



## Contents Sheet

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| 1       | 1       | 15/0333/FL         | LAND OFF<br>TEMPUS DRIVE,<br>TEMPUS DRIVE,<br>WALSALL,<br>WS2 8TJ           | Earthworks comprising the redistribution of spoil from the south of the site (the Opal site) to the north (the Onyx site), including on-site remediation of material as necessary, to provide a level platform for future development. | APPROVE WITH CONDITIONS (INCLUDING ANY AMENDMENTS OR ADDITIONAL CONDITIONS DEEMED APPROPRIATE BY OFFICERS) |
| 2       | 19      | 15/0598/FL         | LITTLE LONDON<br>JMI SCHOOL,<br>STAFFORD STREET,<br>WILLENHALL,<br>WV13 2PG | Phase 1: Demolition of part of the former school and change of use to offices.<br><br>Phase 2: Demolition of the remaining ancillary buildings of the former school and the erection of 20 houses.                                     | Grant Permission Subject to Conditions   |
| 3       | 45      | 15/0105/FL         | PLECK WORKING<br>MEN CLUB,<br>502 PLECK ROAD,<br>WALSALL,<br>WS2 9HE        | Demolition of existing Working Men Club and construction of no. 11 residential units.  | Grant permission subject to conditions and section 106 agreement for                                       |

|   |    |              |   |   |  |
|---|----|--------------|---|---|--|
|   |    |              |   |   | open space.  |
| 4 | 63 | 15/1099/FULL | INTERNATIONAL HOUSE,<br>BLOXWICH BUSINESS PARK,<br>FRYERS ROAD,<br>BLOXWICH       | Erection of a steel clad portal frame industrial unit for storage of steel (class B8 use).  | Grant permission subject to conditions (including any amendments or additional conditions deemed appropriate by officers) subject to resolving the Coal Authority objection.   |
| 5 | 73 | 15/1138      | MIDLAND PRESSURE DIE CASTING LTD,<br>ASHMORE LAKE WAY,<br>WILLENHALL,<br>WV12 4LF | Formation of revised access arrangements to site off Ashmore Lake Way plus new boundary fencing and lighting columns.   | Grant permission subject to conditions (including any amendments or additional conditions deemed appropriate by officers).   |
| 6 | 85 | 14/1552/FL   | Foxhills Farm,<br>Beacon Road,<br>Aldridge, WS9 0QP                               | Redevelopment of existing Riding Stables and Riding School by the way of an erection of 4 no. dwelling houses with associated works including the alteration of existing site access, following demolition of existing buildings on site. | Delegate to the Head of Planning, Engineering and Transportation to approve with conditions (including any amendments or additional conditions deemed appropriate by officers) subject to no material objections being raised as a result of the re-consultation |
| 7 | 97 | 15/1501      | 1, Mob Lane,<br>Pelsall, Walsall,<br>WS4 1BB                                      | Erection of 2 bed bungalow fronting Ashton Drive.   | Grant Permission<br>Subject to<br>Conditions   |

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|----|-----|--------------|---|--|--|
| 8  | 107 | 15/1800      | 19, MOAT FARM WAY, PELSALL, WALSALL, WS3 5BW                                      | Retrospective: Retention of boundary fence (in new position closer to the pavement) and planting in front.                             | Grant Permission Subject to Conditions |
| 9  | 113 | 15/1396      | SHELFIELD POST OFFICE & OFF LICENCE, 16, SPRING ROAD, SHELFIELD, WALSALL, WS4 1QQ | Change of use from Post Office (A1) to Cafe (A3).  | Grant Permission Subject to Conditions |
| 10 | 123 | 15/0914/FULL | 6, HIGHMOOR CLOSE, WILLENHALL, WV12 5UU   | Single storey rear and front extension to create sun lounge and lounge extension and detached double garage at the front of the house. | Grant Permission Subject to Conditions |
| 11 | 133 | 15/1451      | 20, ENSBURY CLOSE, WILLENHALL, WV12 4EU   | Two storey side and single storey rear extension and the creation of car parking to the front of the house.                            | Grant Permission Subject to Conditions |
| 12 | 141 | 15/1650      | 54, GLOUCESTER ROAD, WALSALL, WS5 3PN   | Part ground and first floor front extensions over existing garage and kitchen with new front bay window (resubmission of 15/1211).     | Refuse                                 |

|    |     |         |   |  |  |
|----|-----|---------|---|--|--|
| 13 | 149 | 15/1358 | SUNNYSIDE FARM,<br>NORTHGATE,<br>WALSALL WOOD,<br>WALSALL,<br>WS9 9BU               | Retrospective:<br>retention of car<br>sales for a period of<br>five years.   | Refuse                                       |
| 14 |     | 15/1370 | JOHN HILL AND<br>SONS WALSALL<br>LTD,<br>WOLVERHAMPTON<br>ROAD, WALSALL,<br>WS2 8TB | Construct a single<br>storey building to<br>provide toilet and<br>shower facilities for<br>the site staff and<br>visitors. | Grant Permission<br>Subject to<br>Conditions |



## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 07-Jan-2016

**Plans List Item Number: 1.**

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

**Location:** LAND OFF TEMPUS DRIVE, TEMPUS DRIVE, WALSALL, WS2 8TJ

**Proposal:** EARTHWORKS COMPRISING THE REDISTRIBUTION OF SPOIL FROM THE SOUTH OF THE SITE (THE OPAL SITE) TO THE NORTH (THE ONYX SITE), INCLUDING ON-SITE REMEDIATION OF MATERIAL AS NECESSARY, TO PROVIDE A LEVEL PLATFORM FOR FUTURE DEVELOPMENT.

**Application Number:** 15/0333/FL

**Case Officer:** Katie Parsons

**Applicant:** Oakus Developments Limited

**Ward:** Pleck

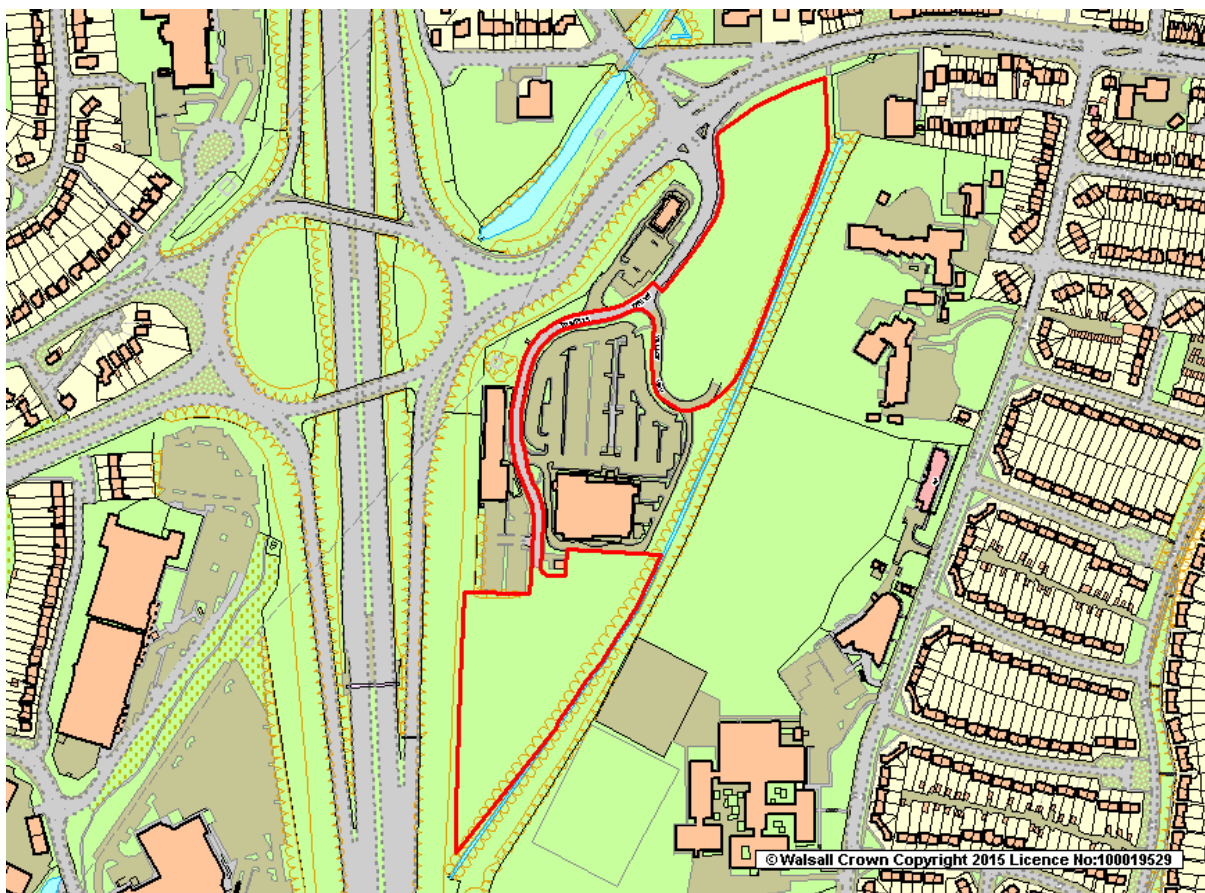
**Agent:** Town Planning Services

**Expired Date:** 13-Jul-2015

**Application Type:** Full Application

**Time Extension Expiry:** 31-Jan-2016

**Recommendation Summary:** APPROVE WITH CONDITIONS (INCLUDING ANY AMENDMENTS OR ADDITIONAL CONDITIONS DEEMED APPROPRIATE BY OFFICERS)



## **Application and Site Details**

The site is part of an area known as Tempus Ten and covers approximately 3.1 hectares. The private roads serving Tempus Ten are accessed via Wolverhampton Road. The site area is made up of two different plots of land known as 'Onyx' (the northern plot – 1.4 hectares) and 'Opal' (the southern plot – 1.7 hectares), linked by an internal access road. The Sneyd Brook, which is a Site of Local Importance for Nature Conservation and contains controlled waters, runs along the eastern site boundary, with the West Walsall E-Act Academy on the other side. The M6 runs adjacent to the western site boundary.

The site is located within the Black Country Enterprise Zone and the land is included in the Darlaston Local Development Order. The land was historically used for grazing and is now safeguarded for high quality employment development. The wider site already contains a drive-thru restaurant and two hotels. The site falls within the Coal Authority Development High Risk Area and parts of it fall within the floodplain.

The application site is currently vacant and overgrown, but the southern plot contains some waste left over from construction of the adjacent Village Hotel. At the time it was intended to use the material to level the remainder of the site when it was redeveloped but the project stalled. As the waste remained on site and the planning permission had lapsed, its status changed from engineering materials to illegally tipped construction waste. The waste is currently subject to an Enforcement Notice to secure its removal.

The current proposal is to redistribute the waste (approximately 130 000 cubic metres) from the south of the site to the north, including on-site remediation as required, to provide level platforms for future redevelopment of the site. The application is intended to overcome the requirements of the Enforcement Notice. The applicant does not yet have an end-user for the site and is therefore not yet ready to apply for the redevelopment of the site, but does not wish to carry out works to remove all of the material from the site when the redevelopment proposals would then require importation of material to create development platforms above the flood plain. Drainage works including a pipe under a cycle path to the Sneyd Brook are also proposed.

The application has been supported by a planning, design and access statement, flood risk assessment, ecological assessment, site survey, mining risk assessment, site investigation, plans and indicative drawings of possible development options for the two sites.

The proposal has been screened under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) and has been determined not to require an Environmental Statement.

## **Relevant Planning History**

BC56152P - Outline: Mixed uses including combined 3 Storey Budget Hotel and 5 Storey Complex including Hotel, Conference and Leisure Complex; B8 (storage and distribution) depot, B1 (offices) and A3 (hot food takeaway/restaurant) – granted 07/05/02

02/2279/FL/W2 – 1. Hotel with Conference/Leisure facilities 2. Restaurant with 'Drive-Thru' facilities – granted 06/06/03

04/1431/RM/W7 - Reserved Matters to BC56152P Creation of B1 Office Development and B8 (Storage and Distribution Building) – withdrawn 01/09/04

05/0217/RM/W2 - Reserved Matters to BC56152P - B1 office development – granted 12/05/05 (not implemented)

05/0262/FL/W2 - Variation of Condition 1A of Planning Permission BC56152P to Extend Time for Submission of Applications for Approval of Reserved Matters – granted 07/04/05

07/1281/RM/W2 - Erection of B8 distribution and storage building to the south of the site – granted 22/10/10 (not implemented)

09/0605/FL - Erection of Three stand-alone, gateway office units of 3 and 4 storeys, with related landscaping, balancing pond, car parking and infrastructure at J10, M6, Tempus Way, Walsall – granted 16/11/09 (Not implemented)

12/1254/ND - Screening opinion for earthworks and development of a restaurant/public house and new access – EA required 11/03/14

E13/0042 – Change of use from land formerly used for grazing purposes to the deposition of waste material, substantially raising land levels – Enforcement Notice served 21 June 2013 requiring the cessation of the use of the land for the deposition of waste materials, removal from the land the overburden of deposited waste, leaving an even gradient across the site and seeding the surface with grass – took effect 25 July 2013 with a 9 month compliance period.

14/0457/SCOP - Environmental Impact Assessment Scoping Opinion for remediation, site levelling and treatment of waste material to create a development platform for future development. – scoping response issued 16/05/14

14/1239/FL - Installation of a standby electricity generation plant – withdrawn 17/11/14

14/1728/SCRE - Screening opinion as to whether an environmental statement is required for earthworks comprising the redistribution of spoil from the south of the site to the north, including on site remediation as necessary, to provide a level platform for future development – EA not required 11/12/14

### **Relevant Planning Policy Summary**

Planning law requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material consideration in planning decisions and sets out that “... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

### **National Planning Policy Framework 2012 (NPPF) and associated guidance**

The NPPF sets out the Government’s position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and

environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

It is based on 12 **core planning principles**. Those particularly relevant in this case are:

- Proactively drive and support sustainable economic development
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and characters of different areas
- Support the transition to a low-carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources
- Contribute to conserving and enhancing the natural environment and reducing pollution
- Encourage the effective reuse of land
- Actively manage patterns of growth

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

## **The Black Country Core Strategy (BCCS)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy:

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.



The above are supported by the following key policies, as relevant to this application:

CSP1: The Growth Network  
CSP3: Environmental Infrastructure  
CSP4: Place Making  
CSP5: Transport Strategy  
EMP1: Providing for Economic Growth  
EMP2: Actual and Potential Strategic High Quality Employment Areas  
EMP4: Maintaining a Supply of Readily Available Employment Land  
TRAN2: Managing Transport Impacts of New Development  
ENV1: Nature Conservation  
ENV3: Design Quality  
ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island  
ENV8: Air Quality  
WM1: Sustainable Waste and Resource Management  
WM5: Resource Management and New Development

These Policies are considered to be consistent with the NPPF.

### **Walsall's Unitary Development Plan (UDP)**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

The key 'Saved' Policies relevant to this proposal are:

GP2: Environmental Protection  
GP5: Equal Opportunities  
GP6: Disabled People  
ENV10: Pollution  
ENV11: Light Pollution  
ENV14: Development of Derelict and Previously-Developed Sites  
ENV17: New Planting  
ENV18: Existing Woodlands, Trees and Hedgerows  
ENV23: Nature Conservation and New Development  
ENV24: Wildlife Corridors  
ENV25: Archaeology  
ENV32: Design and Development Proposals  
ENV33: Landscape Design  
ENV40: Conservation, Protection and Use of Water Resources  
JP1: New Employment Sites  
JP4.1: East of M6 Junction 10  
T1: Helping People to Get Around  
T4: The Highway Network  
T8: Walking  
T9: Cycling  
T11: Access for Pedestrians, Cyclists and Wheelchair Users

These 'Saved' Policies are considered to be consistent with the NPPF.

### **Emerging Site Allocations Document**

The emerging Site Allocations Document is currently at 'Preferred Option' stage and proposes to allocate the site for industry. However limited weight can be afforded to this document due to its status.

## **Supplementary Planning Documents**

[http://cms.walsall.gov.uk/index/environment/planning/planning\\_policy/local\\_development\\_framework/ldf\\_supplementary\\_planning\\_documents.htm](http://cms.walsall.gov.uk/index/environment/planning/planning_policy/local_development_framework/ldf_supplementary_planning_documents.htm)

Where relevant BCCS and UDP policies are consistent with the NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The SPDs relevant to this application are:

- Designing Walsall
- Conserving Walsall's Natural Environment

## **Consultations**

**Archaeologist** – No objections. The site is on the edge of Walsall Manor deer park and adjacent to the canal but even if there had been any archaeology relating to these sites, it would have been destroyed by the later road development.

**Area Partnership** – Comments to be updated at Planning Committee.

**Birchills Project Reference Group** - Comments to be updated at Planning Committee.

**Canal and River Trust** – Drainage of the land could impact on the quality of the Anson Branch Canal, which interacts with the Sneyd Brook. Water should not enter the Sneyd Brook directly from the site and should pass through a sustainable drainage system first. Precautions should also be taken to ensure no contaminants enter the watercourse.

**Clean and Green** - Comments to be updated at Planning Committee.

**Coal Authority** – Recommends a condition to secure intrusive site investigation works prior to development commencing.

**Community Safety Team** – No objections.

**Development and Delivery** - Support redevelopment of the site to support job creation and economic growth but concerned that the proposal only relates to redistribution of material and not the remediation works required to make the land suitable for development. A more comprehensive application would be preferred (*case officer note – whilst the application does not include redevelopment of the site, it does include remediation*)

**Drainage** – The Sneyd Brook runs adjacent to the site. The landowner is responsible to maintain this watercourse so a maintenance strip of land is required with no fences or buildings within 5m from the top of the watercourse embankment.

**Economic Regeneration** - Comments to be updated at Planning Committee.

**Environment Agency** - No objections but conditions recommended to deal with potential contamination on the site and flood risk.

**Environmental Health** – No objections.

**Friends of the Earth** – Concerns about air pollution from the works and how this could affect local residents, schools and businesses. Would like to see pedestrian improvements and a cycleway and footway extension to link this site to Wolverhampton Road is suggested. The north site should have been landscaped when the hotel was finished. The edge of the north site where it borders the motorway should have biodiversity planting to help pollinators. Joint working between this site and the motorway improvement works is encouraged.

**Flood Risk Planning and SuDs Officer** - A temporary drainage strategy has been submitted to show that surface water balancing and settlement has been incorporated into the design. The interim proposals are acceptable and should be secured by condition.

**Highway Authority** – No objections. All materials will be redistributed across the site with no imported or exported materials except for a small amount of unusable material. The internal estate roads are private roads and the development is unlikely to have any significant detrimental impact on the public highway network, subject to access to the hotels and restaurant being retained at all times. A condition is recommended in case larger amounts of materials need to be imported or exported, to secure a Transport Statement.

**Highways England** – Some aspects of the proposed earthworks may have a significant temporary impact on the local environment and the Strategic Road Network so conditions are recommended to ensure the potential impacts are managed and minimised.

**Inland Waterways** – No objections.

**Local Access Forum** – Desire lines indicate that pedestrians are using the site and it would be useful to encourage non-car access from the other side of the Brook to the Enterprise Zones sites for local workers by providing footpaths and possibly a bridge over the Brook.

**Motorway Police** - Comments to be updated at Planning Committee.

**National Grid** – Apparatus in the vicinity of the site so applicant is required to contact them directly.

**Natural and Built Environment Team (Ecology)** – Objects to the application. Habitat patches of value should be retained adjacent to the Sneyd Brook SLINC and within the wildlife corridor in the south-western edge of the site bordering the M6 embankment. New landscapes should be created on the fringes of the development and the exposed soils should be properly vegetated.

**Natural and Built Environment Team (Trees)** – Objects to the application. The removal of virtually all vegetation on the south side would restrict the amount of soft landscaping retained within the future development. Significant screening should be retained between the site and the motorway. Interim replacement planting should be provided (*case officer*

*comment – the tree belt adjacent to the motorway is outside of the site and maintained by Highways England so would remain as existing)*

**Natural England** – No objection.

**Pollution Control** – Ground investigation works have been completed and the principle of the proposal is acceptable. Additional details on the strategies and methodologies to be employed regarding contamination and ground gas are required. Potential for impact on local residents and occupiers. Conditions recommended.

**Public Rights of Way** – The application has been amended to ensure the cycle path on the north plot will be retained and unaffected by level changes and the amended drainage strategy preventing surface water flowing over the cycle path is acceptable. Unrecorded public rights of way could be in existence and if the desire lines are closed there is a risk that they could be claimed and require a stopping up and/ or diversion order prior to commencement, potentially affecting delivery of the proposed development. Redevelopment of the site should include extended cycle and pedestrian routes.

**Severn Trent Water** – No objection.

**South Staffs Water** - Comments to be updated at Planning Committee.

**Strategic Planning Policy** – Development should comply with BCCS policy WM5.

**Structures and Geotechnics** – The site is located outside the zone of consideration for limestone mine working. However the site appears to be within the area where other mining activities may have taken place in the past so a Coal Authority report is recommended.

**Western Power** – Underground apparatus in the area which must not be disturbed or changed without WPD permission.

**West Midlands Police Crime Reduction Team** – no objections.

**Vodafone** - Comments to be updated at Planning Committee.

### **Public Participation Responses**

No representations have been received from local residents.

### **Determining Issues**

- Re-use of deposited materials
- Creation of development platforms
- Flood risk and drainage
- Loss of vegetation
- Highway and transport matters
- Amenity

## **Observations**

### **Re-use of deposited materials**

When the Enforcement Notice was served, the nature of the tipped materials was not known. The deposited materials have now been investigated and are not believed to be significantly contaminated. As such it is possible for the materials to be remediated on site as required and would be suitable for use to create development platforms for a commercial end-user, subject to conditions setting out how contamination would be dealt with. This means there is no need to bring any additional material onto the site, which satisfies policies regarding use of resources and waste minimisation.

### **Creation of development platforms**

The reason for the creation of the development platforms is to comply with the Enforcement Notice by removing the waste but, now that it is known not to be significantly contaminated, allow the waste to be reused on the site now rather than transported off-site, only for new soils to be imported at a later stage. As no end-user has yet been identified, the application does not deal with future- development of the site. Under the circumstances this approach is considered to be acceptable, given that it deals with the enforcement notice and minimises resource use, provided the works are undertaken swiftly, as the land owner is now liable for prosecution as the compliance period of the enforcement notice has expired. As such the time limit for implementation is recommended to be 12months instead of the standard three years, with a further 12 month completion period. This ensures that the enforcement notice is complied with and helps facilitate development coming forward for development and potential new employment growth.

The site is known to have been used for tipping in the 1960s and some level of contamination is likely. The submitted details set out that remediation would take place and the detail of this is recommended to be secured by condition. Ground gas conditions would also be required.

The site is located outside the zone of consideration for limestone mine working. The site falls within the Coal Authority Development High Risk Area. Coal Authority records indicate a mine entry within 20m of the site boundary, with a zone of influence extending into the application site. The area also has recorded and potentially unrecorded shallow coal mine workings. The Coal Authority has recommended that intrusive site investigations be carried out before development commences and that any required remedial works should be undertaken. A condition is recommended to secure this.

### **Flood risk and drainage**

The site is located within Flood Zones 2, 3(a) and 3(b). The proposed development platforms would raise the site out of Flood Zone 3 and provide compensatory flood volume through a cut-and-fill re-profiling approach. A temporary drainage strategy has been submitted and is considered to be acceptable. It is recommended to be secured by condition.

The Environment Agency has commented that the site is close to a controlled water receptor at the Sneyd Brook and there are potentially leachable contaminants in the ground, therefore conditions to prevent contamination of controlled waters are

recommended. The recommended conditions would also overcome the concerns of the Canal and River Trust regarding contaminants potentially entering the Anson Branch Canal via the Sneyd Brook. The Environment Agency has also recommended conditions to secure the compensatory flood storage volume proposed.

The Council's drainage engineer has requested a maintenance strip free of buildings and fences adjacent to the Sneyd Brook. The applicant has queried the need for this to be 5m as they consider the Brook could be maintained with a narrower strip of land. This matter would be dealt with as part of the future application to develop the site as the current application does not include any buildings or fences.

## **Loss of vegetation**

The Sneyd Brook is a Site of Local Importance for Nature Conservation and the site is within and adjacent to a wildlife corridor centred on the M6 motorway. The grassland vegetation which has developed on the spoil mounds and across the site contains areas of good quality semi-improved natural grassland habitat. The submitted ecological assessment sets out that protected species are unlikely to be a constraint to the development. The most important ecological feature on the site is the vegetation and the submitted assessment concludes that the site is of low ecological value. The Council's Natural Environment Team questions this as the survey was carried out in December 2014, which is not a good month for surveying vegetation.

The wider site was previously a SLINC due to its diverse grassland. This has been heavily degraded through development and lack of management. Some habitat patches remain and species found may not be protected but are uncommon in the local area, which indicates a better quality habitat. The Natural Environment Team suggests that a botanical survey in the summer months would likely have different conclusions and that proper management of the site would allow diversity to increase further. They also consider that grassland and marshy areas should be retained in a corridor close to the Sneyd Brook.

The application proposes to almost entirely clear the site, which the Natural Environment Team has objected to. They further object on the basis that the recommendations to re-establish species-rich grassland would not come forward as part of this application, but as part of the future application for the redevelopment of the site. Their recommendation is that areas of semi-improved grassland should be retained close to the brook corridor, and other habitats at the southern end of the site should also be retained.

The Natural Environment Team is also concerned that the development platforms would impede future ecological landscape works as landscaping may only be proposed in the narrow strips left over at the sides of the development platforms, and that more grading should be introduced to allow landscaping on the contours.

It is noted that the site is identified for future employment development, is covered by the Darlaston Local Development Order allowing many types of development without planning permission, and the site is also currently subject to an enforcement notice requiring the waste to be removed, re-levelled and seeded, which by necessity would involve removing large areas of existing vegetation. None of the habitats or trees on the site are subject to preservation orders or are otherwise protected. Whilst the concerns of the Natural Environment Team are noted, it is considered acceptable in this instance for the site to be cleared, to remedy the breach of planning control. The development platforms serve only

to provide a level site for future development. Any future planning application would have to provide for space around the site and buildings to provide landscaping and biodiversity value and the grading of the earthworks would not preclude planting on them. For the applicant to provide landscaping at this stage would likely be abortive works that may constrain future development proposals. As such the application is considered to be acceptable, provided that once the earthworks are complete, the exposed materials would need to be vegetated to prevent soil blowing away. The future application to redevelop the site would be required to bring forward long term landscape and biodiversity proposals for the site.

## **Highway and transport matters**

The Highway Authority has advised that, as materials will be redistributed across the site with no additional imported or exported materials except for a small amount of unusable material, they have no objection. The internal estate roads are private roads and the development is unlikely to have any significant detrimental impact on the public highway network, subject to access to the hotels and restaurant being retained at all times. A condition is recommended in case larger amounts of materials need to be imported or exported, to secure a Transport Statement. Pollution Control has also recommended a condition to control drag out of mud and other debris from the site.

Highways England has advised that some aspects of the proposed earthworks may have a significant temporary impact on the local environment and the Strategic Road Network so conditions are recommended to ensure the potential impacts are managed and minimised.

The application has set out how the existing cycleway would be maintained by the proposed level changes and has included a new drainage channel to ensure no surface water run-off would cross it. It may require temporarily diverting or closing whilst the works take place, which the applicant would require the requisite permission for.

It is noted that desire lines across the site suggest it is being used as a through route and the applicant has been made aware of the possibility of claims for these may be made. Some consultees have requested details of pedestrian and cycle routes but these would come forward as part of the future application for redevelopment of the site.

## **Amenity**

The nearest residential property is approximately 70m away from the northern tip of the site. The next nearest residential development is over 200m from the site.

Some pollution and nuisance may arise from use of heavy plant on site through noise, dust, odour and vibration that may disturb nearby occupiers. Re-using materials on site significantly reduces vehicle movements to and from the site. Conditions relating to control of noise, dust and odour emissions are recommended, as well as a working hours condition to protect residential amenity.

## **Conclusions**

On balance, the application is considered to be acceptable subject to the recommended conditions.

## **Positive and Proactive working with the applicant**

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long that they safeguard the natural and built environment, highway network and the amenity of citizens.

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including any representations that may have been received, and following submission of negotiated amendment to the application, subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

### **Recommendation: Approve with conditions (including any amendments or additional conditions deemed appropriate by officers):**

1. This development must be begun not later than 12 months after the date of this decision. For the purposes of this condition, the first cut of material from the Opal Site shall constitute commencement of development.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990 and to ensure steps are taken to remedy the unauthorised waste on the site as soon as possible.

2. This development shall be completed in accordance will all approved plans and details not later than 12 months after the date of commencements. For the purposes of this condition, completion shall constitute all cut and fill earthworks on Opal and Onyx sites, all required remediation, all works in relation to drainage and flood risk, and re-seeding of the land, in accordance with the application documents and the conditions attached to this permission.

REASON: To ensure that steps are taken to remedy the unauthorised waste on the site as soon as possible.

3. The development shall be carried out in accordance with the following approved plans and details:

0302 Rev F 'Site Location Plan'

0304 'Block Plan'

BMW/2076/WSK201 Rev P3 'Proposed North Site Finished Levels'

BMW/2076/WSK202 Rev P3 'South Site Proposed Bulk Earthworks'

BMW/2076/WSK203 Rev P3 'Proposed North Site Isopachytes and Section'

BMW/2076/WSK204 Rev P2 'South Site Proposed Bulk Earthworks Sections'

BMW/2076/WSK205 Rev P1 'South Site Proposed Earthworks Drainage'

BMW/2076/WSK206 Rev P3 'Proposed North Site Earthworks Drainage'

0305 Rev C 'Proposed Levels Overlay'



REASON: to define the permission and ensure the development is carried out as approved.

4. A. Ground profiling and drainage works shall be completed in accordance with the approved plans. Finished floor levels shall be a minimum of 122.98m above Ordnance Datum (AOD).

B. Once completed, an 'as built' topographical survey of the site, including the area of floodplain compensation, shall be submitted to the Local Planning Authority.

C. No raising of ground levels or erection of any building, structure or other obstruction to flood flows within the areas of floodplain compensation approved pursuant to this permission shall take place unless first approved through an appropriate application to the Local Planning Authority.

REASON: To ensure that the earthworks are completed as approved and do not encroach into the existing floodplain of the Sneyd Brook and to ensure the floodplain compensation area is constructed as approved, to prevent increased risk of flooding.

5. No materials shall be imported onto the site for the purposes of creating the development platforms.

REASON: As the impacts of the development have been assessed on the basis of reusing on-site materials and not importing new materials.

6. A. Should it be found that significant quantities of materials are not suitable for redistribution and remediation within the site and will need to be exported off the site, no such exportation shall take place until a Transport Statement has been submitted to and approved in writing by the Local Planning Authority setting out the transport-related impacts of such works on the local highway network and any required management or mitigation measures.

B. Any management or mitigation measures approved pursuant to Part A of this condition shall be implemented in accordance with the approved details.

REASON: The application suggests only a small amount of material is likely to be exported from the site but should the amount increase it will be necessary to ensure the vehicle movements would not have an adverse impact on the public highway network.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or in any equivalent provision in any statutory instrument revoking and re-enacting that Order with or without modification, no external lighting shall be installed on the application site except in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall demonstrate how a dark corridor will be maintained along the Sneyd Brook corridor frontage and shall be designed to ensure orientation away from the adjacent M6 motorway and local road networks. Submitted details should include the location, type, height, technical specifications, angle of installation and hours of operation for the lighting, and light spill plans.

B. The approved scheme shall be complied with following installation of the approved lighting scheme.

REASON: in the interests of visual amenity, residential amenity and nature conservation and to enable the M6 Motorway to continue to be an effective part of the national system of routes for through traffic in accordance with section.

8. A. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority, which shall include the following matters:
- The transport of materials to be in vehicles that are enclosed, sheeted or equipped with sealed containers
  - Measures to prevent or mitigate drag out of mud and other debris onto the roads
  - The parking of the vehicles of site operatives and visitors to be managed on site
  - Information regarding hours of delivery, hours for machinery and site operation to be agreed
  - Loading and unloading of plant and materials to be determined
  - Measures to control and reduce dust emissions and odour emissions from the construction site to be identified and a supporting management regime agreed
  - Wheel washing facilities to be located on site for treatment of vehicles leaving the site
  - Temporary lighting associated with the development will be designed to ensure that lighting will be oriented away from the adjacent M6 motorway and local road network
  - The monitoring of noise emitted from the site near where sensitive receptors to be agreed with local Environmental Health officers.
- B. Development shall take place only in accordance with the approved Construction Management Plan.

REASON: To protect local amenity mitigate adverse impacts upon nearby commercial developments and enable the M6 Motorway to continue to be an effective part of the national system of routes for through traffic in accordance with section.

9. No construction, demolition 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 take place only between the hours of 0700 and 1900 on weekdays and Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours

REASON: To protect local amenity and mitigate adverse impacts upon existing commercial development.

10. A. No development shall take place until details of the management of surface water run-off from the proposed embankments, and designs for any required mitigation works, have been submitted to and approved in writing by the Local Planning Authority.
- B. Development shall take place only in accordance with the details approved pursuant to Part A of this condition.

REASON: To enable the M6 Motorway to continue to be an effective part of the national system of routes for through traffic in accordance with section.

11. A. No development shall take place until a site investigation, ground contamination survey, and assessment of ground gas(es) having regard to current best practice has been undertaken (see Note for Applicant CL1). The site investigation shall provide information to enable a detailed assessment of the risk(s) to be completed for all receptors, including controlled waters and groundwater that may be affected, both on and off site.

B. No development shall take place until a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with a detailed assessment of the risk(s) and hazards to all receptors arising from any land contamination and/or ground gas(es) has been submitted to the Local Planning Authority. (see Note for Applicant CL2)

C. No development shall take place until a Remediation Method Statement setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site together and a timetable for their implementation has been submitted to and approved in writing by the Local Planning Authority (see Note for Applicant CL2). The Remediation Statement shall provide details of the data that will be collected in order to demonstrate that the works set out are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency. Any changes to these components shall require the express consent of the local planning authority.

D. The remedial measures as set out in the approved Remediation Method Statement shall be implemented in accordance with the approved timetable.

E. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation is encountered, development shall cease until the Remediation Method Statement has been amended to address any additional remedial or mitigation works required and has been approved in writing by the Local Planning Authority. Any additional approved remedial or mitigation works shall be implemented in accordance with the approved timetable.

F. Upon completion of the development, 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 the Local Planning Authority (see Note for Applicant CL3)

REASON: To ensure safe development of the site, to protect human health and the environment, including Controlled Waters.

12. A. No development shall take place until a long-term monitoring and maintenance plan in respect of contamination, including a timetable of monitoring and submission of reports to the Local Planning Authority, has been submitted to and approved in writing by the Local Planning Authority.

B. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To demonstrate the long-term effectiveness of any remedial works carried out.

13. No development shall take place until:

- i. A scheme of intrusive site investigations in respect of Coal Mining Legacy has been submitted to and approved in writing by the Local Planning Authority, and
- ii. The approved scheme of intrusive site investigations has been carried out, and
- iii. A report has been submitted to the Local Planning Authority setting out the findings arising from the approved intrusive site investigations, and
- iv. A scheme of remedial works has been submitted to and approved in writing by the Local Planning Authority, and
- v. The approved remedial works have been completed.

REASON: To ensure that the risks arising from the coal mining legacy of the site are remediated.

14. A. No infiltration of surface water drainage into the ground surface shall take place unless it has first been approved in writing by the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

B. The development shall be carried out in accordance with the approval details.

REASON: To ensure that infiltration drainage is restricted only to those areas of the site it does not increase the risk of contamination of Controlled Water Receptors.

15. A. No development shall take place until technical details and a cross section of the formal piped drainage system, inlet grillage to be fitted and any concrete apron at outlet to prevent erosion of the embankment between the stilling pond and Sneyd Brook, underneath the cycle path, have been submitted to and approved in writing by the Local Planning Authority.

B. No development shall take place until details for the regular maintenance of the formal piped drainage system between the stilling pond and the Sneyd Brook, underneath the cycle path, have been submitted and approved in writing by the Local Planning Authority.

C. Development shall take place only in accordance with the approved details.

D. The approved maintenance details shall be implemented in perpetuity.

REASON: To ensure the cycle path is not affected by surface water run-off.

16. A. Upon completion of the development, the exposed soil on the site shall be vegetated in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority, such details to include management and maintenance schedules. As a minimum, a deep rooting grass/legume seed mixture to maintain soil structure and aeration is required.

B. The vegetation shall be managed and maintained in accordance with the approved details and shall not be removed unless as part of implementation of a subsequent planning permission to redevelop the site.

REASON: To prevent soil blowing away from the site and to provide some landscape/biodiversity value before the site is redeveloped.

17. A. No piling or any other foundation designs using penetrative methods shall take place unless it has first been approved in writing by the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.

B. The development shall be carried out in accordance with the approved details.

REASON: To prevent pollution of the water environment.

## **Informatives:**

### **Environment Agency**

A flood defence consent would need to be submitted for the works. The applicant is advised to contact Pio Chinyere on 020 3025 3083 to discuss this.

In relation to contamination, the Environment Agency recommends that the developer should:

- Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
- Refer to the Environment Agency Guiding principles for land contamination for the type of information that we required in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.
- Refer to [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for more information.

### **Contaminated Land**

#### **CL1**

Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in National Planning Policy Framework; British Standard BS10175: 2011+A1:2013 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; British Standard BS8485:2015 Code of Practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings, BS8576:2013 Guidance on investigations for ground gas; Construction Industry Research and Information Association

“Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

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

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

## **Highway Authority**

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

A permanent or temporary closure or diversion order may be required in respect of the cycle way adjacent to the site.

In accordance with the Highways Act 1980, Lawful and Unlawful Interference with the Highway, prior to commencement of any work adjacent to or within the adjoining public footpath the applicant must provide details of the proposed work to Highways, Walsall Council and apply for any necessary permits including a scaffold permit and/or temporary prohibition of traffic order. Upon completion, the applicant must reinstate the public right of way to its present condition. No excavations, scaffolding, hoarding, movement and storage of materials, or other obstructions associated with the proposed development are to be present within, over or under the adjoining public right of way without prior agreement of the highways authority.

Future applications for development at the North Site must retain and improve the existing cycleway and applications for the South Site must introduce the continuation of the cycleway, ultimately to connect over Sneyd Brook into Phoenix 10, either along new estate road(s) or as separate traffic free cycle way(s).



## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 07-Jan-2016

**Plans List Item Number: 2.**

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

**Location:** LITTLE LONDON JMI SCHOOL, STAFFORD STREET, WILLENHALL, WV13 2PG

**Proposal:** PHASE 1: DEMOLITION OF PART OF THE FORMER SCHOOL AND CHANGE OF USE TO OFFICES.

PHASE 2: DEMOLITION OF THE REMAINING ANCILLARY BUILDINGS OF THE FORMER SCHOOL AND THE ERECTION OF 20 HOUSES.

**Application Number:** 15/0598/FL

**Case Officer:** Alison Ives

**Applicant:** B E Wedge Holdings Limited

**Ward:** Willenhall South

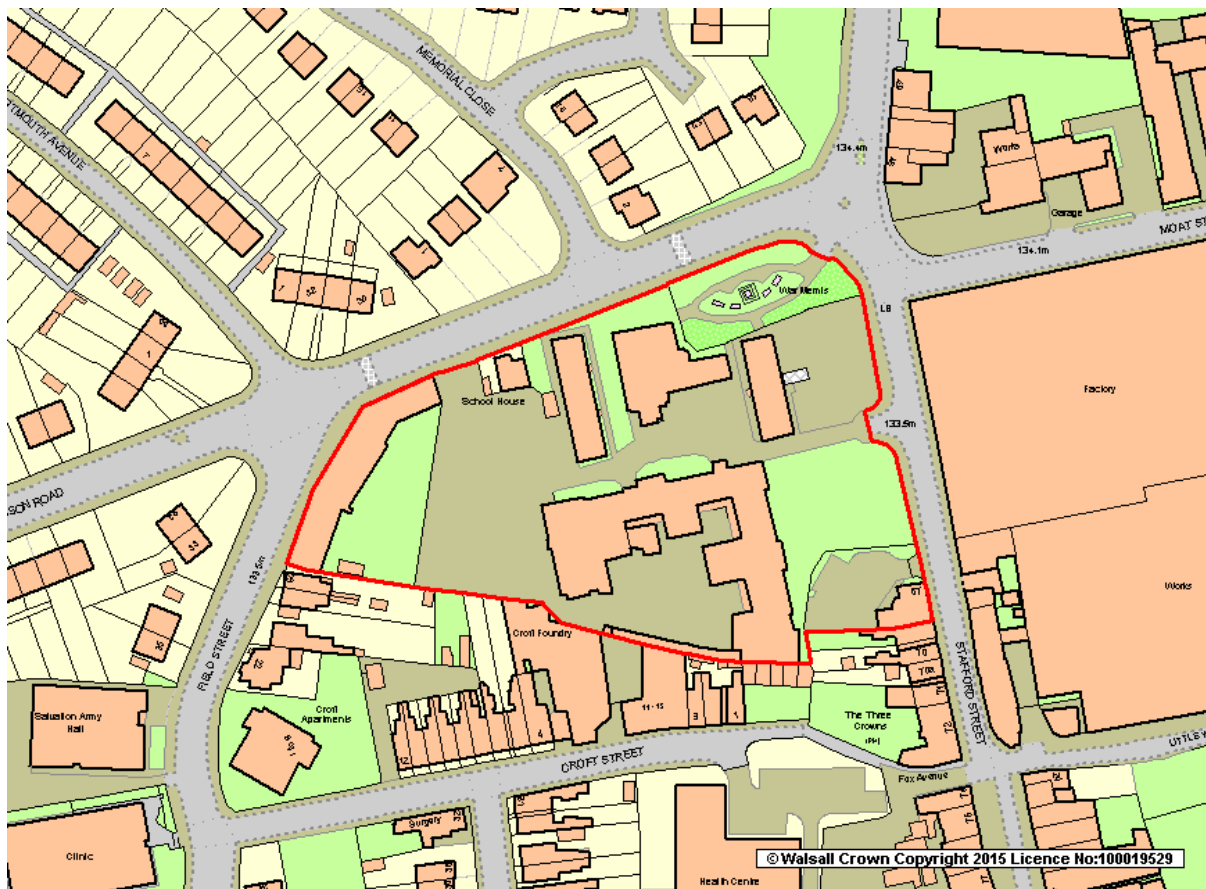
**Agent:** REA Design

**Expired Date:** 30-Jul-2015

**Application Type:** Full Application

**Time Extension Expiry:** 14-Jan-2016

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



## **Application and Site Details**

The proposal is for a two phased redevelopment of the former Little London School Site in Stafford Street, Willenhall. The applicant is BE Wedge Holdings Limited and the proposed phase 1 development is to partly demolish the school buildings and then convert to offices for their International and UK Headquarters. The proposed phase 2 development is for demolition of the remainder of the school outbuildings and erection of 20 houses.

The site is located at the junction of Stafford Street and Field Street and is within Willenhall Conservation Area. The school buildings which are proposed to be retained are Locally Listed. There is a war memorial on the highway junction which is also Locally Listed. BE Wedge have a factory opposite the site and existing offices at 67-68 Stafford Street (the offices are also Locally Listed). The existing school house which is also to be demolished faces Field Street. There are residential properties opposite and adjoining the site in Field Street, commercial properties in Stafford Street and car parking and commercial and residential properties adjoining the site boundary in Croft Street. There are mature trees throughout the site, predominantly on the Stafford Street frontage. There are two pedestrian crossings on Field Street.

The proposed phase one offices are created within the existing school building facing Stafford Street and retains the main part of the school buildings including the clock tower. Where parts of the building are to be demolished the intention is to reuse materials where possible. A galleried first floor will be introduced into the building to create the additional floor space. Following the works the total gross floor space of the offices will be 1602m<sup>2</sup>.

The office proposals allow for retention of the trees and wall with railings along the Stafford Street frontage. There are 60 car parking spaces shown, including 5 disabled spaces, located in front of and to the rear of the proposed offices. The proposal utilises the car park access for the existing Wedge offices adjacent at 67-68 Stafford Street as the vehicle entrance and exit via the former school entrance. A 1.8m high wall is proposed around the office site to divide it from the proposed residential development.

The proposal includes provision of a new outbuilding to provide bin, cycle and garden equipment storage for the offices. This is a flat roof building some 7.2m wide and 13.4m long.

The proposed phase two residential development is located on the Field Street half of the site with a new cul-de-sac formed to serve 20 dwellings. The majority of dwellings are three bedroom semi detached houses linked via their garages. Plots 1 and 20 which flank the access include a double height bay window to the lounge and bedroom facing Field Street. The majority of plots face inwards to the site with the exception of the three terraced properties (plots 10, 11 and 12) which face Field Street. For the proposed plots backing onto Field Street (plots 13-16) it is intended to retain the original school building walls at 1.8m high with timber fencing inserts as rear garden boundaries.

All properties are two storey dwellings and have a modern appearance utilising brickwork, acrylic render, cladding and grey windows. Some plots are gable fronted.

The proposal involves sale of Council owned land so will generate a capital receipt.



The Design & Access and Heritage Statement – Describes the proposals in relation to the changes to the buildings, relationship to trees, car parking and refuse collection the residential development and the design principles.

The Updated Bat Survey – Surveyed the various buildings around the site and their potential for bat roosting. The main school building is used by common pipistrelle bats for roosting by individual or small numbers of bats (such as males and non-breeding females). No evidence of a maternity roost was found. Other buildings have low/moderate/high potential for roosting bats. A tree on Stafford Street also has high potential for roosting. A license from Natural England will be required and bat mitigation and compensation required.

The Further Bat Survey – Again identify that the main school building is used by common pipistrelle bats but that no evidence of a maternity roost was found. Five trees have been identified as having high or moderate potential to be used by bats for roosting. A license from Natural England is required and works should proceed under the direction of a licensed bat ecologist following a method statement.

The Tree Survey – Assesses 35 trees all in good to moderate condition. Of these 14 are proposed to be felled and replaced as part of a landscape scheme, others are proposed to remove dead wood and to protect during construction.

The Noise Survey & Impact Assessment – concludes that appropriate conditions for external amenity can be provided across the site. The majority of living and bedrooms will require some form of attenuated ventilation to achieve appropriate conditions for residential amenity in accordance with BS8233. Subject to a full acoustic assessment natural ventilation via open windows may be acceptable for a limited number of plots. Natural ventilation via open windows may also be appropriate for the office building.

The Asbestos Management Survey – located the presence and extent of any suspect asbestos containing materials (ACM's).

The Site Investigation (May 2007) – Identifies low concentrations of contaminated soils with the exception of elevated hydrocarbons detected in some samples tested – remediation is recommended. No remedial action is required for contaminated groundwater, gas protection measures for new buildings are likely to be required and gas monitoring undertaken. Advice is given regarding water pipes, new planting, construction materials, waste disposal and site personnel.

The Site Investigation (April 2015) – Reviews the desk study information, fieldwork, laboratory work, ground conditions encountered, engineering properties of soils encountered, geotechnical assessment and environmental assessment.

The Groundsure Geoinsight Search & Groundsure Review – Provides geo-environmental information relating to the site. It recommends further actions to address environmental risks.

The Traffic Statement – Identifies the proposals and that 58 car parking spaces have been provided for 40-50 resident staff plus visiting Directors management and staff and 5 car parking spaces for disabled users. Electric vehicle charging points are also proposed. A covered secure bicycle shelter is proposed. Access to car parking will be via Stafford

Street. A bin store is provided for the offices. It identifies that no traffic assessment is required for the residential element of the proposals.

### **Relevant Planning History**

15/0576/SCRE – Screening Opinion as to whether an environmental statement is required for proposed conversion of former school buildings to offices and development of up to 22 residential units – EA not required 05/05/15.

There are other applications for tree works throughout the site.

The school building is locally listed for its architectural and/or historical importance with the entry on the register specifying:-

*“1883, with later alterations and additions. Brick school with terracotta and stone dressings. “Queen Anne” style. Tower. Large timber ‘grid’ mullion and transom windows. Gables. Elaborate terracotta panels. Return frontage to Field Street.”*

### **Relevant Planning Policy Summary**

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

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

**Key provisions** of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 103 when determining planning applications local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a Flood Risk Assessment.

Paragraph 110 aims to minimise pollution and other adverse effects on the local and natural environment.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

Paragraph 126 - Local planning authorities should have a positive strategy for the conservation and enjoyment of the historic environment.

Paragraph 131 seeks to sustain and enhance the significance of heritage assets and putting them to viable uses consistent with their conservation and making a positive contribution to local character and distinctiveness.

Paragraph 134 where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Paragraph 137 states new development in Conservation Areas should enhance their significance and preserve elements of their setting that make a positive contribution.

**On planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

- 1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.
- 2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.
- 3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.

The above are supported by the following policies:

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

DEL1: Development proposals will only be permitted if all necessary infrastructure improvements, mitigation measures and sustainable design requirements are provided.

DEL2: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

HOU2: Advises on housing density, type and accessibility and the need to achieve high quality design and minimise amenity impacts. All developments should aim to achieve a minimum net density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness as defined

HOU3: Seeks to secure 25% affordable housing on all sites of 15 dwellings or more where this is financially viable.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character. Development proposals will be required to preserve and where appropriate enhance aspects of the historic environment together with their settings.

ENV3: Refers to design quality requirements.

ENV5: Seeks to minimise the probability and consequences of flood risk.

ENV7: All residential developments of 10 units or more must incorporate generation of energy from renewable sources sufficient to offset at least 10% of the energy demand of the development.

### **Walsall's Unitary Development Plan (UDP)**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

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

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: Encourages reclamation and development of derelict and previously developed land where possible in accordance with other policies.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV27: Seeks to protect buildings of historic or archaeological interest.

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

ENV31: Refers to the continued protection of the historic built environment.

ENV32: Proposals should take in to account the surrounding context including consideration of the effect on the local character of the area, vehicular and pedestrian patterns and visual relationship to surrounding areas.

ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: The quality of all water resources will be protected.

H3: Encourages provision of housing through re-use of previously developed sites provided a satisfactory residential environment can be achieved, the site is not required to be retained for employment, there is good accessibility and residential development does not constrain the development of adjacent sites .

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.

T1: All development should conform to the accessibility standards set out in policies T10-T13.

T4: Classifies the highway network and specifies that residential streets and minor roads are those where traffic volumes and speeds should be quite low. Sometimes traffic calming measures will be required.

T5: Seeks to implement selective improvements to highway infrastructure and states highway improvement schemes should be designed to minimise any adverse impact on the environment or the amenity of residents.

T7 – All development should satisfy the car parking standards set out in Policy T13.

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

1, 2 & 3 bedroom houses – 2 car parking spaces per unit

### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

### **Designing Walsall SPD**

DW1: Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DW2: Safe & Welcoming Places - all new development must contribute to creating places that feel safe.

DW3: Character - all new development must be designed to respect and enhance local identity

DW4: Continuity - Well defined streets with a continuity of built form are important.

DW5: Ease of Movement – connections to existing routes

DW6: Legibility - new development should contribute to creating a place that has a clear identity

DW7: Diversity – contribute to creating living places that offer a mix of activities to the widest range of possible uses

DW8: Adaptability – contribute to creating flexible and adaptable places that can easily change over time.

DW9: High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality.

DW 10: Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

Appendix D identifies privacy and aspect distances between dwellings, garden/amenity dimensions and design considerations. 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.

### **Conserving Walsall's Natural Environment SPD**

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

It is considered in this case that the relevant provisions of SPD Conserving Walsall's Natural Environment are consistent with the NPPF.

### **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 Urban Open Space**

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

### **Consultations**

**Transportation** – No objections. The proposed office parking provision (60 spaces including 5 disabled spaces and 3 electric vehicle spaces) is above that normally recommended by UDP policy T13 which would require 33 spaces. The developer has indicated that this level of parking is required to meet the operational needs of the development for an office Headquarters. The office development access arrangements and cycle storage provision is acceptable. The proposed residential development has 200% parking which accords with recommended parking in UDP policy T13. The existing zebra crossing in Field Street will need to be relocated to accommodate the new access point for the residential scheme.

Overall the development will not have severe transportation implications and is acceptable.

**Black Country Archaeologist** – An archaeological condition should be included. The site is immediately to the north of the projected extent of the medieval town and close to a medieval moated site. The areas to the west and east of the current buildings within the site potentially possess undisturbed deposits, and it's possible (although less likely) that truncated deposits survive beneath and between the buildings themselves. An evaluation would be needed to determine whether any archaeology is present, and if significant deposits are identified, they'd need to be excavated and recorded prior to development.

**Coal Authority**- No objections. The site is likely to be affected by historic unrecorded underground coal mining at shallow depth. The content and conclusions of the supporting reports are sufficient to demonstrate the site is safe and stable for the proposed development. More detailed consideration of ground conditions and foundation design will be required as part of any subsequent building regulations application.

**Conservation** – No objections. The phase one works would have “less than substantial harm” to the conservation area as a whole and “substantial harm” to the locally listed building. Although it is considered that there will be substantial harm in demolition of part of the locally listed building, the substantial benefits of refurbishing the building and the public benefit in maintaining a prominent structure for re-use balances in favour of the development. Elements of mitigation have been incorporated into the scheme such as the reuse of materials in order to allow the additions and sealing up of the building to be in-keeping with the existing structure. It would assist in mitigating the impacts of the building if a photographic building recording was undertaken on the demolished component and archives in a local record office. Clarification over proposed external insulation is required as this would not be appropriate on the former school buildings only on the new build housing. An improved design for the detached bicycle and storage block is recommended.

The proposed housing would be constructed in the grounds of the school on existing playground areas and would maintain the frontage of the existing school building along Stafford Street. This would have “less than substantial” impacts upon the setting of the locally listed former school and conservation area.

As the existing school building has plastic windows and the proposed scheme is for a modern style of design, the user of materials such as plastic windows, although not preferred, would be appropriate within this context and would not have adverse impacts to the setting of the locally listed building or the conservation area as a whole.

Although there are some impacts to the openness presently enjoyed by the former school building, the dwellings appear to be designed and located in a way which enables the existing school building to retain its Local Listed status and as a focal point within the local area. It is considered that the provision of dwellings within the curtilage of the former school will enable benefits to the local community as is a benefit which weighs in favour to the application in this particular circumstance.

On this basis both phases of the proposed scheme are acceptable.

**District Valuation Officer** – The appraisal takes account of the residential phase 2 elements only against a policy compliant provision for 25% affordable housing and a S106 contribution of £39,501 towards urban open space. An allowance for a developer's profit of



17.5% (open market) and 6% (affordable) has been made. The gross development value is £2,605,482. Construction costs, abnormal costs, sales and marketing costs, professional fees and finance costs, developers profit and land acquisition fees have all been considered. The residual land value equates to minus £309,113. In conclusion the applicant has demonstrated that the proposed residential development is unviable with full policy compliant requirements.

**Ecology** – No objection. The applicant has provided information to satisfactorily address the “Three Tests” set out in the Habitats Regulations. The presence of nesting birds can be dealt with through a planning condition which is recommended.

**Environmental Health** – No objections.

**Housing Strategy** – No objections. In accordance with BCCS policy HOU3 the proposal triggers a requirement for 25% affordable housing on site. This would need to be 5 affordable rent homes (no more than 80% of market rent) and should be the 3 terraced 2 bed houses, and a pair of 3 bed semi-detached houses.

**Landscape** – Objects. A more detailed landscaping plan and maintenance strategy is required.

**Police** – No objections. As this is one of the highest crime areas in Walsall it is recommended that Secure by Design specifications are incorporated. For the offices it is recommended that access control on entry and exit points are incorporated, plus CCTV and intruder alarm. For the houses specifications for doors and windows, boundary fencing and other security measures are also recommended. A note for applicant is recommended advising of these measures. There is concern about the parking at the rear of 10-12 being vulnerable.

**Pollution Control** –No objections. It is recommended that control measures during the demolition and construction phases, and conditions on land contamination and requirements for noise mitigation are secured on any permission.

The asbestos survey has identified that asbestos is present in some parts of the site and also advises that access was not possible for some areas. It is recommended that prior to full demolition commencing a further asbestos assessment is undertaken of the site, including areas that previously were inaccessible. Further site investigation works upon demolition of the building to identify whether additional contamination is present in the land are required.

The noise survey has indicated that a suitable noise environment is possible for future residents provided certain mitigating measures are undertaken. The consultants have used a 13 dB loss through a partially open window which is slightly on the high side and it is recommended that consultants use a figure of 10 dB, when they specify solutions to the noise issue. Acoustic mitigation measures should consider maximum noise levels, as well as average noise levels. A Construction Working Plan is recommended to ensure that demolition/engineering/construction activities do not cause excessive disturbance to nearby residential premises and the road network. These matters can be secured by recommended conditions.

**Severn Trent Water** – No objections subject to provision of drainage details. A condition to secure this is recommended.

**The Coal Authority** – The site is in a High Risk Area.

### **Public Participation Response**

Three letters of representation have been received. One querying what the boundary treatment to neighbouring properties will be, the other two letter of objection are from one household and are summarised as follows:

- Increased traffic noise from the new access on Field Street
- Repositioning of zebra crossing should be further away from Memorial Close
- Noise from increased vehicles going over the road hump
- Access opposite Memorial Close increases traffic noise
- Could the access be relocated to where plots 10, 11 & 12 are?

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

### **Determining Issues**

- Principle of development
- Impact on the setting of the conservation area and locally listed building
- Layout and Design
- Relationship to surrounding properties
- Ecology and Trees
- Access and parking
- Provision for Affordable Housing and Urban Open Space
- Local Finance Considerations

### **Observations**

#### **Principle of development**

Re-use of the vacant school building and redevelopment of a previously developed Brownfield site in a sustainable urban location is in accordance with the NPPF and BCCS and local development plan policies.

The use of the former school building for offices is considered appropriate as it will support the existing BE Wedge business in Willenhall and allows for retention of the locally listed building. The phase two residential development makes more effective use of the previously developed land and residential development is considered appropriate given the surrounding character of the area.

The principle of development is acceptable on this basis.

#### **Impact on the setting of the conservation area and locally listed building**

The phase one office proposal allows for retention of a large proportion of the locally listed building including the clock tower, gables and windows as referred to in the listing description. Although the part demolition of the building will cause substantial harm to the locally listed building the proposal allows for the retention of the remainder of the building and sympathetic extensions and alterations which is supported. The proposal also retains the trees, wall and railings to Stafford Street thus maintaining the setting of the building within the conservation area. The conservation officer is satisfied that phase one proposals would have less than substantial harm to the conservation area setting.

The phase two housing has less than substantial harm on the setting of the conservation area or locally listed building as although it is located on land within the present curtilage of the school it will be viewed separately from the former school buildings which remain the focal point of the local area.

In terms of the details of the elevations the application suggests the use of various materials including render and plastic windows. Although these are not ideal, there are plastic windows at the school already and provided render is not going to be applied to the locally listed building then there is no significant adverse impact on the locally listed building or conservation area as a whole. A condition is recommended to secure details of all external facing materials which will address the conservation officer's concerns. Conditions are also recommended to deposit a photographic record of the locally listed building with the local archive and to require an Archaeological Assessment. This is to address the Black Country Archaeologist and Conservation Officer comments.

### **Layout and Design**

The phase one proposal for conversion of the former school building to offices allows for retention of the locally listed building and retains the setting and landscaping to Stafford Street frontage. The proposed office extensions are considered to be in proportion with the original building as they represent a 20% increase in floor space from the original building, part of which is within the galleried first floor. The proposed plans also indicate that demolished materials will be reclaimed for use elsewhere on the retained buildings where possible.

The proposed design of the extensions is to reflect the design of the existing school building in terms of scale, height and design. In order to address the conservation officer concerns in respect of external materials a condition to secure details is recommended.

The provision of an outbuilding for bins, cycle and garden storage for the offices is considered appropriate. Although the conservation officer has requested a revised roof design this building is close to the boundary of existing houses in Croft Street which have short gardens bordering this site. In the circumstances, as the outbuilding is not prominently visible from the public areas and does not detract from the locally listed building it is considered acceptable as shown with a flat roof which reduces the impact on the outlook from the adjoining neighbours.

The proposed phase two housing is accessed off a new cul-de-sac from Field Street. The houses face the new access looking internally within the site except for plots 10, 11 and 12 which face Field Street. Although the layout is primarily inward looking the plots on either side of the access (plots 1 and 20) have a double height bay window facing Field Street to provide some surveillance of the street. The plots which back on to Field Street will retain the walls of the school outbuildings at a height of 1.8m and to modify them to include fence inserts. The appearance of the site from this aspect will not be significantly different. The proposed houses are a modern design but are considered acceptable.

Each dwelling has an adequately sized garden despite not all achieving the garden area recommended in SPD: Designing Walsall. As the site is just over 200m away from Willenhall Memorial Park and just over 180m from Willenhall Town Centre the location will offer alternative amenity benefits for future occupiers. There is adequate distance between existing and proposed dwellings to maintain privacy and outlook for occupiers. The new dwellings on Field Street are positioned to respect the adjacent houses on this part of the street.

There will be a boundary between the offices and proposed new houses to segregate the two uses. As the offices are only proposed to be occupied on weekdays this will not cause significant harm to existing or proposed residents nearby.

The layout and design is considered acceptable.

### **Relationship to surrounding properties**

The conversion of the former school to offices is to create a head office for BE Wedge a long established business in Willenhall. The business has existing offices immediately adjacent on Stafford Street. Although there is nearby housing in Field Street, Memorial Close and Croft Street the offices are proposed to be open between 08.30 and 17.30 Mondays to Fridays only which should limit any potential impact on the residential amenities of these neighbours. The utilisation of the building as offices will not have any significantly greater impact on the surrounding area than when the premises were occupied as a school.

An adjacent neighbour has raised concerns about possible boundary treatment along their property boundary with the site as there are existing school buildings along the boundary. A condition to secure appropriate boundary treatments is recommended which should address this concern.

Another resident has concerns regarding increased noise from additional traffic utilising the new access for the proposed phase two housing in Field Street opposite their house and from vehicles going over road humps. Given that the site was previously occupied as a school which would have attracted a significant number of vehicles during peak times the proposed residential development for 20 dwellings is likely to attract significantly less vehicular traffic. Also Field Street is an adopted highway so vehicles using this highway are as likely to create noise as any arising from the new development.

The proposed houses are an adequate distance away from the nearest houses and will not cause significant overlooking, loss of daylight or privacy for existing occupiers. The outlook will inevitably be altered but there will be no significant harm to residential amenities.

A condition is recommended to restrict demolition and working hours to protect residential amenities of surrounding occupiers.

The proposed development does not have a significant impact on the amenities of surrounding occupiers.

### **Ecology and Trees**

The supporting information identifies a bat roost in the school buildings. Further information has been provided for consideration of the three tests set out in the Conservation of Habitats and Species Regulations 2010 in this respect.

*Test 1 the "Purpose" test* refers to 'imperative reasons for overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment' it is highlighted that from an economic perspective the proposed development will retain existing employment and create potential future jobs in an area which has seen the closure of major employers in recent years. From a social perspective the development includes affordable housing to meet a current demand in the

community, council tax and business rates chargeable on the premises will benefit the community. From an environmental perspective the re-use of the building and energy conservation measures will make a significant contribution to sustainable development and retention of trees and vegetation provide green infrastructure and link to the site history.

*Test 2 “No Satisfactory Alternative” test* refers to the alternatives as being to restore the school buildings, do nothing and allow the school to fall into ruin or to clear the site and redevelop with a completely new development. There is no requirement for the building to be used as a school and the buildings do not lend themselves to viable purposes without alteration so the restoration of the school buildings is not viable. The buildings are subject to vandalism and arson and are dangerous to the local community which is not a suitable alternative and the bat roost would be totally lost. If the site is cleared and redeveloped the bat roost would be lost. The approach balances retention, refurbishment and new build and enables a compromise with benefits as described in Test 1.

*Test 3: the “Maintenance of Favourable Conservation Status” test* of the. It states that implementation of phase 1 development will not adversely affect the favourable conservation status of the population of the species of bat using the building. The mitigation and compensation measures in Phase 2 are considered an enhancement.

Based on the above considerations the “Three Tests” set out in the Habitat Regulations have been met.

A condition is recommended to protect nesting birds and to require details of nesting boxes prior to any new construction works. This is considered to be more reasonable than to require details of nesting boxes prior to demolition works.

The proposal retains the majority of trees within the Stafford Street frontage and adjacent the boundary with the war memorial which is welcomed. Some trees are proposed for removal to create the access and plots within the phase two housing but new planting is proposed to compensate for this. The majority of trees within the public view are retained. Conditions are recommended to protect the retained trees on site.

The proposed impact on ecology and trees has been fully considered and is acceptable.

### **Access and parking**

The proposed phase one offices utilises the existing access and egress points on Stafford Street. There are 60 car parking spaces which, despite being above the recommended parking levels in UDP policy T13, the developer has justified as necessary to serve their operational needs as the offices are intended to operate as Head Office for BE Wedge. The Transportation officer is satisfied with the access arrangements and the level of parking which has been justified by the developer. A cycle store is also proposed to encourage alternative sustainable travel. This is combined with a bin and gardening store to cater for the proposed offices.

The proposed access for the phase two housing is acceptable subject to relocation of the existing zebra crossing in Field Street. The objector is concerned about the repositioning of the crossing and requests that it is further away from the junction with Memorial Close. The relocation will be a matter of highway safety and will be for highways officers to consider. A condition is recommended to secure details of the repositioning. With regard to the alternative access position requested by the objector (in the location of plots 10, 11 & 12) this location may not provide adequate visibility and would be close to the highway

junction so more likely to impact on highway safety. The proposed access position indicated is considered the safest alternative.

The access and parking arrangements are considered acceptable and will not have a severe impact on the surrounding highway network.

### **Provision for Affordable Housing and Urban Open Space**

Under the terms of policies DEL1 and HOU3 of the BCCS and SPD Affordable Housing phase two of the proposal triggers the need for provision of affordable housing. Provision of 25% would equate to the need for 5 units. The developer is proposing the 3 x 2 bed terraced units for social rented. The Housing Strategy officer requires 5 units and has requested 2 x 3 bed semi-detached houses in addition to the 3 x 2 bed terraced units offered. This is normally secured by a S106 Agreement.

Under the terms of policies DEL1 of the BCCS and policies GP3 and LC1 of the UDP and SPD: Urban Open Space phase two of the proposal triggers the requirement for a contribution towards provision of urban open space. Based on the policy requirements this equates to a contribution of £39,501.00 normally secured by a S106 Agreement. The developer is proposing nil.

The developer has provided a Financial Viability Assessment which has been reviewed by the District Valuation Officer. The District Valuation Officer has concluded that the scheme is not viable with full policy compliant requirements for affordable housing and urban open space. In the circumstances it is recommended that the proposal is granted subject to conditions only with no S106 Agreement to secure affordable housing or urban open space contributions.

### **Local Finance Considerations**

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

This application proposes 20 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

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

### **Positive and Proactive working with the applicant**

Officers have discussed the significance of the proposals with the applicant and their agent and discussed the process for determining this application. In response to this advice

relevant supporting information and additional revised plans have been submitted. In light of the submitted details officers are able to support the scheme.

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

- Phase 1 & 2 Site Layout Plan (606-14-10C) received 27/07/15
- Phase 1 Demolition Plan (606-14-11) received 21/04/15
- Phase 1 Demolition Elevations Sheet 1 (606-14-12) received 21/04/15
- Phase 1 Demolition Elevations Sheet 2 (606-14-13) received 21/04/15
- Phase 1 Proposed Plans (606-14-14) received 27/07/15
- Phase 1 Proposed Sections (606-14-15) received 21/04/15
- Phase 1 Proposed Elevations (606-14-16) received 21/04/15
- Phase 2 SH1 Proposed House Types (606-14-17A) received 27/07/15
- Phase 2 SH2 Proposed House Types (606-14-18) received 27/07/15
- Phase 2 Street Scenes (606-14-19) received 27/07/15
- Design & Access and Heritage Statement prepared by Roger Evans Associates (606-14) received 21/04/15
- Further Bat Survey prepared by Apex Ecology (HB/141001 October 2014) received 01/06/15
- Updated Bat Survey prepared by Apex Ecology (HB/140105 – January 2014) received 27/04/15
- Tree Report prepared by Cedarwood Tree Care received 30/04/15
- Asbestos Management Survey prepared by Bradley Environmental (J015671) received 27/04/15
- Traffic Statement prepared by Roger Evans Associates (606-12) received 27/04/15
- Site Search prepared by Groundsure (GWD-1912859) received 27/04/15
- Noise Survey & Impact Assessment prepared by Environmental Evaluation (76643) received 27/04/15
- Site Investigation prepared by CJ Associates (T0862B – May 2007) received 27/04/15
- Site Investigation prepared by CJ Associates (AD0134 – April 2015) received 27/04/15

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

3a. Prior to the commencement of either phase of the development a construction management working plan shall be submitted for approval in writing with the Local Planning Authority. This shall include details of where parking and turning facilities for site operatives and construction deliveries will be located and including full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.

3b. The development shall be carried out in full compliance with the approved construction working plan.

*Reason:* To protect the amenities of surrounding properties and to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety.

4. Prior to demolition of any buildings on site a site survey to identify any potentially hazardous materials, including asbestos, shall be carried out and a Method Statement produced detailing actions and time scale to be taken to prevent localised contamination.

*Reason:* To prevent localised pollution and protect the health of local residents and construction workers.

5. Upon completion of demolition and site clearance, the following matters shall be addressed:

- i. Prior to built development commencing additional site investigation, ground contamination survey, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)
- ii. Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey, together with an assessment of the hazards arising from any land contamination and ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii. Prior to built development commencing a "Remediation Statement" setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- iv. The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- v. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the "Remediation Statement" required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- vi. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

*Reason:* To ensure safe development of the site and to protect human health and the environment.

6a. Prior to the commencement of either phase of the development drainage details for the disposal of both surface water and foul sewage shall be submitted to and approved in writing by the Local Planning Authority.

6b. The development shall be completed with the approved details and retained as such.



*Reason:* To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution. As drainage is below ground infrastructure it needs to be addressed prior to commencement of the development.

7a. Prior to the commencement of the development an Archaeological Evaluation Report shall be submitted to and approved in writing by the local planning authority to determine whether any archaeology is present. If significant deposits are identified a scheme for excavation and recording shall be agreed in writing with the local planning authority prior to built development commencing.

7b. A photographic building recording survey of the demolished components of the former school building shall be carried out and deposited in a local archive.

*Reason:* To ensure that below ground archaeological remains are recorded ahead of and/or during development and to ensure a record of the original locally listed building is maintained.

8a. The applicant shall agree details of acoustic glazing, acoustic ventilation, and acoustic boundary treatment to be installed in writing with the Local Planning Authority.

8b. Agreed acoustic mitigation measures shall be fully implemented prior to the accommodation coming into use.

*Reason:* To protect the internal and external amenities of future residents.

9a. Prior to the phase one office development first coming into use, all parking and vehicle manoeuvring spaces shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or any highway drain and the parking bays clearly demarcated on the ground.

9b. These areas shall thereafter be retained and used for no other purpose.

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

10. Prior to the phase one office development first coming into use the following details shall be provided:

- i. Appropriate signage shall be erected and maintained at the access/egress points on Stafford Street to clearly indicate the proposed one-way operational arrangements of the office car park.
- ii. An illuminated 'Left Only' only sign and associated plate to Traffic Signs Regulations and General Directions 2002, diagrams 606 and 607, shall be mounted on the highway opposite the egress point, full details of which shall be submitted to and approved in writing by the Local Planning Authority.

*Reason:* To ensure the access/egress arrangements are clear to staff and visitors in order to avoid vehicle conflicts in the interests of highway safety and the satisfactory operation of the development.

11a. Prior to the phase one office development first coming into use, the cycle shelter shown on approved drawing 606-14-16, shall be fully implemented in accordance with the approved details.

11b. The cycle shelter facility shall thereafter be retained and used for no other purpose.

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

12a. Prior to the first occupation of any individual new dwelling on phase two of the development, all vehicle hard standing, parking areas and access ways serving that dwelling shall be fully consolidated, hard surfaced, drained so that surface water run-off from these areas does not discharge onto the adoptable or existing highway or any highway drain and brought into use.

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

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

13a. Prior to the commencement of the phase two development, full engineering details of all adoptable highway works and works within the existing highway shall be submitted to the Local Planning Authority for technical approval in writing and shall include the following:-

- i. the proposed access road,
- ii. the new bellmouth access point onto Field Street,
- iii. the relocation of the existing zebra crossing to the east of the new access road (including removing/replacing any associated guard railing, signage and modification to any Traffic Regulation Order),
- iv. the reinstatement of any existing redundant vehicle footway crossings,

13b. Prior to the first occupation of any new dwelling on phase two of the development, the highway infrastructure works detailed under part (a) of this condition shall be fully implemented in accordance with the approved details.

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

14. The 2.4m x 90m visibility splay at the new access point on Field Street and shown on drawing no.606-14-10C, shall be kept free of any structures or planting exceeding 600mm in height above carriageway level.

*Reason:* In the interests of highway safety.

15a. Prior to the commencement of any built development on either phase above damp proof level on any structure full details of all external facing materials shall be submitted to and agreed in writing by the local planning authority.

15b. The development shall be implemented fully in accordance with the agreed facing materials.

*Reason:* To ensure the materials throughout the development harmonise with those in the surrounding vicinity and existing locally listed building.

16. Notwithstanding the submitted details of roof lights within the phase one office conversion the proposed roof lights shall be conservation type and not protrude above the tile line or the roof plane.

*Reason:* To ensure the roof lights harmonise with the locally listed building.

17a. To avoid the risk to nesting birds, site clearance and dismantling works should be undertaken outside the bird nesting season. The bird nesting season extends between mid February and September inclusive but is weather dependent and nesting may take place outside this period. If this is not possible no site clearance works should be undertaken until the site has been surveyed for nesting birds by a qualified ecologist. If nesting birds are discovered, clearance works should be delayed until the young have fledged. (Please note that feral pigeons are protected and destruction of nests could only take place on the grounds of public health or public safety.

17b. A scheme for the provision of house sparrow nesting boxes shall be approved in writing by the local planning authority prior to any new construction works. The approved scheme shall be installed before any part of the development is brought into use and retained thereafter with access openings maintained free of obstructions at all times.

*Reason:* To conserve the local bird populations.

18a. Prior to the commencement of any built development above damp proof level, a detailed landscaping scheme and maintenance strategy for the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted on a plan to an appropriate scale and shall include where applicable, details of:

- i. Measures to be taken to protect existing trees and planting during construction of the development
- ii. ground preparation measures to be adopted
- iii. Topsoil specification to relevant British Standard – If existing soils are to be used, details of its suitability through detailed soil analysis, retention, improvement, cultivation or safe storage for re-use should be specified.
- iv. Specification and depths of topsoil/ subsoil/ growing medium and any mulches.
- v. Further details of proposed tree/plant species, number of plants/shrubs, size at time of planting, density, ground surface treatment, tree support and tree pit details, root barriers and mulching. Full details of sizes/ container volumes/ seed mixes/ plant numbers/ provenance/ botanical and English names and methods of planting.
- vi. Full specification for walls, fences, gates (both on the boundary and internal to the site, showing materials, heights and location), and paving (materials and layout).
- vii. Any additional information such as site furniture.

18b. The scheme shall be completed fully in accordance with the approved details before the development is occupied and retained as such.

18c. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which die, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

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

19. None of the existing trees on the site (other than those indicated for removal on the proposed site layout plan – 606-14-10C) shall be lopped, felled or root pruned without the prior consent in writing of the Local Planning Authority. The development shall be implemented in accordance with tree protection measures that comply with the recommendations of BS5837:2012. The tree protection measures shall be maintained throughout the development.

*Reason:* To safeguard the protected trees on the site.

20. During site preparation and building operations no storage of materials, equipment or waste, nor passage of vehicles, nor lighting of fires shall take place beneath the canopy of any tree to be retained.

*Reason:* To safeguard the protected trees on the site.

21. No digging of trenches or changes in ground level shall be undertaken within the canopy of any tree to be retained on the site without the written approval of the Local Planning Authority.

*Reason:* To safeguard the protected trees on the site.

22. 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 only take place between the hours of 08.00 to 18.00 Mondays to Fridays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday

*Reason:* To protect the amenities of surrounding occupiers.

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

**CL1:** Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in the National Planning Policy Framework (2012); British Standard BS10175: 2011+A1:2013 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

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

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

#### **Notes for Applicant – acoustic mitigation measures**

If the applicant cannot agree acoustic mitigation measures then they must undertake a full noise survey to be agreed in writing with the Local Planning Authority. The aim of the survey will be to inform on the need for implementing mitigation measures such that the requirements of British Standard BS 8233: 2014 ‘Guidance on sound insulation and noise reduction for buildings’ and ‘Guidelines for Community Noise’, World Health Organisation 2009 will be achieved. The following has general relevance:

- Internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq 8 hours, of 30 dB together with a maximum instantaneous level# of 45 dB LAFmax, between the hours 23.00 to 07.00;
- Internal noise levels within habitable rooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq 16 hours, of 35 dB, between the hours 07.00 to 23.00.
- Sound reduction from a partially open window shall be 10 dB(A).

# Not to be exceeded for more than 10 instances.

#### **Note for applicant - Highways**

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

2. The applicant will be expected to enter into an agreement under S38/278 of the Highways Act 1980 with the Highway Authority for all adoptable highway works and works within the existing public highway.

#### **Note for applicant – police**

*Houses*

1. The developer should be made aware of Secure By Design specifications which will significantly increase the security of the building ( doors and windows). Information can be found at [http://www.securedbydesign.com/pdfs/SBD\\_New\\_Homes\\_2010.pdf](http://www.securedbydesign.com/pdfs/SBD_New_Homes_2010.pdf)
2. All external door and windows sets should comply to PAS 24 2012 standards. (This includes French doors).
3. All ground floor and accessible windows should contain a pane of laminated glass which complies to BS EN 356:2000 class P1A. This will improve the standard of security to the more vulnerable ground floor windows.
4. All ground floor front facing windows on the houses should have an area of defensible space across their width. This should be made up of densely planted shrubs. This will provide a buffer area between the windows and other public or private space, making it more difficult for offenders to access such windows. Where plants / shrubs are to be used in front of windows or around parking spaces the plants should be such that they grow to no more than 1m in height when mature. Plants and shrubs should also suit the environment they are to be located in terms of soil and light.
5. Perimeter and Boundary fencing in general should be at least 2.1m in height, (2.4m adjacent to public footpath see below) the fencing should be erected so that the smooth face is always facing outwards so that the frame cannot be used as a climbing aide. Anti-Climb Trellis topping can be incorporated to achieve the required height offering greater protection of the vulnerable rear of the properties e.g. 1.8m fencing plus 300mm anti climb trellis = 2.1m. Where panel and concrete post style fencing is to be used there needs to be a fixing between panel / slats around the posts which should create a secure mechanical bond. This should provide a chain linking effect where each panel and post acts in concert with the next to resist attack by pushing, pulling and lifting. Fixings should be made of galvanized steel or stainless steel with a design life to match the timber components. Where the boundary fence adjoins the neighbouring office development i.e. plots 1-5, fencing along this boundary should be 2.4m in height to reduce the risk caused by the open nature of the office development and potential ease of access for offenders to this boundary line.
6. All side gates should be as close to the building line as possible to improve natural surveillance by removing or limiting the depth and number of recesses.
7. Due to the national increase in metal thefts where possible lead substitute products should be used.
8. All the buildings on this development should be suitably fitted with an intruder alarm.
9. Care needs to be taken that where low level fencing adjoins higher levels of fencing that the lower levels do not create a climbing aid to assist offenders.
10. I have concerns about the proposed parking at the rear of plots 10-12 and in my opinion this should be changed. Secure By Design states that the safest place to park a vehicle is in locked driveway in front of the vehicle owners property. *Vehicles need to be parked in a position whereby they can clearly be seen by the owner, from their property.* This is not the case as it stands!! As a result there is an increased vulnerability to any vehicles parked at this location. Not only does the current layout expose the vehicles

parked in this area, it also exposes the vulnerable rear gardens of the plots that back onto these areas due to the lack of natural surveillance.

*Office development:*

Due to the high level of crime in the area the Office development should meet the standards outlined in Secure By Design for Commercial Premises 2015 details of which can be found at

[http://www.securedbydesign.com/professionals/pdfs/SBD\\_Commercial\\_2015\\_V2.pdf](http://www.securedbydesign.com/professionals/pdfs/SBD_Commercial_2015_V2.pdf)

1. The parking proposals leave vehicles isolated and vulnerable, the current risks can be reduced by the use of an access controlled gated system on entry and exit points.
2. An extensive CCTV system covering all areas of the car park would also act as a deterrent.
3. The building should be protected by an appropriate intruder system which should be monitored.
4. It is recommended that all ground floor windows have an area of defensible planting across its width.







## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 07-Jan-2016

**Plans List Item Number: 3.**

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

**Location:** PLECK WORKING MEN CLUB, 502 PLECK ROAD, WALSALL, WS2 9HE

**Proposal:** DEMOLITION OF EXISTING WORKING MEN CLUB AND CONSTRUCTION OF NO. 11 RESIDENTIAL UNITS.

**Application Number:** 15/0105/FL

**Case Officer:** Stuart Crossen

**Applicant:** Mr B Verma

**Ward:** Pleck

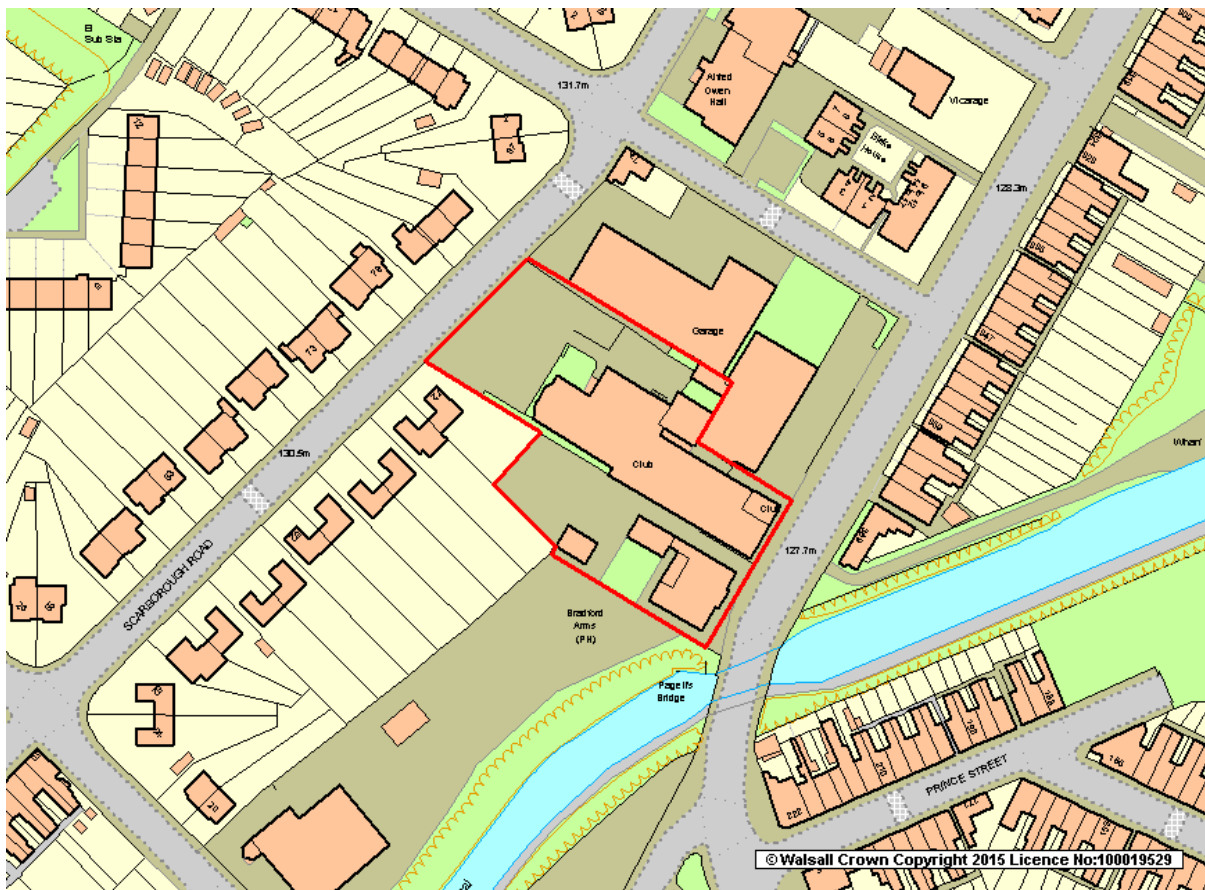
**Agent:** Mr Anthony Spruce

**Expired Date:** 07-May-2015

**Application Type:** Full Application

**Time Extension Expiry:**

**Recommendation Summary:** Grant permission subject to conditions and section 106 agreement for open space.



## **Application and Site Details**

This application seeks planning permission for the demolition of a closed working men's club (D1 use class) to be replaced with 1 detached and 10 semi-detached houses and to include a private access road. The overall application site is 0.3 hectares and measures 32m across at its widest, with a depth of 91m, would be set back from Scarborough Road by at least 6m and set back from Scarborough Road by at least 4m. Seven of the houses would face the street with 4 placed to the back of the houses facing the proposed access road and adjacent site to the North. There would be two different house types:

Plot 1 - Detached: Two bedrooms with a bathroom, open plan kitchen/lounge. Main side gable roof, front projecting gable. 4.7m wide, 8.6m in depth and 7.5m in height with parking space to the rear. Rear garden length of 13m and area of 78sqm. Mix of render and brick to elevations, with tiles to roof.

Plots 2 – Semi-Detached: Two bedrooms with a bathroom open plan kitchen/lounge. Main side gable roof, front projecting gable. 4.7m wide, 8.6m in depth and 7.6m in height with parking space to the rear. Rear garden length of 13m and area of 78sqm. Mix of render and brick to elevations, with tiles to roof.

Plots 3 – Semi-Detached: Two bedrooms with a bathroom open plan kitchen/lounge. Main side gable roof, front projecting gable. 4.7m wide, 8.6m in depth and 7.6m in height with parking space to the rear. Rear garden length of 15m and area of 92.8sqm. Mix of render and brick to elevations, with tiles to roof.

Plots 4 - 11 – Semi-Detached: Two bedrooms with a bathroom open plan kitchen/lounge. Main side gable roof, front projecting gable. 4.7m wide, 8.6m in depth and 7.6m in height with parking space to the rear. Rear garden length of 12m and area of 72sqm. Mix of render and brick to elevations, with tiles to roof.

All of the houses would have a parking space, space for bins at the front, washing lines, compost heaps and 1.8m boundary fencing.

The private road would be over 8m wide, using a shared surface (with no defined pavement). The application site is 0.3ha which gives a development density of 37 dwellings per hectare (dph). To the north elevation a landscaped area for proposed planting is included across the shared boundary to the adjacent garage defined by a brick wall. Amended plans have been received which include metal gates to secure the parking at the rear of plots 1-3.

Plots 1 – 3 faces Pleck Road, plot 1 would be 4 metres further forward of the adjoining garage in line with the front of the Bradford Arms which would be to the side of plot 3. Plots 2 and 3 would be 6 metres back from the Bradford Arms and over 5 metres away

Plots 8 to 11 face Scarborough Road which is a road predominantly of post war semi-detached traditional styled houses which have an average density of 26dph.

The following documents have been submitted with the application:

*Coal Mining Report and Coal Mining Risk Assessments* – Recommends that further investigative works are undertaken prior to development.

*Noise Impact Assessment* – Recommends that plots 1-3 have mechanical ventilation, these being the houses subject to the most noise from traffic.

*Asbestos Pre-Demolition Survey Report* – Identifies asbestos within the existing building to be demolished.

#### *Design and access statement*

- The design of the building complement the surrounding area
- Each house to be secured by a 1.8 metre high close boarded fence
- Houses to match those on Scarborough Road in colour, design and texture.
- Sustainable location with public transport connections to Wednesbury and Walsall.
- Car parking spaces to be porous and clearly marked.
- Each development to have a covered storage area.
- The site has not been in use for over 3 years, next door is a public house and there are 2 others in walking distance, for these reasons the proposal is considered would not result in the loss of a local community facility.

#### *Planning Statement*

Confirms that the applicant intends to extend the flue at The Bradford Arms and to face the flue tip in the opposite direction of the proposed development.

The red line of the application site has been amended to also include The Bradford Arms site and correct notices served.

### **Relevant Planning History**

12/1000/FL - Extensions, increases in height and alterations to existing working mens club to form new function, banqueting and social club and revised internal layout. Refused on the 28/03/13

12/1164/FL - Extensions, increases in height and alterations to existing working mens club to form new function, banqueting and social club and revised internal layout. Refused on the 28/03/13

Appeal Dismissed 30/07/13

### **Relevant Planning Policy Summary**

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

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- find ways to enhance and improve places in which people live their lives
- contribute to conserving and enhancing the natural environment and reducing pollution.

- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas.
- encourage the effective use of land by reusing land that has previously been developed.

**Key provisions** of the NPPF relevant in this case:

1. Delivering sustainable development

19 Planning should encourage sustainable growth.

22 Avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose.

4: Promoting Sustainable Transport

32 All development should have safe and suitable access to the site for all people.

Development should only be refused on transport grounds where the residual cumulative impacts of development are severe.

35. Developments should be located to create safe and secure layouts.

39. If setting parking standards for residential LPA's should also take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

6: Delivering a Wide Choice of High Quality Homes

49. Housing applications should be considered in the context of the presumption in favour of sustainable development.

55. Avoid new isolated homes in the countryside unless there are special circumstances.

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

58. Decisions should aim to ensure that developments:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Optimise the potential of the site to accommodate development
- Respond to local character and history and reflect the identity of local surroundings and materials
- Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion
- Are visually attractive as a result of good architecture and appropriate landscaping

60. It is proper to seek to promote or reinforce local distinctiveness.

61. Decisions should address the integration of new development into the natural, built and historic environment.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

9: Protecting Green Belt land

79 Green Belt policy is to prevent urban sprawl by keeping land permanently open.

87 Inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.

88 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

89 New buildings are inappropriate in the Green Belt. Except:

- Limited infilling or the partial or complete redevelopment of previously developed

sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

11. Conserving and enhancing the natural environment

109. The planning system should prevent new and existing development from contributing or being put at unacceptable risk from, or being adversely affected by unacceptable levels of...air...or noise pollution.

111. Planning decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided it is not of high environmental value.

118. Local planning authorities should aim to conserve and enhance biodiversity by....incorporate biodiversity in and around developments.

123. Planning decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **Local**

#### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24<sup>th</sup> July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The key planning policies include:

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

2b: Encourages sustainable management of material resources through minimising waste, ensuring all members of the community have the best access to housing, previously development land is prioritised over greenfield sites and encourages a comprehensive approach to development.

CSP1: A network of Regeneration Corridors linking the Strategic Centres will provide: high quality employment land, new homes in sustainable communities built on redundant employment land and other brownfield sites close to existing public transport routes and canal networks and locations with the best access to residential services, at moderate densities that allow for a range of house types.

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided. Green Belt boundaries will be maintained and protected from inappropriate development.

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

CPS4: The design of spaces and buildings will be influenced by their context and seek to enhance the unique attributes the area offers.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. All developments will aim to achieve a minimum net density of 35 dph except where higher densities would prejudice historic character and local distinctiveness as defined in Policy ENV2.

ENV2: Historic Character and Local Distinctiveness

States that development proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness. Proposal should aim to sustain and reinforce locally distinctive elements.

ENV3: Design Quality

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits. Implementation of the principles of "By Design" to ensure the provision of a high quality networks of streets, buildings and spaces. Meeting Code for Sustainable Homes Level 3 or above.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Planning permission will not be granted for development likely to have significant transport implications.

WM5: All new developments should address wastes as a resource, minimise waste as far as possible, manage unavoidable waste in a sustainable and responsible manner, and maximise use of materials with low environmental impacts.

It is considered in this case that the relevant provisions of the BCCS can be given full weight

### **Walsall's Unitary Development Plan (UDP) (2005)**

[www.walsall.gov.uk/index/environment/planning/unitary\\_development\\_plan.htm](http://www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm)

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

#### **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.

XII. The effect on woodland or individual trees on or near the site.

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

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

3.7 Seek to protect people from unacceptable noise, pollution and other environmental problems.

#### **Policy GP3: Planning Obligations**

(a) These will be used, as appropriate, to secure the provision of any on or off-site infrastructure, facilities, services or mitigating measures made necessary by a development; ensure the implementation of an agreed phasing scheme; or otherwise ensure that development takes place in a satisfactory manner in accordance with the policies of the Plan.

(b) The Council will, in particular, use such obligations to secure additional open space and recreational provision.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution caused by installations or activities that are a source of any form of pollution.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

#### **ENV32: Design and Development Proposals.**

(a) 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 in the following locations:

IV. Adjacent to transport corridors.

VI. Areas with a special character arising from the homogeneity of existing development in the neighbourhood.

## IX. Within Green Belt

(b) When assessing the quality of design the Council will use the following criteria:

- I. The appearance of the proposed development
- II. The height, proportion, scale and mass of proposed buildings/structures.
- III. The materials proposed.
- IV. The integration and co-ordination of buildings and external space.
- VI. The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- VII. The effect on the local character of the area.

ENV33: Good landscape design is an integral part of urban design. Development within the Green Belt should be supported by full details of landscape proposals.

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

### H3: Windfall Sites and Conversion of Existing Buildings

(a) The Council will encourage the provision of additional housing through the re-use of brownfield windfall sites, provided that:-

- I. A satisfactory residential environment can be achieved, taking into account the considerations set out in Policy ENV10.
- II. There is no overriding need for the land or buildings to be retained for employment or any other use.
- III. The proposal would have good accessibility by a choice of means of transport and be well related to schools, shops and other social and community facilities.
- IV. Residential development would not unacceptably constrain the development of any adjacent site for its allocated or identified use.
- V. The proposal is acceptable in terms of other policies of the Plan.

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

(a) The Council will encourage the provision of additional housing through the re-use of previously developed windfall sites and through the conversion of existing buildings, including vacant dwellings and the upper floors above shops and other business premises, provided that:-

- I. A satisfactory residential environment can be achieved, taking into account the considerations set out in Policy ENV10.
- II. There is no overriding need for the land or buildings to be retained for employment or any other use.
- III. The proposal would have good accessibility by a choice of means of transport and be well related to schools, shops and other social and community facilities.
- IV. Residential development would not unacceptably constrain the development of any adjacent site for its allocated or identified use.
- V. The proposal is acceptable in terms of other policies of the Plan.

(b) When considering proposals for the conversion of appropriate buildings into dwellings the Council will be flexible in the application of standards for parking and amenity space.

### Policy LC1: Urban Open Spaces

(a) The Council will seek to retain and enhance existing urban open spaces and redress any deficiencies in the provision or accessibility of these.

(d) 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.

### Policy LC8: Local Community Facilities

Proposals involving the loss of local community facilities, including public houses, clubs and other meeting places, will only be permitted if it can be demonstrated that:-

- I. There are other existing facilities, in an equally or more convenient location, which could accommodate any community activities displaced by the proposed development; or



II. A replacement facility could be provided in an equally or more convenient location; or  
III. There is no longer a need for the facility, or for any other community use which could be appropriately provided on the site in accordance with other policies of this Plan; or  
IV. It would not be possible to retain the facility, or provide an alternative community facility because, despite all reasonable efforts, this would not be viable.

**T7: Car Parking**

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

**T8: Encourages greater use of walking as a healthy and sustainable form of travel.**

**T10: Accessibility Standards – General**

(b) Standards will apply to all development proposals with the exception of:

i small residential developments within existing residential areas including infill plots

**7.51: Easy walking/cycling distance will depend on local circumstances but the maximum will normally be regarded as 1000m.**

**T12: Residential development should be within 400m walking distance to a bus stop which has a service frequency of at least 1 bus every 30mins during the day (12.00 and 19.00), 1 bus every hour on Sundays between 12.00 and 19.00.**

**T13: Parking Provision**

|                            |                   |
|----------------------------|-------------------|
| 4 bedroom houses and above | 3 spaces per unit |
|----------------------------|-------------------|

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF

**Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with the NPPF policy. The relevant SPD's are;

**Designing Walsall (Feb 2008)**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies.

**Design Principle – Homes:** Plot sizes and built density will relate to their local context.

Common building lines along road frontages must be maintained.

Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity. Minimum guidelines are contained in Appendix D, however greater distances may be applicable where it is in the interests of protecting the character of an area.

**DW1-** new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

**DW3 –** all new development must be designed to respect and enhance local identity

**DW4-** Well defined streets with a continuity of built form are important.

**DW6 –** new development should contribute to creating a place that has a clear identity

**DW9 –**new development must seek to ensure it creates places with attractive environmental quality;

**DW10 –** new development should make a positive contribution to creating a sustainable environment.

**Annexe D:** Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. The requirement to design longer rear gardens to reflect an area's

character is applicable and the guidelines should not mean to be the maximum achievable distances.

Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing.

### **Consultations**

**Canal and Rivers Trust** – No objections, note to applicant recommended

**Coal Authority** – No objections subject to conditions

**Fire Services** – No objections

**Natural Environment (Ecology)** – No objections or requirement for a bat survey.

**Planning Policy** – No objections

**Police Architectural Liaison Officer** – No objections secure by design recommended

**Pollution Control** – No objections subject to conditions

**Severn Trent Water** – No objection subject to condition

**Transportation** – No objections subject to conditions

**Victims of Crime Officer** – No objections subject to gated and secure access and details of lighting.

### **Public Participation Responses**

5 objections (including one from the Alumwell Community Action Group) have been received on the following grounds:

Lack of parking

Close to a bus route impact on traffic congestion

Noise and mess during construction

Too cramped for 11 houses

Noise pollution in respect of traffic, existing pub and nearby factories

Dangerous access

Limited parking will stop ambulances getting to existing residents

Recreation facility would be preferred (*the planning application must be assessed on what has been submitted*)

Loss of the club and Copper Works Club would mean no where for people to socialise

Property has been left to drop to pieces.

### **Determining Issues**

- Whether the principle and loss of community facility is acceptable
- Impact on the character and appearance of the area
- Impact upon residential amenity
- Access and Parking
- Section 106 Agreement
- Local Finance Considerations

### **Observations**

#### **Whether the principle and loss of a Community Facility is acceptable**

The statement includes justification for the loss of the social club on the grounds that there are other public facilities nearby, including the neighbouring public house and that the

application site has been vacant for over 3 years, suggesting that there is not a need for the club, which is confirmed by the relatively few objections received. For these reasons the proposal is considered to accord with LC8. The proposal also provides sufficient detail about how the amenities for occupiers and neighbouring homes would be secured in respect of ground stability, suitable extraction for the Public House and noise mitigation measures.

The application proposes a change of use to residential and the character of the area is predominantly 2 storey residential housing which would be compatible. The site can achieve a satisfactory residential environment, is sustainable being near to bus routes into Walsall and would not constrain nearby development in accordance with policy H3.

### **Impact on the character and appearance of the area**

The NPPF says that developments should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new development into the built environment. Permission should be refused for development of poor design that fails to take the opportunities available to preserve or enhance the character of the area. Policies CPS4, HOU2, ENV2, ENV3 of the BCCS; GP2, 3.6 and ENV32 of the UDP and Supplementary Planning Document Designing Walsall, require development to be informed/influenced by their context and reinforce locally distinctive elements.

The proposed layout is considered acceptable and the proposed traditional design integrates with existing nearby housing.

The NPPF states that decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative. Decisions should optimise the potential of the site to accommodate development and permission should be refused for development of poor design that fails to take the opportunities available for improving the character of quality of an area.

The proposed residential development would significantly improve the appearance of the site which during the last 3 years is now becoming unsightly.

The proposed houses have a height of up to 7.6m. The neighbouring garage is a similar height to the proposal and the Public House would be higher, all are two storey development with pitched roofs, similar to that proposed. The proposed relationship is considered in the context of a development to be an improvement.

Appearance, scale and massing of the houses is considered an improvement upon the present building and would not harm on the character and appearance of the area.

It is recommended that permitted development rights for extensions, alterations to the roofs, porches are removed to enable control over future development at the site that may reduce the level of occupiers amenity beyond what is considered acceptable in this area or could impact on the parking provision.

### **Impact upon residential amenity**

Amended plans and details have been received confirming that the existing extraction flue will be re-directed as part of the scheme to protect the amenities of occupants of the development which can be conditioned.

The submitted air quality modelling conducted on behalf of the application has identified concentrations of nitrogen dioxide (annual mean) that are close to the objective level at the front of the site nearest to Pleck Road. Consequently, it is prudent to take into account the inherent inaccuracy of the model and apply a degree of caution. For example, a chemiluminescence analyser will have an accuracy of +/- 10%, and as the model has very good agreement with the analyser at Bescot Road, this may provide a suitable margin of error to apply to modelled results. As a consequence of applying a suitable margin of error, the three properties nearest to Pleck Road may well be within an area of failing air quality with respect to nitrogen dioxide, and as a consequence the applicant would need to install mechanical ventilation to these properties drawing air in from the rear and at height. A condition to ensure mechanical ventilation is installed on these properties can be attached to planning permission if granted in the interest of the occupiers amenity.

Pollution Control Officers consider that issues such as noise, asbestos and smells from the neighbouring public house and garage can be mitigated for through condition.

The layout of the houses and location of proposed habitable room windows are sufficient to provide good levels of natural light and minimise any potential for overlooking. The rear gardens are between 12 and 15 metres deep and no less than 72m<sup>2</sup> which is considered to be an acceptable level of private amenity for occupiers. 1.8 metre high fencing is also proposed which would minimise overlooking between gardens. For these reasons the proposal also accords with Designing Walsall SPD in particular appendix D.

Both the Police Architectural Liaison Officer and Victims of Crime Officer have reported high levels of crime. Secured by design, and details of lighting can be conditioned to ensure satisfactory security for occupiers of these houses. Gated and secure access was also requested and has been secured though amended plans.

The recommendations of the submitted coal mining risk assessment can be conditioned as recommended by the Coal Authority to ensure ground stability in the interests of occupiers.

Noise and mess during construction has been raised as an objection. These concerns are temporary and short lived disturbance, are likely issues of any development and not a reason to refuse a planning application. A condition can be added to restrict the hours of construction.

### **Access and Parking**

The development looks to construct 11 x 2 bedroom dwellings on the site of the former Pleck Working Mens Club. 11 parking spaces (100%) are to be provided with most plots having 1 space. UDP T13 parking policy for 11 two bedroom dwellings is 200%. The proposed development would be below this policy requirement. UDP Policy T10 states that the T13 parking standards are neither minimum nor maximum but typical. 2011 Census data for this locality shows that only 10% of households have more than 1 car. Also there is will be sufficient space on the 8m wide private access road to cater for any overspill or visitor parking. There is also access to public transport along Pleck Road. The access point looks to utilise the existing club car park access subject to modification. For these reasons the proposal is considered acceptable in terms of the access and levels of parking.

Objections regarding traffic congestion and the proximity of the site to bus routes are noted. The proposal for 11 two bedroom houses which is considered would not result in a significant increase in traffic congestion than might be experienced from the existing use of

the Social Club. Furthermore no concerns have been raised by Highways Officers. With regard to potential indiscriminate parking along Pleck Road to plots 1 to 3, the red route restrictions would control this.

### **Section 106 Agreement**

Under the terms of policies DEL1 and HOU3 of the BCCS, policies GP3 and LC1 of the UDP and Supplementary Planning document Urban Open Space the proposal which introduces 11 new dwellings triggers the need for the provision of urban open space contribution. The proposal triggers a contribution of £14,366.00 for open space, delivered via a S106 Legal Agreement which the applicant has agreed to pay and enter.

### **Local Finance Considerations**

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

This application proposes eleven new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

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

### **Positive and proactive working with the applicant**

The application has required changes to the layout and additional information including air quality surveys and a coal mining risk assessment so that the proposal can be fully supported by officers.

### **RECOMMENDATION: Grant permission subject to conditions and section 106 agreement for open space.**

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

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

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

Amended location plan, block plan, proposed plans (DRGNo1640A) received 02/12/15

Coal mining report received 19/02/15

Asbestos pre-demolition survey report received 22/01/15

Letter confirming that the flue neighbouring Public House will be altered at the applicants cost received 22/01/15

Design and Access Statement received 22/01/15  
Noise Impact Assessment received 22/01/15  
Coal Mining Risk Assessment received

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

3a) No development shall commence until the following details are undertaken and the details are submitted to and approved in writing by the local planning authority:

- i. a scheme of intrusive site investigations
- ii. a report of findings arising from the intrusive site investigations
- iii. a scheme of remedial works recommended by the intrusive site investigation report

3b) The above approved details shall be fully implemented.

Reasons: To ensure ground stability in the interests of the safe undertaking of the development and safety of future occupiers.

4a) No development shall commence until a construction working plan is submitted to and agreed in writing with the Local Planning Authority to control working hours, dust/debris from the demolition and construction works, and material drag out onto the local highway and footpath.

4b) The construction management plan shall remain in place until all construction activities have been completed.

Reasons: To ensure the safety of highway users and nearby residential premises in accordance with UDP policies GP2 and ENV10

5a) Prior to the development commencing details of acoustic mitigation measures shall be submitted in writing to the Local Planning Authority and approved in writing by the local planning authority, with due consideration of the recommendations submitted in Report No. NIA/5654/14/5408/v1/502PleckRoad, by Environmental Noise Solutions Limited, 16th December 2014.

5b) A written validation report confirming the implementation of acoustic mitigation measures shall be submitted to the Local Planning Authority prior to occupancy.

Reasons: To ensure the satisfactory amenities of occupiers as part of the construction and in accordance with UDP policies GP2 and ENV10

6a) No development shall commence until the agreed changes of the flue of the Public House are submitted to and approved in writing by the local planning authority.

6b) The approved details shall be fully implemented prior to the occupation of the approved houses and retained thereafter.

Reasons: To ensure the satisfactory amenities of occupiers, in accordance with UDP policies GP2 and ENV10

7a) No development shall commence until written confirmation is submitted to the Local Planning Authority detailing the removal of all asbestos and hazardous.

7b) The asbestos and hazardous material shall be removed in accordance with the agreed details

Reasons: To ensure the satisfactory amenities of workers during construction and future occupiers, and in accordance with UDP policies GP2 and ENV10

8a) No development shall commence until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority.

8b) The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution, prior to construction works which would be integral to delivering this.

9a) No development shall commence until details of mechanical ventilation systems to be installed into plots 1, 2 and 3 are submitted to, and approved by the local planning authority.

9b) A written validation report confirming the installation and operation of the mechanical ventilation system for plots 1, 2 and 3 shall be submitted to the Local Planning Authority.

Reasons: To ensure the satisfactory amenities of occupiers are protected as part of the construction and in accordance with UDP policies GP2 and ENV10

10a) Prior to the construction of the development above damp proof course full details of external security lighting shall be submitted to and approved in writing by the Local Planning Authority.

10b) The approved details shall be fully implemented prior to first occupation of any house and thereafter retained

Reason: To ensure the safety of future occupants

11a) Prior to the construction of the development above damp proof course full details shall be submitted to and approved in writing by the Local Planning Authority of self closing and lockable gates to all access points to the side of buildings.

11b) The approved details shall be fully implemented prior to first occupation of any house and thereafter retained

Reason: To ensure the safety of future occupants

12a) Prior to the construction of the development above damp proof course full details shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the development will meet Secure By Design specification.

12b) The approved details shall be fully implemented prior to first occupation of any house and thereafter retained

NB. Please refer to “Note For Applicant” for further information.

Reason: To ensure the safety of future occupants

13a) Prior to the construction of the development above damp proof course a schedule of facing materials to be used in the external walls, roofs, windows, doors, rainwater goods and surfacing to include scale, texture and colour shall be submitted to and approved in writing by the Local Planning Authority.

13b) The approved scheme shall be fully implemented in accordance with the approved details before the development is first brought into use and retained thereafter.

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

14a) Prior to the first occupation of any dwelling on the development;-

i) the access way and vehicle hard standing areas serving each dwelling shall be fully consolidated, hard surfaced and drained to ensure surface water from the parking area does not discharge onto the public highway,

ii) where necessary new vehicular dropped kerb crossings shall be installed to align with the new access way and driveways and shall be carried out in accordance with Council's footway crossing specification SD11/8 dated January 2008 and to the satisfaction of the Highway Authority. All works within the public highway shall be in accordance all statutory requirements. The relocation of the existing street lighting column required to facilitate access to plots 9 and 10 shall be with the agreement of Amey, the Council's street lighting partner and shall be at the developer's expense.

14b) The access way and parking spaces shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2, T4, T7 and T13.

15) Prior to the first occupation of Plots 1, 2 and 3 fronting Pleck Road, that part of the existing dropped kerb footway crossing that served the former club premises and that is made redundant by the development, shall be fully reinstated back to full kerb height and carried out in accordance with Council's footway specification to be agreed in writing with the Highway Authority. All works within the public highway shall be in accordance all statutory requirements.

Reason: To ensure the satisfactory completion and operation of the development in accordance with UDP Policy GP2, T4, T7 and T13 and to minimise the potential of pavement parking on Pleck Road fronting the development, in the interests of highway safety.



16) 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 only take place between the hours of 08.00 to 18.00; and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

(\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

Reason: To protect the amenities of surrounding occupiers.

17) Notwithstanding any permitted development rights, no boundary treatment along the Scarborough Road frontage of the site shall exceed 600mm in height above footway level, in order to provide adequate pedestrian / vehicle inter-visibility at the driveway access points.

Reason: In the interests of highway safety.

18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors other than those approved by this permission, and no enlargements, additions or other alterations, as defined by Classes A to D of Part 1 of Schedule 2 of the Order, shall be constructed.

Reason: To ensure the Local Planning Authority has control over the development in the interests of retaining sufficient levels of amenity and parking provision for occupiers of houses hereby approved and in accordance with UDP Policy GP2, T7 and T13.

### **Notes for Applicant**

- Notes for applicant regarding Secure by Design  
West Midlands Police: The Police Architectural Liaison Officer has been consulted on the application and has made the following comments:
  1. I request that the developer be made aware of Secure By Design specifications which will significantly increase the security of the building ( doors and windows) .  
Information can be found at  
[http://www.securedbydesign.com/pdfs/SBD\\_New\\_Homes\\_2010.pdf](http://www.securedbydesign.com/pdfs/SBD_New_Homes_2010.pdf)
  2. All external door sets should comply to PAS 24 2012 standards.
  3. All ground floor and accessible windows should comply to BS7950 or WCL4 standards. This should improve the standard of security to the more vulnerable ground floor windows.
  4. All ground floor, accessible windows and doors should contain at least one pane of 6.8mm laminated glass.

5. All ground floor front windows should have an area of defensible space across their width. This should be made up of densely planted shrubs, selected to be suitable for the environment they are to be planted in. This will provide a buffer area between the windows and other public or private space, making it more difficult for offenders to access such windows. Where plants are to be used in front of windows or around parking spaces the plants should be such that they grow to no more than 1m in height when mature.

6. Perimeter and Boundary fencing should be at least 2.1m in height rather than the 1.8m proposed, the fencing should also be erected so that the smooth face is always facing outwards so that the frame cannot be used as a climbing aide. 2.1m fencing can include 300mm trellis topping in order to offer protection of the vulnerable rear of the properties. Where panel and concrete post style fencing is to be used there needs to be a fixing between panel / slats around the posts which should create a secure mechanical bond. This should provide a chain linking effect where each panel and post acts in concert with the next to resist attack by pushing, pulling and lifting. Fixings should be made of galvanized steel or stainless steel with a design life to match the timber components.

7. All side gates and fencing should be located as near to the front building line as possible so as to remove recesses that can be used as cover by offenders.

8. All properties should be protected by a suitable intruder alarm.

9. This area suffers above average amounts of vehicle crime, the current layout renders the vehicles for plots 1, 2 and 3 in an isolated and vulnerable position. Statistics show that the safest place to park a vehicle is on a gated front driveway where it is over looked by the owner. This will certainly not be the case for allocated parking to these plots. Fencing will mean that there will be no natural surveillance opportunities for these vehicles at all further increasing their vulnerability and increasing the already high likelihood of crime.

10. This layout and the lack of natural surveillance at this point also increases the vulnerability of the perimeter fencing to plots 1-4, (over  $\frac{3}{4}$  of all burglaries are attacked from the rear). Perimeter fencing and gates at the rear of plots 1-3 need to be 2.4m in height and be robust in their construction. The gates should house a mortise style lock which is key lockable from both sides. The side gate and side fencing of plot 4 should also be to these standards.

- Canals and Rivers Trust Notes for Applicant

1. The applicant/developer is advised to contact the Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that the works comply with the Trust's "Code of Practice for Works affecting Canal & River Trust".

2. The Canal & River Trust offer no right of support to the adjacent property. The land owner should take appropriate steps to ensure that their works do not adversely affect the canal infrastructure at this location.



## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 07-Jan-2016

**Plans List Item Number: 4.**

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

**Location:** INTERNATIONALHOUSE, BLOXWICH BUSINESS PARK, FRYERS ROAD, BLOXWICH

**Proposal:** ERECTION OF A STEEL CLAD PORTAL FRAME INDUSTRIAL UNIT FOR STORAGE OF STEEL (CLASS B8 USE).

**Application Number:** 15/1099/FULL

**Case Officer:** Alison Ives

**Applicant:** A C Steels Limited

**Ward:** Birchills Leamore

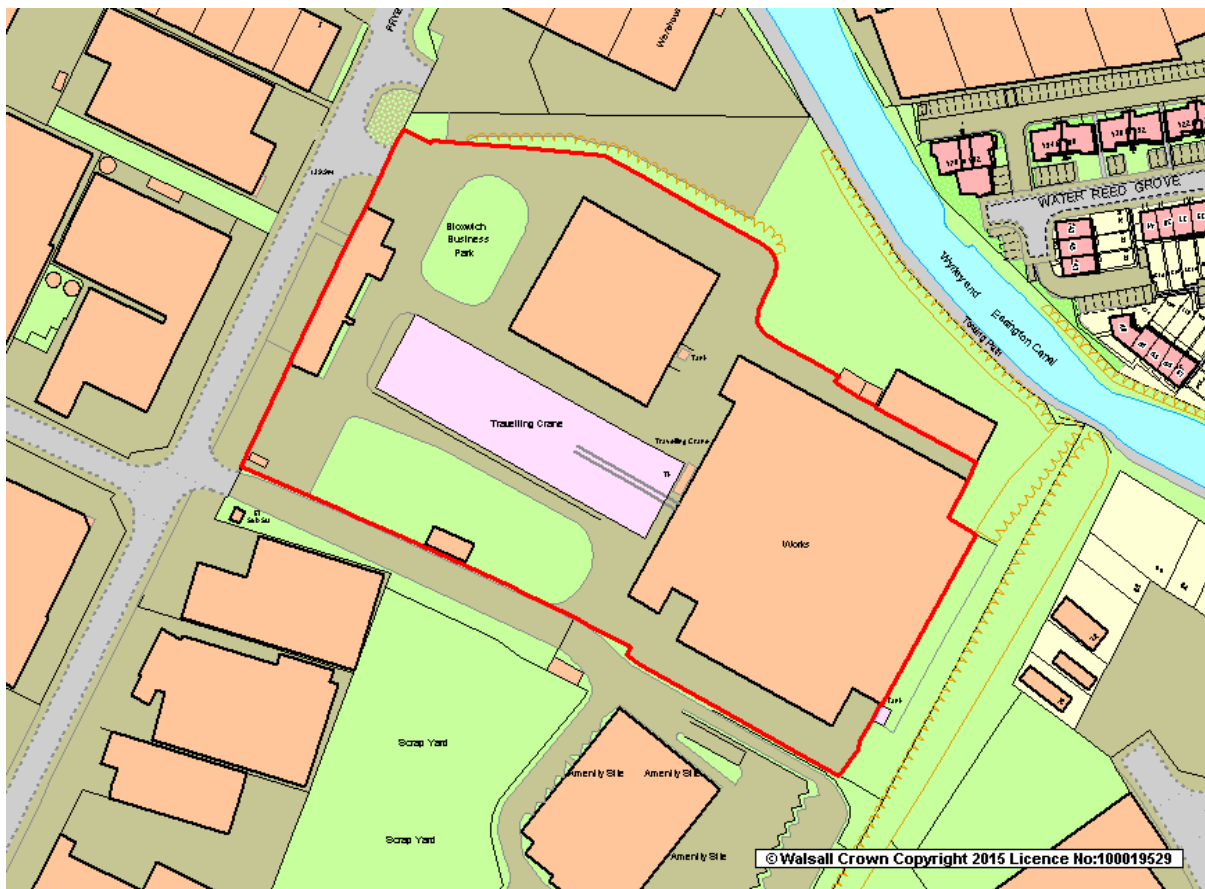
**Agent:** Mark Dukes Building Design

**Expired Date:** 14-Jan-2016

**Application Type:** Full Application (Major)

**Time Extension Expiry:**

**Recommendation Summary:** Grant permission subject to conditions (including any amendments or additional conditions deemed appropriate by officers) subject to resolving the Coal Authority objection.



## **Application and Site Details**

The proposal is for the erection of a steel clad portal framed industrial unit for storage of steel, Class B8 use. The site is at the rear of the office building International House, Fryers Road. This is an established industrial premises occupied by AC Steels within the Core Employment Area.

The proposed building is 65m long x 24m wide including the loading bays at the each end. The proposed building has a pitched roof 10.4m maximum height. The external wall cladding is profiled cladding sheets coloured light grey and the roof is dark grey cladding. There are three personnel doors in each side elevation.

The proposal includes provision of parking at the rear of International House and at the western end of the proposed building opposite – 18 spaces in total.

The proposed hours of operation are 24 hours Mondays to Fridays and 06.00 – 17.00 hours on Saturdays. There are 63 full time equivalent employees currently at the site and the proposals will provisionally create a further 5-10 employees.

The site area is 2 hectares.

The Design & Access Statement - Describes the proposals, planning policy, layout, scale, landscape, appearance and access.

The Coal Authority Report – Identifies the coal mining legacy but does not identify what risks this poses to the development.

## **Relevant Planning History**

07/1868/FL/W3 – Erection of a Steel Portal Frame Storage Shed – Granted subject to conditions 14/11/07.

02/1049/FL/W4 – Room 15, International House - Change of Use to Private Hire Business (4 vehicles) – Granted subject to conditions 22/10/02.

BC53870P – Office within International House - Change of use to private hire business for 4 vehicles – Granted subject to conditions 19/03/99.

## **Relevant Planning Policy Summary**

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

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

**Key provisions** of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate:

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 103 when determining planning applications local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a Flood Risk Assessment.

Paragraph 110 aims to minimise pollution and other adverse effects on the local and natural environment.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

- 1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.
- 2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.
- 3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local

economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.

The above are supported by the following policies:

CSP1: Sets out targets for the sustainable regeneration of the Black Country.

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

CSP4: A high quality of design of the built and natural environment is required.

EMP1: Aims to provide industrial land and warehouse jobs in the Black Country and to protect jobs and support economic growth.

EMP2: Encourages development of high quality employment land and safeguards it for B1(b), B1(c), B2 & B8 purposes.

EMP3: Identifies local quality employment areas as those with a critical mass of industrial and warehousing and service activity that is fit for purpose. These areas are safeguarded for industry and warehousing amongst other uses.

EMP5: Seeks to improve access to the labour market by securing recruitment and training.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

ENV4: All development proposals likely to affect the canal network must: safeguard the operation of a navigable and functional waterway; protect and enhance its special historic, architectural, archaeological and cultural interest protect and enhance its nature conservation value; protect and enhance its visual amenity; protect and enhance water quality in the canal.

ENV5: Seeks to minimise the probability and consequences of flood risk.

### **Walsall's Unitary Development Plan (UDP)**

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this

framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

ENV9: Seeks to deliver environmental improvement as a result of development.

ENV10: Deals with pollution effects from developments including ground contamination, air quality and noise.

ENV11: Development which involve significant external lighting will not be permitted unless they propose the minimum amount of lighting necessary to achieve its purpose and minimise glare and light spillage from the site to protect wildlife.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV17: Encourages new planting.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV24: New development which would sever or unacceptably harm the integrity of linear features such as canals will not normally be permitted.

ENV32: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

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

JP5: Seeks to ensure that development protects employment land provision.

JP8: Bad neighbour industries will be given careful consideration and should be capable of providing satisfactory screening and landscaping and must be subject to stringent operational control to minimise disturbance.

LC9: The Council will expect all development alongside and near to canals to positively relate to the opportunity presented by the waterway, to achieve high standards of design, and to be sensitively integrated with the canal and any associated canal side features.

T1: Seeks to improve access and help people get around

T4: Classifies the highway network and specifies that residential streets and minor roads are those where traffic volumes and speeds should be quite low. Sometimes traffic calming measures will be required.

T7 – Car Parking

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:



## **Designing Walsall SPD**

DW1: Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DW2: Safe & Welcoming Places - all new development must contribute to creating places that feel safe.

DW3: Character - all new development must be designed to respect and enhance local identity

DW4: Continuity - Well defined streets with a continuity of built form are important.

DW5: Ease of Movement – connections to existing routes

DW6: Legibility - new development should contribute to creating a place that has a clear identity

DW7: Diversity – contribute to creating living places that offer a mix of activities to the widest range of possible uses

DW8: Adaptability – contribute to creating flexible and adaptable places that can easily change over time.

DW9: High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality.

DW 10: Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

## **Conserving Walsall's Natural Environment SPD**

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

## **Consultations**

**Transportation** – No objections. The proposed storage building has a gross floor area of 1547sqm. On this basis the six additional parking spaces proposed meets the parking requirements in UDP policy T13 which is based upon 1 space per 500sqm GFA and being an ancillary building. Access to the site remains unaffected.

**Canal & River Trust** – No objections.

**Coal Authority** – The site falls within a Development High Risk area. There are coal mining features and hazards which need to be considered; specifically historic unrecorded underground coal mining is likely to have taken place beneath the site at shallow depth. In addition, two recorded mine entries are present within the application site and a further mine entry is located adjacent to the northern boundary with its associated zone of influence encroaching into the site. A Coal Mining Risk Assessment is required to address the coal mining legacy.

**Community Safety** - No objections.

**Environmental Health** – No objections.

**Pollution Control** – No objections. The site has been and is being used for industrial purposes that may have resulted in localised ground contamination that may present

Health and Safety implications for persons undertaking ground works. It is recommended that a note is attached to any planning approval issued to highlight this.

**Strategic Planning Policy** - Welcome and support the proposals in line with UDP policy JP5 and Core Strategy policies EMP1 and EMP3.

### **Public Participation Response**

None received.

### **Determining Issues**

- Principle of the development
- Layout and design
- Impact on the amenities of the surrounding area
- Highway safety, access and parking

### **Observations**

#### **Principle of the development**

The application site is in a Core Employment Area where Class B2 employment uses are encouraged. In the circumstances the proposal is in accordance with policy JP5 of the UDP and EMP1 and EMP3 of the BCCS. The proposal will also support an existing business providing a steel storage building.

On this basis the principle of the development is acceptable.

#### **Layout and design**

The proposed storage building is located at the rear of the office building surrounded by existing buildings occupied by AC Steels for steel production and storage. The proposed layout retains access and circulation space around the other buildings which is acceptable.

The proposed design is typical of modern warehouse buildings with a profiled metal cladding walls and roof in a combination of light and dark grey.

The applicant will be supplying a Coal Mining Risk Assessment to address the Coal Authority objection. Any mitigation required can be secured by condition.

A drainage condition is recommended to secure adequate drainage.

The proposed layout and design is considered acceptable subject to provision of a satisfactory Coal Mining Risk Assessment and any necessary mitigation to address the Coal Authority objection.

#### **Impact on the amenities of the surrounding area**

The surrounding area comprises predominantly industrial premises and the position of the proposed building is shielded by the existing AC Steels buildings which surround it. The proposals will not have any significant impact on these surrounding premises.

The nearest housing is over 116 metres away in Water Reed Grove which is on the opposite side of the Wyrley and Essington Canal. Given the intervening industrial premises which interrupt views and the distance separation the proposals are considered not to

have any significant impact on residential amenities in terms of outlook or privacy. Although the premises operate 24 hours Mondays to Fridays and between 06.00 and 17.00 on Saturdays this is the current arrangement and the proposals are an ancillary storage facility for the current occupiers so should not cause any greater potential disturbance. Pollution control officers have not raised any concern in respect of operating hours.

The impact on the amenities of the surrounding area is considered acceptable.

### **Highway safety, access and parking**

The means of access to the site is to remain as per the current arrangements and the proposal does not have a significant impact on circulation around the site. The proposal includes provision of six additional parking spaces to cater for the additional staff and accords with the policy requirements for parking for this type of use. A condition is recommended to ensure that the storage unit remains ancillary to the remainder of the premises on site to remain in accordance with required parking levels.

The highway safety, access and parking provision is acceptable.

### **Positive and Proactive working with the applicant**

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Policy Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

### **Recommendation: Grant permission subject to conditions (including any amendments or additional conditions deemed appropriate by officers) subject to resolving the Coal Authority objection**

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

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

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

- Site Location Plan Existing received 01/09/15
- Site Location Plan Proposed received 01/09/15
- Block Plan Existing received 01/09/15
- Block Plan Proposed received 01/09/15
- Existing Plan received 14/07/15
- Proposed Plan received 14/07/15
- Existing Plan (06.15/01) received 14/07/15
- Proposed Ground Floor Plan (06.15/02A) received 01/09/15
- Proposed Elevations (06.15/03) received 14/07/15
- Design & Access Statement prepared by Rob Duncan Planning Consultancy received 16/10/15

- Coal Authority Mining Report received 01/09/15

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

3a. Prior to the commencement of the development drainage details for the disposal of both surface water and foul sewage shall be submitted to and approved in writing by the Local Planning Authority. The details shall include measures for incorporation of sustainable drainage techniques (SuDS) where possible.

3b. The development shall be completed with the approved details and retained as such.

*Reason:* To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution. As drainage is below ground infrastructure it needs to be addressed prior to commencement of the development.

4. The development shall be implemented in accordance with the facing materials identified on approved drawing 06.15/03.

*Reason:* To ensure the materials throughout the development harmonise with those in the surrounding vicinity.

5. Prior to the development first coming into use, the additional parking spaces shall be clearly demarcated on the ground and thereafter retained and used for no other purpose.

*Reason:* In accordance with UDP Policy GP2, T7 and T13.

6. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) the new building shall remain ancillary to the main use of the site and shall not at any time be used as an independent operation.

*Reason:* To ensure the satisfactory operation of the whole site and that there is sufficient parking in accordance with UDP Policy GP2, T7 and T13.

#### **Note for Applicant – Pollution Control**

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



## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 07-Jan-2016

**Plans List Item Number: 5.**

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

**Location:** MIDLAND PRESSURE DIE CASTING LTD, ASHMORE LAKE WAY, WILLENHALL, WV12 4LF

**Proposal:** FORMATION OF REVISED ACCESS ARRANGEMENTS TO SITE OFF ASHMORE LAKE WAY PLUS NEW BOUNDARY FENCING AND LIGHTING COLUMNS.

**Application Number:** 15/1138

**Applicant:** Mr Ash Suman

**Agent:** Mr Stephen Symonds

**Application Type:** Full Application

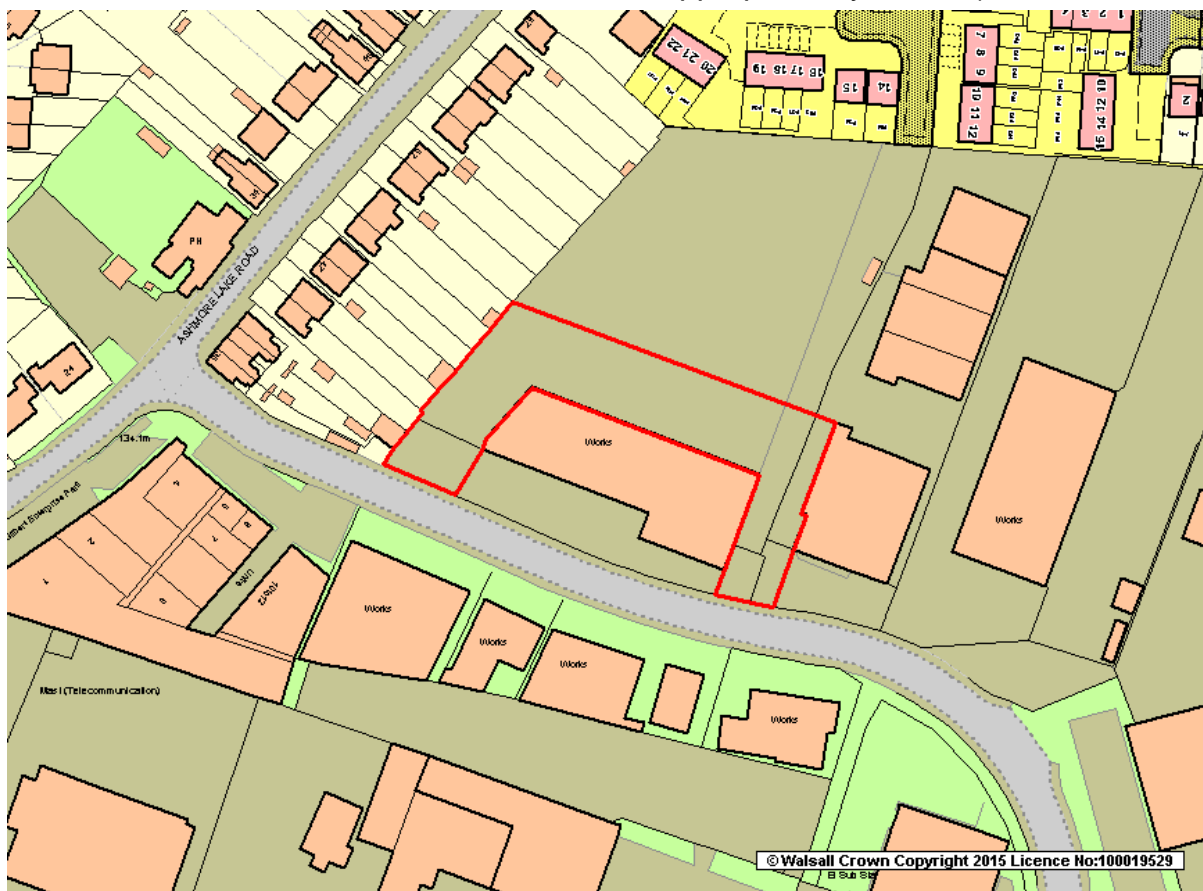
**Case Officer:** Alison Ives

**Ward:** Short Heath

**Expired Date:** 01-Oct-2015

**Time Extension Expiry:** 14-Jan-2016

**Recommendation Summary:** Grant permission subject to conditions (including any amendments or additional conditions deemed appropriate by officers).



## **Application and Site Details**

The proposal is to form an in/out access for the existing premises including new gates plus 2.5m high close board timber fence with concrete panels and gravel boards along the boundaries of the gardens of properties in Ashmore Lake Road. The amended access will also allow for additional off-street parking for staff at the rear of the building. It is proposed to install 8m high steel lighting columns along the access and two flood lights fixed to the rear elevation of the building facing the car parking areas.

The site is located in a core employment area and there are predominantly industrial premises opposite and to the east of the site. However, as this is the last industrial site on this side of Ashmore Lake Way there are gardens of houses in Ashmore Lake Road adjoining the western site boundary. There is a row of mature trees along the garden boundaries which screen the application site to a degree.

The proposal is to form a one-way access to the site. The proposed “in” access is on the western side of the building adjacent to the residential properties and the “out” access is to be combined with the existing access between this site and adjacent industrial premises occupied by Midland Pressure Diecasting Limited. This allows for a wider access. Gates are proposed at entrance and exit points which are set back in line with the front of the existing buildings to comprise 2m high red painted galvanised steel.

Proposed deliveries will take place between 07.00 hours and 22.00 hours Mondays to Fridays.

The applicant has provided a response to initial neighbour objections as follows:

- There is currently an access in the position of the proposed revised access arrangements which could be reinstated without requiring permission
- The previous established use of the premises was for lock production
- Times of deliveries are stipulated in the application and help address noise concerns and the one-way system means less noise from vehicles having to manoeuvre in forward and reverse gear adjacent to the boundary
- A new fence 2.5m high is proposed along the boundary of 37-53 Ashmore Lake Road to reduce noise and improve security – new lighting and CCTV will also improve security
- Further tree planting along the boundary is proposed to screen HGV's
- Resentment of residents due to the closure of the access as they had benefitted from access in the past
- Potential overlooking from any future buildings could be screened by planting
- Reinstatement of the access would mean all current debris is removed and the operators confirm they do not have regular fires
- The access arrangements will free up traffic movement on the highway where current deliveries take place and will provide additional parking
- The proposals are in an industrial designated area and would not devalue properties and offer improvements
- The proposals offer efficiency of operations at Midland Pressure Diecasting Limited ultimately leading to extra jobs created through streamlined production and expansion of the premises.

The Design & Access Statement – Highlights the background the Midland Pressure Diecasting, describes the proposals (including future proposals for land at the rear), and explains the amended access arrangements.

The Existing Environmental Conditions Report – Explains current traffic flows and congestion from staff parking on-street and the benefits the proposals offer in introducing a one-way access to allow delivery vehicles to pull off the street and to alleviate parking congestion to improve highway safety. It describes the proposed new fencing to the boundary with housing in Ashmore Lake Road. Finally it explains that houses in Ashmore Lake Road face the highway at a shorter distance of between 4m – 9.5m with no screening whereas the rear garden boundary which adjoins the site is over 30m with existing screening and proposed new fencing.

### **Relevant Planning History**

07/0891/FL/W5 - Erection of 3.6m high timber screen fence, 2 no. pairs of entrance/exit gates and internal security fence – Refused 02/08/07 due to the detrimental impact on the appearance of the industrial estate.

05/1178/FL/W6 – (1) Grant of Use Class B8 for existing factory site and unit; (2) Change of Use of a factory office to Planning Use Class B1 Office; this change of use to be personal to Connolly's Electrical Contractors; (3) Erection of 2.2m high palisade fencing to the front, east, and part of the west boundaries of the premises, the gate in the centre of the front boundary to be widened to 8m; (4) Install a doorway fitted with a roller shutter in the western end of the factory building; the door opening being made by extending an existing window down to ground level – Refused 09/10/06 for two reasons broadly relating to (1) adverse impact on the appearance of Ashmore Lake Way from open storage of materials and (2) unacceptable noise from the proposed use detrimental to residential amenities.

### **Relevant Planning Policy Summary**

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

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

**Key provisions** of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate:

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 110 aims to minimise pollution and other adverse effects on the local and natural environment.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.



## **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council’s Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country’s natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.

The above are supported by the following policies:

CSP1: Sets out targets for the sustainable regeneration of the Black Country.

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

CSP4: A high quality of design of the built and natural environment is required.

EMP1: Aims to provide industrial land and warehouse jobs in the Black Country and to protect jobs and support economic growth.

EMP2: Encourages development of high quality employment land and safeguards it for B1(b), B1(c), B2 & B8 purposes.

EMP3: Local employment areas will provide for the needs of locally based investment and will be safeguarded for specific uses.

EMP5: Seeks to improve access to the labour market by securing recruitment and training.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

ENV5: Seeks to minimise the probability and consequences of flood risk.

### **Walsall's Unitary Development Plan (UDP)**

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

ENV9: Seeks to deliver environmental improvement as a result of development.

ENV10: Deals with pollution effects from developments including ground contamination, air quality and noise.

ENV11: Development which involve significant external lighting will not be permitted unless they propose the minimum amount of lighting necessary to achieve its purpose and minimise glare and light spillage from the site to protect wildlife.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV32: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

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

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

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T10 (a): Refers to accessibility standards.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

### **Designing Walsall SPD**

DW1: Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

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DW3: Character - all new development must be designed to respect and enhance local identity

DW4: Continuity - Well defined streets with a continuity of built form are important.

DW5: Ease of Movement – connections to existing routes

DW6: Legibility - new development should contribute to creating a place that has a clear identity

DW7: Diversity – contribute to creating living places that offer a mix of activities to the widest range of possible uses

DW8: Adaptability – contribute to creating flexible and adaptable places that can easily change over time.

DW9: High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality.

DW 10: Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

### **Consultations**

**Transportation** – No objections. The proposal is to reinstate and modify an existing access point to the site in order to facilitate an in/out access arrangement. This will allow deliveries to take place on site rather than the existing kerb side arrangement which in highway safety terms is considered a better arrangement than at present.

**Coal Authority** – No objections. There are no significant earthworks proposed so a Coal Mining Risk Assessment is not necessary. An informative is recommended on any decision notice.

**Environmental Health** – No objections.

**Police** – No objections.

**Pollution Control** – No objections. There is potential for noise from vehicle movements to impact on the occupants of nearby housing due to their close proximity so a condition to restrict collections, deliveries and despatches is recommended.

### **Public Participation Response**

8 letters of objection from 5 addresses have been received. These are summarised as follows:

- Additional noise from vehicles using the access which borders gardens
- Noise from future lock manufacturing on the site
- Noise pollution and mess
- Additional lighting pollution
- What hours of operation are proposed
- Is any security proposed
- A boundary wall or fencing to help reduce noise and mask vehicles should be included
- The access exposes neighbouring gardens
- Overlooking gardens from the access
- What size vehicles will use the access
- Highway hazard caused at the access due to queuing traffic and obstruction of the highway (including ambulances)
- If parking restrictions (double yellows) are implemented it will affect adjoining businesses who rely on availability of on-street parking
- Problems of refuse storage and fires on the land
- There have been constant issues at the site and residents are ignored
- Devaluation of property

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

### **Determining Issues**

- Principle of the development
- Highway safety, access and parking
- Impact on the amenities of the surrounding area

### **Observations**

#### **Principle of the development**

The application site is in a Core Employment Area where employment uses are encouraged. The proposal is to form a revised access to the existing premises and does not propose any change of use of the building.

Neighbours are concerned that the premises maybe used for manufacturing in the future (class B2 use) but the use of the premises is not proposed to change from existing which is an established class B1 light industrial use. Despite the applicant claim that the premises were used for lock production evidence is that the premises most recent established use was for Class B1 use only.

In the circumstances the proposal is in accordance with policy JP5 of the UDP and EMP1 and EMP3 of the BCCS and the principle of the development is acceptable.

### **Highway safety, access and parking**

The proposal creates an in/out access with one-way circulation around the rear of the building. The “in” access to the west of the building utilises an existing access with modifications. The “out” access to the east of the building is combined with an access to the adjacent premises creating a wider access. This will allow easier manoeuvring for larger vehicles. The Transportation officer is satisfied with this arrangement and considers it offers improved safety. A condition is included to restrict any parking or external storage of materials on the access to ensure it is always available for manoeuvring. This also addresses the neighbour objection regarding refuse storage and fires occurring near to their garden boundary.

The nearby residents have objected to the proposals as they consider the access will cause a hazard to queuing traffic and obstruction of the highway and potential impact caused by additional on-street parking or possible parking restrictions. The access is wide enough to allow larger HGV's to access the site safely and to pull off the highway in front of the gates. In the circumstances large vehicles will not need to queue in the street so the proposal does not have a significant impact on highway safety or queuing traffic to a degree where it could be dangerous. The access is a sufficient distance from the junction with Ashmore Lake Road and was originally used for access and egress so the proposals offer an improvement. The proposals include additional off-street parking for staff at the rear of the building to alleviate some on-street parking which also offers an improvement. In respect of potential for new double yellow lines to restrict on-street parking for existing businesses this is not required as part of the proposals.

The applicant has also provided a response to objectors concerns referred to above which are considered reasonable.

Objectors consider the access exposes their gardens but a new fence is proposed along the boundary and the gates will prevent unauthorised access. Those gardens that border the front part of the access are visible within the street so potential for unauthorised access is no greater than the remainder of the existing property boundary.

The gates are set back from the street in line with the buildings so will not be obtrusive or out of keeping with the surrounding area.

On the basis that the proposals will not have a significant impact on highway safety, access or parking provision the proposal is acceptable.

### **Impact on the amenities of the surrounding area**

The proposal includes provision of new fencing between the access and adjacent neighbours gardens to create an additional noise barrier and partial screen along the boundary. The dense tree screen within the gardens will remain and as the dwellings are over 32m away from the boundary it is considered that the proposals will not have a significant impact on the amenities of adjacent occupiers in terms of overlooking. The new fencing and gates will also provide improved security for the gardens by preventing unauthorised access.

The pollution control officer is satisfied with the relationship between the access and adjacent housing subject to imposition of a condition to restrict hours of collection/delivery to limit potential disturbance. The condition to prevent external storage and parking on the access will also improve the current situation as raised by neighbours.

There are three new 8m high lighting columns proposed along the access with the lighting head poised to face the existing industrial building i.e. away from the gardens. Despite the resident concern about additional lighting the distance separation and recommended condition to ensure the lighting faces away from gardens will address this.

Residents consider that previous concerns about the site have been ignored but the current proposals are considered to improve the situation as new boundary treatment is proposed and conditions to restrict activities along the access are proposed.

Concerns in relation to devaluation of property are not a material planning consideration.

The proposal is considered not to have any significant impact on the amenities of nearby neighbours or adjacent industrial occupiers.

### **Positive and Proactive working with the applicant**

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Policy Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

### **Recommendation: Grant permission subject to conditions (including any amendments or additional conditions deemed appropriate by officers).**

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

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

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

- Site Location Plan (14047/100) received 24/07/15
- Proposed Site Plan & Street Elevation (14047/111) received 07/12/15
- Thorn Areaflood LED Light details received 07/12/15
- Thorn Olsys Area Light details received 07/12/15
- Steel Tubular Column (QCZR) details received 07/12/15
- Design & Access Statement prepared by ACP Architects (14047 Rev A) received 28/07/15
- Existing Environmental Conditions prepared by ACP Architects (14047) received 15/10/15

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

3a. Prior to the revised access arrangements first coming into use the existing industrial type footway crossing shall be repositioned to align with the new access point and shall be installed in accordance with Council's footway crossing specification SD11/8 dated January 2008 and to the satisfaction of the Highway Authority. There shall be at least a 2.7m (three full height kerbs) separation from the adjacent garage access footway crossing whereby the existing dropped kerbs and footway shall be raised to full kerb height.

3b. Prior to the revised access arrangements first coming into use the existing unauthorised concrete ramping that extends onto the public footway at proposed 'out only' access shall be removed and the surface of the footway reinstated in accordance with Council's footway crossing specification SD11/8 dated January 2008 and to the satisfaction of the Highway Authority.

All works within the public highway shall be in accordance all statutory requirements.

*Reason:* To ensure the satisfactory completion and operation of the access, to provide adequate separation from the adjacent access to avoid and overlong dropped crossing in the interests of pedestrian safety and in accordance with UDP Policy GP2 and in the interests of highway safety.

4a. Prior to the new access arrangements first coming into use the proposed 'In and Out' access arrangements shall be clearly indicated with appropriate signage, full details of which shall be submitted to and approved in writing by the Local Planning Authority.

4b. The agreed signage shall be fully implemented in accordance with the approved details and shall thereafter be retained and be clearly legible and visible at all times.

*Reason:* To ensure the safe and satisfactory of the new access arrangements in accordance with UDP Policy GP2 and in the interests of highway safety.

5. No industrial process or storage of materials shall take place external to the building or within the approved one-way access route or parking areas shown on approved drawing 14047/111.

*Reason:* To protect the amenities of surrounding properties and ensure the access route remains free from obstruction and parking availability.

6. No parking of vehicles shall take place within the approved one-way access route shown on approved drawing 14047/111.

*Reason:* To protect the amenities of surrounding properties and ensure the access route remains free from obstruction.

7. Collections, deliveries and despatches to and from the development shall only take place between the hours: 07.00 to 22.00 weekdays, excluding specified Bank and Public Holidays\*; 08.00 to 13.00 Saturdays; and at no time on any Sunday, Bank Holiday or Public Holiday.

*\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)*

*Reason:* To protect the amenities of surrounding properties

8. The approved gates at the access shall be implemented in accordance with the details shown on the approved drawing 14047/111 and thereafter maintained in accordance with the approved details.

*Reason:* In order to protect the visual amenities of the area and highway safety.

9. The approved lighting columns shall be implemented in accordance with the details shown on the approved drawing 14047/111 and lighting column and lighting details submitted with lighting heads (Olsys Area) installed to face towards the building and away from the rear gardens of dwellings in Ashmore Lake Road. The lighting columns shall thereafter be maintained in accordance with the approved details.

*Reason:* In order to protect the visual amenities of the area and amenities of surrounding occupiers.

### **Coal Authority Informative**

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at [www.coal.gov.uk](http://www.coal.gov.uk)

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service at [www.groundstability.com](http://www.groundstability.com)

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is available on The Coal Authority website [www.coal.gov.uk](http://www.coal.gov.uk)



**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 07-Jan-2016

**Plans List Item Number: 6.**

**Reason for bringing to committee: Significant community interest**

**Location:** FOXHILLS FARM, BEACON ROAD, ALDRIDGE, WS9 0QP

**Proposal:** REDEVELOPMENT OF EXISTING RIDING STABLES AND RIDING SCHOOL BY THE WAY OF AN ERECTION OF 4 NO. DWELLING HOUSES WITH ASSOCIATED WORKS INCLUDING THE ALTERATION OF EXISTING SITE ACCESS, FOLLOWING DEMOLITION OF EXISTING BUILDINGS ON SITE.

**Application Number:** 14/1552/FL

**Case Officer:** Katie Parsons

**Applicant:** Kingscliffe Property Company

**Ward:** Pheasey Park Farm

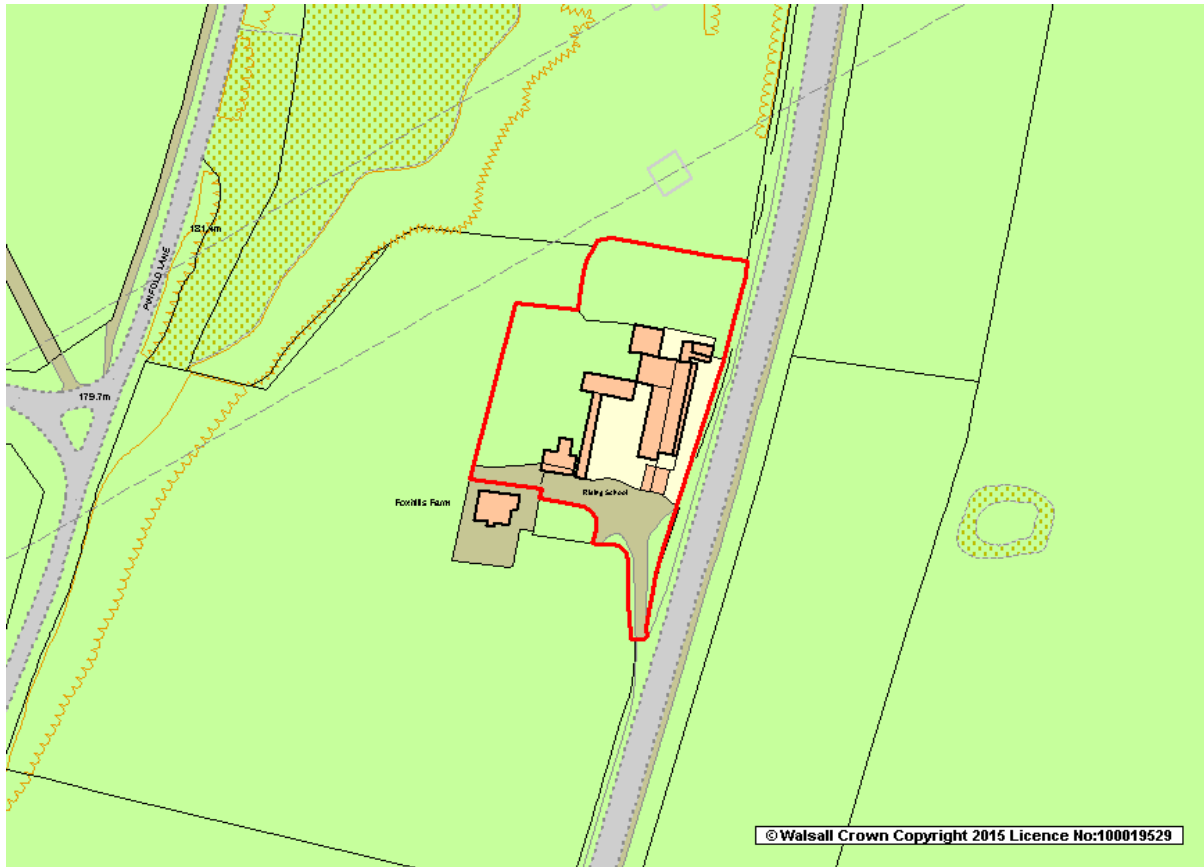
**Agent:** CT Planning

**Expired Date:** 09-Dec-2014

**Application Type:** Full Application

**Time Extension Expiry:** 31-Jan-2016

**Recommendation Summary:** Delegate to the Head of Planning, Engineering and Transportation to approve with conditions (including any amendments or additional conditions deemed appropriate by officers) subject to no material objections being raised as a result of the re-consultation:



## **Application and Site Details**

The application site contains a riding school and livery business, located on the western side of Beacon Road. It is accessed via an existing access serving the business and also a farmhouse. Existing buildings are predominantly single storey timber construction with a large ménage. The site covers approximately 0.5 hectares and rises to the north and north-west. Immediately to the north of the site is a National Grid overhead power line and pylons. The site is within the Great Barr Conservation Area and within the Green Belt. The site is within a wildlife corridor running along the Barr Beacon Ridge and adjacent to the Beacon Quarry Site of Importance for Nature Conservation and Local Nature Reserve.

The proposal is to demolish all existing buildings within the red line and redevelop the site for four detached bungalows, with associated external works including alterations to the existing access. The existing access road would be altered and extended to run parallel to Beacon Road. The four four-bedroom single storey bungalows would have detached garages as well as on-plot parking, in a staggered line leading off the access road. The existing two-storey farmhouse is outside the red line and would remain as existing, sharing access with the development. The materials would be brown, grey/brown and red/brown clay plain roof tiles and red/brown facing brickwork, stained timber boarding and white sand cement render.

The application has been supported by: site survey, proposed plans and elevations, 3D visualisations and sections, tree survey, landscape plan and report, ecological assessment and bat report, design and access statement, planning and heritage statement, transport statement,

The application is below the thresholds for screening under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) and does not require an Environmental Statement.

## **Relevant Planning History**

None.

## **Relevant Planning Policy Summary**

Planning law requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material consideration in planning decisions and sets out that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

## **National Planning Policy Framework 2012 (NPPF) and associated guidance**

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

It is based on 12 core planning principles. Those particularly relevant in this case are:

- Be genuinely plan-led
- Proactively drive and support sustainable economic development
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and characters of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside
- Support the transition to a low-carbon future in a changing climate
- Contribute to conserving and enhancing the natural environment and reducing pollution
- Encourage the effective reuse of land
- Conserve heritage assets
- Actively manage patterns of growth

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

### **The Black Country Core Strategy (BCCS)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy:

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The above are supported by the following key policies, as relevant to this application:

### **CSP2: Development Outside the Growth Network**

CSP3: Environmental Infrastructure  
CSP4: Place Making  
CSP5: Transport Strategy  
HOU1: Delivering Sustainable Housing Growth  
HOU2: Housing Density, Type and Accessibility  
TRAN2: Managing Transport Impacts of New Development  
TRAN5: Influencing the Demand for Travel and Travel Choices  
ENV1: Nature Conservation  
ENV2: Historic Character and Local Distinctiveness  
ENV3: Design Quality  
ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island  
ENV6: Open Space, Sport and Recreation  
ENV7: Renewable Energy  
ENV8: Air Quality  
WM1: Sustainable Waste and Resource Management  
WM5: Resource Management and New Development

These Policies are considered to be consistent with the NPPF.

### **Walsall's Unitary Development Plan (UDP)**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

The key 'Saved' Policies relevant to this proposal are:

GP2: Environmental Protection  
GP5: Equal Opportunities  
GP6: Disabled People  
ENV1: The Boundary of the Green Belt  
ENV2: Control of Development in the Green Belt  
ENV3: Detailed Evaluation of Proposals within the Green Belt  
ENV5: Stabling and Riding of Horses and Ponies  
ENV10: Pollution  
ENV13: Development Near Power Lines, Substations and Transformers  
ENV14: Development of Derelict and Previously-Developed Sites  
ENV17: New Planting  
ENV18: Existing Woodlands, Trees and Hedgerows  
ENV23: Nature Conservation and New Development  
ENV24: Wildlife Corridors  
ENV29: Conservation Areas  
ENV32: Design and Development Proposals  
ENV33: Landscape Design  
ENV40: Conservation, Protection and Use of Water Resources  
H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings  
T1: Helping People to Get Around  
T4: The Highway Network  
T7: Car Parking  
T8: Walking  
T9: Cycling  
T10: Accessibility Standards – General  
T11: Access for Pedestrians, Cyclists and Wheelchair Users  
T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)

## T13: Parking Provision for Cars, Cycles and Taxis

These 'Saved' Policies are considered to be consistent with the NPPF.

### Supplementary Planning Documents

[http://cms.walsall.gov.uk/index/environment/planning/planning\\_policy/local\\_development\\_framework/ldf\\_supplementary\\_planning\\_documents.htm](http://cms.walsall.gov.uk/index/environment/planning/planning_policy/local_development_framework/ldf_supplementary_planning_documents.htm)

Where relevant BCCS and UDP policies are consistent with the NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The SPDs relevant to this application are:

- Designing Walsall
- Conserving Walsall's Natural Environment

### Emerging Policy

Whilst not adopted, the Site Allocations Document is currently being prepared and a draft document has been consulted upon. However as this is at an early stage of preparation, the weight that can be attached to this is limited.

### Consultations

**Conservation Officer** – Previously raised concerns about impact on the Great Barr Conservation Area due to the urbanising impact of the development and the design of the dwellings. Comments on amended plans and any recommended conditions to be reported at Planning Committee.

**Highway Authority** – Holding objection as the Transport Appraisal should be updated to reflect the revised site layout and access arrangements, including turning facility and visibility splays. Comments on amended plans and any recommended conditions to be reported at Planning Committee.

**National Grid** – No objections.

**Natural and Built Environment Team (Ecology)** – Previously requested additional information in relation to landscaping, habitat creation and tree/hedge protection. Comments on amended plans and any recommended conditions to be reported at Planning Committee.

**Natural and Built Environment Team (Landscape)** – Previously commented that the scheme appeared too suburban for the semi-rural location. Comments on amended plans and any recommended conditions to be reported at Planning Committee.

**Natural and Built Environment Team (Trees)** – No comments received at the time of writing. Any comments on the amended plans and any recommended conditions will be reported at Planning Committee.

**Pollution Control** – No objections.

**Severn Trent Water** – No objection subject to a condition to secure drainage details.

**Strategic Planning Policy** – Previously advised that the scheme would constitute inappropriate development in the Green Belt as buildings would encroach into previously undeveloped parts of the site, lack of information to allow comparison of footprint, volume and height of existing and proposed buildings and the loss of the riding school. Comments on amended plans and any recommended conditions to be reported at Planning Committee.

**Western Power** – No comments received at the time of writing. Any comments on the amended plans and any recommended conditions will be reported at Planning Committee.

**West Midlands Fire Service** – No objections.

**West Midlands Police Crime Prevention Design Advisor** – No objection and recommend the application meets Secure By Design Specifications.

### **Public Participation Responses**

Approximately 40 letters of objection have been received from local residents, including Walsall Friends of the Earth and Staffordshire Campaign to Protect Rural England, raising the following issues:

- Loss of a green lung
- Harm to conservation area and Green Belt
- Urbanising development
- Harm to Barr Beacon local nature reserve
- Loss of openness in the countryside
- Light pollution
- Loss of leisure/community/educational facility
- Loss of jobs/impact on local businesses
- Loss of grazing land for horses
- Other sites are more suitable for housing
- Impact on character and appearance of area
- Sets a precedent for other countryside land to be built on
- Harm to horses through relocating them
- Inconvenience/cost to horse owners
- Harm to wildlife
- Close proximity of electricity pylon to new homes
- Extra traffic on an already busy road
- Poor pedestrian and cycle access to the site
- No community benefit from the proposal
- Contrary to Green Belt purposes
- Inappropriate development in the Green Belt with no 'very special circumstances'
- Buildings are too tall/large
- Buildings are too close to Barr Beacon Road
- Too many housing developments in local area
- Very few similar facilities in the local area
- Homes for four families should not be allowed to the detriment of all the staff and users of the stables
- Additional housing not required as Walsall has a five year housing land supply

Valerie Vaz MP has also objected on behalf of her constituents for the following reasons:

- Loss of rural tourism and leisure development
- Housing need cannot justify housing development in the Green Belt
- The development would have a greater impact on the openness of the Green belt than the existing buildings due to hedge removal and height of the houses
- Agricultural land should be protected
- The development would undermine the functions of the Green Belt
- Previously developed land should be prioritised over Greenfield sites

An online petition has also been signed by over 300 people, stating *“Cancel plans to build houses on Foxhills Farm Riding School. Foxhills Farm Riding Centre is a huge part of the local community. Foxhills brings happiness to hundreds of children every year, some children that are severely disabled get to spend time around the animals in a safe environment. Foxhills has been a riding school for 40+ years and is the centre of the community. It being [brings?] activities for children to do in the holidays as well as being one of the closest riding school outside north Birmingham offering country life to inner city children. It employs 6 full time staff and without Foxhills and having houses in its place will be a huge loss the wide area. Save Foxhills from the property giants”*.

Any further material considerations raised by residents will be reported in the Supplementary Papers.

### **Determining Issues**

- Suitability of proposed land use
- Natural and built environment
- Residential amenity
- Highways and transport matters

### **Observations**

#### **Suitability of proposed land use**

The NPPF and the Development Plan both contain a presumption against inappropriate development in the Green Belt as it is by definition harmful to the Green Belt and should not be approved except in very special circumstances. NPPF Paragraph 89 sets out that the construction of new buildings is inappropriate in the Green Belt, except for a list of exceptions. The list includes redevelopment of previously developed sites, including those in continuing use, which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development. It is not necessary for the applicant to demonstrate ‘very special circumstances’ or demonstrate that there is not any sequentially preferable land available for development if they are able to meet this policy test. Some of the objection comments have stated that this would ‘set a precedent’ but this is an approach allowed by national policy.

The site is currently in equestrian use and has buildings on it, and is therefore previously developed land. The current use is not an agricultural use therefore the land is not protected as agricultural land. The amended proposal has the houses in a similar position to the existing buildings, with a single storey form of a similar height. The area and volume of the bungalows would also be similar to existing. The bungalows are further forward in the plot than previously proposed, similar to the existing buildings, with the ridge forming a

rear boundary to the development. There would be no significant further incursion into the Green Belt or the countryside than the existing built form on the site. It is considered that the development would not have a greater impact on the openness of the Green Belt or the purposes of including land within it than the existing development and is therefore acceptable in principle. It is also noted that the proposal would contribute to the five-year housing-land supply as a small windfall site. Walsall is already able to demonstrate a five-year housing land supply but this is not a reason to refuse permission for windfall sites.

Whilst the Development Plan and the NPPF also encourage outdoor recreation uses in the Green Belt, such as the existing riding school, there is no objection to the loss of the existing use as there is no demonstrable shortfall in provision and the existing use is not considered to support the day-to-day needs of the community, although it is recognised from the objection comments received that it provides leisure and education opportunities to some members of the community. There is no policy requirement for a replacement use to be of community value. Some of the objection comments refer to loss of open space but as the site is already developed it does not constitute loss of open space. The six existing jobs at the site would be lost and the horses would need to be relocated but this is not an overriding reason to refuse the application and it is noted that the lease for the riding school could be terminated at any time by the landowner, notwithstanding this planning application.

### **Natural and built environment**

As discussed above, the impacts of the development on the Green Belt are considered to be acceptable. Due to the similarities between the existing and proposed quantum and location of development, it is also considered that the impact of the proposal on the Conservation Area would be acceptable. Objections have referred to potential light pollution from the development but it is considered unlikely that four bungalows would require greater lighting levels than the existing business use.

They would have a more urbanised appearance than the existing stables but the design, appearance and layout of the bungalows are considered to be appropriate to the character and appearance of the local area. The proposed materials would be in keeping with the retained red/brown farmhouse. Whilst the bungalows would not be 50m away from the electricity pylons, they are outside the minimum separation distance required for safety purposes. A condition requiring the development to meet Secure By Design specifications is recommended, together with an informative, to ensure adequate residential amenity for future occupiers.

The proposal would retain much of the existing vegetation, including the extensive hedge along the site frontage, and also proposes additional planting. No protected species were found on the site. Conditions would be required to secure the recommendations of the ecological report. The development should include landscaping and habitat creation, which should also be secured by condition. Hedgerow and tree protection measures would also be required. The comments of the Council's Natural Environment Team on the amended plans are awaited and will be reported in the Supplementary Papers, together with any recommended conditions. It is noted that some of the objection comments refer to adverse impacts on the Barr Beacon Local Nature Reserve but this has not been raised by the Council's Ecologist.



## **Residential amenity**

The nearest residential property would be the retained farmhouse to the southwest of the site. The next nearest properties are over 200m away. The farmhouse would retain the existing shared access with the development and has its own on-plot parking. It is considered that no significantly adverse impacts would occur from the proposal in terms of overlooking, overbearing, overshadowing or loss of light.

## **Highways and transport matters**

The Highway Authority has requested an amended Transport Statement as the application has been amended to retain the existing access, with some amendments. This has been received and is currently under consultation at the time of writing this report. The comments of the Highway Authority and any recommended conditions will be reported in the Supplementary Papers. On the basis that this is an existing access and the proposed dwellings would generate fewer trips than the existing use, it is considered likely that the proposals will be generally acceptable and conditions for implementation of the proposed changes to the access, turning and visibility splays are likely to be required.

## **Conclusions**

The application is considered to be acceptable subject to suitable conditions.

## **Positive and Proactive working with the applicant**

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long that they safeguard the natural and built environment, highway network and the amenity of citizens.

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including any representations that may have been received, and negotiating amendments with the applicant before determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

**Recommendation: Delegate to the Head of Planning, Engineering and Transportation to approve with conditions (including any amendments or additional conditions deemed appropriate by officers) subject to no material objections being raised as a result of the re-consultation:**

### **Recommended conditions (to be updated in the Supplementary Papers):**

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

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following approved plans:

1218-10a site/location plan  
1218-12d site plan  
1218-40a plot 1 elevations  
1218-41a plot 1 plans and external visualisation  
1218-43a plot 2 elevations  
1218-44a plot 2 plans and external visualisation  
1218-46a plot 3 elevations  
1218-47a plot 3 plans and external visualisation  
1218-49a plot 4 elevations  
1218-50a plot 4 plans and external visualisation

REASON: to define the permission

3. A. Notwithstanding the details provided, no development shall take place until a schedule and details of all materials to be used in the external surfaces of the development, including colour, texture and scale have been submitted to and approved in writing by the Local Planning Authority.

B. The development shall be fully implemented and constructed with the approved materials only.

REASON: To ensure a satisfactory appearance of the development in relation to the character of the area, the Conservation Area and the Green Belt.

4. The detailed design of the development shall fully meet Secure By Design specifications - see informative.

REASON: To ensure the development is safe and secure in accordance with Secured By Design standards.

5. A. No development shall take place until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority.

B. The development shall not be brought into use until the approved scheme has been implemented in accordance with the approved details.

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.

## NOTES TO APPLICANT

### 1. Secure by Design

Secure By Design specifications will significantly increase the security of the building (doors and windows). Information can be found at [http://www.securedbydesign.com/pdfs/SBD\\_New\\_Homes\\_2010.pdf](http://www.securedbydesign.com/pdfs/SBD_New_Homes_2010.pdf)

All external door sets should comply to PAS 24 2012 standards.

All ground floor and accessible windows should comply to BS7950 or WCL4 standards. This should improve the standard of security to the more vulnerable ground floor windows.

All ground floor, accessible windows and doors should contain at least one pane of 6.8mm laminated glass, this includes French and Patio doors.

All ground floor front windows should have an area of defensible space across their width. This should be made up of densely planted shrubs, selected to be suitable for the environment they are to be planted in. This will provide a buffer area between the windows and other public or private space, making it more difficult for offenders to access such windows. Where plants / shrubs are to be used in front of windows or around parking spaces the plants should be such that they grow to no more than 1m in height when mature. Plants and shrubs should also suit the environment they are to be located in terms of soil and light.

Perimeter and Boundary fencing should be at least 2.1m in height. The fencing should also be erected so that the smooth face is always facing outwards so that the frame cannot be used as a climbing aide. 2.1m fencing can include 300mm trellis topping in order to offer protection of the vulnerable rear of the properties. Where panel and concrete post style fencing is to be used there needs to be a fixing between panel / slats around the posts which should create a secure mechanical bond. This should provide a chain linking effect where each panel and post acts in concert with the next to resist attack by pushing, pulling and lifting. Fixings should be made of galvanized steel or stainless steel with a design life to match the timber components.

All side gates should be as close to the building line as possible to improve natural surveillance by removing or limiting the depth and number of recesses.

Due to the national increase in metal thefts where possible lead substitute products should be used.

Each dwelling should be fitted with a suitable intruder alarm.

Garage doors must be certificated to one of the following standards - Loss Prevention Certification Board standard LPS1175 security rating 1 or WCL 2 BR 1.

24/11/14

14-1552-FL

**From:** [REDACTED]  
**Sent:** 21 November 2014 17:54  
**To:** Planning Services (PlanningServices@walsall.gov.uk)  
**Subject:** 100 new people signed: Cancel plans to build houses on foxhills farm riding school  
**Categories:** Attachments, SF

100 People Recently Add Their Names To %{Petition Creator}'S Petition "%{Petition Title}" That Means More Than 500 People Have Signed On

There are now 300 signatures on this petition. Read reasons why people are signing, and respond to [REDACTED] by clicking here:

[REDACTED]

Dear Walsall Council,

Cancel plans to build houses on foxhills farm riding school Foxhills farm riding centre is a huge part of the local community. Foxhills brings happiness to hundreds of children every year, some children that are severely disabled get to spend time around the animals in a safe environment. Foxhills has been a riding school for 40+ years and is the centre of the community. It being activities for children to do in the holidays as well as being one of the closest riding school outside north Birmingham offering country life to inner city children. It employs 6 full time staff and without Foxhills and having houses in its place will be a huge loss the wide area. Save foxhills from the property giants

Sincerely,

- 300. [REDACTED] Walsall, United Kingdom
- 299. [REDACTED] Sutton Coldfield, United Kingdom
- 298. [REDACTED] Lichfield, United Kingdom
- 297. [REDACTED] Hunnington, United Kingdom
- 296. [REDACTED] Birmingham, United Kingdom
- 295. [REDACTED] Northamptonshire, United Kingdom
- 294. [REDACTED] Cannock, United Kingdom
- 293. [REDACTED] Birmingham, United Kingdom
- 292. [REDACTED] Birmingham, United Kingdom
- 291. [REDACTED] Sutton Coldfield, United Kingdom
- 290. [REDACTED] Bromsgrove, United Kingdom
- 289. [REDACTED] Birmingham, United Kingdom
- 288. [REDACTED] Birmingham, United Kingdom
- 287. [REDACTED] Birmingham, United Kingdom
- 285. [REDACTED] weston super mare, United Kingdom
- 284. [REDACTED] Birmingham, United Kingdom
- 283. [REDACTED] walsall, United Kingdom
- 282. [REDACTED] United Kingdom
- 281. [REDACTED] Newtownabbey, United Kingdom
- 280. [REDACTED] Tamworth, United Kingdom
- 279. [REDACTED] Preston, United Kingdom
- 278. [REDACTED] Walsall, United Kingdom
- 277. [REDACTED] LONDON, United Kingdom
- 276. [REDACTED] London, United Kingdom
- 274. [REDACTED] West Bromwich, United Kingdom

REGENERATION  
24 NOV 2014  
RECEIVED



## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 07-Jan-2016

**Plans List Item Number: 7.**

**Reason for bringing to committee: Significant community interest**

**Location:** 1, MOB LANE, PELSALL, WALSALL, WS4 1BB

**Proposal:** ERECTION OF 2 BED BUNGALOW FRONTING ASHTON DRIVE.

**Application Number:** 15/1501

**Case Officer:** Barbara Toy

**Applicant:** Mr & Mrs C Dagmore

**Ward:** Rushall-Shelfield

**Agent:** G & G Building Consultancy Ltd

**Expired Date:** 02-Dec-2015

**Application Type:** Full Application

**Time Extension Expiry:**

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



## **Application and Site Details**

The site is situated on the corner of Mob Lane and Ashton Drive and comprises the side garden are of No 1 Mob Lane, a two storey end terraced house with a two storey flat roofed extension to the side set back from the frontage and single storey rear extension. The house currently has a number of detached outbuildings in the rear garden adjacent to the boundary with No 3 Mob Lane and vehicle access and driveway parking off Mob Lane. The side/rear garden is enclosed by fencing to the frontage and a high hedge (approx 3m high) to the boundary with Ashton Drive and the access drive adjacent to No 1 Ashton Drive.

Ashton Drive is a narrow cul de sac which provides access to four houses, 1 and 3 are detached houses, 2 and 4 are semi detached houses. No 1 sits to the rear (north) of the site with a vehicle access drive to the side immediately adjacent to the site boundary which is owned and provides rear access to 3 Mob Lane. No 2 Ashton Drive sits opposite the site.

Mob Lane is a continuation of Coronation Road, with Ashton Drive being the transition between the two. 157 Coronation Road is an end terraced house that sits on the opposite corner of Ashton Drive with vehicle access onto Ashton Drive opposite the site. There is a triangular area of grass on the corner. The northern end of Ashton Drive comprises open fields that form part of the Green Belt.

This application proposes the erection of a two bedroomed dormer bungalow fronting Ashton Drive, with two off street parking spaces to the south of the building and pedestrian access to the front door. The building would measure 9.1m x 6.1m with an eaves height of 3.4m and maximum height of 5.6m. The accommodation would provide kitchen, bathroom and bedsit at ground floor with a guest bedroom and shower room within the roof space with a dormer window 6.1m wide to the rear. The gable roof would have a dormer window to the rear and would have a flat roof with tile hanging to the side elevation to match the main roof. An amenity area of approx 149sqm would be provided to the rear of the building. The existing boundary hedge to Ashton Drive would be retained as far as possible between the new pedestrian and vehicle access points.

The bungalow would provide accommodation for a disabled occupant of the existing house and the main house would be retained by the family.

An amenity area of approx 128sqm would be retained for the existing house at No 1 to the side of the house, screened from Ashton Drive by the existing high hedge and 2m fencing to the frontage. Three off street parking spaces for No 1 would be retained the front driveway.

The plans have been amended since submission to ensure two off street parking spaces would be provided for the new dwelling with appropriate visibility splay and to reduce the size of the dormer window.

The application is supported by a Design & Access Statement which discusses the site, the proposals, the proposed brickwork, roof, windows, parking, amenity space and access arrangements.

## **Relevant Planning History**

BC42939P, outline for construction of dwelling and single storey detached garage, refused 09-01-95.

BC43893P, After Local Appeal, outline for construction of dwelling and single storey detached garage, granted subject to conditions 16-05-95.

## **Relevant Planning Policy Summary**

### **National Planning Policy**

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

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Seek to secure high quality design and good standards of amenity for all existing and future occupants.
- Take account of the different roles and character of different areas.
- Proactively drive and support sustainable economic development to deliver the homes that the country needs.
- Contributing to conserving and enhancing the natural environment.

**Key provisions** of the NPPF relevant in this case:

1. Delivering sustainable development
- 4: Promoting Sustainable Transport
- 6: Delivering a Wide Choice of High Quality Homes
- 7: Requiring Good Design
11. Conserving and enhancing the natural environment

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

## Local Policy

### Black Country Core Strategy

- CSP4: Place Making
- CSP5: Transport Strategy
- HOU2: Housing Density, Type and Accessibility
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

It is considered in this case that the relevant provisions of the BCCS can be given full weight

**Unitary Development Plan - [http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)**

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- H5: Housing for People with Special Needs
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF

## Supplementary Planning Documents (SPD)

### Designing Walsall SPD

- Policy DW1 Sustainability
- Policy DW2 Safe and Welcoming Places
- Policy DW3 Character
- Policy DW4 Continuity
- Policy DW9 High Quality Public Realm
- Policy DW10 Well Designed Sustainable Buildings
- Appendix D

It is considered in this case that the relevant provisions of SPD Designing Walsall are consistent with the NPPF.

**Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)**



## **Consultations**

**Transportation** – No objections to the amended layout subject to conditions relating to surfacing of the parking area, provision of a pedestrian visibility splay and reconstruction and surfacing of highway land when the boundary hedge is removed.

## **Public Participation Responses**

Three objections received.

Objections:

- An additional property will cause more congestion/aggravation for residents
- Windows in the dormer will overlook No 3 and rear garden creating loss of privacy
- Loss of light and shadowing to garden, driveway and windows from the height of the new building
- Over shadowing and loss of outlook from adjacent kitchen window
- Ashton Drive is a single track driveway that already provides vehicle access to 5 houses, highway and pedestrian safety concerns about additional vehicles and trips from an additional property.
- No parking available within Ashton Drive, all parking is within Mob Lane
- Access and safety issues for existing residents from new property

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

## **Determining issues**

- The Principle of Residential Development
- Design and Layout and Impact on the Immediate Vicinity
- Impact on the Amenities of the Surrounding Occupiers
- Local Finance Considerations

## **Observations**

### **The Principle of Residential Development**

The site is situated within a predominantly residential area within walking distance of a regular bus service and both primary and senior schools.

The proposals would provide an additional residential unit within the side garden area of the existing house. Annex 2: Glossary of the NPPF provides a definition of previously developed land which excludes 'land in built-up areas such as private residential gardens'. The site cannot therefore be considered as previously developed land and the NPPF (para 53) encourages local planning authorities to resist the inappropriate development of residential gardens.

The existing plot for No 1 sits on the corner of Ashton Drive and is considerably larger than the other plots in the immediate vicinity within Mob Lane and Coronation Road, apart from 157 Coronation Road on the opposite corner of Ashton Drive, which is of a similar size. The principle of the separation of the plot to provide a further dwelling was established in 1995 with the approval of a new dwelling on the corner of the plot fronting Mob Lane.

### **Design and Layout and Impact on the Immediate Vicinity**

It is considered that the position of the proposed bungalow in a set back position fronting Ashton Drive would leave the open aspect on the corner of Mob Lane and would be an improvement over the previous approval for a house on the corner.

The single storey nature of the property would also reduce the impact of the building on the surrounding properties and the general street scene. The retention of the existing boundary hedging to Ashton Drive and the vehicle access drive to the rear of the site is welcomed in retaining the natural environment and in providing a screen of the building.

Dormer window set in from the side from 1 Mob Lane by 2.7m and from the side adjacent 1 Ashton Drive by 0.7m, the dormer would have tile hanging to the side to blend with the main roof and a flat roof set 0.3m down from the main ridge. The dormer is required to allow sufficient ceiling height and to allow light into the bedroom, staircase and shower room at first floor level. The shower room and staircase window would be obscurely glazed to reduce the extent of any overlooking.

### **Impact on the amenity of the surrounding occupiers**

The separation to the rear boundary with the rear garden of No 3 would exceed 13m, avoiding direct overlooking of the garden. The proposed shower room and staircase windows to the rear would be obscurely glazed to reduce the extent of any overlooking.

No 1 Ashton Drive is separated from the site by a gated vehicle access drive that is within the ownership of No 3 Mob Lane. The existing high hedging (3m high) along the Ashton Drive elevation of the site is continued to the rear along the boundary with the access drive. The bedroom window within the dormer would be situated approx 6m from the boundary with the access drive, reducing the extent of any overlooking to No 1 Ashton Drive due to the distance and the angle to the boundary.

No 1 Ashton Drive is an 'L' shaped property with a doorway and window to the kitchen in the wing element facing the site. The kitchen however has a further window on the opposite elevation adjacent to the shared driveway between 1 and 3. No 1 has a boundary fence approx 3m high situated just over 4m from the kitchen window which currently interrupts any views from the kitchen window. The blank gable of the proposed bungalow would sit approx 10.5m from the kitchen window, 2.5m below the required 13m separation (Appendix D, Designing Walsall), however given the existing 3m high boundary fence, the vehicle access drive (outside of their control), the 3m high existing hedge along the boundary of the site and the additional kitchen window on the opposite side of the house, it is considered that the proposals would have little additional adverse impact on the amenities of the occupiers of No 1.

The rear amenity area would exceed 13m in length reducing any impact of the building on the rear garden of No 3 Mob Lane.

Whilst the separation distance from the first floor rear windows in the existing house to the new boundary with the rear garden of the new dwelling would only be approx 6m the house will remain within the same family and any overlooking would be of the end of the garden area rather than the area immediately to the rear of the building.

It is considered that the proposals would have no adverse impact on the amenities of the adjoining occupiers.

### **Parking, Access and highway safety**

Three off street parking spaces would be retained for the existing house at No 1 utilising the existing vehicle access off Mob Lane in compliance with Policy T13.

The proposed layout has been amended since submission to ensure that two off street parking spaces would be provided for the new dwelling and to amend the visibility splay either side of the access point in Ashton Drive to provide appropriate visibility.

Transportation acknowledge that Ashton Drive is relatively narrow with no footpath, but on the basis that it provides access to only a small number of properties the level of pedestrian and vehicle traffic is low and the proposed pedestrian visibility of 2.4m x 3.4m is considered adequate in this case.

### **Local Financial Considerations**

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

This application proposes 1 new home.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

### **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. This development shall not be carried out other than in conformity with the following approved plans and documents: -

Site Location Plan submitted 8<sup>th</sup> October 2015

Existing Layout Drawing G002153/01a submitted 8<sup>th</sup> October 2015

Proposed Ground and First Floor Layout Drawing G002153/02c submitted 1<sup>st</sup> December 2015

Proposed Elevations and Section Drawing G002153/03b submitted 1<sup>st</sup> December 2015

Proposed Block Plan Drawing G002153/04b submitted 30<sup>th</sup> November 2015

Design and Access Statement submitted 8<sup>th</sup> October 2015

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

3a. No development shall commence until samples of all facing and roofing materials for the proposed bungalow, plus all proposed hardsurfacing within the site have been submitted to and approved in writing by the Local Planning Authority.

3b. The development shall be completed with the approved details and retained as such.

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

4a. No development shall commence on site until details of the disposal of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority.

4b. The development shall be completed with the approved details and retained as such.

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

5a. Prior to the development first coming into use, the parking area shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain, full details of which shall be submitted to and approved in writing by the Local Planning Authority.

B. The parking area shall thereafter be retained and used for no other purpose.

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

6. The pedestrian visibility splay at the access point shown on drawing no. G002153/04b dated 30/11/15, shall at all times be kept free of any structure or planting exceeding 600mm in height above footway level.

*Reason:* To ensure adequate visibility is retained at the access point in the interest of highway safety and the safe and satisfactory operation of the development.

7. Prior to the new access point first coming into use, the intervening highway land between the existing flush kerb edge and the site boundary ( the centre of the hedge line), shall be reconstructed in accordance with Council's footway crossing specification SD11/8 dated January 2008 and to the satisfaction of the Highway Authority. All works within the public highway shall be in accordance all statutory requirements.

*Reason:* To ensure the satisfactory completion and operation of the access and in accordance with UDP Policy GP2 and in the interests of highway safety.

8. Notwithstanding the details on Drawing G002153/03b the first floor shower room and staircase windows within the dormer shall be obscurely glazed to a minimum of Pilkington level four privacy glass or equivalent, and once installed shall be thereafter retained.

*Reason:* In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

9. No 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 only take place between the hours of 08.00 to

18.00 Monday to Fridays and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*(\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)*

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





## Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning, Engineering and Transportation on 07-Jan-2016

**Plans List Item Number: 8.**

**Reason for bringing to committee: Significant community interest**

**Location:** 19, MOAT FARM WAY, PELSALL, WALSALL, WS3 5BW

**Proposal:** RETROSPECTIVE: RETENTION OF BOUNDARY FENCE (IN NEW POSITION CLOSER TO THE PAVEMENT) AND PLANTING IN FRONT.

**Application Number:** 15/1800

**Case Officer:** Jenny Townsend

**Applicant:** Mr Scott Middleton

**Ward:** Pelsall

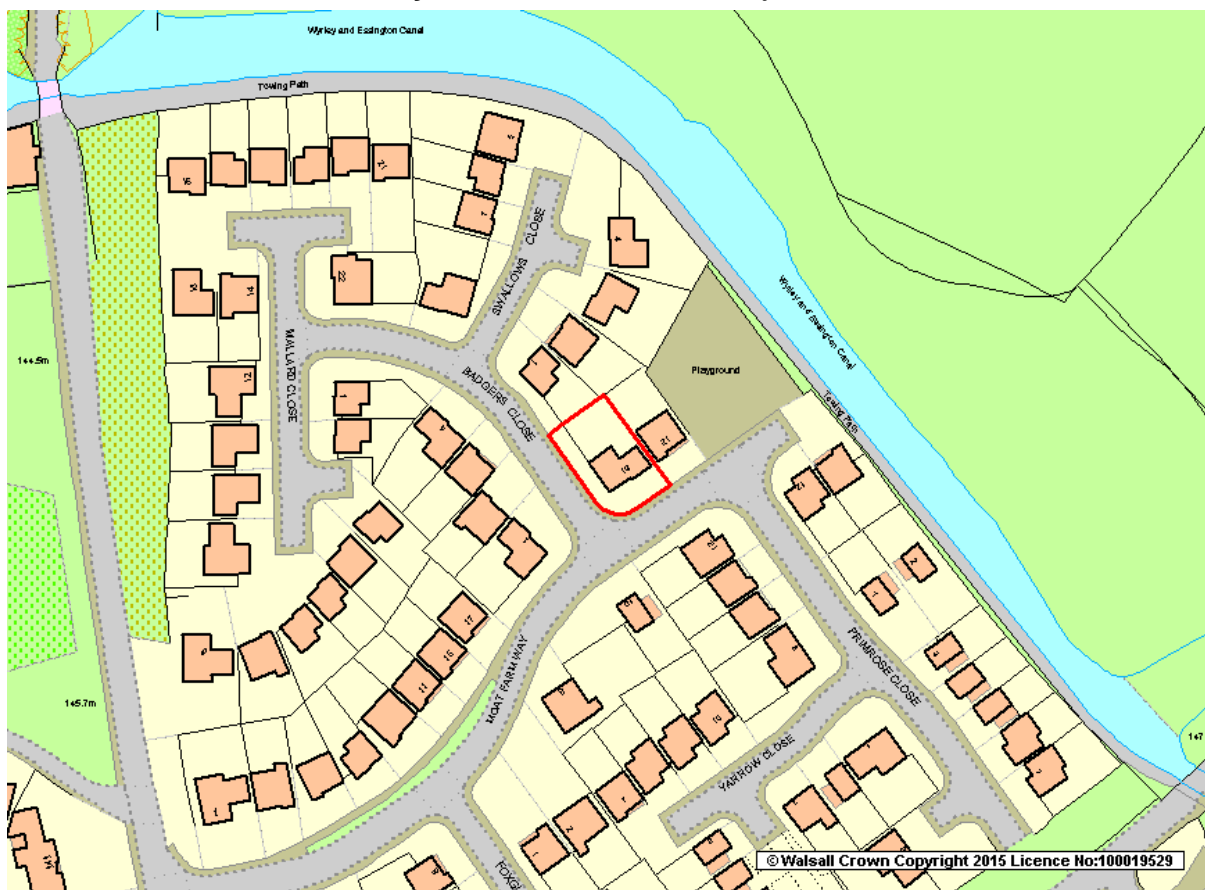
**Agent:**

**Expired Date:** 24-Jan-2016

**Application Type:** Full Application

**Time Extension Expiry:**

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



## **The Application and Site Details**

This is a retrospective application for the retention of a 2 metre high decorative fence with planting in front to the front and side of a detached house on the corner of Moat Farm Way and Badgers Close.

The fence is set back approximately 1.0 metre from the back of the pavement which is closer than the position of the original fence erected when the estate was built. Conifer trees that are a similar height to the fence have been planted along the full length of the side section facing onto Badgers Close. The fence is a light brown colour, has a curved top and is supported by timber posts.

A 2 metre high close board fence has been erected to the side boundary of the house opposite the application site (12 Primrose Close) in a similar position in relation to the back of the pavement as that of the application fence but with no planting in front. From aerial photographs it appears that this fence replaced an original fence which has tall shrubs (similar to those which were to the side of the application site) between the fence and the pavement.

At the 'T' junction of Badgers Close and Mallard Close there is a tall close board fence with arched tops to the side of number 14 Mallard Close which is positioned directly at the back of the pavement and has no space for planting in front.

In Primrose Close there are similar height fences with timber panels between concrete posts and gravel boards to the side boundaries of numbers 12 Moat Farm Way and 1 Primrose Close. These fences have planting in front and are set back approximately 2 metres from the back of the pavement.

On the corner of Primrose Close and Yarrow Close there is a tall fence with low level planting and gravel to the side and rear of number 1 Yarrow Close which in some places is closer to the back of the pavement than the application fence.

## **Relevant Policies**

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

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

**Key provisions** of the NPPF relevant in this case:

- ***NPPF 7 - Requiring good design***



On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **Local Policy**

#### **Black Country Core Strategy**

- ENV3: Design Quality

#### **Unitary Development Plan**

- GP2: Environmental Protection
- ENV32: Design and Development Proposals

### **Supplementary Planning Document**

#### **Designing Walsall**

- Appendix D

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

**Policies are available to view online: [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)**

### **Relevant Planning History**

Planning permission for the original estate development removed permitted development rights for fences/walls/gates etc.

14/1654/FL Two storey side extension. Granted Subject to Conditions 09/01/15.

### **Consultation Replies**

None.

### **Representations**

5 letters/emails from neighbours; one in support and four objections on the following grounds:

Planning permission should have been sought prior to erecting fence;  
Position of fence is a breach of bye laws and planning law;  
Sets a precedent to the detriment of the estate;  
Not in keeping with all other fencing on estate or the open character of the estate;  
Conifers are inappropriate and too close to the pavement;  
Already seen land reclaimed nearby where another new fence was erected;  
Claiming of land not legal;

Removal of 2 mature trees;  
Colour of fence is out of place and doesn't blend in;  
Conifer roots will cause damage to pavement and cable box.

The neighbour in support commented that 'the fence had tidied up a corner of the road that was a mess before with old shrubs etc., the new fence looks good ... and they would like to see it retained'.

### **Determining Issues**

- Design and Character of Area

### **Observations**

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

The application site is on a residential estate built approximately 30 years ago which lies adjacent the Wyrley and Essington Canal and one of the key characteristics is the planting to the frontages of the houses which provides a degree of soft landscaping to offset the more rigid formality of the built form and therefore enhance the characteristics of the area.

The surrounding area is characterised by properties fronting on to the highway but where side or rear boundaries about the highway, these are often secured with close boarding fencing. There is no one overriding design style for the fences with both curved and flat top detailing and they have been finished in a variety of colours including dark walnut through to lighter cedar.

Notwithstanding this there are a number of tall fences on the estate some of which appear to have been repositioned when they have been replaced. Some have planting in front whilst others have none although there only appears to be one example where the fence is directly at the back of the pavement with no space for planting and this was most probably part of the original layout.

The application fence is mostly screened by the conifer trees to the side and whilst it is acknowledged that the colour is lighter than the other fences on the estate, it is considered that it is still in keeping with the natural colours of the area, more so than the concrete posts and gravel boards of the nearby fences. The trees planted alongside the fence in Badgers Close will almost certainly cover most of the fence from view in a short time.

The neighbours are concerned that the trees overhang the pavement. While it is clear that some of the branches are close to the pavement, this is much less than the encroachment onto the pavement of the shrubs that were previously to the side of the application house and the remaining shrubbery to the side of number 1 Swallows Close. A condition for the trees to be kept trimmed back is to be added to control this. The conifer trees are considered would be in keeping with the 'green' character of the estate and on balance and in this context it is considered that the fence and trees do not harm and are in keeping with the appearance and existing character of the area.

With regard to the neighbours other comments; the current application has addressed the unauthorised work; bye laws are civil matters not covered by planning law; a land registry search shows that the development is wholly on land owned by the applicant; there is no record of any protected trees on the site so tree removal would not require planning permission; damage to pavement and cable box is not a material planning issue and tall

boundary fences visible in the street area are already an emerging characteristic of the estate.

### **Positive and Proactive working with the applicant**

#### **Approve**

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

### **Recommendation: Grant Subject to Conditions**

1: The conifer hedge shall not be allowed to overhang the pavement and the height is to be kept at a maximum of 2 metres. Any tree which dies or becomes seriously diseased, damaged or is removed shall be replaced within 3 months with a tree of the same or similar species and size.

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





## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 07-Jan-2016

**Plans List Item Number: 9.**

#### Reason for bringing to committee:

**Location:** SHELFIELD POST OFFICE & OFF LICENCE, 16, SPRING ROAD, SHELFIELD, WALSALL, WS4 1QQ

**Proposal:** CHANGE OF USE FROM POST OFFICE (A1) TO CAFE (A3).

**Application Number:** 15/1396

**Case Officer:** Paul Hinton

**Applicant:** Mrs Katherine Poynton

**Ward:** Rushall-Shelfield

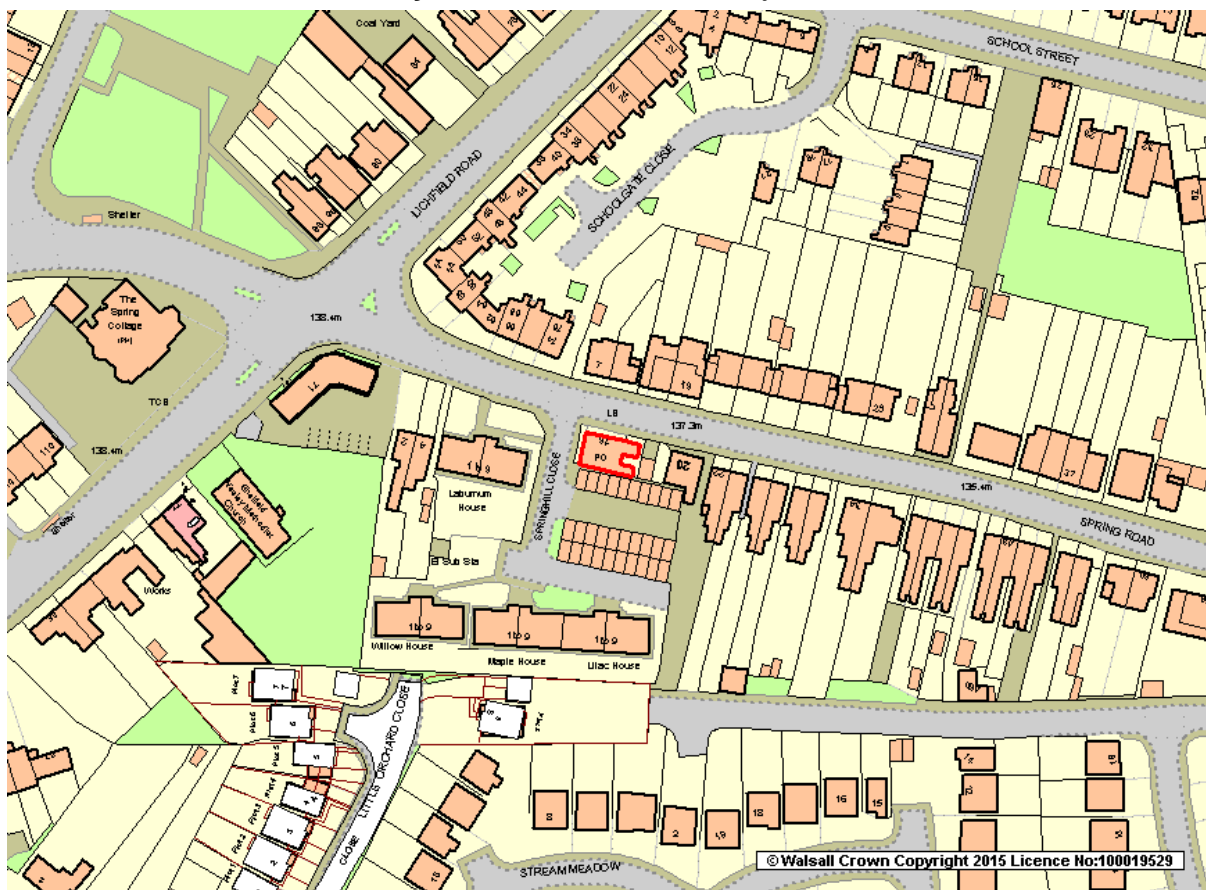
**Agent:**

**Expired Date:** 02-Dec-2015

**Application Type:** Full Application

**Time Extension Expiry:**

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



## **Application and Site Details**

This application seeks planning permission for the change of use of the ground floor of this vacant Post Office (A1) to a Cafe (A3). The building is located on the corner of Spring Road (District Distributor) and Springhill Close, with the front access door facing Springhill Close. Spring Road is characterised by houses fronting the road with double yellow lines both sides of the road. Immediately next door to the application site is a small leather factory. Springhill Close includes four blocks of three storey flats to the south and west of the application site. Immediately to the south of the application site are three blocks of garages and private parking court. The eastern side of Springhill Close has double yellow lines. The application site is 47m from Shelfield Local Centre.

The cafe is proposed to be open 7.30-13.30 Monday to Friday and 8.00-13.00 on Saturdays

### ***Supporting Statement***

- Post Office closed in April 2014 and has not been used since. Building would be perfect location as there are no other cafe/tea rooms in Shelfield. There is no other place where one can sit and eat or relax with a cup of tea. We will give the building a new lease of life making it look more appealing to the area and the public.
- Once Post Office closed locals had been requesting it was turned into a cafeteria as no such place in the local area to sit down and drink tea or coffee with friends. They said that they had to travel to Walsall Wood or Rushall.
- Most of the customers will come from the surrounding area.
- There is a public car park on Green Lane.
- Menu would consist of hot and cold sandwiches alongside hot and cold beverages, with some plated meals.

## **Relevant Planning History**

BC56351P – Erection of external steel staircase. Granted subject to conditions 10/9/1998.

## **Relevant Planning Policy Summary**

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

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- proactively drive and support sustainable economic development to deliver business
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- contribute to conserving and enhancing the natural environment and reducing pollution

- encourage the effective use of land by reusing land that has previously been developed

**Key provisions** of the NPPF relevant in this case:

1. Delivering sustainable development

18 The Government is committed to securing economic growth in order to create jobs and prosperity.

19 Planning should encourage sustainable growth.

20 Meet development needs of businesses

21 Investment in business should not be over-burdened by the combined requirements of planning policy expectations. Identify strategic sites for local and inward investment.

Identify priority areas for economic regeneration

4. Promoting sustainable transport

32 Decisions should take account of safe and suitable access to the site can be achieved for all people. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

34 Developments that generate significant movement are located where the need to travel will be minimised.

35 Developments should be located and designed where practical to; create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.

7. Requiring good design

58 Developments should function well and add to the overall quality of the area and optimise the potential of the site to accommodate development.

61 Securing high quality design goes beyond aesthetic considerations. Decisions should address the connections between people and places and the integration of the new development into the built environment,

64 Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

11. Conserving and enhancing the natural environment

109 The planning system should prevent new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution.

111 Planning decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided it is not of high environmental value.

120 To prevent unacceptable risks from pollution decisions should ensure that new development is appropriate to its location. The effects (including cumulative effects) of pollution on health or general amenity and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

123 Planning decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts
- Mitigate and reduce to a minimum other adverse impacts on health and quality of life.
- Recognise that development will often create some noise
- Identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24<sup>th</sup> July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The relevant policies are:

The Vision consists of three major directions of change and underpins the approach to the whole strategy which includes the delivery of Sustainable Communities, Environmental Transformation and Economic Prosperity which are supported by the following policies:

The relevant key policies are:

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

CSP4 – develops the need for high quality place making and design

EMP1: Providing for economic growth and job creation.

CEN1: Black Country Centres will provide for the main focus for....service activities.

CEN3: The Strategic Centres should be the principle locations for major leisure, commercial leisure, entertainment, cultural facilities and services.

CEN6: New small scale local facilities outside of defined centres of up to 200 square meters will be permitted if;



- The proposal is of an appropriate scale and nature to meet a specific day-to-day need for a population within convenient, safe walking distance for new or improved facilities.
- Local provision could not be better met by investment in a nearby centre
- Existing facilities will not be undermined
- Access to facilities by means other than by car would be improved and within convenient, safe walking distance of the community it is intended to serve.

CEN7: Out-of-centre development will have to demonstrate that development cannot be provided in-centre or at edge of centres locations. Requirements of CEN6 need to be satisfied. Developments will need to be accessible by a choice of means of transport.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Planning permission will not be granted for development likely to have significant transport implications.

TRAN4: Cycle parking should be provided at all new development.

TRAN5: Sets out the requirement for development to focus on moving away from the reliance on the private car.

ENV3: Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits. Implementation of the principles of “By Design” to ensure the provision of a high quality networks of streets, buildings and spaces.

It is considered in this case that the relevant provisions of the BCCS can be given full weight.

### **Walsall's Unitary Development Plan (UDP)**

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says “*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*”.

The relevant policies are:

GP2 Expects all development to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact upon the environment.

3.6 Development schemes should, as far as possible, help to improve the environment of the borough.

3.7 Seek to protect people from unacceptable noise, pollution and other environmental problems.

ENV10 states that development which may give rise to pollution such as noise and smell will only be permitted where it would not have an adverse effect on adjoining uses/potential uses.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV18: Protection and replacement of trees.

ENV32: Poorly designed development which fails to properly take account of the context or surroundings will not be permitted.

ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV40: Seeks conservation and protection of all water resources

S1: Defines retailing as an appropriate Town Centre use

S2: The role of the Local Centre is to meet the day-to-day convenience shopping and local service needs of their communities.

S5: Local Centres – retention, enhancement and further development of shops, services and other town centre uses will be encouraged.

S6: New small-scale local facilities will be permitted if it can be shown:

- i. The proposal is a scale and kind to meet a local need for improved facilities
- ii. The local need cannot be better met by investment in a nearby centre
- iii. There will be no likelihood of an adverse impact on the vitality and viability of any established centre in the Borough or elsewhere within the affected catchment area.
- iv. There will be no impact on existing local provision such as to leave some local needs unmet, contrary to efforts to promote social inclusion.
- v. The proposal will improve accessibility to facilities by means other than the car and, in particular, will be within convenient, safe walking distance of the community it is intended to serve.
- vi. The proposal will help to reduce the need to travel, especially by car.
- vii. There must be no significant loss of amenity for neighbouring homes.
- viii. Servicing and parking associated with the proposed use must not create any significant road safety or traffic problems.

#### **T7 – Car Parking**

All development should satisfy the car parking standards set out in Policy T13. This will involve providing an adequate level of parking to meet operational needs while not exceeding any maximum parking standards that are specified.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

It is considered that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF.

#### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

#### **Designing Walsall SPD**

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

#### **Consultations**

**Transportation** – no objection subject to conditions preventing use as a hot food takeaway and provision of a cycle hoop.

**Environmental Health** – no objection, odour control equipment is not required. A hand basin should be fitted in the food preparation area.

#### **Public Participation Responses**

48 surrounding occupiers notified by letter and site notice displayed.

Five letters have been received objecting to the application on the following grounds:

- Lack of parking facilities for customers, only parking is one side of Springhill Close for about six cars which is used by residents.
- Existing parking problem, previously customers parked in front of garage doors
- Customers of a cafe would spend longer on the premises causing even more of a problem for residents.
- Business case for cafe is unsound as there is very little pedestrian traffic to attract. The Post Office closed for this reason and there is a Co-op around the corner that provides drinks, snacks and parking for customers.
- If application is approved the Council must implement a residents parking scheme on Springhill Close and police it effectively. A barrier should be erected, if not application refused.
- Narrow road could lead to potentially blocking access to emergency service vehicles.
- Increase noise levels, gangs of youths congregating. Consumption of alcohol adding to the problem as well as possibility of music being played and late night openings.
- A better location would be the nearby Four Crosses PH.

### **Determining Issues**

- Principle of development
- Impact upon the character and appearance of the area
- Impact on surrounding occupiers
- Highway safety

### **Observations**

#### **Principle of development**

The change of use from A1 (retail) to A3 (cafe) is a town centre use in an out of centre location. The NPPF requires town centre uses within town centres, then in edge of centre locations and only if suitable sites are not available should out of centre locations be considered. Sheffield Local Centre is in close proximity, this is a small centre with no other cafes. The centre is well occupied including a Co-op, vets, hot food takeaways, hairdressers and the Four Crosses Public House which has recently been re-opened. It is not considered there are any more sequentially preferable sites or that this investment can better met at an alternative site. It is not considered that the proposal due to its nature and absence of other similar uses would impact upon the vitality and viability of this or other centres in the Borough. The Post Office closed in April 2014 and is now operating within the Co-op; therefore the proposal would not leave local provision unmet. The use would potentially strengthen the centre and draw more footfall into the area and support surrounding businesses.

On balance it is considered the proposal meets the criteria of UDP policy S6 and BCCS policy CEN6, subject to impact upon residential amenity and highway safety.

An objection has been received that there is no business case for a Cafe. It is not for this planning application to challenge the viability of a proposal rather the suitability of that use in this location.

### **Impact upon the character and appearance of the area**

This vacant building is becoming to appear tired. The proposal would ensure the active use of the building and the applicants have explained they would look to re-paint the building which would be in the interests of visual amenity. No external changes are proposed.

### **Impact on surrounding occupiers**

The nature of a cafe could give rise to noise and disturbance. Weight must be given to the detached building having an existing unrestricted lawful use as a retail unit (A1) and its location on a busy District Distributor. Currently the site could be used as an off-licence opening late into the evening seven days a week. The proposed cafe would be open between 07.30-13.30 Monday to Friday and 08.00-13.00 on Saturdays and therefore presents an opportunity for controlled use of the site within more social hours. In addition users of a cafe (for consumption of food on the premises) would have typically lower number of customers throughout the day as they would spend a longer time in the premises. Environmental Health raise no objection to the application noting that the nature of the food would not require odour control equipment, they require an additional hand basin to be provided for food hygiene reasons. Therefore it is not considered the proposal would have the potential to create any further noise and disturbance beyond the existing position.

Neighbours raise concerns about gangs of youths congregating, consumption of alcohol, music being played and late night opening. It is not considered the nature of the proposal and its opening times would lend itself to anti-social behaviour or the playing of loud music. To prevent any concerns about late night opening the proposed hours can be secured by condition.

At first floor is a separately accessed flat. Due to the existing use of the site, the busy Spring Road, the nature of the food to be provided and the opening times of the proposal it is not considered it would give rise to any further significant harm to residential amenity.

On balance it is considered the proposal would not have any further impact upon the amenity of surrounding occupiers by virtue of noise and disturbance.

### **Highway safety**

The site has no parking of its own with double yellow lines on both sides of Spring Road and double yellow lines to one side of Springhill Close. To the rear are garages for the flats and also private parking area. The nearest public car park is along Green Lane, 170m walking distance away. The applicant says the vets on the corner of Spring Road and Lichfield Road would be willing for them to use their car park; limited weight could be given to this as no planning mechanism for an enforceable agreement has been presented. Residents object to the application on the grounds of an existing parking problem through lack of parking and vehicles blocking garages, longer periods of customer stay, narrow road blocking emergency service access and if approved the Council must erect a barrier.

Weight must be given to the existing unrestricted use of the site as a retail shop, the last use being a Post Office and convenience store. By its very nature this type of use has the potential for high turnover of people who spend a small amount of time within the premises. For those travelling by car, this can mean customers parking indiscriminately due to them feeling they'll only be there a short period of time. The existing lack of parking provision is recognised, so too are the on-street parking restrictions. Due to Spring Road

being 4.3m wide, vehicles mount the kerb to park on the unrestricted part of Springhill Close.

For comparison purposes in regard to UDP policy T13, the current use requires nine parking spaces (including disabled) and the proposal six spaces (including disabled). In policy terms the proposal offers betterment.

The existing parking situation is constrained, but in addition to the policy requirements and on-street parking there is a public car park within the Local Centre, the site is located close to a major bus route on the A461 Lichfield Road, is within walking distance of the local neighbourhood and limited opening hours between 7.30am and 1.30pm. It is considered the residual impacts of the proposal would not be severe. Transportation raise no objection to the application subject to the use of recommended conditions in regard to defining the A3 use and provision of cycle hoops. Under permitted development rights an A3 use could change to A2 or A1 without planning permission. In the interests of highway safety it is considered necessary to prevent such a use taking place without a detailed planning application.

One objector seeks the Council to implement a resident's parking scheme and to police it effectively. Based on the assessment above, the highway implications are not considered severe. It would be outside of the remit of the planning legislation to require such provision. Given the fallback position of the existing use and parking arrangement, it is not considered the proposal would pose any greater risk for access of emergency vehicles.

In reaching this recommendation it is recognised the parking situation for the building is less than ideal. The current lawful unrestricted use has the potential to attract regular multiple vehicle movements. The proposal would have the potential for less vehicle movements for a smaller and controlled time of the day. This is the overwhelming factor for the proposal. Weight is also given to the alternative, the continuation of a vacant building, an intensive use as a retail shop or another use. Other uses may cause conflict with the policies of the development plan. Therefore, in balance of these factors it is considered the proposal would not cause such significant harm to warrant refusal.

### **Positive and proactive working with the applicant**

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

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

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

- Location plan received 15/9/15
- Block plan received 8/10/15
- Existing layout received 15/9/15
- Proposed layout received 15/9/15

*Reason:* For the avoidance of doubt and in the interests of proper planning

3a. The development shall not be brought into use until details for a Sheffield type cycle hoop to be installed on the hard standing area along the Spring Road frontage has been submitted to and approved in writing by the Local Planning Authority.

3b. The approved details shall be implemented and available for use prior to the development being brought into use.

3c. The cycle hoop shall be retained thereafter.

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

4. The premises shall only be open between the hours of 07.30 to 13.30 Monday to Friday and between 08.00 to 13.00 on Saturday.

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

5. The ground floor of the premises shall be used for Use Class A3 (Restaurant and cafes) and for no other purpose.

*Reason:* To define the permission in order to control the potential number of vehicle trips to the site, in the interests of the free flow of traffic on the public highway and highway safety.

Note for applicant

This permission does not grant consent for any signs or advertisements, illuminated or non-illuminated for which a separate application may be required under the Town and Country Planning (Control of Advertisements) Regulations 2007 or subsequent legislation.



## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 07-Jan-2016

**Plans List Item Number: 10.**

#### Reason for bringing to committee:

**Location:** , 6, HIGHMOOR CLOSE, WILLENHALL, WV12 5UU

**Proposal:** SINGLE STOREY REAR AND FRONT EXTENSION TO CREATE SUN LOUNGE AND LOUNGE EXTENSION AND DETACHED DOUBLE GARAGE AT THE FRONT OF THE HOUSE.

**Application Number:** 15/0914/FULL

**Applicant:** Ajaib Singh

**Agent:**

**Application Type:** Full Application

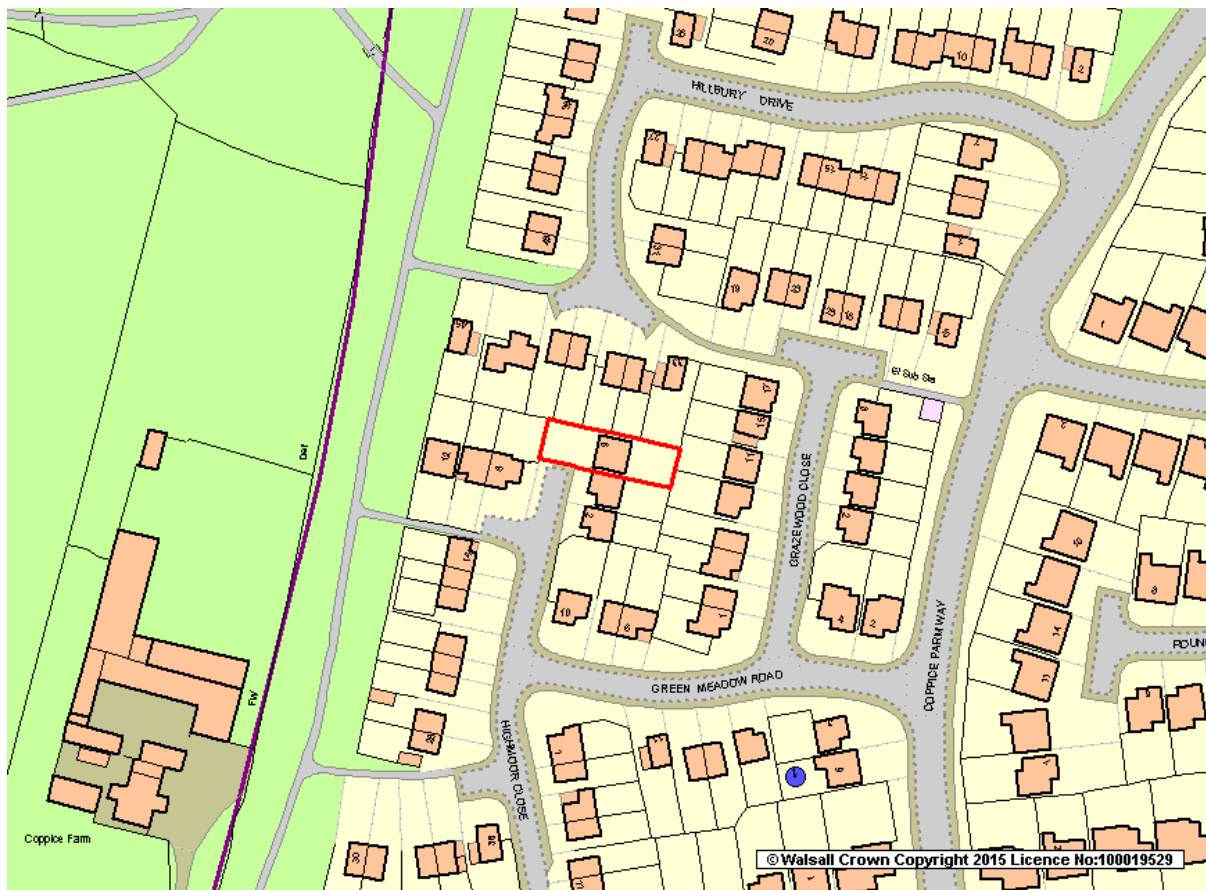
**Recommendation Summary:** Grant Permission Subject to Conditions

**Case Officer:** Devinder Matharu

**Ward:** Willenhall North

**Expired Date:** 06-Sep-2015

**Time Extension Expiry:** 09-Nov-2015



## **Current status**

The application was deferred at the 5<sup>th</sup> November 2015 planning committee for officers to negotiate a reduction in the roof height.

The agent submitted amended plans that showed the height of the roof reduced from 0.95m to 0.575m. A further plan was submitted showing the height of the garage being retained at 0.95m and being orientated so that the gable face both east and west as opposed to north and south.

Five letters from three residents have been received to the amended plans and raises the following new points:

- Older couple in the property and do not have children and have lived there for 12 months
- Why a large extension required
- Why another application proposed
- Need enough time to present point of view in a fair and just manner
- Do not have time to look on the internet at plans and make comments
- No detached garages in estate
- Would set precedent and create alleyways and result in anti social behaviour
- Siting of garage will not allow maintenance access to the fence at the rear of the property
- The gulley for the storm water put at the front for maintenance
- Big impact and cause massive obstructions on neighbouring property
- Height reduction not adequate enough and would stand above height of 6 feet limit imposed for rear boundary properties.
- 10.6m from window and will block light
- Loss of light
- Loss of visual amenity
- Loss of tree
- Extension to habitable area of house
- Further extension create solid wall at bottom of garden impacting on property rights and quality of life.
- Do not want to see monstrosity extension out of windows
- Do not works to go ahead
- Neighbours have personal issues requiring them to be close to school

The issue regarding that an older couple living in the premises and do not have children and have been living there for 12 months are not material planning considerations. The personal circumstances of the applicant and neighbouring residential occupiers are not relevant to the determination of the application. The reasoning as to why the applicant wants to extend the house and to build a detached garage are not issues that need special justification. The detached house sits in a large plot that can accommodate the proposed extensions to the house and the garage to the front of the house.

Neighbouring occupiers have been notified on the amended plans sought by Planning Committee and given an opportunity to view the amended plans within a sufficient time framework for neighbouring occupiers to submit any further comments. The application is still current.

Whilst there may be no other detached garages in the estate, the application site is large enough with a large space to the front of the detached house that could accommodate a

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detached double garage. The garage would be set back into the site and the design of the detached garage is acceptable and would not detract from the character or setting of the residential nature of the street.

Each application for any potential detached garages within the estate would be assessed on their own merits and what impact the proposal would have on the street scene. There is no evidence to suggest that this current proposal will set a precedent for similar applications or result in anti social behaviour. With regards to the proposed detached garage, the structure would be visible from the habitable room windows of the house and it is unlikely the garage would attract anti social behaviour.

The maintenance of the boundary fence between the occupier of number 6 Highmoor Close and numbers 35 and 39 Hillbury Drive is a civil matter, as any unauthorised access to the front garden of number 6 Highmoor Close without permission would be classed as trespass and a matter for the Police to pursue.

The plans show the storm gullies to be positioned to the front and rear due to the redesigned roof. The garage is set off the boundary with the properties to the north, numbers 41 and 39 Hilbury Drive and would not overhang third party land. The maintenance of the gulley would be a matter for the applicant.

The roof of the detached garage has remained at 0.9m to the pitch from the eaves but the orientation of the gables has been altered to face east and west as opposed to north and south. The repositioning of the roof would minimise the impact to the neighbouring occupiers to the north. It is considered that collectively, the small part of the garage wall, 0.2m would be visible above the boundary fence from numbers 41 and 39 Hillbury Drive would not unduly result in loss of amenity or outlook for the occupiers of 41 and 39 Hillbury Drive to warrant refusal of the application. The proposed garage would be located to the south of numbers 39 and 41 and would meet the Council's 13m separation distance between habitable rooms and blank walls exceeding 3m high. Due to the design of the roof, sloping away from the boundary, sunlight and light would still be available to the occupiers of these properties without having a detrimental impact upon their visual amenities or impacting upon their enjoyment of the garden area.

The redesigning of the garage roof will result in 1.4m of the proposed garage wall and roof being visible from number 8 Highmoor Close. The proposed wall would extend 1.4m above the existing boundary fence between number 6 and 8. It is considered whilst the wall would be seen from number 8, the wall would not be visually prominent to warrant refusal of the scheme. Whilst the proposed garage will result in loss of early morning sunlight this would be to the very lower part of the garden and not to the area that is immediately at the rear of the main rear elevation. It is considered that the proposed garage would not unduly harm the amenities of the occupiers of number 8 to warrant refusal of the scheme.

The occupier of number 35 states that the proposed single storey extension would be 10.6m from the window and will block light. The impact the proposal would have on the occupiers of number 35 Hillbury Drive has been considered in the report below. The existing two storey detached house, number 6 Highmoor Close is already positioned at the end of the rear garden of number 35 Hillbury Drive. The proposed single storey extension would not exacerbate any existing problems with regards to loss of light to number 35 to warrant refusal of the scheme. The proposed rear extension would extend only part way of the garden of number 35. Furthermore, number 35 sits to the north of the application sit

and would not result in any additional loss of light or amenity to warrant refusal of the application.

The issue regarding further extension to the habitable area of the house would be considered if and when a further application is submitted. Any further extensions to the front of the house have been addressed in the report below.

The proposed extensions to the existing house and the proposed detached would not unduly impact upon the amenities of neighbouring occupiers to warrant refusal of the scheme.

### **Application and Site Details**

Number 6 Highmoor Close is located on the north eastern corner of Highmoor Close, a large detached property at the end of the cul de sac. The area in front of the house is tarmac and used as a parking area. The ground floor front elevation of the house extends further forward of the main house to include a tiled canopy across the frontage.

The boundary treatment around the front tarmac area of the property and at the rear of the property is a 1.8m high close board fence positioned on gravel boards. The rear garden is paved with a small section of grass to the northern part of the garden. A shed stands in the rear garden towards the boundary with 11 Grazewood Close.

The application proposes a single storey rear and front extension to create a sun lounge and lounge extension and detached double garage.

The ground floor front extension measures 1.6m in length by 3.3m in width, 2.2m to the eaves and 3.3m to the pitch.

The ground floor rear extension would measure 5.2m in width, 3.6m in length, 2.3m to the eaves with a mono pitch roof being 2.6m at the lowest part and 3.5m at the highest part of the roof.

The garage would measure 5.3m by 5.3m and would be 2.1m to the eaves and 3.3m to the pitch. The garage would be located in the north eastern part of the site adjacent the rear garden boundaries of numbers 8 Highmoor close and 39 and 41 Hillbury Drive.

The area is residential in character with numbers 41, 39, 27, 35 and 33 Hillbury Drive being located to the north of the site and numbers 11 and 9 Grazewood Close to the east and number 4 Highmoor Close to the south and number 8 Highmoor Close to the west of the site.

### **Relevant Policies**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

### **National Planning Policy Framework (NPPF) [www.gov.uk](http://www.gov.uk)**

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Encourage the effective use of land by reusing land that has previously been developed

**Key provisions** of the NPPF relevant in this case:

- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **Local Policy**

#### **Black Country Core Strategy**

- CSP4: Place Making
- ENV3: Design Quality

#### **Unitary Development Plan**

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

### **Supplementary Planning Document**

#### **Designing Walsall**

- Policy DW3 Character
- Appendix D

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

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

### **Relevant Planning History**

None for the application site

39 Hillbury Drive

BC52718P- two storey sided and rear extension and single storey rear extension granted subject to conditions 25/9/1998

33 Hillbury Drive

BC49474P- conservatory at the side granted subject to conditions 13/2/1997

## **Consultations**

**Transportation** – No objection subject to a condition to ensure the garage doors are roller shutter doors only.

**Coal Authority** – No objection subject to note for applicant on coal mining.

**Pollution Control** – No objection

## **Representations**

Five letters from four residents have been received to the original plans objecting to the proposal on the following grounds:

- Existing house blocks light and view
- Height of garage will result in loss of light and shadow
- Excessive height of garage
- Metal roller shutter on garage would be noisy
- Unable to grow plants due to light deprivation
- Garden slopes down towards the house
- House purchase due to large garden
- Garden fence can be no higher than 1.83m
- Wall visible from rear windows result in loss of visual amenity
- Loss of outlook
- Trees previously pruned in area of proposed garage with intention of preparing planning application
- More akin to a granny flat
- Long term intention for two building to be joined extending across the back of the property resulting in loss of light
- restrict right of light and air
- sun lounge obstruct view
- restrictive covenants the land in front of properties to remain open plan
- damage to rear garden fence
- larger homes in area if owner wants more space
- building works cause disruption

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

## **Determining Issues**

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

## **Observations**

### **Design of Extension and Character of Area**

The proposed single storey rear extension will be located on the eastern elevation of the existing house towards the boundary with number 33 Hillbury Drive with rear windows facing towards 11 Grazewood Close and patio door facing towards 4 Highmoor Close. The design of the proposed rear single storey is considered acceptable.

The single storey front extension will blend in with the existing front extension and would only marginally project out from the existing house by 0.5m. It is considered that this small extension would not unduly impact upon the character and setting of the house or street scene to warrant refusal of the application. The proposed works are considered acceptable and would not unduly impact upon the existing character of the street scene.

The proposed garage would be positioned in the north western corner of the front of the site adjacent the boundary with 8 Highmoor Close and numbers 39 and 41 Hillbury Drive. The garage would be set back into the site and would not unduly detract from the character and setting of the street scene. The proposed garage would have two doors that would break up the mass of the double garage in the street scene.

### **Amenity of Nearby Residents**

The proposed extensions will be constructed within the red line boundary and within the applicant's own land without impinging on neighbouring land; there is no right to light or air in planning, as the application will be assessed on what impact, if any, the proposals have on neighbouring occupiers.

Objectors state that garden fences can be no higher than 1.83m and the excessive height of the garage will result in loss of light and create shadow, as well as the wall being visible from rear windows resulting in loss of visual amenity and loss of outlook. They also state that they will be unable to grow plants due to light deprivation. The existing boundary fence will be retained that forms the boundary with 8 Highmoor Close and numbers 39 and 41 Hillbury Drive.

The proposed garage would be 2.1m to the eaves, resulting in 0.3m of the wall of the proposed garage being visible above the boundary fence. The roof would be a pitched roof and would slope away from the boundary to a height of 3.3m. It is considered that collectively, the small part of the garage wall that would be visible above the boundary fence would not unduly result in loss of amenity or outlook for the occupiers of 41 and 39 Hillbury Drive to warrant refusal of the application. The proposed garage would be located to the south of numbers 39 and 41; however, due to the design of the roof, being a pitch, it is considered that sunlight would still be available to the occupiers of these properties without having a detrimental impact upon their amenities or impacting upon their enjoyment of the garden area.

The proposed garage would be set away from any nearby habitable rooms, whilst number 8 Highmoor Close would have views across towards the garage, it is considered that the use of the garage and the roller shutter type doors would not unduly impact upon the amenities of neighbouring occupiers to warrant refusal of the scheme.

Objectors state the garden slopes down towards the rear of the house. If there is any limited shading to the rear gardens of 31 and 49 Hillbury Drive, it would be to the very bottom of the rear gardens and as such unlikely to have a detrimental impact upon these occupiers in terms of shading and loss of light to warrant refusal of the application.

The roof would slope away from the rear boundaries of numbers 39 and 41 which would not unduly result in loss of outlook for these neighbouring occupiers to the north of the application site.

Objectors state that the proposed garage is more akin to a granny annexe and the long term intention for two buildings to be joined extending across the back of the property resulting in loss of light. A planning condition can be attached to any decision to ensure the proposed detached garage is only retained as a garage. Any further extensions to link the detached garage and house together would require planning permission and at the time the merits of the case would be considered. The dimensions of the garage are not uncommon for a detached double garage.

Objectors state they purchased the house purchase due to large garden and trees have been previously pruned in area of proposed garage with intention of preparing planning application. The neighbours can still enjoy a large garden for their enjoyment, as the proposal does not impact on any neighbouring garden space. With regards to the trees, the tree was not protected by a tree preservation order and therefore not protected.

The proposed single storey extension will sit in line with a small section of the rear garden of 35 and 33 Hillbury Drive. A small section of the proposed rear extension would be seen above the boundary fence 1.8m at the highest point to the pitch of the roof. Due to the design of the proposed lean to roof, light over the roof would still be available to neighbouring rear gardens. It is considered that the proposed rear extension would not unduly impact upon the amenities of the adjoining residential occupiers in terms of loss of light, privacy or overlooking to warrant refusal of the scheme.

The proposed single storey extension will be set off the boundary with numbers 33 and 35 Hillbury Drive. Any issues regarding damage of property would be a civil matter. The single storey rear extension would have habitable room windows on the rear elevation and southern elevation. It is considered that the existing boundary fences would retain the privacy between the existing and neighbouring occupiers, a condition ensuring the boundary fence remains at all times will be attached to the decision.

There is adequate space within the application site to undertake the proposed extensions. Under permitted development rights a rear extension from the original rear elevation of number 6 can be extended up to 4m. With regards to loss of light and shading, the proposal would not unduly result in loss of light or shading to warrant refusal of the scheme.

To minimise any disruption to neighbouring occupiers, a planning condition restricting the working hours will be imposed.

Any issues relating to restrictive covenants are civil matters to be pursued outside of the planning legislation.

## **Parking**

Policy T13 of the UDP would only apply if the proposal is seeking to create additional bedroom/s, in this case the proposal does not seek to provide any additional bedrooms. The detached double garage would provide 2 off road parking spaces including parking for an additional car within the curtilage of the property. Transportation have advised that the hard standing area fronting the garage is 4.8m in length and when a standard sized vehicle is parked on the driveway fronting the garage, there would be insufficient space to open the up and over or outward opening garage doors without the vehicle overhanging the highway. On these grounds, the garage doors shall be of a roller shutter type.

### **Positive and Proactive working with the applicant**

The design of the proposed front and rear single storey extensions are considered acceptable and in keeping with the existing house. The proposed extensions and garage would not unduly impact upon the amenities of surrounding residential occupiers in terms of noise, loss of privacy, overlooking, loss of light or shading to warrant refusal of the application.

### **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: This development shall not be carried out other than in conformity with the following approved plans: -

- Drawing number AS215-03E entitled "proposed single storey extension and detached garage" submitted 11<sup>th</sup> December 2015.
- Drawing number AS215-02B entitled "proposed single storey extension and detached garage" submitted 16 October 2015.
- Location and block plans submitted 13<sup>th</sup> July 2015

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

3: The walls and roof of the front and rear extensions and the detached double garage shall comprise facing materials that match, in size, colour and texture as 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.

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

4: 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.

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

5: The existing 1.8m high boundary treatments with numbers 33, 35, 37, 39 and 41 Hillbury Drive, 11 and 9 Grazewood Close and numbers 4 and 8 Highmoor Close shall be retained at all times.

Reason: To protect the amenity of the existing occupiers at number 6 and the neighbouring residential occupiers.

6: No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, bank or public

holiday\*, and such works shall only take place between the hours of 08:00 to 18:00 Mondays to Fridays and 08:00 to 14:00 on Saturdays. No plan or machinery or equipment associated with such works shall be started up or operational on this development outside of the permitted hours. (\*bank and public holidays for this purpose shall be Christmas Day, Boxing Day, New Years Day, Good Friday, Easter Monday, May Day, Spring bank holiday and August bank holiday Monday).

Reason: To protect the amenities of the neighbouring occupiers.

7. The vehicle door to the front of the garage shall only be of a roller type and shall thereafter be retained.

Reason: To ensure sufficient parking space is available within the property.





## Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning, Engineering and Transportation on 07-Jan-2016

**Plans List Item Number: 11.**

**Reason for bringing to committee: Significant community interest**

**Location:** 20, ENSBURY CLOSE, WILLENHALL, WV12 4EU

**Proposal:** TWO STOREY SIDE AND SINGLE STOREY REAR EXTENSION AND THE CREATION OF CAR PARKING TO THE FRONT OF THE HOUSE.

**Application Number:** 15/1451

**Case Officer:** Devinder Matharu

**Applicant:** Mr Darshan Singh

**Ward:** Short Heath

**Agent:** Mr Jas Mahay

**Expired Date:** 22-Nov-2015

**Application Type:** Full Application

**Time Extension Expiry:** 07-Jan-2016

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



## **Application and Site Details**

Number 20 is located on the southern side of Ensbury Close, one half of a pair of a semi detached property. The house has a side flat roof garage and a flat roof canopy that extends from the garage above the porch and above the bay window.

The garage and driveway to the house is adjacent to the garage and driveway to number 22. A lawn front garden is adjacent number 18. The house is set approximately 0.5m lower than number 22 and slopes down from the highway to the front of the house.

The rear of the garage has been extended with a flat roof extension that extends beyond the rear elevation of number 20. The boundary treatment with neighbouring properties is a 1.8m high close board fence that sits on gravel boards.

The house has a dropped kerb that extends along the front of number 20 and 22.

Number 18 sits on the same level as number 20 and has a first floor extension above the garage that sits flush at roof level and with the front elevation of the house. Whilst the facing bricks match the original house, the roofing tiles do not match the existing roofing tiles. A tiled canopy extends from the garage along the whole frontage at ground floor.

Number 22 is set at a higher level than number 20, approximately 0.5m higher. The property has a side flat roof garage and driveway adjacent the garage and driveway to number 20. The rear of the property has a ground floor kitchen window which is the nearest habitable room on the ground floor. The house also has a rear conservatory which is positioned adjacent number 24 and has a door and window facing number 20 with the main windows to the conservatory facing the rear garden of number 22.

Number 14 Ensbury Close has a first floor extension that is set down and back at first floor from the main roof and front elevation. The front garden is turned into a hard standing area for the parking of vehicles.

The application proposes the erection of a two storey side and single storey rear extension and the creation of car parking to the front of the house. The proposal would include the demolition of the existing garage to accommodate the two storey side extension. The proposal would seek to provide an additional bedroom at first floor, a study guest room, a larger kitchen and dining room and a shower room at ground floor.

The proposed two storey extension would be stepped in 0.6m from the front elevation and would extend 7.8m to sit in line with the rear elevation. The roof line would be set 0.3m lower than the existing roof. The ground floor would project 0.9m further forward of the main house. A tiled canopy across the front of the converted garage and first floor extension would be included.

The single storey rear extension would extend 2.6m out from the original rear elevation and would extend across the whole width of the existing house to link to the existing rear extension to the existing garage. The height of the roof would be 2.6m at the lowest point and 3.4m to the highest point.

A plan has been submitted showing the front garden being replaced with hard standing for the parking of three cars. The plans also state the facing and roofing materials will match those of the existing house.

## **Relevant Policies**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

## **National Planning Policy Framework (NPPF) [www.gov.uk](http://www.gov.uk)**

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Find ways to enhance and improve places in which people live their lives
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Encourage the effective use of land by reusing land that has previously been developed

**Key provisions** of the NPPF relevant in this case:

- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

## **Local Policy**

### **Black Country Core Strategy**

- CSP4: Place Making
- ENV3: Design Quality

### **Unitary Development Plan**

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

## **Supplementary Planning Document**

### **Designing Walsall**

- Policy DW3 Character
- Appendix D

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

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

### **Relevant Planning History**

None

### **Consultations**

**Transportation** – No objection subject to a planning condition to ensure the parking is available prior to the occupation of the bedrooms and the proposed parking area is hard surfaced.

**Coal Authority** – No objection

**Pollution Control** – No objection

### **Representations**

Four letters from three residents have been received objecting to the proposal on the following grounds:

- Set precedent
- Out of keeping with other developments in the street
- 5/6 bedroom house is too large for the close
- Overlooking from obscurely glazed window
- Impede ability for a similar development on neighbouring property next door but one
- Block sunlight
- Single storey extension seen from kitchen
- Single storey extension will block light to conservatory, landing and garden
- Mess in the street from building work
- Not safe for children to play on their drives
- Limited parking on estate
- Can only park two cars on driveway with ease
- Location of bins if garage converted
- Deeds state bins are not to be stored on the front they must be out of sight.
- Not to disclose information to neighbours as do not want to cause resentment

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

### **Determining Issues**

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

### **Observations**

#### **Design of Extension and Character of Area**

The proposed two storey side extension will be undertaken on the eastern elevation of the existing house adjacent number 22 Ensbury Close.

A number of houses in Ensbury Close have had first floor side extensions above the existing garage some of which are set flush with the main front elevation and roof height and some of which are set back from the front elevation and set down from the main roof. These extensions extend to the boundary with the neighbouring property. Each of these extensions given their different design were considered on their own merits in accordance with design policy at the time.

The proposed extension would be set back 0.6m from the front elevation of the main house and set down from the roof by 0.3m and would be built up to the boundary with number 22. The ground floor would project 0.9m further forward of the main house. The proposed two storey extension would be in keeping with other similar extensions in the street scene and would be reflective of the existing character and appearance of the street scene. The front projection of the proposed extension would be considered acceptable as houses within Ensbury Close and the existing garage at the site steps forward of the main house.

Neighbours have raised concerns that the proposed extension would impede ability for a similar development on neighbouring property next door but one. The proposed extension would not set a precedent for other houses or impede potential development for other house within the street, as each application is determined on its own merits.

The proposed two storey extension seeks to create a guest/study room at ground floor, a larger kitchen and dining room at ground floor and an additional bedroom and enlarge an existing bedroom at first floor, in total four bedrooms would be provided. It is not uncommon for houses to have four bedrooms, as other houses in the estate and along the street currently have. The number of bedrooms that can be provided is dependent on parking standards which will be considered below.

The proposed single storey extension would provide a kitchen extension and a shower room and would extend out from the rear elevation of the existing house by 2.6m and would extend 7.6m across the whole width of the house and rear of the two storey extension. The single storey extension would form the boundary with number 18 and be set off the boundary by 0.2m with number 22. The extension would have a mono pitch roof. It is considered that the design of the proposed extension is considered acceptable and in keeping with the existing house.

The proposed extension would be undertaken within the applicant's own land and would not impact upon neighbouring driveways or neighbouring occupiers. The applicant has a front and rear garden area to store building materials during the construction works so as not to impact upon the highway or the visual amenity of the street whilst works are undergoing.

Neighbouring occupiers have raised concerns about the location of waste bins stating bins are not to be stored on the front they must be out of sight as highlighted on the deeds. There is ample space within the front garden of the property for the storage of the waste bins. The issue regarding the deeds of the estate are not material planning considerations in this case, as they are civil matters.

The proposal would include the loss of the front garden and creation of a hard standing area, this is similar to the character of other houses along Ensbury Close.

### **Amenity of Nearby Residents**

The proposed two storey extension has been reduced in length to sit in line with the existing rear elevation of number 20. Number 22 has a ground floor kitchen window which is the nearest habitable room on the ground floor. The house also has a rear conservatory which is positioned adjacent number 24 and has a door and window facing number 20 with the main windows to the conservatory facing the rear garden of number 22.

Neighbouring occupiers have raised concerns that the proposed extension will block sunlight. The proposed extension on the boundary with number 22 would result in some late afternoon and evening loss of light and shading to the area behind the garage and to the side of the conservatory. However this area is an area that is not utilised as useable amenity space. The main private garden area to this property is to the rear of the conservatory where the conservatory has rear facing windows. It is considered that the proposed two storey extension would not unduly result in loss of light or amenity to the neighbouring occupiers at 22 to warrant refusal of the application. Number 22 has a landing window facing the application site; whilst the occupiers raised concerns about loss of light to this window, this is not a habitable room and as such the proposal would not unduly impact upon neighbouring occupiers in terms of loss of light to this window.

Neighbouring occupiers have raised concerns that the proposed single storey extension will block light to the conservatory, landing and garden and the extension would be seen from the kitchen. The proposed single storey extension would not extend more than 3m from the original rear elevation of both numbers 22 and 18 which is supported under policy. The extension would be 3.5m high to the highest part of the roof. Above the existing boundary fence 1.7m of the proposed extension will be seen, due to the mono pitch design of the roof of the single storey extension, the proposed rear extension would not unduly result in loss of light to the conservatory and garden at number 22 and the rear garden of number 18 or impact upon neighbouring amenity to either the occupiers of number 18 or 22, as ambient light over the extension to both neighbouring occupiers would still be obtainable. The design of the single storey roof would allow views over the roof, so that the roof would not be visually intrusive. The proposed single storey extension will comply with the 45 degree code on light from the nearest habitable room, kitchen window at number 22. It is considered that the single storey extension would not unduly impact upon the amenities of the neighbouring occupiers in terms of loss of light or amenity to warrant refusal of the scheme.

The proposed plans have been amended to remove the obscurely glazed ensuite window at first floor facing number 22. Even if the window was to be retained, it could be conditioned that it was obscurely glazed and top hung only to protect the amenity of neighbouring occupiers.

Neighbours have requested that their information is not disclosed to neighbours as do not want to cause resentment. The application file is a public document and all written correspondence can be viewed by members of the public including the applicant and agent.

To minimise any disruption to neighbouring occupiers, a planning condition restricting the working hours will be imposed.

## **Parking**

Policy T13 of the UDP requires houses with four or more bedrooms to provide three off road parking spaces. The submitted plan shows three off road parking spaces in the form of hard surfacing the front garden. Neighbours have raised concerns that there is limited parking on the estate and only two cars can park on the driveway with ease. The majority of the houses within Ensbury Close have a garage and a driveway for a three bedroom house which would meet the requirements of policy T13. Any increase in the number of bedrooms would require additional parking within the curtilage of the site, so as not to impact upon the free flow of traffic on the highway.

Transportation have no objection to the proposal subject to a planning condition to ensure the parking area is available prior to the occupation of the proposed bedroom and the driveway is hard surfaced.

## **Positive and Proactive working with the applicant**

The proposed scheme has been amended to safeguard the existing character and appearance of the street whilst protecting the amenity of neighbouring residential occupiers. The design is considered acceptable. The proposal would not unduly impact upon the neighbouring residential occupiers to warrant refusal of the scheme. The parking provision is considered acceptable.

## **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: This development shall not be carried out other than in conformity with the following approved plans: -

- Location and block plan submitted on 28 September 2015
- Drawing number PL02/C entitled 'proposed ground and first floor plans' submitted on 27 November 2015
- Drawing number PL04/C entitled 'proposed elevations' submitted on 27 November 2015

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

3: The walls and roof of the extensions hereby approved shall comprise facing materials that match, in size, colour and texture as 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.

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

4: 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.

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

5: The existing 1.8m high boundary treatments with numbers 18 and 22 Ensbury Close and to the rear of the site shall be retained at all times.

Reason: To protect the amenity of the neighbouring existing occupiers.

6: Prior to the occupation of the proposed bedroom in the development hereby approved, the parking layout as shown on drawing number PL02/C entitled 'proposed ground and first floor plans' submitted on 27 November 2015 shall be consolidated, hard surfaced and drained so that surface water run-off from this area does not discharge onto the highway or into any highway drain. All parking spaces shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and safe operation of the development and to provide and retain adequate off street parking in order to minimise on street parking.

7: No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, bank or public holiday\*, and such works shall only take place between the hours of 08:00 to 18:00 Mondays to Fridays and 08:00 to 14:00 on Saturdays. No plant or machinery or equipment associated with such works shall be started up or operational on this development outside of the permitted hours. (\*bank and public holidays for this purpose shall be Christmas Day, Boxing Day, New Years Day, Good Friday, Easter Monday, May Day, Spring bank holiday and August bank holiday Monday).

Reason: To protect the amenities of the neighbouring occupiers.





## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 07-Jan-2016

**Plans List Item Number: 12.**

**Reason for bringing to committee: Called in by Councillor Martin**

**Location:** 54, GLOUCESTER ROAD, WALSALL, WS5 3PN

**Proposal:** PART GROUND AND FIRST FLOOR FRONT EXTENSIONS OVER EXISTING GARAGE AND KITCHEN WITH NEW FRONT BAY WINDOW (RESUBMISSION OF 15/1211).

**Application Number:** 15/1650

**Applicant:** Mr Sandip Patel

**Agent:** Paul Clifton Associates

**Application Type:** Full Application

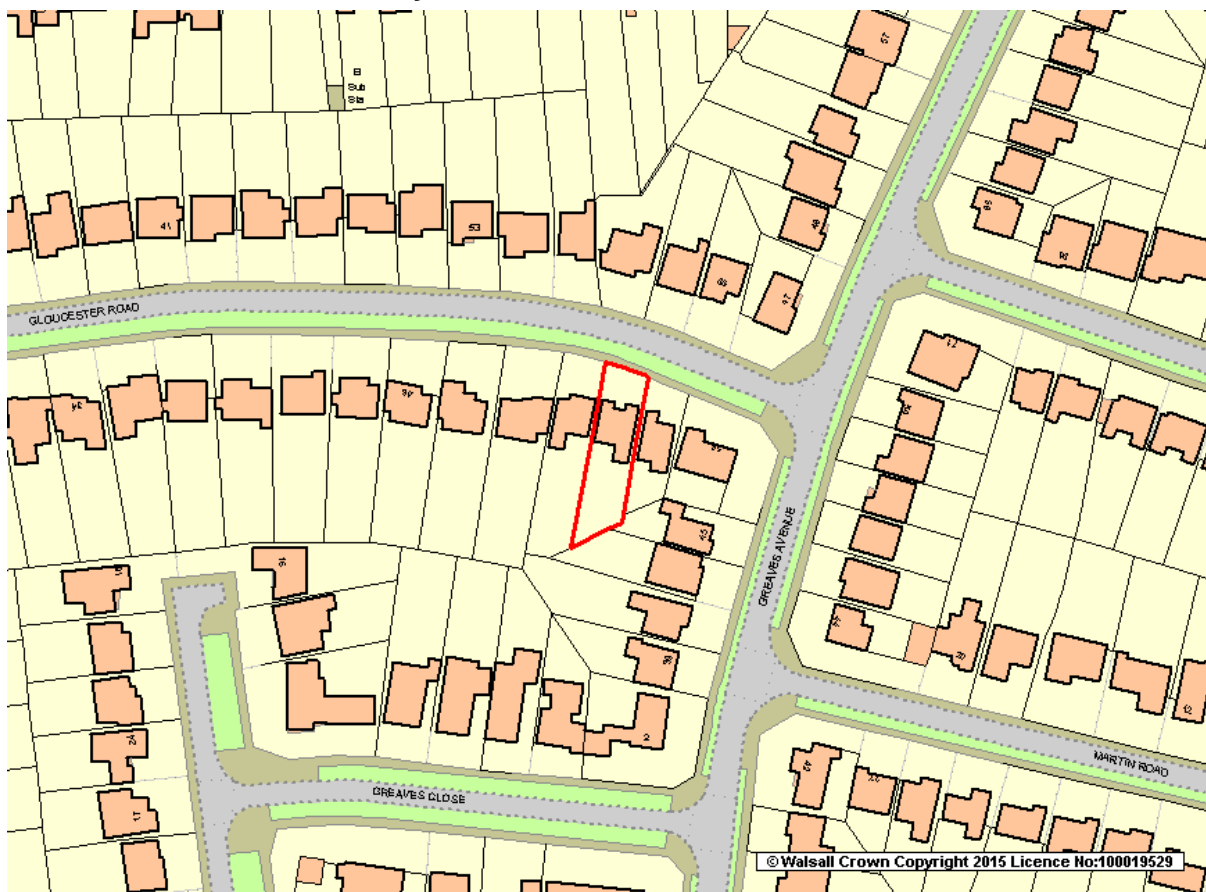
**Recommendation Summary:** Refuse

**Case Officer:** Helen Smith

**Ward:** Paddock

**Expired Date:** 06-Jan-2016

**Time Extension Expiry:**



## **Reason for bringing to Committee**

Councillor Martin has called this application before planning committee because she considers the design of the proposed development would mirror no. 55 Gloucester Road and the application needs to be aired before planning committee.

## **Application and Site Details**

This revised planning application is a re-submission following the refusal of an earlier planning application (15/1211) in October 2015 which proposed the addition of three gable features to the front elevation of the application house.

The application house (number 54) is a 1960's detached dwelling which has a plain, simple utilitarian design which is also reflected in the neighbouring houses either side of number 54. Number 54 has an existing single storey front extension.

Gloucester Road is a residential street consisting of various design houses, grouped in similar style houses along this part of the street, including the application house. No. 55 Gloucester Road forms a grouping of three similar design houses. No. 55 differs from the design of the no's 52 to 56 Gloucester Road grouping of houses.

The current proposal would add a part first floor and part two storey extension across the front elevation of the application house which would be 3.3 metres deep. The proposal would introduce an asymmetric front gable with a 'cat-slide' roof with a ridge height 0.5 metres lower than the existing ridge.

To the rear of the 'cat-slide' roof a first floor gable extension to be added 6.4 metres high to the ridge. Three first floor front facing windows of different sizes and a ground floor bay window extending a further 0.7 metres forward would be installed.

Three additional side facing first floor windows would be installed in this property opposite the side boundaries with no's 52 and 56 Gloucester Road. These windows would serve a bedroom, study and bathroom.

The proposal includes the addition of a replacement front porch which would be 1.1 metres deep and 3.4 metres high with a gable roof, creating an overall front projection of 4.3 metres

The front elevations of the application house and no's 52 and 56 Gloucester Road face north.

No. 52 Gloucester Road is forward of no. 54 by 1.5 metres and has a garage extension with a balcony above serving a first floor habitable room adjacent to the application house.

No. 56 Gloucester Road is forward of no. 54 by 0.9 metres and has a garage extension with a habitable room window above near to the application house.

There would be a habitable room window to window separation distance across the highway from the proposed extension and no. 61 Gloucester Road of 28 metres.

There is sufficient space on the existing frontage to accommodate three off-street parking spaces.

## **Planning Policy**

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

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants

**Key provisions** of the NPPF relevant in this case:

#### **7: Requiring Good Design**

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

63. Great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that pre-application engagement is encouraged and

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a

material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*."

To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The relevant policies are:

ENV2 and ENV3 states that all development should aim to protect and promote nature conservation, the special qualities, design quality and local distinctiveness of the Black Country.

### **Walsall's Unitary Development Plan (UDP)**

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

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.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.

- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
- The appearance of the proposed development.
  - The height, proportion, scale, and mass of proposed buildings / structures.
  - The materials proposed for buildings, external spaces and means of enclosure.
  - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

#### T7: Car Parking

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

#### T13: Parking Provision

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

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

### **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPDs are:

### **Designing Walsall**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk)).

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall SPD are consistent with the NPPF. **Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

### **Relevant Planning History**

15/1211 - Part ground and first floor front extension over existing garage and kitchen - refused permission on 8/10/15 on the following grounds;

1. *The introduction of three first floor competing gable features to the front elevation provides a cramped design which is considered would unbalance the host dwelling by adding disproportionate additions across the full width of the existing house. The*

*combination of these additions, along with the oversized new front porch, is considered would detract from the character and simple design of the existing property and would have a detrimental impact on the character of the area and street scene.*

11/0346/FL - Conservatory to rear - GSC 27/5/11

08/1806/FL - First floor rear extension over existing ground floor extension - GSC 06/01/09

BC47227P - Rear bay extension - GSC 16/08/96

### **Consultation Replies**

None

### **Representations**

None

### **Determining Issues**

Whether the application has addressed the reasons for refusal of the previous application or raises any new issues in respect of the;

- Design of proposal and Impact on Character of Area and whether the previous Reasons for Refusal have been overcome
- Amenity of Nearby Residents
- Parking.

### **Observations**

#### **Design of Extension and Character of Area**

The current proposal has a different design to the previous planning application and will be assessed on its current merits and whether the previous reasons for refusal have been overcome.

Similar house designs are grouped together along this section of Gloucester Road with house no's 52 to 56 having a simple utilitarian design whilst on the opposite side of the road house no's 51 to 55 have a front gable features with white cladding. This grouping of different house types is a characteristic of Gloucester Road and whilst a number of houses have been extended it is considered that in most parts the original designs of the host houses have been respected.

The proposed asymmetric roof design, second gable feature and mismatched window sizes are considered fail to respect or integrate positively with the original plain and simple architecture of the original application house or the houses to either side. Furthermore it is considered that the first floor competing gable features would lead to a cramped design which would unbalance the appearance of the host dwelling. This extension would create disproportionate additions across the full width of the existing house detracting from the character and simple design of the existing property and having a detrimental impact on the character of the area and street scene.

The revised porch design would add a gable roof which would increase the height of the porch from the 2.8 metres originally proposed to 3.4 metres. It is considered that the further increase in size of the porch would have a detrimental impact on the appearance of this house and the street scene.

Consequently it is considered that the amended proposal fails to overcome the previous refusal reasons.

### **Amenity of Nearby Residents**

The proposed extensions would lie to the north of the application house and be within the shadow of the existing dwelling house.

The first floor front habitable room windows in no's 55 and 56 Gloucester Road face north. It is considered that the orientation of this proposal in relation to these neighbouring houses would have a limited impact on neighbours' existing light and amenity.

The proposal would meet the Council's 45 degree guidance, as referred to in Appendix D of Designing Walsall SPD, in relation to front habitable room windows in no's 52 and 56 Gloucester Road.

There would be a habitable room window to window separation distance across the highway from the proposed extension and no. 61 Gloucester Road of 28 metres which would exceed the Council's minimum recommended separation distance of 24 metres, referred to in Appendix D, by 4 metres.

The additional side facing windows opposite the boundaries with no's 52 and 56 Gloucester Road would be conditioned to be obscurely glazed and with any opening parts 1.7 metres above the floor of the room they serve should this proposal receive planning permission.

### **Parking**

There is sufficient space on the frontage of the application house to accommodate three 2.4metre x 4.8metre off-road parking spaces to meet the requirements of UDP Policy T13. Should the planning application be approved a condition would be imposed to retain the three car parking spaces on the frontage.

### **Positive and Proactive Working with the Applicant**

The applicant's agent has been asked to amend the proposal to better reflect this part of Gloucester Road.

### **Recommendation: Refuse**

1. The introduction of the first floor competing asymmetric gable roof design, second gable feature and mismatched window sizes to the front elevation provides a design which is considered would unbalance the host dwelling by adding disproportionate additions across the full width of the existing house. The combination of these additions, along with the oversized new front porch, is considered would detract from the character and simple design of the existing property and would have a detrimental impact on the character of the area and street scene. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; the Black Country Core Strategy policies ENV2 and ENV3 and

Walsall's Unitary Development Plan, in particular policies GP2, and ENV32 and Designing Walsall SPD.





## Economy and Environment, Development Management

### Planning Committee

Report of Head of Planning, Engineering and Transportation on 07-Jan-2016

**Plans List Item Number: 13.**

**Reason for bringing to committee: Called in by Councillor Wilson**

**Location:** SUNNYSIDE FARM, NORTHGATE, WALSALL WOOD, WALSALL, WS9 9BU

**Proposal:** RETROSPECTIVE: RETENTION OF CAR SALES FOR A PERIOD OF FIVE YEARS.

**Application Number:** 15/1358

**Applicant:** Mr Steven Morris

**Case Officer:** Devinder Matharu

**Ward:** Aldridge North And Walsall Wood

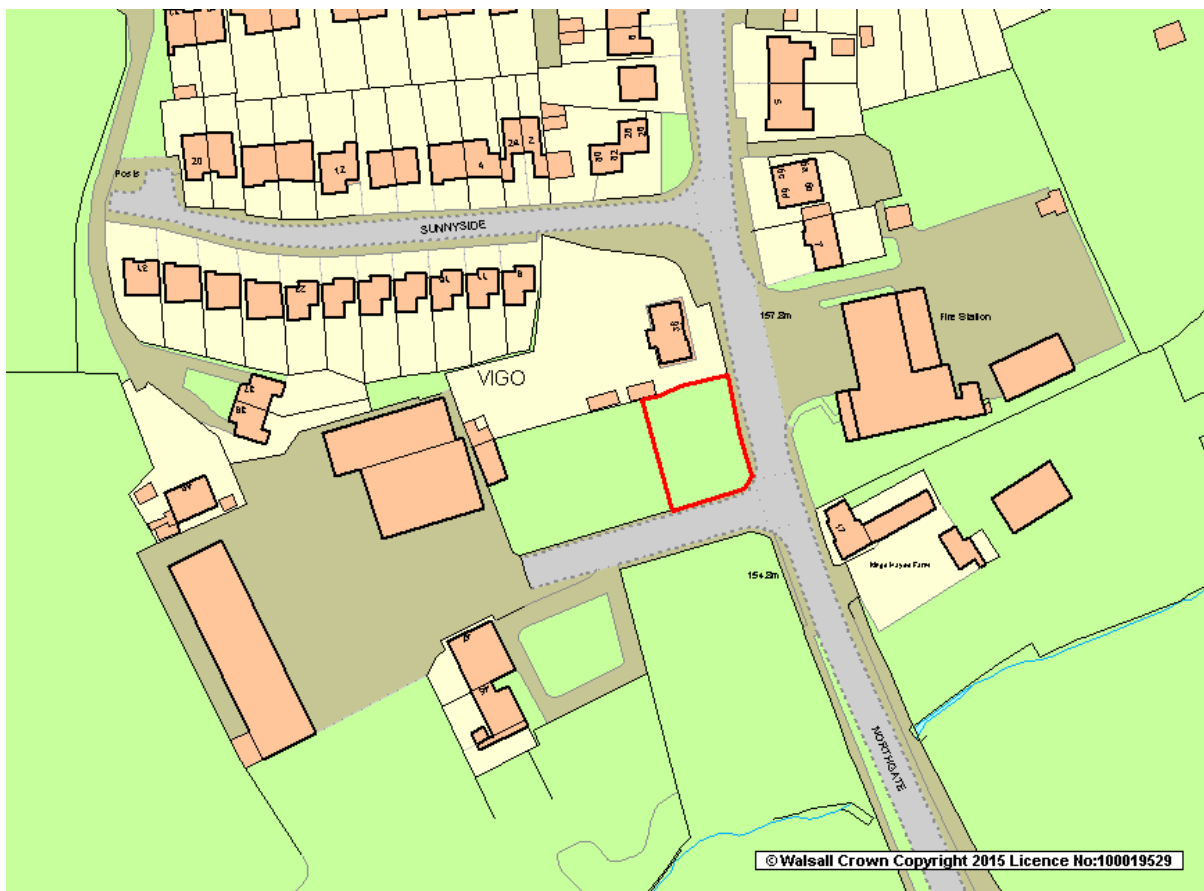
**Agent:** Mr Nick Hood

**Expired Date:** 02-Nov-2015

**Application Type:** Full Application

**Time Extension Expiry:** 18-Dec-2015

**Recommendation Summary:** Refuse



## **Application and Site Details**

The application site is a parcel of land located on the western side of Northgate to the south of number 38 and opposite the Aldridge fire station. The application site is part of the larger site known as Sunnyside Farm, which houses a number of commercial operations related to vehicles repairs. To the south of the application site is an access road into Sunnyside and to the application site.

The site is set back with a wide grass verge that forms the boundary to the highway, Northgate. To the north of the site is residential and to the west and south commercial. The residential development to the north of the site is outside of the Green Belt with the application site being in the Green Belt.

The retrospective application seeks the retention of car sales for a period of five years.

A block plan has been submitted showing two structures to the north part of the site, an access from the main access into Sunnyside Farm and a parking plan for 15 vehicles.

A supporting statement has been submitted with the application which states:

- The site has been used and occupied for external storage purposes since at least 2003 as evidenced by Google extracts
- The site has been occupied by his clients since March 2011.
- Clients taken advantage of the hard standing already laid out across the site together with the existing office building both of which have now existed on the site for the last 4 years and are immune from enforcement action. Should that require further qualification
- Prior to clients occupation the premises was formed part of a wider site extending to the west of the property which was then occupied by a company known as Creative Paving and Design Ltd.
- The company used and occupied the site since 2005 and they stored all manner of paving across the site and hard standing created as evidenced on Google maps.
- Between November 2006 and March 2009 the existing building office was added.
- Self evidently this use would have attracted an abundance of visitors to and from the site and would have involved a number of delivery vehicles operating from the site on a daily basis.
- From what I understand the company operated 27.5 tonne lorries and a number of transit vans themselves.
- The site has been used for a number of years for commercial activity.
- Proposal seeks to continue commercial activity by way of the use of the land for car sales and re-using an existing building and associated hard standing.
- Important to recognise the long standing physical attributes which whilst themselves may ordinarily be considered inappropriate within the greenbelt do not form any part of this application.
- The site building and the hard standing extending across the site have been in situ for many years as evidenced on Google earth extracts, both these elements are immune from enforcement action and the principle harm to the interests of the openness of the greenbelt have already occurred.
- Fundamental issue whether the re-use of the building and established yard for the purpose of parking and displaying of cars itself is harmful to the openness of the Green Belt.

- The parking of vehicles can be readily moved and does not constitute built development that can be described as inappropriate in the context of Green Belt policy.
- The only harm that could arise is from the visual appearance parked upon an expanse of hard standing
- Client generated a successful business which provides for one full time and one part time employment and training for two young people together with additional contributions to the local economy.
- In the event the client is forced to leave the site, in all likelihood he would be unlikely to attempt to source another site given his age.
- In the event he is able to secure a further five years occupancy of this site then plans can be put into place to relocate the business for the benefit of his current staff and ongoing interests in the local economy
- Client minded to offer to enter into sect 106 agreement to remove the existing building and hard standing of the site upon the cessation of the use of the site for car sales in 5 years time, bringing with it the removal of inappropriate development

The supporting document above also references case law regarding Green Belt Policy and the interpretation of 'very special circumstances':

'in the case of Vision Engineering verses the Secretary of State and Guildford Borough Council and the updated Houghton case Lord Donaldson made clear the proper approach to be taken when assessing whether or not very special circumstances exist. He advocated that it was necessary to balance the harm to the interests of the Green Belt against the extent of the advantages to be derived from the development and that these would vary from case to case such that in circumstances where only limited harm would occur than only limited advantages would need to be demonstrated sufficient to outweigh harm'.

'Basildon District Council versus Temple Sullivan J stated that in planning, as in ordinary life, a number of ordinary factors, none of them 'very special', may, when, combined together, amount to 'very special circumstances'.

'In Carnworth LJ in the court of appeal in Wychavon District Council versus Secretary of State for DCLG Sullivan outlined 'Very special' should not be interpreted as meaning of converse 'common place'.

The agent has submitted aerial photographs from 2003, 2006, 2009, 2010 and 2013.

The 2003 aerial photograph shows the application site as green, the photograph is a blurred vision but the green can be depicted.

The 2006 aerial photograph shows the application site as green.

The 2010 aerial photograph shows the site covered in hard standing and vehicles parked on the grass verge outside of the application site facing Northgate.

The 2013 aerial photograph shows the whole site covered in hard standing and vehicles park on the grass verge outside of the application site facing Northgate.

The agent has submitted the further additional information in terms of the ministerial statement

- The Statement refers to deliberate and intentional breaches of planning control such as gypsy encampments and or castles built within barns. It does not in my view relate to matters such as this since that would imply that all potential breaches of planning control would be directly affected by this Statement.
- In this particular instance my client has occupied these premises in good faith since March 2011 taking it over from a similar commercial use which in turn had occupied the site since at least 2003. My client is not a planning professional and accordingly there is no demonstrable evidence to suggest that my client's actions in using the site for car sales are or have ever been an intentional breach of planning control.
- I take the view that your reliance upon this statement and your suggestion that it becomes a material planning consideration in the determination of this application is misguided and as such I would be grateful if you could please reconsider the same in view of my comments.

### **Relevant Planning History**

05/0879/FL/E3- land at Sunnyside Farm – change of use from storage area to display garden area, new summer house to be used as sales office, storage bays, car parking and access gates. Refused 04/07/2005 on green Belt grounds.

### **Other relevant history to the rest of Sunnyside Farm**

08/47 Sunnyside Farm (the whole site) – change of use from light industrial storage to MOT station and car repair centre. GSC 27/11/2008

06/2156/FL/E12 retrospective change of use of building to vehicle repairs and installation of extraction flue with associated parking to provide 3 spaces for staff and 3 customer spaces. GSC 5/4/2007.

06/1070FL/E12 erection of spray booth and extraction duct. Refused 22/8/2006

02/1991/FL/M1 temporary permission for a period of 18 months for the storage and processing of hardcore on part of the site land south of 45 to 47 Sunnyside refused 2003.

BC47631P- Application of certificate of LE development of haulage depot including parking, warehousing and open storage and sales of bricks and building materials and distribution of steel. Grant certificate of lawful existing use development 13<sup>th</sup> January 1997. The land, when this application was submitted was split in to three areas. In that application the land in question under this application was edged in blue and it is in this area that the storage for sale, of bricks, in stockpiles not exceeding 3 metres in height was certified as lawful.

BC47617P retrospective planning application laying down of hardcore to Sothern end of yard for the parking of transport fleet services. Sunnyside Farm, Northgate GSC 1997

BC41744P – outline demolition of 2n dwellings and storage unit and erection of 4no units. Refused 1995

BC24132P- Erection of 8no self contained flats. Refused 1988

BC10845P – demolition of cottage and erection of one pair of semi detached houses. GSC 1984

BC10032P erection of detached house and garage. Refused 1984

BC05698P- seven storage buildings GSC 1982

BC02450P – Erection of enlarged replacement building to store loaded vehicles. GSC 1982

EAB5747 new access GSC 1974

EAB5785- Erection of warehousing, transit warehouse, offices and garage space. Refused 1974.

BC403 - 45 to 47 Vigo Road - reserved matters extensions and alterations to dwellings. GSC 1974.

BC3046- 45 to 47 Vigo Road - reserved matters alterations and extensions to dwellings. GSC 1975

EAB5785 outline, garage space, transit warehouse, offices and warehousing. Ministry appeal allowed 1975

BA4211 – Sunnyside Farm, Vigo Road – erection of lorry servicing building granted 1976

BC 10929 – Sunnyside Farm, 45 Vigo Road. Erection of warehouse and offices GSC 1/2/79

BC10929- erection of warehousing and offices at Sunnyside Farm. GSC 1979

EAB5466 - 45 to 47 Vigo Road – new access. Granted 1973

EAB5747- New access - 45 to 47 Vigo Road. Granted 1971

EAB5820 - 45 to 47 Vigo Road- extensions and alterations. Granted 1970

B4696/2584 – 38 Aldridge Road extension to cottage. Granted 1963

### **Relevant Planning Policy Summary**

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

The NPPF was published on Tuesday 27<sup>th</sup> March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

All the **core planning principles** have been reviewed and those relevant in this case are:

- - Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- Always require high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- contribute to conserving and enhancing the natural environment and reducing pollution
- conserve heritage assets in a manner appropriate to their significance.

**Key provisions** of the NPPF relevant in this case:

1. Building a strong, Competitive economy

18. committed to securing economic growth in order to create jobs.

19. support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth.

4. Promoting sustainable transport.

29. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.

32. opportunities for sustainable transport modes should be taken up depending on nature and location of site and safe and suitable access to the site can be achieved for all people.

7. Requiring good design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

57. Important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

- Planning policies and decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.

63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

9. Protecting Green Belt land

79. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

80. Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

81. Once Green Belts have been defined, local planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for

opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.

83. Local planning authorities with Green Belts in their area should establish Green Belt boundaries in their Local Plans which set the framework for Green Belt and settlement policy. Once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan. At that time, authorities should consider the Green Belt boundaries having regard to their intended permanence in the long term, so that they should be capable of enduring beyond the plan period.

87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

89. A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

- buildings for agriculture and forestry;
- provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

90. Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are:

- mineral extraction;
- engineering operations;
- local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- the re-use of buildings provided that the buildings are of permanent and substantial construction; and
- development brought forward under a Community Right to Build Order.

#### 11. Conserving and enhancing the natural environment

109. contribute to and enhance the natural and local environment

118. opportunities to incorporate biodiversity in and around developments should be encouraged.

120. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location.

121. Planning policies and decisions should ensure the site is suitable for its new

use taking account of ground conditions and land instability, including natural hazards or former activities such as mining.

123. Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

125. Planning policies and decisions should limit the impact of light pollution from artificial light on local amenity and nature conservation.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **Updated policy from Department of Communities and Local Government**

Department of Communities and Local Government issued a Ministerial Statement on 31 August 2015 regarding Green Belt policy and intentional unauthorised development. The statement highlighted the following:

- to make intentional unauthorised development a material consideration
- to provide a stronger protection for the Green Belt
- the Government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place.
- The policy applies to all new planning applications and appeals received from 31 August 2015.

### **The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **The Black Country Core Strategy (BCCS) (2011)**

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.



The key planning policies include

ENV1 – Nature Conservation

Safeguarding species that are legally protected.

ENV2: Historic Character and Local Distinctiveness

Proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness.

ENV3: Design Quality

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

### **Walsall's Unitary Development Plan (UDP)**

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

### **Saved policies of the Unitary Development Plan**

Policies GP2, 3.6, 3.7 seeks to make a positive contribution to the quality of the environment, whilst protecting people and not permitting 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.

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.

3.22 states that most of the countryside is defined as Green belt and serves 4 of the 5 strategic purposes to check the unrestricted sprawl of the Borough's built up areas, to prevent neighbouring settlements from merging into one another, to assist in safeguarding the countryside from encroachment and to assist urban regeneration.

3.23 states the inclusion of land in the Green Belt has a positive role to play in terms of providing opportunities for access to the countryside for local people and providing for outdoor sport and recreational needs, which cannot be met in the urban area.

ENV2 (a) In the Green Belt there will be a presumption against the construction of new buildings except for the following purposes:-

I. Agriculture or forestry.

II. Facilities essential for outdoor sport or recreation.

III. Cemeteries or other uses which preserve the openness of the Green Belt and do not conflict with its purposes.

IV. Limited extension, alteration or replacement of an existing dwelling, provided that this will not result in disproportionate additions, or a new dwelling materially larger than the original dwelling.

V. Limited infilling or redevelopment of major existing developed sites, in accordance with Policy ENV4.

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

I. This would not have a materially greater impact than the present use on the openness and purposes of the Green Belt.

II. It does not involve any building extension or associated uses of land around the building which would conflict with the openness and purposes of the Green Belt.

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

IV. The form, bulk and general design of the buildings are in keeping with their surroundings.

Re-use for economic development purposes will usually be preferable, but residential conversions may be more appropriate in some locations, and for some types of building. Account will be taken of potential impact on the countryside, landscapes and wildlife; local economic and social needs; accessibility; the suitability of different types of buildings for re-use; and the

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

I. The detailed layout of the site.

II. The siting, design, grouping, height and scale of buildings, structures and associated outdoor equipment.

III. The colour and suitability of building materials, having regard for local styles and materials.

IV. The opportunities to use redundant land and buildings for suitable alternative uses.

V. The quality of new landscape schemes.

VI. The impact on significant views, viewpoints and topographical features.

VII. The cumulative physical effect of proposals in any one area.

3.31 Where proposals in the Green Belt are considered acceptable in principle under Policy ENV2, the Council will subject them to more detailed scrutiny using the criteria set out in Policy ENV3.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. 'Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV23 – nature conservation opportunities provided by buildings by designing in features which provide roosting, nesting places for bats and birds and other species. Require all development to take into account existing features of values for wildlife and ecology.

Where loss or damage of existing features is unavoidable mitigation measures to compensate for the features lost. Require habitat creation to encourage conservation of wildlife.

T4 – District distributors are important routes connecting the main residential and employment areas of the Borough. Street parking and direct frontage access will be strictly regulated.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

T13: Parking Provision

10% of floor area of site for customer parking

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

## **Supplementary Planning Documents (SPD)**

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with the NPPF policy. The relevant SPD's are;

### **Designing Walsall (2013)**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

DW3 – Character -design to respect and enhance local identity

## **Consultations**

**Transportation** – No objection subject to conditions relating to parking and boundary treatment

**Pollution Control** – No objection subject to user note for applicant regarding contaminated land.

## **Public Participation Responses**

Councillor T Wilson has called the application in on the grounds that the proposal requires delicate judgement.

## **Determining Issues**

- Inappropriate development in the Green Belt
- Visual harm and openness of the Green Belt
- Access and parking

## **Observations**

### **Inappropriate development in the Green Belt**

On 31 August 2015 the Department of Communities and Local Government issued a Ministerial Statement regarding Green Belt policy and intentional unauthorised development. The statement highlighted the following:

- to make intentional unauthorised development a material consideration
- to provide stronger protection for the Green Belt
- the Government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place.
- The policy applies to all new planning applications and appeals received from 31 August 2015.

The site is within the West Midlands Green Belt as identified by Policy ENV1 of the UDP. Policies 3.3, 3.2, 3.23 and ENV1 of the UDP and the policies set out in the NPPF seek to safeguard the Green Belt and states the Green Belt serves five purposes, those being to check the unrestricted sprawl of large built up areas, prevent neighbouring towns merging into one another, assist the countryside from encroachment, preserve the setting and special character of historic towns and assist in urban regeneration.

The NPPF and policy ENV2 identifies development in the Green Belt as inappropriate development which is harmful to the Green Belt and should not be approved except in very special circumstances. The exceptions for development in the Green Belt being buildings for agriculture and forestry, outdoor sport, extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building and infill development. National and Local Plan Policy also states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is outweighed by other considerations.

In this case, the retrospective proposal to retain the car sales for a period of five years would be classed as inappropriate development.

The agent has stated the 'client has generated a successful business which provides for one full time and one part time employment and training for two young people together with additional contributions to the local economy. In the event the client is forced to leave the site, in all likelihood he would be unlikely to attempt to source another site given his age'. He also states 'In the event he is able to secure a further five years occupancy of this site then plans can be put into place to relocate the business for the benefit of his current staff and ongoing interests in the local economy'.

The site was previously used as outside storage and first and foremost would require planning permission for the change of use of the land from external storage to car sales. The application is to retain the existing car sales for a period of 5 years. In accordance with both National and Local Plan Policy the retention of the proposed unauthorised use of the site is still classed as inappropriate development.

It is considered that the reasons put forward above do not constitute very special circumstances which would override Green Belt Policy. The agent has neither provided any evidence to suggest that the owner of the site has considered any other sites outside of the Green Belt nor provided a justification as to why any other potential sites outside of the Green Belt for this purpose is not suitable. The proposal is classed as inappropriate development and cannot be supported.

Finally, the agent states 'his Client minded to offer to enter into a section 106 agreement to remove the existing building and hard standing of the site upon the cessation of the use of the site for car sales in 5 years time, bringing with it the removal of inappropriate development'. The agent is in effect asking the Council to ignore the unauthorised works that have taken place on site and allow the unauthorised use for a period of 5 years before the site is cleared and returned back to its original form. The continuation of utilising the site for unauthorised development for a further period of five cannot be supported, as then the Council would be accepting this unauthorised use for a further five years.

### **Visual harm and openness of the Green Belt**

The agent states that the buildings and hard standing have been in place and his client is reusing the hard standing and the existing building and the proposal should be considered as re-use of the building. The Ministerial Statement released from the Department of Communities and Local Government regarding development in the Green Belt states intentional unauthorised development is a material consideration as the Government is concerned about the harm that is caused where the development of land has been

undertaken in advance of obtaining planning permission. In this case, the fact that the hard standing and existing building has been erected for over 4 years and whilst immune from enforcement action these matters are still material consideration in the application process as there is no opportunity to limit or mitigate the harm that has already taken place.

The agent has responded to this statement by stating 'this Statement refers to deliberate and intentional breaches of planning control such as gypsy encampments and or castles built within barns. It does not in my view relate to matters such as this since that would imply that all potential breaches of planning control would be directly affected by this Statement'. The Ministerial Statement makes reference to all intentional unauthorised development and does not specify certain types of intention development.

In 1997 a certificate of existing lawful use was issued under reference number BC47631P showing the current application site as an area to be used for the storage bricks in stockpiles not exceeding 3m high.

The agent has submitted supporting documentation in the form of google earth aerial extracts showing in 2003 the application site as vegetation, the photograph is a blurred vision but the green can be depicted, in 2006 the google earth extract shows the application site as vegetation and in 2010 the application site covered in hard standing and vehicles parked on the grass verge outside of the application site facing Northgate and this is similar to the 2013 google earth extract.

From the Council's records, it would appear that the application site in 2000 was mainly covered in vegetation with some form of external storage. In 2004 and 2006, the application site and the land to the west of the application site was covered in hard standing and the area used for some form of external storage. The area towards the eastern part of the site closest to the highway boundary, Northgate. In 2006, a slight erosion of the vegetation along the boundary fronting Northgate. In 2009, the records show the majority of the application site has been cleared and covered in hard standing with vegetation along the highway verge fronting Northgate remaining. A single storey building on the site has been erected on the eastern part of the site closest to Northgate. Google earth extracts show in 2011, works to the site being undertaken including the laying down of further hard standing, the erection of a boundary fence. In 2013, the records show the site is utilised as unauthorised car sales and the car displayed for sale being positioned on the grass verge fronting Northgate, outside of the application site and advertisement totems erected in the south eastern corner of the site fronting Northgate.

In 2005 planning permission was refused for the use of the application site for the change of use from storage area to display garden area, new summer house to be used as sales office, storage bays, car parking and access gates. At the time the application was considered the site was a large open storage area apart from willow and hawthorn scrub the site was largely devoid of any interest. The site blended well in the Green Belt and hawthorn hedges of the adjoining land to the north. The concrete post and wire fence was on site but set at a lower level into the site.

Since this application was determined, there has been a gradual erosion of the openness of this site with the erection of the boundary fence fronting Northgate and the erection of the advertisement totem in the south eastern corner of the site. The vegetation within the site has also been removed. The building on the site appears to be placed on site between 2006 and 2009 from the Council's records with the hard standing. The agent

states that the building and hard standing are immune from enforcement action given the timescale they have been in place.

The agent states 'the proposal seeks to continue commercial activity by way of the use of the land for car sales and re-using an existing building and associated hard standing and that it is important to recognise the long standing physical attributes which whilst themselves may ordinarily be considered inappropriate within the greenbelt do not form any part of this application and the principle harm to the interests of the openness of the greenbelt have already occurred'. The agent further states ' the fundamental issue whether the re-use of the building and established yard for the purpose of parking and displaying of cars itself is harmful to the openness of the Green Belt'.

The parking of vehicles can be readily moved and does not constitute built development that can be described as inappropriate in the context of Green Belt policy and the only harm that could arise is from the visual appearance parked upon an expanse of hard standing.

The site previously had a wire fence and concrete post in 2005 which was set lower into the site from Council records. It appears to have been replaced with a similar fence at some between 2009 and 2011 from google earth extracts. The erection of this fence, the advertisement pole, the laying down of hard standing and building are material considerations and cumulatively impact upon the openness of the Green Belt. The submitted block plan shows an area within the site for the parking of 15 cars. The site, as existing displays cars for sale on the grass verge outside of the application site fronting Northgate. It is considered that the development as a whole harms the openness of the Green Belt and visual harms the character and appearance of the Green Belt.

### **Access and parking**

The present car sales operation is displaying vehicles for sale on the grass verge between the back of footway and the inset site boundary fence. There are no vehicular dropped kerbs fronting the site and therefore vehicles must be illegally being driven crossing and over public footway to manoeuvre into position. Northgate is a classified road (B41520) and a busy District Distributor and as such the illegal manoeuvring is considered a hazardous not only vehicular traffic at this locality but also to passing pedestrians. Transportation considers that an appropriate boundary treatment will physically prevent this from continuing.

Policy T4 of the UDP looks to strictly regulate direct frontage access onto District Distributor roads and this condition will ensure accordance with this policy.

The application looks for the continued use of the site for car sales for a five year period. The main access is via a private access road off Northgate outside the red line boundary. Transportation considers the development will not have severe transportation implications, subject to the imposition of the above condition to control the present indiscriminate frontage access.

### **Positive and proactive working with the applicant**

The proposed development represents inappropriate for which there are no very special circumstances that would override Green Belt Policy. The development as a whole harms the openness of the Green Belt and visual harms the character and appearance of the Green Belt.

**Recommendation: Refuse:**

1. The retention of the car sales for a period of five years is classed as inappropriate development for which no very special circumstances have been put forward to outweigh Green Belt Policy. The development as a whole by way of the unauthorised works that have already commenced, the laying down of hard standing, the erection of the boundary fence, the placement of a building on the site and the advertisement pole cumulatively harm the openness of the Green Belt and as such are visually detrimental. The proposal is contrary to the National Planning Policy Framework, Policies ENV1, ENV2 and ENV3 of the Black Country Core Strategy, Saved Policies GP2, 3.6, 3.7, 3.3, 3.22, 3.23, ENV2, ENV3, 3.31, 3.113, 3.114, 3.115, 3.116, ENV32 of the Unitary Development Plan and Policy DW3 of Designing Walsall SPD.



## Economy and Environment, Development Management

## Planning Committee

Report of Head of Planning, Engineering and Transportation on 07-Jan-2016

**Plans List Item Number: 14.**

### Reason for bringing to committee: Major application

**Location:** JOHN HILL AND SONS WALSALL LTD, WOLVERHAMPTON ROAD, WALSALL, WS2 8TB

**Proposal:** CONSTRUCT A SINGLE STOREY BUILDING TO PROVIDE TOILET AND SHOWER FACILITIES FOR THE SITE STAFF AND VISITORS.

**Application Number:** 15/1370

**Case Officer:** Stuart Crossen

**Applicant:** Mr & Mrs Hill

**Ward:** Pleck

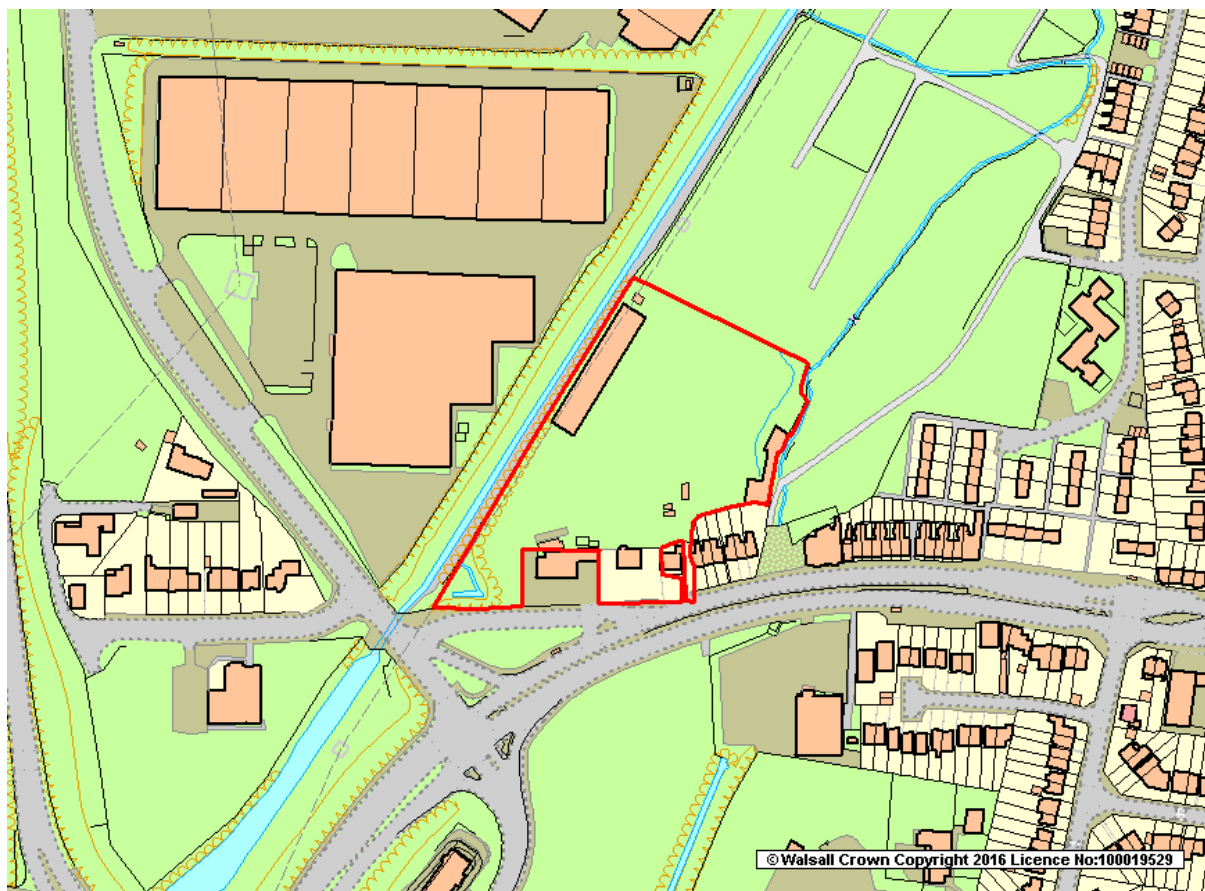
**Agent:** Mrs Geeta Beddows

**Expired Date:** 08-Dec-2015

**Application Type:** County Matters Application

**Time Extension Expiry:**

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





## **Application and Site Details**

The application proposes a single storey building to provide toilet and shower facilities for staff and visitors of the scrap yard.

The cafe has a parking area to the rear has an in and out access shared with vehicles using the adjacent scrap yard to the rear of the site. This access and the existing parking to the front and rear of the cafe were established with a certificate of lawfulness in 1996, there are no restrictions on the opening hours of the cafe or the scrap yard.

The proposed building would be single storey with a hipped roof, located at the rear of an existing garage replacing existing fuel tanks and next to the existing site offices. Windows and access door are proposed facing into the site, and side windows facing East toward the main access point. The key measurements are:

6.2m deep

11.8 metres wide

2.6 metres high to the eaves

4 metres high to the roof ridge

The site is off the old Wolverhampton Road which can be accessed from Bloxwich Lane or the Wolverhampton Road dual carriageway, part of the strategic highway network. The site is 300 metre from junction 10 of the M6. The site is an existing long established scrap metal yard (in the same family ownership as the application site), to the South is a car repair garage and to the east is the cafe with a bungalow beyond (in the same family ownership as the application site).

The site can be accessed to and from Bloxwich Road and Wolverhampton Road.

## **Relevant Planning History**

BC46246P – Granted 28/08/1996 - which was a certificate of lawfulness to confirm a established lawful use of the scrapyard to the rear. The approved plan of this permission also illustrated and confirmed the cafe parking area to the rear of the existing cafe building.

15/0166/FL - Granted 31/03/2015 - Single storey front, rear and side extension and new pitched roof to cafe.

## **Relevant Planning Policy Summary**

### **National Planning Policy**

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

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

All the core planning principles have been reviewed and those relevant in this case are:

- Seek to secure high quality design and good standards of amenity for all existing and future occupants

- Take account of the different roles and character of different areas.
- Positively drive and support sustainable economic development to deliver business, taking account of the needs of the residential and business communities.

**Key provisions** of the NPPF relevant in this case:

1: Building a Strong, Competitive Economy

18. The Government is committed to securing economic growth in order to create jobs and prosperity.

19. The planning system should do everything it can to support sustainable growth

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people

58. Policies should set out the quality of development that will be expected of an area, including:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Optimise the potential of the site to accommodate development
- Respond to local character and history and reflect the identity of local surroundings and materials
- Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion
- Are visually attractive as a result of good architecture and appropriate landscaping

On decision-taking the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

**Other Relevant National Policy**

The Planning System: General Principles

This has not been superseded by the NPPF. Paragraph 15 indicates that a planning application should be determined on its merits in light of all material considerations.

**The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies*”. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*.” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24<sup>th</sup> July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The key planning policies include:

ENV2 states that development proposals will be expected to preserve and, where appropriate, enhance local character.

CSP4 - develops the need for high quality place making and design

ENV3: Design Quality

Development should deliver an urban renaissance through high quality design that stimulates economic, social and environmental benefits.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

### **Walsall's Unitary Development Plan (2005)**

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.

II. The creation of or susceptibility to pollution of any kind

Policy 3.7 proposals for development the council will seek to protect people from unacceptable noise, pollution, and other environmental problems.

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

ENV10: Pollution

Development of a facility which may cause pollution will only be permitted if it would not:  
ii Cause unacceptable adverse effect in terms of ...lights, vibration, smell, noise, or other polluting emissions.

ENV32: Design and Development Proposals.

(a) 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.

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- The appearance of the proposed development
- The integration and co-ordination of buildings and external space.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.

T4: The Highway Network

(a) The Strategic Highway Network for long distance and strategic traffic.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

#### Policy T13: Parking Provision for Cars, Cycles and Taxis

Developers must, however, still demonstrate in all cases (including developments below the size thresholds) that the development will provide adequate on-site car parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

#### **Supplementary Planning Document "Designing Walsall" (Feb 2008)**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

DW3 – Character - all new development must be designed to respect and enhance local identity

DW9 – High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality

'It is considered in this case that the relevant provisions of Designing Walsall policies are consistent with the NPPF.'

#### **Consultations**

Pollution Control – No objections, recommends inclusion of informative.

Transportation – No objections

Western Power – No objections

Environmental Health – No objections

Environment Agency – No objections

Coal Authority – No objections, recommends inclusion of informative.

#### **Public Participation Responses**

##### **Determining issues**

- Design and Character of the Area
- Impact on the Amenities of the Surrounding Occupiers
- Highway Safety

#### **Observations**

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

The proposed design with hipped roof would be compatible with the neighbouring hipped roof cafe and bungalow. The location of the shower/toilet building within the scrap yard site to the rear of existing road frontage development and being single storey would limit the impact on the character of the area which is defined by mixed uses. The proposal is considered to reflect the existing identity of the area in accordance with the key provision 7 of the NPPF, ENV2 and ENV3 of the BCCS and DW3 and DW9 of Designing Walsall. The

proposal is considered would have a positive impact on the character of the area in accordance with ENV32 of the UDP.

### **Impact on amenity of surrounding occupiers**

The building is located away from housing and serves an existing use at the site, improving changing and toilet facilities. For this reason the building is considered would not result in any loss of neighbouring amenity currently enjoyed and would be conditioned accordingly to minimise any amenity concerns.

### **Highway Safety**

The proposal serves an existing use and utilises existing access points raising no concerns in relation to highway safety.

### **Positive and Proactive working with the applicant**

Amended plans have been received to update the layout of the existing parking provision on the location plan and additional details with regard to past coal mining and no other amendments are required to fully support this 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.

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

Amended site location plan (G002122/03a) received 29/09/15

Existing elevations (G002122/01) received 09/09/15

Proposed elevations (G002122/02) received 09/09/15

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

3a: Notwithstanding the colour and type of bricks, render and roof tiles illustrated, prior to construction above damp proof course, details of materials including colour, texture and scale shall be submitted and agreed in writing by the Local Planning Authority.

3b: The approved details shall be fully implemented and retained thereafter.

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

4. The use of the shower/toilet building hereby approved shall only be ancillary to the existing scrap yard use and for no other purposes.

Reason: To define the permission and in accordance with UDP policies T7 and T13.

5. All vehicle parking at the site other than the cafe parking areas annotated on the amended site location plan (G002122/03a) shall only be in connection with the existing scrap yard use.

Reason: To define the permission and in accordance with UDP policies T7 and T13.

**Notes for Applicant**

- The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any of the coal mining features are unexpectedly encountered during development, these should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)
- The area of this proposed development is in an area currently used as a scrap yard that may have resulted in localised ground contamination that may present Health and Safety implications for persons undertaking ground works. No specific detail of ground conditions in the area is available other than that obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking construction work at the site of the proposed development.