two years and at the same time the appeals against the Enforcement Notices were dismissed and the Enforcement Notices upheld with variations to seek compliance within two years to coincide with the temporary planning permission period.

The Inspector found that there was:

- An unmet local need for gypsy sites in the borough
- A lack of alternative sites
- Lack of adequate development plan policies to bring forward new sites,
- A family need for accommodation which maintains the extended family unit
- Justification in Mr Finney's medical needs to remain on site

As a consequence he considered that these factors were sufficient to outweigh the harm to the Green Belt by reason of inappropriateness and constituted very special circumstances necessary to justify a temporary planning permission. The temporary planning permission was for two years and expired on 4 August 2006.

### **Relevant Planning Policy Summary**

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

#### **Unitary Development Plan**

GP2: Development schemes should, as far as possible, help to improve the environment of the Borough whilst not allowing development that has an adverse impact.

Para 3.3: Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

Para 3.16: Development will be considered in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

Para 3.21 and ENV1: Defines the purpose of the Green Belt.

ENV2: There is a presumption against construction of new buildings except for specific purposes. Making of a material change in the use of land is inappropriate development in the Green Belt if it conflicts with the openness and purposes of the Green Belt.

ENV15: The creation and management of the Forest of Mercia is supported providing a wide range of access, outdoor leisure and recreation.

ENV32: Poorly designed development which fails to take account of the context or surroundings will not be permitted. This is particularly significant within or adjacent to Green Belt, agricultural or open land. The quality of the proposal will assess appearance, height, proportion, scale, mass, materials, external space, safety, security and local character.

ENV40: The Council will take account of flood risk according to the principles set out in PPG25 "Development and Flood Risk".

Para 6.3: In identifying opportunities for new housing emphasis will be on a sequential approach which maximises the re-use of previously developed land and buildings within the urban area before the use of greenfield land.

H8: Proposals for caravan sites for gypsies and other travelling people, including showpeople, will be encouraged provided that the sites meet specific requirements including;

V. No unacceptable adverse impact on nearby uses or on environmental quality of the surrounding area

Viii. The proposal is acceptable in terms of the environmental criteria set out in policy GP2

ix. Exceptional circumstances must be demonstrated to justify development within the Green Belt or protected urban open spaces

Paragraphs 6.47 and 6.48: Refer to National Guidance in relation to Gypsy sites and the role of the planning system in helping gypsies find suitable accommodation.

LC5: Will continue to be created, enhanced and safeguarded to improve access to open spaces and the countryside



## **Regional Spatial Strategy**

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

## **National Policy**

PPS1 Delivering Sustainable Development - promotes sustainable and inclusive patterns of urban and rural development and emphasises the need to reject poor design.

PPG2 Green Belt - seeks to protect against inappropriate development that is harmful to the Green Belt, including construction of new buildings. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations. Gypsy sites are not regarded as being among those uses of land which are normally appropriate in Green Belts.

PPS3 Housing - Seeks to achieve a wide choice of high quality homes and mixed housing to support a wide variety of households in all areas and provide a sufficient quantity of housing taking into account need and demand.

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

PPS24 Planning and Noise - Seeks to minimise the adverse impact of noise

PPS25 Development and Flood Risk - Aims to ensure that flood risk is taken into account to avoid inappropriate development in areas at risk from flooding.

'By Design' companion to PPG's, Urban Design Compendium, Safer Places- The Planning System & Crime Prevention and the Council's Residential Design Standards are also applicable,

Circular 01/2006 "Planning for Gypsy and Traveller Caravan Sites" - includes such matters as the need to consider applications for gypsy and traveller applications against the likely impact on the surrounding area, the existing level of provision and need for sites in the area, the availability (or lack of) alternative accommodation for the applicants and other personal circumstances. It also highlights issues of sustainability including promoting a peaceful co-existence between the site and the local community, wider benefits of access to a GP or health services, children attending school on a regular basis, provision of a settled base that reduces the need to travel long distances and not locating in areas at high risk from flooding.

## **Other Legislation**

Human Rights Act 1998 - Article 8 of the European Convention on Human Rights provides that everybody has the right to respect for his private and family life and his home, and there should be no interference by a public authority with the exercise of this right, except where it is (amongst other considerations) in accordance with the law and is necessary in a democratic society for the protection of rights and freedoms of others.

## **Consultations**

**Transportation** - No objections as adequate access to the road network and adequate on site parking and turning areas are provided.

**Pollution Control** - No adverse comments.

**Strategic Policy** -

**Head of Supported Housing Social Care & Inclusion** - The Council has an authorised Gypsy site at Willenhall Lane which did not have capacity to accommodate the Finney's at the time of the previous appeal and hence contributed towards the Inspector's conclusion that there were exceptional circumstances to allow a temporary permission at that time. However, since the time of the previous Inspector's decision the Willenhall Lane site has been undergoing a phased refurbishment. Refurbishment has been split into 3 phases (phase 1 is complete; phase 2 has funding secured and is part complete; phase 3 a funding bid has been submitted and the outcome is due in June 2007) as follows:

*Phase 1: completed December 2006*

- 7 new plots / utilities
- electrical works, including new sub station
- Water, including sub mains to 7 units
- Landscaping to site exterior
- Existing site residents were moved to new plots in Dec 2006

*Phase 2 : funding secured from Government Office and work in progress; due for completion August 2007*

- A further 6 plots / utilities and all associated utility work
- Site communal building

*Phase 3 : funding bid to Government Office submitted 28/2/07; outcome anticipated June 2007*

- Remaining 6 plots / utilities and associated works
- Remaining site roads, paving and drainage
- Barrier / CCTV

In terms of support at the Willenhall Lane site there is also now a site office (temporary but fully operational with a purpose built office included in phase 2 programme) who operates from the site office during normal office hours. The Council has also established a floating support service, funded through Supporting People grant and there are now 2 dedicated floating support workers able to offer low level housing related support to Gypsies & travellers. The support workers regularly visit the Willenhall Lane site. A dedicated health worker visits the site the first Monday of every month and a dedicated Gypsy & traveller support teacher (working in schools) delivers a Friday session at the site to children in education aged 5 -16. The senior school Frank F Harrison is situated adjacent to the site and Youth service visit the site every Monday (11-24 yrs). NACRO assist site residents (16+) gaining access to employment.

In terms of review of policies the Council published its 1 year Gypsy & Traveller Community Strategy and Action Plan in May 2006 and has set up a cross service / cross agency steering group that meets bi monthly to oversee the delivery of this strategy. A 3 year strategy is planned for 2008, using information collated from a Black Country Gypsy & Traveller needs assessment (anticipated to be completed by the Autumn 2007). The council has reviewed its site allocation policy and licence agreements, in consultation with site residents and the gypsy & traveller forum and reviews of other policies and procedures are scheduled for the forthcoming year.

The Finney family have been offered 1 or 2 plots from phase 2 of the Willenhall Lane site on the basis that the Council gave an undertaking to do so at the planning inquiry and that their existing arrangements can only be considered temporary in nature (as in effect the offer of the plots would be to prevent them from becoming homeless, which would be in accordance with the revisions to the allocation policy).

**Natural Environment** - Object to the proposal as it represents inappropriate development within the Green Belt and designated wildlife corridor. The site is also adjacent to a Site of Local Importance for Nature Conservation (SLINC). Making this site permanent would set an undesirable precedent for development within Green Belt, wildlife corridors and adjacent local sites. The proposal reduces the width of the effective wildlife corridor by half and completely removes the green buffer that once existed to the east of Ford Brook, while offering no mitigation. It also brings the settlements of Rushall and Goscote closer together. The site should be reinstated to grassland.

**Landscape** - Object to the proposal. The Goscote Valley forms an important corridor of open space that provides a recreational and wildlife link between Walsall town centre and larger areas of countryside to the north of the Borough. Substantial investment in footpath construction and tree planting has taken place in recent years, although lack of subsequent maintenance and deliberate damage has somewhat obscured these improvement works.

The existing caravan site forms a physical and visual intrusion into the Valley corridor. This intrusion is compounded by the harsh, unscreened fencing of metal panelling that only just screens the buildings on site.

The proposed layout does nothing to alleviate this intrusion, as the existing fencing is retained. Buildings are located close to the boundaries so that any planting that might (eventually) screen them is excluded. There is no space for any significant tree planting within the site layout, thereby perpetuating the visual intrusion.

**Fire Officer**- Satisfactory - provided that the access road off Cartbridge Lane is no narrower than 3.7m throughout its length and no narrower than 3.1m at its entrance.

**Police Architectural Liaison Officer** - No objection. An assessment of the crime pattern analysis on Cartbridge Lane and the area surrounding the application (Lichfield Road, Cartbridge Crescent etc.) does not lead to the conclusion that the area has been affected, or will be affected, by a permanent gypsy site.

**Environmental Health** - No comments.

**Drainage** - No objections.

**British Waterways** - No comments.

**Environment Agency** - Object to the proposal on the basis that it is not accompanied by a Flood Risk Assessment (FRA) as required by PPS25.

**The Gypsy Council** - Offer support for the proposals considering the need for caravan sites for Gypsy and Traveller people.

### **Representations**

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

31 letters of objection have been received (plus four letters with no addresses). Objections are summarised below:

- Permanent retention of the site is detrimental to the amenities of residents in Cartbridge Lane
- The proposals are inappropriate development in the Green Belt
- Circumstances expressed by the applicant are insufficient to justify exceptional circumstances and allow inappropriate development in the Green Belt
- Could set a precedent for further development of Green Belt land
- Overlooking properties on Cartbridge Lane and loss of privacy
- Noise nuisance generally, and from traffic travelling on stone chippings within the site and trucks and lorries on Cartbridge Lane
- Trespass on residents properties in Cartbridge Lane by animals living temporarily on the site
- Incongruous and out of keeping with surrounding detached and semi-detached dwellings
- Noise from
- Lots of traffic exiting the site at speed
- The applicant occupied the site without gaining prior planning permission and has installed a two storey home and more caravans and motor homes than allowed by the Appeal
- A temporary two year permission was only given to allow the applicant to find an alternative site
- Potential further encroachment of the site beyond the existing boundary
- Potential for increased numbers of caravans in the future
- Alteration in the character of the site which was formerly an orchard
- The site is an eyesore and should be restored to its former state
- Cartbridge Lane was closed off some years ago to prevent heavy traffic travelling to and from Crosslands factory and reduce noise and traffic
- Inadequate emergency services access

Two letters of support has been received stating that although in the Green Belt the site is not a vast housing estate and wildlife does not seem to have been affected. They also consider that if Mr Finney was to vacate the site it may end up as a traveller's site with more caravans and untidiness. If the land is vacated they consider the adjacent lane would be less safe. One of these caveats that they would not wish to see more caravans on site or business conducted from the site and consider in the event Mr Finney leaves the site the land should revert to Green Belt status.

### **Determining Issues**

Whether the very special circumstances for allowing inappropriate development in the Green Belt as identified by the Inspector (or any other such circumstances) still exist in relation to:

- The unmet local need for Gypsy sites
- Lack of alternative sites
- Lack of adequate development plan policies to bring forward new sites
- Need for accommodation which maintains the extended family unit
- Mr Finney's medical needs
- The impact arising from the additional buildings now proposed
- The report then goes on to explore the Enforcement implications

### **Observations**

### **The unmet local need for Gypsy sites**

The Council is undertaking a Gypsy and Traveller Accommodation Assessment in conjunction with other Black Country Authorities in accordance with Circular 01/2006 which is due for completion in October 2007. Although this is not yet complete, Mr Finney and his family have been offered accommodation on the Council's authorised Gypsy site at Willenhall Lane which is undergoing refurbishment and is able to cater for the accommodation needs of the Finney family. In the circumstances this reason for allowing inappropriate development in the Green Belt at Cartbridge Lane, which was originally considered sufficient to outweigh the harm to the Green Belt, has been addressed.

### **Lack of alternative sites**

The Head of Supported Housing Social Care & Inclusion has confirmed that the Council's authorised Gypsy site at Willenhall Lane has been undergoing a phased refurbishment and that the Finney family have been offered 1 or 2 plots from phase 2 which is due for completion in July/August 2007. The Council has therefore been able to offer an alternative site for Mr Finney and his extended family and this exceptional circumstance for allowing inappropriate development in the Green Belt has been addressed and is no longer applicable.

**Lack of adequate development plan policies to bring forward new sites** Although the development plan policies have not altered since the appeal was allowed the Council has published its 1 year Gypsy & Traveller Community Strategy and Action Plan in May 2006 and has set up a cross service / cross agency steering group that meets bi monthly to oversee the delivery of this strategy. A 3 year strategy is planned for 2008, using information collated from a Black Country gypsy & traveller needs assessment (anticipated to be completed by the Autumn 2007). The council has reviewed its site allocation policy and licence agreements, in consultation with site residents and the gypsy & traveller forum and reviews of other policies and procedures are scheduled for the forthcoming year.

### **Need for accommodation which maintains the extended family unit**

The Council has offered Mr Finney 1 or 2 plots on the Willenhall Lane site. Each plot is capable of accommodating two caravans therefore allowing for 4 caravans at the site. This is the same number of chalets Mr Finney has applied to retain at the Cartbridge Lane site and would accommodate his extended family. In addition there are other facilities available at the Willenhall Lane site as identified by the Head of Supported Housing Social Care & Inclusion. These facilities would cater for the needs of the extended family unit.

### **Mr Finney's medical needs**

Although Mr Finney's medical problems are worsening, no evidence has been provided to justify why these medical needs cannot be catered for as adequately on an alternative site i.e. Willenhall Lane. The Head of Supported Housing Social Care & Inclusion has also identified that a dedicated health worker visits the Willenhall Lane site the first Monday of every month which is a benefit not available at the present unauthorised Cartbridge Lane site. In the circumstances it is considered that Mr Finney's medical needs can be equally provided for on the Willenhall Lane site and there is no overriding reason why the family should remain on the unauthorised Cartbridge Lane site.

### **The impact arising from the additional buildings now proposed**

The proposal to retain the site permanently for residential Gypsy accommodation should also be assessed in terms of the implication that the additional buildings now on site have upon the following considerations: -

### **Impact on the openness, character and purposes of the Green Belt**

The proposal is inappropriate development in the Green Belt as it does not fall within any of the categories of appropriate development set out in policy ENV2 of the UDP or PPG2. The site falls within a narrow wedge of Green Belt land which at this point follows the railway line on a northern axis towards Pelsall and separates Rushall to the east from Coal Pool and Harden to the west. At this location the Green Belt is only 100m wide and is subject to urbanising pressures from the adjacent settlements. The site does occupy land that is low lying, forming part of the valley carrying the course of the Ford Brook which means that, assisted by the presence of semi-mature planting, its visual impact from wider outside views is somewhat reduced. However, the application site occupies around half the width of this Green Belt wedge at this point and the permanent retention of the residential Gypsy caravan site would be an unacceptable intrusion, substantially harming the purpose and function of the Green Belt in this location.

It is noted that the last approved use of the site was for stabling and keeping of horses, a use more appropriate to maintaining the openness. The proposed settlement of the residential chalets, together with the associated hard surfacing and domestic activity has an urbanising impact, reducing the effective width and openness of this narrow section of Green Belt further, and bringing the separate built up areas to the east and west of the site closer together which harms the character and openness of the Green Belt. This was accepted by the Inspector in his consideration of the Appeal.

The Inspector in allowing the appeal restricted development on the site to just 4 residential chalets (mobile homes) specifically precluding bringing any other caravan, chalet or mobile home from being brought on to the site for any purpose including storage or residential use. The decision also prevented any mobile home or chalet from being altered or enlarged. As there are additional mobile caravans on site.

### **Whether there are exceptional circumstances to outweigh the harm caused by inappropriate development in the Green Belt**

The Inspector found that the caravan site development would seriously harm the openness and purpose of the Green Belt. However, the Inspector found that the personal circumstances of the appellant were exceptional and, in the absence of an alternative site, Mr Finney's medical problems amounted to very special circumstances sufficient to outweigh this harm to the Green Belt. A temporary permission was granted for two years which expired on 4 August 2006. The Inspector chose the two year period on the basis that there would be a reasonable prospect that the Council's authorised Willenhall site would be refurbished within this time period and that the family's need for accommodation and the medical needs of Mr Finney could be satisfactorily met by them being based at the Willenhall site. The Inspector also found that Mr Finney's access to health care facilities was not entirely dependant upon his living at the Cartbridge Lane site and that another site within the area could allow him to continue to visit the same hospital and doctors.

Mr Finney has now applied for the permanent retention of the residential Gypsy caravan site on the basis that the health problems suffered by himself and Mrs Finney amount to very special circumstances sufficient to allow development in the Green Belt. Mr Finney is receiving treatment for cancer, diabetes, arthritis and other ailments; Mrs Finney is also being treated for cancer, suffers from asthma and is the prime carer for her sister Linda Lee who is deaf and dumb. Letters have been provided by the applicants from a Consultant Physician at Manor Hospital Diabetes and Endocrinology Department, Patient Access Manager at Manor

Hospital Diabetes Centre and Doctors at Rushall Medical Centre confirming the health problems of Mr & Mrs Finney and Linda Lee.

The information provided so far, does not demonstrate why Mr & Mrs Finney need to remain at the Cartbridge Lane site rather than relocate to an available approved site. A request for further clarification and further information was requested on 20 November 2006 and again on 4 January 2006 in order to further explain the exceptional locational requirements. The following information has been requested:

- Could the required medical assistance be provided at an alternative site?
- Is a medical reason why the Finney's should not be moved from the Cartbridge Lane site?
- What support is currently provided to Mr & Mrs Finney by members of the immediate family?
- Is there any evidence as to the prognosis for Mr & Mrs Finney in terms of their future quality of life, medical and social needs and life expectancy?
- Will Mr & Mrs Finney need additional support for family members as time goes on which will make it essential for the family to stay together and if so when is it likely that this situation will arise?

As a result of these inquiries the agent wrote on 8 December 2006 stating that he considers the letters already supplied from Walsall Hospital confirm that Mr Finney needs to stay on long term medication and attend hospital on a regular basis and that his health problems and inability to work are clearly circumstances that are going to persist for the foreseeable future. The letter goes on to state that Mrs Finney is recovering from cancer which is clearly a condition that currently requires on-going treatment, but which will need to be monitored for the foreseeable future and that Linda Lee (Mrs Finney's sister) requires full time care and, in view of Mrs Finney's own health problems, is dependant on the family group for that care. The letter ends that it is extremely important that this extended family group are able to live together, as is traditional amongst Gypsy families, in order to provide each other with help and support and that due to their medical problems the family should be able to live in privacy and retain their dignity and respect within the wider Gypsy community which the agent considers the application site provides the opportunity to continue.

This information is considered inadequate as it does not fully answer the questions raised. A further letter reiterating the enquiries was sent on 4 January 2007 but no response has been received. The applicant's have not demonstrated that, with the availability of the Willenhall site, the personal circumstances of the applicant are sufficient to amount to very special circumstances which would outweigh the harm the development causes to the character and openness of the Green Belt. The proposal is therefore contrary to policies 3.3, ENV2 and H8 of the UDP and to PPG2 Green Belt.

The Head of Supported Housing has explained there is now adequate provision to accommodate Mr Finney and his extended family at the Willenhall site. As the Council have an alternative authorised site on which they have offered accommodation to Mr Finney and his family this overcomes the Inspector's key justification in allowing a temporary permission on the Cartbridge Lane site.

### **Impact on the amenities of surrounding occupiers**

The main considerations in this respect are the potential impact upon privacy, outlook, daylighting, noise and disturbance from associated activities. The rear gardens of 40-50 Cartbridge Lane that adjoin the eastern boundary of the site are between 22m and 25m in

length and the gardens of 38, 52 and 54 Cartbridge Lane extend beyond this to surround the site. The chalets are positioned between 1.4m - 2m away from the boundaries to these gardens. In the circumstances, the siting of the chalets does achieve the minimum 24m separation between habitable rooms specified in the Council's Residential Development Standards. However, the chalets are mainly single storey (except for the log cabin on plot 3) and provision of fencing and planting around the perimeter of the site will screen the chalets to a certain extent. The siting of the chalets is therefore considered not to adversely affect the daylight, outlook and privacy of adjoining properties. The ancillary use of the garden areas adjacent to the chalets is also considered no different than the relationship between existing neighbouring gardens.

Surrounding residents have advised that they have experienced an increase in the number of trucks, vans and lorries using Cartbridge Lane since the site has been operating and this has consequently led to an increase in noise levels. The application seeks to create 5 permanent buildings on the site comprising the four chalets and the converted laundry/shower/store building. The application does not suggest that further mobile caravans would be introduced on site and it is considered that the motor home and two caravans presently on the site would be removed if planning permission were granted.

The application does not infer that any business use is carried out at the site hence there should be no reason to presume that large vehicles will need to access the site on any regular basis other than domestic deliveries, or visitors who use lorries as personal transport. Conditions imposed on any permission would ensure that the layout of the site remains as applied for and that no business use is operated from the premises in order to protect neighbouring amenities from noise and disturbance.

### **Access and Parking**

The site is accessed via a driveway that runs between the boundary of 54 Cartbridge Lane and the allotment site. This is a standard carriageway width where it runs parallel to no.54 and the allotments. There are kerbs and some planting along its edges in part, beyond which there is a dense screen of conifers along the allotment boundary and close board fencing along the boundary of no.54. Although there are pinch points along the western boundary of the site where it turns to enter the site, there are two passing places incorporated into the design. The caravans/mobile homes are located around the perimeter of the site with a large gravelled turning area in the centre. Transportation are satisfied that this arrangement provides adequate access to the road network and adequate on site parking and turning areas and therefore considers access and parking satisfactory.

### **Flood Risk Assessment**

The Environment Agency object to the proposal on the basis that it is not accompanied by a Flood Risk Assessment (FRA) as required by PPS25. The site is located within Flood Zone 3 which is a high risk zone. This refers to land where the indicative probability of flooding is 1 in 100 years or less from river sources (i.e. it has a 1% or greater chance of flooding in any year). The source of flood risk in this case is the Ford Brook which is designated a main river. The agent was advised of the requirement for a FRA on 22 August 2006 and 4 January 2007 but has not yet provided the necessary report. In the circumstances the application should be refused on the basis of lack of information to determine the flood risk as no FRA has been provided. This is contrary to Policy ENV40 and to PPS25.



Although the applicant advises that the Environment Agency did not object to the scheme under the previous application PPS25 was only published in December 2006 and is therefore more up to date guidance that must be followed.

### **European Convention on Human Rights**

Article 8 of the European Convention on Human Rights provides that everybody has the right to respect for private and family life and home, and there should be no interference by a public authority with the exercise of this right, except where it is (amongst other considerations) in accordance with the law and is necessary in a democratic society for the protection of rights and freedoms of others. It is therefore incumbent upon any local authority, when considering refusing permission or instigating enforcement action in respect of Gypsy sites, to consider the consequences of such action on the rights of individuals concerned and to ensure that Article 8 rights are not violated and, importantly in terms of planning decisions, that any interference with those rights is necessary, serves a legitimate aim and is appropriate.

The courts have therefore held that, although clearly material to the decision, the importance of development plan policies should not be elevated to a level such that personal circumstances of Gypsies are not dealt with even handedly. A balanced view has to be taken weighing the harm arising to public interest against the rights and personal circumstances of Gypsies. In this case, the personal circumstances cited are not sufficient to amount to very special circumstances which would outweigh the harm to the Green Belt caused by this inappropriate development.

### **Enforcement**

The Inspector in 2004 found that there was an unmet local need for gypsy sites in the borough, a lack of alternative sites, lack of adequate development plan policies to bring forward new sites, a family need for accommodation which maintains the extended family unit and Mr Finney's medical needs were considered to outweigh the harm to the Green Belt by reason of inappropriateness and constituted very special circumstances necessary to justify a temporary planning permission. The temporary planning permission was for two years and expired on 4 August 2006.

Granting of planning permission at the same time as dismissing an enforcement appeal is legally complex. The inspector in his report states *"Section 180 of the 1990 Act provides that where following an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission. It appears to the Secretary of State that the enforcement notice the subject of appeal A will therefore cease to have effect so far as inconsistent with the planning permission he is granting. The degree of inconsistency will be for the Court to determine, if necessary"*.

Counsel's opinion has been sought on this matter and the advice is *"The extent to which the enforcement notices upheld by the inspector in 2004 continue to have effect is a complicated matter of law and fact.... In this case, because of the potential for a legal wrangle over the continuing effects of the enforcement notices (Court case Cresswell v Pearson [1997] JPL 860) offered guidance on this matter, any attempt to prosecute for breach of the notices would probably end up in the Divisional Court with associated delay and expense. I would not therefore advise it for that reason alone."*

In light of the above, Members are therefore advised not to rely on the old Notices, and it is recommended that new enforcement notices should be served and the old Notices should not be relied upon.

New enforcement notices should be prepared to seek removal of all buildings, structures and vehicles associated with the unauthorised use of the site and its reinstatement of the site to a clean and tidy condition. The time period permitted for compliance with the enforcement notice must take into account the need for a reasonable period for the applicant and his family to re-house themselves.

Given that the Council is now in a position to provide two pitches at Willenhall Lane which can accommodate all the occupants of Cartbridge Lane, the timescale for compliance can reflect this and ensure that the inhabitants are not made homeless. The suggested time for compliance will be 3 months, this will be dependant upon when the notice is served but it is important that the end of the compliance period should not go beyond 31 August 2007. This will ensure that any child on site who is a position to do so could commence pre-school education at the start of the new academic year from the new site, and in the new area.

#### **Enforcement Recommendations:**

That authority is delegated to the Assistant Director - Legal Services and the Head of Planning and Building Control for the issuing of enforcement notices under the 1990 Act to require the grubbing up of the hardstand and the cessation of the use for the siting of caravans and the service of Requisition for Information Notices.

That the decision as to the institution of legal proceedings in the event of non-compliance with the Notices, or the non-return of Requisitions for Information, be delegated to the Assistant Director - Legal and Constitutional Services and the Head of Planning and Building Control.

That authority be delegated to the Assistant Director - Legal and Constitutional Services, in consultation with the Head of Planning and Building Control, to amend and add to or delete from the wording stating the nature of the breach(es) the reason(s) for taking enforcement action, and the requirement(s) of the Notice or the boundaries of the site.

#### **Details of the alleged breach of planning control**

The siting of caravans and the installation of a hardstanding

#### **Details of why the Council is issuing the enforcement notice**

The refusal reasons in this report set out this aspect of the enforcement notice.

#### **Details of steps required to remedy the breach**

Remove all caravans, mobile homes and chattels from the site and cease to use the site for residential purposes.

Remove all vehicles from the site associated with the unauthorised use.

Remove from the site all structures and materials associated with the unauthorised use, including any debris or rubbish to ensure that the site is left in a clear and tidy condition.

Grub up the hardstanding, then topsoil and re-seed in grass that parts of the site as shown on the attached plan. Remove all rubble and arising from this process.

## **Time for Compliance with the Notice**

3 Months

### **Conclusion**

For the reasons specified above it is considered that all of the Inspector's reasons for allowing the previous appeal have now been addressed, yet the adverse impact the development has on the openness and character of the Green Belt has increased due to the additional buildings. No very special circumstances have been provided sufficient to outweigh the harm such inappropriate development has upon the Green Belt and the proposal is therefore unacceptable.

### **Recommendation: Refuse, Enforce and Prosecute**

1. The proposal is inappropriate development in the Green Belt for which no very special circumstances, sufficient to outweigh the harm to the character, openness and purpose of the Green Belt have been put forward. For this reason the proposal is contrary to PPG2 Green Belt and paragraph 3.3. and Policies ENV2 and H8 of Walsall Unitary Development Plan.
2. It has not been demonstrated that adequate provision would be made for surface water run-off as the application is not accompanied by a Flood Risk Assessment as required by PPS25 Development and Flood Risk in order to fully assess this impact contrary to PPS25 Development and Flood Risk and to Policy ENV40 of Walsall Unitary Development Plan.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning  
and Building Control,  
Regeneration  
On 26 June 2007

**REASON FOR BRINGING TO COMMITTEE:** Significant community interest

**Application Number:** 07/0946/FL/E9

**Case Officer:** Barbara Toy

**Application Type:** Full application

**Telephone Number:** 01922 652429

**Applicant:** 02 (UK) Limited

**Agent:** Lambert Smith Hampton

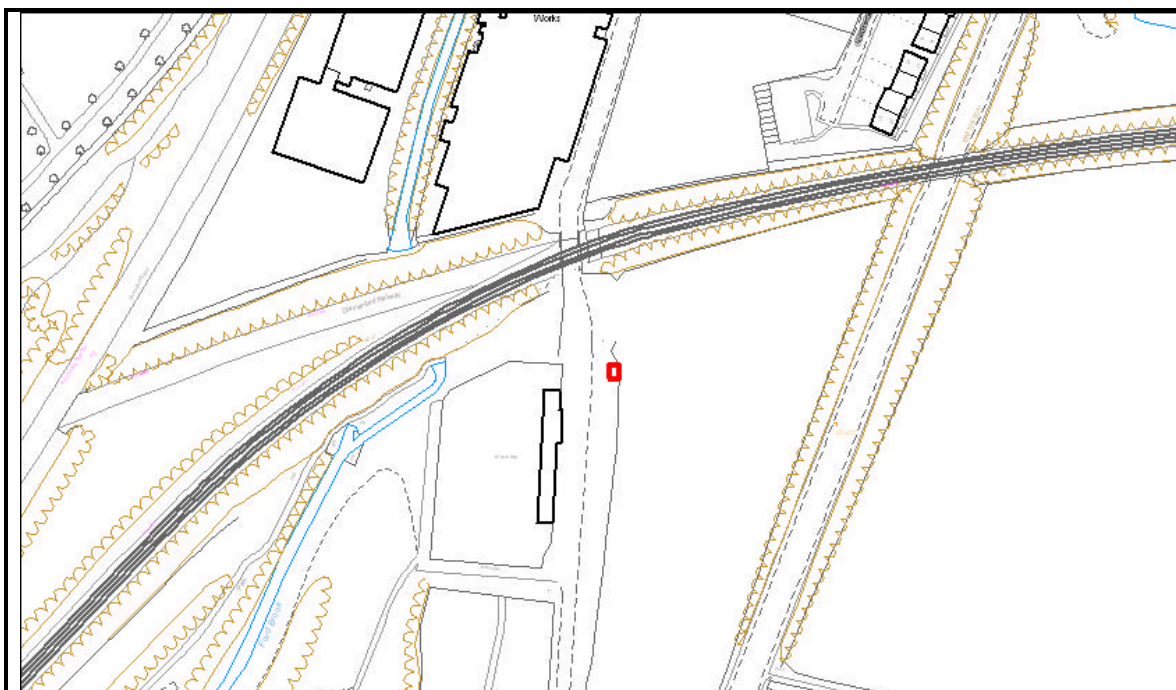
**Proposal:** Installation of 15 m minimised macro column with six antennas with associated equipment cabinets. All equipment will be located within a 2.1 m high fence

**Location:** ON GRASS VERGE OF  
CARTBRIDGE LANE  
SOUTH, OPPOSITE RUSHALL  
SUBSTATION, WALSALL, WEST  
MIDLANDS, WS4 1SD

**Ward:** St. Matthews

**Expired:** 09 July 2007

**Recommendation Summary:** Grant Permission subject to conditions



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## **Application and site details**

The application site is situated on the eastern side of Cartbridge Lane South and lies within a wedge of Green Belt land formed by the Goscote Valley.

The application proposes a 15m high telecommunications mast (tubular and 0.4m max diameter) incorporating 3 x 2G antennas and 3 x 3G antennas on a small headframe on the upper section of the mast, providing an overall height of 15.7m. An equipment cabinet and electric meter cabinet would be sited adjacent and the entire installation would be enclosed within a secure compound 6m x 3m with 2.4m high pallisade fencing (painted green).

The mast and equipment would be sited on an overgrown grass verge (part of the adopted public highway) opposite the entrance to Rushall Electric Substation.

Cartbridge Lane South is a no through road situated off Lichfield Road. Immediately to the east of the site is an enclosed field (including mature poplar trees) owned by Walsall MBC, but currently used for grazing horses. To the west on the opposite side of Cartbridge Lane South is a large electric substation (Rushall Substation), with brick sheds to the road frontage and large electrical structures within a high secure compound to the rear. To the south west are Borneo Street allotments. To the north an elevated railway line with mature landscaping on each embankment. A railway bridge over the road leads to the northern end of the road which comprises large abandoned industrial premises, open grazing fields and access to open Green Belt land and other open space. The land surrounding the site rises to the east and drops to the west.

The equipment is required for the applicants (O2(UK) Ltd) to deliver both 2G and 3G phone communications in this area. Coverage plots have been submitted to illustrate how the network coverage would be increased by the proposed development.

The technical information submitted includes a Declaration of Conformity with International Communications on Non Ionising Radiation Protection (ICNIRP) Public Exposure guidelines.

The applicants have provided details of 9 alternative sites in the area that have been considered, but discounted as unsuitable or unavailable.

O2 has a legal obligation under their licence requirements to construct a network covering 80% of the population by 2007. The proposed installation is needed to provide both 2G and 3G coverage to residential properties within the Rushall area as well as the main transport corridor of Lichfield Road (A4613).

## **Relevant Planning History**

Nil

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

## **Unitary Development Plan 2005**

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

#### GP2: Environmental Protection

Development should be sustainable and contribute to environmental improvement;

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

Policy 3.16 requires high quality design.

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

#### ENV2: Control of Development in the Green Belt

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

Policy 3.30 states that even when a planning proposal is considered to be appropriate development under Policy ENV2 there will be other more detailed matters that will also need to be taken into account.

#### ENV3: Detailed Evaluation of Proposals within the Green Belt

States where development is acceptable in principle in the Green Belt will be assessed in terms of the following factors:

- The detailed layout of the site
- The siting, design, height, grouping and scale of buildings, structures and associated outdoor equipment.
- The colour suitability of building materials.
- The impact on significant views, viewpoints and topographical features.
- The cumulative physical effect of proposals in any one area.

#### ENV32: Design and Development Proposals

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

#### ENV38: Telecommunications:

States the following:

- a) Large items of telecommunications equipment are unlikely to be acceptable in visually sensitive locations.
- b) When considering proposals for new equipment, the Council will require operators to demonstrate that they have fully investigated the possibility of avoiding the need for the erection of new masts by:
  - i) Use of existing high level buildings and structures.
  - ii) Mast and site sharing.
  - iii) Measures to reduce the impact of the equipment, such as screening and mast camouflage.
  - iv) All proposals should comply with ICNIRP requirements.

### **National Policy**

#### PPG2: Green Belts

Green Belts have a positive role to play in retaining attractive landscapes and enhance landscapes near to where people live and that 'inappropriate development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness and other form of harm is clearly outweighed by other considerations.

## PPG 8: Telecommunications

Government policy is to facilitate the growth of telecommunications systems. It sets out guidance for the siting and design of equipment and how local planning authorities should deal with matters relating to health. In particular paragraphs 14 and 28 refer to effective landscaping for proposals, paragraphs 19 to 23 refer to mast and site sharing and to show evidence that site sharing and reuse of existing buildings have been explored and paragraphs 24 to 28 refer to design and the use of sympathetic design.

It also states that in Green Belts, telecommunications development is likely to be inappropriate unless it maintains openness. Inappropriate development may proceed only if very special circumstances are demonstrated which outweigh the degree of harm to the Green Belt. The lack of a suitable alternative site that would meet the needs of network coverage or capacity might be considered as very special circumstances.

Paragraphs 30 and 98 states 'In the Government's view, if a proposed mobile phone mast base station meets the ICNIRP guidelines for public exposure it should not be necessary for a Local Planning Authority, in processing an application, to consider further the health aspects and concerns about them'.

## **Consultations**

**Transportation** - no objections.

**Pollution Control** - no objections, subject to:

- a) post-installation tests should be carried out to confirm that the equipment complies with ICNIRP limits
- b) should future upgrades of the equipment occur then tests should be conducted to confirm that the equipment continues to comply with the ICNIRP guidance

**Fire Service** - no access issues

**Environmental Health** - no adverse comments.

**Network Rail** - no observations.

**Landscape Officer** - no objections subject to conditions to ensure existing hedging is retained and protected during installation and strengthened with in fill planting and the compound fencing painted dark green.

**Leisure Services** - no objections to replanting of hedging to Lichfield Road boundary of council land subject to detailed conditions regarding the planting and maintenance.

## **Representations**

The Council's normal publicity arrangement is to put up a site notice and to notify ward councilors (this was done) and to write to all houses within 100m of the site. In this case, the purpose of that latter action would not have been met as there are no houses in that 100m zone. Officers therefore notified houses further away, sending letters to the 39 houses nearest the site.

Two petitions against the proposals received.

Petition One containing 135 signatures gives the following reasons for objection:

- ? An eyesore which would be out of place in a residential area.
- ? Potential for health risks in a residential area and open recreational land
- ? Property devaluation and detrimental to salability.

Petition Two containing 218 signatures gives no reasons for objection.

174 individual objections have been received.

Main objections include:

- Local residents already put up with radiation emitted from the substation, a telecoms mast would add to this potential health hazard.
- Possible interference between the sub station and the proposed mast
- Devaluation of property
- An eyesore
- Possible health implications of such an installation
- Design and visual appearance of the proposal, out of character in this leafy residential area.
- Close proximity to densely populated area particularly young families
- Close proximity to The Butts Primary School
- Other more suitable sites available further from residential properties
- Lack of public consultation on the application
- Add to existing vandalism problems in Cartbridge Lane South
- Adverse impact on Goscote Valley wildlife and flora
- Create a precedent
- Possible contamination of adjacent allotment gardens
- Assist in degenerating Walsall rather than regenerating
- Too much mobile phone use
- New mast on railway land within half a mile of the site
- No difficulty in receiving O2 signal in the area
- 3G transmitters emit more radiation with increased risk
- interference to electronic equipment in the houses
- Will Walsall MBC take responsibility for future health effects?
- Financial gain by Walsall MBC.

### **Determining issues**

Impact on the visual amenity of the area  
Alternative sites and policy considerations  
Health risks and perception of health risks

### **Observations**

#### **Impact on the visual amenity of the area.**

Cartbridge Lane South is a no through road, and the closure of the industrial premises to the north of the site beyond the railway line has significantly reduced the use of the road to a minimum and it has now become a semi abandoned area used for fly tipping.



There are substantial hedgerows in various places, such that the site is either not visible at all, or views are significantly constrained. Street lighting columns are situated at regular intervals along the western side of the road and the substantial electric sub station building and structures already provide intrusion into the skyline. The proposed mast would be seen from most viewpoints with the backdrop of the substation structure.

It is recognised that the general telecommunications cell area is predominantly residential in character but the site is situated in a natural break in the residential area and where the dip in levels will reduce the skyline impact of such a development. The existing trees and hedging would substantially mitigate any adverse impact the proposed structure may create within the existing landscape.

The closest residential properties to the proposed site are in Ladypool Close approx 140m to the northeast of the site, on the opposite side of the elevated railway line, at a higher level than the application site. Ladypool Close comprises a cul de sac of two storey residential properties that look directly over a grazing field to the abandoned industrial premises in Cartbridge Lane South. Views of the proposed installation would be substantially obscured by the elevated railway line and the existing mature landscaping and trees situated either side of the railway embankment.

Additional houses are 150m to the south east of the site on Lichfield Road at a higher level than the site. It is considered again, that views of the proposed mast would be limited and mitigated by the existing substantial hedging along the Lichfield Road boundary of the POS field and the Cartbridge Lane South boundary immediately adjacent to the site, as well as the existing mature poplar trees within the field itself. However one section of hedging along the Lichfield Road boundary has been lost and replaced by open post and rail fencing, which may allow more of a view of the proposed mast from one or two houses on Lichfield Road. The applicants by way of additional mitigation have agreed to replant the missing hedging (which is within land owned by Walsall MBC) and an appropriate condition is attached.

Although the site is situated within the Green Belt and the proposed development may be considered as inappropriate development, PPG8 states that lack of a suitable alternative site that would meet the needs of the network coverage may be considered as a 'very special circumstance'. It is therefore expected that the operator should provide evidence that there are no other suitable alternative locations outside the Green Belt but within the cell area (see following section).

It is also considered that the slender design of the proposed mast, (not dissimilar to street lights and telegraph poles) would not be inappropriate development and would not adversely impact on the openness and purpose of the Green Belt.

### **Alternative Sites and Policy Considerations**

PPG 8 and UDP policy ENV38 require a full investigation by the operator of alternative sites within the appropriate search area. To comply with this requirement the applicants have provided details of 9 alternative sites investigated within the search area.

1. Rushall Electricity Substation, Cartbridge Lane South  
The owners have confirmed there is insufficient space available for an installation at the premises.
2. Junction Broadway North and Lichfield Street, Street works.

- The footpath width is less than 3m wide therefore insufficient to enable an installation and retain suitable pedestrian access.
3. Cartbridge Lane and Lichfield Road  
A number of residential properties in close proximity and any installation would be visually more intrusive and contentious than the application site.
  4. Rushall Hall Farm, Leigh Road.  
The applicants have deemed consent for the installation of equipment at the farm, Walsall MBC have objected and the application site represents a direct replacement for the Rushall Hall Farm consent.
  5. Calderfields Golf Club, Aldridge Road.  
No response from the owners to enquiries made
  6. Stencils Farm, Aldridge Road.  
No response from the owners to enquiries made
  7. KCR premises Cartbridge Lane South, rooftop installation  
Property vacant and due for redevelopment therefore applicants unable to enter a long term agreement with the freeholder at this time.
  8. Rushall Olympic Football Club, Dales Lane.  
Site outside search area and would therefore not provide improved coverage.
  9. Vodafone site, North Street, Site Share  
Site located on rail track land. Vodafone do not have the right to share masts on sites on rail track land.

The applicants submit that they have fully investigated alternative sites and possible mast sharing and consider that there are no other existing sites or structures in the vicinity that are suitable to locate the antenna and associated equipment.

The Government's commitment to modern telecommunications is set out in PPG 8, and the policy is to facilitate the growth of new and existing telecommunications systems whilst keeping environmental impact to a minimum. A choice of provider with a range of services should be available to the public. PPG 8 encourages Local Planning Authorities (LPA) to respond positively to telecommunications development and its significance of part of the national network, and that in addition to amenity issues have regard to any technical constraints on the local and proposed development. Officers conclude an adequate search has been conducted and no alternatives can be identified.

### **Health risks and perception of health risks**

Whilst health concerns are a material consideration, they must be considered in the context of current government advice. Planning Policy Guidance Note 8 comments that if a proposed mobile phone base station meets International Commission for Non-Ionising Radiation Protection (ICNIRP) guidelines for exposure, it should not be necessary to consider further the health aspects and concerns about them. In this case, emission levels are within the ICNIRP requirements.

### **Conclusions**

It is considered that the proposed siting strikes a balance between environmental impact, operational considerations and proximity to residential accommodation, providing a compromise between the very limited visual impact of the proposals on the surrounding area and meeting the technical coverage requirements.

The proposals would comply with policies ENV38, ENV2 and ENV3 of Walsall's UDP and National Planning Guidance contained within both PPG2 and PPG8.

The proposals are not considered inappropriate development as alternative sites have been considered and the proposals would not adversely impact on the openness and purpose of the Green Belt. The proposals would be sited with a backdrop of a substantial industrial premises (electricity substation) and would be well screened by the existing hedging and trees as well as new landscaping, with little intrusion on the skyline. The proposals would fully comply with ICNIRP guidelines and would be sited some distance from residential properties with obscured views.

**Recommendation: Grant Permission subject to conditions**

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

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

2. The development hereby approved shall not be carried out until details of the colours of the external surfaces of the mast, cabinets and fencing have been submitted to and approved in writing by the local planning authority. The agreed colours shall be applied within one month of the cabinets and mast being erected and shall not thereafter be changed without the written agreement of the local planning authority.

*Reason:* To ensure the satisfactory appearance of the proposal.

3. The section of boundary to Lichfield Road currently occupied by open post and rail fencing shall be planted with hedging in the first growing season following implementation of this approval, at the applicant's expense, subject to the following conditions:

- Planting only to occur during the non-growth/winter season.
- Area to be cleared of weeds first.
- Fence to remain in situ to protect growing hedge from any possible grazing animals in field.
- 45 - 60 cm bare rooted transplant hedge plants to be used
- Hedge plants to be planted in the centre of a trench 30cms wide and 20cms deep
- Planting pattern to be a double row, with rows 15 cms apart, and all plants 22cms from nearest plant and 7cm from edge of trench, planted alternately in a 'chequered style' planting pattern at a density of 6-8 plants per metre. (Spec 'drawing' available on request)
- Species mix to be: 70% Hawthorn (*Crataegus monogyna*), 20% Blackthorn (*Prunus spinosa*), 8% Hazel (*Corylus avellana*), plus 2% mix of standards of Oak (*Quercus robur*) or Ash (*Fraxinus excelsior*) planted as far apart from each other along hedgeline as possible
- All transplants planted to same level in soil as mark on stem from previous level, soil packed firm in trench around them.
- Roots covered in soil until day of planting.
- On day of planting trees kept in plastic bags until the last possible minute to prevent roots from drying out (roots watered before planting if necessary).
- Avoid planting when soil is waterlogged or frosty.

- Maintenance required over 5 years: hand weeding around hedge plants during summer months (particularly during May and June) and replacing any dead, dying or missing hedge plants each winter to maintain planting density.

*Reason:* In order to assist with mitigation of the development hereby approved.

4. No development shall be carried out until details of hedging and trees protection measures and details of a planting scheme to be implemented to strengthen the existing hedging adjacent to the site, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the installation of the development hereby approved.

*Reason:* In order to protect and enhance the existing hedging and trees adjacent to the site.

5. Prior to the installation becoming operational, it shall be demonstrated to the local planning authority that the equipment is compliant with current recommendations or limits for environmental exposure to electromagnetic radiation as specified by the International Committee on Non-ionising Radiation Protection (ICNIRP).

*Reason:* In the interests of amenity

6. When the installation becomes fully operational, post installation tests shall be conducted to the satisfaction of the local planning authority to demonstrate compliance with current recommendations or limits for environmental exposure to electromagnetic radiation as specified by ICNIRP. Written verification of this shall be provided to the local planning authority within 8 weeks of tests being completed.

*Reason:* In the interests of amenity

7. No upgrading, modification or addition to the installation shall be carried out in any way that causes current recommendations or limits for environmental exposure to electromagnetic radiation as specified by ICNIRP to be exceeded.

*Reason:* In the interests of amenity

8. Where any upgrading, modification or addition to the installation is carried out, it shall be verified to the local planning authority that the installation is still compliant with current recommendations or limits for environmental exposure to electromagnetic radiation as specified by ICNIRP.

*Reason:* In the interests of amenity.

9. The proposed development hereby approved shall only be carried out in accordance with plan numbers 37075B/PL/001 Rev A, 37075B/PL/002 Rev A and 37075B/PL/003 Rev B submitted on 14<sup>th</sup> May 2007.

*Reason:* In order to define the permission.

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

The proposed development is considered to comply with the relevant policies of the development plan, in particular Policies GP2, ENV2, ENV3 and ENV 38 of Walsall Unitary Development Plan March 2005, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

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

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning  
and Building Control,  
Regeneration  
On 26 June 2007

**REASON FOR BRINGING TO COMMITTEE: Significant community interest**

**Application Number:** 07/0888/FL/H1

**Case Officer:** Neville Ball

**Application Type:** Full application

**Telephone Number:** 01922 652528

**Applicant:** Mr Q Ahmed

**Agent:** Anthony Spruce

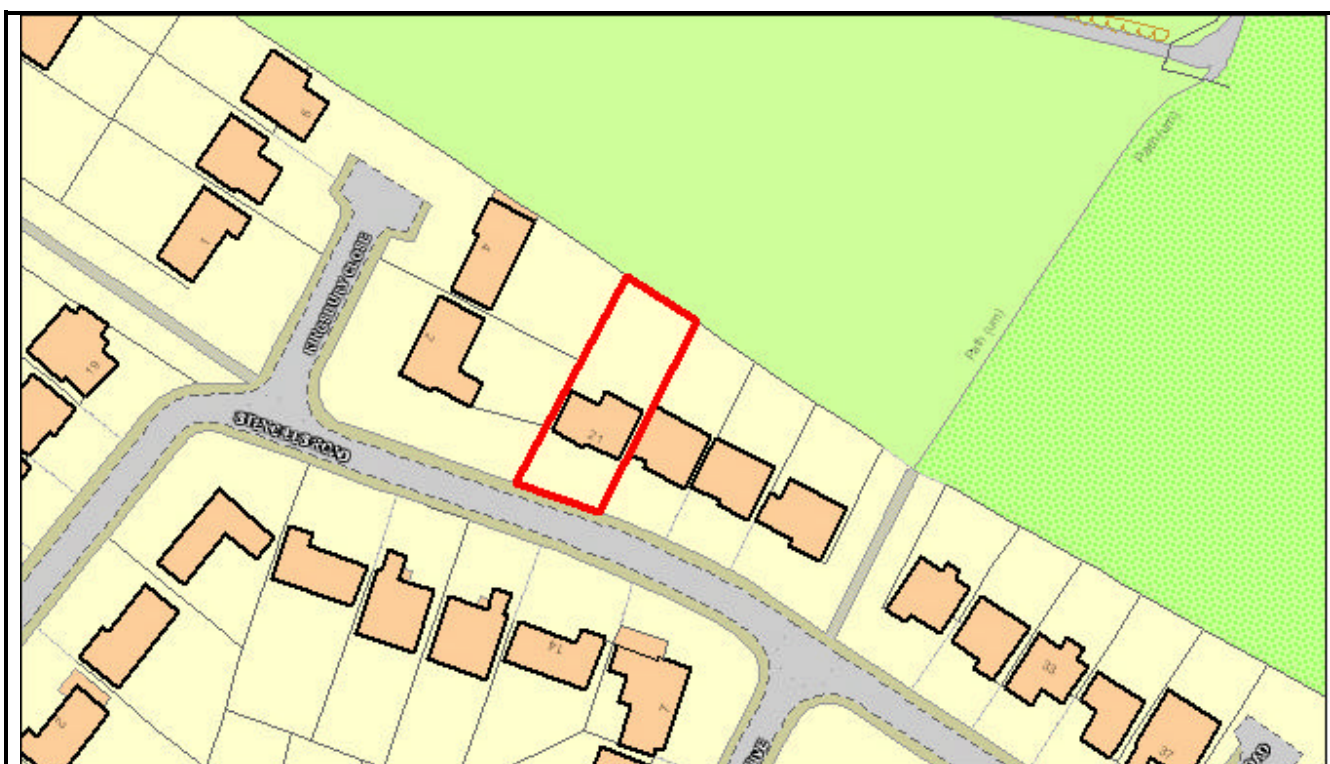
**Proposal:** Two-storey side and single-storey rear extension

**Location:** 21, STENCILS ROAD, WALSALL, WEST MIDLANDS, WS4 2HJ

**Ward:** St. Matthews

**Expired:** 29 June 2007

**Recommendation Summary:** Grant Permission subject to conditions



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## **Application and Site Details**

This application is for an extension to a detached house to provide additional rooms on the ground floor and increase the total number of bedrooms from four to five. The submitted plans indicate the interior of the house to be largely gutted, with the stairs and internal walls to be repositioned, and the window openings to be altered.

The extension is to replace an existing double garage to the side. The width of the extension is to be 1 metre less than that of the garage. On the ground floor, the front of the extension is to project 1 metre forward of the rest of the house, the same as the existing garage, whilst the rear is to project 3.5 metres out across the full width of the house. The front of the proposed first floor is to be set back 1 metre from the front of the existing first floor whilst the rear is to be in line with that of the existing.

The application house currently has a simple gable roof that slopes to either side, with a flat roof over the garage. The proposed extension is to also have a gable roof over the two-storey part, with the front part of the roof lying at right angles to the existing roof and the rear running in parallel to the existing. The single-storey part of the extension to the front and rear is to have a mono-pitch roof.

The two-storey part of the extension is to lie between the side of the existing house and the end of the rear garden to the adjoining bungalow number 2 Kingsbury Close. A 2 metre gap is to remain between the side of the extension and the boundary. The garden of number 2 is approximately 18 metres deep.

There is also a 1 metre gap between the side of the application house and the boundary with the house on the opposite side, number 23 Stencills Road. Number 23 has a garage and utility next to the boundary, and the rear of the utility projects 1 metre beyond the existing rear of the application property.

There are fields to the rear.

## **Relevant Planning History**

06/0069/FL/H7. Double-storey side, single-storey front and rear extensions. Refused March 2006 on the grounds that:

the size and design of the extension would be out of keeping with the design of the existing house and would harm the character and appearance of the street; and the limited distance between the side of the extension and the boundary with the adjoining bungalow number 2, and the proposed side-facing dining room window, would have an overbearing impact and cause a loss of privacy to the occupiers of the adjoining property.

(The two-storey part of the extension was to be a metre wider than the current proposal, and included a canopy that was to continue across the front of the existing house).

06/2150/FL/H1. Double-storey side and single-storey rear extension with front canopy. Refused February 2007 on similar grounds to the previous application.

(The size of the extension was similar to the previous application, but the roof design was modified to eliminate the flat roof section to the rear).

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

**Unitary Development Plan Policies**

**GP2: Environmental Protection**

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

**ENV32: Design and Development Proposals.**

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

**H10: Layout, Design and Dwelling Mix.**

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

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

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

**T7 - Car Parking**

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

**Residential Development Standards**

These include guidelines concerning design, including roof shapes, canopies, the length of extensions in relation to adjoining dwellings and separation distances between facing windows.

The Council will generally seek to ensure a minimum of 13 metres between habitable room windows and blank gable walls exceeding 3 metres in height. A minimum of 24 metres will usually be required between all facing windows of habitable rooms of adjacent dwellings.

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

**National Policies**

**PLANNING POLICY STATEMENT 1**

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



## **Consultation Replies**

None

## **Representations**

Letters have been received from the occupiers of 2 Kingsbury Close and five properties in Stencills Road, objecting on the following main grounds:

- The current application has reduced the overall width of the extension but it still represents a considerable change in the size of the property and renders it out of scale to adjacent dwellings;
- The area is characterised by space between the dwellings;
- The proposal appears to be more of a rebuilding than an extension;
- The name of the applicant is different from the previous applications and query who the owner is;
- Query why the family require additional rooms and fear that the extension is to provide accommodation for taxi drivers who are regularly at the address. This residential area is not suited to the many black cabs and private hire vehicles which are regularly parked in the road.

The letters may be viewed in full on publication of this report.

## **Determining Issues**

The determining issues are

- design and character;
- the impact on the amenities of nearby residents; and
- parking.

and in particular whether the current application has addressed the reasons for refusal of the previous application in respect of these issues.

## **Observations**

### **Design and Character**

The simple roof shape of the extension would reflect the design of the existing house. Although the extension would considerably increase its size, the reduction in the width compared with the previous application means that the extension would remain subservient to the existing house.

As noted in the representations, the area is characterised by generous gaps between dwellings. The side of the extension would be separated by the adjoining dwelling 2 Kingsbury Close by the rear garden of number 2 as well as the 2 metre gap to the boundary.

### **Impact on Amenity of Residents**

The reduction in the width of the extension means that it will now lie 20 metres away from the rear of 2 Kingsbury Close. This is 7 metres more than the minimum separation of 13 metres from blank two-storey walls that is required by policy. The submitted plans retain a side-facing

dining room window together with a kitchen door on the side elevation, but these would be screened from number 2 by the boundary fence.

The adjoining part of 23 Stencills Road is not a habitable room and the length of the single-storey rear part of the extension in relation to the rear of number 23 would comply with policy.

### **Parking**

The application property has a large frontage with plenty of parking space.

### **Other Concerns**

The current occupiers appear to include taxi drivers and acquaintances who are also taxi drivers may visit on a regular basis. However, there is no indication in the application that the property is to be used to run a business. The identity of the applicant or owner is not relevant to consideration of the planning merits of the proposal.

### **Recommendation: Grant Permission subject to conditions**

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

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

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

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

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

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

4: A solid wall or fence at least 1.8 metres high shall be retained at all times between the proposed side-facing dining area window and kitchen door, and the boundary with the adjoining property

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

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

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

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

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

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

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning  
and Building Control,  
Regeneration  
On 26 June 2007

**REASON FOR BRINGING TO COMMITTEE:** The period for receipt of neighbours comments does not expire before committee, but a committee view is required before their next meeting.

**Application Number:** 07/1056/PT/E12

**Case Officer:** Devinder Matharu

**Application Type:** Prior approval of siting & Appearance of Telecommunications Apparatus

**Telephone Number:** 01922 652429

**Applicant:** T-Mobile (UK) Ltd

**Agent:** Babcock Networks Ltd

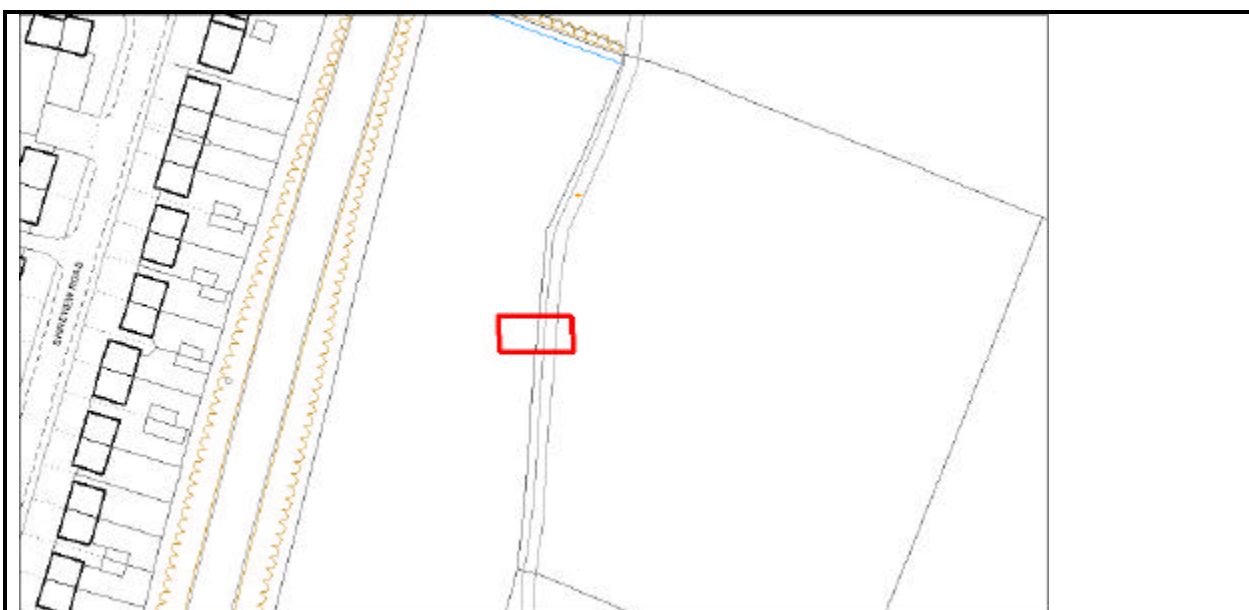
**Proposal:** Prior Notification for Telecommunications: Erection of 14.9 metre high timber clad monopole supporting 3 no. antennae (measurements 1302x155x69mm and a height of 14.3m) with equipment cabinet at ground level

**Location:** RAILSWOOD  
NURSERIES,RAILSWOOD  
DRIVE,PELSALL,WALSALL,WS3 4BE

**Ward:** Pelsall

**Expired:** 18 July 2007

**Recommendation Summary:** Grant Permission subject to conditions



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### **Application and Site Details**

The site lies within the Green Belt to the rear of Railswood Nurseries off Railswood Drive which is separated from the main built up area of Pelsall by the former railway line. The disused railway line is used by pedestrians and cyclists. Beyond the railway line the residential properties on Shireview Road can be seen from the rear part of Railswood Nurseries. Countryside surrounds the site to the north and east.

The site where the mast and equipment cabinet will be located is used for the keeping of horses. There are two trees at this location and the mast and equipment will be located in front of the existing trees. To the north of the site there are two trees, which appear dead and a row of poplar trees. Immediately south of the site is a hedge over 2 metres high beyond which is an existing 14.9 metre monopole mast.

Masts under 15m in height are granted planning permission in principle under the General Permitted Development Order, this application seeks the 'prior approval' of the design, siting and appearance of the mast.

The equipment cabinet will measure 1.228 metres in length by 0.5 metres in width and 1.228 metres in height and will be constructed out of galvanised steel and colour coated green.

The applicants have explained in accompanying documentation that T-mobile is one of the five operators that were granted a 3G licence in May 2000 and that these licenses require operators to provide a 3G network covering 80% of the population by December 2007. There are a number of areas where coverage is inadequate. Coverage plots have been submitted which indicates the 3G network coverage in this area and the gap that the coverage for this site seeks to resolve.

The supporting document also states that the height of the antennae is the minimum necessary to achieve the required coverage. In order for the system to work effectively the antenna needs to be high enough to see over any intervening obstructions that might attenuate the signal. Furthermore, the design of the monopole with the cluster of antenna located within a cylindrical shroud in the top section is sympathetic to the proportions and vertical emphasis of the adjacent poplar trees. Thirteen sites have been considered and discounted.

Additionally technical information includes a Declaration of Conformity with ICNIRP (International Commission on Non-Ionising Radiation Protection) Public Exposure guidelines has been submitted.

### **Relevant Planning History**

03/2279/PT/E5. A telecommunications base station comprising 12.5 metre timber monopole together with two transmission dishes and 3 antennas (total height 15 metres), equipment cabinet and ancillary development (timber stockproof fence, invisiring access ladder etc) at Railswood Nurseries, Railswood Drive, Walsall. Refused at Brownhills District Committee on Jan 2004 for the following reason:

The proposed development would not enhance the character of Pelsall Village, with its Conservation Area, nor would it enhance the character of the Green Belt and furthermore, it would have an adverse impact on the visual amenity of the area currently enjoyed by local

residents. The development constitutes inappropriate development within the Green Belt for which no very special circumstances, sufficient to outweigh the harm it would cause, have been put forward. As such the proposed development would be contrary to Unitary Development Plan policies 3.1, 3.2, 3.3, 3.6 and ENV14 and Appendix 2 guidance as well as emerging policies 3.3, ENV2, ENV3, 3.6 and ENV40 as contained within the March 2002 Revised Deposit Draft Plan.

The proposal was allowed at appeal on 3 November 2003 and the mast was erected on the site.

**Relevant Planning Policy Summary (Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)**  
**Unitary Development Plan 2005**

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

GP2 states that all development should make a positive contribution to the environment by way of its visual appearance, and account would be taken of the effect proposals have on the environment of the countryside and Green Belt.

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

Policy 3.16 requires high quality design.

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

ENV2 states that certain types of development are acceptable in the Green Belt; however telecoms proposals are not specifically mentioned.

Policy 3.30 states that even when a planning proposal is considered to be appropriate development under Policy ENV2 there will be other more detailed matters that will also need to be taken into account.

Policy ENV3 states where development is acceptable in principle in the Green Belt will be assessed in terms of the following factors:

- ? The detailed layout of the site
- ? The siting, design, height, grouping and scale of buildings.
- ? The colour suitability of building materials.
- ? The impact on significant views, viewpoints and topographical features.
- ? The cumulative physical effect of proposals in any one area.

ENV7 states that the Countryside Character approach to landscape assessment, conservation and enhancement promoted by the Countryside Agency is recognised and promoted. These principles are extended to the local level through Countryside Area Profiles.

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

Policy ENV38 states the following:

- a) Large items of telecommunications equipment are unlikely to be acceptable in visually sensitive locations.
- b) When considering proposals for new equipment, the Council will require operators to demonstrate that they have fully investigated the possibility of avoiding the need for the erection of new masts by:
  - i) Use of existing high level buildings and structures.
  - ii) Mast and site sharing.
  - iii) Measures to reduce the impact of the equipment, such as screening and mast camouflage.
- iv) All proposals should comply with ICNIRP requirements.

## **National Policy**

### Planning Policy Guidance Note 2: Green Belts

Green Belts have a positive role to play in retaining attractive landscapes and enhance landscapes near to where people live and that 'inappropriate development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness and other form of harm is clearly outweighed by other considerations.

### Planning Policy Guidance PPG8.

Paragraphs 14 and 28 refer to effective landscaping for proposals, paragraphs 19 to 23 refer to mast and site sharing and to show evidence that site sharing and reuse of existing buildings have been explored and paragraphs 24 to 28 refer to design and the use of sympathetic design.

It also states that in Green Belts, telecommunications development is likely to be inappropriate unless it maintains openness. Inappropriate development may proceed only if very special circumstances are demonstrated which outweigh the degree of harm to the Green Belt. The lack of a suitable alternative site that would meet the needs of network coverage or capacity might be considered as very special circumstances.

Paragraphs 30 and 98 states 'In the Government's view, if a proposed mobile phone mast base station meets the ICNIRP guidelines for public exposure it should not be necessary for a Local Planning Authority, in processing an application, to consider further the health aspects and concerns about them'.

## **Consultations**

**Urban Regeneration, Landscape Services** - Application should be refused. Two masts side by side in this location will be very obvious and create a cluttered and intrusive feature.

The existing telecom mast on this site was granted on appeal, having been previously refused by this Council. I note from the appeal statement that the Inspector agreed that a telecom

mast was inappropriate development in the Green Belt, but felt on balance that existing trees and landform reduced visual impact.

Many of these comments would also apply to the second mast now proposed. The existing trees and hedges would screen the majority of the mast and equipment cabins from nearby residents. However the uppermost part of the mast will be clearly visible as a skyline feature, and add to the visual intrusion that is created by the existing mast.

### **Representations**

None - the public participation period expires on 26 June 2007. Any comments received will be reported to committee.]

### **Determining Issues**

- ? Whether any special circumstances exist, sufficient to outweigh any adverse impact on the visual amenities, openness and character of Green Belt.
- ? the appearance and design
- ? Health

### **Observations**

Committee are asked to consider the application at this early stage because in the absence of a decision before the 17 July 2007 a permission would be in place by default on this 'prior notification' application.

### **Very Special circumstances**

It is considered that given the commercial nature of the site the proposed development would reduce the openness of the Green Belt. The proposal would amount to inappropriate development in the Green Belt and thus the proposal would be contrary Green Belt policy. However, paragraph 65 of PPG8 states that 'the lack of a suitable alternative site that would meet the needs of the network coverage or capacity might be considered as very special circumstances'. Policy ENV38 states that operators need to demonstrate that they have fully investigated the possibility of avoiding the need for the erection of new masts by mast and site sharing.

In this case, the supporting document states that the agent's have investigated alternative sites and out of the 13 investigated 12 have been discounted. All of the sites apart from the current site lie outside of the Green Belt. The applicants have submitted coverage plans which illustrate the existing 3G network coverage in the area and the gap in coverage this proposal seeks to resolve. The plots illustrate the improvement in 3G service that would be achieved by locating the base station at the proposed site.

The Planning Inspector when considering the Hutchinson 3G mast on the site stated "in line with the advice in paragraph 65 of PPG8, I consider that the need to improve coverage and the absence of alternative sites, as well as the appellant's efforts to minimise the proposal's visual intrusion, together constitute very special circumstances sufficient to support inappropriate development in the Green Belt".



In this case, it is considered that the coverage gap this proposal seeks to resolve, the lack of alternative sites and the slim line design of the monopole constitute very special circumstances sufficient to support inappropriate development in the Green Belt. The landscape impact concerns must be weighed against this need.

### **Appearance and Design**

The appearance and design of the mast is very similar to the design of the existing Hutchinson 3G mast within Railswood Nurseries, this being a timber clad monopole. Although the mast will have three antennae only one will be seen from the properties on Shireview Close, as they will be located around the head frame in a triangular shape to achieve the coverage required and not in a cluster. The two masts and antennae would be seen side by side.

The existing trees and hedges would screen equipment cabinets and the majority of the mast; however the uppermost part of the mast would be visible from the rear of the properties on Shireview Close. Those properties are some 55 metres away.

The Planning Inspector when considering the Hutchinson 3G mast on the site stated "it is clear that the new mast would be seen from a number of houses on Shireview Road, however, the intervening separation distance, together with the presence of trees and shrubs along the former railway corridor would reduce the mast's visual impact when seen from these dwellings. Furthermore, the overall proportions of the mast, including its monopole design and the use of a narrow head frame, would result in a slim line appearance. In addition, its proximity to a taller poplar tree would prevent the mast from appearing as an isolated vertical feature, while the use of timber effect cladding would further reduce the mast's apparent prominence".

In this case, it is considered that the intervening separation distance from the properties on Shireview Road and the slim line timber clad pole would reduce the visual impact of the mast. Furthermore, the surrounding tree screening would reduce the visual impact of the pole. The head of the mast would be visible from the properties on Shireview Road; however the mast would not be seen as an isolated feature in the skyline, as it would be seen in line with the existing Hutchinson 3G mast and in the background of the existing trees. It is not considered the proposal would harm the visual amenities of the Green Belt and the occupiers of Shireview Road enough to warrant refusal of the application.

The option of mast sharing with the existing Hutchinson mast has also been considered, to achieve a mast share at the existing site would result in the removal of the existing mast and the construction of a larger lattice structure. Furthermore, the mast would have to be a minimum of 18m high to allow the existing and proposed antennae to be positioned. This would be an increase of 3.1 metres and if this option was undertaken then the proposal would be more visually intrusive than the current proposal, as it would be seen from a greater distance and harm the openness of the Green Belt.

### **Health**

Whilst health concerns are a material consideration, they must be considered in the context of current government advice. Planning Policy Guidance Note 8 comments that if a proposed mobile phone base station meets International Commission for Non-Ionising Radiation Protection (ICNIRP) guidelines for exposure, it should not be necessary to consider further the health aspects and concerns about them.

### **Recommendation: Grant Permission subject to conditions**

1. The proposed development hereby approved shall only be carried out in accordance with plan number P0628/006/52596/002 submitted on 23 May 2007 and plan number P0628/006/52596/001 submitted on 1 June 2007.

*Reason:* In order to define the permission.

2. The development hereby approved shall not be carried out until details of the external cladding of the mast and colour details of the cabinets have been submitted to and approved in writing by the local planning authority. The agreed details shall be applied within one month of the cabinets and the mast being erected and shall not thereafter be changed without the written agreement of the local planning authority.

*Reason:* To ensure the satisfactory appearance of the proposal.

3. In the event of future up-grades or equipment be installed that will have an effect on the outputs of the telecommunications equipment then tests shall be conducted to confirm that the equipment continues to comply with the ICNIRP guidance (as amended).

*Reason:* In the interests of amenity and pursuant of ENV 38 of Walsall Unitary Development Plan March 2005.

4. The equipment and/or telecommunications installation hereby approved shall maintain in compliance with ICNIRP and in the event that monitoring identifies non-compliance, the equipment shall immediately be removed.

*Reason:* In the interests of amenity and pursuant of PPG8 and ENV 38 of Walsall Unitary Development Plan March 2005.

5. No development shall commence until details of a protective boundary fence around the planting shown outside the compound on plan number P0628/006/52596/002 submitted on 23 May 2007 has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall then be used in the construction of the fence and maintain at all times, unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* In the interests of the amenities of the area and to ensure the proposed planting is protected.

The proposed development is considered to comply with the relevant policies of the unitary development plan, in particular Policies ENV2, ENV3, ENV7 and ENV38 of Walsall Unitary Development Plan March 2005, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning  
and Building Control,  
Regeneration  
On 26 June 2007

**REASON FOR BRINGING TO COMMITTEE:** Called in by Councillor Phillips

**Application Number:** 06/1946/FL/E6

**Case Officer:** Paul Hinton

**Application Type:** Full application

**Telephone Number:** 01922 652420

**Applicant:** Auto Diagnosis Centre Ltd

**Agent:** Auto Diagnosis Centre Ltd

**Proposal:** Retrospective application for the erection of a portacabin for use as security and general office

**Location:** 54A, HARRISON STREET, WALSALL, WEST MIDLANDS

**Ward:** Bloxwich East

**Expired:** 11 June 2007

**Recommendation Summary:** Grant Permission subject to conditions



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**Background:** Called in by Councillor Phillips on the grounds of:

- "Character of the area
- Impact on amenity of neighbours
- Impact on surrounding area
- The site has been causing nuisance to neighbours by being used for living purposes."

### **Application and site details**

This is a retrospective application for the installation of a portable structure to the front of Auto Diagnosis Centre Ltd, 54a Harrison Street. The portable structure is proposed to be used as an office facility ancillary to the use of the site as an automotive repair and MOT testing centre.

The building is a modular flat roofed construction, 2.7m high, with a width of 3m and length of 6.7m, with a total external floor area of 20.1m<sup>2</sup>. The building is of a light grey colour with a black support frame. The garage building is set behind the car park 45m from Harrison Street, with the portable structure to the front of the building some 32m from Harrison Street. The east and west boundaries to the site consist of 2m metal fencing, with a public footpath running alongside the western boundary linking Harrison Street and Revival Street.

Harrison Street is characterised by residential properties with the exception of this garage, Widdy's warehouse to the west and a ten pin bowling use to the south.

The applicants state that the office will be used between the hours of 08.00 to 17.30 Monday to Friday and 08.00-12.00 Saturday and Sunday.

### **Relevant Planning history**

This is a long established use as a vehicle repair garage.

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

#### **Unitary Development Plan**

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

GP4 the Council will promote and encourage comprehensive local area regeneration initiative that:

- i. Revitalise the local economy and create/safeguard jobs.

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

3.16 consider development in relation to its setting, and will require high quality built design.

ENV32 says that poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. This policy will be applied to all

development but will be particularly significant within or adjacent to Green Belt, agricultural or open land.

**Regional Spatial Strategy** for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

Policy QE1 - Environment

Overall, these seek improvements the design and sustainability of the urban areas.

### **National Policy**

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

Planning Policy Guidance 4, Industrial, commercial development and small firms, emphasises that a positive approach should be taken to dealing with planning applications unless it would cause demonstrable harm to interests of acknowledged importance.

### **Consultations**

**Transportation** - no objections.

**Environmental Health and Consumer Services** - no objections.

**Public Right of Way** - no objection.

**Fire Services** - no objections

### **Representations**

Councillor Phillips has called the application to committee on the grounds of:

One letter has been received stating there is no objection.

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

### **Determining Issues**

- Principle of use
- Impact upon amenity

### **Observations**

#### **Principle of use**

The application site has an established use as a vehicle repair garage. The portable building is used as an office for administration functions and as a customer waiting room. It supports an established employment use in a sustainable location approximately 100m from the edge of the District Centre and would not result in increased activity levels. On this basis, the use of the portable building is acceptable in principle.

### **Impact upon amenity**

The design of the portable building is simple and is located against the backdrop of the taller brick built garage which is setback from Harrison Street and screened by the 2m boundary fencing. The portable building in this location, in its present condition has a minimal impact upon visual amenity of the predominantly residential area. There would be no additional impact upon residential amenity as it does would not increase the level of activities on the site any more than could be achieved without the portable building.

The applicants state that a permanent brick building would not be viable at present for economic reasons, therefore the applicant decided upon a mobile office unit to meet their immediate needs, as an economical and low-impact solution.

Portable buildings by their very nature are temporary structures that do not provide a permanent solution for uses. While the principle of a portable building can be supported in the short term this should not prejudice preserving the long term visual amenity of the site. Therefore is considered prudent for a condition restricting the unit to a temporary consent of five years which would allow for the situation to be reviewed and the opportunity to secure the removal of the building should it become dilapidated and unsightly.

Councillor Phillips raised concern that site has been causing nuisance to neighbours by being used for living purposes. In the recent past a caravan unit was on site and it is believed this was used for residential purposes. This unit is no longer on site and the portacabin that is on site is being used for office purposes ancillary to the use as a vehicle repairs garage. A condition is recommended to define the permission.

### **Recommendation: Grant Permission subject to conditions**

1. The development hereby permitted shall be removed prior to the expiration of 5 years from the date of this permission, unless a further planning application for its retention or the removal of this condition has been approved by the Local Planning Authority. All materials arising from the demolition shall be removed and the site left in a neat and tidy condition.

*Reason:* The permanent retention of the building(s) would be inappropriate as the site should ultimately be developed by the erection of suitable permanent buildings and an unlimited permission may prejudice development in accordance with the Unitary Development Plan.

2. The portacabin hereby permitted shall be used only for office purposes ancillary to the use of the site for vehicle repairs.

*Reason:* To define the permission.

3. The portacabin shall not be open for business outside of the hours of 08.00 to 17.30 Monday to Friday and 08.00 to 12.00 Saturday and Sunday.

*Reason:* In the interests of the amenity of local residents.

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

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP2, GP4, and ENV32 of Walsall Unitary Development Plan and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

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

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning  
and Building Control,  
Regeneration  
On 26 June 2007

**REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Andrew**

**Application Number:** 06/2202/FL/W2

**Case Officer:** Marilyn Kowalski

**Application Type:** Full application

**Telephone Number:** 01922 652488

**Applicant:** Tesco Stores Limited

**Agent:** Development Planning  
Partnership

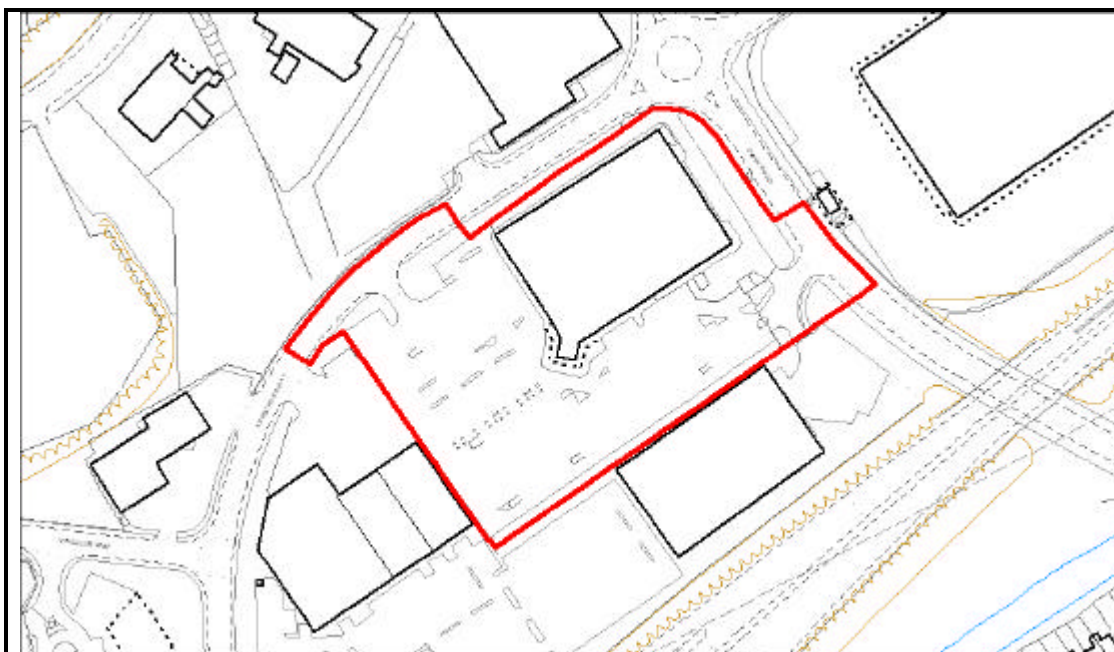
**Proposal:** Refurbishment of existing retail building involving external alterations, alterations to means of access and revised car park layout.

**Location:** WILLENHALL  
NEIGHBOURHOOD CENTRE, C/O  
ARMSTRONG WAY & OWEN  
ROAD, WILLENHALL, WEST  
MIDLANDS, WV13 2PZ

**Ward:** Willenhall South

**Expired:** 28 March 2007

**Recommendation Summary:** Grant Permission subject to conditions



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## **Status**

Councillor Andrew has called this in on the basis of the overall impact on the long term trading ability of Darlaston and Willenhall in relation to the long term regeneration of these District Centres.

## **Application and Site Details**

This is a full application for the refurbishment of the interior and exterior of the existing Willenhall Neighbourhood Centre building. The application also includes some revisions to the car park layout and site access.

Currently:-

- access to the site is via both Armstrong Way and Owen Road
- the service yard is along the eastern elevation of the building and accessed via Owen Road
- the Owen Road access point also serves the Glyn Webb unit to the south.

All this remains in the present application, with modest changes in detail, set out below.

Minor revisions are proposed to the car parking layout, but the area remains unchanged. The number of parking spaces will increase from 260 to 330.

The Owen Road access is currently split inside the site between goods and customer car park. An extra right turn lane is inserted for vehicles entering the service yard of the application site. The HGV lane is centrally located between customer vehicles 'in' and 'out'. The yard would remain in the same location and be enclosed by a 3m high timber fence for security purposes.

The existing access to Armstrong Way will have a ghost island introduced, for traffic turning right into the site.

The surrounding area is mixed in nature with retail buildings abutting the site to the west i.e. Staples, Tiles R Us and Jolleys Pet Store. There is also a Blockbuster video unit and a Burger King Fast food restaurant. To the south is the Glyn Webb retail unit. All these are accessed from Armstrong Way (except servicing for Glyn Webb). The retail units form one side of Armstrong Way which also has some industrial sites, and two car sales sites.

The existing building on the application site has been in use as shops, with internal sub-divisions. It has a gross floorspace of 4,304m<sup>2</sup> (46,340sq. ft.). One unit is currently occupied by Iceland which takes up about a quarter of the floorspace, the rest of the building is vacant.

The gross floorspace of the building would remain unchanged. The sales area would be consolidated into one supermarket, utilising the existing service yard and car park. The internal sales area is around 3,530m<sup>2</sup> (38,000sq. ft.).

Currently the building is clad in brick and grey corrugated panels and there is a canopy / porch around the customer entrance on the south east corner. The canopy / porch is removed and replaced by a new store entrance using simple coloured and designed materials. The building is reclad and there are modest elevational changes.

Three documents have been submitted with the application:-

### Design and Access statement

This gives an outline of the site and surroundings, and how the proposal has evolved. It is stated that the application will help to strengthen provision to meet local needs and offer a primarily convenience retail function which will not change as a result of the internal alterations to the building. It states that the proposal would support the national objectives of PPS1.

### Planning statement

This summarises the merits of the planning application and states the following:

1. This is an established retail site with no conditions restricting the use or floorspace;
2. It will meet the needs of the community;
3. It is sustainable as it reuses the land and building;
4. Makes economic development on a run down site;
5. Activity will enhance surveillance and deter crime;
6. Design is sympathetic to the surroundings;
7. Benefits from cycle parking and a customer pick up point;
8. Provides parking in line with policy;
9. Will deliver 270 jobs.

### Transport Assessment

This concludes that there are no traffic / transportation grounds for refusal.

The applicants have also confirmed that they operate a range of types of stores and that this is a serious proposition for their use of the site as a foodstore. Accessibility is improved by the provision of cycle parking, and a customer drop off point. There are bus services to a range of centres and footpath links to residential areas. Disabled users will have improved parking, which aids inclusive design and the interior of the store will meet the relevant regulations on access etc.

### **Relevant Planning History**

#### On the site

The history begins with a planning permission given by Walsall MBC (P37868) with condition restricting the use to Class X only (the then equivalent of B8 warehouse). The building was erected and immediately used for retail (1975). Willenhall Area Planning Committee agreed enforcement, the notice was served, and an appeal lodged.

By 1986 the site was proving popular with residents. Willenhall Committee withdrew the enforcement notice. The use became lawful subsequently (either as an established use under the old style legislation, or a lawful use under the current legislation).

There was a major fire. The Black Country Development Corporation approved application BCW263 for rebuilding the burnt out building in 1991. There are no restrictive conditions on use of that building.

#### Adjoining the site

The other retail units adjoining were approved (mostly by BCDC).

Asda sought to create a new retail store on land near the site. There was an appeal which was dismissed. Asda subsequently created a news store in central Darlaston. CHECK DATE

### In the wider area

A scheme for a major retail unit in a more central location in Willenhall, is elsewhere on this agenda. The Council is supporting that scheme, in advance of that current application (there have been refusals of permission for development around Willenhall, on the basis of conflict with that scheme, and guided by a consultants report).

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

#### **Unitary Development Plan**

GP1 - Development will be guided by principles of sustainability, minimising need to travel by car, maximising re-use of vacant land and buildings without prejudice of beneficial use of adjoining land or buildings.

Policies 2.2, 3.7, 3.6, GP2, GP7, ENV10 and ENV18 seek to protect residents from unacceptable noise and pollution, whilst ensuring development makes a positive contribution to the quality of the environment..

Policy ENV32, 3.16, 3.116 seeks to ensure the design of buildings takes into account the context and surroundings.

Policy 5.2 seeks to enhance the vitality and viability of local centres.

Policy S1 defines appropriate town centre uses.

Policy S2 (c) defines local centres to meet the day to day convenience shopping and local service needs of their communities.

Policy S3 Developments should be well integrated into existing centres

Policy S5 boundaries of local centres are drawn tightly to concentrate investment and within these areas the retention, enhancement and further development of shops will be encouraged.

T7 - All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment. Policy T13 also sets parking standards.

**Regional Spatial Strategy** - This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses, to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment.

It further suggests that urban renaissance, the creation and marketing of sustainable urban communities in which people will choose to live, work and invest can be achieved within the MUAs through the creation of a variety of high quality, healthy, affordable and sustainable living and working environments (QE3,QE4) and by rejuvenating city, town, and possibly local centres in this instance, to serve communities with high quality services, to promote identity and social cohesion and to drive economic change (PA11).'

## **National Policy**

PPS1 on delivering sustainable development and good design.

PPS6: Planning for Town Centres states that investment should be encouraged in centres to protect the vitality and viability of them and that local centres meet the day to day needs of local people. A sequential approach to leisure and retail uses is advocated.

PPG13 on transportation seeks to minimise the use of the car by sustainable location of development.

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

## **Consultations**

**Transportation:** No objections in principle subject to increasing the provision of disabled parking in accordance with UDP requirements. *(A condition is recommended).*

**Pollution Control:** No objections

**Environmental Health and Consumer Services:** No objection in principle a letter has been sent to the agent and Tesco's requesting clarification on how the design (particularly of the service yard) will address the risk to pedestrians (employees etc) from vehicular movements such as deliveries, other service vehicles and so on. No response has been received to date. However, the changes largely relate to alterations to the appearance and public car park layout of an existing store. The issue of how transport safety is organised by Tesco will therefore be progressed through our enforcement powers under Health and Safety legislation.

The absence of objection from Transportation is an important consideration, as is the fact that this is the re-use of an existing site, with modest changes.

**Physical Regeneration Strategy Team - Policy:** If the proposed refurbishment is to be taken up by Tesco, it is likely there will be significant impacts over the surrounding area, including on the centres of Willenhall and Darlaston. However, these impacts do not fall within the ambit of planning policy because no additional retail floorspace is proposed. Therefore, whether the application is to be supported will be determined by the degree to which the details of the proposals are acceptable.

**Fire Service:** Satisfactory access for fire appliances.

## **Public Participation Responses**

None.

## **Determining Issues**

- Principle of development
- Sustainable Development and Regeneration
- Design quality
- Access / parking

## **Observations**

### **Principle of Development**

The planning application involves refurbishment of the existing building with no increase in the gross 4,304 sq.m. (46,329 sq.ft.) floorspace, although there would be internal alterations that would mean the net floorspace would be about 3,530 sq.m. (37,998 sq.ft.). The application is by Tesco Stores Ltd, and the submissions show the refurbished unit as being occupied by Tesco. The submissions seek to justify the proposals in terms of a number of factors, and these are set out in the planning statement (see introductory section of report).

The submissions recognise this is an out-of-centre location. On this basis, retail development in such a location should normally be justified in terms of the tests set out in UDP Policy S7 and PPS6.

However, the proposals do not increase the gross floorspace of the store and there is no limit on the scale and kind of retailing allowed in the building at present (there were no limits on the planning permissions). Even though the net floorspace of the store is to be increased, the proposals do not involve the development of retail floorspace that would trigger the application of the planning policy tests (merely its redistribution inside the building).

Consequently, there can be no basis for objection to the proposals in terms of the principles of retail planning policy.

It is almost certain that occupation by Tesco would result in an increase in activity and trade at the premises compared to previous occupiers, but there is not a basis in planning policy to distinguish between one retailer and another selling the same kinds of goods and, in this case there are no existing restrictions on the retailing allowed.

The Design and Access statement states that the proposal would meet a local need. This is likely to be true, but the proposal also cuts across a wider range of local needs, reflected in the relevant retail planning tests. However, the issue is academic, as these tests are not applicable in this case, because of the existing authorised use and the nature of the proposals.

The principle of the use of the property as a retail store, in the prevailing situation, has therefore got to be accepted.

### **Sustainable Development and Regeneration**

There will be environmental benefits from the re-use of previously-developed land and re-use of an existing building albeit that these are likely to be offset by the wider impacts of the development (on travel by car in particular). No explicit provision has been made for sustainable construction or for renewable energy (as per PPS22).

### **Design quality**

The building is to be completely re-clad, and a new entrance is proposed. A condition requesting samples of the facing materials to be agreed has been recommended. The appearance of the site will be improved.

### **Access / parking**

Environmental Health have made comments about the layout of the parking area, arguing there could be a risk to pedestrians (employees etc) from vehicular movements. However, as

the application relates to the car park layout of an existing store, any issues will be dealt with under Health and Safety legislation. In any event, pedestrians sharing a large car park as they move from their car to the store entrance etc. is a normal element in the modern world.

There are no transportation objections to the principle of the proposal as the site is an existing A1 retail store and there is no change of use. The car parking capacity is to increase to a total of 330 spaces, including 17 disabled spaces. The PPG 13 maximum parking requirement for a store with a gross floor area of 4301 sq metres is 307 (at 1 space per 14 sq metres). The parking provision therefore exceeds the maximum figure in PPG13 but is also under provided for disabled parking spaces in accordance with the Council's UDP.

Disabled spaces are excluded from the PPG13 maximum figures. Consequently, to comply with UDP policy, the number of disabled spaces must increase to 33 spaces. As they are larger than the typical car space, this will reduce the number of other spaces to 297. That reduction complies with PPG 13 and the UDP. With that change there is no policy objection. A condition is proposed to make this revision in the spaces.

The Transport Assessment accompanying the application indicates that the additional traffic generated by the increase in car capacity can be accommodated with no adverse impact on the local highway network.

The proposal shows modifications to the public entrance to the car park from Armstrong Road as being 'subject to detail design by highway engineer'. This is welcomed and accepted in principle, a condition is proposed requiring this.

Policy have commented that measures to improve access by means other than the car should have some sustainability and social inclusion benefits (although they may be offset to some degree by impacts elsewhere). They feel that this should be secured by appropriate conditions. However, conditions are not appropriate as this is only an application for minor alterations to the existing building with its existing use.

However, the applicants have made reference to a Green Travel Plan in the Transport Assessment. It is desirable to take up this offer, and a condition has been recommended.

## **Conclusion**

The development efficiently reuses previously developed land and adapts an existing building. The external appearance of the building will improved and will be sympathetic with its surroundings.

Planning policy is generally opposed to creating new retail units out of centre. However, this site benefits from an established retail use. As a result, the conventional policy approach is not applicable in the prevailing situation. The determination of this application is purely about the details of layout, design, etc.

## **Recommendation: Grant Permission subject to conditions**

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

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

2. Notwithstanding the notation on the deposited plans no development shall be carried out

until samples of the facing materials to be used have been approved in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development.

3. Notwithstanding the car parking layout on the submitted drawings, before the development commences a revised car parking layout including a minimum of 33 disabled spaces and reducing the number of other spaces to 297 shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before this development is brought into use and the parking spaces shall have been clearly marked out. The areas shall thereafter be retained and used for no other purpose.

*Reason:* The parking does not have enough disabled parking spaces compared to the Council's UDP, and in order to comply with PPG 13

4. No development shall be commenced until revised footpath arrangements for the site providing for:—

- the removal of pinch points
- the redesign of unduly narrow areas
- direct footpaths on likely desire lines from the north

have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and completed before the store is brought into use.

*Reason.* To ensure satisfactory provision for pedestrian access to the site.

5. Prior to the development hereby approved being brought into use, a Travel Plan developed in partnership with this Council's Travel Wise co-ordinator shall be submitted to, and agreed in writing by the Local Planning Authority. This shall identify a package of proposed measures consistent with the aim of reducing reliance on the car, and should include details on:

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

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

*Reason:* To promote the use of modes of transport other than the private car.

NOTE FOR APPLICANT: This permission does not grant permission for the advertising material shown on the deposited plans, for which a separate advertisement application is necessary.

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

The proposed development is considered to comply with the relevant policies and proposals of the development plan, in particular policies GP1, 2.2, 3.7, 3.6, GP2, GP7, ENV10, ENV18, ENV32, 3.16, 3.116, 5.2, S1, S2, S3, S5, T7 and T13 of Walsall's Unitary Development

Page 127 of 157

Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

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

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning  
and Building Control,  
Regeneration  
On 26 June 2007

**REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Sarohi**

**Application Number:** 07/0437/FL/W3

**Case Officer:** Mrs J Scrivens

**Application Type:** Full application

**Telephone Number:** 01922 652436

**Applicant:** Mr Keith Gough

**Agent:** Mr Gavin Boby

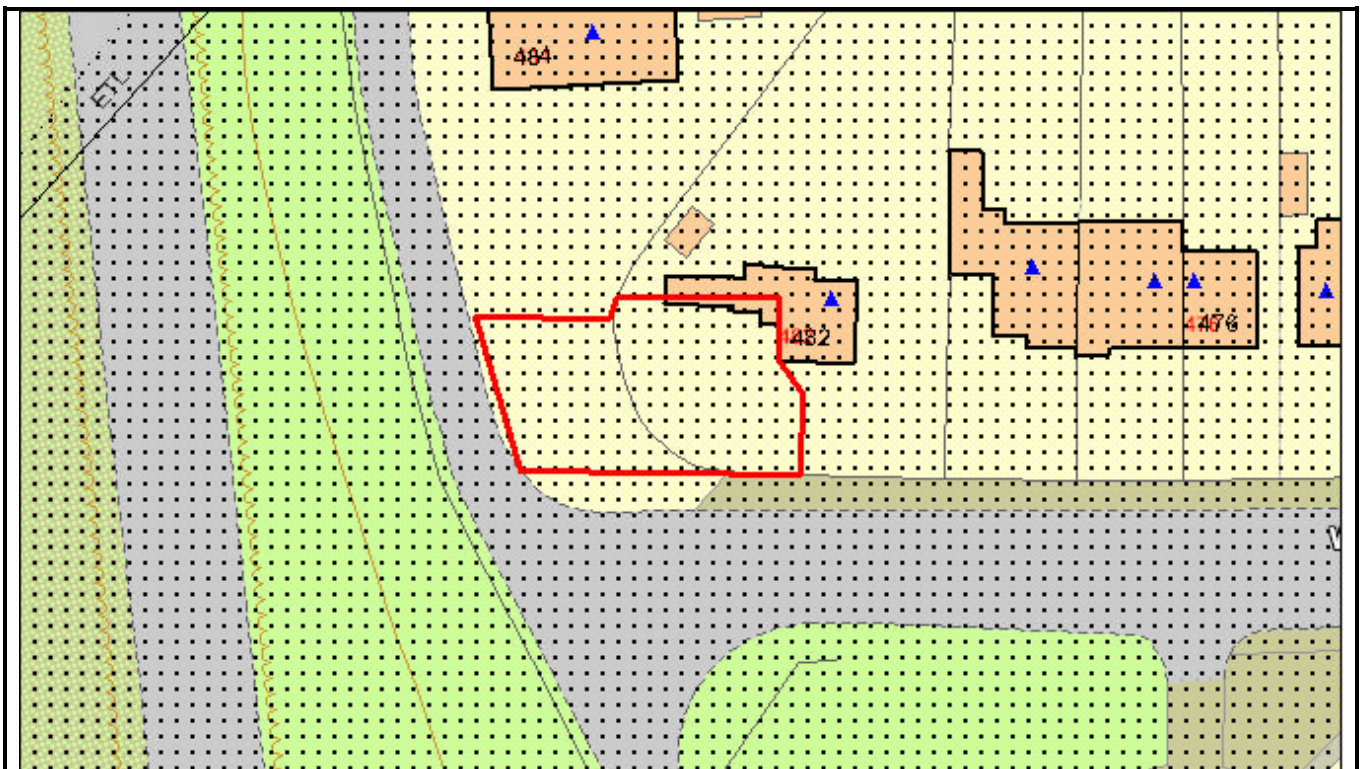
**Proposal:** Detached Two Bedroom Bungalow

**Location:** 482, WOLVERHAMPTON  
ROAD, WALSALL, WEST  
MIDLANDS, WS2 8TD

**Ward:** Birchills Leamore

**Expired:** 23 May 2007

**Recommendation Summary:** Refuse Permission



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## **Application and Site Details**

This application relates to the erection of a two bedroom bungalow on the side garden of a two storey dwelling, no.482 Wolverhampton Road. Wolverhampton Road is a cul-de-sac at this point. The bungalow would face westwards on the site, towards the M6. It would be set back between 1.8m and 4m from the highway at the front of the bungalow and 1.8m from the highway at the side. The bungalow would have a rear garden of between 10 and 12.5 metres in length and 18m in width. The rear garden would adjoin no.482's front garden and the side of the rear garden would front the highway.

The proposed bungalow would be in front of no.484 Wolverhampton Road which is also a bungalow. It has habitable room windows facing the application site at a distance of 12.5m from the boundary and 15m from the side elevation of the proposed bungalow.

It should be noted that the site boundary is different from the boundaries apparent on site. The site is fenced but the fence is not the ownership boundary nor is it the site boundary. The application site is set back 3 metres from the existing fence with no.484 Wolverhampton Road for part of its length due to disputed land ownership. The boundary of the site with the highway also varies with the current fence line being closer to the highway than the site boundary. Overall the application site is smaller than it appears on the ground.

The application proposes the construction of a vehicle access on the northern side of the proposed bungalow with parking for two cars.

No.482 is a detached house which has been extended to provide four bedrooms, two living rooms, dining kitchen, conservatory and a double garage. It has gardens to either side and to the rear.

The applicant has provided a supporting statement which refers to:

- planning permission 06/1182/FL/W3 was granted for the erection of a bungalow which required the demolition of half of no.482's double garage.
- the current application, which retains the garage, widens the rear garden to the proposed bungalow and bricks up no.482's kitchen window
- reasons for retaining the garage to no.482 in its entirety, which include the need for parking space for six people who prefer not to park on the street, use of the garage for DIY and the appearance of the dwelling with a reduced garage
- Council rear garden standards, which should not be applied inflexibly
- national policy which supports the provision of accommodation for families and older people
- personal circumstances of the applicant, who requires accommodation for six people in total and cannot afford to go to the expense of demolishing half of the current garage.

## **Relevant Planning History**

BC45688P Single storey side and two storey rear extensions with front porch. Granted subject to conditions 24.4.96

05/0859/FL/H5 Conservatory to rear. Granted subject to conditions 1.6.05

05/0865/OL/W3 Outline: erection of 1 two bedroom bungalow. Refused 20.6.05 due to:

- unsatisfactory residential environment for future occupiers due to the design and siting of the bungalow
- inadequate plot size and siting of the dwelling would be detrimental to the visual

amenity of the area.

06/1182/FL/W3 Erection of detached bungalow. Granted subject to conditions 26.1.07

There have been objections to previous applications from the occupier of the adjacent bungalow. These objections partly related to boundary disputes and the acquisition of part of the application site by adverse possession.

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

### **Development Plan**

GP2 and 3.6 expect development to contribute to the quality of the environment.  
ENV32 requires the design of proposals to take into account their context and surroundings.  
H3 encourages the provision of additional housing through the re-use of previously developed or windfall sites.  
H10 requires residential development to provide a high quality living environment, well integrated into surrounding land uses and local character.  
T13 sets out car parking standards.  
Residential Development Standards were adopted on 25.4.05.

### **National Policy**

PPS3: Housing supports new housing in residential areas.

### **Consultations**

**Transportation:** No objections. Request the imposition of conditions requiring a formal parking layout for both dwellings and surfacing of the driveway.

**Pollution Control:** No objections. Request the imposition of a condition relating to noise mitigation measures.

**Fire Service:** No objection.

**Environment Agency:** No objection

**Inland Waterways Association:** No objection.

**British Waterways:** No objection.

### **Representations**

None.

### **Determining Issues**

- residential environment/ amenity
- access/parking/highway safety
- personal circumstances of the applicant

## **Observations**

### **Residential environment/amenity**

The erection of a bungalow is acceptable in principle in this residential location.

The site is very close to the M6 and a noise survey and a set of remedial measures would be required, if the scheme were to be approved.

The distance between the proposed bungalow and no.484 Wolverhampton Road (the bungalow to the rear) would meet Council standards and suitable boundary treatment could be erected to avoid overlooking between their respective gardens. The proposal would have no adverse effect on the amenity of this property.

The situation is more complex in relation to No. 482.

Planning permission 06/1182/FL/W3 was granted for a bungalow with the same siting as the current proposal but within a differently shaped and sized plot. That application proposed the demolition of half of 482's double garage to provide a 12.5m rear garden for the then-proposed bungalow. This also secured adequate separation from the side of 482. (This distance was slightly below the Council's Residential Development Standards but given the difficulties of developing such a small and awkwardly placed site it was considered acceptable.)

The current application proposes the retention of all of the double garage. It attempts to compensate for the retention of the garage by providing a wider rear garden. While this would give sufficient garden area to meet Council standards this is not the issue.

Because the application retains all of the double garage there would only be 10 metres between the habitable rooms of the bungalow and the side of the garage wall, which is 3 metres short of the Council's minimum standard. This would provide an unsatisfactory outlook from the bungalow and the reduction of the distance between no.482 and the proposed bungalow would emphasize the cramped nature of the development.

Forward of the double garage, the garden of the bungalow is lengthened by taking it to the plot part of the driveway of 482. As a result, the bungalow rear garden would be 12.5m in length for approximately 6 metres from the edge of the site.

It would be necessary to erect a tall fence to provide sufficient privacy for the bungalow (1.8metres in height). Such a fence would be a dominant and incongruous feature in the streetscene. A high fence would also have implications for pedestrian safety as vehicles exit from no.482's driveway.

Additionally, such a fence would prevent the garage door of 482 being opened.

### **Access/parking/highway safety**

The position of the proposed access to the bungalow is satisfactory. The bungalow has two parking spaces to meet Council standards.

The garage and driveway for no.482 are shown provide three parking spaces. As already set

out, the necessary high fence around the rear garden of the bungalow would obstruct use of the double garage (which has a single double sized door).

As an alternative to the scheme as proposed, three parking spaces can be provided by widening the driveway. This could be done without detriment to the appearance of the property's wide frontage. This meets the maximum Council standards for parking and is the standard for this four bedroom house.

### **Personal circumstances of the applicant.**

The applicant has indicated a need to accommodate six people of three generations.

Planning permission 06/1182/FL/W3 has already been granted for a bungalow which offers the same accommodation (two bedrooms) as the current application. The current application is therefore about the retention of one garage attached to the existing house, rather than the inability to accommodate the applicant's family. The demolition of the garage, as part of that application, was agreed by the applicant following extensive pre-application discussions and was necessary to overcome the reasons for refusal of an earlier version of the scheme (05/0865/OL/W3).

At that time, the applicant was unable to suggest an alternative way of fitting a bungalow into this site.

Those pre-application discussions also included proposals to erect a detached house on the other side of no.482. An application for this has not yet been submitted but, without prejudice to the determination of a future application, the site is potentially capable of accommodating another small dwelling. This would provide three dwellings to accommodate six people. Alternatively the existing house at 482 could be extended on either side. There is therefore no shortage of potential accommodation for this family.

Planning permission runs with the land unless there are exceptional personal circumstances which would outweigh the policies of the development plan. There are no exceptional circumstances which would warrant granting a personal permission for this otherwise unsatisfactory development.

### **Recommendation: Refuse Permission**

1. The proposed development would fail to provide a satisfactory outlook from habitable room windows in the rear of the proposed bungalow due to its proximity to the side wall of the garage of the adjacent dwelling no.482 Wolverhampton Road. The distance between the rear of the bungalow and no.482's garage would be 3 metres less than the Council's adopted Residential Development Standards require. The proximity of the proposed development to no.482 Wolverhampton Road would emphasize the cramped nature of the development. The approval of this application would be therefore be contrary both to the Council's adopted Residential Development Standards and to policies GP2, H3 and H10 of Walsall's adopted Unitary Development Plan.

2. The amenity and privacy of the proposed dwelling would require enclosing the rear garden with a high fence or wall. That enclosure of the boundary of the application site, where it adjoins the side boundary of no.482 Wolverhampton Road would restrict access to no.482's garage and be prejudicial to its functioning, and adversely affect the safety of pedestrians by

restricting visibility at the junction of drive and highway. It would also form an incongruous feature in the streetscene to the detriment of the visual amenity of the area. The approval of this application would be contrary to policies GP2, 3.6, ENV32, H3, and H10 of Walsall's adopted Unitary Development Plan.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning  
and Building Control,  
Regeneration  
On 26 June 2007

**REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Arif**

**Application Number:** 07/0778/FL/H4

**Case Officer:** Jenny Townsend

**Application Type:** Full application

**Telephone Number:** 01922 652485

**Applicant:** Mr & Mrs Oakley

**Agent:** Mr & Mrs Oakley

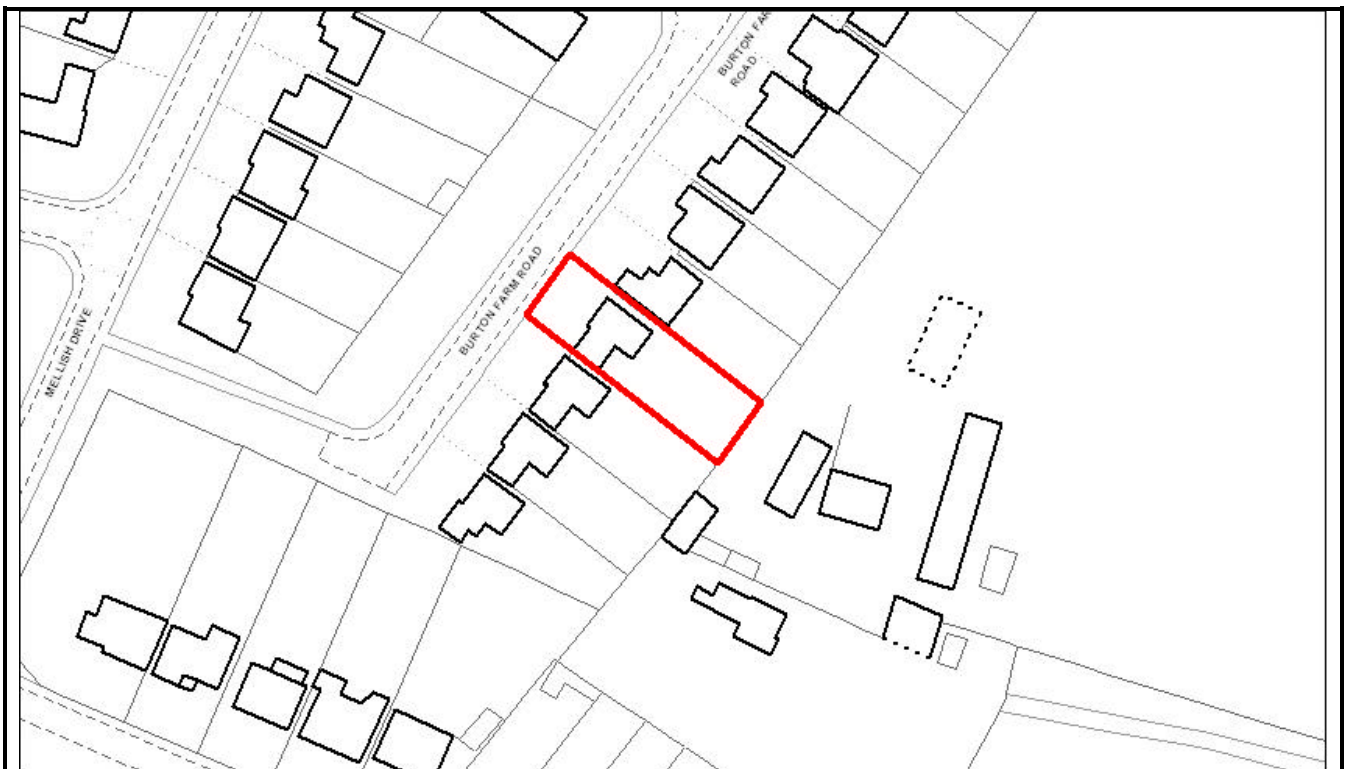
**Proposal:** Two storey side extension

**Location:** 8, BURTON FARM  
ROAD, WALSALL, WEST  
MIDLANDS, WS4 2HN

**Ward:** St. Matthews

**Expired:** 15 June 2007

**Recommendation Summary:** Refuse Permission



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## **Application and Site Details**

This application is for an extension to a detached house to provide a dining room and replacement garage on the ground floor with a bedroom and bathroom above. The total number of bedrooms is to increase to four.

The application house is a modern design with a simple gable roof that slopes down to either side. There is a flat roof garage and porch to the side with a false pitch to the front. The side of the existing garage lies along the boundary with the adjoining house number 6. Number 6 is an identical design and has a 1 metre gap to the side along the boundary, with a first floor landing window.

The proposed extension is to have a shallow gable roof at right angles to the existing roof with a dormer inserted to the front at first floor level.

## **Relevant Planning History**

None

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

### **Unitary Development Plan Policies**

GP2: Environmental Protection\

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

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

H10: Layout, Design and Dwelling Mix.

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

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

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

T7 - Car Parking

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



## **Residential Development Standards**

These include guidelines concerning design, including roof shapes, dormers, terracing and gaps.

Dormer windows will only be permitted where they can be inserted without damaging the character and appearance of the building and the general area and without affecting the amenity of neighbours. Dormer windows should be avoided on prominent elevations that can be clearly viewed from the street and kept significantly below the ridge and away from the edges of the roof.

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

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

## **National Policies**

### **PLANNING POLICY STATEMENT 1**

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

## **Consultation Replies**

None

## **Representations**

Councillor Arif has advised that the amendments proposed by officers are unacceptable to applicant and neighbours. The proposed design is based on another house nearby that was granted planning permission. The road scene is different with a variety of houses from bungalows to detached houses of different design and character.

## **Determining Issues**

The determining issues are

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

## **Observations**

### **Design and Character**

Most of the houses in Burton Farm Road are a modern design with a uniform depth at first floor level and simple roofs that slope either from the front to the rear or to either side. The houses with roofs that slope from the front to the rear (numbers 10 to 16) have only limited gaps of 1 to 2 metres between each house at first floor level. However, the latter style, which includes numbers 2 to 8, have a wide gap to the side at first floor level that is occupied on the ground floor by the garage and porch. The proposed extension would result in the width of the

house being doubled at first floor, resulting in the loss of the gap to the boundary with the adjoining house number 6, and the addition of the dormer to the front at first floor level would harm this simplicity of roof shape.

The extension would therefore appear cramped and incongruous, and out of keeping with the design of the existing house and the character of the street.

Councillor Arif has referred to an extension at 6 Rushall Close which is identical to the current proposal. Although the character of Rushall Close is similar to Burton Farm Road, the extension to number 6 was approved in 2001 prior to the adoption of the current UDP and the Residential Development Standards. Both the Council's and national policies now place much greater emphasis on the importance of good design in which development respects its context. The current proposal fails to do this.

Larger houses generally require gaps to either side boundary in order to provide a "breathing space" around the dwelling. The current proposal depends on the adjoining house retaining a gap on their side to achieve this. The Council has been successful in defending appeals where it was proposed to remove the gap to the boundary, even where the position of the adjoining house away from the boundary meant that no terracing would have occurred. The Council has also granted permission for large extensions that, by retaining a gap to the side boundary, have respected the character of the street.

In the current case, the applicant has been requested to reduce the width of the proposed extension to retain a gap to the boundary, and omit the front dormer, but has declined to do so.

### **Impact on Amenity of Residents**

The extension would not project beyond the front or rear of number 6 Burton Farm Road. Although it would block out the side-facing landing window in number 6, this window does not serve a habitable room.

### **Parking**

The application property has a large frontage with plenty of parking space.

### **Recommendation: Refuse Permission**

1. Most of the houses in Burton Farm Road are a modern design with a uniform depth at first floor level and simple roofs that slope either from the front to the rear or to either side. The latter style, which includes numbers 2 to 8, have a wide gap to the side at first floor level that is occupied on the ground floor by the garage and porch. The proposed extension would result in the width of the house being doubled at first floor, resulting in the loss of the gap to the boundary with the adjoining house number 6, and the addition of the dormer to the front at first floor level would harm this simplicity of roof shape.

The extension would therefore appear cramped and incongruous, and out of keeping with the design of the existing house and the character of the street, and would be

contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Residential Development Standards.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning  
and Building Control,  
Regeneration  
On 26 June 2007

**REASON FOR BRINGING TO COMMITTEE: Significant Community Support**

**Application Number:** 06/0169/OL/E4

**Case Officer:** Alison Deakin

**Application Type:** Full application

**Telephone Number:** 01922 652487

**Applicant:** Bliss Sand and Gravel Company Ltd

**Agent:** Bliss Sand & Gravel

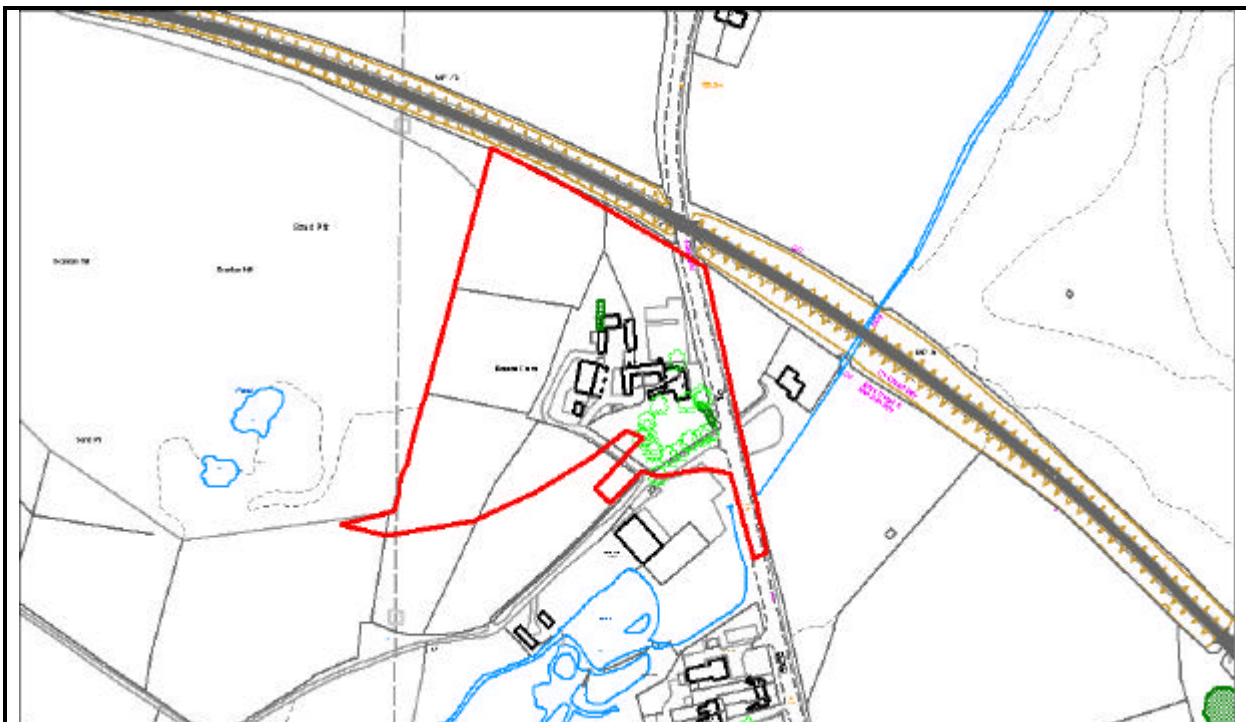
**Proposal:** OUTLINE: Residential development and construction of new access road to serve Branton Hill Quarry.

**Location:** 520,CHESTER ROAD,ALDRIDGE,WALSALL,WEST MIDLANDS

**Ward:** Aldridge/Central & South

**Expired:** 09 June 2006

**Recommendation Summary:** Refuse Permission



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## **Application and Site Details**

The application relates to land at Chester Road, Aldridge. The site incorporates a frontage to the A452 Chester Road and 520 Chester Road (Simon's Restaurant premises), Bourne Farm buildings including access, outbuildings and paddock and part of the frontage of William Wheat & Sons Garden Centre. The site borders on the west of the existing Branton Hill Quarry and to the north the railway line. The site area is 4.3 hectares.

The application is made on behalf of Bliss Sand & Gravel Company Limited and seeks outline planning permission for residential development and construction of a new access road to serve Branton Hill Quarry. All matters except for the means of access are reserved for subsequent approval.

The existing access to the quarry is via Branton Hill Lane, past residential properties to the north of the railway, over a narrow bridge and via right angled turns down a steep slope towards the site offices and haul road. The proposal seeks to change this access by constructing a new access off Chester Road comprising a roundabout which will provide a revised access to the garden centre and also serve the proposed new residential development and Branton Hill Quarry. The roundabout would have four arms, the proposed access to the quarry having a 7.3m wide carriageway narrowing to 5.5m wide with verges on both sides. The proposed access to the residential development is shown as having a 4.5m X 90m right hand visibility splay and visibility splay to the junction in the opposite direction, and has a 2m wide footway on its eastern side. The access road would be in a deep cutting, as it approaches the quarry at Branton Hill, with planting along its boundaries.

The site falls within the Green Belt and lies partly within Minerals Safeguarding Area One, which is referred to in UDP Policy M1 and shown on the UDP Proposals Map. Bourne Farm is a Locally Listed building and there are 16 individual trees and two groups of trees protected by Tree Preservation Orders within the proposed development site. The site also lies above a groundwater source protection zone, which means that development is subject to regulation by the Environment Agency.

The applicants have stated that the residential development has been included as an enabling development that is to help finance the provision of the new access road to the quarry. The supporting planning statement suggests that the site could provide in the region of 67-102 dwellings.

The applicants have offered to enter into a planning obligation requiring the existing quarry access off Branton Hill Lane to be closed and the new access from Chester Road to be brought into operation before construction commences on any new dwellings.

In support of the application a Highway Assessment, Stage 1 Road Safety Audit, Landscape Appraisal, Baseline Bat Survey, Planning Statement and Planning History have been provided. In response to initial consultation responses the applicants have also provided additional supporting information covering a range of matters including appeal cases where housing has been acceptable in the Green Belt.

## **Relevant Planning History**

IDO1144 : Old mineral permission granted in 1945 related to area to the west of Branton Hill Lane Quarry. Mineral extraction ceased in 1964.

EA3966: Permission granted in 1962 for extraction of sand and gravel at land north of Branton Hill Lane, Aldridge. This permission covers the former quarry and Site of Importance for Nature Conservation. Extraction ceased some years ago and the site is now partly restored and managed for nature conservation.

EAB2352: Permission granted in 1972 for extension of the existing quarry. Conditions require restoration to agriculture. The conditions do not specify the method of restoration or an end date for workings.

BC9335P: Permission granted retrospectively in 1985 for extension to existing mineral workings. This permission relates to a relatively small extension to the area covered by permission EAB2352.

BC21813P: Permission refused in 1989 for working of sand and gravel, infilling with waste and restoration to agricultural land. Reasons for refusal: long-term use of Branton Hill Lane by heavy goods vehicles considered unacceptable due to adverse impact on environment and amenity; applicant had not demonstrated there were any overriding reasons to justify release of further mineral reserves; applicant had not demonstrated that the site could be satisfactorily worked and restored within a reasonable timescale without undue environmental impact on amenity and character of surrounding area.

BC52105P: Permission granted in 1999 for a schedule of modern conditions to be applied to existing mineral workings permissions EA3966 and EAB2352. These conditions sought to control dust, vehicle movements, noise and importation of materials and end of working by 2042. An appeal was lodged against these conditions and has been held in abeyance ever since pending the determination of applications BC61721P and BC64995P.

BC61721P : Certificate of Lawfulness of Existing Use granted in 2000 for the storage, sale and distribution of imported sand, soils, gravels, stones, broken tarmac, hardcore, concrete etc. and various other inert wastes from the construction industry.

BC64995P Current application submitted in 2001 for extension of the operational area and quarry and proposed new conditions covering the existing quarry and the proposed extension.

BC63675P - OUTLINE: Six new dwellings as footprint replacement of existing redundant farm buildings - Refused 26/10/01 inappropriate development in the green belt harmful to the openness and character of the Green Belt, loss of trees. No very special circumstances were submitted by the applicant to justify inappropriate development. Also, the proposed development of housing at the site would result in an intensification of the use of the existing site access to the detriment of highway safety.

BC43883P - Redevelopment of Bourne Farm to Comprise Restaurant, Tea Room, Managers/Staff Accommodation and Associated Access and Parking - Grant subject to conditions 12/09/95. There were also several applications to extend opening hours at the premises all refused in 2001 plus an application to alter the exterior of the building that was granted subject to conditions on 03/08/01

BC63179P Permission granted subject to conditions 08/04/02 for the construction of new access to Shire Oak Quarry. This application is highlighted as, although it relates to a different Quarry site, it proposed a new access road in the Green Belt to remove nuisance from housing adjacent the original access for the quarry. The principal difference between this and the current application at Chester Road is that this was purely an access point and no enabling residential development was proposed to fund the works.

### **Relevant Planning Policy Summary**

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

### **Unitary Development Plan**

**GP1:** Development will be guided by principles of sustainability, minimising need to travel by car, maximising the re-use of vacant land and buildings without prejudice of beneficial use of adjoining land or buildings.

**GP2:** Development schemes should, as far as possible, help to improve the environment of the Borough whilst not allowing development that has an adverse impact.

**GP3:** Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

**3.3:** Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

**3.16:** Development will be considered in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

**3.21 & ENV1:** Defines the purpose of the Green Belt.

**ENV2:** There is a presumption against construction of new buildings except for specific purposes. Making of a material change in the use of land is inappropriate development in the Green Belt if it conflicts with the openness and purposes of the Green Belt.

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

**ENV18:** Where developments are permitted which involve the loss of trees developers will be required to minimise the loss and to provide appropriate planting of commensurate value.

**ENV22:** Proposals must take account of protected species.

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

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

**ENV28:** The Council will not grant planning permission for a development scheme which proposes the demolition or adverse alteration of a "local list" building. If a developer

demonstrates it is impractical to retain a “local list” building appropriate recording prior to demolition is required.

**ENV32:** Poorly designed development which fails to take account of the context or surroundings will not be permitted.

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

**6.3:** Aims to make provision for a supply of new housing in accordance with the current Regional Spatial Strategy requirement, with emphasis on sequential approach (i.e. using previously-developed land in preference to Greenfield land), locations that have or will have good accessibility by a choice of means of transport and are well related to local facilities, relationship to existing infrastructure and physical and environmental constraints.

**6.5:** Aims to provide housing that takes into account the needs and characteristics of the Borough's population, including the need for affordable housing and the particular requirements of groups such as the elderly, single people, one-parent families, large families, disabled people and key workers.

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

**H4:** On sites suitable for provision of an element of affordable housing the Council will normally negotiate with developers for 25% of total dwellings to be affordable homes.

**H9:** Indicates that housing densities in the range of 30-50 dwellings per hectare are likely to be suitable on most sites.

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

**T1:** Seeks to improve access to public transport and ensure all development conforms to accessibility standards set out in policies T10-T13.

**T5 - T12:** Seeks to improve access and promotes sustainable development.

**T13:** Specifies parking standards for various developments.

**9.2:** Seeks to protect known mineral resources by defining Mineral Safeguarding Areas (MSAs) within which new development will not be permitted if it is likely to prejudice the future extraction of minerals.

**M1:** Defines four Mineral Safeguarding Areas (MSAs) including MSA One Branton Hill Lane, Aldridge.

**M2:** Specifically relates to potential future development at Branton Hill Lane Quarry and states that proposals for further extensions to the area will be required to demonstrate that



(amongst other things) existing vehicular access problems can be overcome and that any proposed activities will not pose any threat to the underlying aquifer.

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

### **Regional Spatial Strategy**

The Regional Spatial Strategy for the West Midlands promotes the regeneration of the metropolitan area and sustainable development in accordance with national government guidance. Beyond the Major Urban Areas (MUA) provision of new housing should generally be restricted to meeting local needs and/or supporting local services, with priority given to the reuse of previously-developed land (Policy CF2 D - the Green Belt is not part of the MUA). Further, local planning authorities should maximise use of previously-developed land and make the most efficient use of land within the Major Urban Areas (Policy CF3).

In terms of the RSS (RPG 11 Table 1) / UDP target for new housing provision up to 2011 there is no compelling need for further residential development. The UDP target is 10,100 and at April 2007 completions plus commitments add up to 16,044; even applying a discount in line with Government policy the target is comfortably exceeded. The main reason for allowing more residential development is to support the regeneration of the borough, including through the provision of affordable housing and reuse of previously-developed land.

### **This application is above the threshold for consideration under the Conformity Protocol.**

The proposed development would be a departure from the UDP and, under Communities for the Future a conformity opinion is required from the West Midlands Regional Assembly because the site: is not in a Major Urban Area, is not in one of the sub-regional foci, other large settlements or market towns, is in a rural area and would accommodate substantially more than 10 dwellings.

RSS Policy M2 sets out the sub-regional aggregates apportionments for each part of the region. The West Midlands Metropolitan area (i.e. Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton) is required to make provision for around 0.5 million tonnes of sand and gravel per annum. It is assumed that authorities will make provision for this in Unitary Development Plans and Local Development Documents and through mineral planning permissions for the extraction of sand and gravel.

RSS Policy CF1 Housing within the Major Urban Areas seeks a step change in housing provision within the MUAs to stem the out migratory trends of the recent past as part of the overarching Urban Renaissance agenda. The built up areas of the Metropolitan Area comprise part of the MUA; it does not include Green Belt locations. As such, this location is considered a rural location by default.

Policy CF2: Housing beyond the Major Urban Areas, states that in such areas housing development should take place to meet local needs rather than encourage and accommodate out migration. In the longer term, five relatively self-contained sub-regional foci should be considered as locations for further growth.

Policy CF3: Level and distribution of housing development augments this: Levels and distribution of housing development augments this by stating that: Locations which extend the boundaries of the MUAs will not be acceptable as they would run counter to the approach

taken throughout the Spatial Strategy and the policies set out within this document. Outside MUAs, new development should be allocated in accordance with policy CF2.

The overarching spatial strategy objectives (para 3.14) identify the need to retain the Green Belt, but to allow an adjustment of boundaries where this is necessary to support urban regeneration.

The West Midlands Regional Assembly (WMRA) Conformity Protocol advises that any proposals that are considered to be a departure from an adopted development plan and meet one or more of the criteria specified in the Protocol should be referred to it in its capacity as a statutory consultee.

In this case, a conformity opinion is required from WMRA because the proposed development is considered to be a departure from the UDP and also meets several of the criteria in the Protocol (i.e. it is not in a Major Urban Area, is not in one of the sub-regional foci, other large settlements or market towns, is in a rural area and includes more than 10 dwellings). A conformity opinion has therefore been sought.

### **National Policy**

Minerals Policy Statement 1, Planning Policy Statement (PPS) 1- Delivering Sustainable Development, Planning Policy Guidance (PPG) Note 2 Green Belt, PPS3 Housing, PPG9 Nature Conservation, PPS10 Planning for Sustainable Waste Management, PPG13 Transport, PPG15 Planning and the Historic Environment, PPG16 Archaeology & Planning, PPS23 Planning and Pollution Control, PPS24 Planning and Noise, PPS25 Development and Flood Risk.

**Minerals Policy Statement 1 (MPS1):** MPS1 advises that minerals can only be worked where they are found and that mineral planning authorities should safeguard known mineral resources from needless sterilisation by other development by defining mineral safeguarding areas (MSAs). MPS1 does not include guidance on improving access to existing quarries.

### **National and Regional Guidelines for Aggregates Provision in England 2001 - 2016:**

Sets out requirements for provision of aggregates (i.e. sands and gravels, crushed rock and alternative materials) for England as a whole and for each region. Regional planning bodies are expected to decide how much each mineral planning authority or sub-regional area should contribute towards the regional requirement, and to set out the apportionments in regional planning guidance (now the RSS).

**Planning Policy Guidance Note 2 (PPG2) - Green Belts:** PPG2 advises that new residential development is inappropriate in the Green Belt. Very special circumstances must be demonstrated that outweigh the harm caused by inappropriate development

**Planning Policy Statement 3 (PPS 3)- Housing** requires the Council to maintain a five-year supply of housing land. The 2006 Annual Monitoring Report demonstrates that a more than adequate five-year supply existed at April 2006; equivalent to approximately ten years. Preliminary figures emerging for 2007 indicate a similar position. In these strictly numerical terms there is no compelling need for more residential development now. It also advises that new housing should be considered in sustainable locations that offer a range of community facilities with good access to jobs, key services and infrastructure and contribute towards cutting carbon emissions.

### **Consultations**

**Transportation** - object to the proposal.

The residential element of the scheme would be contrary to the principles of sustainable development and contrary to UDP policies T10, T11, and T12. The introduction of a four arm roundabout of the nature proposed, in this section of Chester Road, would potentially result in positive and negative aspects. On balance, I consider that the dis-benefits would outweigh benefits, in terms of road safety and capacity on the A452, Chester Road which is part of the nationally designated primary route network.

**Pollution Control** -Object. The proposal seeks to introduce new residential development into an area where existing commercial industrial activity has the potential to impact adversely on residential amenity. Essentially the grounds given as justification for the construction of the new access road (i.e. to separate vehicle movements associated with the quarry activity from sensitive residential uses) would be recreated by the proposal that incorporates a residential element sharing, in part, the same access as the quarry. Whilst there are opportunities to enable a layout for residential use that can address the potential for noise and disturbance from vehicle movements one of the prime intentions of the new access is to enable unrestricted numbers of vehicle movements to and from the quarry thus increasing potential noise.

In addition there are concerns regarding the compatibility between the proposed residential use and other existing land uses surrounding the site such as the proximity of the railway to the north, retail/garden centre to the south and the existing and future permitted quarry/restoration activity itself.

**Strategic Policy** - Object. There is insufficient information available to justify the proposed development, and it is also not clear how this application relates to the other current application BC64995P relating to an extension to the quarry.

Recent surveys have demonstrated that only relatively small quantities of sand are extracted from the existing quarry at Branton Hill Lane per annum and that it does not make a significant contribution towards the current sub-regional sand and gravel apportionment in RSS Policy M2. At present, the only authorities that contribute towards the West Midlands Metropolitan Area sub-regional apportionment are Solihull and Walsall. The Solihull UDP makes provision for 91% of the sub-regional apportionment up to 2011, leaving Walsall to provide 9% or around 50,000 tonnes per annum. There are currently two quarries in Walsall producing sand: Branton Hill Lane Quarry (Bliss Sand & Gravel) and Aldridge Quarry (Cemex).

A recent survey commissioned to inform the joint Black Country Core Strategy (March 2007) shows that Branton Hill Lane and Aldridge Quarries have limited reserves of sand remaining, and that both are nearing the end of their operational life. Although there is an application to extend Branton Hill Lane Quarry this has not yet been determined.

However, an important issue that may affect future quarrying activities at Branton Hill Lane is the groundwater source protection zone, underlying the site, which relates to a borehole at the nearby waterworks. This limits the options for restoration of voids after extraction has taken place, because the Environment Agency will only permit them to be filled with inert materials. Such materials are now in short supply, because construction and demolition wastes are often recycled and re-used rather than being sent to landfill. Given the

groundwater issues and the potential difficulties of restoring voids once extraction has ceased, it is not clear whether a further extension to the quarry will be feasible.

Until such time as there is a valid permission for an extension to the quarry that would enable mineral extraction to continue in the long-term, the need for the access road can only be demonstrated in terms of improving access to the existing lawful activities on the site.

In view of this, the proposed access would only be acceptable in principle in planning policy terms;

- If it is necessary to the satisfactory operation of the existing quarry and other lawful business carried on at the site in the context of impact on existing residents
- If it would also bring a net benefit to the area in terms of the balance of:
  - harm to the Green Belt, inconsistency with planning policies about the Green Belt and accessibility and impact on future residents; and
  - The benefit to residents affected by the existing access and to the operation of the quarry.
- If it would be acceptable in highway terms; and
- If the impact on future residents of the development would be acceptable.

Even if the proposed access road is satisfactory in the above terms, any new residential development could only be justified if it is necessary to enable the construction of the proposed access road. The applicant's must therefore demonstrate that the existing quarry/sand and gravel business could not bear all or part of the necessary costs and that any new residential development would be solely to enable the construction of the access road and consequent works. They should also demonstrate that the likely benefits would outweigh inconsistency with Green Belt and accessibility policies.

New residential development at the site would be inappropriate development in the Green Belt and does not meet the UDP accessibility standards as it relies on private vehicles. The proposed new development should also be designed to minimise the impact on the Green Belt and on this sensitive landscape which has not been demonstrated. In the circumstances insufficient information has been provided to justify the development which is contrary to policy.

**West Midlands Regional Assembly-** The site is outside of the MUA and no evidence is submitted to suggest that it meets local needs; the level of development proposed is significant as it could amount to approximately 20% of the Council's annual required completion rate of 500.

Walsall is currently meeting its annual housing requirement with 605 completions during 2005/6. Capacity work undertaken as part of the Black Country Study and subsequent Phase One Revision also suggests that current levels of housing provision can be accommodated without adjustment to Green Belt boundaries.

Further evidence brought forward through the 2006 based Urban Capacity Refresh for the City Region Area, submitted as representations on the RSS Phase Two Revision Spatial Options consultation document (February 2007), suggests that the Black Country has capacity to accommodate growth beyond that identified in the current RSS without the need to amend Green Belt boundaries.

RSS makes it clear that any adjustments to Green Belt boundaries need to be justified on regeneration grounds and those extensions to the MUA boundaries for housing are not supported. Whilst technically this is not an extension of the MUA boundary, the implications of its development for housing would be comparable, namely that it would be contrary to the urban renaissance agenda, as it is likely to detract from development activity on one sustainable sites within the MUA.

This is supported by the panel report into RSS Phase 1 Revision which states that: The current RSS framework for housing provision, set out in RPG11 policies CF1 to CF6, reflects a clear focus on achieving urban renaissance through the re-use of previously developed land. For the Black Country of all places this is a key priority and a very strong case would be needed for a strategy which breaks out of the RSS framework by introducing Greenfield urban extensions. We have no doubt that, were the Draft Phase One Revision amended to do this, developers would seek to take advantage of it by bringing Greenfield sites forward effectively in competition with opportunities on previously developed land. There is a real risk that this could undermine the redevelopment and re-use of urban sites, which would be a serious weakening of the regeneration strategy.

In terms of precedent, it is understood that WMRA has considered similar applications outside of the Metropolitan Area and considered them not to be in General Conformity with the RSS. It is considered that the current proposal is not in General Conformity with the RSS as it is likely to have an adverse implication on the delivery of urban renaissance.

The proposal is considered not to be in General Conformity with the RSS as it is likely to have an adverse implication on the delivery of urban renaissance.

However, if minded to approve the proposal, it is understood that it needs to be referred to GOWM for its consideration under the Green Belt Direction.

**Environmental Health** - No adverse comments.

**Conservation** - Object as the proposal involves removal of a Local List property. Number 520 Chester Road, also known as Bourne Farm which is on the Council's List of Buildings of Local Architectural and Historic Interest and the application states that the proposals include the clearance of the existing site. This would involve removal of the Locally Listed building and no justification has been provided by the applicant for removal of this property.

Even if the building were to be retained the proposed roundabout would pass very close to the property and the impact of the proposals, including increase in traffic on the structure of the property, may affect the long term viability and sustained use given the damage to its setting and amenity.

**Natural Environment**- Object to the proposal- The applicants have submitted an inconclusive bat survey and the LPA cannot make a planning decision without having full details of protected species, as this is against advice contained within circular 06/2005 paragraph 99 and the ruling in the Cornwall Case.

**Landscape** - Object to the proposal. This is an open site and the topography is such that there are clear open views over a wide area. The majority of the site is used for horse grazing with the land divided up into paddocks by post and wire fencing. The former farmhouse,

modern and old barns and established gardens occupy the south-east corner of the site. The most prominent site features are mature trees within the front and side garden of the former farmhouse, now Simon's Restaurant, of which many are protected by Tree Preservation Order (TPO). These trees are of notable amenity value as they are prominent from Chester Road. There is also a brick garden wall that forms the west boundary of the former farmhouse that is of note.

The proposals have significant implications for the existing landscape. No levels have been provided. The proposals would destroy the garden of the existing restaurant, the TPO trees and garden boundary wall and the building. The proposed access road would cut across the existing hill and be prominently visible from the open views to the south and west. Residential development would be visually intrusive as the ground levels are above the adjoining buildings and would be difficult to screen. The submitted Landscape Assessment does not adequately address the issues referred to above and conclusions are disputed.

**Arboricultural Officer** - Object to the application on the grounds of unacceptable tree loss.

**Archaeology** - No objection subject to a condition to ensure implementation of a programme of archaeological work.

**Strategic Housing** - Require 25% affordable housing provided on site. These affordable units should be split 50/50 between shared ownership and social rent, and should be mixed across the property types and fully integrated within the development.

**Fire Service** - No objection in principle.

**Centro** - Do not support the proposal. Public transport measures need to be secured at this development to ensure the site would be compliant with public transport access standards.

**Wolverhampton City Council** - Object to the application. The proposal represents inappropriate development in the Green Belt and no very special circumstances are provided to justify the development. The proposal also does not conform to the policies of the Regional Spatial Strategy.

### **Representations**

One letter of objection has been received and is summarised as follows:

- Moving the access to the quarry from Branton Hill Lane to Chester Road removes the problem from one group of residential properties to another
- Loss of property value (*this is not directly a material planning consideration*)
- Conflict between lorries using the island and residential property
- Additional noise and rubbish from lorries using the island
- Planning permission for residential development in the Green Belt should not be granted
- 

18 letters of support have been received from neighbours (10 neighbours have provided multiple copies of their letter). The supporting comments are summarised as follows:

- Closure of Branton Hill Lane to quarry traffic will improve pedestrian and traffic safety
- Access to the quarry via a roundabout at Chester Road would slow traffic down to the benefit of highway safety
- Quarry lorries go carefully but other agencies do not

- Quarry and other large lorries put a strain on the railway bridge
- Request closure of Branton Hill Lane to through traffic
- Dust hazard generated by loaded vehicles is a health hazard for residents
- Providing an alternative access to the quarry from Chester Road will make Branton Hill Lane a quieter and safer thoroughfare
- There are children and the elderly living in Branton Hill Lane with only one footpath - closure to quarry vehicles would improve safety
- Chester Road is built to accommodate heavy traffic and would be a better alternative
- Branton Hill Lane would benefit from improved security if closed to heavy through traffic
- Although not generally in support of building on Green Belt land construction of the new access is a costly procedure and gives little alternative in this instance
- Concern that allowing residential development in the Green Belt will set a precedent

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

### **Determining Issues**

- Principle of Providing an Alternative Quarry Access Road and Residential Development in the Green Belt
- Whether the claimed need for residential 'enabling development' amounts to very special circumstances to outweigh the harm it would cause in the green belt
- Impact on the openness, character and purposes of the Green Belt
- Impact on the amenities of the surrounding occupiers
- Means of Access
- Ecological Impact

### **Observations**

#### **Principle of Providing an Alternative Quarry Access Road and Residential Development in this location**

The site is within the Green Belt. The principle of allowing quarrying in the Green Belt has already been established by planning permission for the quarrying operations. Also, it is an accepted use in Green Belt policy. Part of the site is within a Mineral Safeguarding Area as identified on the UDP proposals map therefore quarrying within this area is acceptable in principle, provided that it complies with UDP Policy M2.

The proposal includes provision of a new access to the quarry as an alternative to the existing access off Branton Hill Lane. The road and substantial roundabout are only acceptable, in principle, if it can be demonstrated that very special circumstances exist that outweigh the harm its impact would have on the Green Belt. Careful consideration must also be given to the landscape and visual impact arising from the proposed route and new roundabout.

The location of the proposed residential development is not within 400 metres of a bus stop to allow future residents to use different modes of transport instead of relying on private transport and does not accord with the requirements of UDP policy T12. The Council may require the applicants to make a contribution to providing public transport to and from the site. This may include funding bus stops at the development and funding a bus route to and from the site at regular intervals during the day though out the week for a period in excess of five years. However, given the remote location and that the council would be unlikely to approve any other significant residential development between this site and a local centre. I consider

that this bus service would never actually become a viable bus service without significant future public funds to keep the service going, after that 5 year period.

Part of the proposed residential development is also within the Minerals Safeguarding Area whereby it could sterilise the mineral resources and preclude future exploitation of these materials. The applicant has provided no justification for the proposed housing development within the MSA. The proposed development is therefore likely to prejudice the future extraction of minerals within this area, contrary to paragraph 9.2 of the UDP Strategic Policy Statement, UDP Proposal M1, and the advice in MPS1.

Residential development would be inappropriate in terms of PPG2. The applicants have not justified a development of the scale of 67 to 102 residential units. There may be an argument for the redevelopment or replacement of the aggregate ground floor area of the existing buildings, excluding temporary buildings, open spaces with direct external access between wings of a building and areas of hard standing for new dwellings. Such a development would be significantly smaller in scale than the applicants are requesting and any development would have to not exceed the height of existing buildings and not occupy a larger area of the site than the existing buildings. Any new buildings would have to also consider the openness of the green belt, the objectives for the use of land in green belts, the main feature of the landscape and the need to integrate the new development into the surroundings.

There is no evidence that a new access road is actually needed to support the current level of business at the quarry. The claim of residential development is necessary in order to enable construction of the new access. Residential development within the Green Belt is inappropriate. The applicant must therefore demonstrate that there are very special circumstances that outweigh the harm such inappropriate development would have upon the character and openness of the Green Belt.

The RSS specifies that there is no need for residential development and as this site is not in a sustainable location in terms of it offering a choice and means of travel or offering a range of community facilities with good access to jobs, key services and infrastructure the proposal does not demonstrate very special circumstances sufficient to outweigh the harm the development would have upon the openness and character of the Green Belt. The removal of traffic from Branton Hill Lane cannot be given sufficient weight as a very special circumstance to override important regional and national policy.

WMRA has considered similar applications outside of the Metropolitan Area and considered them not to be in General Conformity with the RSS. It is considered that the current proposal is not in General Conformity with the RSS as it is likely to have an adverse implication on the delivery of urban renaissance.

However, if Committee are minded to approve the proposal, it is understood that it needs to be referred to GOWM for its consideration under the Green Belt Direction. Full justification for the decision to grant permission would need to be given by Committee.

Government Office will be likely to give more support to national rather than local issues. If the Council is minded to approve an application that is not in general conformity with the RSS and is contrary to national policy guidance, it is likely that it will be called-in for decision by the Secretary of State. The determination of the application would then be made by an independent Planning Inspector, following a Public Local Inquiry, involving rigorous scrutiny of



the Council's case. In the light of the evidence currently available, permission would almost certainly be refused.

**Whether the claimed need for residential 'enabling development' amounts to very special circumstances to outweigh the harm such inappropriate development would cause in the green belt**

The need for enabling development normally arises in relation to Listed Buildings or historic landscapes where there is an opportunity for profits from enabling development, such as new housing, to finance repair and/or conservation in the national interest.

The applicants have been unable to cite any cases where minerals development has had to rely on enabling development for finance. The applicants claim that, by financing the access road, the house building will lead to the removal of quarry traffic nuisance, principally in Branton Hill Lane. The access could also allow for maximisation of the sites development potential, as referred to in the UDP. They submit that this benefit justifies the building of up to 102 houses in the green belt

The unusual connection with the proposed inappropriate housing development, in this quarrying case, is the financial element. The profitable housing development would help pay for the new quarry road which it is claimed would otherwise be unaffordable. The argument is clearly that a new access for the quarrying/ sand and gravel company is not a viable concern. Conversely, in the recent Tarmac case at Shire Oak, Tarmac did not have the need for enabling development to pay for their new access road.

Quarrying is actually only a small part of Bliss's business. Most of the material they sell is imported into the site and they only sell small amounts of what is quarried on-site, which is blended with imported materials, most of which are recycled. It is therefore not clear why a major "quarry access road" is needed, or how this relates to the existing business.

The applicants have not submitted a clear and robust financial statement to demonstrate that the quarry/ sand and gravel business could not bear all or part of the necessary costs or that any new residential development would be solely to enable construction of the access road and consequent works.

The access proposal should properly form part of a comprehensive application to extend the quarrying area. Such a combined scheme would meet the aims of UDP policy M2, negating any reliance on harmful housing development and avoiding conflict with the RSS and UDP housing policy.

The applicant has supplied copies of appeal decisions allowing inappropriate development in the green belt where special circumstances were found. This information is noted, however, the cases are from parts of the country where the site circumstances appear to be very different and they have little direct relevance to this particular case, in terms of scale, prominence, impact, and justification. Indeed, in most cases where housing it is justified is because the housing *replaces* an existing more harmful development.

The applicants have not demonstrated any acceptable financial justification for enabling development.

**Impact on the openness, character and purposes of the Green Belt**

The scale of the proposed new access road, 7.3metres wide narrowing to 5.5 metres with footways and verges either side and a roundabout in excess of 130metres diameter would have a significant visual impact upon the character of the Green Belt as its construction would result in removal of TPO trees, removal of the garden boundary wall adjacent Bourne House and severe reduction in the garden curtilage of Bourne House. The plans also show that Bourne House would need to demolish to allow for the access road to be constructed. The proposed carriageway is of a scale that would be expected to be linked to a significant development rather than just an access to a quarry, even if the quarry operator intends to intensify lorry movements. The proposed route of the access road and the large roundabout would have an unacceptable impact on the openness and character of the green belt.

The introduction of a housing development to the west of the original farm buildings would also encroach within previously undeveloped land and be highly visible due to the exposed position and the prominent views from the south of this presently open land which is at raised ground levels compared to Bourne House, the garden centre and Chester Road. The proposal would therefore be a dramatic alteration to the openness and character of this Green Belt land by urbanising largely undeveloped land to the detriment of the amenities of the area. The potential impact on the setting of the remaining outbuildings at Bourne House would also be adversely affected due to the reduction in the amount of land surrounding the buildings which would adversely affect their context and the character of the surrounding area. The housing site would be highly visible from the south and due to its scale; isolation and prominent location would be likely to have a serious impact on the openness and character of the green belt.

#### **Impact on the amenities of the surrounding occupiers**

Properties in Branton Hill Lane post date the quarry. They were built and occupied in the knowledge that the lane serves as a quarry access. Closure of Branton Hill Lane as a quarry access would undoubtedly improve the residential amenities of existing occupiers in Branton Hill Lane as it would remove large commercial vehicles from Branton Hill Lane thereby removing traffic, noise, dust, disturbance etc. However, the proposed new access off Chester Road which would cater for larger volumes of quarry traffic would also have an adverse impact on the amenities of potential residents within the proposed residential development at the site thereby transferring the problems from one area to another. The applicants have stated that a detailed application could ensure that the proposed layout would be arranged to avoid potential conflict between the quarry and potential residents. However, as the application is in outline and is not supported by adequate information in order to establish the layout, landscaping etc it is not possible to assess the potential impact fully and it is considered likely that the two uses would be incompatible in such close proximity to each other. The proposal simply moves the problem of conflict between residential occupiers and quarry traffic from one area of the site to another.

There is a requirement for a PPS24 Noise Survey. To date the applicants have not provided this information and it is required in order to give full consideration to this matter.

#### **Means of Access**

Transportation has objected to the proposals for two main reasons. The first relates to sustainable policies in the UDP and the resulting dependence by future residents on the private car. The second grounds of objection relates to safety and capacity concerns arising from the introduction of the roundabout on Chester Road, which is part of the primary route network.

## **Ecological Impact**

There are a number of mature and semi-mature trees as well as stretches of hedgerows within the site which would be lost if this development took place. The grasslands are described by the ecological surveyors as being semi-improved and therefore have some ecological value. Trees, hedgerows and grasslands may be of value to foraging bats. The bat survey accompanying the application is inadequate and fails to demonstrate that bats or their habitat would not be harmed by the development

## **Conclusions**

The benefits of removing quarry traffic nuisance from Branton Hill Lane are fully recognised. But this cannot justify the associated consequences of a substantial, remote and unsustainable housing development in the green belt which could sterilise potential mineral reserves.

No acceptable, clear, financial case has been put forward to explain why the quarrying company cannot fully finance the new access road without the new housing. It is considered unlikely that any such case could ever be put.

The applicants are relying heavily on the localised benefits of removing traffic nuisance in Branton Hill Lane being seen as having sufficient weight to override nationally important housing and green belt policy. This is not the case. In any event, the new access would be likely to simply transfer the nuisance to the new housing.

Whilst a proposal for the quarry access alone may be welcomed, as proposed the road and roundabout would have undue impact on the character and visual amenity of the green belt. Furthermore, it would present a hazard to the safety of users of the highway.

In terms of precedent, it is understood that WMRA has considered similar applications outside of the Metropolitan Area and considered them not to be in General Conformity with the RSS. It is considered that the current proposal is not in General Conformity with the RSS as it is likely to have an adverse implication on the delivery of urban renaissance.

However, if Committee are minded to approve the proposal, it is understood that it needs to be referred to GOWM for its consideration under the Green Belt Direction. Full justification for the decision to grant permission would need to be given by Committee.

Government Office will be likely to give more support to national rather than local issues. A Public Local Inquiry would be called and for the Council's case to be rigorously scrutinised. Refusal of permission is almost certain.

## **Recommendation: Refuse Permission**

1. The current proposal for a quarry access road and enabling residential development is considered to not be in General Conformity with the Regional Spatial Strategy as it is likely to have an adverse implication on the delivery of urban renaissance. The proposal is therefore contrary to the Regional Spatial Strategy Policies CF1, CF2 & CF3.

2. The proposed residential development represents inappropriate development in the Green Belt, for which no very special circumstances have been submitted sufficient to outweigh the harm the development would cause to the role, function, character and amenity of the Green Belt. As such the proposal is contrary to Development Plan Policy ENV2 and Planning Policy Guidance Note 2

3. New housing at this remote site would not represent sustainable development in that it would not meet the accessibility standards in UDP policies T1, T10-T12 and Policy GP1, GP2, GP4 because it would be likely to rely solely on private vehicles. Furthermore, the proposal does not conform to the policies of the Regional Spatial Strategy, in particular paragraph 3.4a and policies CF2 and CF3, in that the proposed development would be outside the Major Urban Area and would not be making the best use of previously-developed land.

4. The proposal seeks to introduce housing into an area where activity from the quarry, railway and garden centre has the potential to impact adversely on residential amenity. In effect, the existing impacts of quarry vehicle movements on residential amenity would be unacceptably transferred via the new quarry access to the proposed residential area. The prime intention of the new access, which is to enable unrestricted numbers of vehicle movements to and from the quarry, would increase the potential for noise and general disturbance. The proposal is therefore contrary to Development Plan Policies GP2, ENV10, ENV40 and Planning Policy Statement 24.

5. The applicant's have neither demonstrated that the quarry business could not bear all or part of the necessary costs of building the quarry access road nor that any new residential development would be solely to enable the essential construction of the access road and consequent works. As such the very special circumstances needed to allow inappropriate development in the Green Belt have not been demonstrated and the proposed residential development is therefore contrary to UDP Policy ENV2 & Government Guidance in PPG2

6. The proposed four-arm roundabout, providing access to the existing quarry, proposed residential development and the garden centre, raises safety and capacity concerns as it is likely to result in an increased risk of accidents. The proposed development is unacceptable in highway terms contrary to Development Plan policies GP2, T4 & T5,

7. The proposed access road would cut across the existing hill and be unacceptably prominent from the open views to the south and west. Furthermore the excessive size of the proposed roundabout would be unacceptably intrusive. As such the access road and roundabout would have an unacceptable and unjustified adverse impact on the character and amenity of the Green Belt, contrary to Development Plan policies GP2, ENV2, ENV3, ENV4 and advice in PPG 2.

8. The proposed development would result in the unjustified removal of a Locally Listed property and loss of protected trees. It also results in the loss of the landscape setting to the Locally Listed Building including the garden and garden wall. The proposal is therefore detrimental to the historic character and visual amenities of the area contrary to Policies ENV28, and the Government's Planning Policy Guidance 15

9. The proposed development makes no provision to meet increased demand from new housing on education capacity, urban open space and medical facilities and does not provide

affordable housing. In addition, there is lack of public art provision as part of the substantial residential development. The proposal is therefore contrary to policies GP3, ENV34, LC1, H4 and 8.8 of the Walsall Unitary Development Plan March 2005 and the Council's Education, Affordable Housing, Healthcare provision and Urban Open Space SPDs and the Government's Planning Policy Statement 1, Planning Policy Statement 3 & Planning Policy Guidance 13.

10. The application fails to demonstrate that the proposed development would not have an adverse impact on protected species. The lack of information submitted with the application fails to confirm or deny the presence of roosting bats within the existing building. The development is therefore contrary to Walsall's adopted Unitary Development Plan policies ENV22 and ENV23 and guidance given in PPS9 and Circular 06/2005.

11. The proposal housing could lead to the sterilisation of potential mineral reserves, contrary to the aims of Development Plan Strategic Policy Statement paragraph 9.2 and Proposal M1, and Mineral Planning Policy Statement 1.

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