



### Contents Sheet

Item	Page	App No	Site Address	Proposal	Recommendation
1	1	08/1841/FL	Land to rear of and including 15 & 17 Romney Way, Great Barr, Birmingham	Erection of 12 no. dwellings	Grant Subject to conditions
2	17	08/1856/FL	The Keys (Former Union Locks site), Wood Street, Willenhall, WV13 1JY	Conversion of existing industrial buildings and new construction work to form 73 houses and apartments and associated car parking (amendment to existing permission under 07/1650/FL/W7).	Grant Permission Subject to Conditions and a Planning Obligation
3	31	09/0052/CC	The Keys (Former Union Locks site), Wood Street, Willenhall, WV13 1JY	Conservation Area Consent for demolition of buildings within the conservation area relating to the redevelopment proposals under planning application REF: 08/1856/FL	Delegate to Head of Planning and Transportation
4	42	07/2355/FL/W6	61 CORPORATION STREET, WALSALL, WS1 4EZ	Demolition of existing building and erection of new building consisting of retail, storage and offices with 2 apartments in loft area with dormer windows	Refuse, Enforce & Prosecute
5	51	09/0023/FL	149-159 CHESTER ROAD, STREETLY,	The planning application is to secure approval for non-compliance with condition 15 of appeal decision APP/V4630/A/05/1182024 (05/0540/FL/E2) to allow occupancy of apartment one of Pegasus Court 149-159 Chester Road, Streetly, by a specified person under the age of 60 (Amended).	Grant
6	55	08/1940/FL	9 PARK HALL ROAD, WALSALL, WS5	Substitution of house type on previous planning	Grant Subject to conditions

			3HF	approval 06/1705/FL/E9 to provide amendments to the elevations, windows, chimney, addition of 2 car ports, amended roof design and provision of a room within the roof space	
7	63	08/1840/FL	17 RUTTER STREET,WALSALL,WS1 4HN	First floor extension at rear over existing ground floor	Refuse



ITEM NO: 1.

To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration and  
Performance Directorate On 17 Feb  
2009

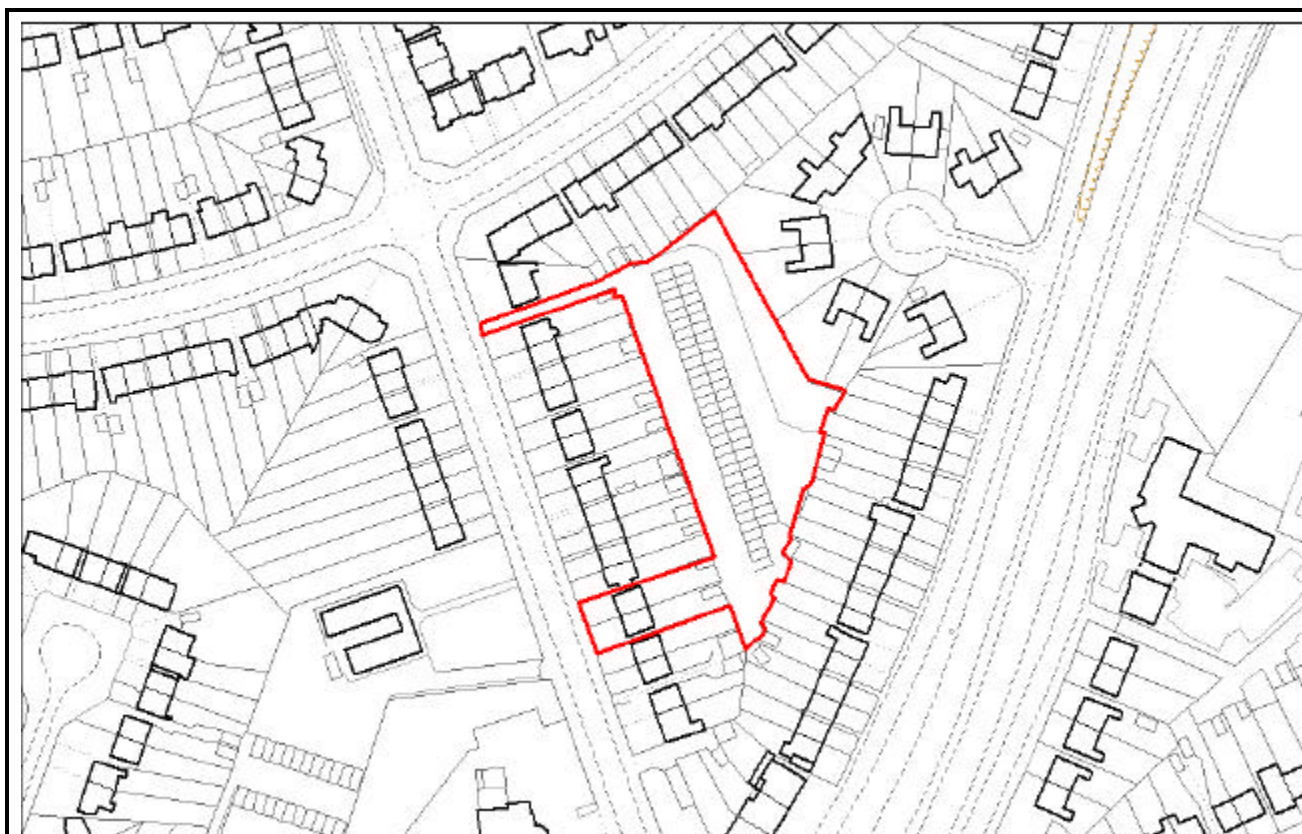
**REASON FOR BRINGING TO COMMITTEE: Major Application with Significant  
Community Interest**

**Application Number:** 08/1841/FL  
**Application Type:** Full application  
**Applicant:** BT Felton & Sons  
**Proposal:** Erection of 12 no. dwellings

**Case Officer:** Barbara Toy  
**Telephone Number:** 01922 652429  
**Agent:** Mr Rob Hathaway  
**Location:** Land to rear of and  
including 15 & 17 Romney Way,  
Great Barr, Birmingham  
**Expired:** 11/03/2009

**Ward:** Pheasey Park Farm

**Recommendation Summary:** Grant Subject to conditions



**Crown Copyright.** Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Walsall MBC. Licence Number LA 076414.

## **Application and Site Details**

The site is situated on the eastern side of Romney Way and comprises the site of two semi detached houses (15 and 17 now demolished) and land to the rear of 9 – 41 Romney Way which formerly comprised 58 lock up garages in a poor state of repair. The site is derelict and has suffered from vandalism and misuse.

The site is surrounded by two storey houses in Romney Way, Queslett Rd to the south and east, Allingham Grove to the north east and Chantry Crescent to the north, in a predominantly residential area.

The site slopes down from north to south and is at a higher level than the existing houses in Queslett Rd, which have steep tiered rear gardens. The land falls approx 6m from Chantry Crescent down to Queslett Rd.

On 26<sup>th</sup> September 2006 the Development Control Committee granted planning permission for the demolition of 15 and 17 Romney Way to form an access to the garage site to the rear to erect 11 apartments and 5 detached houses. A subsequent approval on 4<sup>th</sup> April 2007 allowed a substitution of house types on plots 1, 3, 4, 5 & 6 to allow an additional bedroom and ensuite within the roof space.

This revised application proposes the erection of 12 two storey houses, 8 x 3 bed and 4 x 4 bed detached houses.

The access to the site and road layout would remain as the original approval, and provide a shared surface. Plot 1 (on the frontage of Romney Way) would be amended from two apartments to a 3 bed detached house. Plot 2 would remain as a 3 bed detached house with single storey side garage with a minor amended design over the original approval. Plots 3, 4, 5 and 6 would comprise 4 bed detached houses with integral garages as the original approval. Plots 7 – 12 would provide a row of 6 x 3 bed two storey terraced houses in place of a two and a half storey apartment block containing 9 x 2 bed apartments. Parking for plots 8 -12 would be provided within a communal parking area on their frontage, with 2 spaces provided for each house, parking for plot 7 would be provided to the rear accessed directly from Romney Way via an existing gated access drive and two visitors parking spaces would be provided on the bend of the access drive (adjacent to plot 2).

Since the demolition of the redundant garages on the site the applicants have erected a retaining wall in the south eastern corner of the site, along the boundary with properties in Queslett Rd and Romney Way. Retrospective consent for this engineering operation is sought in this application.

Site area 0.345 hectares with a density of 35 dwellings per hectare.

## **Relevant Planning History**

06/1116/FL/E9, demolition of 15 and 17 Romney Way to form an access to the garage site to the rear to erect 11 apartments and 5 detached houses, approved 26-09-06 subject to conditions and S106 to secure an education contribution and small contribution to urban open space.

07/0294/FL/E9, substitution of house types on previous approval 06/1116/FL/E9, approved 04-04-07.

### **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

### **Walsall Unitary Development Plan March 2005**

Paragraphs 2.1 and 2.2 state that the aims of the Plan include sustainable development, urban regeneration and environmental improvement, with action to include creating, sustaining and enhancing a high quality natural and built environment, including a high standard of design, and providing for the right number, type and distribution of new homes.

#### **GP2: Environmental Protection**

The Council will not permit development which would have an unacceptable adverse impact on the environment.

Policy 3.6 seeks environmental improvement resulting from development.

Policy 3.9 high priority will be given to maximising the re-use and reclamation of derelict and previously developed land.

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

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

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 the development.

#### **GP7: Community Safety**

Proposals would be expected to have regard for the objectives of 'designing out crime' which include maximising the surveillance of public areas from the living areas of homes and from other buildings.

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

Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

#### **H9: Minimum Densities**

Indicates that housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites.

#### **H10: Layout, Design and Dwelling Mix**

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

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

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

#### **ENV14: Development of Derelict and Previously-Developed Land.**

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



ENV32: Design and Development Proposals.

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

ENV39: Renewable Energy and Energy Efficiency

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

LC1(d): Urban Open Space

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

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

T7 – Car Parking

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

T13: Parking Provision

1, 2 and 3 bed houses	2 spaces per unit
4 bed houses and above	3 spaces per unit

### **Designing Walsall (SPD) (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;

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 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.

Annexe E: 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 and 20m<sup>2</sup> per dwelling where communal

Page 4 of 67

provision is made, set backs to avoid terracing and provision of boundary walls. 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.

#### **Urban Open Space (SPD) (April 2006)**

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

#### **Education (SPD) (Feb 2007)**

Requires a contribution towards local primary and secondary education facilities where required according to capacity with a threshold of 10 residential units and above.

#### **National Policy**

**PPS1:** Delivering sustainable development emphasis the need to reject poor design and the need for sustainable development.

#### **PPS3: Housing**

- Support further increased housing needed across the country
- Bring additional brownfield land back into use
- Increase the design and environment standards of new homes and neighbourhoods in order to move towards zero carbon development
- Deliver more affordable homes
- Support more family housing, including more play spaces, parks and gardens for children

**PPG13:** Transport, promotes more sustainable patterns of development for housing development and encourages assessment of the location and accessibility of jobs, services and transport choices and to reduce travel, especially by car.

#### **Consultations**

**Transportation** – No objections subject to safeguarding conditions regarding visibility, bin storage, access and site operatives.

**Fire Officer** – Satisfactory access for fire service access.

**Environmental Health** – No adverse comments

**Centro** – No objections, the site is within the minimum standards for accessibility by public transport

**Education Walsall** – A contribution towards secondary school provision of £33,332.85 would be required.

**Pollution Control – Scientific Team** – No objections subject to condition regarding hours of demolition and construction on site.

**Contaminated Land Team** – No objections subject to conditions re site investigation

**Landscape Officer** – No landscape scheme provided, full details of species size and type required to be submitted for approval prior to commencement of development.

**West Midlands Police** – Recommend that the site is constructed to Secure By Design standards. Minor revisions suggested.

A letter from a Planning Consultant on behalf of West Midlands Police, requests a S106 contribution towards policing in the area based on the increase in the number of dwellings in the area. They consider that this would equate to a contribution of £195.68 per household created, equating to a total of £2,348.15.

**Severn Trent Water** – No objections.

**Drainage** – no objections, Severn Trent Water should comment on the capacity of the existing sewers in the area.

**The District Valuer** - has assessed the financial viability of the scheme based on the amount the applicant paid for the site and the costs involved in the construction, and has concluded that the proposed development scheme is not viable even if the S106 contributions were to be excluded.

### **Representations**

Five letters received from four households. Two letters from the same household raise objections to the proposals and three raise no objections in principle but raise some concerns.

Objections:

- Loss of access for maintenance to existing garages within properties in Queslett Rd, a maintenance strip should be provided
- The pedestrian access to the garages to the rear of Queslett Rd in the previous approval has now been removed.

Concerns:

- Increase in traffic in Romney Way, which is already busy, double yellow lines should be put in to ensure traffic flow.
- New boundary fencing required to ensure surrounding properties are secure
- Question whether extinguished access rights to garages could be reinstated
- Future maintenance of 2 large existing sycamore trees that sit on the boundary?
- Ensure suitable drainage of the site to ensure adequate to avoid excess water to the properties in Queslett Rd
- Large mound of soil within the site, when will this be removed?

Councillors Andrew and Towe (ward members) have undertaken a consultation exercise with local residents regarding the proposals, 13 consultation sheets were completed expressing concerns and objections, but 11 agreeing that the proposals are better than the previous approval.

Comments made:

- Concerned about access to substation & no pedestrian access
- Heavy traffic has already churned up the driveway



- 'no mans' land to the rear of No 9 Romney Way liable to tipping and anti social behaviour
- Flooding to garages at the rear since the site was cleared and concerns re future drainage of the site
- Likely overlooking so want to ensure no windows added to the roofspace
- Objection to the rumble strip
- Want to see reinstatement of vehicle access to rear of Romney Way properties
- Details of new boundary fencing required
- Future ownership and maintenance of the two large sycamore trees to the rear of 558 Queslett Rd
- When will the mound of soil on the site be removed?
- A maintenance strip is required to the rear of the houses in Queslett Rd to allow access to existing garages
- No increase in height of the properties should be allowed
- Loss of pedestrian footpath to the rear of houses in Queslett Rd , approved on the previous scheme
- Current security issue on the site and the increased height of the retaining wall has lead to damage to green house.
- Question appropriate removal of the asbestos roof sheeting when the garages demolished.
- Possibility of vehicle access to the rear of No 41 Romney Way

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

### **Determining Issues**

- The principle of residential development
- The design and layout of the proposals
- Impact on the surrounding occupiers
- Urban Open Space and Education provision.
- Response to residents comments

### **Observations**

#### **The Principle of Residential Development**

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

The site is situated within walking distance of Queslett Rd, which forms part of the Strategic Highway Network and provides good public transport links to both Walsall and Birmingham.

The application site is surrounded by housing and is considered a sustainable location. The principle of residential development on the site has already been

established through the approval of the previous application for houses and apartments on the site.

The density of the proposed development at 35 dwellings per hectare would comply with guidance contained within UDP (Policy H9) and PPS 3, which require a minimum density of 30 dwellings per hectare and densities between 30 and 50 dwellings per hectare are likely to be suitable on most sites. The proposed density is therefore considered appropriate.

### **Design and Layout.**

The access and access road layout of the development would remain as the original approval and would comprise a shared surface. Plots 3, 4, 5 and 6 would also remain as the original approval, ie 4 x 4 bed detached houses with integral garages with the same design of the properties apart from the deletion of the rear conservatories. The houses have however been straightened up within the plots to sit more at right angles to the new access road. Plot 2 also remains as a 3 bed detached house with single storey side garage, but now also incorporates an additional single storey side element to the house, which is considered acceptable in design terms. Plots 6 to 2 would step down the site from north to south with the natural slope of the land.

Plot 1 would have a similar footprint and positioning but would now provide a 3 bed detached two storey house in place of 2 x 1 bed apartments. The house would sit on the existing building line of properties in Romney Way. The height of the building would be reduced by 0.3m and the front elevation of the property has an improved design, now incorporating a small gable feature and a front entrance porch. Whilst the property has no front driveway for parking due to the bellmouth of the access drive a parking space would be provided to the rear of the property, with a further two visitors spaces for the development as a whole provided on the opposite side of the access drive.

Plots 7 – 12 would be sited at the northern end of the site sitting at right angles to plot 6 and would provide 6 x 3 bed two storey terraced houses, with a communal parking area accessed from the approved turning head between the frontage of 7-12 and the side of plot 6. The design of the houses would follow that of plot 1. Plot 7 would have two parking spaces situated to the rear accessed from Romney Way via an existing gated vehicle access drive.

Plots 7 – 12 would replace the approved two and a half storey block of 9 x 2 bed apartments and would result in a reduced number of units, reduced height by approx 2.4m and reduced bulk and massing of the building.

All the gardens of the detached houses would more than comply with the 68sqm required by guidance within Appendix E of Designing Walsall. Plots 7 – 10 (terraced houses) would however have garden sizes slightly below the minimum, but would more than meet the required separation distances to existing properties in Chantry Crescent (to the north), Romney Way (to the west) and Allingham Grove (to the east).

The pedestrian access to the rear of 554-556 Queslett Rd, approved within the original scheme, has now been removed. This path was negotiated by the original applicant with the residents. The current applicant however has confirmed that the surrounding residents have no right of access over the site and considers the access

a possible security issue for the new occupiers of plots 2 and 3. There is no planning policy base on which to pursue this path.

The proposals would result in the loss of a street tree on Romney Way, to allow for the new access drive, the proposals do however incorporate a replacement tree on the bend of the access road, adjacent to the two visitor parking spaces. The tree would be clearly visible along the length of the access road from Romney Way. No landscaping details have been submitted but an appropriate condition is attached to ensure a full landscaping scheme including the replacement street tree is submitted for approval prior to implementation of the development.

The application includes the retention of the retaining wall erected along the southern boundary of the site following the demolition of the garages. This was required to ensure the stability of the land, due to the significant level difference across the site.

#### **Impact on the surrounding occupiers.**

Plot 1 would sit in line with the existing houses on Romney Way and would have no adverse impact on the amenities on the adjoining occupiers.

Plot 2 would now have a single storey garage sitting 1.8m from the boundary with the rear gardens of Queslett Rd, 0.6m closer to the boundary than the original approval. However the rear garden of 548 Queslett Rd is over 19m in length, well exceeding the 13m distance required by Appendix E in Designing Walsall SPD. The garage is single storey only, with a pitched roof, similar height to the previous approval. It is therefore considered that the revisions to plot 2 would have no additional adverse impact on the amenity of the adjoining residential occupiers in Queslett Rd.

Plots 3, 4, 5 and 6 would now sit at right angles to the access road and marginally further away from the rear boundary with properties in Allingham Grove and Queslett Rd. This would improve the separation distance and ensure that the properties do not directly face any of the surrounding houses and therefore would continue to have no adverse impact on the amenities of the occupiers.

Plots 7 – 12 would back onto the rear gardens of properties in Chantry Crescent, the separation between the windowed elevations would more than meet the 24m recommended in Appendix E of Designing Walsall , exceeding 30m. The properties would be two storey only and would replace the two and a half storey apartment block previously approved and would therefore have a reduced impact on the amenities of the surrounding occupiers.

#### **Urban Open Space and Education Provision**

##### **Urban Open Space**

An Urban Open Space contribution of £38,680.00 is required to comply with the Urban Open Space SPD and LC1(d) of the UDP

##### **Education**

The level of surplus places in local secondary schools are below 10%, therefore a contribution of £33,332.85 is required towards secondary school provision within the local area, in line with Policy 8.8 of the UDP and Education SPD.

The Police, request a S106 contribution towards policing in the area based on the increase in the number of dwellings in the area. They consider that this would equate

Page 9 of 67

to a contribution of £195.68 per household created, equating to a total of £2,348.15. There is however no planning policy basis for requiring any such contribution therefore this is not being pursued. (These figures have not been considered as part of the assessment by the District Valuer).

The previous planning approval (06/1116/FL/E9) included a S106 contribution towards Education provision of £32,719.78 and an Urban Open Space Contribution of £3,000 (an offer made by the applicant as the application was approved just as the SPD was adopted), a total contribution of £35,719.78, approx half of the contribution payable on the current proposals to comply with policy. The proposed scheme however now includes a reduced number of units with no apartments, and an improved scheme over the previous.

The total contribution payable to comply with policy would be £72,012.85 plus costs. The applicants have put forward a financial appraisal for independent assessment by the District Valuer, in support of their claim to make nil S106 financial contributions.

The District Valuer has assessed the financial viability of the scheme based on the amount the applicant paid for the site and the costs involved in the construction, and has concluded that the proposed development scheme is not viable even if the S106 contributions were to be excluded.

The District Valuer has indicated that the current market conditions/downturn in the housing market/economy, may change over a reasonable period of time and the Council may wish to consider a review of the assessment if the planning consent has not been commenced within 1 year of granting permission.

Whilst it is considered that the above advice is valid, to allow the developer to progress towards commencement of development on the site, it is impractical in this instance. It is therefore recommended that your Committee supports the proposals for nil S106 contributions.

### **Response to resident's comments**

The following provides responses to issues raised by residents:

The two sycamore trees to the rear of 558 Queslett Rd are shown within the rear garden of plot 3 and would therefore be the responsibility of the future owners of plot 3.

New 1.8m high close boarded fencing would be provided to all boundaries except where the existing fencing is in good condition. Similar 1.8m high fencing would be provided to the top of the retaining wall.

The area of land to the rear of No 9 Romney Way will remain in the ownership of the applicants and will be landscaped.

The applicants will only allow pedestrian access to the garages/gardens to the Romney Way properties through individual negotiation with residents. The residents have no legal right of access over the land and the applicants have the right to refuse access.

The comments from Central Networks in relation to access to the substation have been sought, and their response will be reported in the supplementary papers.

It may be possible to allow vehicle access to the rear of No 41 Romney Way via the existing gated vehicle access adjacent, this is a matter to be agreed between the applicant and the owner of No 41.

The visitor parking spaces and land adjacent either side are intended to be included in the area to be adopted.

The asbestos cement sheet roofing was disposed of by a registered special waste carrier in accordance with all legislation and regulations. A Section 80 Demolition Notice was submitted to Building Control for the demolition of the garages on the site, and the disposal of the asbestos was included in the submitted method statement and risk assessment. Building Control visited the site during demolition and had no issues with the work being undertaken.

Drainage plans have been submitted with the proposals and are considered satisfactory by Severn Trent Water.

A satisfactory relationship would be provided between the proposed houses and the existing surrounding properties, far exceeding the separation distance guidance contained within Appendix E of Designing Walsall (SPD). It is considered that there would be sufficient scope for further extensions to be carried out under permitted development without any harm to surrounding neighbours. There is therefore considered no need or justification to withdraw permitted development rights.

### **Summary of Reasons for Granting Planning Permission**

The proposals provide a high quality design and layout, which would provide two storey houses in place of the previously approved apartments. The proposal makes good use of previously developed land within a sustainable location and would have no adverse impact on the amenities of the adjoining residential occupiers.

Neighbour concerns have been considered and the applicant has confirmed that the surrounding residents have no right of access across the site and that it is inappropriate to provide any vehicle access to rear garages/gardens, but pedestrian access may be negotiated with individual residents. The land to the rear of 9 Romney Way will remain in the applicants ownership, and the visitor parking and adjacent land will be included in the area to be adopted. Severn Trent Water have confirmed that the submitted drainage details are satisfactory and other concerns regarding fencing and landscaping can be addressed by safeguarding conditions. It is not considered that there is a need or justification to withdraw permitted development rights as the proposed layout fully complies with separation distance guidance contained within Appendix E of Designing Walsall SPD and the principles of good design.

Contributions in accordance with the Council's Supplementary Planning Documents on Education and Urban Open Space are not considered appropriate due to the limited financial viability of the development which has been verified by the District Valuer and this accords with guidance contained within Policy GP3 of Walsall's Unitary Development Plan (2005).

The proposals would accord with the aims and objectives of the development plan, in particular policies GP2, GP3, GP7, 3.16, ENV32, ENV39, H3, H9, H10, T13, 8.8 and LC1(d) of Walsall's Unitary Development Plan (2005), and Supplementary Planning Document: Designing Walsall (2008).

**Recommendation: Grant Subject to conditions**

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

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

2. No development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

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

3. No development shall be carried out until full details of existing and proposed levels of the site, access way and floor levels for the proposed dwellings, have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site and any drainage or other works necessary to facilitate this development. The development shall be carried out and retained in accordance with these approved details.

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

4. No external lighting shall be installed on the site until details have been submitted to and approved in writing by the Local Planning Authority and the lights shall be installed in accordance with the approved details and retained as such.

*Reason:* To safeguard the visual amenities of the area.

5. The pedestrian access gate to the rear garden of plot 6 shall be provided in line with the front elevation of the house and thereafter retained in this position and lockable.

*Reason:* In order to comply with the objectives of Designing Out Crime and guidance contained within Policy GP7 of Walsall's Unitary Development Plan (2005).

6. No development shall commence on site until details of a landscaping scheme to include a replacement street tree and a planting scheme for the land to the rear of 9 Romney Way, are submitted to and approved by the Local Planning Authority. The development shall be completed in accordance with the approved details before the development is occupied, unless otherwise agreed in writing with the local planning authority, and retained as such. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs

Page 12 of 67



or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

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

7. No demolition, construction or engineering works, (including land reclamation, stabilization, 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 0700 – 1800 weekdays and 0800 – 1400 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason:* In the interests of the amenity of the surrounding residents of the proposed development.

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

Proposed Site Plan 298/02 Rev B received on 19<sup>th</sup> December 2008  
Proposed Terraced Houses 298/01 Rev B received on 28<sup>th</sup> November 2008  
House Type A 298/04 received on 28<sup>th</sup> November 2008  
House Type B 298/05 received on 28<sup>th</sup> November 2008  
Roof Plan 298/06 received on 10<sup>th</sup> December 2008  
Location Plan 298/07 received on 10<sup>th</sup> December 2008  
Existing & Proposed Site Sections 298/08 received on 10<sup>th</sup> December 2008  
Retaining Wall 298/09 Rev A received on 19<sup>th</sup> December 2008  
General Arrangement Drainage Plan 10410/20A received on 10<sup>th</sup> December 2008  
Topographical Survey 030908/01 received 28<sup>th</sup> November 2008  
Design & Access Statement received on 28<sup>th</sup> November 2008.

*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).

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

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

10. No development shall commence until details confirming measures to be used to ensure that the development shall be constructed in accordance with the Code of Sustainable Homes (Level 3) or equivalent relating to energy efficiency / CO<sub>2</sub>, water efficiency, surface water management, site waste management, household waste management and use of materials, has been submitted to and approved in writing by the Local Planning Authority.

*Reason:* In order to provide high performance sustainable homes/buildings and to protect the environment in accordance with strategic policy aims 2.1, 2.2, 3.17 and 3.18 and policies GP2 and ENV39 of the Walsall Unitary Development Plan and policies DW1 and DW10 of Designing Walsall Supplementary Planning Document.

11. The land to the east of the rear car parking space to Plot 1 shall be kept clear of any planting or structures, including boundary treatments, exceeding 600mm in height for the purposes of visibility and thereafter retained, unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* In the interests of intervisibility and highway safety

12. The rear garden boundary to Plot 1, between the building and the rear parking space, shall be set back to achieve a 2.0m x 15.0m visibility splay and the splay shall be kept clear of planting or structures exceeding 600mm in height and thereafter retained for the purposes of visibility.

*Reason:* In the interests of intervisibility and highway safety

13. Prior to the commencement of the development a revised plan shall be submitted showing a refuse bin hardstanding to serve Plots 7 to 12, for bins to be stored on collection days and the development implemented in accordance with the approved details.

*Reason:* To ensure the satisfactory operation of the development and to minimise the likelihood of obstruction of the highway.

14 Prior to the first occupation of the proposed development all parking areas shown on the approved plan shall be fully consolidated surfaced and drained and the bays clearly demarcated on the ground. These areas shall thereafter be retained for this purpose.

*Reason:* To minimise the likelihood of indiscriminate parking and in the interests of highway safety

15. Prior to the commencement of the development, a plan shall be submitted for approval in writing by the Local Planning Authority showing the full extent of the adoptable public highway within the development.

*Reason:* To clarify the proposed highway boundary prior to the entering of an agreement under Section 38 of the Highways Act 1980.

16. Prior to the commencement of the development details of parking and a turning facility for site operatives shall have been provided within the application site shall be submitted to and approved in writing by the Local Planning Authority, and this provision be implemented and retained during the construction period.

*Reason:* To ensure the satisfactory operation of the development and to minimise the likelihood of indiscriminate parking and in the interests of highway safety during the period of construction

17. No development shall be carried out until full details of all existing and proposed underground services and sewers have been approved in writing by the Local Planning Authority.

*Reason:* To safeguard the trees and or hedges on the site.

18. Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice and approved in writing by the Local Planning Authority shall be undertaken. A copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority within 1 month of completion.

*Reason:* To prevent the possibility of surface and/or groundwater pollution.

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

*Reason:* To prevent the possibility of surface and/or groundwater pollution.

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

*Reason:* To prevent the possibility of surface and/or groundwater pollution.

### **Notes for Applicant**

Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings(Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model or any relevant successors of such guidance. This list is not

Page 15 of 67

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.

---



ITEM NO: 2.

To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration and  
Performance Directorate On 17 Feb  
2009

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

**Application Number:** 08/1856/FL

**Application Type:** Full application

**Applicant:** Mr T. Dawkins

**Proposal:** Conversion of existing industrial buildings and new construction work to form 73 houses and apartments and associated car parking (amendment to existing permission under 07/1650/FL/W7).

**Ward:** Willenhall South

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

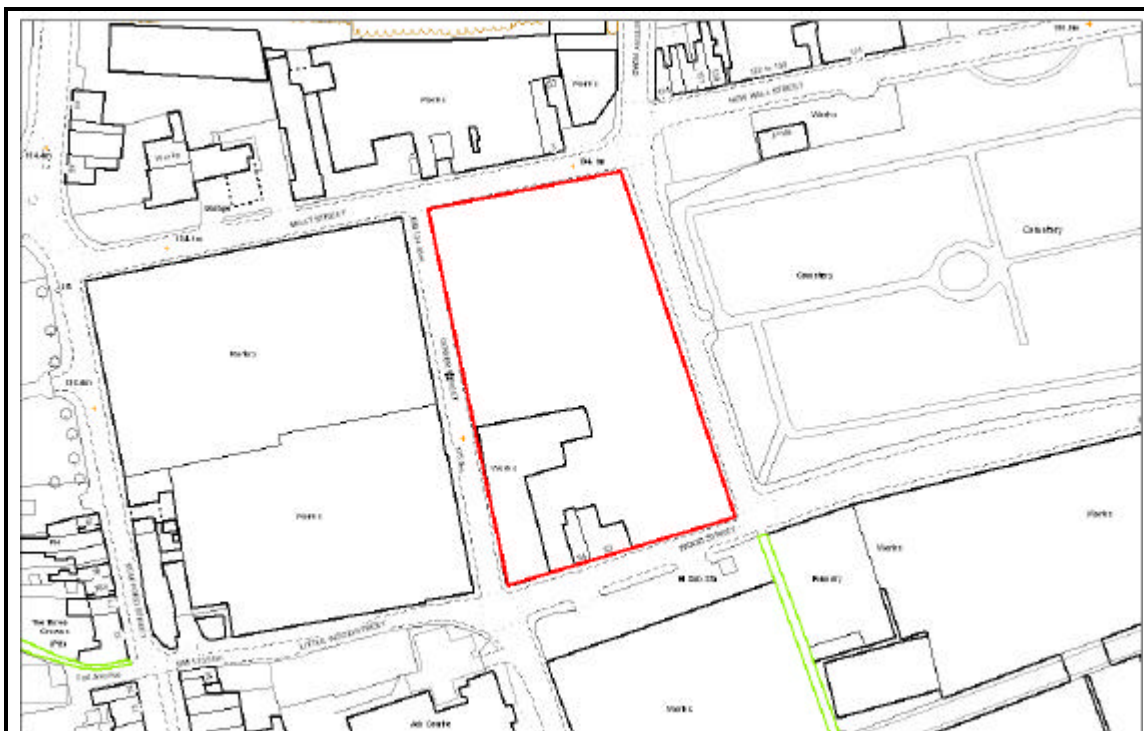
**Case Officer:** Andrew Thompson

**Telephone Number:** 01922 652403

**Agent:** Mr Robert Bamford

**Location:** The Keys (Former Union Locks site), Wood Street, Willenhall, WV13 1JY

**Expired:** 02/03/2009



**Crown Copyright.** Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Walsall MBC. Licence Number LA 076414.

### **Application and Site Details**

This report considers the detailed submission for development under application reference 08/1856/FL and the Conservation Area Consent for the demolition of Phoenix Works on Wood Street (application reference 09/0052/CC).

The site is located to the northeast of Willenhall Town Centre opposite Willenhall Cemetery bounded by Wood Street, Gower Street, Moat Street and Cemetery Road South. The site was previously used for the lock manufacturing industry and there are a mix of styles and designs. The principal building, the Union Lock building is an Art Deco building (3 storeys). It is Locally Listed and is located within the Willenhall Conservation Area.

There have been previous approvals on the site under planning permission references 04/1304/OL/W2 and 07/1650/FL/W7 granted in March 2005 and November 2007 respectively for similar schemes.

The application previously proposed to develop the site for an apartment led scheme, including the retention and conversion of the Union Locks building, of 111 units. The accommodation proposed previously comprised the following:

- 4, one bedroom flats
- 66, two bedroom flats
- 4, three bedroom flats
- 6, two bedroom houses
- 18, three bedroom houses
- 13, four bedroom houses

The revised application is for a housing led scheme comprising 73 units, also including the retention and conversion of the Union Locks building, to the following schedule of accommodation:

- 19, two bedroom flats
- 4, two bedroom houses
- 37, three bedroom houses
- 13, four bedroom houses

The proposed density would be reduced from approximately 168dph on the previously approved scheme to 108dph on the proposed and include 73 car parking spaces (100% provision). The parking provision on the approved scheme was 115 spaces (105%)

The applicant is offering 42 units (57% of the total) to be offered for affordable housing and a contribution of £54,747 towards open space provision in the area.

The access points to the car parking remain unchanged in terms of position (i.e. from Gower Street and Cemetery Road South), however the underground car parking from the approved scheme has been altered to solely surface level car parking.

The proposals also include a bespoke "Key" railing detail at the entrance from Cemetery Road South.

As per the approved application, the proposals have been supported by the following documents:



- A Design and Access Statement indicating the design led approach and the respect for the historic environment;
- A Transport Statement assessing the impact on the surrounding highway network;
- A Protected Species Report demonstrating that there would be no impact from the proposals on protected species;
- An Air Quality Assessment assessing the relationship of neighbouring industrial premises on residential amenity;
- Archaeological Assessments detailing the historic and archaeological brief for the site;
- A Drainage and Flood Risk Statement demonstrating that the proposals would have no impact on the flood risk and appropriate drainage methods would be employed;
- A Noise Assessment assessing the relationship of neighbouring industrial premises on residential amenity in terms of noise; and
- A Geotechnical Assessment assessing ground contamination on the site resulting from former industrial operations.

In addition the proposals are now also supported by additional information relating to the financial viability of the proposals and an Environment, Community and Privacy Report which shows how the proposals use multi-level outdoor space within the development and communal areas with the aim of creating high quality, community led areas of amenity space and high quality residential environments with examples and artist interpretations of how this has worked elsewhere in the country.

### **Relevant Planning History**

04/1304/OL/W2 - OUTLINE: Residential Development involving the retention and conversion of some factory units and demolition of other factory units. Granted 9<sup>th</sup> March 2005.

05/2355/CA/W2 – Demolition of the Union Lock Building, Gower Street, and Phoenix Works, Wood Street, Willenhall. Refused – 15<sup>th</sup> February 2006

07/1650/FL/W7 - Proposed Development of 74 no. 1, 2 and 3 bedroom flats and 37 no. 2, 3 and 4 bedroom houses and associated car parking, landscaping and external works, including conversion of existing Union Locks Building. Granted 26<sup>th</sup> November 2007.

### **Site opposite side of Wood Street**

07/0639/FL/W2 - Outline: Demolition of existing buildings and provision of retail (use class A1), residential (use class C3), premises for retail, service or office use (use classes A1, A2, A3, A4, A5 or B1), link road, car parking and other associated works. Granted 13<sup>th</sup> March 2008

08/1827/RM - Demolition of existing buildings & provision of retail (use class A1), residential (use class C3), premises for retail, service or office use (use classes A1, A2, A3, A4, A5, or B1), link road, car parking & other associated works. Pending Determination.

### **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

## **Walsall Unitary Development Plan**

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

The application site is in an Industrial Regeneration Area, which is covered by UDP policy 4.1. This policy was introduced to support a programme of environmental and security improvements to help create and safeguard employment, which drew on European Union funding. This funding has not been available for some years, so the means for implementing this policy has been withdrawn. It should therefore be given little weight in comparison to other policies and proposals to regenerate the area in other ways.

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

Policy Env10 seeks to ensure that proposals take account of pollution, including air quality, noise and smell, for example, and also to ensure that proposals do not have an unacceptable adverse effect on nearby land users and/or restrict the types of new development that could be permitted in the locality, or impose special conditions on them.

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

Policy S8 encourages housing in town and district centres to promote sustainable patterns of development

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

The site is located within Willenhall District Centre and in particular in the area designated for redevelopment opportunity under Policy WH4(VI).

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

### **Designing Walsall SPD**

Page 20 of 67

Regeneration and Performance, Planning and Building Control, Civic Centre, Darwall Street, Walsall, WS1 1DG

Website: [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning), Email [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk), Telephone (01922) 652452, Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234

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;  
DW4- Continuity -attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;  
DW5 Ease of movement- create places that are easily connected, safe to move through;  
DW6 – Legibility - new development should contribute to creating a place that has a clear identity;  
DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;  
DBW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: 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 and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. 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.

The approved scheme is featured in the Council's Design Guide.

### **Urban Open Space SPD**

Sets out the thresholds and contributions sought towards urban open space from residential developments.

### **Healthcare SPD**

Sets out the thresholds and contributions sought towards healthcare from residential developments.

### **Education SPD**

Sets out the thresholds and contributions sought towards education from residential developments.

### **Affordable Housing SPD**

Sets out the thresholds, tenure, mix and type of affordable housing sought from residential developments.

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

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

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

Page 21 of 67

Policies UR1 and UR3 which seek to regenerate urban areas and in particular centres;

Policies CF1, CF3, CF4 and CF5 seek to encourage housing in sustainable locations;

Policies QE1, QE2, QE3, QE4 and QE5 which seeks to improve the quality of the environment whilst preserving quality and historic buildings and locations. The policies also aim to enhance public spaces and urban green space. Policy EN2 seeks to conserve energy.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

### **National policy**

Planning Policy Statement (PPS)1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. In paragraph 13 (indent four) PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted." Paragraphs 33 to 39 also state the importance of good design.

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes. PPS3 indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. This includes high quality housing that is well-designed and built to a high standard; a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas; a sufficient quantity of housing taking into account need and demand and seeking to improve choice; and housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

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

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

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

### **Consultations**

**Transportation** – No objection subject to conditions

**Pollution Control (Scientific Team)** – No objection

**Pollution Control (Contaminated Land)** – No objection subject to works being implemented to carry out additional investigation and to remediate any localised ground contamination and ground gas issues associated with the former works. Conditions to address these concerns have been provided.

**Built Environment Team (Urban Design and Conservation)** – No objection subject to appropriate conditions on materials and boundary treatment. Conservation Area application for demolition has been received and is satisfactory to Officers.

**Land Drainage** – No objection

**Public rights of way** - No objection to this development.

**Walsall Children Services – Serco** – In this case the level of surplus places is above 10% for both primary and secondary schools. No contribution is therefore sought.

**Green Spaces** - Seek £144,837 towards open space improvements in the area in line with the Council's Adopted Supplementary Planning Document and the Willenhall Strategic Regeneration Framework.

**Healthcare:** Seek £80,318.70 towards healthcare facilities and improvements in the area in line with the Council's Adopted Supplementary Planning Document.

**Public Art:** Seek £25,550 towards strategic public art provision in the area in line with the Council's Adopted Supplementary Planning Document

**District Valuer Service** – Taking into account the abnormal costs and the gross development value the scheme is not considered to be capable of accommodating S106 contributions beyond those offered.

### **Public Participation Responses**

None

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

### **Determining Issues**

- Changes in the layout from the previous permission
- Car parking provision
- Access to the site
- Amenity Space and landscaping
- Industrial context and heritage
- Relationship to existing industrial buildings
- Demolition of Phoenix Works
- Affordable Housing, Education, Open Space, Healthcare and Public Art provision

### **Observations**

**Changes in the layout from the previous permission**

The proposed layout has been designed to respect the principles and detail built into the previous application whilst reflecting the altered position of a family housing led scheme as opposed to an apartment led scheme.

The proposed accommodation relates more closely to housing need and reduces the quantum of development from 111 units to 73.

The proposals will continue with the concepts progressed in the previous permission which the Council, by virtue of including it in the Council's Designing Walsall SPD, consider to be an exemplar for town centre development in Willenhall.

### **Car parking provision and access to the site**

The approved scheme included 115 car parking spaces (105% provision), 67 spaces located above ground in a courtyard, with the remainder underground. The access to the underground car park would have been from Gower Street with the above ground parking access from Cemetery Road South

The scheme now removes the need to include an underground car parking element and continues to utilise car parking around a central courtyard with 73 spaces being proposed (100%)

Considering the highly sustainable location, in relation to Willenhall Town Centre, including the proposed supermarket on the neighbouring site, the need for high levels of car parking is reduced significantly. In addition the proposed level of car parking is not significantly different from the approved scheme.

A Residential Travel Plan will be conditioned.

### **Amenity Space and landscaping**

The innovative approach to providing useable private space for both individual houses and apartments and community recreation areas is a positive and attractive feature of the proposals. It allows for a sense of place and high quality to permeate through the development.

The multi-level approach to amenity space ensures that a significant amount of amenity space is provided whilst not impacting on density and making best use of the land.

A full landscaping scheme, of high quality and detail has been submitted as part of the application. It contributes to high quality proposals.

### **Industrial Context and Heritage**

Retention of the locally listed industrial building and reflection of the modern and art deco styles is welcomed. The proposals have paid careful attention to the character and local distinctiveness of Willenhall and the locally listed 1930s factory building that sets the tone for the design of the new build part of the site.

The proposals create a back-of-pavement design, common to this area of Willenhall with strong links to industrial heritage which is considered to be a welcome design feature of significant benefit to the locality.



### **Relationship to existing industrial buildings**

The application site is neighboured by a number of industrial uses in the town centre which have noise and air quality implications. These were considered as part of the original outline and detailed planning permissions.

The area is designated within the Adopted UDP as a Development Opportunity (Policy WH4 (VI)) and together with the nearby proposals for a new supermarket led, mixed use development (outline planning permission reference 07/0639/FL/W2) will start to transform and regenerate this area of Willenhall. As such whilst the relationship to existing industrial uses should be noted and acknowledged in the consideration of the application, the longer term objectives of regeneration and change to the character of this area in terms of promoting a more attractive and viable centre for Willenhall are considered to be the driving influence in this instance.

The proposals have been designed to create an active frontage and secure boundary around the outside of the site whilst creating private central space. The proposals have therefore created a capability to mitigate against neighbouring uses as they exist whilst creating a high quality residential environment that would act as a catalyst for regeneration.

### **Demolition of Phoenix Works**

The buildings to be demolished consist of a Victorian terrace. It is intended that demolition of this property is justified in order to deliver the development proposed under 08/1856/FL which includes the conversion of the former Art Deco styled 1930s Union Locks Building, Wood Street which includes some demolition of the building towards the rear.

PPG15 paragraph 4.27 states that detailed plans for redevelopment must be submitted before demolition can be contemplated. Officers are satisfied that detailed plans have been submitted under 08/1856/FL where the main principles of redevelopment have been agreed under previously submitted application and are repeated under application 08/1856/FL.

Therefore subject to a Building Recording Survey Assessment, a Historical Building Survey and archaeological observation being carried out the proposals are considered to be acceptable. .

### **Affordable Housing, Education, Open Space, Healthcare and Public Art provision**

At the time of the previous Reserved Matters submission, the Council, based on conditions on the outline planning permission, sought the following contributions:

Healthcare - £102,223.80

POS - £26,600.00

Education - £163,156.80 towards secondary school provision.

Affordable Housing – 25%, mix of all types for shared equity.

Based on current planning policy the amounts sought would be:

Open Space: £144,837

Healthcare: £80,318.70

Public Art: £25,550

Affordable Housing – 25%, mix of all types for social rent.

As highlighted by the consultation responses, due to the surpluses in nearby schools being higher than 10% for primary and secondary education, no contribution is now sought towards education facilities in the area.

The applicant has agreed with a Housing Association for the provision of affordable housing, 42 units (57%). These units comprising of four 2-bedroom houses; thirty 3-bedroom houses and eight 4-bedroom houses would be offered for social rent.

In addition the applicant is offering £54,747 towards open space contributions which would be directed towards the neighbouring cemetery in line with the aspirations of the Willenhall regeneration programme. This contribution is the equivalent of the open space contribution for the open market dwellings proposed.

The applicant has submitted a financial appraisal to the District Valuers Service, who concludes that taking into account the abnormal costs and the gross development value the scheme, due to the conversion of the locally listed building and ground contamination costs there would be no opportunity to seek additional contributions without compromising the viability.

### **Conclusion**

Overall, taking into account the previous planning permissions, the high quality of the design proposed, including the retention of the Union Locks Building, the proposals are an excellent example of providing family housing in the town centre with a design-led approach to amenity and housing provision.

The proposals will define and aid the regeneration of Willenhall and are welcomed by Officers.

The application for Conservation Area Consent (09/0052/CC) has not yet completed its consultation period however, Conservation Officers have responded favourably to the application. Therefore subject to no further material planning objections being received within the consultation period it is requested that Delegated Authority be given to the Head of Planning and Building Control to determine the application, subject to appropriate conditions set out.

### **Summary of Reasons for Granting Planning Permission**

#### **Reasons for Approval**

The proposals have been considered with the aims and objectives of the Development Plan (as set out by Section 38(6) of the Planning and Compulsory Purchase Act (2004)). These are Regional Spatial Strategy for the West Midlands (RSS11) and the Unitary Development Plan (March 2005).

The Local Planning Authority have considered the proposals against extant planning permissions, the design of the proposals, the impact of the proposals on the character of the area, the density and amenity space to be provided as part of the proposals and found in this regard the proposals are acceptable. In addition the impact on the amenities of nearby residents and businesses has been considered and found to be acceptable.

S106 contributions will be delivered in line with the Council's policy and with viability having been assessed independently.

As such, the proposed development, having considered all relevant extant planning permissions and consultation comments is considered to comply with the relevant policies of the Development Plan (namely Walsall Unitary Development Plan and the Regional Spatial Strategy for the West Midlands) and national planning guidance and best practice guidance. The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP1, GP2, GP3, GP7, T7, T12 T13, ENV10, ENV14, ENV18, ENV29, ENV32, ENV33, JP7(d), H3, H4, H9 and H10 of Walsall Unitary Development Plan (March 2005) and Policies QE3, QE4 and QE5 of the Regional Spatial Strategy for the West Midlands (RSS11), on balance, having taken into account all material planning considerations, the proposal is acceptable.

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

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

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

2. Prior to any commencement of any works a waste management strategy shall be submitted to and agreed in writing with the Local Planning Authority and Walsall Waste Management. The strategy shall be implemented in accordance with the agreed details.

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

3. Prior to built development commencing additional site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice and approved in writing by the Local Planning Authority shall be undertaken. A copy of the findings of the additional site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority within 1 month of completion.

*Reason:* To safeguard the amenities of the occupants and to evaluate and overcome any ground contamination that might be present on the site.

4. Prior to built development commencing details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site (identified under condition 3) and a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority.

*Reason:* To safeguard the amenities of the occupants and to evaluate and overcome any ground contamination that might be present on the site.

5. Agreed remedial measures (agreed under conditions 3 and 4) shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use.

*Reason:* To safeguard the amenities of the occupants and to overcome any ground contamination that might be present on the site.

6. This development shall not be carried out until samples of the facing materials to be used have been approved in writing by the Local Planning Authority. The external highway facing walls and window materials used in the development shall be of the same type, texture and colour as those used in the existing Union Locks building unless otherwise agreed in writing with the Local Planning Authority.

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

7. The boundary treatment shown on the approved plans shall be carried out before this development is brought into use.

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

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding orders, no gates, fences, walls or other means of enclosure, except those included on the approved plans, shall be moved or erected without the prior approval of a planning application relating to that work.

*Reason:* To safeguard the amenities of the occupants and to ensure the satisfactory appearance of the development.

9. The development shall be carried out in accordance with the submitted details for the conservation and efficient use of energy and natural resources and sustainable development, to meet the 3 stars standard as amplified by the Code for Sustainable Homes (January 2007) or subsequent document.

*Reason:* To ensure the development meets sustainable development objectives in accordance with Policy Env39, Env40 of Walsall Unitary Development Plan and PPS1.

10. Prior to the occupation of the building, the location of a communal satellite dish to serve the apartments units and, wherever practicable, the family housing hereby approved, shall be submitted to and agreed by the Local Planning Authority. The dish(es) shall be installed prior to the first occupation of the development in accordance with the agreed details.

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

11. Prior to the commencement of development a Residential Travel Plan shall be

Page 28 of 67

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

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

Prior to the first dwelling being occupied on the development hereby approved, the agreed Residential Travel Plan developed in partnership with this Council's Travel Wise co-ordinator shall be submitted to the Local Planning Authority. The approved measures shall be implemented in accordance with the details written in the approved Travel Plan. A review of the approved Travel Plan shall be submitted to, and agreed in writing by, the Local Planning Authority in accordance with the approved Travel Plan. This will identify any refinements and clarifications deemed necessary to the Plan. The approved, revised plan shall thereafter be implemented in conjunction with the development approved under this permission, unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory functioning of the development and to promote sustainable modes of transport.

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

*Reason:* To ensure the satisfactory provision of off-street parking, the satisfactory appearance of the development and to ensure the satisfactory functioning of the development.

13. A full historical building survey to be undertaken (to a Level prescribed within the accompanying Brief) prior to any demolition of the Phoenix Works, Wood Street and the rear of the former Union Locks building to be completed to the satisfaction and standard set out by the Black Country Archaeologist. Copies are to be submitted to the Local History Centre, Walsall Council's Conservation Officer and the Black Country Archaeologist prior to the commencement of demolition. The Historical Building Survey to comply with the Brief (attached) set out by the Black Country Archaeologist and the Conservation Officer.

*Reason:* To preserve a record of historic buildings and features of interest that may be lost as a result of the development.

14. No development shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological observation and recording during development in accordance with a brief written by the Council's archaeologist or other agreed expert, and a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority. Any works or observation shall be carried out in accordance with the agreed brief.

*Reason:* To ensure that archaeological remains and historic structures are observed and recorded during development.

#### NOTES FOR APPLICANT

A) Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings(Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

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

---





ITEM NO: 3.

To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration and  
Performance Directorate On 17 Feb  
2009

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

**Application Number:** 09/0052/CC

**Application Type:** Conservation Area  
Consent

**Applicant:** Mr T Dawkins

**Proposal:** Conservation Area Consent for  
demolition of buildings within the  
conservation area relating to the  
redevelopment proposals under planning  
application REF: 08/1856/FL

**Ward:** Willenhall South

**Recommendation Summary:** Delegate to Head of Planning and Transportation

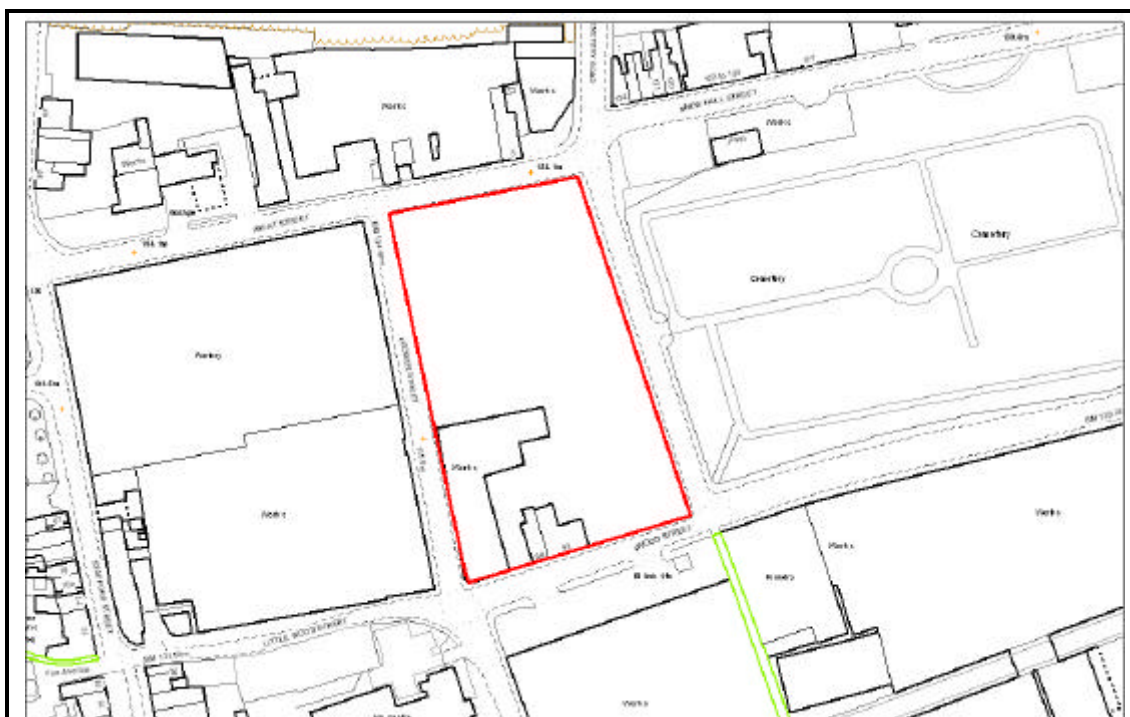
**Case Officer:** Andrew Thompson

**Telephone Number:** 01922 652403

**Agent:** Mr R Bamford

**Location:** The Keys (Former Union  
Locks site), Wood Street, Willenhall,  
WV13 1JY

**Expired:** 16/03/2009



**Crown Copyright.** Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Walsall MBC. Licence Number LA 076414.

### **Application and Site Details**

This report considers the detailed submission for development under application reference 08/1856/FL and the Conservation Area Consent for the demolition of Phoenix Works on Wood Street (application reference 09/0052/CC).

The site is located to the northeast of Willenhall Town Centre opposite Willenhall Cemetery bounded by Wood Street, Gower Street, Moat Street and Cemetery Road South. The site was previously used for the lock manufacturing industry and there are a mix of styles and designs. The principal building, the Union Lock building is an Art Deco building (3 storeys). It is Locally Listed and is located within the Willenhall Conservation Area.

There have been previous approvals on the site under planning permission references 04/1304/OL/W2 and 07/1650/FL/W7 granted in March 2005 and November 2007 respectively for similar schemes.

The application previously proposed to develop the site for an apartment led scheme, including the retention and conversion of the Union Locks building, of 111 units. The accommodation proposed previously comprised the following:

- 4, one bedroom flats
- 66, two bedroom flats
- 4, three bedroom flats
- 6, two bedroom houses
- 18, three bedroom houses
- 13, four bedroom houses

The revised application is for a housing led scheme comprising 73 units, also including the retention and conversion of the Union Locks building, to the following schedule of accommodation:

- 19, two bedroom flats
- 4, two bedroom houses
- 37, three bedroom houses
- 13, four bedroom houses

The proposed density would be reduced from approximately 168dph on the previously approved scheme to 108dph on the proposed and include 73 car parking spaces (100% provision). The parking provision on the approved scheme was 115 spaces (105%)

The applicant is offering 42 units (57% of the total) to be offered for affordable housing and a contribution of £54,747 towards open space provision in the area.

The access points to the car parking remain unchanged in terms of position (i.e. from Gower Street and Cemetery Road South), however the underground car parking from the approved scheme has been altered to solely surface level car parking.

The proposals also include a bespoke "Key" railing detail at the entrance from Cemetery Road South.

As per the approved application, the proposals have been supported by the following documents:

- A Design and Access Statement indicating the design led approach and the respect for the historic environment;
- A Transport Statement assessing the impact on the surrounding highway network;
- A Protected Species Report demonstrating that there would be no impact from the proposals on protected species;
- An Air Quality Assessment assessing the relationship of neighbouring industrial premises on residential amenity;
- Archaeological Assessments detailing the historic and archaeological brief for the site;
- A Drainage and Flood Risk Statement demonstrating that the proposals would have no impact on the flood risk and appropriate drainage methods would be employed;
- A Noise Assessment assessing the relationship of neighbouring industrial premises on residential amenity in terms of noise; and
- A Geotechnical Assessment assessing ground contamination on the site resulting from former industrial operations.

In addition the proposals are now also supported by additional information relating to the financial viability of the proposals and an Environment, Community and Privacy Report which shows how the proposals use multi-level outdoor space within the development and communal areas with the aim of creating high quality, community led areas of amenity space and high quality residential environments with examples and artist interpretations of how this has worked elsewhere in the country.

### **Relevant Planning History**

04/1304/OL/W2 - OUTLINE: Residential Development involving the retention and conversion of some factory units and demolition of other factory units. Granted 9<sup>th</sup> March 2005.

05/2355/CA/W2 – Demolition of the Union Lock Building, Gower Street, and Phoenix Works, Wood Street, Willenhall. Refused – 15<sup>th</sup> February 2006

07/1650/FL/W7 - Proposed Development of 74 no. 1, 2 and 3 bedroom flats and 37 no. 2, 3 and 4 bedroom houses and associated car parking, landscaping and external works, including conversion of existing Union Locks Building. Granted 26<sup>th</sup> November 2007.

### **Site opposite side of Wood Street**

07/0639/FL/W2 - Outline: Demolition of existing buildings and provision of retail (use class A1), residential (use class C3), premises for retail, service or office use (use classes A1, A2, A3, A4, A5 or B1), link road, car parking and other associated works. Granted 13<sup>th</sup> March 2008

08/1827/RM - Demolition of existing buildings & provision of retail (use class A1), residential (use class C3), premises for retail, service or office use (use classes A1, A2, A3, A4, A5, or B1), link road, car parking & other associated works. Pending Determination.

### **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

## **Walsall Unitary Development Plan**

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

The application site is in an Industrial Regeneration Area, which is covered by UDP policy 4.1. This policy was introduced to support a programme of environmental and security improvements to help create and safeguard employment, which drew on European Union funding. This funding has not been available for some years, so the means for implementing this policy has been withdrawn. It should therefore be given little weight in comparison to other policies and proposals to regenerate the area in other ways.

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

Policy Env10 seeks to ensure that proposals take account of pollution, including air quality, noise and smell, for example, and also to ensure that proposals do not have an unacceptable adverse effect on nearby land users and/or restrict the types of new development that could be permitted in the locality, or impose special conditions on them.

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

Policy S8 encourages housing in town and district centres to promote sustainable patterns of development

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

The site is located within Willenhall District Centre and in particular in the area designated for redevelopment opportunity under Policy WH4(VI).

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

### **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;

DW4- Continuity -attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

DW5 Ease of movement- create places that are easily connected, safe to move through;

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

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DBW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: 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 and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. 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.

The approved scheme is featured in the Council's Design Guide.

### **Urban Open Space SPD**

Sets out the thresholds and contributions sought towards urban open space from residential developments.

### **Healthcare SPD**

Sets out the thresholds and contributions sought towards healthcare from residential developments.

### **Education SPD**

Sets out the thresholds and contributions sought towards education from residential developments.

### **Affordable Housing SPD**

Sets out the thresholds, tenure, mix and type of affordable housing sought from residential developments.

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

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

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

Policies UR1 and UR3 which seek to regenerate urban areas and in particular centres;

Policies CF1, CF3, CF4 and CF5 seek to encourage housing in sustainable locations;

Policies QE1, QE2, QE3, QE4 and QE5 which seeks to improve the quality of the environment whilst preserving quality and historic buildings and locations. The policies also aim to enhance public spaces and urban green space. Policy EN2 seeks to conserve energy.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

### **National policy**

Planning Policy Statement (PPS)1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. In paragraph 13 (indent four) PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted." Paragraphs 33 to 39 also state the importance of good design.

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes. PPS3 indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. This includes high quality housing that is well-designed and built to a high standard; a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas; a sufficient quantity of housing taking into account need and demand and seeking to improve choice; and housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

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

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

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



## **Consultations**

**Transportation** – No objection subject to conditions

**Pollution Control (Scientific Team)** – No objection

**Pollution Control (Contaminated Land)** – No objection subject to works being implemented to carry out additional investigation and to remediate any localised ground contamination and ground gas issues associated with the former works. Conditions to address these concerns have been provided.

**Built Environment Team (Urban Design and Conservation)** – No objection subject to appropriate conditions on materials and boundary treatment. Conservation Area application for demolition has been received and is satisfactory to Officers.

**Land Drainage** – No objection

**Public rights of way** - No objection to this development.

**Walsall Children Services – Serco** – In this case the level of surplus places is above 10% for both primary and secondary schools. No contribution is therefore sought.

**Green Spaces** - Seek £144,837 towards open space improvements in the area in line with the Council's Adopted Supplementary Planning Document and the Willenhall Strategic Regeneration Framework.

**Healthcare:** Seek £80,318.70 towards healthcare facilities and improvements in the area in line with the Council's Adopted Supplementary Planning Document.

**Public Art:** Seek £25,550 towards strategic public art provision in the area in line with the Council's Adopted Supplementary Planning Document

**District Valuer Service** – Taking into account the abnormal costs and the gross development value the scheme is not considered to be capable of accommodating S106 contributions beyond those offered.

## **Public Participation Responses**

None

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

## **Determining Issues**

- Changes in the layout from the previous permission
- Car parking provision
- Access to the site
- Amenity Space and landscaping
- Industrial context and heritage
- Relationship to existing industrial buildings
- Demolition of Phoenix Works

- Affordable Housing, Education, Open Space, Healthcare and Public Art provision

### **Observations**

#### **Changes in the layout from the previous permission**

The proposed layout has been designed to respect the principles and detail built into the previous application whilst reflecting the altered position of a family housing led scheme as opposed to an apartment led scheme.

The proposed accommodation relates more closely to housing need and reduces the quantum of development from 111 units to 73.

The proposals will continue with the concepts progressed in the previous permission which the Council, by virtue of including it in the Council's Designing Walsall SPD, consider to be an exemplar for town centre development in Willenhall.

#### **Car parking provision and access to the site**

The approved scheme included 115 car parking spaces (105% provision), 67 spaces located above ground in a courtyard, with the remainder underground. The access to the underground car park would have been from Gower Street with the above ground parking access from Cemetery Road South

The scheme now removes the need to include an underground car parking element and continues to utilise car parking around a central courtyard with 73 spaces being proposed (100%)

Considering the highly sustainable location, in relation to Willenhall Town Centre, including the proposed supermarket on the neighbouring site, the need for high levels of car parking is reduced significantly. In addition the proposed level of car parking is not significantly different from the approved scheme.

A Residential Travel Plan will be conditioned.

#### **Amenity Space and landscaping**

The innovative approach to providing useable private space for both individual houses and apartments and community recreation areas is a positive and attractive feature of the proposals. It allows for a sense of place and high quality to permeate through the development.

The multi-level approach to amenity space ensures that a significant amount of amenity space is provided whilst not impacting on density and making best use of the land.

A full landscaping scheme, of high quality and detail has been submitted as part of the application. It contributes to high quality proposals.

#### **Industrial Context and Heritage**

Retention of the locally listed industrial building and reflection of the modern and art deco styles is welcomed. The proposals have paid careful attention to the character and local distinctiveness of Willenhall and the locally listed 1930s factory building that sets the tone for the design of the new build part of the site.

The proposals create a back-of-pavement design, common to this area of Willenhall with strong links to industrial heritage which is considered to be a welcome design feature of significant benefit to the locality.

### **Relationship to existing industrial buildings**

The application site is neighboured by a number of industrial uses in the town centre which have noise and air quality implications. These were considered as part of the original outline and detailed planning permissions.

The area is designated within the Adopted UDP as a Development Opportunity (Policy WH4 (VI)) and together with the nearby proposals for a new supermarket led, mixed use development (outline planning permission reference 07/0639/FL/W2) will start to transform and regenerate this area of Willenhall. As such whilst the relationship to existing industrial uses should be noted and acknowledged in the consideration of the application, the longer term objectives of regeneration and change to the character of this area in terms of promoting a more attractive and viable centre for Willenhall are considered to be the driving influence in this instance.

The proposals have been designed to create an active frontage and secure boundary around the outside of the site whilst creating private central space. The proposals have therefore created a capability to mitigate against neighbouring uses as they exist whilst creating a high quality residential environment that would act as a catalyst for regeneration.

### **Demolition of Phoenix Works**

The buildings to be demolished consist of a Victorian terrace. It is intended that demolition of this property is justified in order to deliver the development proposed under 08/1856/FL which includes the conversion of the former Art Deco styled 1930s Union Locks Building, Wood Street which includes some demolition of the building towards the rear.

PPG15 paragraph 4.27 states that detailed plans for redevelopment must be submitted before demolition can be contemplated. Officers are satisfied that detailed plans have been submitted under 08/1856/FL where the main principles of redevelopment have been agreed under previously submitted application and are repeated under application 08/1856/FL.

Therefore subject to a Building Recording Survey Assessment, a Historical Building Survey and archaeological observation being carried out the proposals are considered to be acceptable. .

### **Affordable Housing, Education, Open Space, Healthcare and Public Art provision**

At the time of the previous Reserved Matters submission, the Council, based on conditions on the outline planning permission, sought the following contributions:

Healthcare - £102,223.80

POS - £26,600.00

Education - £163,156.80 towards secondary school provision.

Affordable Housing – 25%, mix of all types for shared equity.

Based on current planning policy the amounts sought would be:

Open Space: £144,837

Healthcare: £80,318.70

Public Art: £25,550

Affordable Housing – 25%, mix of all types for social rent.

As highlighted by the consultation responses, due to the surpluses in nearby schools being higher than 10% for primary and secondary education, no contribution is now sought towards education facilities in the area.

The applicant has agreed with a Housing Association for the provision of affordable housing, 42 units (57%). These units comprising of four 2-bedroom houses; thirty 3-bedroom houses and eight 4-bedroom houses would be offered for social rent.

In addition the applicant is offering £54,747 towards open space contributions which would be directed towards the neighbouring cemetery in line with the aspirations of the Willenhall regeneration programme. This contribution is the equivalent of the open space contribution for the open market dwellings proposed.

The applicant has submitted a financial appraisal to the District Valuers Service, who concludes that taking into account the abnormal costs and the gross development value the scheme, due to the conversion of the locally listed building and ground contamination costs there would be no opportunity to seek additional contributions without compromising the viability.

### **Conclusion**

Overall, taking into account the previous planning permissions, the high quality of the design proposed, including the retention of the Union Locks Building, the proposals are an excellent example of providing family housing in the town centre with a design-led approach to amenity and housing provision.

The proposals will define and aid the regeneration of Willenhall and are welcomed by Officers.

The application for Conservation Area Consent (09/0052/CC) has not yet completed its consultation period however, Conservation Officers have responded favourably to the application. Therefore subject to no further material planning objections being received within the consultation period it is requested that Delegated Authority be given to the Head of Planning and Building Control to determine the application, subject to appropriate conditions set out.

### **Summary of Reasons for Granting Planning Permission**

The proposals have been considered with the aims and objectives of the Development Plan (as set out by Section 38(6) of the Planning and Compulsory Purchase Act (2004)). These are Regional Spatial Strategy for the West Midlands (RSS11) and the Unitary Development Plan (March 2005).

The Local Planning Authority have considered the proposals against extant planning permissions, the design of the proposals, the impact of the proposals on the character of the area, the density and amenity space to be provided as part of the proposals and found in this regard the proposals are acceptable. In addition the

Page 40 of 67

impact on the amenities of nearby residents and businesses has been considered and found to be acceptable.

S106 contributions will be delivered in line with the Council's policy and with viability having been assessed independently.

As such, the proposed development, having considered all relevant extant planning permissions and consultation comments is considered to comply with the relevant policies of the Development Plan (namely Walsall Unitary Development Plan and the Regional Spatial Strategy for the West Midlands) and national planning guidance and best practice guidance. The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP1, GP2, GP3, GP7, T7, T12 T13, ENV10, ENV14, ENV18, ENV29, ENV32, ENV33, JP7(d), H3, H4, H9 and H10 of Walsall Unitary Development Plan (March 2005) and Policies QE3, QE4 and QE5 of the Regional Spatial Strategy for the West Midlands (RSS11), on balance, having taken into account all material planning considerations, the proposal is acceptable.

**Recommendation: Delegate to Head of Planning and Transportation**

1. A full Historical Building Survey and Building Recording Survey Assessment shall be undertaken (to a Level prescribed within the accompanying Brief) prior to any demolition of the Phoenix Works, Wood Street and the rear of the former Union Locks building to be completed to the satisfaction and standard set out by Local Planning Authority and the Black Country Archaeologist. Copies of the agreed documents shall be submitted to the Local History Centre, Conservation Officer and the Black Country Archaeologist with the demolition carried out in accordance with the agreed details.

*Reason:* In order to record any feature or building of archaeological or historic interest

2. No demolition shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological observation and recording during development in accordance with a brief written by the council's archaeologist, and a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority. Reason: to ensure that archaeological remains and historic structures are observed and recorded during development.

*Reason:* In order to record any feature or building of archaeological or historic interest



ITEM NO: 4.

To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration and  
Performance Directorate On 17 Feb  
2009

**REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Yasin**

**Application Number:** 07/2355/FL/W6

**Application Type:** Full application

**Applicant:** Sunny Electrical Supplies

**Proposal:** Demolition of existing building  
and erection of new building consisting of  
retail, storage and offices with 2  
apartments in loft area with dormer  
windows

**Ward:** Palfrey

**Case Officer:** Val Osborn

**Telephone Number:** 01922 652436

**Agent:** Archi-tekt Partnership

**Location:** 61 CORPORATION  
STREET, WALSALL, WS1 4EZ

**Expired:** 18/01/2008

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



**Crown Copyright.** Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Walsall MBC. Licence Number LA 076414.



### **Status**

Councillor Yasin is concerned that sensitive judgement is required.

### **Application and Site Details**

The proposal comprises the demolition of a two storey late Victorian corner shop, and associated outbuildings, and the erection of two and a half storey redevelopment facing Corporation Street and South Street, providing

#### Ground floor

- new retail area (79m<sup>2</sup>) entrance on Corporation Street ,
  - associated offices at (20m<sup>2</sup>),
  - delivery/storage area (78 m<sup>2</sup>) accessed directly from South street
  - access to flats above;
- total new floor space 178 m<sup>2</sup> ;

#### First floor

- storage, staffroom, ancillary offices and access areas
- Total new floorspace 209 m<sup>2</sup> ;

#### Second floor

- two 2 bed flats.
- Totally new floorspace

The proposal would fill the site (as does the existing building).

The design seeks to reflect the character of the Victorian features of the area.

Large shop windows are proposed for the ground floor. First floor windows have a vertical emphasis. There are cills, ornamental banding at floor levels, arched accesses to the delivery/storage and side entrances off South Street. There are small, ridge roofed dormer windows at second floor for the flats.

The locality is one of mixed uses with residential predominating. South Street comprises Victorian terraces which have rear gardens in excess of 16m. On Corporation Street, the adjoining property is a builders yard.

The site is 100m from the nearest point of Caldmore local centre, 250m from Caldmore Green and approximately 700m from Bradford Street bus station in Walsall Town centre.

### **Relevant Planning History**

06/1972/FL/W6 – (as current proposal but with 3 flats), refused reasons of poor design, lack of amenity space for the proposed flats, an out of centre location contrary to policies S5 and S6 and PPS6, and inadequate parking for the flats and retail proposal. 1 February 2007.

BC48820P – part change of use from shop and flat to shop and two flats and creation of car park, granted 25 July 1997 and implemented. (This application granted approval for the change of use from shop to shop with two flats. It included a garden area and residents parking at the rear, fronting South Street.

Page 43 of 67

This area has been built over at some time since 1999 and appears relatively recent, so as to form a storage area for the shop. No planning application or building regulations permission is recorded for these structures. It is therefore in breach of conditions 2 and 3 of the permission.

### **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

### **Unitary Development Plan (UDP)**

GP1: Supports the sustainable location of development.

2.2, 3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

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

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character.

6.3 and H3: encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

S2: defines the hierarchy of centres, with local centre's main role to meet the day-to-day convenience shopping and local service needs of their community;

S5: tight boundaries define centres so as to concentrate investment and within these areas the retention, enhancement and further development of shops and services will be encouraged.

S6: outside of identified centres, single shops will be encouraged to meet the day-to-day needs of their community in terms of convenience goods and local services.

S7: Where UDP Policy S6 is not applicable, out-of-centre proposals must satisfy tests in terms of need, there being no more centrally located alternative sites or premises, likely impact and accessibility.

T7: All development should satisfy the car parking standards

T13: sets maximum car parking standards, account should be taken of the location of development in relation to local facilities and public transport and unless demonstrated

Flats with communal parking - 1.5 spaces per unit.

### **Supplementary Planning Document- 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;

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

DBW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances and includes amenity space provision for flats at 20m<sup>2</sup> per flat of useable amenity space where communal space is provided. 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.

### **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not formally part of the Development Plan the JCS is a material consideration. Submission to the Secretary of State is anticipated in November 2009 following a further period of public consultation. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document, taking account of recent national and regional planning guidance

### **Regional Spatial Strategy for the West Midlands (RSS 11)**

The RSS is currently under review. In broad terms it seeks to recognise the importance of urban regeneration, including in the Black Country.

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

There is no need for this application to be considered under the Conformity Protocol.

### **National Policy**

Planning Policy Statement (PPS) 1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system, promotes high quality inclusive design. Design which fails to take the opportunities available for improving the character and quality of an area should not be accepted.” Paragraphs 33 to 39 also state the importance of good design. Supplementary document published on the need to address climate change through the planning system.

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations, takes a sequential approach to location of new homes, a sufficient quantity of housing taking into account need.

PPS6: Encourages Local Authorities to plan for the growth of existing centres and requires applications for development outside of centres to demonstrate need, that there are no more central locations available (under the sequential approach), that there would not be an adverse impact on any centre, and the development would be accessible by a choice of means of transport. PPS6 does not set any minimum size for the application of the tests, except it does not require the sequential approach for extensions where the gross floorspace is 200sqm or less.

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

### **Consultations**

**Transportation – Objection.** The proposal does not comply with UDP policy T13 A1 because the developer has failed to demonstrate that the development will provide adequate off-street parking to meet its own needs and that there will be no adverse affect on highway safety.

The development provides no car parking facilities at the site for off-street parking. Based upon Walsall UDP standards, the retail aspect of the development should provide 16 car parking spaces and the apartment aspect should provide 3 spaces. Therefore the development as a whole provides an under-provision of parking at a level of 19 spaces.

If approved, this will represent a major increase in parking requirement over the present situation. This is unacceptable and is likely to lead to considerable demand for on street parking around the junction of Corporation Street and South Street, to the detriment of road safety and the free flow of traffic.

**Regeneration, Policy –** As stated above, there is no limit on the application of the tests to a new development. This application is not exempt from the tests.

It will be a relocation from Caldmore to a shop of 387sqm rather than to a shop of 25sqm. The application has been considered in terms of the floorspace figures provided by development control.

The site is in an out-of-centre location and - bearing in mind that it is not far from either the local centre at Caldmore (240m) and the town centre, (approx. 600m), and the type of goods to be sold is not specified (but appear likely to be comparison goods) – It is considered that there is no case for a local need under Policy S6. Therefore, the tests on out-of-centre development under Policy S7 and PPS6 apply, particularly the requirement to demonstrate need and that there will not be any more central locations available, that there will not be an adverse impact on any centre and that the site is accessible by a choice of mean of transport. No information has been provided in respect of any of these tests.

The previous ministerial statement of 1999 (Richard Caborn) advised that a failure to demonstrate compliance with the tests would justify refusal, but this has been superseded by PPS6, which says local planning authorities should assess proposals on the basis of the evidence presented and in the light of relevant local issues and other material considerations. In this case, there are no other material considerations presented by the applicant, but in terms of the tests:

1. In overall quantitative terms, as we would now be looking 5 years ahead to 2014 and in the light of varying recent assessments, it is debatable whether or not there is a need in terms of available consumer expenditure. However the qualitative position is clear. In a context where local inner city shopping is in decline and there are vacant premises in both the locals centre and the town centre there is no need for another out-of-centre store.

2. There are vacant premises within the centre of Caldmore and in the town centre that could accommodate retail development of the kind proposed, so the application is contrary to the sequential approach.

\*The sequential approach does not apply to extensions of 200 sq.m. or less (according to PPS6), but this application is for demolition and new development.

Page 46 of 67

3. One additional shop of the size proposed would not appear likely to have a trading impact on the local centre (and not the town centre). However, if a retail operation were to relocate to the proposed store from the centre of Caldmore there would, given the obvious weakness of the centre, be an adverse impact in my view. The applicant has not demonstrated how this might be avoided.

4. As the location is within walking distance of bus routes through Caldmore and along Wednesbury Road, I would say that the site would be reasonably accessible.

Without any evidence to the contrary, the application fails to address the tests set out in UDP Policy S7 and Government guidance in PPS6 particularly in respect of the requirement to demonstrate need for the proposed retailing, that there are no more central sites or premises available or that there would not be an adverse impact on Caldmore local centre.

**Environmental Health:** No comments

**Fire Service** – Satisfactory access.

### **Public Participation Responses**

None

### **Determining Issues**

- Out of centre location
- Design
- Amenity of occupiers
- Parking

### **Observations**

#### **Out of centre location**

The scheme proposes the erection of over 350sq.m. new build retail floor space at a location outside of the local centre and away from the edge of the town centre. The applicant is known to sell electrical goods although the submitted information makes no statement about the future uses of the retail floor space. The premises may therefore be used to sell comparison goods or convenience goods, and in the circumstances any / all of these would be more appropriately sold from the local centre of Caldmore or Walsall Town Centre. The proposal is for new build at an out-of-centre location and this is subject to policy tests set out in Walsall's UDP and Government policy.

The application has not satisfied all of the relevant tests. The comments of Regeneration policy are therefore supported.

In this situation neither food nor comparison goods would be exempt from the tests, although we would observe food retailing would be likely to have a more adverse impact on parking, traffic and amenity.

## **Design**

The scheme presents a continuous ridge line on South Street, for 26m of its 26.5m length, though the eaves lines and floor levels correspond to the adjacent houses. There is a central false gable feature.

At the ground floor on the South Street elevation, 3 new windows would form a retail frontage of 13m replacing the existing 1m wide window. This is a significant addition to the existing small scale display on South Street.

Six dormer windows are proposed in the roof void. They would be close to the eaves and as groups of three, form a dominant design feature that, by their frequency and siting, would be out of character with the locality.

On Corporation Street elevation, first and second floor levels and ridge lines do not correspond with the adjacent building.. A difference of 1m-1.5m on the main street elevation creates an odd relationship in main elevation, where eaves lines should at least correspond. Traditionally the step in ridge line would have resolved on the less important street elevation of South Street.

By its scale, massing, design and layout the proposal would be out of character with the locality and fail to be a positive contribution to the local environment.

## **Amenity of occupiers**

The scheme proposes two flats at second floor for which there is no provision of useable private ( or public ) amenity space. The local area is characterised by terraced properties that have substantial rear gardens; the terraces nearby on South Street have rear gardens in excess of 16m in length.

Whilst the frontage to Corporation Street might be said to be more mixed in use terms, with residential being juxtaposed with commercial undertakings, the character of South Street is distinctly residential. However the application seeks to extend a commercial undertaking close to residential uses so as to undermine the character of the area and fails to provide residential accommodation with satisfactory amenity space.

Furthermore, the application proposes a substantial and continuous elevation to the street, at back of footpath, with a dominant continuous ridge line and a fake gable adding to the bulk and massing of the scheme on South Street.

The proposed dormers are set uncharacteristically far forward in the roof plane, near to the eaves line of the roof and the proposed roof as a conventional gable replaces a much smaller scaled hipped roof that relates to the corner location and scale of the existing street scene. These add to the massing and bulk of the proposal. The scheme will appear to dominate the street scene and be out of scale with the adjacent residential properties.

The application proposes two 2-bed flats at second floor, as single aspect properties entirely reliant on an outlook from dormer windows. No external amenity space is proposed. The location is not town or local centre or near to other communal areas of open space that could be used by occupiers. No special case is evidenced by the applicant to justify why there is no provision at all of any form of private amenity space.



The proposal therefore fails to satisfy amenity standards as set out in Designing Walsall.

### **Parking**

The proposal fails to provide parking facilities for the scheme or demonstrate how parking will be provided. The comments of Transportation are supported.

### **Conclusion**

The scheme would, in principle, be contrary to Walsall's UDP, particularly policies S6 and S7 and national guidance in PPS6. In the current economic climate there are many vacant premises with Caldmore and Walsall Town Centre where a retail store of this scale would be appropriate.

Whilst the design of the scheme tries to reflect the Victorian character of the area, it is over-sized in scale and massing and false gable feature are a poor device to attempt to reduce the impact of the scale and massing on South Street. The oversized and dominant facades and would be to the detriment of the local street scene, too big, too high and being sited close to back of footpath unrelieved by any set back or public realm space. This serves to compound the inappropriate/oversized scale of the whole building.

The comments of Transportation are supported.

The applicant has met with the Head of Service and an alternative design solution with a smaller retail floor space suggested. However this has not been taken up by the applicant.

### **Recommendation: Refuse, Enforce & Prosecute**

1. The proposed development would be obtrusive and incongruous in the street scene, by reason of the size, height, design and scale of the South Street elevation with false gables, dormer windows, the height of the proposed development, the height and extent of rear elevation and its projection along the boundary. The proposal would not therefore be well integrated with surrounding buildings or the local area. The proposal also fails to provide amenity space for the occupiers of the residential units. As such the proposal would be contrary to Policies 2.2, GP1, GP2, 3.6, 3.7, 3.16, ENV32 and H10 of Walsall Unitary Development Plan March 2005, Planning policy Statements 1 and 3.
2. The application site is an out-of-centre location and the application does not demonstrate the need for the proposal nor that there are no other more central locations available. As such the proposal is contrary to policies S6 and S7 of Walsall Unitary Development Plan March 2005 and Planning Policy Statement 6.
3. The proposed development does not provide any off-street parking for the occupiers of the residential units, or for the retail activity, which is unacceptable, as it is likely to lead to considerable demand for on-street parking around the junction of Corporation Street and South Street., to the detriment of road safety and the free flow

of traffic. As such the proposal is contrary to policies 7.8, T7 and T13 of Walsall Unitary Development Plan March 2005.

---



ITEM NO: 5.

To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration and  
Performance Directorate On 17 Feb  
2009

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

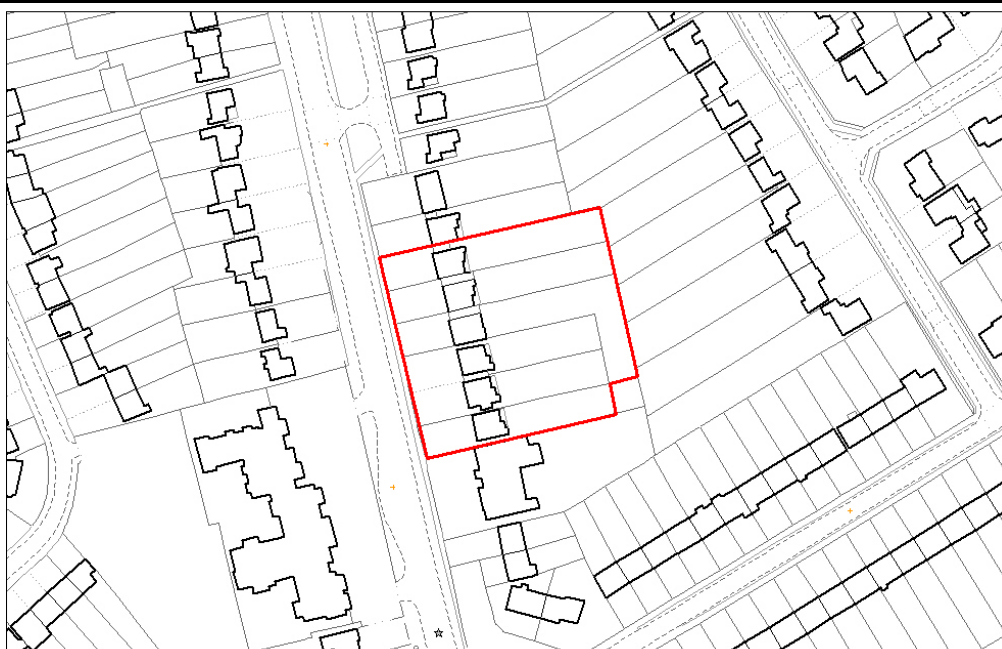
**Application Number:** 09/0023/FL  
**Application Type:** Full application  
**Applicant:** Pegasus Retirement Homes plc  
**Proposal:** The planning application is to  
secure approval for non-compliance with  
condition 15 of appeal decision  
APP/V4630/A/05/1182024 (05/0540/FL/E2)  
to allow occupancy of apartment one of  
Pegasus Court 149-159 Chester Road,  
Streetly, by a specified person under the age  
of 60 (Amended).

**Ward:** Streetly

**Recommendation Summary:** Grant

**Case Officer:** Andrew White (E10)  
**Telephone Number:** 01922 652429  
**Agent:**  
**Location:** 149-159 CHESTER  
ROAD, STREETLY,

**Expired:** 10/04/2009



**Crown Copyright.** Unauthorised reproduction infringes Crown Copyright and may  
lead to prosecution or civil proceedings. Walsall MBC. Licence Number LA 076414.

## **Application and Site Details**

The planning application is to secure approval for non-compliance with condition 15 of appeal decision APP/V4630/A/05/1182024, the age restriction of the Pegasus Court approval, in relation to flat number one only to allow a 56 year old to live at the premises.

The applicant has cited personal circumstances and provided evidence from their doctor that they need to reside in sheltered accommodation for health reasons.

Chester Road (A452) is a main A class road that runs through Streetly. This is predominately a residential road, although there are some groups of retail and commercial uses at the nearby road junctions (70 metres).

## **Relevant Planning History**

05/0540/FL/E2 Demolition of existing houses and erection of 43 retirement apartments for the elderly together with visitors suite, manager's office, owners' lounge and laundry together with 22 car parking spaces and formation of new access to Chester Road. Refused 10/6/05, for the impact on neighbour's amenity and character of the area because of the scale of the proposal. The Planning Inspectorate allowed the applicant's appeal on the 19<sup>th</sup> October 2005 subject to conditions.

Condition 15 reads;

*'The development hereby permitted shall only be occupied by persons where at least one member of the household is aged 60 years or over (the qualified age) save that such restriction shall not apply to the continued occupation of any apartments by a surviving spouse, partner or member of the household under the qualifying age after death of the member of the household who was of the qualifying age.'*

**Relevant Planning Policy Summary** (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).

## **Unitary Development Plan (UDP)**

GP1: Supports the sustainable location of development.

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

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

H5: The Council will promote and encourage provision of housing for people with special needs, including the elderly and people who require specialist accommodation amongst other matters.

T13: In town and district centre's the Council will negotiate an appropriate level of parking provision.

Circular 11/95: The Use of Conditions in Planning Permission: Advises conditions should only be imposed where they are necessary and reasonable, as well as enforceable, precise, relevant to planning and to the development permitted.

Paragraph 92 specifies conditions restricting occupancy to a particular occupier or

Page 52 of 67

class of occupier should only be used when special planning grounds can be demonstrated. Paragraph 93 states that there are occasions where it is proposed exceptionally to grant permission of use of a building which would not normally be allowed simply because there are strong compassionate or other personal grounds. In such a case the condition should ensure only for the benefit of a named person.

## **Consultations**

**Transportation** – No objections.

## **Public Participation Responses**

Six objections have been received. This are summarised as;

- The planning Inspectorate imposed the condition on the approval for older people to live there,
- The original permission used government guide-lines both national and regional policies to achieve the over 55 age,
- If the age group is altered to allow younger people to live there, it will open the flood gates, lead to havoc in the area, bring misery to our lives and increase noise in the area,
- Relaxing the age restriction means the property could be let to anyone,
- The area has limited parking and cannot accommodate younger people,
- Even older people will struggle with the space allowed,
- The Council rejected original development, went to public inquiry and the developer now seeks to over turn the decision made in their favour against local residents, *[This is not a material consideration]*
- After two years only 2 of the 43 apartments occupied proving the council was correct, *[This is not a material consideration]*
- Concerned that young people will bring similar problems as we have with the residents of Pinewood Nursing Home,
- The developers are worried about a return on their investment and unfortunately, they will have to live with it. *[This is not a material consideration]*
- The original permission was for retirement/aged persons dwellings
- No mention of the age of the applicant *[This is mentioned in the application]*

## **Determining Issues**

- Personal circumstances
- Traffic impact

## **Observations**

### **Personal circumstances**

The applicant has requested to vary condition 15 for one apartment within the Pegasus Court development for a four year period to enable a new resident's personal circumstances to be met. After the four years, the occupier qualifies under the existing condition. The resident has health requirements which their doctor advises requires the support available at a sheltered accommodation facility. Based on the evidence provided from the residents doctor and with the variation being clearly defined for a single resident and linked to a single apartment, the non compliance of condition 15 is considered acceptable in this instance as it allows the

Page 53 of 67

local planning authority to retain control so that the facility is not opened up to any potential resident.

It is unlikely that other cases would come forward to such a level that would undermine the principal use of the property. If they did they could be resisted. The relaxation of the condition would not then lead to the 'opening of flood gates' for young people as local residents fear.

Residents concerns regarding the occupiers of the adjacent Pinewood Nursing Home are not material to this particular case. Officers can forward residents concerns to the relevant agencies to investigate these claims.

### **Traffic Impact**

The application is for a single resident to occupy a single apartment. Their vehicular requirement will have no greater parking impact on the development and the locality than a resident who would be 60 plus. Given the location of Pegasus Court it can be considered sustainable with a small local centre 70 metres away and it is considered that the variation to condition 15 has no traffic impact in this instance.

### **Summary of Reasons for Granting Planning Permission**

The applicant has demonstrated that there are special planning grounds to justify a relaxation of the age limit condition in light of a new residents personal health requirements on the basis that such a variation would be personal to the named resident and a specific apartment within the development. This allows the Local Planning Authority to retain effective control over future occupation.

The non compliance of condition 15 of appeal decision APP/V4630/A/05/1182024 to allow one 56 year old live within the sheltered accommodation is not considered to have any material adverse impact upon noise in the locality and have no greater impact upon parking requirements within the development. The Transportation officer has not objected to the non compliance of the condition. Although neighbouring residents' have objected to the proposals on the grounds of; the applicants wish to over turn the inspectors decision, only 2 apartments have been occupied in the development, problems with Pinewood Nursing home and developers not getting a return on their investment these concerns are not material considerations to this application and the personal permission allows the Local Planning Authority to retain effective control over future occupation of the apartment.

For the above reasons the proposals are considered to comply with policies GP1,GP2, 6.3, H5 and T13 of Walsall Unitary Development Plan and Circular 11/95.

### **Recommendation: Grant**

---





ITEM NO: 6.

To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration and  
Performance Directorate On 17 Feb  
2009

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

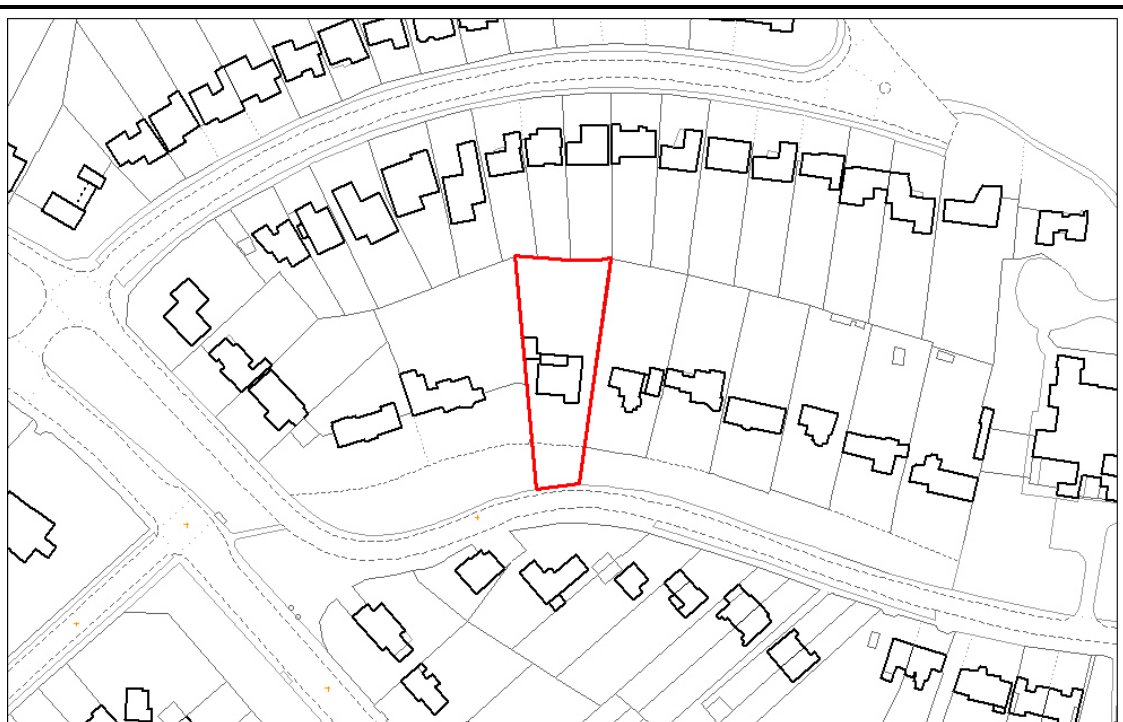
**Application Number:** 08/1940/FL  
**Application Type:** Full application  
**Applicant:** Mr & Mrs Surinder Chohan  
**Proposal:** Substitution of house type on  
previous planning approval 06/1705/FL/E9  
to provide amendments to the elevations,  
windows, chimney, addition of 2 car ports,  
amended roof design and provision of a  
room within the roof space

**Case Officer:** Barbara Toy  
**Telephone Number:** 01922 652429  
**Agent:** Mr Mukesh Mistry  
**Location:** 9 PARK HALL  
ROAD, WALSALL, WS5 3HF

**Ward:** Paddock

**Expired:** 09/03/2009

**Recommendation Summary:** Grant Subject to conditions



**Crown Copyright.** Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Walsall MBC. Licence Number LA 076414.

## **Application and Site Details**

On 30<sup>th</sup> January 2007 Development Control Committee granted planning consent for the demolition of an existing bungalow and erection of a new two storey detached house. The house is now under construction, with work currently suspended at eaves level, awaiting the outcome of this application.

The house is set back from the road, with a substantial front garden and front driveway, containing 5 mature trees, that are protected under Tree Preservation Order (TPO) 3 of 1965.

Park Hall Road is characterised by large detached houses and bungalows with substantial frontages and rear gardens and the properties vary in age, style and massing.

The site is adjoined either side (No.5 to the west and No.11 to the east) by detached 2 storey houses. No.11 has recently been substantially extended. Directly opposite the site is a large detached bungalow and to the rear of the site are two storey detached houses in Springvale Avenue, with rear gardens backing onto the site.

This application proposes the substitution of house type on the previous approval (06/1705/FL/E9) to provide amendments to the elevations, windows, chimney, the addition of 2 car ports, amended roof design and provision of a room within the roof-space.

In more detail the amendments include:

- Removal of the brick cant above the ground floor bay window and around the eastern elevation.
- Minor amendments to the front elevation to ensure all openings work to brickwork sizes, including minor reduction in the size of the bay windows.
- First floor window sills to the front elevation would be lowered by 75mm.
- East facing window to bedroom 5, window sill lowered by 300mm.
- Repositioning of airing cupboard and bathroom windows at first floor on eastern elevation
- Addition of a first floor obscure glazed en-suite window to the eastern elevation
- Addition of a utility window and doorway to the eastern elevation.
- Alteration of lounge window to the eastern and rear elevations
- Addition of a canopy 3m x 6m with max height 3.65m on the eastern elevation
- Rear facing kitchen window amended to patio doors
- East facing window to gym amended to patio doors
- Rear valley on the main roof amended to a flat roof
- Addition of 3 roof-lights to the rear roof slope, to create a study and storage space within the roof space.
- Increase size of the first floor en-suite window to the western elevation ie 200mm wider.
- New en-suite created within the roof space of the side garage including 2 additional roof-lights to the rear elevation.
- Large roof-light to the rear elevation of the gym replaced with 2 smaller roof-lights.

- Minor amendment to the side garage and gym to move the building away from the western boundary.
- Addition of a car port to the western elevation forward of the side garage
- West facing first floor window to bedroom 1 sill lowered by 200mm and width of window reduced by 200mm.
- Revised chimney design to western elevation.

During the course of the application the scheme has been amended to change the proposed car port on the eastern elevation to a canopy roof only (for bin storage etc) with no vehicle access.

### **Relevant Planning History**

05/1188/OL/E3, outline application for the erection of one house on land between No5 and No9 Park Hall Road, siting and access only approved 03-08-05, with all other matters reserved.

06/1705/FL/E9, erection of replacement dwelling, approved 01-02-07.

### **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

### **Walsall Unitary Development Plan March 2005**

2.1 and 2.2 state that creating, sustaining and enhancing a high quality natural and built environment, including a high standard of design is a key consideration.

GP2: Environmental Protection

The Council will not permit development which would have an unacceptable adverse impact on the environment.

3.6 seeks environmental improvement resulting from development.

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

H10: Layout, Design and Dwelling Mix

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

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

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

ENV18: Existing Woodlands, Trees and Hedgerows.

Loss of TPO'd trees will be resisted unless it would be in the interests of good arboricultural practice. Where any trees are lost replacements should be provided to minimise the loss.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Detailed criteria are listed for



**Arboricultural Officer** - No objections, the proposals would have no arboricultural implications.

**Building Control** –Means of escape from the rooms within the roof space can be accommodated within the current design through protected landing and staircase and provision of fire doors within the critical escape route of the property.

### **Representations**

Five objections received.

Objections:

- Unacceptable dormer windows and roof lights, which would be intrusive, loss of privacy, loss of outlook and loss of light
- Increase in accommodation and more residents likely, leading to encroachment into the garden and additional vehicles
- Overlooking of garden
- Increase in noise
- Out of character with Park Hall Rd which is predominantly two storey, only one other property in the immediate vicinity with accommodation in the roof.
- The scheme now represents that previously refused, providing accommodation within the roof space. (*rooms within the roof space withdrawn from the previous application prior to approval*)
- Like living in the midst of 1 large building site, too many properties in the area being demolished and rebuilt much bigger than the original.
- Confusion in the submitted plans that show the 'existing' as the original bungalow which is now demolished.
- No street scene plan submitted to demonstrate the change in levels
- Over development of the site
- PD rights should be removed to ensure no further development of the site
- Increased mass of the roof to the rear from the new roof design and the 3 roof lights

### **Determining Issues**

Impact of the proposed revisions on:

- The Design and Layout
- Street Scene
- Neighbours Amenity
- Trees

### **Observations**

#### **Design and Layout**

The overall footprint and positioning of the house within the site would remain unchanged. The majority of the amendments proposed relate to architectural details and would have little impact on the overall size or design of the building.

The applicants consider that the approved valley roof is likely to have maintenance issues and would be impractical. The amended roof design would create a flat element in the centre of the roof but would involve no increase in the overall height of

the building and would appear no different within the street scene. The proposed amendment is considered acceptable in design terms.

The proposed car port to the western elevation would sit in front of the approved side garage and would infill between the approved garage and brick entrance feature and would have limited visibility from the street.

The proposed canopy feature to the eastern elevation (amended from a car port and now with no vehicle access) would be set back to the side behind a decorative brickwork entrance feature to match that approved on the western side of the property. Views of the canopy from the street would be obscured by existing trees and shrubs on the frontage of the property.

The amended chimney design would provide a more traditional design feature, more in keeping with the character of the area,

It is considered that the proposed new and amended windows and doors would have no adverse impact on the integrity of the design of the house and the traditional bay windows and general window styling would be maintained.

The roof-lights proposed would all be situated in the rear elevation and would not be visible from the street and it is considered would have no adverse impact on the overall design of the building or surrounding neighbours.

### **Street Scene**

The proposed amendments would make little recognisable difference to the overall design of the property within the general street scene. The window amendments would be negligible the chimney would be of a more traditional design within the character of the area and the car port and canopy feature would have limited visibility from the street scene.

### **Neighbours Amenity**

The proposed car port and the proposed canopy feature are both set off the side boundaries and would have no additional adverse impact on the adjoining occupiers.

The proposed roof-lights are situated to the rear, within the single storey roof of the gym and the study area in the main roof. These windows would follow the line of the roof space and would not cause any significant overlooking to adjoining properties. The existing separation distance to properties at the rear in Springvale Avenue (55m) would be maintained and far exceeds the 24m recommendation of Appendix E of Designing Walsall.

### **Trees**

The proposals would have no adverse impact on the existing trees on the site.

### **Summary of Reasons for Granting Planning Permission**

The proposal would make minor alterations to the previously approved design of the property making little difference to the overall appearance of the proposed property.



The house would be in keeping with the general character of the immediate vicinity and would have no adverse impact on the general street scene.

The proposed amendments would have no adverse impact on the existing trees on the site.

The proposed roof lights to the rear would not involve any increase in overall height of the building and would not adversely impact on the adjoining residential occupiers in terms of outlook, over looking and loss of privacy.

The proposal would therefore have no adverse impact on the character and appearance of the area or the amenities of surrounding residential occupiers and is considered to accord with the aims and objectives of the development plan, in particular policies GP2, ENV18, ENV32, H3, H9, H10 and T13 of Walsall's Unitary Development Plan (2005).

**Recommendation: Grant Subject to conditions**

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

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

2. Prior to first occupation of the building the first floor windows on the eastern elevation facing No.11 Park Hall Road shall be fixed, non opening and fitted with opaque glazing, details to be submitted to and approved by the Local Planning Authority prior to installation. The windows shall be installed in accordance with the approved details and thereafter retained in accordance with the approved details.

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

3. No demolition, engineering or construction works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours of 0800 to 1800 weekdays and 0900 to 1400 hours Saturdays, unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

4. No vehicle access to the canopy feature on the eastern elevation hereby approved shall be created without the prior consent of the Local Planning Authority.

*Reason:* In order to safeguard the existing trees and planting on the frontage of the premises.

5. This permission relates to drawing No.6003/7 submitted on 22-12-08 and amended drawing No 6003/1H submitted on 28-01-09 and Design and Access Statement submitted on 12-01-09.

*Reason:* In order to define the permission.

---



ITEM NO: 7.

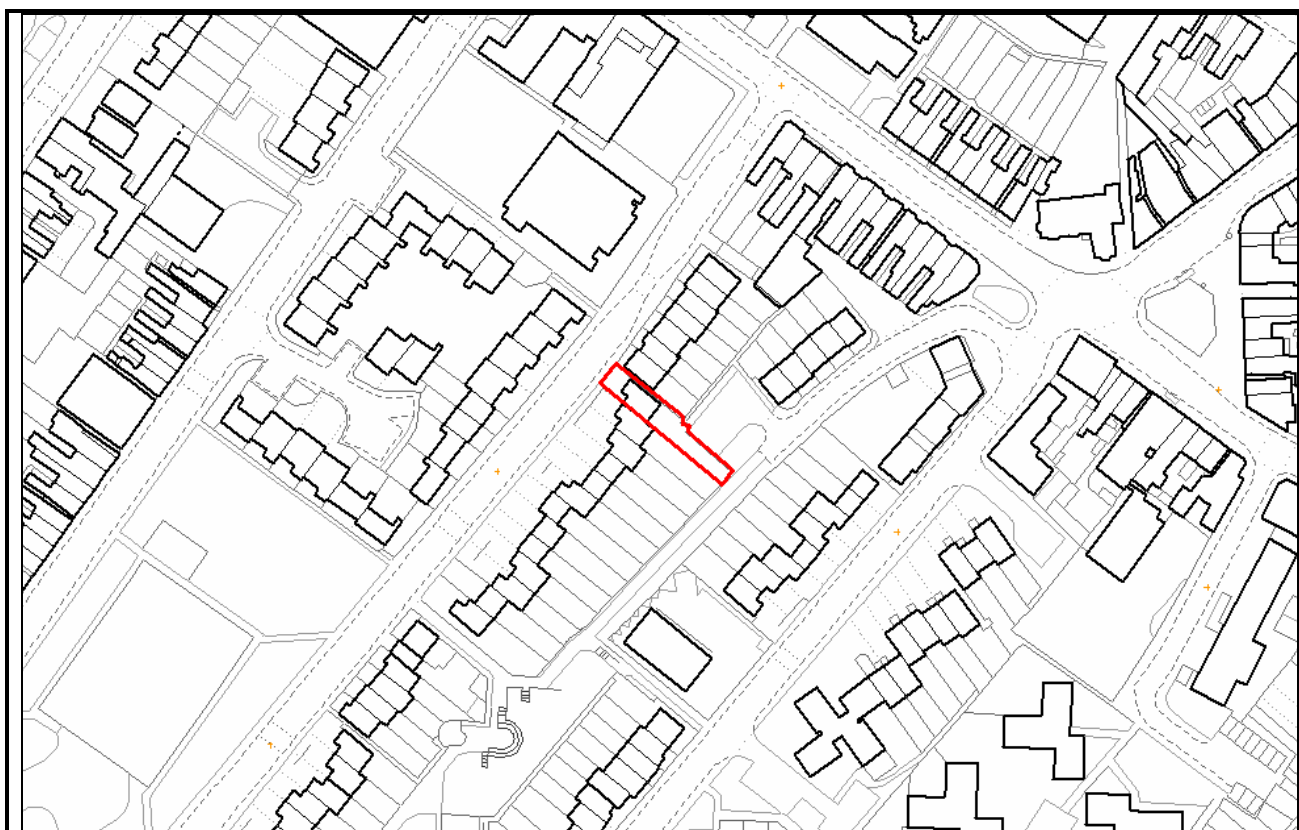
To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration and  
Performance Directorate On 17 Feb  
2009

**REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Yasin**

**Application Number:** 08/1840/FL  
**Application Type:** Full application  
**Applicant:** Mr Muinul Hoque  
**Proposal:** First floor extension at rear  
over existing ground floor  
**Ward:** Palfrey  
**Recommendation Summary:** Refuse

**Case Officer:** Neville Ball  
**Telephone Number:** 01922 652528  
**Agent:** Mr Raja Amin Zaki  
**Location:** 17 RUTTER  
STREET, WALSALL, WS1 4HN  
**Expired:** 22/01/2009



**Crown Copyright.** Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Walsall MBC. Licence Number LA 076414.

## **Current Status**

This application has been reported to committee at the request of Councillor Yasin, who has suggested that the proposal would not over-impact on other properties in the street as the design of each property is different and the decision on balance is very close.

## **Application and Site Details**

This application is for the addition of two bedrooms over an existing single-storey rear extension at a modern end-terrace house. The total number of bedrooms will increase from three to five. A new window to serve one of the existing rear bedrooms is to be inserted on the side elevation overlooking the rear garden of the adjoining house number 15.

Number 15 is a three-storey house and lies to the north with a habitable room window on the ground floor to the rear, close to the boundary. The original two-storey part of the application house projects 2.5 metres beyond the rear of 15, whilst the existing single-storey extension projects a further 3.8 metres. The proposed first floor extension is to cover the whole of this existing extension, and is to have a gable roof sloping up from either side.

The house on the opposite side, number 19, projects further back than the application house at first floor level, but the proposed extension would project approximately 1.5 metres beyond this house.

## **Relevant Planning History**

02/1057/FL/H1. Single-storey rear extension. Granted Subject to Conditions (following Representations Hearing) July 2002.

04/2499/CP/H1. Application for lawful development certificate for insertion of high level window to side. Refused December 2004 on the grounds that a condition of the original planning permission for the estate prevents the addition of further side-facing windows without the prior approval of a planning application.

## **Relevant Policies**

***(note the full text version of the UDP is available from First Stop Shop in the Civic Centre and on the Council's web site)***

## **Unitary Development Plan Policies**

GP2: Environmental Protection

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

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

H10: Layout, Design and Dwelling Mix.

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

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

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

T7 – Car Parking

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

T13: Parking Provision

1, 2 and 3 bedroom houses	2 spaces per unit
---------------------------	-------------------

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

## **Supplementary Planning Documents**

### **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 E 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.

Appendix E refers to the 45 degree code that will be used to assess the impact of extensions on adjoining dwellings.

### **National Policies**

PLANNING POLICY STATEMENT 1

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

### **Consultation Replies**

None

## **Public Participation Responses**

None

## **Determining Issues**

- Design
- Impact on Amenity of Nearby Residents
- Amenity of Future Occupants of Application Property
- Parking.

## **Observations**

### **Design**

The traditional design of the extension does not conflict with the character of the original dwelling or that of the wider area.

### **Impact on Amenity of Nearby Residents**

The proposed extension would project 6.3 metres beyond the rear of number 15. Although this is the same as the existing extension, and the eaves of the proposed extension would only be up to 1.3 metres higher than the wall of the existing extension, the length, height and orientation of the existing extension already results in a significant degree of shading to the rear of number 15. The proposal would therefore worsen this situation. The length of the extension in relation to number 15 is also nearly twice the maximum allowed by the 45 degree code even for single-storey extensions.

The insertion of the proposed side-facing bedroom window would result in an unacceptable loss of privacy for the occupiers of number 15. The limited length of the extension and its orientation in relation to the house on the opposite side, number 19, means that there would be little impact on this house.

The front of number 15 projects in front of the application property. The applicant has been invited to omit the proposed rear bedroom that would lie nearest to number 15, and to relocate it to the front, above the existing single-storey front projection to the application house and alongside number 15, but has declined to do so.

### **Amenity of Future Occupants of Application Property**

One of the existing bedrooms in the application property is to have only a small high level window, which would result in a poor outlook and level of amenity for occupiers of the application property .

### **Parking**

The increase from three to five bedrooms would require a total of three parking spaces to comply with the parking standards in the UDP. The entire frontage of the property is hardsurfaced but would only have room for two cars. However, most of the dwellings in the area have only limited off-street parking and it would be unreasonable to require a full parking provision.

## **Summary of Reasons for Refusing Planning Permission**

Page 66 of 67



### **Recommendation: Refuse**

1. The proposed extension would have an overbearing impact on the adjoining house and garden at 15 Rutter Street because of its excessive length, height and orientation to this property. The insertion of the proposed side-facing bedroom window in the existing part of the application house would also result in an unacceptable loss of privacy to number 15. Furthermore the absence of adequate windows in one of the proposed bedrooms would not provide a satisfactory living environment for future occupiers of the application property itself. The development would therefore impact unacceptably on the amenity of neighbours and fail to provide a satisfactory level of amenity to occupants of the extension. As such the proposal is contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document "Designing Walsall".
-