



## Regeneration – Planning and Building Control

### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13<sup>th</sup> March 2014

### Planning Committee Content Sheet

Item No	Page No	Application Number	Site Address	Proposal	Recommendation
1	1	13/1734/FL	UNITS 1-2C BESCOT CRESCENT, WALSALL, WS1 4SB	Change of use from retail (use class A1) to retail warehouse/member ship club (use class sui generis)	Grant Permission Subject to Conditions
2	13	12/0036/OL	Goscote Lane Regeneration Corridor incorporating sites in Shakespeare Crescent, Keats Road, Tennyson Road, Chaucer Road, Wordsworth Road, Dryden Road, Harden Road and Well Lane. Outline permission for residential development on sites A, D and J (access only to be considered) as follows: - Site A – Approximately 243 dwellings (including 56 affordable units) - Site D – Approximately 134 dwellings (including 121 affordable units) - Site J – Approximately 25 dwellings (all affordable)	All sites incorporating means of access (not reserved), car parking, landscaping, infrastructure and servicing.	Grant Permission Subject to Conditions and a Planning Obligation

3	47	14/0120/FL	PAL GROUP, DARLASTON ROAD, WEDNESBURY, WS10 7TN	Erection of two new industrial bays to existing warehouse and associated car parking and landscaping (amended scheme to planning permission 13/1479/FL to increase height to bay 1A and an additional roller shutter to side elevation of bay 6).	Grant Permission Subject to Conditions
4	57	14/0107/FL	WALSALL ARBORETUM, ARBORETUM ROAD, WALSALL	Removal of an unstable embankment in the Arboretum between the site of the proposed new visitor centre and No.8 Victoria Terrace and No.6 Buchanan Avenue. The application includes engineering works to stabilise the embankment and restore the original boundaries.	Grant Permission Subject to Conditions and resolving flooding issues
5	77	13/1661/FL	LAND AT MERCHANTS WAY, ALDRIDGE, WALSALL, WS9 8SW	Erection of 2 industrial buildings (Class B2).	Grant Permission Subject to Conditions
6	89	13/1692/FL	HOOTYS SUPPLIES LTD, LONGACRE, WILLENHALL, WV13 2JX	Erection of canopy, new entrance and front facade, alterations to car park to provide disabled parking provision and alterations to escape points and openings to existing building	Grant Permission Subject to Conditions

7	97	13/1695/FL	WESLEYAN COURT,7 LICHFIELD ROAD,WALSALL,WS 4 2HT	Change all windows to UPVC. Removal planning condition 9 of planning application 03/0104/FL/E6	Grant Permission Subject to Conditions
8	107	14/0010/FL	Land fronting 37 to 51 Stanley Road, Walsall, WS4 1EJ	Creation of car park for 8 vehicles on existing grass verge.	Grant Permission Subject to Conditions
9	119	14/0097/FL	156A, HIGH STREET, BLOXWICH, WALSALL, WS3 3JT	Change of use from D2 social club to A4 public house, including beer garden	Grant Permission Subject to Conditions
10	133	14/0073/AD	52A HARRISON STREET, WALSALL, WS3 3HW	Installation of 2 no.fascia signs measuring 2.5m x 14.2m and 0.7m x 10.5m.	Grant Advert 5 years
11	141	14/0088/FL	16 BROADWAY WEST,WALSALL,WS 1 4EA	New Bungalow	Grant Permission Subject to Conditions
12	153	13/1650/FL	123 BROADWAY WEST,WALSALL,WS 1 4DW	Two storey side, rear and single storey extensions including loft extension and conversion	Refuse
13	163	13/1563/FL	59 KINGSHAYES ROAD, WALSALL, WS9 8RT	Rear part two storey and part ground floor domestic dwelling extension.	Refuse



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/03/2014

**Plans list item no: 1.**

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

**Application Number:** 13/1734/FL

**Application Type:** Full application

**Case Officer:** Andrew Thompson

**Telephone Number:** 01922 652603

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Blue Sky Planning Ltd

**Applicant:** Canley 5 (In administration) Ltd

**Proposal:** Change of use from retail (use class A1) to retail warehouse/membership club (use class sui generis)

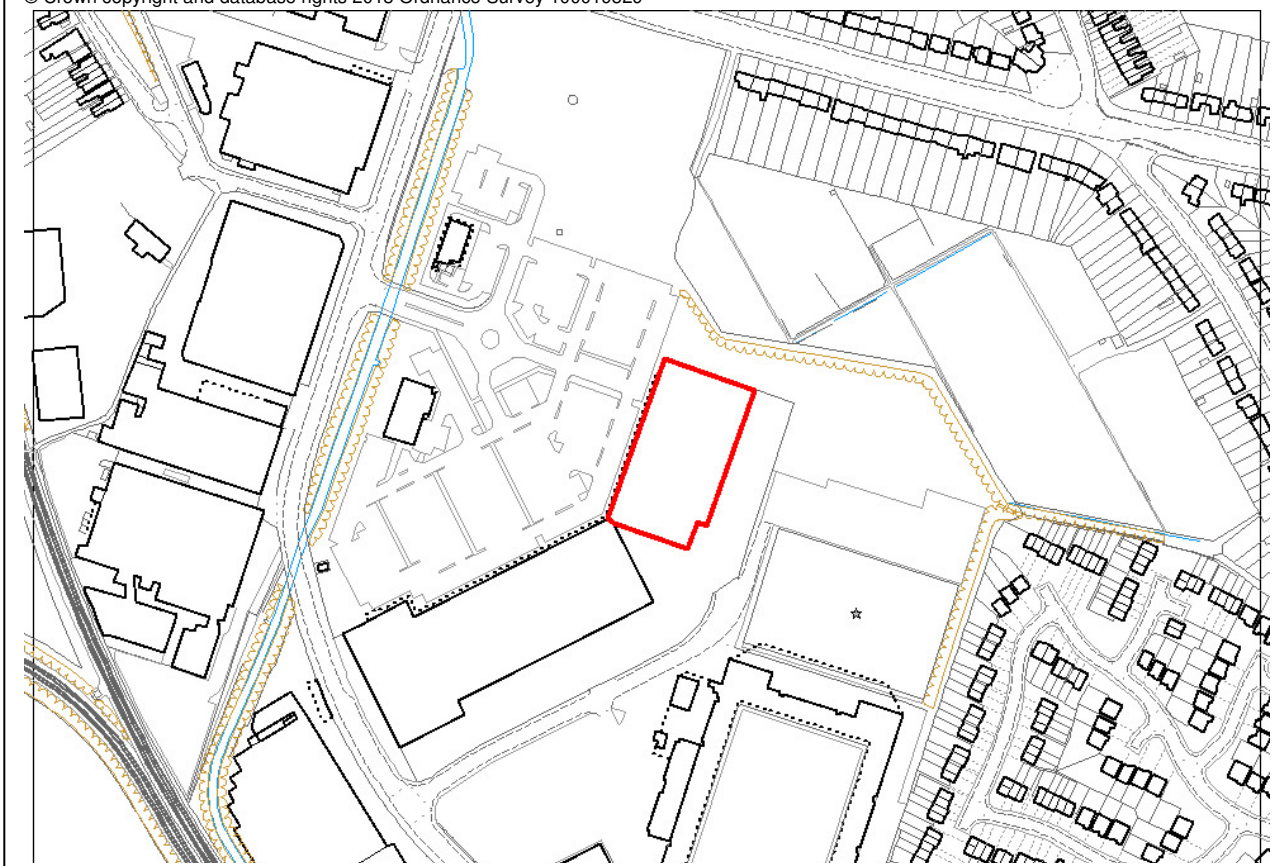
**Location:** UNITS 1-2C BESCOT CRESCENT, WALSALL, WS1 4SB

**Ward:** Palfrey

**Expired Date:** 24/03/2014

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

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## **Application and Site Details**

The application relates to the conversion of Units 1-2C of Bescot Retail Park from Use Class A1 (retail) to a retail membership club (Use Class Sui Generis). The application site retail units are currently vacant with Matalan, Carpet Right, Pets at Home and Halfords present on the Retail Park. McDonalds and Farmfoods are currently occupying the two stand alone retail units which front Bescot Crescent.

The application is supported by the following:

Planning and Retail Statement: The applicant confirms that apart from the goods restriction, there are no restrictions on maximum unit size or hours of operation. The overall floor-space of the Retail Park is capped to a total of 13,239sqm.

The Statement highlights two appeal decisions, granted in 2010 allowed for the sale of food from Units 1 and 2A and a catalogue retailer to trade from no more than 1,855sqm, however these permissions have now lapsed.

The applicant has also submitted as evidence the Supreme Court decision known as the Dundee Case and a letter from Jerome Retail Park indicating lack of availability. Marketing particulars for St Matthews (which was granted under 13/1421/FL) are also included.

A GOAD Centre report has also been submitted which is supported by vacant unit maps of Wednesbury, Walsall and West Bromwich.

In addition planning permissions for other local planning authorities for retail warehouses and car showrooms, which include Leeds (2013), Wyre Forest (2013) and Northampton (1994).

JTF Leisure has also written in support of the application, which sets out their operational requirements and criteria. These include:

- Located in 12 existing locations – Mansfield, Hucknall, Sheffield, Lincoln, Leeds, Stoke, Newcastle, Warrington, Peterborough, Preston, Tamworth and Kidderminster - all existing outlets are on well located industrial/trading estates.
- Primarily sell larger items in multi-pack style packaging
- The majority of customers are businesses or employees in close proximity to their outlets
- Consider that there is a need in Walsall
- Location determined by accessibility by car due to bulk purchases.
- Minimum floor space of 45,000sqft (4,160sqm) over one floor.
- Look to convert existing premises – do not look at new build.
- Need approximately 100 car parking spaces
- Garden centre space ideal
- Rental – c.£3 per sqft – approximately industrial value.
- Create approximately 60jobs.

## **Relevant Planning History**

Planning permission was originally granted for Bescot Retail Park on 13 January 1995 (BC42920P). The permission allowed for "*Retail Park (including diner and food retail units) with associated car parking, access road and works (including landscaping, a lake and demolition of no's 135-137 Broadway West).*" Condition 5 set out a number of key restrictions as follows:

- (A) The overall floor-space of the Retail Park was limited to 12,132 sqm

(B) There shall be a maximum of 3,700 sqm of the retail element in units of less than 930 sqm.

(C) The sale of food was restricted to a maximum gross floor-space of 1,858 sqm in no more than two units in addition to a restaurant, cafe, take away or licensed establishment, and confectionary at point of sale.

(D) Sale of goods was restricted to the following goods:

- DIY home and garden improvement products
- Hardware
- Furniture
- Soft furnishings
- Electrical goods
- Motor spares, accessories, and fuels
- Motor vehicles
- Floor coverings
- Sports and leisure equipment
- Sports and leisure clothing
- Sports and leisure footwear
- Toys and children's wear
- Food and drink from a cafe, restaurant, take-away or licensed establishment

(E) If any unit is proposed to include an external garden centre, no such facility shall be created until details have been submitted to and approved in writing by the local planning authority

BC46514P A further permission, granted on 24 June 1996 allowed for the insertion of a mezzanine floor comprising 410 sqm in Unit 2B (ref-).

In 2008 planning permission was granted on appeal for a catalogue retailer and budget food operator. These permissions have expired.

### **The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations)**

These have been considered and whilst the development meets the threshold the development is not considered significant or in a sensitive area that would call for an Environmental Statement as the proposals would not result in a significant environmental impact in terms of generation of traffic, pollution and use of natural resources. There are no issues in the re-use of the buildings in terms of protected species.

### **Policy Framework**

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

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

It is based on 12 **core planning principles**; the most relevant principles in this case are to:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Re-use land that has been previously developed
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and

other development needs of an area, and respond positively to wider opportunities for growth and

- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

**Key provisions** of the NPPF relevant in this case include the following.

Paragraphs 18-21 encourage Planning Authorities to support and put significant weight on economic growth.

23. Local Planning Authorities (LPAs) should promote competitive town centres and set out policies for the growth and management of centres. In drawing up Local Plans authorities should address a number of issues, including the following:

- support the vitality and viability of centres;
- allocate a range of suitable sites meet needs for retail, leisure, offices and - other town centre development; and
- encourage economic activity where town centres are in decline.

30. LPAs should support a pattern of development that facilitates the use of sustainable modes of transport.

58 Developments should respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.

61 Address the connections between people and places and the integration of new development into the natural, built and historic environment.

123 Seeks to ensure that development mitigates against pollution, including noise.

On planning conditions the NPPF (203-206) says:

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

On **decision-taking** the NPPF (186-190) sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

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

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

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

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

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

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

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

The above are supported by the following policies.

CSP1 – Sets out the targets for sustainable regeneration of the Black Country through the concentration of investment into a Growth Network. This includes the ‘strategic’ centres of Brierley Hill, West Bromwich, Wolverhampton and Walsall. These are to be the areas of greatest concentration of redevelopment and regeneration in the Black Country, act as a focus for and deliver significant growth in comparison retailing and be the principal locations for other town centre uses.

CSP4 – Sets out the need for high quality place making and design

CSP5 – Sets out the need to develop and manage movement and ensure that sustainable modes of transport are promoted.

CEN1, CEN2, CEN3 – Strategic Centres are important for the regeneration of the Black Country, providing the focus for large scale and ‘higher order comparison shopping, office employment, leisure and culture and complementary uses. The plan proposes an additional 200,000sqm (gross) of office floorspace for Walsall Strategic Centre.



CEN6 and CEN7 seeks to prevent out of centre retailing, except where there is an established local need.

TRAN1 - Sets the priorities for the development of the transport network and promoting sustainable transport modes. These involve measures to support strategic centres including Walsall,

TRAN2 - Requires development proposals to manage transport impacts of new development.

TRAN5 - Sets out the requirement for development to reduce the need to travel and encourage sustainable modes of transport.

WM5 - Resource and waste management requirements should be reflected in the design and layout of new development schemes.

### **Saved policies of the Unitary Development Plan**

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

GP2 – Environmental Protection – seeks to ensure that pollution impacts from development are designed out.

ENV10 – Seeks to prevent pollution, including noise and drainage and prevent uses that would have an adverse effect on neighbouring land uses and/or restrict the types of development that could be permitted in the locality.

ENV14 – seeks appropriate redevelopment of derelict and previously developed sites.

ENV32 – seeks to ensure high quality design from developments.

ENV33 – seeks to secure high quality landscape design from developments.

ENV35 - The design of frontages to shops and other commercial premises should be appropriate to their setting and sympathetic to the building on which they are situated.

5.8, S1, S2, S3 – Defines town centre uses, the town centre hierarchy and the boundaries of town centre. (in-centre is within Inset Map boundary, except that retailing must be within or directly adjoining the defined PSA)

S6 and S7 - seeks to prevent out of centre retailing, except where there is an established local need.

T1 – Seeks to ensure that development helps anybody, including disabled people, get in and around the development.

T2- seeks to promote bus services and accessibility to their service

T4 – seeks to manage development and the highway

T5 – highway improvements will be encouraged as part of development

T6 – sets out to ensure that pedestrian and cycling movement is improved through traffic calming methods, in particular in centres.

T7 – seeks to ensure high quality car parking design

T8 – seeks to improve promote walking and connections that allow for pedestrian movement.

T9 – Developers will be expected, wherever possible, to provide links to cycle routes, Safe Routes and Greenways which adjoin the site or pass nearby. Existing cycle routes must not be severed or otherwise adversely affected by new development unless an acceptable alternative is substituted.

T11(b) Developments which generate significant numbers of personal trips should have direct, safe and attractive access for pedestrians, cyclists and wheelchair users from the building entrance to surrounding residential areas. Seating should be provided at or near the entrances of all large developments.

T13 – seeks to ensure an appropriate level of car parking is provided.

### **Supplementary Planning Documents**

#### *Designing Walsall SPD*

Seeks to guide development and deliver high quality design through local distinctiveness and sustainable design.

## **Consultations**

**Transportation** – No objection

**Highways Agency** – No objection subject to a Travel Plan being submitted to and approved by the LPA.

## **Pollution Control**

*Contaminated Land Team* – No objection subject to the applicant being able to demonstrate that the existing ground gas protection measures will not be compromised. Conditions to address these concerns have been provided.

*Scientific Team:* No objection

**Environmental Health** – No objection

**WM Police:** No objection

**Severn Trent:** No objection subject to a drainage condition.

## **Public Participation Responses**

14 letters of support from local residents raising the dilapidation of the retail park as the reason for their support.

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

## **Determining Issues**

- Principle of the use and Retail Park and consideration of the supporting evidence submitted.
- Car parking, drainage, servicing and relationship to residential properties

## **Observations**

### **Principle of the use and Retail Park and consideration of the supporting evidence submitted**

Bescot Retail Park is an established out-of-centre location for bulky goods retailing and has restrictions on the sale of goods (as highlighted above). Development Plan policy (in particular saved Policy S7 of the UDP) highlights as growth and change continue in retailing and other sectors, some large freestanding units may no longer be needed for retailing or other town centre uses. These are likely to be older premises which are less suitable in market, policy or environmental terms, and which are isolated from other shopping facilities. In such cases the Council considers that the conversion or redevelopment for other uses would be appropriate. In this location for example it is considered that conversion to industrial and employment uses would be the most appropriate use given the size, scale and nearby employment uses and the proximity to the football stadium and links to the M6.

The evidence base to the Core Strategy, the 2009 Centres Study, noted that the Black Country contains a dense network of centres, which have changed and in many cases declined. Many of the smaller centres have declined dramatically since their heyday, in parallel with the growth of out-of-centre retailing.

The Centres Study advises that as well as planning for economic growth, and growth in the retail and leisure sectors, there is a need to plan to 'rebalance' the network of centres in the Black Country to curtail and where practicable reverse the growth of out-of-centre retailing in favour of the defined centres, and to plan for renewal and modernisation of outdated provision. This forms the basis for the Black Country Core Strategy and approach to retail growth.

Officers note the Dundee case but as considered by Inspectors and the Secretary of State (in particular on APP/F0114/A/13/2191952) there is nothing in the Framework that suggests a radical shift in the way that the sequential test had previously been applied as a result of Dundee or the NPPF in terms of replacing the previous Planning Policy Statements. Consideration should only be given to out-of-centre sites "*only if suitable sites are not available*" and the decision of the Supreme Court in *Tesco v Dundee City Council* has to be treated with some caution, since it was concerned with the interpretation not of the Framework but with a local plan policy. In any event, neither the wording of the Framework nor the *Dundee* decision suggests that a site, in order to be sequentially preferable, must be available to the specific store operator, if there is one, associated with the proposed development. Rather the question must be whether a site is suitable and available for the proposal the subject of the application.

JTF operate on a membership basis and have offered evidence based operational requirements as to why a use for a Membership Club (as a sui generis use) would be acceptable in this location and why they would not consider retail space within Walsall Strategic Centre. Officers have carefully considered the submitted evidence, noted the current locations of JTF stores and noted the JTF product range from their website.

It is not accepted that a retail unit of 40,000sqft (4,160sqm) could not be accommodated in Walsall Strategic Centre, in particular, given the availability of St Matthews (in particular Phase 2) and edge of centre sites (e.g. Walsall Waterfront, Crown Wharf and Station Street). The applicant has not submitted any detail in terms of flexibility of format or scope for disaggregation. Further the evidence base and Development Plan position is also clear in the direction of travel for vacant out-of-centre retail units (i.e. that other uses should be sought, preferably in the "B" classes).

It is considered that these are flaws in the submitted evidence with regard to the sequential approach for retailing.

In assessing this application officers note that A1 retail is not sought by the applicant but that the proposed use is sui generis. Nonetheless, the use is akin to retailing and the proposal seeks to use vacant retail premises. As such, this proposal should be assessed subject to the sequential test for retail development. Officers have taken into account the content of the applicant's Planning and Retail Statement and have also considered the existing A1 bulky goods retail use permission for this site. Officers have concluded that the move to a Sui Generis use that would be a membership only club with restrictions on the goods sold is an appropriate use in this instance.

There is no demonstrated evidence that suggests that food or convenience retailing is needed in this location with the Black Country Core Strategy identifying sufficient convenience floor space already built within Walsall Borough. It is noted that Farmfoods currently occupies a retail unit that was approved separately to the main retail units. Considering this aspect is it not accepted that Food and Drink should be sold from this unit. The restriction on goods to be sold and on floorspace would restrict the potential for larger and food-based warehouse clubs (e.g. Costco) avoiding the introduction of a food and drink product range which may compete with local supermarkets, which would be inappropriate in this location.

Therefore the proposed use as a membership club would be considered acceptable and further restrictions are discussed below.

### **Use Class Sui Generis and restrictions on Goods**

As stated above, given the position and need to rebalance retailing, and the availability of sites in Walsall Strategic Centre in particular, further retail use out of centre is not justifiable. The vacant units, subject to this application, should not therefore be returned to retail use and retail investment should instead be focused on the delivery of comparison goods in Walsall Strategic Centre.

There are current restrictions on goods sold from the retail park. It is proposed to continue with the restrictions on goods sold from Units 1-2C. It is also noted that restrictions on floor-space and membership requirements have been applied to permissions submitted as evidence by the applicant.

### **Car parking, drainage, servicing and relationship to residential properties**

The site benefits from a large area of surface level car parking and established service areas. The nearest residential properties are on Broadway West (approximately 115m from the service area) and Britannia Road (approximately 140m from the service area) with allotments and training pitches between the residential properties and the application site. It is considered that the re-use of the buildings will not result in significant adverse harm to nearby residents.

The comments of Severn Trent are noted however as there are no external changes, the condition requested is considered unnecessary in this instance.

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

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

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

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

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

2a) Prior to the commencement of the use details of secure cycle facilities (capable of accommodating a minimum of 15 cycles) together with staff changing facilities and lockers shall be submitted to and agreed in writing by the Local Planning Authority.

b) Prior to the use of the development, the agreed measures shall be fully implemented and retained thereafter.

*Reason:* In order to promote walking and cycling to and from the application site.

3a Prior to the commencement of the use, an occupier specific travel plan for Units 1-2C including details and processes for monitoring and review shall be submitted to and approved in writing by the Local Planning Authority.

b) The Travel Plan shall be fully implemented on occupation of the building and subsequently monitored and reviewed in accordance with the approved details.

*Reason:* In the interests of amenity and to encourage the use of transport other than single occupancy of a car in accordance with the principles of sustainable transport and to ensure compliance with UDP Policy T2, and Draft Supplementary Planning Document - Travel Plans.

4. Prior to occupation the applicant shall demonstrate to the satisfaction of the Local Planning Authority that any ground gas ingress protection measures incorporated into the existing site are not compromised and shall subsequently be maintained and retained.

*Reason:* In order to protect human health.

5. Sale of goods shall be restricted to the following:

- DIY home and garden improvement products
- Hardware
- Furniture
- Soft furnishings
- Electrical goods
- Motor spares, accessories, and fuels
- Floor coverings
- Sports and leisure equipment
- Sports and leisure clothing
- Sports and leisure footwear
- Toys and children's wear
- Fireworks
- Petcare
- Food and drink from a cafe or restaurant.

*Reason:* The site is out of centre. The submitted evidence in the application highlights that the operational requirements are for a membership only club for bulky goods operations. Whilst this has been considered to be acceptable, other types of retailing would be inappropriate in this location considering the need to promote retail investment in Strategic Centres and that it is not accepted that such retailing cannot be provided in sequentially preferable locations.

6. The premises shall not be used for any purpose other than a retail warehouse club, and shall not be open to the general public. The business will operate by membership only in accordance with the following criteria:

- i) Applications for membership must be accompanied by two forms of Business Identification details or 1 proof of employment and one form of personal identification.
- ii) Members must sign in upon entering the store and show their membership card prior to purchasing goods

*Reason:* The site is out of centre. The submitted evidence in the application highlights that the operational requirements are for a membership only club for bulky goods operations. Whilst this has been considered to be acceptable, other types of retailing would be inappropriate in this location considering the need to promote retail investment in Strategic Centres and that it is not accepted that such retailing cannot be provided in sequentially preferable locations.

7. The use shall operate as one whole unit within the premises with a gross internal floor area of 4,133.7sq m and shall not be subdivided in any way into smaller units.

*Reason:* The supporting evidence to the application identified the location of the unit was determined by the size requirements and format requirements. Smaller units should be located in the Strategic Centres.

8. The development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:

Drawings:

Location Plan

2013-081/101

2013-081/102 Rev A

2013-081/201 Rev A

2013-081/205 Rev A

The application was supported by the following documents and these have been considered as part of the determination of the application. The conclusions of which are not necessarily accepted:

Design and Access Statement prepared by Blue Sky Planning (December 2013)

Planning and Retail Statement prepared by Blue Sky Planning (December 2013) including correspondence from JTF Wholesale Ltd dated 14/10/13

**NOTE FOR APPLICANT:**

Advice on basic ground gas ingress protection requirements can be found by reference to the following publication; "Protective measures for housing on gas-contaminated land", BRE Report 414, ISBN 1 86081460 3 (contact CRC Ltd 020 7505 6622 for order information).







Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/03/2014

**Plans list item no: 2.**

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

**Application Number:** 12/0036/OL  
**Application Type:** Outline Application

**Case Officer:** Alison Ives  
**Telephone Number:** 01922 652604  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Mr Stephen Hollowood

**Applicant:** Ms Carole Wildman

**Proposal:** Outline permission for residential development on sites A, D and J (access only to be considered) as follows:

- Site A – Approximately 243 dwellings (including 56 affordable units)
- Site D – Approximately 134 dwellings (including 121 affordable units)
- Site J – Approximately 25 dwellings (all affordable)

All sites incorporating means of access (not reserved), car parking, landscaping, infrastructure and servicing.

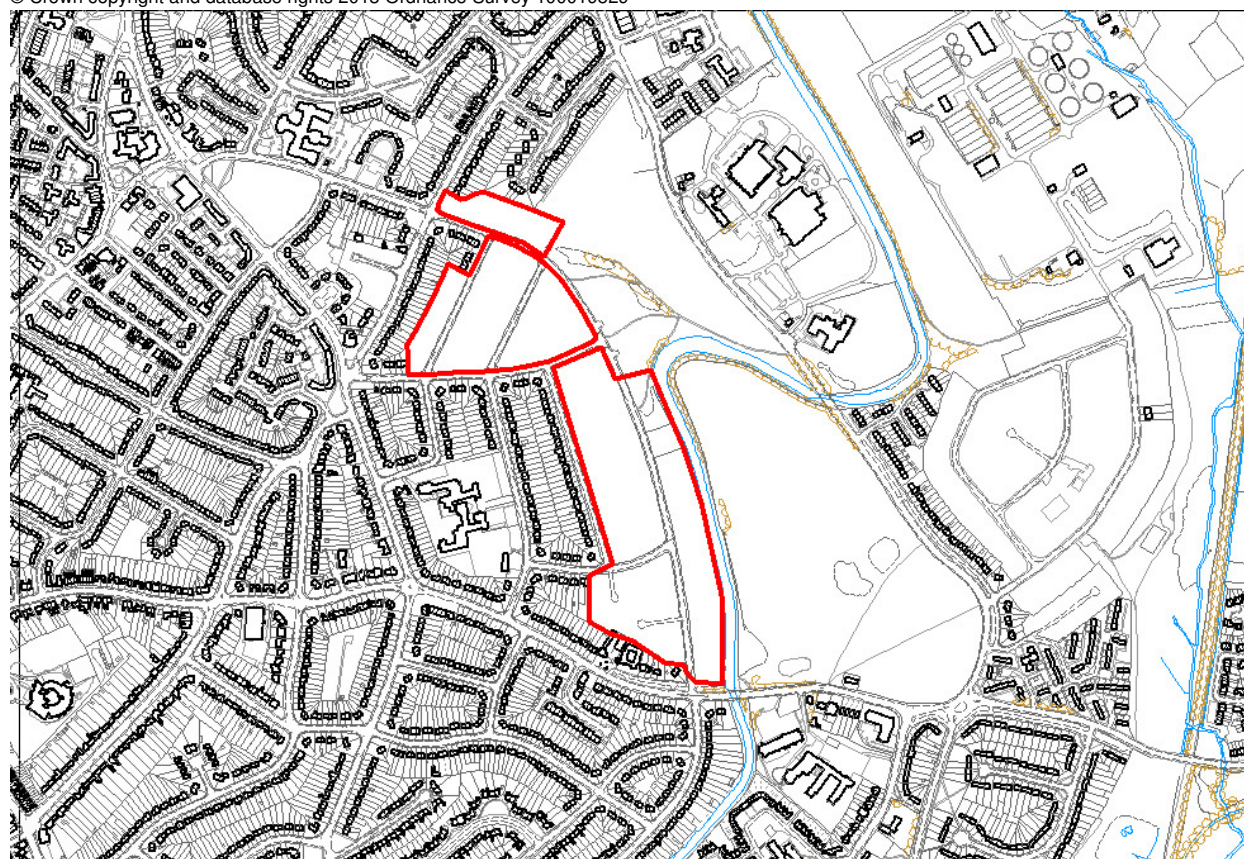
**Location:** Goscote Lane Regeneration Corridor incorporating sites in Shakespeare Crescent, Keats Road, Tennyson Road, Chaucer Road, Wordsworth Road, Dryden Road, Harden Road and Well Lane.

**Ward:** Blakenall

**Expired Date:** 20/01/2014

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

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## **Current Status**

This report requires Committee consideration of a Habitats Regulations Assessment (HRA) and the Planning Application. The HRA is set out in the body of the report and a second recommendation is incorporated in relation to this.

The application was first reported to Planning Committee on 14<sup>th</sup> March 2012. At that time the proposals were a hybrid application seeking outline consent for residential redevelopment of five sites in the Goscote area and full permission for change of use of land at Goscote Lodge Crescent to recreational open space (part of Site B). The outline application sought approval for means of access only and all other matters reserved. The proposals for each of the sites were as follows:

Site A – Approximately 243 dwellings (including 24 apartments and 4 affordable units) plus open space/community parks.

Site B – Approximately 62 dwellings plus off-site highway works at Harden Road/Goscote Lane junction, open space including linear parks and an ecological buffer zone.

Site C – Approximately 19 dwellings

Site D – Approximately 134 dwellings (including 21 affordable units)

Site J – Approximately 241 dwellings plus open space including linear parks, community parks and village green and pedestrian footbridge over the canal linking to Swannies Field.

The Committee resolution on the original proposals was as follows:

*“That application no. 12/0036/OL be deferred until June to allow the applicant to have the opportunity to conduct full ecology reports in response to issues raised by Natural England; to carry out a wider public consultation within the Ward; to consider a more varied mix of dwellings and to incorporate a multi-use games area (MUGA) into the plans.”*

In October 2013 the applicant submitted revised proposals to address the Committee resolution. As a result the description of development has changed to exclude sites B and C and to remove the request for full permission to change the use of part of site B to recreational open space. The number of proposed dwellings on site J has reduced in size so that new dwellings are proposed only on the previously developed part of site and to retain the open space known as “The Lea”. As a consequence of the changes the number of proposed new dwellings has reduced from 699 to 402.

The amended proposals are clarified as follows:

“Outline permission for residential development on sites A, D and J (access only to be considered) as follows:

- Site A – Approximately 243 dwellings (including 56 affordable units)
- Site D – Approximately 134 dwellings (including 121 affordable units)
- Site J – Approximately 25 dwellings (all affordable)

All sites incorporating means of access (not reserved), car parking, landscaping, infrastructure and servicing.”

A separate full planning application for Site J (13/1604/RM) was considered by Planning Committee on 13<sup>th</sup> February 2014. The Committee resolved to approve a Habitats Regulation Assessment for site J and to grant full planning permission subject to no further representations. The permission was issued on 27<sup>th</sup> February 2014 after the consultation period expired.

The following report considers both the Habitats Regulations Assessment for the amended outline proposals and the merits of the planning application and includes the latest policy and consultation responses.

### **Application and Site Details**

The proposals seek outline consent for residential development of three previously developed housing sites in the Goscote area with means of access only to be considered at this stage.

The site is within the Goscote Lane Regeneration Area (GLRA) located approximately 1.5 miles north of Walsall Town Centre. It is identified in Walsall's Strategic Regeneration Framework. The surrounding areas to the north, west and south are predominantly suburban residential areas but include Blakenall Village Centre, Blakenall Community Centre, local shops and schools. To the east of the sites lies the former Goscote Hospital site now occupied by Palliative and Dementia Care Units and offices.

Site A has an area of 7.1 hectares and lies between Keats Road and the Wyrley & Essington Canal. The indicative layout shows 243 dwellings (56 affordable) comprising 2 and 3 storey houses and flats offering a mix of 2, 3 and 4 bed units. This equates to a density of 34 dwellings per hectare. The proposals seek to break up the long roads by introducing more permeable streets that also open up views of the canal and new open space.

Site D has an area of 3.3 hectares and lies between Chaucer Road and Shakespeare Crescent. The indicative layout shows 134 dwellings (121 affordable) comprising 2 and 3 bed units. This equates to a density of 40 dwellings per hectare. The existing road network is retained but new mews streets introduced to break up the block.

Site J has an area of 0.7 hectares and is located at the top end of Shakespeare Crescent near the junction with Well Lane and borders gardens of housing in Well Lane and Hardy Road. The eastern boundary overlooks "The Lea". The indicative layout shows 25 dwellings (all affordable) with a mix of 2, 3 and 4 bed two and three storey units. This equates to 36 dwellings per hectare. Note that a separate full planning permission for this development site was granted on 27<sup>th</sup> February 2014.

The combined site area is 11.2 hectares.

The proposal is to introduce new roads to improve connectivity and reduce the size of the previous block structures and create a finer urban grain less dominated by vehicles. A hierarchy of new roads is proposed within the Design & Access Statement. This indicates primary roads and a series of secondary roads and other vehicular and pedestrian routes throughout the site. There are 2 parking spaces provided for each unit including in plot, on-street and parking courts.

Illustrative layouts have been provided that demonstrates how each site could be developed to accommodate the number of proposed residential units. The general principle is that all units create perimeter blocks that face the street and parking is provided in-plot, on-street or in parking courts. A mix of house types and sizes and some flats is shown. Some of the new streets are designed in the form of mews and courtyards with tree planting and raised landscaping to reduce the dominance of vehicles. The applicant acknowledges that the indicative layouts may not achieve the design and separation guidelines in Appendix D of Supplementary Planning Document: Designing Walsall in all cases but highlight the Masterplan has sought to retain 18m distances between frontages and maximise garden sizes except where they are introducing "green lanes", mews and courtyards where distances are lower.

The phasing identified is to develop Site J affordable units first followed by site D affordable units then site A affordable units and finally sites A and D private units. The applicant advises this follows funding, construction management and market advice.

The Habitats Regulations Assessment – Stage 1 Screening Report – assesses the potential recreational impacts of future residents on the Cannock Chase Special Area of Conservation (SAC). The key potential impacts are considered to be increased recreational pressure, invasion by bracken and scrub, hydrological changes and air pollution. Taking into account the relatively small net increase in dwellings on the site, provision of open space and links to nearby existing open space in Blakenall and Walsall and good links to sustainable transport the development is unlikely to lead to a significant increase in visitors to Cannock Chase SAC and the risk to conservation objectives of Cannock Chase SAC is negligible. There is also unlikely to be a significant change in boat traffic along the Cannock Extension Canal and best practice measures during construction will control potential pollution of the Cannock Extension Canal SAC. There are no anticipated combined effects upon these European sites.

The Design & Access Statement (October 2013) – analyses the site and its surroundings and explains the Masterplan Design for the area, design evolution and current proposals. It explains the character of the streets, open spaces, landscaping and sustainable drainage and suggests a proposed phasing strategy.

The Masterplan Design Guide (October 2013) – Provides a regeneration strategy for Goscote Lane Regeneration Area. It describes the sites and their surrounding context, constraints and opportunities. The Masterplan Framework considers urban form, built form, streetscape design, open space and landscaping, play provision and boundary treatments. It defines a hierarchy of streets and highlights technical requirements such as Lifetime Homes, Code for Sustainable Homes, drainage, parking, street furniture, materials, servicing, management and maintenance etc. The guide identifies possible locations for potential incorporation of 3 Local Areas for Play (LAP) and one Local Equipped Area for Play (LEAP). There is also a summary of the community consultation and feedback.

Statement of Pre-Application Consultations (October 2013) - Gives a summary of public consultation exercises carried out between 2010 and 2013.

Revised Planning Statement (October 2013) – Gives a background to the proposals and describes the amended outline submission, considers development plan policies and other material considerations. It explains how the proposals have changed to accommodate residents concerns and proposals for site B excluded to allow further consideration of the development concept for this site. Further surveys and an amended illustrative layout have been provided to address concerns of statutory consultees. It is requested that the viability of the scheme will be taken into account when considering planning obligations.

The Transport Statement (December 2011) – The assessment was prepared in December 2011 to consider development of a total of 780 dwellings. It addresses public transport, pedestrian and cycle networks and the highway network. It provides a review of the policy context; details of the current level of sustainable transport provision in the area; description of the proposed parking provision, access, parking layout and design code; transport analysis and trip generation data and assessment of the future operation of six junctions in the vicinity of the site. The Statement concludes the development site will have minimal impact on the local transport networks. It is proposed that of the six junctions assessed mitigation measures are required at the Goscote Lane/Harden Road roundabout to facilitate the development. The authors state that since the statement was prepared it is noted that policy has been superseded by the NPPF, but the broader principles remain the same and as the amended proposals effectively have a reduced transport no further additional considerations are required.

Travel Plan (August 2013) – Aims to reduce the number of single occupancy vehicle trips made by residents in the Goscote Lane Regeneration Corridor. Analysis shows 52% of the population of Blakenall ward travel by car to work and residents live a relatively short distance from local amenities and schools so reduction in vehicle use can be achieved. There is currently a number of walking and cycling routes in the area and car share will be facilitated through an opt-in database designed to match car share drivers with passengers. Bus services in the area serve the site by a single short bus journey. These methods of sustainable travel will be promoted throughout the development sites. The initial target is to reduce the number of residents travelling to and from the site by single occupancy car by 5% over a 5 year period.

The Flood Risk Assessment (December 2011)– Concludes that measures can be implemented to mitigate against any flood risk including elevated finished floor levels, design of ground profiles and maximum permitted discharge rate. The design of the proposed surface water system in any reserved matters application should follow the parameters and principles in the document. The authors explain that the original FRA considered the drainage for each site individually and they were not connected so the strategy for each site is still relevant even though the application is now just for three sites.

The applicant has also provided geotechnical and geo-environmental reports, mining investigation reports, gas monitoring and remediation reports for relevant sites which examine ground conditions.

### **Relevant Planning History**

13/1221/ND – Screening opinion for residential development of sites A, D and part of site J in Goscote Development Area including Shakespeare Crescent, Keats Road, Tennyson Road, Chaucer Road, Wordsworth Road, Dryden Road, Harden Road and Well Lane – Determined that an Environmental Impact Assessment was not required - 11/10/13

11/1570/ND - Screening Opinion for Goscote Development Corridor residential/redevelopment (sites A, B, C, D and J) – Determined that an Environmental Impact Assessment was not required – January 2012

07/2335/OL/E11 – Outline: Proposed construction of 182 1, 2, 3 & 4 bed dwellings with garages and parking on land between Shakespeare Crescent/Chaucer Road/Tennyson Road/Wordsworth Road and corner of Well Lane and Shakespeare Crescent (now Site D) – Refused for 2 reasons broadly relating to (1) Failure to demonstrate that 182 residential units can be satisfactorily accommodated on the site and provide a satisfactory residential environment with good design and adequate parking and amenity space (2) Unacceptable demand on limited educational capacity, accessible community healthcare facilities, affordable housing and public open space provision in the locality.

BC49453P – New neighbourhood resource centre – granted subject to conditions February 1998.

There are several approved applications for prior notification for demolition of the former housing on the sites throughout 2005/2006.

### **Adjacent sites**

#### Site G – Well Place

10/0864/FL – Erection of 32, 2 and 3 bed houses – granted subject to conditions – October 2011. This site is now complete.

#### Site H – Barracks Lane

10/1047/FL – Construction of 73 no. affordable dwellings comprising 39 apartments and 34 houses – granted subject to conditions – October 2011.

#### Site J – Shakespeare Crescent

13/1604/RM – Erection of 29 dwellings for affordable rent – approved Habitats Regulations Assessment and granted full planning permission subject to conditions 27/2/14.

### **Relevant Planning Policy Summary**

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

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

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

- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

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

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

Paragraph 32 states all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

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

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

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

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

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

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

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

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

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

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

On **planning conditions** the NPPF says:

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

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

### **The Development Plan**

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

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

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

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

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

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

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

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

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

**The Spatial Objectives** include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
5. A network of vibrant and attractive town, district and local centres

6. A high quality environment

7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors will provide new homes in sustainable communities built on brownfield sites close to existing public transport routes.

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided.

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

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

CSP5: Emphasises the need to develop and manage movement and ensure sustainable modes of transport are promoted.

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

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

HOU1: Seeks to deliver at least 63,000 net new homes over the period 2006-2026.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness

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

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

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

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

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

ENV1: Seeks to safeguard nature conservation.

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

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

ENV4: Development Proposals will promote the multifunctional nature of the Black Country canal network.

ENV5: Development must demonstrate the level of flood risk associated with development is acceptable.

ENV6: Development that enhances the open space, sport and recreation network will be encouraged.

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



ENV8: Residential development should be located, where possible, in areas where air quality meets national objectives.

WM5: Sets out general principles for managing waste associated with new developments.

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

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

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

The relevant policies are:

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.

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

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

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

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

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

ENV24: New development should maintain the integrity of wildlife corridors.

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

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

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

H1: The Council will promote and encourage the renewal of existing residential areas.

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

H4 (only clauses (g) to (j) are "saved"): Provides more detail about affordable housing in support of BCCS policy HOU3.

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

8.9: On housing sites of 1 hectare (or 30 dwellings) or more accessible community healthcare facilities should be provided to serve the development. The Council may require a contribution from developers towards such provision.

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

T1: Seeks to improve access and help people get around

T4: Development proposals where there are significant transport implications must be accompanied by a Transport Assessment which considers accessibility of the development by all modes of transport, including the impact on the highway network. Such developments will be required to fund or contribute towards any necessary off-site infrastructure.

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

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

T10 (a): Refers to accessibility standards.

T11: Residential development should be within easy walking/cycling distance of a range of facilities with direct/safe access to surrounding areas and measures to improve links between the development and its catchment area. It also seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

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

1, 2 & 3 bedroom houses: 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

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

LC8 & 8.36: Refer to provision of community facilities particularly in neighbourhoods where there is a lack of such facilities.

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

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

### **Designing Walsall SPD**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through key design principles and 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 of activities to the widest range of possible uses

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

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

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

Appendix D identifies privacy and aspect distances between dwellings, garden/amenity dimensions and design considerations. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

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

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

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

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

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

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

### **Supplementary Planning Document Urban Open Space**

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

### **Consultations on the planning application**

**Transportation** – No objections in principle subject to securing highway improvements throughout the site and the local highway network. Appropriate conditions and a Section 106 Agreement are recommended to secure this. The Transport Assessment, relevant addendum and plans indicate the impact of the development on the surrounding local highway network will not be severe.

**Pollution Control (Scientific Team)** – No objections but it is recommended that construction hours are controlled by condition and measures put in place to ensure dust and debris are controlled during any works.

**Pollution Control (Contaminated Land)** – No objections subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues associated with the previous use of the site. Conditions to address these issues are recommended.

**Rights of Way** – No objections. It is recommended that public footpath improvements, including new signs and motorcycle barriers, are installed on the open space. The developer is recommended to liaise with the Rights of Way officer to resolve rights of ways issues across the open space adjacent to site J.

**Ecology** – No objection in principle but the encroachment of development up to the canal edge on site A should be addressed before the application is determined. The Wyrley & Essington Canal is a Site of Local Importance for Nature Conservation (SLINC) and Wildlife Corridor. The proposals show a road along the whole length of the canal frontage. This is likely to cause disturbance to wildlife. A larger buffer is required which could impact on potential numbers of dwellings.

**Conservation** – No objections.

**Housing Strategy** – Supports the overall principle of development. There was previously a concern of reduced affordable housing provision on the original proposals but this has been addressed by an affordable housing offer of approximately 50%. The application proposes a mix of predominantly 2, 3 and 4 bed houses which is supported. There are a good number of 2 bed affordable houses and minimal 2 bed flats which is appropriate. Provision of a few more affordable 4 bed houses and a few less 3 beds should be considered. The developer is encouraged to include a number of homes to be constructed to wheelchair adapted standards if financially viable.

**Natural England** – The site lies within 15km of the Cannock Chase Special Area of Conservation (SAC). In accordance with Regulation 61 of the Habitats Regulations 2010 a Habitats Regulations Assessment is required to assess whether the proposal is likely to have significant effects on a European site. As the site is adjacent to the Wyrley & Essington Canal, near Goscote Wedge local wildlife sites and Green Belt open space there is scope to incorporate a green infrastructure led approach. Reserved matters submissions will need to set out a framework for delivering this integrated approach. Consideration of local sites, landscape character, biodiversity priority habitats and species and protected species should be considered.

**Canal & River Trust** – No objections subject to securing details at reserved matters stage in relation to the relationship of development to the canal including parking and landscaping, lighting and contamination remediation. It is recommended that advice to the developer is included in any decision notice.

**Inland Waterways Association** – No objections subject to provision of detailed design at reserved matters stage.

**Environment Agency** – No objections in principle subject to securing flood risk management measures as identified in the Flood Risk Assessment and remediation of potential contamination. Conditions are recommended.

**Fire Service** – No objections. Suitable water supplies for fire fighting should be provided. This shall be subject to consultation with the Fire Service once a Water Scheme Plan has been produced and approved by the relevant Water Company. A note for applicant to advise of this is recommended.

**Local Access Forum (Walsall Ramblers)** – No objections. The proposals identify improvements to public footpaths and provision of new routes which is encouraging. New provision for cyclists is also welcomed.

#### **Relevant consultations on the earlier planning application proposals**

**Environmental Health** – No objections.

**Landscape** – No objections.

**Structures** – No objections in principle. All located mine entries should be stabilised in accordance with the Coal Authority recommendations. The residential development layout should wherever possible be designed so that mine entries are located beneath car parks or areas of public open space to avoid placing domestic properties over the location of or within the influence zone of known mine entries.

**Severn Trent Water** – No objections based upon implementation of agreed discharge for all foul and surface water from the sites.

**Police Architectural Liaison Officer** – Full Secured by Design accreditation should be sought on all phases of development. The site is currently and historically a high crime area for all types of crime. The area also contains a high proportion of criminal offenders. The key area of concerns is that regarding remote parking locations. The layout should seek to provide convenient, safe parking with good surveillance.

**Greenspace Services** – There is community support for youth facilities including a MUGA and for safe areas for children's play in the area. It is recommended that green space improvements should be delivered in advance of any new housing.

**Centro** – The site is served by a number of bus services but the eastern part of the development is served by infrequent bus services tendered by Centro. The developer should explore the possibility of providing funding for an additional service which provides links to Walsall. Consideration should be given to replacing the existing stop poles on Goscote Lane with bus shelters. Pedestrian links should be direct, convenient, well lit, well signed and of a safe and secure design and include pedestrian crossings where appropriate. The inclusion of a Travel Plan is welcomed but request further details on funding of a Travel Plan co-ordinator.

**Walsall Children's Services** – A development of this scale would yield additional pupils in the primary sector. There is a significant issue in the primary sector across the Borough which is predicted to get progressively worse in the coming years due to the increase in birth rates. In proximity to the proposed developments the Council will be unable to provide sufficient pupil places in accordance with statutory duty. It will therefore be necessary to provide the equivalent of 1 Form of Entry (FE) of accommodation in local Primary Schools. Having reviewed the Primary estate in the locality of the development it is expected to increase 2 local schools by 0.5 FE each. There are no proposals to carry out increase in pupil spaces in the Secondary sector as a result of this development at the present time. It is recommended that a contribution of £1.1 million would be required to cover increasing the 2 local primary schools by 0.5 FE and enhance the approach of a third local school.

**Western Power** – There are distribution substations in the local vicinity and underground apparatus within the regeneration zones. There is a need to undertake extensive reinforcement to the 11000 volt network to facilitate connections. The layout should protect the existing cable easement.

**National Grid** – The proposed works are likely, unless controlled, to adversely impact the safety and integrity of National Grid apparatus directly crossing the area. Before carrying out any excavations, trial holes must be dug to find the exact position of gas pipes using recognised and agreed hand digging techniques. There is low of medium pressure gas apparatus in the vicinity. It is essential that no mechanical excavations take place above or within 0.5m of low and medium pressure systems.  
The developer should contact National Grid.

**NHS Walsall** – The proposals will increase housing numbers to offset previous losses. It is highly likely that there will be sufficient capacity in Blakenall and Harden Medical Centres to cater for potential increased patients if this area attracted an inflow from other areas of Walsall.

**District Valuer** – The District Valuer has reviewed the Viability Assessment provided by the applicant and has taken into account the viability of the proposals in the event that full provision is required for affordable housing, education and urban open space. The residual land value based on the 699 unit scheme is -£1,437,801.00 (not including all the land acquisition costs). The proposals would therefore not be viable if full provision were required. *Note these consultation responses related to the earlier scheme incorporating a greater number of houses, the Green Belt land swap and open space proposals on “The Lea”.*

### **Public Participation Response on the planning application**

**As a result of publicity on the revised proposals** three representations have been received including one in support and two objections. These are summarised below:

#### **Objections**

- Object to new development surrounding Well Lane
- New occupiers/tenants/residents should be stringently interviewed

#### **Support**

- Support the redevelopment of sites A, D & reduced site J
- The Friends Around The Lea (TFATL) residents group supports redevelopment of the Brownfield sites

**As a result of publicity on the original proposals** there were 101 letters of objection, a petition of objections with 722 signatures, objections from former Councillor Robertson and 2 letters of support which were summarised as follows: -

#### **Objections**

- The petition claims that 98.5% of people living around the site are opposed to the land swap and building on Green Belt land
- Disagree with the proposed land swap between Green Belt (“The Lea”) and brownfield site (“Goscote Estate”)
- The (*Green Belt*) area should remain as it is now to preserve the natural beauty of the land
- This (*Green Belt*) area was an attraction to families to move here
- The Green Belt land offers great views and opportunities for walking
- Loss of outlook for existing residents that face the Green Belt land and have views as far as Barr Beacon
- Loss of open views for existing residents in Hardy Road to the benefit of new residents on Site B
- Loss of Green Belt land for housing development
- No very special circumstances have been demonstrated to allow building on Green Belt land contrary to policy 3.3 of the UDP
- Proposals are contrary to the purposes of the Green Belt in PPG2, they allow urban sprawl, merge Poets and Goscote estates, encroach onto the countryside and doesn’t make full use of existing derelict Brownfield land
- The Brownfield site has more Green Belt land around it to benefit future residents instead of building on “The Lea”
- The proposals benefits future residents rather than former residents in the 300 houses that were demolished
- The applicant’s description of the Green Belt land as “underused, poor quality open land” is misleading as the housing that once surrounded it has been demolished – once redeveloped Site J will again be well used by residents
- The land has been allowed to deteriorate through lack of proper maintenance and policing – anti-social behaviour and horse grazing have reduced its attractiveness for residents use

- The site has previously been used for a children's play park, a youth club, social club, football and cricket pitches, anglers using the canal, by Harden School for various activities and still used by dog walkers
- Appreciate the Council's positive action in removing the horses from the land
- Accept new housing is required but this shouldn't be at the expense of existing residents
- Only 16% affordable housing is proposed and no provision for OAP bungalows or disabled accommodation a better mix should be proposed
- Residents resisted development on the Green Belt land previously
- Residents in Hardy Road and Beresford Road have organised a petition against development of the land
- Contamination issues
- Cost of putting services on the land when there are services already on site B
- The former housing sites should be developed for affordable housing
- Building on the existing brownfield land would reduce the expense of putting in services and reduce potential noise and pollution on "The Lea"
- Increased traffic on Goscote Lane
- The Transport Statement makes no mention of pedestrian priority
- The Transport Statement concludes the development will result in queuing traffic in the am peak yet still states minimal impact on transport networks – how can this be?
- Noise and pollution would be considerable on Goscote Lane and may affect peace and tranquillity, particularly as there is a Hospice on the former Goscote Hospital site
- No need for a new bridge to access "Swannies Field" as there is already two accesses and the money could be better spent on other amenities
- The Lea could be enhanced by including a children's play area if there are S106 funds available
- Lack of time or resources for residents to comment and make their case

#### Support

- The proposals offer a great benefit to Goscote and is better than having waste ground as long as the right people move here
- Fantastic development to regenerate the area the sooner the better

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

#### **HABITATS REGULATIONS ASSESSMENT**

The Local Planning Authority has a duty under Regulation 9 (5) of the Conservation of Habitats and Species Regulation 2010 ("2010 Regulations"). This duty is for all "competent authorities" (including Local Planning Authorities and other public bodies) to "have regard to the Habitats Directive in the exercise of its functions".

Regulation 61 (1) of the Habitats Regulations states the following:

*"A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which:*

- a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*
  - b) is not directly connected with or necessary to the management of that site,*
- must make an appropriate assessment of the implications for that site in view of that site's conservation objectives".*

The first stage (screening) of Habitats Regulations Assessment is to identify the likely impacts (if any) upon a European site of a project or plan, either alone or in combination with other projects or plans, and consider whether these impacts are likely to be significant.

The applicant has provided a Habitats Regulations Assessment screening report. This is currently under consultation with Natural England and their comments will be updated at committee.

In assessing the proposal recognition is given to Regulation 61(6) which acknowledges that consideration can be given to any conditions or restrictions subject to which the consent is proposed.

The Habitats Regulations Assessment considers the potential impact of the proposals on two sites; Cannock Chase Special Area of Conservation (SAC) and Cannock Extension Canal SAC. The key potential impacts are increased recreational pressure, invasion by bracken and scrub, hydrological changes and air pollution.

It is considered that the development would not result in a significant effect on the Cannock Chase SAC or Cannock Extension Canal SAC for the following reasons:

- There is a limited net increase in the number of dwellings on these previously developed sites and accessibility of the sites to existing open space in the local area and Walsall the development is unlikely to lead to a significant increase in visitors to Cannock Chase SAC.
- The risk to conservation objectives of Cannock Chase SAC is negligible.
- There is unlikely to be a significant change in boat traffic along the Cannock Extension Canal and best practice measures during construction will control potential pollution of the Cannock Extension Canal SAC.
- There are no anticipated combined effects upon these European sites.

Taking into account these factors, it is considered that the new residential development proposed will have no likely significant effects on Cannock Chase SAC or Cannock Extension Canal SAC, either alone or in combination. It can therefore be screened out for the purposes of the HRA, and does not need to proceed to Stage 2: Appropriate Assessment.

Given this conclusion, it is considered the requirement to complete an appropriate assessment has not been triggered. As a consequence, officers consider the development is in compliance with the provisions of Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended).

The formal views of Natural England on the HRA and its conclusions will be updated at Committee.

#### **Determining Issues on the planning application**

- Whether the proposals address Committee concerns in relation to:
  - a. Conduct full ecology reports in response to issues raised by Natural England
  - b. Carry out wider consultation within the Ward
  - c. Consider a more varied mix of dwellings
  - d. Incorporate a multi-use games area (MUGA) into the plans
- Principle of residential development
- Relationship to surrounding properties
- Housing Mix/Phasing
- Provision of affordable housing



- Provision for supporting infrastructure (including education, healthcare and open space)
- Layout and Design
- Means of Access and Parking
- Impact on canal and natural environment
- Landscaping/Ecology
- Ground conditions
- Local Finance Considerations

### **Observations on the planning application**

#### **Whether the proposals address Committee concerns in relation to:**

##### **a. Conduct full ecology reports in response to issues raised by Natural England**

A revised Extended Phase 1 Habitat survey has been supplied based on field work carried out in May 2012. There is some concern that this survey work was almost 18 months old at the original time of submission. The applicant's ecologist makes a number of recommendations that can be secured by condition but may impact on the indicative layouts. As the application is outline and layout is reserved for subsequent approval this matter can be adequately addressed through a Reserved Matters application. Natural England highlight that the Council must be satisfied the proposals will not have an adverse impact on Cannock Chase Special Area of Conservation (SAC) but as the proposals are 15km away this is unlikely. A Habitat Regulations Assessment Screening Report has been carried out (see above) and it is concluded that the proposals will not have a significant impact on the Cannock Chase SAC or Cannock Extension Canal SAC. A green infrastructure approach is recommended. This can be secured through conditions and details at the Reserved Matters submission.

##### **b. Carry out wider consultation within the Ward**

In response to the public consultation feedback on the earlier proposals the applicants have removed the proposals to develop on "The Lea" and the proposed Green Belt land swap on the site at Goscote Lodge Crescent (site B). The applicants have carried out further community consultation on these revised proposals within the ward at a public exhibition held on 8 October 2013.

##### **c. Consider a more varied mix of dwellings**

The proposed dwelling mix includes 50% affordable and 50% private dwellings comprising 2, 3 and 4 bed houses and 2 bed flats. The details identify these will be 2/3 storey houses and 3 storey flats. The percentage of affordable housing has increased from 16% to 50% which provides a more equal distribution of house types. The mix of housing and flats is considered appropriate in this area and although the revised submission does not specifically include bungalows this does not rule out their inclusion at reserved matters stage. The Housing Strategy officer has requested a greater provision of 4 bed affordable units and consideration of wheelchair adapted properties if the viability of the scheme allows.

##### **d. Incorporate a multi-use games area (MUGA) into the plans**

The original proposals included provision for a MUGA on Swannies Field which formed part of the larger site J. This area is not included within the current proposals but the Masterplan does identify how Local Areas for Play (LAP) can be accommodated within the street pattern.

On the basis of the above comments the applicant has given due consideration to Committee concerns and addressed them where possible given the constraints of the site and viability of the proposals.

### **Principle of Residential Development**

Housing renewal and the provision of good quality housing in the Goscote area is supported by the BCCS. The sites were formerly occupied by housing and provision of new housing is acceptable in principle as it brings forward vacant land in accordance with UDP policy ENV14. UDP policy H3 also encourages provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved. The housing key diagram in the BCCS identifies the Goscote area as a housing renewal hub that will be a focus for housing renewal activity.

Site J has been reduced in size so that it no longer proposes residential development on "The Lea" which is Green Belt land. The proposals only include the part of the site that was previously developed for housing. In principle this addresses concerns on the original proposals raised by residents.

The principle of residential development is acceptable.

### **Relationship to surrounding properties**

Given that the surrounding area is predominantly residential and the proposals are to redevelop former housing sites for residential purposes the uses are considered compatible and would not have any significant impact upon residential amenities. The detailed design and layout of the new residential development would be subject to approval of reserved matters that would address specific issues in relation to the distance between existing and proposed dwellings.

Residents are concerned about increased traffic which may cause considerable noise and pollution on Goscote Lane and may also affect the amenities and tranquil setting of the former hospital site which includes a palliative care building. The levels of traffic have been considered in the Transport Assessment and will not significantly affect the local highway network. The Transportation officer recommends measures are secured to maintain highway safety. As for disturbance from noise and pollution, bearing in mind that the sites were previously developed there would not be significantly greater noise and disturbance sufficient to warrant refusal of permission. The palliative care buildings are set back within the landscape setting of the hospital site so increased traffic should not significantly disturb patients.

With regard to the claim that residents have not had sufficient time and do not have the resources to make their case against the proposals the statutory consultation processes for the planning application have been adhered to. There have been no similar claims on the revised submission.

One of the key concerns on earlier proposals was development of housing on "The Lea". This has been excluded on the amended proposals to address residents' objections regarding the relationship between existing and proposed housing and loss of open space. There is a significant reduction in the number of objections on the latest proposals which suggests their concerns have been addressed.

The relationship between the proposed development and existing dwellings is considered acceptable in principle at this outline stage.

### **Housing Mix/Phasing**

The application indicates there will be a mix of house types across the three sites providing a variety of house types and sizes. This is considered acceptable to cater for a variety of accommodation needs for future residents and although the eventual mix will be agreed at reserved matters stage it does indicate how an appropriate mix can be achieved.

The applicants have identified phasing to develop Site J affordable units first (planning permission 13/1604/RM was granted on 27/2/14) followed by site D affordable units then site A affordable units and finally sites A and D private units. Although this leaves the private dwellings to be developed last the applicant advises that the phasing is based on funding mechanisms, construction management and market advice.

The housing mix and phasing is considered appropriate.

### **Provision of affordable housing**

The amended proposals alter the mix of dwellings by increasing the amount of affordable dwellings from 16% to 50%. Residents originally considered that the former housing sites should be developed for affordable housing rather than market housing as they are replacing former affordable housing units. The revised proposals give a greater proportion of affordable housing which is supported by Housing Strategy. It also gives a better balance of housing tenure as there are 50% affordable and 50% private sale units proposed.

Housing Strategy support the proposals subject to provision of a greater number of 4 bed affordable units. There are 18 x 4 bed affordable units proposed under the current proposals but whether this provision can be increased will depend on the viability of the scheme. There is scope to consider incorporation of some smaller 1 bed units at reserved matters stage to provide a greater mix if required.

The earlier scheme proposing 16% affordable units was challenged in terms of viability and the District Valuer at that time agreed with this conclusion. The current proposals include fewer units and a greater proportion (50%) of affordable units which presents a greater financial challenge.

The affordable housing provision is considered acceptable given the viability of the development.

### **Provision for supporting infrastructure (including education, healthcare and open space)**

In accordance with BCCS policy DEL1 and UDP policies GP3, 8.8 and 8.9 provision for education and healthcare are required where a need can be demonstrated for particular developments.

Walsall Children's Services stated on the earlier proposals that the development would create the need for an additional 1 form of entry (1FE) of accommodation in local primary schools. It is considered that this would be best achieved by increasing two Local Primary Schools by 0.5FE each. An additional contribution would also be required for upgrading the appearance of the approach to a third local school to the benefit of the desirability of the proposed new housing. A contribution of £1.1million would be required towards this provision. The current proposals are for fewer dwellings and on the basis of the calculations it is anticipated that a contribution would still be required but would need to be re-assessed to take account of this.

NHS Walsall previously indicated that it is highly likely that there will be sufficient capacity in Blakenall and Harden Medical Centres to cater for potential increased patients if this area attracted an inflow from other areas of Walsall. They also noted the proposals increase housing numbers to offset previous losses. In the circumstances no contribution is required towards provision of healthcare facilities. The current proposals are for fewer dwellings so there would be fewer potential increased patients.

Under the terms of policies DEL1 of the BCCS, policy LC1 (d) of the UDP and SPD: Urban Open Space the developer is required to contribute towards provision for urban open space. Based on the proposed number of units this would require a contribution of £771,310.00.

The District Valuer reviewed the earlier Viability Assessment and agreed that the development would not be viable if the full provision was required as there is a negative residual land value of over - £1.4 million. The current proposals are for a fewer number of dwellings and a greater proportion of affordable housing which presents further financial challenge to the viability of the scheme and it is unlikely that a positive land value will be achieved. The applicant has confirmed that the principles of this assessment by the District Valuer still hold today and they are looking to progress the application on this basis.

The applicant has also indicated their willingness to enter into a Section 106 Agreement to secure contributions towards local highway improvements and to deliver some environmental improvements to open spaces that would form part of an integrated approach to stewardship for the whole development area.

In light of the above comments it is recommended that the developer be required to enter into a Section 106 Agreement to secure a contribution towards local highway improvements and to deliver environmental improvements to open space. In terms of education provision it is recommended that committee waive this contribution given the viability case demonstrated above and the fact that the developer is providing a greater proportion of affordable housing throughout the site and is replacing formerly developed housing sites in the area.

Residents commented on the earlier proposals that there is no need for a new bridge over the canal at the southern end of Site J and that money would be better spent on improvements to the existing Green Belt or other amenities for the area such as a children's play area. This is not now included within the proposals.

### **Layout and Design**

The proposal seeks outline consent only so although indicative layouts have been provided the eventual design of the individual sites will be subject to reserved matters approval. The layout does seek to create smaller blocks with housing facing the street and secure private gardens and a hierarchy of streets to improve connectivity to surrounding open space and make it easier for pedestrians. The design and access statement gives a broad indication of the scale and massing of the proposed residential units but this will be subject to reserved matters.

Whilst the illustrative layout shows not all plots achieve the recommended space and separation distances in SPD: Designing Walsall this will be considered at reserved matters stage to achieve the best possible layout without harming residential amenities in terms of privacy, security or aspect.

Although there are ecological concerns regarding the proximity of the new development to the canal corridor this outline submission provides indicative layouts only and the detailed design will be the subject of a Reserved Matters application. Amended details can be considered at Reserved Matters stage.

### **Means of Access and Parking**

The proposed Masterplan indicates a hierarchy of streets from primary routes to courtyard and mews where the aim is to create a safer pedestrian environment and better connectivity throughout the Goscote Local Regeneration Area. The principle of this hierarchy is acceptable. An addendum to the original Transport Assessment has been provided which satisfactorily demonstrates the impact of the amended proposals on the highway network. Officers recommend that additional off-site mitigation measures to address the road safety implications are secured by a S106 Agreement and appropriate conditions.

A contribution for the introduction of mitigation measures to address the detrimental impact on road safety along the Harden Road corridor as a result of the development as identified within the accident analysis report is required and can be secured by a S106 Agreement. A sum of £139k is required.

Residents are concerned about the level of increased traffic and congestion; particularly on Goscote Lane and the risks this will pose to residents trying to cross. However, it is proposed to secure highway improvement measures where these are required. Improved pathways throughout the sites will aim to improve pedestrian permeability. Although the residents consider pedestrian priority has not been given consideration the Masterplan and Design and Access Statement clearly explain how it is intended to improve pedestrian access and movement throughout the area. Any amendments to existing public rights of way will be subject to a statutory procedure so a note to applicant is recommended regarding this.

The level of parking is considered acceptable given the mix of houses proposed but will be subject to change depending on the eventual mix approved under reserved matters. Subject to securing highway improvement measures the proposals are acceptable in principle. These can be secured through a Section 106 Agreement and appropriate recommended conditions.

### **Impact on canal and natural environment**

The indicative layouts show development close to the Wyrley and Essington Canal on site A. The Canal & River Trust and Council Ecologist are concerned that this could potentially impact on the integrity of the waterway, ecological habitats or visual amenity from the canal. Nevertheless there are no objections in principle to the outline proposals subject to detailed design of the individual sites to address these matters and conditions to require details and appropriate mitigation where necessary.

As the proposed layout is outline there is scope to secure any necessary mitigation works as part of the reserved matters submission.

### **Landscaping/Ecology**

The council's ecologist has no fundamental objections to the principle of housing development, although has concerns about the relationship between new development on site A and the canal frontage. The Wyrley and Essington Canal is a Site of Local Importance for Nature Conservation (SLINC) and Wildlife Corridor. The concern is that the development encroaches close to the edge of the canal where it could disturb wildlife. A wider buffer along the corridor is recommended and careful landscape planting to protect the wildlife corridor. The supporting surveys give no evidence that any protected species are present on the sites but there is a concern that survey work is 18 months old. If subsequent survey work along the canal frontages unearths a protected species, the Local Planning Authority will have to determine the reserved matter applications in accordance with legislation and guidance, which may include the three tests set out in the Habitat Regulations.

Appropriate landscaping must be submitted for approval at reserved matters stage which must protect, create and enhance existing habitats. Notwithstanding the above, planning conditions are recommended to ensure appropriate landscaping and lighting and protection and mitigation for any potential protected species. The quality of the design and layout will contribute to conserving the natural environment in the vicinity of these sites.

The reserved matters application should be able to accommodate the concerns in relation to landscaping and ecology and suitable conditions are recommended to secure this.

### **Ground conditions**

There is a history of coal mining in the area and evidence of contamination and made ground on all sites. Supporting information has been provided but further work is recommended to fully investigate the implications prior to commencement of any development. Pollution control officers recommend conditions to ensure implementation of works to investigate and remediate any localised ground contamination and ground gas issues associated with the development. Subject to these works all contamination and/or ground conditions can be satisfactorily addressed and would not preclude development of the site. Resident's objections regarding how contamination issues will be dealt with has therefore been addressed.

### **Local Finance Considerations**

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

This application proposes up to 402 new homes.

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

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

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

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

### **Recommendation on the Habitats Regulations Assessment**

It is recommended that the Habitats Regulation Assessment Report and associated provision dated February 2014 be endorsed by the Planning Committee, as the competent authority and confirm that, the Council considers that the proposed development would not have a significant effect on a European site, subject to a satisfactory response from Natural England.

### **Recommendation on the planning application**

Grant outline permission subject to conditions and a S106 Agreement to secure the following:

- Affordable Housing
- Local Highway Improvements
- Environmental Improvements to Open Space

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

1. Application for the approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission.

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

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

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

3. This development shall not be commenced until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- a) Appearance
- b) Landscaping
- c) Layout
- d) Scale

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

4. In order to address potential impact from land contamination the following matters shall be addressed:

(For the purposes of this condition each site shall be considered as a separate entity. The parts of this condition state which sites need to comply.)

- i. Prior to built development commencing a “Remediation Statement” setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority for Sites A,D & J. (see Note for Applicant CL2)
- ii. The remedial measures as set out in the “Remediation Statement” required by part i) of this condition shall be implemented in accordance with the agreed timetable for Sites A, D & J.
- iii. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the “Remediation Statement” required by part i) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority for Sites A, D & J.
- iv. 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 for Sites A, D & J. (see Note for Applicant CL3)

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

5a. No development shall take place until a surface water drainage scheme has been submitted to, and approved in writing by, the local planning authority. This should include details of:

- i. Surface water attenuation to the 1:100 year event 30% climate change standard.
- ii. Limitation of surface water discharge from the site to the greenfield rate as outlined in the FRA.
- iii. The inclusion of SuDS where possible as outlined in the Flood Risk Assessment, paragraph 7.23.

5b. The scheme shall be fully implemented and subsequently maintained, in accordance with the agreed scheme.

*Reason:* To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

6a. Prior to the commencement of the development details of foul water drainage shall be submitted to and approved in writing by the Local Planning Authority.

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

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

7a. No development shall take place until such time as a flood risk management scheme has been submitted to, and approved in writing by, the local planning authority. This should include details of:

- i. Finished floor levels and ground profiles to mitigate against the risk of flooding from surface water, overland flows, and canal overtop & breach scenarios as outlined in the Flood Risk Assessment section 7.20.

7b. The scheme shall be fully implemented and subsequently maintained, in accordance with the agreed scheme.

*Reason:* To reduce the risk of flooding to the proposed development and future users.

8a. Prior to the commencement of development samples of all facing, roofing and hard surfacing materials plus details of all boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority.

8b. The development shall be completed with the approved details and retained thereafter.

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

9a. Prior to commencement of any development the applicant shall commence proceedings to secure the amendment to the existing permanent prohibition of driving traffic regulation order on the existing highway network and all associated costs to be met by the applicant.

9b. The approved dwellings shall not be occupied until the amendment has been secured.



*Reason:* To allow the approved development to be undertaken.

10a. Prior to the commencement of any development, the following details shall be submitted and approved in writing by the Local Planning Authority in conjunction with the Highway Authority;

- (i) An overarching Masterplan and proposed phasing of intended highway improvement works on the following roads and other transport links to the wider area, in line with the submitted design and access statement:-
  - Shakespeare Crescent
  - Tennyson Road
  - Wordsworth Road
  - Chaucer Road
  - Keats Road
  - Dryden Road
- (ii) Full engineering details and location of the proposed highway improvement proposals as agreed in the phasing point (i).
- (iii) Full engineering details of the proposed highway improvements to the Harden Road/Goscote Lane roundabout, as identified in the Transport Assessment, and its phasing of implementation.

10b. Prior to the occupation of the first dwelling on the approved plan, all highway infrastructure works detailed and agreed, shall be fully implemented in accordance with the agreed phasing plan, completed and brought into use to the satisfaction of the local planning authority and all associated costs to be met by the applicant.

*Reason:* In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development and in accordance with BCCS policy TRAN1, TRAN2, TRAN4 and UDP Policies T4, T6, T7, T8, T9 and T1.

11a. Prior to the commencement of development details shall be submitted to the Local Planning Authority in conjunction with the Highway Authority, setting out where the location of parking for site operatives and visitors has been provided within the application site.

11b. The approved details shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during construction of the development.

*Reason:* To prevent indiscriminate parking in the interest of highway safety.

12. Prior to the occupation of the development hereby approved the access, turning areas and parking facilities shown on the approved plan(s) shall have been properly consolidated, surfaced, drained, free of loose stone and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority in conjunction with the Highway Authority and these areas shall be thereafter be retained and kept available for those uses at all times.

*Reason:* In the interest of highway safety, and ensure the free flow of traffic using the adjoining Highway.

13. Prior to the occupation of the first dwelling any redundant existing vehicular accesses onto the adjoining highway shall be permanently closed in accordance with full engineering details submitted to and approved in writing by the local planning authority in conjunction with the Highway Authority.

*Reason:* To ensure the safe and free flow of traffic using the adjoining highway.

14. All new driveway access points shall have 2.4m x 3.4m pedestrian visibility splays within which no planting or structures exceeding 600mm in height above ground level shall be permitted and thereafter retained.

*Reason:* In the interests of highway safety.

15. Prior to the commencement of the development a plan detailing the proposed extent of the highway adoption shall be submitted and approved in writing by the local planning authority in conjunction with the Highway Authority.

*Reason:* To define the adopted highway and to allow satisfactory operation of the development.

16a. Prior to the commencement of the development an assessment is to be carried out by the developer, to ascertain the current condition of any existing highway infrastructure (inclusive of carriageways, footways, street lighting and highway drainage) that is to form part of the highway network, any recommended remedial measures and proposed phasing of said works, and shall be submitted and agreed in writing by the local planning authority in conjunction with the Highway Authority.

16b. The agreed recommended remedial measures shall be fully implemented and brought into use in accordance with the approved phasing plan to the satisfaction of the local planning authority and all associated costs to be met by the applicant.

*Reason:* In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development.

17a. Prior to any demolition and/or construction operations commencing, a method statement shall be submitted to and agreed in writing with the Local Planning Authority for the purposes of controlling noise and dust from such operations.

17b. The agreed method statement shall be fully implemented and thereafter maintained until construction and demolition works are complete.

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

18a. Prior to the commencement of any development on Site A tree survey work to BS5837: 2005 standards shall be submitted for approval in writing by the Local Planning Authority.

18b. The findings shall inform the design and layout of the development at Reserved Matters stage.

*Reason:* To ensure adequate protection for retained trees on site.

19a. Prior to the commencement of the development details of landscaping shall be submitted for approval. The landscaping shall incorporate the following;

- A high proportion of native species tree and shrub planting especially in proximity to the canal.
- Habitat features unavoidably lost shall be replaced.
- Existing habitats shall be enhanced where appropriate.
- New habitats shall be created, particularly native meadow grasslands.
- Ornamental planting to encourage insects and other wildlife.

19b. The approved landscaping scheme shall be implemented within 12 months of the development completed.

19c. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs or plants 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 of the area.

20a. Prior to the commencement of the development a scheme to provide bat boxes, bat tubes and bat bricks incorporated into new buildings shall be submitted for approval in writing of the Local Planning Authority.

20b. The approved scheme shall be fully implemented and retained thereafter.

*Reason:* To ensure proper regard is taken to the impact of development on protected species.

21a. Prior to the commencement of the development full details of all external lighting, particularly to the open space areas shall be submitted to and agreed in writing by the Local Planning Authority. The lighting shall be designed to retain dark corridors particularly along the canal corridor.

21b. The agreed scheme shall be fully implemented and thereafter retained in accordance with the agreed details.

*Reason:* To protect the visual amenities of the area and ensure proper regard is taken to the impact on protected species.

22a. No development shall commence on each site unless details of proposed levels across that site has been submitted to and agreed in writing by the local planning authority.

22b. The development shall be carried out in accordance with the agreed details.

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

23a. No more than 402 dwellings shall be built on the site unless an updated Transport Assessment to demonstrate that there will be no detrimental impact on the local highway network has been submitted to and agreed in writing by the Local Planning Authority.

23b. Prior to the first occupation of any dwelling, any mitigation measures necessary to address detrimental impact on road safety as a result of the development identified in any updated Transport Assessment, shall be fully implemented and brought into use in accordance with the agreed details.

*Reason:* To ensure that there is no detrimental impact on the highway network and in accordance with Policy T4 and GP2.

24. No more than 15 dwellings shall be built on the application site unless the developer has made appropriate provision towards affordable housing on the site, or any alternative provision as may be agreed in writing by the local planning authority.

*Reason:* To ensure adequate provision for affordable housing in accordance with policies HOU3 of the BCCS and policy GP3 of the UDP and Supplementary Planning Document: Affordable Housing.

25. The proposed development shall be carried out in accordance with the agreed Phasing Plan (4070-00-106 Rev C).

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

26. All site clearance shall take place outside the bird breeding season unless carried out under the supervision of a qualified and experienced ecologist.

*Reason:* To ensure proper regard is taken to the impact of development on protected species.

27. During construction all open trenches or hazardous areas should be securely fenced off to prevent animals becoming trapped.

*Reason:* To ensure proper regard is taken to the impact of development on protected species.

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

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

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

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

- Location Plan (4070-00-101 Rev A) received 21/10/13
- Overall Masterplan Layout All Sites (4070-00-102 Rev C) received 21/10/13
- Masterplan Layout Site A (4070-20-201 Rev A) received 21/10/13
- Masterplan Layout Site D (4070-20-204 Rev A) received 21/10/13
- Site J Proposed Layout (4070-20-205 Rev A) received 21/10/13

- Overall Masterplan Layout Phasing (4070-00-106 Rev C) received 21/10/13
- Land Ownership Plan – Walsall Housing Group/Walsall Council (4070-00-104 Rev A) received 21/10/13
- Land Ownership Plan – Canal & River Trust (4070-00-105 Rev A) received 21/10/13
- Land Ownership Plan – Canal & River Trust Overlay (4070-00-107 Rev A) received 21/10/13
- Overall Masterplan Layout – Movement & Access (4070-00-111 Rev A) received 21/10/13
- Overall Masterplan Layout – Building Heights (4070-00-112 Rev A) received 21/10/13
- Overall Masterplan Layout – Density (4070-00-113 Rev A) received 21/10/13
- Overall Masterplan Layout – Land Use (4070-00-114 Rev A) received 21/10/13
- Overall Masterplan Layout – Tenure (4070-00-115) received 21/10/13
- Overall Masterplan Layout – Illustrative Sketch (4070-00-116) received 21/10/13
- Site A Constraints (4070-20-211 Rev A) received 21/10/13
- Site D Constraints (4070-20-214 Rev A) received 21/10/13
- Site J Constraints (4070-20-215 Rev A) received 21/10/13
- Land Survey (7344-Dcheck) received 21/10/13
- Coal Mining Desk Study – Sites A, D & D2 (250057-01) received 21/10/13
- Geotechnical & Geoenvironmental Report – Site A (36822-001) received 21/10/13
- Mining Investigation Report Site A & D (251083) received 21/10/13
- Supplementary Human Health and Controlled Waters Risk Assessment Site A (252048-02-00) received 21/10/13
- Extended Phase 1 Habitat Surveys (P434/2 Version One) received 21/10/13
- Geophysical Report (291011-001) received 21/10/13
- Supplemental Gas Monitoring Report Site A (252048-fk03) received 21/10/13
- Geotechnical & Geoenvironmental Report Site D & D2 (36823-001) received 21/10/13
- Supplementary Geotechnical Report Site D & D2 (250056-01) received 21/10/13
- Land Survey (7344-AA) received 21/10/13
- Supplementary Gas Monitoring Report Sites D & D2 (252048-fk02) received 21/10/13
- Geotechnical and Geoenvironmental Report Site J (251135-01-00) received 21/10/13
- Supplementary Monitoring Report Site J (251135-dw01) received 21/10/13
- Supplementary Human Health Risk Assessment Site J (251230-md01) received 21/10/13
- Supplementary Human Health Risk Assessment Site J (252048-ah01) received 21/10/13
- Phase 1 Habitat Survey Site J (P434/1 Version Two) received 21/10/13
- Walkover Survey & Desk Study Site D received 21/10/13
- Habitat Regulations Assessment : Stage 1 Screening Report prepared by Middlemarch Environmental Ltd (RT-MME-116168) received 17/2/14
- Goscote Mineshafts Geophysical Report 291325-01-00) received 21/10/13
- Design & Access Statement prepared by Sheppard Robson (October 2013) received 21/10/13
- Masterplan Design Guide prepared by Sheppard Robson (October 2013) received 21/10/13
- Statement of Pre-Application Consultations prepared by Sheppard Robson (October 2013) received 21/10/13
- Revised Planning Statement prepared by GVA (October 2013) received 21/10/13
- Transport Assessment prepared by JMP (December 2011) received 21/10/13 (*to be updated*)
- Travel Plan prepared by JMP (August 2013) received 21/10/13

- Flood Risk Assessment prepared by JMP (December 2011) received 21/10/13

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

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

**CL1:** 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: 2011 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

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

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

#### **Note for applicant – Environment Agency**

The Environment Agency would not accept at the reserved matters stage that above ground SuDS are not appropriate for the development simply due to the fact that sufficient space has not been allowed for their inclusion. The layout design should make space for water. A sizeable development such as this should not default to storage below ground in tanks/pipes due to the drainage design not being considered in the detailed development layout. The SuDS options listed in paragraph 7.23 of the Flood Risk Assessment should therefore be fully considered and included where possible at the layout design stage.

**Note for applicant regarding S38/S278 Works**

If it is the developers intention to request Walsall Council, as the Highways Authority, to adopt any proposed roadwork's as maintainable at the public expense, then details of the layout and alignment, widths and levels of the proposed road works, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all the necessary drainage arrangements and run off calculations shall be submitted to Walsall Council. No works on the site of the development shall be commenced until these details have been approved and an agreement under Section 38/278 of the Highways Act, 1980 entered into. All costs are to be met by the applicant and it should be noted that any non standard materials, landscaping, highway drainage or structures etc will require a commuted sum for future maintenance.

**Note for applicant regarding Design of Street Lighting**

The applicants attention is drawn to the requirement that, in all cases where an agreement under Section 38/278 of the Highways Act 1980 is entered into, the street lighting will be designed by the developer of the site in accordance with the design brief issued by the highway Authority and their design shall include any necessary amendments to the existing system.

**Note for applicant regarding Mud on Highway**

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

**Note for applicant regarding Drainage over the public highway**

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning areas do not discharge onto the public highway. No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway or vice versa.

**Note for applicant – Fire Service**

The water supplies to the development should meet the guidance given in "National Guidance Document on the Provision for Fire Fighting" published by the Local Government Association and Water UK. For further information please contact the Water Officer at West Midlands Fire Service, Headquarters Fire Safety, Vauxhall Road, Birmingham, B7 4HW or telephone 0121 380 6403.

**Note for applicant – Canal & River Trust**

The applicant/developer is advised to contact the Works Engineering Team in order to ensure that any necessary consents are obtained and that the works comply with the Trust's "Code of Practice for Works affecting Canal & River Trust". The Canal & River Trust offer no right of support to the adjacent property. The land owner should take appropriate steps to ensure that their works do not adversely affect the canal infrastructure at this location. The applicant/developer is advised that the inclusion of land owned by the Canal & River Trust within the site shall require a formal agreement.

## Petition to Original Proposals

### PETITION SHEET 2

To; Walsall Council  
Planning Department  
Civic centre  
Darwall Street  
Walsall  
WS1 1TP

We the undersigned residents of the Walsall Borough request:  
That the planning application for the proposed redevelopment of the areas  
known as Poets Estate, The Lea and Goscote Estate, as defined in the display  
at The Blakenall Village Centre on 19<sup>TH</sup> January 2012, be denied.

For the following reasons;  
As detailed in the attached documents titled Proposals \_ Poets & Goscote  
Areas, 2 sheets.

As the initiator of this petition, my name is;  
Mr Kenneth Wall 14 Hardy Road Goscote Walsall WS3 1JY  
Were I can be contacted for further information on this matter.

Name	Address	Signature
	14, HARDY ROAD	
	14, HARDY ROAD	
	21 HARDY ROAD	
	19, HARDY ROAD	
	19 HARDY ROAD	
	19, Hardy Road	
	12 HARDY ROAD	
	12 HARDY ROAD	
	12 HARDY ROAD	
	10 HARDY RD	
	10 HARDY RD	
	8 HARDY RD	
	6 HARDY RD	
	6 HARDY RD	
	4 Hardy Road	
	1 Hardy Rd Goscote	
	3 HARDY	
	5 HARDY RD	
	5 HARDY RD	
	11 HARDY RD	
	15 HARDY ROAD	
	25 HARDY ROAD	
	35 HARDY RD	

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# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/03/2014

**Plans list item no: 3.**

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

**Application Number:** 14/0120/FL

**Application Type:** Full application

**Applicant:** PAL Group Plc

**Proposal:** Erection of two new industrial bays to existing warehouse and associated car parking and landscaping (amended scheme to planning permission 13/1479/FL to increase height to bay 1A and an additional roller shutter to side elevation of bay 6).

**Location:** PAL GROUP, DARLASTON ROAD, WEDNESBURY, WS10 7TN

**Ward:** Darlaston South

**Case Officer:** Andrew Thompson

**Telephone Number:** 01922 652603

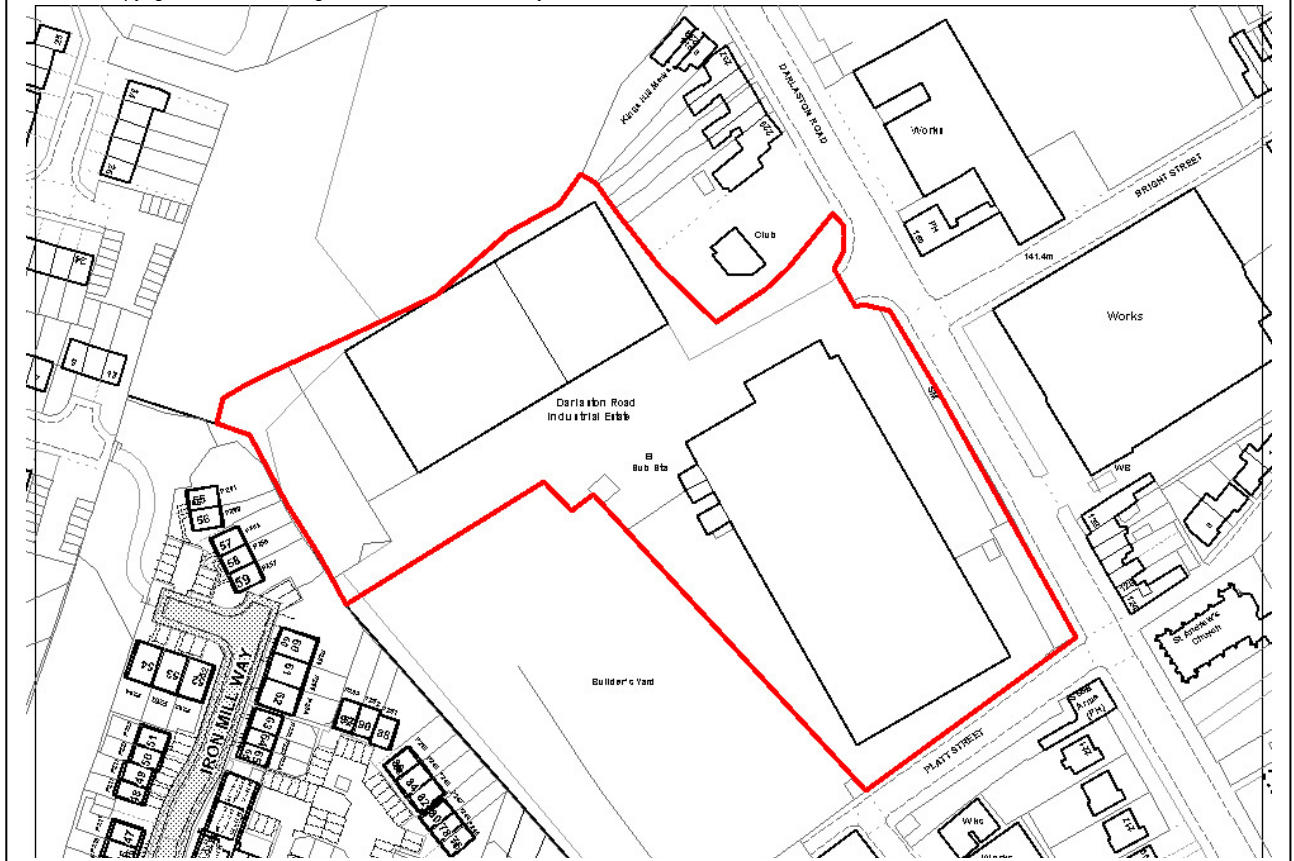
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Robert Seager Architects

**Expired Date:** 25/04/2014

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

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## **Application and Site Details**

This application is a material amendment to the scheme previously (13/1479/FL) approved by Planning Committee on 19<sup>th</sup> December 2013. The proposals amend bay 1a (next to the Sports and Social Club and Darlaston Road) to increase the height of the bay add additional windows to the front and side of the proposed elevation and include an additional roller shutter door and fire escape doors to the side elevation of Bay 6.

The application site is located to the south of Darlaston District Centre, off Darlaston Road, with a shared access with Darlaston Builders Merchants. The existing operations are carried out in two buildings. The operations are for the precision manufacture of plastic goods for decking, insulation and other building materials. Whilst some reuse of plastics are carried out within the operation, PAL Group are not related to Darma Plastics recycling and do not recycle household plastics or waste.

The proposals follow the acquisition of the second building, formally part of Darlaston Builders Merchants, are to extend the existing factory by a further two bays on the existing yard, and to remodel the remaining external space for car parking and servicing. This would allow for additional space for a wider product range to be manufactured and enhanced trade counter operations to provide bespoke products.

The site area is 1.58ha. The proposed extensions would be in two parts to either end of the existing industrial unit and a further 762sqm on top of the existing 2,750sqm of industrial floor-space. The proposals would replace an existing yard area.

The application is supported by a Design and Access Statement, which sets out the design principles and existing position with regard to the proposed extensions to the industrial unit.

## **Relevant Planning History**

13/1479/FL - Erection of two new bays to existing factory unit – Granted 20<sup>th</sup> December 2013.

05/2369/FL/W3 – Single storey side extensions – Refused 28<sup>th</sup> February 2006.  
Refused on the impact on car parking and visual impact to Darlaston Road.

BC57916P – Proposed 6.5m high canopy on Darlaston road frontage – Granted 4<sup>th</sup> September 2001.

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

### **The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations)**

These have been considered through a screening opinion and the development is not considered significant or in a sensitive area that would call for an Environmental Statement.

## **National Planning Policy Framework (NPPF) and associated Technical Guidance**

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

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Reuse land that has been previously developed

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

Paragraphs 18-21 encourage Planning Authorities to support and put significant weight on economic growth and to proactively to meet the development needs of business whilst protecting strategically important economic areas from encroachment.

Paragraph 103 – seeks to ensure that development is located in appropriate areas at low risk of flooding and does not exacerbate the risk of flooding.

Paragraph 123 seeks to ensure that development mitigates against pollution, including noise.

On planning conditions the NPPF says:

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

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

### **The Development Plan**

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

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

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

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

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

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

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

**The Spatial Objectives** include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.

The above are supported by the following policies which have superseded UDP Waste Management Policies:

CSP3 – Seeks to improve environmental infrastructure

EMP1-4 – Seeks to secure, safeguard and provide appropriate levels of employment land to aid sustainable economic growth

EMP5 – seeks to deliver local jobs and training opportunities

TRAN5 Sets out the requirement for development to focus on moving away from the reliance on the private car.

ENV1 - Adequate information must be submitted with planning applications for proposals which may affect any designated site or any important habitat, species or geological feature to ensure that the likely impacts of the proposal can be fully assessed. Without this there will be a presumption against granting permission.

ENV 3 sets out the criteria for design quality

ENV4 development must enhance the canal corridor.

ENV5 seeks to ensure that new developments mitigate against flood risk and promote sustainable drainage

ENV7 seeks to ensure new development promotes renewable energy provision

### **Saved Policies of Walsall Unitary Development Plan March 2005**

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

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

GP2 expects development to make a positive contribution to the environment and considers (II) the susceptibility to pollution of any kind as an adverse impact which would not be permitted, and VII. Adequacy of access will be taken into account.

ENV10 states that development which may give rise to pollution such as noise and smell will only be permitted where it would not have an adverse effect on adjoining uses/potential uses.

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

JP7 – seeks to retain other employment land

T7 and T13 seeks to ensure that car parking and servicing is well laid out and car parking is provided for at an appropriate level.

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

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

#### **Designing Walsall SPD**

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

#### **Consultations**

**Transportation** – No objection subject to conditions relating to disabled parking and cycling provision.

#### **Pollution Control**

*Contaminated Land* – No objection - Given the nature of the development the imposing conditions requiring investigation and assessment of soil contamination would seem unnecessary however it would be advisable to attach a note for applicant to any approval issued.

*Scientific Team* – No objection - recommend that noise mitigation measures are undertaken prior to activities commencing in the proposed units

## **Representations**

1 letter from occupier on the opposite side of Darlaston Road raising no objection subject to the remaining trees on the Darlaston Road are not removed.

*[The trees are unaffected by the proposals]*

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

## **Determining Issues**

- Principle of the Development
- Proposed height and scale of the proposed extensions
- Relationship to residential properties to the south and west and the surrounding area
- Car parking and servicing

## **Observations**

### **Principle of the Development**

The proposals relate to existing industrial units with dedicated access and associated servicing and car parking. The proposals are for a continuation of the existing use and the proposals would support local jobs and an expanding business.

The operations of PAL Group relate to the manufacture of plastics and plastic associated goods, they do not relate to the recycling of household waste.

The scheme is acceptable in principle subject to consideration of the detailed elements scheme.

### **Proposed height and scale of the proposed extensions**

The proposed buildings would be in keeping with the size and scale of the existing buildings and would be read as an extension to the existing bays.

The new bay on the eastern end of the building (shown as Bay 1a in the submitted plans) would slope down to the boundary being 6m in height rising to 7.5m at the maximum at the nearest point to the boundary with the neighbouring club. The windows would allow light to enter the trade counter area.

The new bay on the western end of the building (shown as Bay 6 on the submitted plans) would match the existing style of the buildings and would be between 6m and 7.5m in height at the maximum. The proposed extensions when considered against the existing operations and building would appear relatively modest.

### **Relationship to residential properties to the south and west and the surrounding area**

The proposals would reformat an existing yard area into a car parking and servicing area. There is a roller shutter in the western side elevation to facilitate deliveries and despatch.

Officers note that the Scientific Team have not received any complaints about activities of the PAL Group on Darlaston Road. However, complaints have been received about other nearby industry, noise and fires.

Having visited the site, it is the view of Pollution Control Officers that the activities the PAL Group are proposing within the units should not generate complaints; however, consideration needs to be made of the potential that the activities will vary or the unit is sold on.

There exists the potential for nearby residents to be affected by noise from the proposed new bays. It is noted that the company intend to install a 2.5 metre acoustic fence to the western boundary, which should mitigate some noise impacts and the reduced commercial activity due to the use of the area as car parking would also be beneficial to neighbouring residents.

It is recommended that planning conditions are considered that should mitigate potential impacts.

### **Car parking and servicing**

The existing buildings have car parking and servicing areas at either side of Darlaston Road, which cater for staff and visitors. It is proposed to create additional parking to allow improvements to the circulation space at the site entrance and also having regard to the potential for job creation as a result of the proposals.

The parking proposed is considered to be acceptable and provides an appropriate level of parking.

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

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

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

1. This development must be begun not later than 3 years after the date of 20<sup>th</sup> December 2013 (the date of planning permission 13/1479/FL).

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

2. The development hereby permitted shall be carried out in materials to match in size, colour and texture as the existing buildings.

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

3a) Prior to the commencement of development a revised plan detailing disabled car parking spaces, which equates to a minimum of 10% of total provision and are to be located as near as possible to the most appropriate entrance each of the buildings. Each reserved space should be at least 4.8m by 3.6m.

b) The car parking shall be laid out in accordance with the agreed details.

*Reason:* To ensure the adequate level of disabled car parking provision is provided and retained in accordance with saved policy T13 of the Unitary Development Plan



4a) Prior to the commencement of development details shall be submitted to and approved in writing by the Local Planning Authority setting out where the location of parking for site operatives and visitors has been provided within the application site.

b) The approved details shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during construction of the development.

*Reason:* To prevent indiscriminate parking in the interest of highway safety.

5a) Prior to commencement of development a strategy for recruitment and training including draft construction training and employment methods statement setting out measures to maximise local job and training opportunities during construction shall be submitted to and approved in writing by the local planning authority.

b) The agreed details shall be fully implemented throughout construction

*Reason:* In order to promote employment and skill enhancement within the Black Country and in accordance with Black Country Core Strategy policy EMP5.

6a) Prior to the installation of any new external plant and/or machinery details shall be submitted of acoustic enclosures for approval.

b) The plant shall be installed in accordance with the approved details and retained thereafter.

*Reason:* To safeguard the amenities of nearby residents, in particular those on Iron Mill Way and Boswell Close.

7a) Prior to the first occupation full details and location of a secure covered cycle shelter shall be submitted for approval by the Local Planning Authority.

b) All cycle parking areas detailed and agreed, shall be fully implemented, completed and brought into use to the satisfaction of the Highway Authority and therein after retained.

*Reason:* To ensure the adequate level of car and cycle parking is provided and retained in accordance with saved policy T9 of the Unitary Development Plan

8. Prior to the first use of the development hereby approved, a 2.5m high acoustic fence, with a minimum surface density of 15 kg/m<sup>2</sup>, shall be erected to the North-West boundary with residential premises.

*Reason:* To safeguard the amenities of nearby residents, in particular those on Iron Mill Way and Boswell Close.

9a. Prior to the commencement details of access, turning areas and parking facilities shown on the approved plan shall have been properly consolidated, surfaced, drained, free of loose stone and constructed in accordance with details to be submitted to and approved in writing by the local planning authority.

9b These access, turning areas and parking facilities areas shall thereafter be retained and kept available for those uses at all times.

*Reason:* In the interest of highway safety, and ensure the free flow of traffic using the adjoining Highway.

10. The roller-shutter doors on the western elevation shall be kept closed unless being used for access and egress.

*Reason:* To safeguard the amenities of residents on Iron Mill Way and Boswell Close.

11. No manufacturing, fabrication, production, servicing or associated operation(s) other than essential building maintenance shall take place external to the building structure.

*Reason:* To safeguard the amenities of residents on Iron Mill Way and Boswell Close.

12. Notwithstanding the Town and Country Planning (General Permitted Development) Order 1995 as amended and the Town and Country Planning (Use Classes) Order 2010 (as amended) the proposals shall only be used for the manufacture of plastic goods and shall not be used for the storage or processing of household waste.

*Reason:* The site may not be suitable for the processing of such materials considering the proximity of residential properties.

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

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

*Reason:* To safeguard the amenities of nearby residents, in particular those on Iron Mill Way and Boswell Close.

14. The development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:  
Plans and Drawings:

13:30:01 Rev B

13:30:02

13:30:03 Rev B

13:30:04 Rev B

13:30:05

Documents:

Design and Access Statement (prepared by Robert Seager Architects)

*Reason:* In order to define the permission.

NOTES FOR APPLICANT:

**S278 Works**

No work on the public highway should commence until any engineering detail of improvements to the public highway have been approved by the Highway Authority, and an agreement under S278 of the Highways Act 1980 entered into. Any agreement for street lighting should be agreed in writing with Walsall Metropolitan Borough Council's Street lighting partner Amey.

**Mud on Highway**

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

**Drainage**

No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/03/2014

**Plans list item no: 4.**

**Reason for bringing to committee: Requires Delicate Judgement**

**Application Number:** 14/0107/FL

**Application Type:** Regulation 3 Consent (V)

**Case Officer:** Andrew White

**Telephone Number:** 01922 652609

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:**

**Applicant:** Mr Rob Morton

**Proposal:** Removal of an unstable embankment in the Arboretum between the site of the proposed new visitor centre and No.8 Victoria Terrace and No.6 Buchanan Avenue. The application includes engineering works to stabilise the embankment and restore the original boundaries.

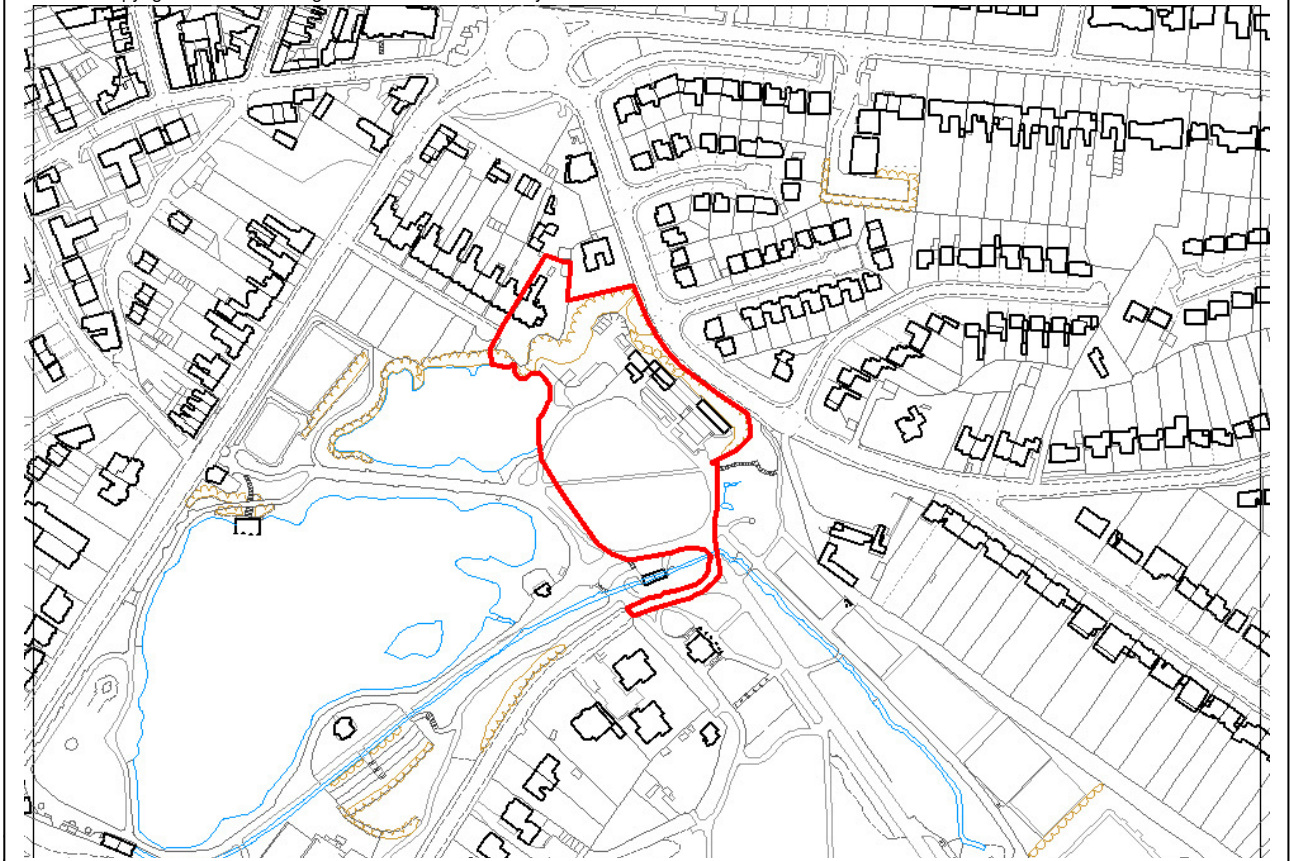
**Location:** WALSALL ARBORETUM, ARBORETUM ROAD, WALSALL

**Ward:** St. Matthews

**Expired Date:** 27/03/2014

**Recommendation Summary: Grant subject to conditions and resolving flooding issues**

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## **Application and Site Details**

This planning application is for the removal of an embankment constructed by the occupier of 8 Victoria Terrace on an existing slope covered in mature trees to create additional parking, garden area and potential vehicular access to Buchanan Avenue. It encroached onto the Arboretum Park between 4 and 19 metres from the curtilage boundary of 8 Victoria Terrace (allowing for the slope of the embankment). The embankment stretches around the southwest, southeast boundary of number 8 and the southern boundary of 6 Buchanan Avenue, extending to Buchanan Avenue. The embankment was created on land within the northern corner of Arboretum Park adjacent to the Council's gardener's compound.

Arboretum Park was created in 1873 laid out around two lakes formed after flooding the limestone mines and is a Grade II registered park and gardens. It is considered to be a fine example of a Victorian Park which is within the Arboretum Conservation Area which also includes a row of Grade II listed buildings including 8 Victoria Terrace. Whilst, the occupier of 8 Victoria Terrace tipped the embankment over a period of years, the embankment became lawful in July 2012 after being substantially complete 4 years previously. Consequently, planning approval is required for its removal.

The embankment included a number of mature trees that form a screen from the adjacent residential properties. The trees (13 Sycamore, 9 Ash, 6 Leyland Cypress (forming a hedge), 2 Hawthorn, 1 Rowan) have been removed as part of the stabilisation of the embankment due to the damage from the poor quality construction and subsequent instability.

The grassed area in front of the embankment and adjacent to the site of the new visitor centre will be used as a temporary compound during the construction works for both projects. To access the compound vehicles will enter the site via the Arboretum Road access and cross a small bridge over the Arboretum Brook. This bridge will receive a road plate over it to protect from the construction traffic. The base of the embankment and area for the compound are within flood plains.

Details submitted as part of this planning application include;

### *Design and Access Statement*

Briefly explains, the actions of the occupier of 8 Victoria Terrace, that the embankment is a risk to safety and in risk of slope failure, that without the removal of the embankment the last part of the grant funded park refurbishment, the new visitor centre cannot be built. The statement also explains that between 280 and 1435 cubic metres of material will need to be excavated and potentially removed from the park, subject to testing to see whether it is safe for reuse within the park. The proposal will include the use of 18 tonne lorries to remove the material and the number of lorries used will depend on the amount of material that will be required to be transported from the park. The applicant is and has carried out a consultation exercise with the local community to explain the proposal and the reasons for its removal.

### *Walsall Arboretum Slope Stability Assessment*

An engineer's report has considered the stability and safety of the embankment constructed by 8 Victoria Terrace. It concludes that the embankment is unstable, with signs of a tension crack and that slope failure is likely, with the tipped material by 8 Victoria Terrace showing signs of sliding on the existing embankment and that a number of the trees are leaning. Consequently, the Council's gardeners compound has had to be closed for safety reasons and that the parking/garden area created by and used by occupiers and visitors of 8 Victoria Terrace are at risk. The report recommends that the occupiers and visitors of 8 Victoria terrace do not use the garden and parking area created at the top of the made embankment until the embankment is removed.

#### *Landscaping proposals for the stabilised embankment*

Plan provided show the removal of and stabilisation of the embankment and subsequent replanting of the embankment, including sections through to show the slope gradient and gabion walls that will form part of the structural stabilisation.

#### **Relevant Planning History**

Demolition of nearby toilet block granted 2009.

13/1053/TE- Time extension of 09/1086/FL- Grant subject to conditions 15/1/14

09/1086/FL - Proposed demolition of single storey buildings & erection of new visitor centre. Granted by Planning Committee Subject to Conditions - 02/08/10

#### **Relevant Planning Policy Summary**

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

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

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

- Secure high quality design and a good standard of amenity for all existing & future occupants
- Take account of different roles and character of different areas
- Take full account of flood risk
- Conserve and enhance the natural environment
- Conserve heritage assets in a manner appropriate to their significance

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

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

**Paragraph 57** states ...important ... for the achievement of high quality and inclusive design for all development, including ... public and private spaces...

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

- Function well and add to the overall quality of the area ... over the lifetime of the development
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation
- are visually attractive as a result of good and appropriate landscaping.

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

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

**Paragraph 73** states Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

**Paragraph 79** states the essential characteristic of Green Belts is their openness and permanence.

**Paragraph 80** identifies the five purposes of Green Belts which are:

- *to check the unrestricted sprawl of large built-up areas*
- *to prevent neighbouring towns merging into one another*
- *to assist in safeguarding the countryside from encroachment*
- *to preserve the setting and special character of historic towns*
- *to assist in urban regeneration by encouraging recycling of derelict and other urban land*

**Paragraph 81** states local planning authorities should plan positively to enhance the beneficial use of the Green Belt and to retain and enhance landscapes and visual amenity. It also encourages improving damaged or derelict land in the Green Belt.

**Paragraph 87** states inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

**Paragraph 88** states very special circumstances will not exist unless the potential harm is clearly outweighed by other considerations.

**Paragraph 90** certain types of development are not inappropriate provided they do not conflict with the openness of the Green Belt including engineering operations.

**Paragraph 100** Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by:

- applying the Sequential Test;*
- if necessary, applying the Exception Test;*
- safeguarding land from development that is required for current and future flood management;*
- using opportunities offered by new development to reduce the causes and impacts of flooding; and*
- where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to facilitate the relocation of development, including housing, to more sustainable locations.*

**Paragraph 101** states the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

**Paragraph 102** states If, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. For the Exception Test to be passed:

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and*
- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

Both elements of the test will have to be passed for development to be allocated or permitted.

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

**Paragraph 109** states the planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;*
- recognising the wider benefits of ecosystem services;*
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and*
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

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

**Paragraph 116** states Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and*
- any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

**Paragraph 117** states to minimise impacts on biodiversity and geo-diversity, planning policies should:

- plan for biodiversity at a landscape-scale across local authority boundaries;*
- identify and map components of the local ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity, wildlife corridors and stepping stones that connect them and areas identified by local partnerships for habitat restoration or creation;*
- promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan;*
- aim to prevent harm to geological conservation interests; and*
- where Nature Improvement Areas are identified in Local Plans, consider specifying the types of development that may be appropriate in these Areas.*

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

**Paragraph 120** seeks to prevent unacceptable risks from pollution and land stability. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.



**Paragraph 121** Development sites should be suitable for new uses taking account of ground conditions and land instability, including from natural hazards or former activities such as mining and pollution.

Planning policies and decisions should also ensure that:

*-the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;*

*-after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*

*-adequate site investigation information, prepared by a competent person, is presented.*

**Paragraph 122** states in doing so, local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

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

Planning policies and decisions should aim to:

*-avoid noise from giving rise to significant adverse impacts 27 on health and quality of life as a result of new development;*

*-mitigate and reduce to a minimum other adverse impacts 27 on health and quality of life arising from noise from new development, including through the use of conditions;*

*-recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; 28 and*

*-identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.*

**Paragraph 126** - Local planning authorities should have a positive strategy for the conservation and enjoyment of the historic environment. LPA's should recognise Heritage Assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

**Paragraph 127**- When considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.

**Paragraph 128**- In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

**Paragraph 129** - Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal and take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

**Paragraph 130** - Where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision.

**Paragraph 131**- In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- the desirability of new development making a positive contribution to local character and distinctiveness.*

**Paragraph 132** - When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

**Paragraph 133**- Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and*
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- the harm or loss is outweighed by the benefit of bringing the site back into use.*

**Paragraph 137**- Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

**Paragraph 138**- Not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 133 or less than substantial harm under paragraph 134, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.

On **planning conditions** the NPPF says:

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

### **Decision-taking**

**Paragraph 186-** Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

**Paragraph 187-** Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

### **Other Relevant National Policy**

Technical Guidance to the National Planning Policy Framework (on flood risk and minerals, published 27 March 2012),

### **Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990**

#### **Section 72(1) General duty as respects conservation areas in exercise of planning**

**functions:** In the exercise, with respect to any buildings or other land in a conservation area, of any **[F1]** functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

### **The Development Plan**

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

The Black Country Core Strategy (BCCS) (2011)

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

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

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

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

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

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

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

The Spatial Objectives include

**3.** Model sustainable communities on redundant employment land in the Regeneration Corridors that make the best use of existing opportunities and are well integrated with surrounding areas.

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

**9.** Sufficient waste recycling and waste management facilities in locations which are the most accessible and have the least environmental impact.

**10.** Safeguard and make the most sustainable use of the Black Country's mineral resources including primary, secondary and recycled materials without compromising environmental quality.

The relevant policies are:

**ENV1:** Seeks to safeguard nature conservation.

**ENV2:** Development proposals will be required to preserve and, where appropriate, enhance local character. Development proposals will be required to preserve and where appropriate enhance aspects of the historic environment together with their settings. Buildings, structures and archaeological remains of traditional manufacturing and extractive industries such as coal mining and limestone quarrying should be conserved.

**ENV3:** This Policy seeks to ensure that all new development has regard to key design principles but which need to interpret and reflect both the overall character of the Black Country and local distinctiveness.

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

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

**CSP4:** The design of spaces and buildings will be influenced by their context and seek to enhance the unique attributes the area offers in terms of its local character and heritage whilst responding to current day needs, changes in society and cultural diversity.

**EMP6:** Cultural Facilities and the Visitor Economy In order to help deliver economic, social and environmental transformation, sub-regionally important cultural facilities within the Black Country (including tourist attractions, leisure facilities, museums, theatres & art galleries as identified on the Economy Theme Diagram) will be protected and, where necessary enhanced, promoted and expanded in partnership with key agencies and delivery partners.

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

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

The relevant policies are:

**GP2 and 3.6** require new development to make a positive contribution to the quality of the environment and the principles of sustainable development.

**ENV1:** Identifies the Green Belt boundaries.

**ENV2:** Seeks to control development in the Green Belt. Any engineering or other operation or the making of a material change of use of land is inappropriate in the Green Belt if it conflicts with the openness and purposes of the Green Belt.

**ENV3:** Relates to detailed evaluation of proposals within the Green Belt.

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

**ENV14:** Encourages reclamation and development of derelict and previously developed land where possible in accordance with other policies. Where previous uses have affected the stability of the site the application must be accompanied by a site investigation report.

**ENV18:** relates to the protection of trees within Conservation Areas

**ENV23:** requires new development to take account of the natural environment and nature conservation opportunities.

**ENV25:** Proposals for development which affect archaeological sites will normally be accompanied by an evaluation of the archaeological resource.

**ENV26:** Seeks to protect the Borough's industrial archaeology including canal heritage.

**ENV29:** requires development to preserve or enhance the character of a Conservation Area

**ENV30:** seeks to protect the Borough's Registered Parks and Gardens of Special historical Interest from the effects of inappropriate built development and insensitive alteration.

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

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

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

**LC1:** proposes the enhancement of urban open spaces

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

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

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

### **Designing Walsall**

DW3 Character

All new development must be designed to respect and enhance local identity  
DW9 High Quality Public Realm

New development must seek to ensure it creates places with attractive environmental quality  
A quality public realm plays a key role in establishing the environmental quality experienced by people within the borough. It is achieved through well considered materials, planting...  
Investment ... can turn public spaces into memorable and enjoyable places.

Arboretum Conservation Area Appraisal and Management Plan 2007

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

Provides guidance on development which may adversely affect trees, important species and habitats.

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

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

'It is considered in this case that the relevant provisions of Designing Walsall and Conserving Walsall's natural environment are consistent with the NPPF.'

### **Consultations**

**Natural England** – No objections.

**Conservation Officer-** No objections subject to safeguarding conditions for details of the retaining wall, design of the boundary fence/walling to the residential properties, design of the gabions, materials of all hard landscaping, including size, colour and arrangement of fill to the gabions

**Pollution Control (Contaminated Land)** – No objections subject to safeguarding conditions requiring soils (including from the former landfill) to be tested to ensure they are suitable for reuse within the development to not cause harm to human health, any soils deemed not safe for reuse to be removed to a licensed facility, lorries removing contaminated material shall be sheeted to ensure material does not escape and any imported material I tested for to ensure no harm to human health.

**English Heritage-** No objections to the removal of the dangerous accretion of tipped spoil, stabilise the boundary and enhance through new landscaping an unsightly corner of the historic park

**Ramblers Association-** Looking at the maps, etc. we don't believe there are any public Rights of Way impacted directly by this proposal - the nearest we can find being WAL 63 (Broadway North – Buchanan Road) which is some distance away. However, the work involved looks extensive and will certainly impact on local paths within the Arboretum in the area of the new Visitor Centre and may cause some pavement disruption in Buchanan Avenue and Victoria Terrace.

If the passage of pedestrians in those locations is well coordinated throughout this operation, then we don't believe there will be any significant problems.

**Countryside Services-** No objections

**Clean and Green (incorporating Greenspaces)-** Fully support the application

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**Landscape** – No objections to the scheme although major reservations about the detail including the brick coated concrete retaining wall, soil depths for tree planting and future maintenance of the landscaped embankment. Recommend conditions for the specification of gabion and retaining walls, soil depths. Planting specifications, phasing of works and maintenance of proposed works.

**Pollution Control (Scientific Team)** – recommend that the applicant agree environmental control/mitigation measures to ensure nearby residents are not unduly affected subject to safeguarding conditions for; Site work(s) and operation hours, including days, Plant, machinery and equipment to be used and typical noise levels, including likely levels at sensitive receptors, Whether any machinery is likely to give rise to vibration, for example piling and/or vibro-compacting, Whether equipment/machinery will be integrally silenced, Whether mobile and portable air compressors, pumps and electricity generating sets shall be of a recognised proprietary low-noise design, Plans to use acoustic screens to control noise from site operations and works and a method statement for the purposes of controlling dust from such operations.

**Public Rights Of Way** – No objections as there are no recorded public rights of way across or adjoining the site. All paths within the park maintained by Clean and Green Services as part of the existing maintenance arrangements.

**Transportation** – No Objections as the impacts of the development are not severe subject to ensuring the highway is free from mud and material emanating from the works on site

**Environment Agency** – Objects until a satisfactory Flood Risk Assessment is submitted. Whilst no objections to the embankment works themselves, resulting in spoil within Flood Zone 3 without any mitigation, may result in a high probability of flooding and risk to third parties. In addition, the site compound is located within the floodplain. Demolishing the embankment and recreating a stable one is considered to not impact on controlled waters subject to a safeguarding condition.

**Fire Service** – No objections.

**Equality and Diversity**- No objections

**Black Country Biodiversity & Geodiversity Partnership**- Objects to the proposal and the opportunity should be taken to improve and enhance the geological features by exposing the quarry face. The arboretum is one of the few places where Much Wenlock Limestone Formation of Silurian age is exposed. Geology is a key component of Black Country heritage and can form a principal visitor destination as part of the UNESCO endorsed Black Country Geopark. In addition objections to the wholesale planting regime, which will obscure the geological features

**Tree Officer**- No objections although concerns at the lack of topsoil to sustain tree growth (currently 150mm, would increase to 500mm), loss of trees from the embankment detrimental to the Conservation Area, landscaping the embankment important to maintaining the character of the Conservation Area, proposed mix of planting inconsistent with surroundings. Suggest conditions for further earthwork details including depth and fill material and revised landscaping scheme to be submitted.

**Severn Trent Water**- No objection subject to a condition regarding the public sewer proximity to the works being undertaken. *(The proposed condition does not meet the 11/95 tests so is included as a note)*

**Ecology** – No objections to the revised landscape plan comprising predominantly native trees and shrubs with a woodland ground flora. These comments relate to the ecological, geological, landscape and arboricultural aspects of the development. This should eventually provide a wooded backdrop to the Arboretum following the stabilisation works to the bank.

Further information is required of the growing medium for tree and shrub planting on the embankment. It could be dealt with through planning condition. Further hard and soft landscape details are required but these again can be secured through planning conditions. The limestone cliff below Victoria Terrace is important geologically. Ideally the proposals should be amended to reveal more of this rock face. Certainly during the works any rock faces exposed should be examined and recorded by an experienced geologist. If the works require any works below the waterline within the adjacent lake, the application should not be determined until a white-clawed crayfish survey has been undertaken. Measures will be required to ensure that debris or other contaminants do not enter the lake as a result of these proposed works.

### **Public Participation Response**

None

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

### **Determining Issues**

- Greenbelt and Principle of development
- Land Stability
- Character of the Registered park and Conservation Area
- Flooding
- Archaeology/Geology
- Relationship to surrounding properties
- Landscaping/Ecology/trees

### **Observations**

#### **Greenbelt and Principle of development**

The tipped material along the northern boundary of the park is considered to be inappropriate development in the greenbelt by virtue of openness and character of the greenbelt. It can also be considered inappropriate tipped material in the Conservation Area and in the Registered Park. Removing the tipped material along the northern boundary of the park is considered acceptable in greenbelt terms, as it removes the harm of the inappropriate development. Removing the tipped material also improves the visual impact of the registered park and conservation area. The tipped material is showing signs of slippage causing concern for public safety to users of the park and adjoining residential occupiers, including the resident responsible for the tipping of the material and subsequent construction of their parking area, boundary treatment and creation of additional garden area on top of the embankment. This all served to create encroachment into the park and creating a significant instability of the embankment that raises public safety issues. Resolving the unstable embankment has already resulted in the removal of 31 mature trees that were showing signs of lean posing further public safety concern because of the tipped material, creation of the parking area, boundary treatment and garden on top of the resulting embankment.



Removing the unstable embankment back to the original park boundary, the proposal includes the stabilisation of the embankment, landscaping of the embankment including tree replacement and creation of new boundary treatments to the adjoining residential properties and may also afford the opportunity to expose some of the original quarry face. The removal and stabilisation of the embankment is also required to ensure the safe implementation of the new visitor centre, the final part of the parks upgrade. It is considered that the removal of the trees, tipped material, re-engineering the embankment and landscaping the resulting embankment is appropriate in greenbelt terms plus appropriate for the park, conservation area and the continued safe use of this part of the park by the public and staff.

### **Land Stability**

The applicant's engineers carried out a slope stability assessment to ascertain the content of the slope material and its structural integrity. Concluding the investigations, the top of the embankment within the created parking area for 8 Victoria Terrace, there is a growing tension crack, signs of instability in the slope including failure of lower gabion baskets, trees starting to lean, although, it is acknowledged the presence of the trees has probably slowed the failure of the embankment. There is also evidence of material retaining the slope between the trees bulging another sign of the embankment starting to fail. The gardener's compound at the bottom of the slope has been cleared and now has restricted access, which limits any potential public safety risks at the bottom of the embankment where it may slip. There is still a public safety risk at the top of the embankment with the owner of 8 Victoria Terrace continuing to use the parking area.

It has also been observed that the owner of 8 Victoria Terrace has recently tipped further builders material at the top of the embankment and this is also likely to have an impact on the stability of the embankment. The recent heavy rain is also likely to have an impact on the embankment slipping from its current position. Consequently, there is becoming an increasing urgent need to stabilise the embankment to minimise public safety impacts and that until the stabilisation has been carried out the occupier and visitors of 8 Victoria Terrace do not access or use the area at the top of the embankment.

The trees on the embankment have been removed using emergency powers within the protected tree legislation before the bird-nesting season starts to ensure that the embankment stabilisation can take place at its earliest opportunity to safeguard public safety.

In removing and stabilising the embankment, the material removed will be tested and if safe, will be reused within the park for continuing upgrade of landscaping. Any material that is considered unsuitable for reuse within the park shall be transported off site to a registered and licenced landfill.

The stabilisation of the embankment will also allow the safe implementation and then safe use of the new visitor centre at the base of the embankment.

### **Character of the Registered Park and Conservation Area**

The application proposes substantial ground works and engineering to stabilise and repair a section of the northern boundary to the Arboretum Park. The park has suffered from residential encroachment, resulting in the construction of unauthorised structures with the park boundary. The NPPF is clear that enhancing conservation areas will be supported, including reversing damaging development such as this.

This application is being implemented with the extension and conversion of an existing building to a visitor centre, which is in close proximity to the embankment and landscape to be restored.

The Arboretum Conservation Area Appraisal and Management Plan refer to the plans to fully restore the park, stating;

*'The principal aims of the restoration and enhancement proposals will be to restore and repair the historic landscape, buildings and structures as well as focusing on the wider enhancement of the park and its facilities. The aim will be to meet the needs, demands and aspirations of the visitors and the local community, represented by groups such as the Arboretum User Group and Friends of Mellish Road Church, and to cater for the many events and activities that are organised in the Park, in essence an holistic master plan for both the restoration and regeneration of the park.'*

*'When complete, proposals will include the repair, restoration and enhancement of the Arboretum landscape including soft planting, buildings, lakes and streams and new and improved play and youth facilities'.*

The detailed design of the soil structure and planting should be guided by the Council's landscape designer and full support to the general restoration of the parks original form. The use of gabions at the base of the deepest sections of the new slope is acceptable.

A section of planted concrete walling is required to retain part of Victoria Terrace closest to the lake. This will need to be planted to provide a year round cover to enhancement the appearance of the park.

Safeguarding conditions for the design and methodology of implementation of the temporary access bridge does not cause damage to the parkland. Additional conditions required for the detailed design of the retaining wall, detailed design of the boundary walling/fencing to the elevated residential properties, detailed design of the gabions (including size, colour and arrangement of the fill) and the materials for all-hard landscaping. These conditions are considered to meet the tests within circular 11/95 subject to their final wording.

### **Flooding**

This part of the park falls within flood zone 3 and has historically suffered from flooding. As part of the parks improvements and especially the delivery of the new visitor centre, improvements to land drainage have been carried out to minimise the affects of flooding. It is considered that the stabilisation of the embankment would not exacerbate any potential flooding of this part of the park.

### **Archaeology/Geology**

As set out earlier in the report, the park was formed in 1873 from former limestone mine workings after they had naturally flooded forming the two pools. The embankment that has been tipped and once removed is likely to expose the original face of the limestone works. This is considered to be Much Wenlock Limestone Formation of the Silurian period and one of the few places in Walsall where it will be visible. Geology is a key component of the Black Country heritage and the park with its new visitor centre is likely to become a visitor destination in the up-coming UNESCO endorsed Black Country Geopark, which will be a member of both European and Global Geopark Networks. Consequently, it is recommended that if it is possible, subject to public safety, that part of the geology be left exposed in the stabilisation of the embankment. It is considered that this could have a positive impact for visitor numbers to the park and Walsall. Conditions can be used to secure amendments to the scheme to ensure exposure of the geology of the embankment.

### **Relationship to surrounding properties**

The embankment is closest too and likely to have the most impact on 8 Victoria Terrace, the occupier of which, tipped the material and has led to this planning application for the removal of and stabilisation of the embankment. Given the public safety concerns of the embankment, whilst the occupier of 8 Victoria Terrace will lose the parking area created by the tipping, it is considered that overall the loss of the embankment can only be a positive outcome, because there is a risk that if the embankment fails, that it may cause more than the tipped material to fail and slide into the park.

The other property directly affected is 8 Buchanan Avenue. The occupier of 8 Victoria Terrace, tipped material along the boundary of 8 Buchanan with what was potentially going to be a vehicular access to Buchanan Avenue.

Beyond these two properties, other occupiers of houses and users of the park are generally affected by purely visual amenity which will extend over a much wider vicinity, especially now the trees have been removed and the embankment works carried out as the restoration and growth of the new trees will take several decades to get close to the quality of the existing landscape. There may be some environmental impacts from the planned works to the embankment from noise, dust, vibration and working hours. It is considered that this would be over a short period of time and resolves a public safety concern. It can be mitigated through safeguarding conditions.

Occupiers of Arboretum Road will also have some temporary impacts as construction traffic comes and goes during the works of the embankment and subsequent construction of the visitor centre. It is considered that this impact, especially in resolving a substantive public safety impact would not outweigh any particular amenity impact to occupiers of Arboretum Road sufficiently to warrant the refusal of this planning application.

### **Landscaping/Ecology**

A revised planting scheme has been received which would establish a wooded embankment predominantly using native species of tree shrub and ground flora. The species proposed are ultimately smaller than the scheme originally submitted and should put less pressure on the stability of the bank as they mature.

There has been no progress on the design of a geotechnical scheme to support plant growth. This can be secured through planning condition. The maintenance of the landscaping has not been detailed in the application but can be resolved through a further planning condition.

Landscaping officers have reservations about the proposed details and the visual appearance of the completed retaining wall and gabions. The scheme proposed to clad the solid concrete retaining blocks with bricks for its whole length and up to 3.6metre height. It is considered that this will look oppressive and would be better that the wall has detailing to 'break up' the expanse of brick or the installation of a more textured retaining wall. These changes can be secured through suitably worded conditions. The landscaping officer echoes the conservation officer in asking for further details for the fill of the gabion wall. This can be achieved by a suitably worded condition.

The following conditions have been requested and include; full specification including material choice on retaining wall and gabions, specification, depths of topsoil / subsoil / growing medium and mulches, particularly on the engineered slopes, specifications for all planting to include: full details of sizes / container volume / seed mixes / plant numbers / provenance / botanical and English names and methods of planting, phasing of works and the future maintenance of proposed works. These conditions are considered to meet the tests within circular 11/95 subject to their final wording.

The projects engineers have enquired about a crayfish survey. This would only be required should the embankment works need to go below the waterline of the pool. As part of the project a screen is to be erected to safeguard debris from falling into the pool. The screen and any requirements for crayfish can be secured via safeguarding conditions.

The removal of the existing, unstable banking is well documented in the submitted evidence and is supported. It is important that the mature vegetation necessarily removed, is replaced to minimise the adverse effects on the character of the Conservation Area and the overall amenity value of the area.

Concerns about the suitability of the landscape scheme proposed and the lack of any technical information demonstrating that the restored bank could support tree and shrub growth has resulted in a revised landscape plan has been submitted replacing trees and shrubs on the restored embankment.

Insufficient information has been submitted regarding the design of an appropriate growing medium for trees and shrubs. 150mm depth of topsoil over an inert fill is insufficient to sustain any tree or shrub growth. A suitably worded safeguarding condition is proposed to deal with this part of the proposal.

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

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

#### **Recommendation: Grant subject to conditions and resolving flooding issues**

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.

2a. Prior to the commencement of any engineering works details of all environmental control measures listed below shall have been submitted to and agreed in writing with the Local Planning Authority;

- Site work(s) and operation hours, including days.
- Plant, machinery and equipment to be used and typical noise levels, including likely levels at sensitive receptors.

- Whether any machinery is likely to give rise to vibration, for example piling and/or vibro-compacting.
- Whether equipment/machinery will be integrally silenced
- Whether mobile and portable air compressors, pumps and electricity generating sets shall be of a recognised proprietary low-noise design
- Plans to use acoustic screens to control noise from site operations and works.
- A method statement for the purposes of controlling dust from such operations.

2b. The agreed scheme shall be fully implemented and retained throughout the works to complete the removal of and re-engineering, landscaping of the embankment and subsequent construction of the new visitor centre.

Reason: To mitigate any concerns of disturbance to surrounding residential occupiers from noise, dust and vibration during the removal and re-engineering, landscaping of the embankment and subsequent construction of the new visitor centre.

3a. Prior to the commencement of any engineering works until full details of measures to prevent debris and other contaminants entering the adjacent lake have been submitted to and approved in writing by the Local Planning Authority.

3b. The approved scheme shall be fully set in place prior to development and remain in operation until works have been completed.

Reason: to ensure the protection of the adjacent lake from contamination resulting from the approved development.

4a. Prior to the commencement of the development a scheme to ensure the highway is free from mud and material emanating from the works on site shall be submitted to and agreed in writing with the local planning authority.

4b. The agreed scheme shall be fully implemented and retained throughout the works to complete the removal of the embankment and its re-engineering, subsequent landscaping of the embankment and the construction of the new visitor centre.

Reason: Highway safety, appearance of the conservation area and public safety

5. Prior to the installation of the replacement engineered embankment and landscaping, the exposed bedrock geology shall be recorded by geologists and available within the new visitor centre.

Reason: To record and preserve the historic heritage geology and landscape of the locality

6a. Prior to any excavations below the waterline of either pools, a crayfish survey shall be carried out and submitted to and agreed in writing with the local planning authority.

6b. The agreed scheme shall be fully implemented including any mitigation and retained throughout the construction period.

Reason: To safeguard protected species

7a. Prior to the installation of the new-engineered embankment including full details of the landscaping, including a scheme to expose more of the bedrock geology the following details shall be submitted to the Local Planning Authority and approved in writing;

- Engineering scheme to provide structurally stable conditions for the growth of tree and shrub planting shown on the submitted landscape plan. Details shall be provided of proposed depths and materials of fill and surface materials to ensure the submitted landscape scheme can be successfully implemented and survive in the long-term.
- Preparation of land for planting.
- Specification and depths of topsoil/ subsoil/ growing medium and any mulches.
- Density of planting/ sowing.
- Specifications for all planting to include: full details of sizes/ container volumes/ seed mixes/ plant numbers/ provenance/ botanical and English names and methods of planting.
- Any phasing.
- A revised scheme that allows exposure of some of the bedrock geology
- Full hard landscape specification including material choice (including size, colour, texture and arrangement of fill to the gabions) on retaining wall and gabions.
- details of the retaining wall including materials, including their size, colour and texture and finish,
- design of the boundary fence/walling to the adjacent residential properties, including the materials their size, colour and texture
- Maintenance and management of soft landscaping scheme throughout establishment and operational phasing.

7b. The agreed scheme shall be fully implemented in accordance with the approved scheme before any part of the arboretum visitor centre development is brought into use and retained thereafter.

Reason: To protect the visual amenity of users of the Conservation Area, registered park and appearance of adjacent listed buildings and ensure the satisfactory appearance of the development.

8. Prior to the re-use of any materials from the existing embankment are used in the installation of the new-engineered embankment the soils (including from the former landfill) are to be tested to ensure they are suitable for reuse within the development to not cause harm to human health, any soils deemed not safe for reuse to be removed to a licensed facility. Any lorries removing contaminated material shall be sheeted prior to leaving the site to ensure material does not escape and any imported material is tested for to ensure no harm to human health.

Reason: To protect human health

9. The development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:  
Drawings:

Location Plan Jan '14 JMC

Site Plan showing contractors compound Jan '14 JMC

Revised Landscape proposals DD42069/1 Rev A Feb 2014

Slope and Retaining Wall Stabilisation 18 May 2012

Walsall Arboretum Slope Stability Assessment October 2011

Design and Access Statement

Construction Plan 47050101 14/5/12

Earthworks construction details (sheet 1 of 2) 47050101/GS/06 14/5/12

Earthworks construction details (sheet 2 of 2) 47050101/GS/07 14/5/12

General Arrangement Plan 47050101 14/5/12

Flood Risk Assessment for Walsall Arboretum Final July 2009  
Retaining Wall Plan & Sections 47050101 16/5/12  
Site Clearance Plan 47050101/GS/08 14/5/12  
Site Investigation & Constraints Plan 47050101/GS/01  
Site Set Up Plan  
Temporary Bridge 47050101/S/04 16/5/12

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

#### NOTE

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

#### CL2

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



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/03/2014

**Plans list item no: 5.**

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

**Application Number:** 13/1661/FL  
**Application Type:** Full application

**Case Officer:** Alison Ives  
**Telephone Number:** 01922 652604  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Paul Wilkes - Chartered Architects

**Applicant:** Walkfern Ltd

**Proposal:** Erection of 2 industrial buildings (Class B2).

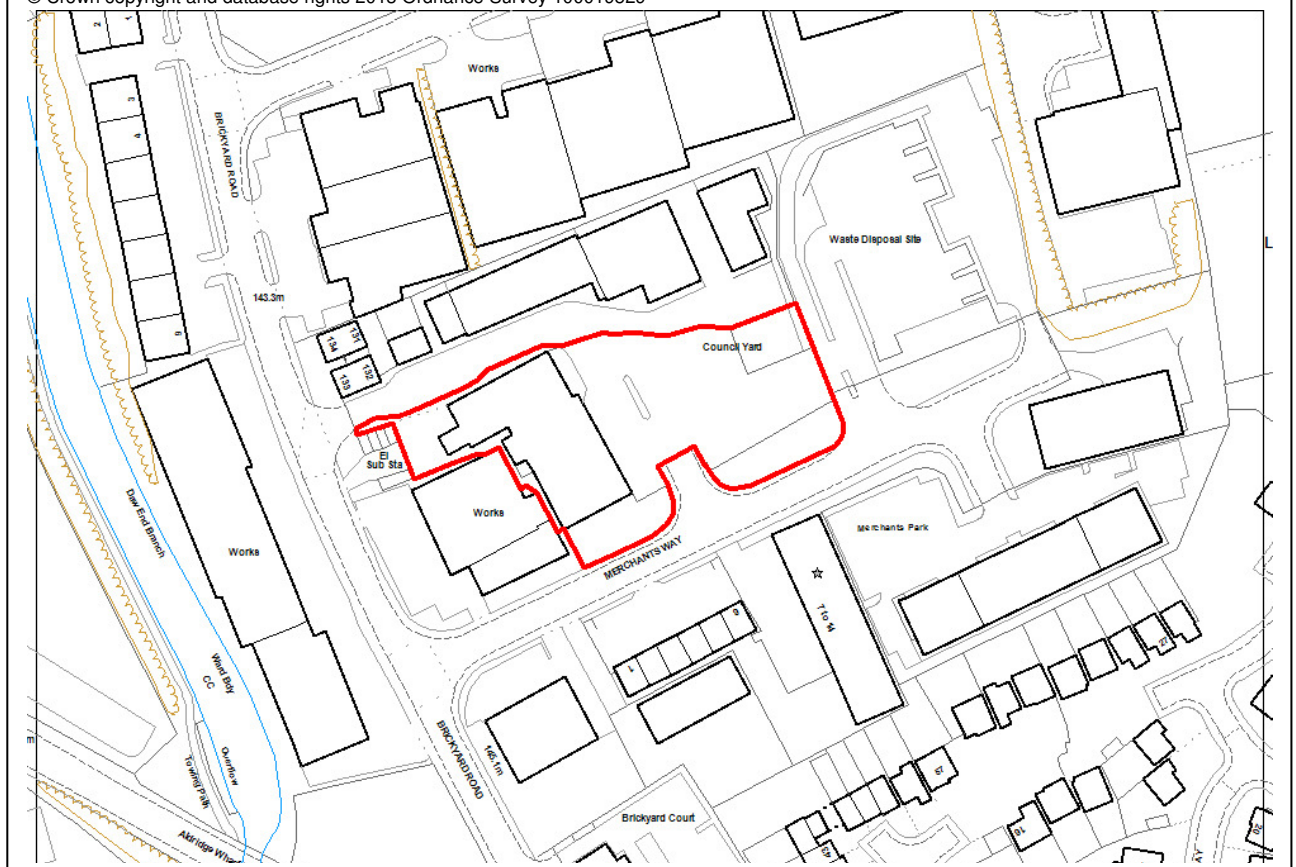
**Location:** LAND AT MERCHANTS WAY, ALDRIDGE, WALSALL, WS9 8SW

**Ward:** Aldridge Central & South

**Expired Date:** 09/04/2014

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

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## **Application and Site Details**

The proposal is for the erection of 2 industrial buildings for Class B2 general industrial use on a vacant site in Merchants Way, Aldridge. The site is presently owned by Walsall Council.

The site is within a Core Employment Area located between a Council operated recycling centre and existing industrial premises and there are industrial units opposite. There are flats in Brickyard Road that adjoin the service road access at the rear of the site. The site is secured by metal fencing and gates that is presently set back from the footway in Merchants Way and there is a grass verge with trees within it between the footway and the fencing.

The proposal is to erect the two units on either side of the existing access with turning and manoeuvring space between and parking on the present grass verge area. There are 20 parking spaces and 6 disabled parking spaces proposed. A freestanding bike shelter is proposed for each building. The existing fencing is to be repositioned 2m from the back of footway and the existing 7 trees replanted outside the fence within a 2m wide planting bed. Building 1 to the left of the access is 15m wide and 31m long with first floor offices and boardroom above in part (15m x 6.6m). Building 2 to the right of the access is 15m wide and 33.5m long and is split into five smaller units each with toilet facility. The roller shutter doors on each building face the central turning/manoeuvring area.

The drawings show the building constructed of plastisol coated profile steel sheeting to roof and walls in grey with blue trims and doors and windows also finished in blue.

The Design & Access Statement – Describes the former use as a Council depot and proposed use for speculative industrial use. It describes the amount, layout, scale, landscaping, appearance and access of the proposals. The size of the buildings is designed to accommodate HGV trailers and the design to match similar buildings in the area.

The Planning & Sustainability Statement – Identifies the speculative nature of the proposal and how it will allow for adaption by end users to provide economic regeneration of this vacant site. It describes the layout and how the units screen the waste recycling centre yet respect the surroundings. Reuse of a vacant site also adds to the sustainability credentials of this site.

The Site Assessment – Identifies the results of a ground investigation, contamination assessment, gives an assessment of remedial measures, waste management, and geotechnical assessment and concludes that foundations should be designed accordingly and that the site is suitable for the proposed end use.

## **Relevant Planning History**

No specific history.

## **Relevant Planning Policy Summary**

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

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

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

- Promoting sustainable transport
- Requiring good design
- Conserving and enhancing the natural environment

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

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

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

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

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

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

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

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

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

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

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

On **planning conditions** the NPPF says:

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

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

### **The Development Plan**

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

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

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

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

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

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

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

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

**The Spatial Objectives** include

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP2: Outside strategic centres and regeneration corridors free-standing employment sites to provide local employment opportunities to serve communities outside the corridors will be supported.

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

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

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

EMP2: Encourages development of high quality employment land.

EMP3: Provides for local quality employment land.

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

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

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

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

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

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

ENV1: Seeks to safeguard nature conservation.

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

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

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

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

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

The relevant policies are:

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.

GP5: Promotes equal opportunities to ensure the needs of all sections of the community are properly taken into account and that there is no discrimination against any individual or group on the basis of race, gender, age, poor mobility, disability, poverty, or any other factor.

GP6: Developments to which the public will have access will only be permitted if designed to provide good access for disabled people.

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

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

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

ENV32 & 3.116: Seeks to create high quality environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV33 & 3.117: deals with landscape design and opportunities to create and enhance environmental quality.

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

JP5: Core Employment Areas are locations of strategic importance and will be safeguarded for core employment uses.

T1: Seeks to improve access and help people get around

T7 – Car Parking

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

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

T10 (a): Refers to accessibility standards.

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

T13: Parking Provision

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

Use Class B2: 1 car park space per 50m<sup>2</sup> up to 250m<sup>2</sup>, then 1space for every additional 100m<sup>2</sup> of gross floor space;1 bike locker for every 10 car park

Spaces and taxi facilities.

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

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

### **Designing Walsall SPD**

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

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

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

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

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

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

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

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

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

### **Consultations**

**Transportation** – No objections subject to securing provision of parking and access. Conditions are recommended to address this. The parking requirement is for 15 spaces plus 2 disabled spaces. The development provides 20 spaces and 6 disabled bays which is acceptable. Utilising the existing access point is appropriate.

**Pollution Control (Scientific Team)** – No objections in principle. It is recommended that noise mitigation measures are secured by conditions to ensure nearby flats are not unduly impacted.

**Pollution Control (Contaminated Land)** – No objections subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues associated with the site. Conditions to address these concerns are recommended.

**Environmental Health** – No objections but support pollution control comments regarding the mitigation measures to protect nearby flats.

**Fire Service** – No objections.

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

### **Public Participation Response**

None received.

### **Determining Issues**

- Principle of development
- Layout, Access and Design
- Relationship to adjoining properties
- Relationship to trees

### **Observations**

#### **Principle of development**

The site is within a Core Employment Area where Class B1(b), B1(c), B2 and B8 uses are supported. The proposals are for industrial units for Class B2 general industrial use which is acceptable in principle.

The proposal is for speculative units that can be flexible to accommodate future users to encourage employment and offer economic benefits.

For these reasons the proposals are considered in accordance with BCCS policy EMP3 and UDP policy JP5.

#### **Layout, Access and Design**

The proposal shows the layout of the units positioned along the side boundaries of the site end-on to the highway in Merchants Way with turning and manoeuvring space between them. There are industrial units opposite that have the same layout. Building 1 to the left of the access has offices facing Merchants Way with windows overlooking the car parking and public space. Building 2 will partly screen the recycling yard adjacent.

The proposed access utilises the existing gates and there is ample space within the site for turning and manoeuvring larger vehicles. The parking provision accords with policy and provision for disabled parking and cycle storage is also made.

The scale of the buildings is acceptable and the profiled steel design with roller shutters is typical of the surrounding area and considered to be in keeping with this core employment area.

On the basis of the above comments the layout, access and design are considered acceptable.

### **Relationship to adjoining properties**

The layout does not have any significant impact on the operation of adjacent industrial occupiers and the proposed buildings are appropriately sited so as not to mask any key entrances of windows. The proposed access is also appropriate to serve the development without causing significant harm to adjoining premises.

There is an isolated block of flats on Brickyard Road that adjoin the access to the units at the rear of the site and are within 10m of the rear boundary of the site. The rear boundary of the site nearest to the flats is presently fenced. Pollution control officers recommend conditions to protect the amenity of these occupiers including restricting hours of operation and activities external to the buildings.

The surrounding area is predominantly industrial and despite the proximity of residential flats to the access to the adjacent site at the rear conditions are recommended to secure measures to protect amenity of occupiers.

### **Relationship to trees**

There are seven trees on the verge at the front of the site in Merchants Way that presently fall outside the fenced enclosure. The proposal includes repositioning the fencing to create a secure parking area and to relocate the trees in a 2m wide verge outside the new fence line. This allows adequate space to maintain the trees and will help assimilate the new development into its surroundings. There is no significant landscaping on surrounding sites so the tree retention is welcomed on this site.

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

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

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

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

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

2. In order to address potential impact from land contamination the following matters shall be addressed:

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

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

3a. Prior to the commencement of the development drainage plans for the disposal of surface water and foul sewage shall be submitted to and approved in writing by the Local Planning Authority to include the provision of oil interceptors if it is demonstrated that they are required.

3b. The drainage scheme shall be implemented in accordance with the agreed details before the development is first brought in to use.

*Reason:* To ensure the development is provided with a satisfactory means of drainage and reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

4a. Prior to the commencement of the development full details of the proposed cycle shelter facilities shall be submitted to and approved in writing by the local planning authority.

4b. Prior to the first occupation of either unit, the cycle shelter facility shall be fully installed in accordance with the approved details.

4c. The cycle shelter facilities shall thereafter be retained and used for no other purpose.

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



5a. Prior to the first occupation of the development the existing palisade fencing on the northern boundary of the site shall be replaced by a solid boundary fence which shall be a minimum height of 1.8 metres, imperforate and sealed at base, with a minimum superficial mass of 15 kg/m<sup>2</sup>.

5b. The boundary fence shall be maintained in accordance with the details specified under condition 4a of this permission throughout the life of the development.

*Reason:* To minimise noise impacts to nearby residents.

6a. All machinery or equipment required in association with the approved use of the buildings shall be located inside the buildings or within acoustic enclosures in accordance with details to be first submitted to and approved in writing by the local planning authority.

6b. All acoustic enclosures shall be maintained thereafter in accordance with details agreed in accordance with condition 5a of this permission.

*Reason:* To protect the amenities of nearby residents.

7. No external operations, including deliveries and vehicle movements, shall take place within the site between the hours 2300 to 0700.

*Reason:* To protect the amenities of nearby residents.

8. No storage shall take place external to the approved building structures.

*Reason:* In order to protect the residential amenities of nearby occupiers.

9a. Prior to the units first coming into use, all parking and vehicle manoeuvring areas associated with that unit shall be fully consolidated, hard surfaced, drained and brought into use including the clear demarcation of the parking bays on the ground.

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

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

10. Prior to the development first coming into use, a pair of tactile pedestrian dropped crossings shall be installed across the bell mouth access to the site off Merchants Way, in a position and to a specification to be first agreed in writing with the Local Planning Authority in conjunction with the Local Highway Authority and the works shall be fully implemented in accordance with the agreed details.

*Reason:* To improve pedestrian links for all users in accordance with UDP policy GP5, GP6, T1 and T8.

11. The external elevations of the buildings hereby approved shall be constructed in accordance with the materials indicated on the approved plans 2813:4 and 2813:7.

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

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

- Location Plan (2813:9) received 4/12/13
- Block/Roof Plan (2813:8a) received 4/12/13
- Ground Floor Building 1 (2813:1) received 4/12/13
- First Floor Building 1 (2813:2) received 4/12/13
- South & East Elevations Building 1 (2813:3) received 4/12/13
- North & West Elevations Building 1 (2813:4) received 4/12/13
- Plan of Building 2 (2813:5) received 4/12/13
- South & East Elevations Building 2 (2813:6) received 4/12/13
- North & West Elevations Building 2 (2813:7) received 4/12/13
- Design & Access Statement prepared by Paul Wilkes received 19/12/13
- Planning & Sustainability Statement prepared by Paul Wilkes received 19/12/13
- Site Assessment prepared by GRM (GRM/P5279/IA) received 4/12/13

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).

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

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

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

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



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/03/2014

**Plans list item no: 6.**

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

**Application Number:** 13/1692/FL

**Application Type:** Full application

**Case Officer:** Andrew Thompson

**Telephone Number:** 01922 652603

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Applicant:** CDS (Superstores International) Ltd

**Agent:** NWA

**Proposal:** Erection of canopy, new entrance and front facade, alterations to car park to provide disabled parking provision and alterations to escape points and openings to existing building

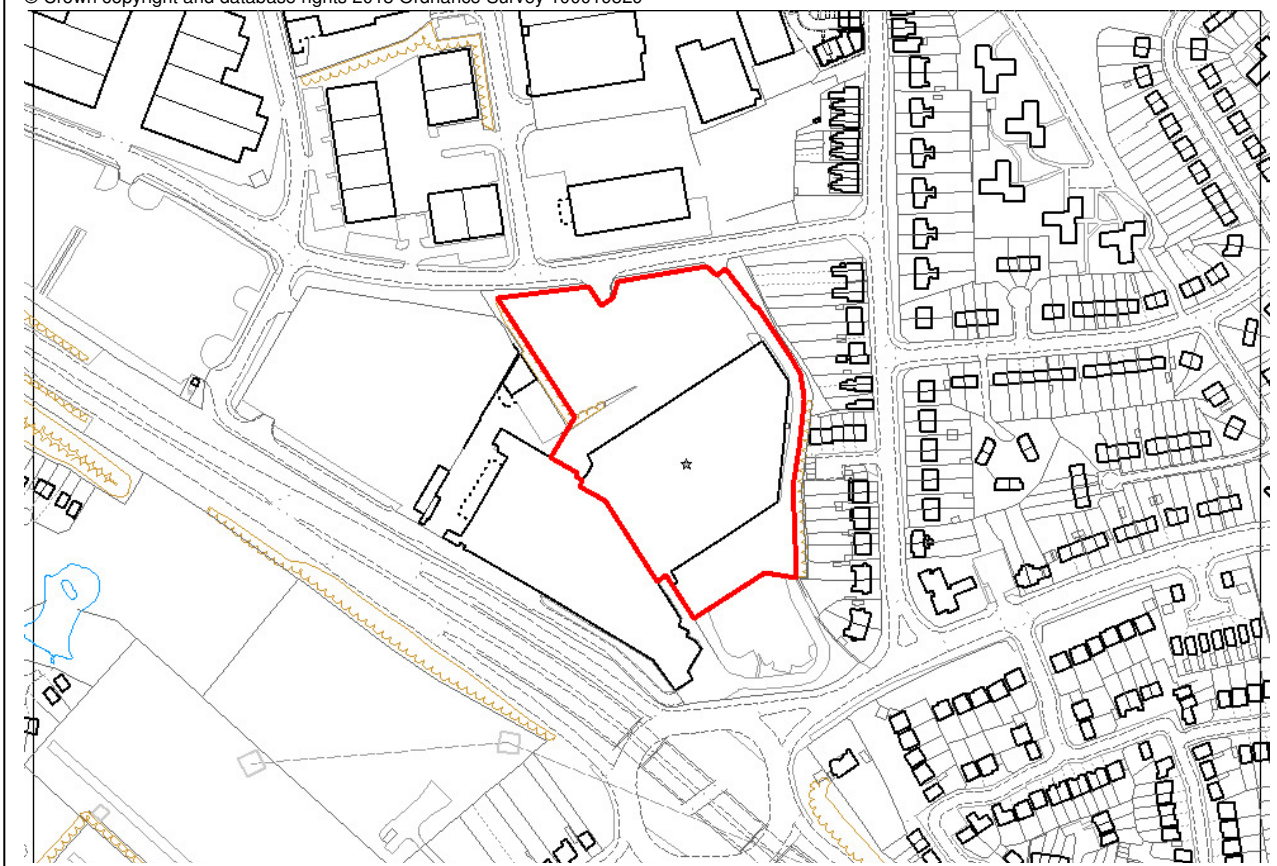
**Location:** HOOTYS SUPPLIES LTD, LONGACRE, WILLENHALL, WV13 2JX

**Ward:** Willenhall South

**Expired Date:** 08/04/2014

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

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## **Application and Site Details**

The application site is the former 'Hooty's' premises on Longacre which is currently closed being refurbished for '*The Range*' which is a comparable DIY and bulky goods operator.

The proposals include the following alterations:

- Installation of external cladding to the front elevation (cobalt blue with an orange trim – The Range corporate colours)
- Installation of a new entrance with paving and security bollards
- Construction of a glazed canopy over the entrance and disabled bays
- Alterations to door openings to create a new entrance into the garden centre
- Alterations to the fire exits and sliding exit doors
- Repainting of existing areas between disabled parking bays.

There will be no change in the number of parking spaces or the existing delivery area.

## **Relevant Planning History**

### The application site

13/0889/FL Variation of condition 3b of planning permission BC47202P to: 'no customer vehicle movements or sales shall take place except between the hours of 0800 to 2100 on Mondays, Tuesdays, Wednesdays, Thursdays or Fridays, 0800 to 1900 on Saturday and 1030 to 1630 on Sundays and public holidays' and the removal of condition 1a of permission BC47202P. Granted 30/10/2013.

08/0894/FL Variation of condition 3b to allow longer opening hours on Fridays (0900 to 2100). Granted 9/10/2009.

06/0389/FL/W3 Permanent retention of extended opening hours to 2100 on Mondays, Tuesdays, Wednesdays, during November and December only. (Variation of condition 3b of BC47202P). Granted subject to conditions 28/6/2006

03/0990/FL/W3 Variation of condition 3(b) of planning permission BC47202P. Extension of opening hours. Granted 23/09/2003 (3year temporary permission)

BC55594P Retrospective: Retention of existing polytunnel and change of use of part of existing car park for the purposes of a garden centre. Granted subject to conditions 03/08/2004

BC51164P Condition restricting the use to the applicants only was removed. 11/05/1998.

BC47202P Change of use to non-food store (Class A1). Granted subject to conditions 09/10/1997. Conditions of this permission restricted the type of goods to be sold, hours of delivery vehicle movements and hours of customer vehicle movements and sales.

### The wider site

BC27946P Factory extension Granted subject to conditions 13/11/1989

BC14167P Change of use to wholesale cash and carry warehousing and light industrial. Granted subject to conditions 26/06/1985

## **The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations)**

These have been considered by Officers through a formal screening opinion and whilst the development meets the threshold the development is not considered significant or in a sensitive area that would call for an Environmental Statement.

### **Policy Framework**

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

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

It is based on 12 **core planning principles**; the most relevant principles in this case are to:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Re-use land that has been previously developed
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth and
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

**Key provisions** of the NPPF relevant in this case include the following.

Paragraphs 18-21 encourage Planning Authorities to support and put significant weight on economic growth.

23. Local Planning Authorities (LPAs) should promote competitive town centres and set out policies for the growth and management of centres. In drawing up Local Plans authorities should address a number of issues, including the following:

- support the vitality and viability of centres;
- allocate a range of suitable sites meet needs for retail, leisure, offices and - other town centre development; and
- encourage economic activity where town centres are in decline.

30. LPAs should support a pattern of development that facilitates the use of sustainable modes of transport.

58 Developments should respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.

61 Address the connections between people and places and the integration of new development into the natural, built and historic environment.

123 Seeks to ensure that development mitigates against pollution, including noise.

On planning conditions the NPPF (203-206) says:

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

On **decision-taking** the NPPF (186-190) sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

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

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

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

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

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

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

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

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

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

The above are supported by the following policies.

CSP1 – Sets out the targets for sustainable regeneration of the Black Country through the concentration of investment into a Growth Network. This includes the ‘strategic’ centres of Brierley Hill, West Bromwich, Wolverhampton and Walsall. These are to be the areas of greatest concentration of redevelopment and regeneration in the Black Country, act as a focus for and deliver significant growth in comparison retailing and be the principal locations for other town centre uses.

CSP4 – Sets out the need for high quality place making and design

CSP5 – Sets out the need to develop and manage movement and ensure that sustainable modes of transport are promoted.

CEN1, CEN2, CEN3 – Strategic Centres are important for the regeneration of the Black Country, providing the focus for large scale and ‘higher order comparison shopping, office employment, leisure and culture and complementary uses.

CEN6 and CEN7 seeks to prevent out of centre retailing, except where there is an established local need.

TRAN1 - Sets the priorities for the development of the transport network and promoting sustainable transport modes. These involve measures to support strategic centres including Walsall,

TRAN2 - Requires development proposals to manage transport impacts of new development.

TRAN5 - Sets out the requirement for development to reduce the need to travel and encourage sustainable modes of transport.

ENV1 and ENV3 - Set out the criteria for nature conservation and design quality.

ENV5 – Seeks to ensure appropriate drainage and account for climate change

ENV7 – Seeks to deliver renewable energy and sustainable construction for new major developments.

WM5 - Resource and waste management requirements should be reflected in the design and layout of new development schemes.

### **Saved policies of the Unitary Development Plan**

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

GP2 – Environmental Protection – seeks to ensure that pollution impacts from development are designed out.

ENV10 – Seeks to prevent pollution, including noise and drainage and prevent uses that would have an adverse effect on neighbouring land uses and/or restrict the types of development that could be permitted in the locality.

ENV14 – seeks appropriate redevelopment of derelict and previously developed sites.

ENV32 – seeks to ensure high quality design from developments.

ENV33 – seeks to secure high quality landscape design from developments.

ENV35 - The design of frontages to shops and other commercial premises should be appropriate to their setting and sympathetic to the building on which they are situated.

5.8, S1, S2, S3 – Defines town centre uses, the town centre hierarchy and the boundaries of town centre. (in-centre is within Inset Map boundary, except that retailing must be within or directly adjoining the defined PSA)

S6 and S7 - seeks to prevent out of centre retailing, except where there is an established local need.



T1 – Seeks to ensure that development helps anybody, including disabled people, get in and around the development.

T2- seeks to promote bus services and accessibility to their service

T4 – seeks to manage development and the highway

T5 – highway improvements will be encouraged as part of development

T6 – sets out to ensure that pedestrian and cycling movement is improved through traffic calming methods, in particular in centres.

T7 – seeks to ensure high quality car parking design

T8 – seeks to improve promote walking and connections that allow for pedestrian movement.

T9 – Developers will be expected, wherever possible, to provide links to cycle routes, Safe Routes and Greenways which adjoin the site or pass nearby. Existing cycle routes must not be severed or otherwise adversely affected by new development unless an acceptable alternative is substituted.

T11(b) Developments which generate significant numbers of personal trips should have direct, safe and attractive access for pedestrians, cyclists and wheelchair users from the building entrance to surrounding residential areas. Seating should be provided at or near the entrances of all large developments.

(c) Where pedestrian and cycle links are considered to be sub-standard, measures must be taken to improve them. Greenways and canal towpaths can count towards this provision if they help to provide an acceptable functional link between the development and its catchment area.

T13 – seeks to ensure an appropriate level of car parking is provided.

WA3 – sets out guidance with regard to town centre uses.

### **Supplementary Planning Documents**

#### *Designing Walsall SPD*

Seeks to guide development and deliver high quality design through local distinctiveness and sustainable design.

### **Consultations**

**Transportation** – No objection

### **Pollution Control**

*Contaminated Land Team* –

*Scientific Team* –

### **Public Participation Responses**

1 letter of objection raising issues of noise and disturbance from previous employees of Hootys and the request of a solid fence to be erected on the boundary with Rose Hill.

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

### **Determining Issues**

- Principle of the use
- Proposed External alterations
- Goods and other restrictions
- Relationship to residential properties on Rose Hill



## **Observations**

### **Principle of the use (including Goods and other restrictions)**

Hooty's is an established out-of-centre location for DIY and garden goods retailing. It is noted that this unit has closed. Development Plan policy (in particular saved Policy S7 of the UDP) highlights as growth and change continue in retailing and other sectors, some large freestanding units may no longer be needed for retailing or other town centre uses. These are likely to be older premises which are less suitable in market, policy or environmental terms, and which are isolated from other shopping facilities. In such cases the Council considers that the conversion or redevelopment for other uses would be appropriate. In this location for example it is considered that conversion to industrial and employment uses would be the most appropriate use given the size, scale and nearby employment uses and links to the Black Country New Route and M6.

The Centres Study advises that as well as planning for economic growth, and growth in the retail and leisure sectors, there is a need to plan to 'rebalance' the network of centres in the Black Country to curtail and where practicable reverse the growth of out-of-centre retailing in favour of the defined centres, and to plan for renewal and modernisation of outdated provision. This forms the basis for the Black Country Core Strategy and approach to retail growth.

The applicant, *The Range*, are a DIY, home-furnishing, pets supplies and bulky goods operator, it is not accepted that a unit of this size for alternative goods could not be accommodated in a Strategic or District Centre. The applicant has not submitted any detail in terms of the sequential approach.

The lack of submitted sequential evidence is balanced against the existing A1 bulky goods retail use. The conditions attached to the previous application and Hooty's operations are considered to be appropriate in restricting goods sold from the premises.

### **Proposed External alterations**

The external alterations to the proposed unit increase the height and improve the appearance of the unit. The extensions to the building primarily relate to the new entrance canopy.

The extensions do not alter the principal elements of the store or the character of the area and are considered acceptable.

### **Relationship to residential properties on Rose Hill**

The concerns of residents are noted, it is considered that a 2.4m high acoustic fence would alleviate the concerns raised and reduce the noise and environmental impact from the proposed operations and deliveries.

With this fencing in place, it is considered that the relationship between the Unit and Rose Hill properties can be successfully managed through planning condition.

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

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

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

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

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

2. The development will be carried out in accordance with the materials shown on the approved plans.

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

3. Prior to the first occupation of the development a 2.4m high acoustic fence, with a minimum superficial density of 15 kgm<sup>-2</sup>, shall be installed along the boundary with Rose Hill properties.

*Reason:* To safeguard the amenities of Rose Hill residents.

4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1997, or succeeding legislation, no goods shall be sold to the public except those listed below under condition 5. In particular there shall be no sales of food, except for confectionary and drinks other than those listed in condition 5 below and those for consumption in the cafe.

*Reason –* To control the provision of retail outlets

5. The unit shall only be used for the sale of the following product ranges, and at any one time, the goods on sale shall include at least half of those product ranges, each representing a significant proportion of the retail floorspace:-

- Pet Food / Sundries
- Electrical
- Furniture
- Houseware / Hardware
- Household / Toiletries
- Confectionary / Drinks
- Linen / Soft Furnishing
- Outdoor / Gardening
- Stationary / Books / Cards
- Toys
- Christmas Decorations
- Clothing

Cosmetics  
Footwear  
Motor Tools  
Sports Goods  
Cafe (ancillary)  
Children's' Wear

*Reason* – To control the provision of retail outlets

6a) No delivery vehicle movements shall take place except between the hours of 0700 to 1900 on Mondays to Fridays, and 0730 to 1300 on Saturdays. No such movements shall take place at any time on Sundays, Bank or Public Holidays

b) No customer vehicle movements or sales shall take place except between the hours of 0800 to 2100 on Mondays, Tuesdays, Wednesdays, Thursdays or Fridays, 0800 to 1900 on Saturdays, and 1030 to 1630 on Sundays and Public Holidays.

*Reason:* There is potential for noise disturbance to adjoining noise sensitive properties in Rose Hill.

7. The development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:

Plans and Drawings:

Design and Access Statement

Site Location Plan

Site Plan (5839-00)

Proposed Storefront Alterations (5839-30 Rev B)

*Reason:* In order to define the permission.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/03/2014

**Plans list item no: 7.**

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

**Application Number:** 13/1695/FL

**Application Type:** Full application

**Applicant:** A H Field (Holdings) Ltd

**Proposal:** Change all windows to UPVC. Removal planning condition 9 of planning application 03/0104/FL/E6

**Location:** WESLEYAN COURT, 7 LICHFIELD ROAD, WALSALL, WS4 2HT

**Ward:** St. Matthews

**Case Officer:** Stuart Crossen

**Telephone Number:** 01922 652608

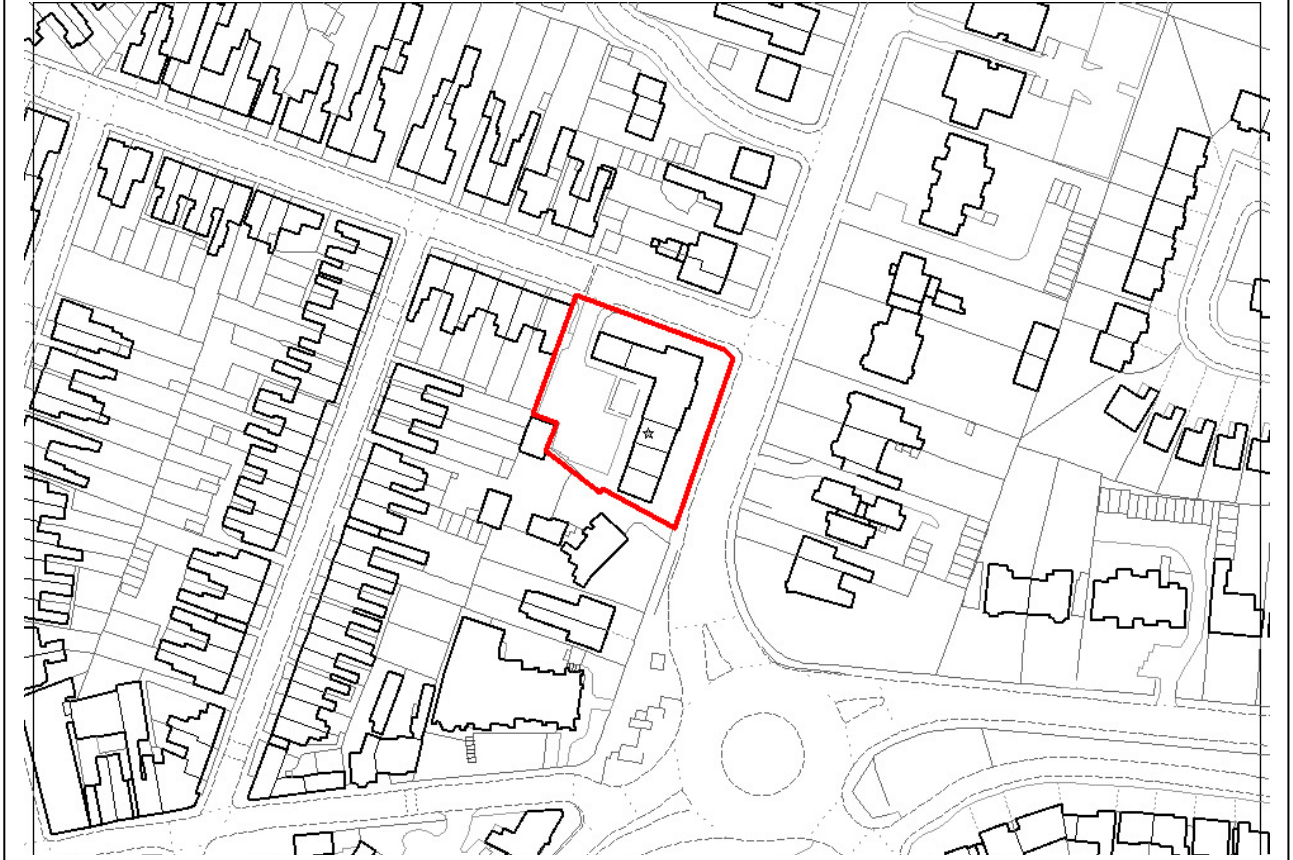
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** A H Field Properties

**Expired Date:** 14/04/2014

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

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## **Application and Site Details**

The application site is a residential flat development on the corner between Lichfield Road and Westbourne Road. The area is predominantly residential in character within the Arboretum Conservation Area. Most houses in this area are a mix of large traditional terraced, semi-detached and detached houses. The application flats have a hipped roof design which reflect the traditional roof styled of neighbouring houses, however the materials used and lack of traditional elevation features provide a more modern appearance.

The application proposes to remove condition 9 of planning permission 03/0104/FL/E6 to allow the installation of plastic windows.

Condition 9 of planning permission 03/0104/FL/E6 stated:

9. The window frames shall be made of timber and thereafter be retained as such.

Reason: To ensure the satisfactory appearance of the development.

## **Relevant Planning History**

02/0237/FL/E6 - Erection of 20 No dwelling flats, new access and associated car parking at Land corner of, Lichfield Road, Westbourne Road, Walsall. Granted Subject to Conditions 20/05/02

03/0104/FL/E6 - Erection of 20 No dwelling flats, new access and associated car parking at Land corner of, Lichfield Road, Westbourne Road, Walsall. Granted Subject to Conditions 18/03/03

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

### **National Planning Policy Framework (NPPF) and associated Technical Guidance**

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

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Always require high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- contribute to conserving and enhancing the natural environment and reducing pollution
- conserve heritage assets in a manner appropriate to their significance.

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

6. Delivering a wide choice of high quality homes.

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

53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

## 7. Requiring good design

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

57. Important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

- Planning policies and decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.

63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

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

## 12. Conserving and enhancing the historic environment.

126. Local planning authorities should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. In developing this strategy, local planning authorities should take into account:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
- the desirability of new development making a positive contribution to local character and distinctiveness; and opportunities to draw on the contribution made by the historic environment to the character of a place.

127. When considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.

128. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.

131. In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

137. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance.

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

### **The Development Plan**

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

### **Local**

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

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

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*.” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a

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Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

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

The key planning policies include

ENV2: Historic Character and Local Distinctiveness

proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness.

ENV3: Design Quality

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

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

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

### **Saved policies of the Unitary Development Plan**

Policies GP2, 3.6, 3.7 seeks to make a positive contribution to the quality of the environment, whilst protecting people and not permitting development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.



## Policy ENV29

(a) The Council will determine whether a development preserves or enhances the character and appearance of a Conservation Area in terms of:-

I. The degree of loss or alteration to property which makes a positive contribution to the character of the area.

II. The impact of any new buildings on the special townscape and landscape features within the area.

III. The scale, massing, siting, layout, design or choice of materials used in any new building or structure.

IV. The nature of its use and the anticipated levels of traffic, parking and other activity that will result.

(b) The Council will not grant Conservation Area Consent (CAC) for the demolition of property which makes a positive contribution to a Conservation Area unless the criteria set out in Policy ENV27 (c) have been complied with and satisfied. In the event of the Council granting permission for the demolition of a Conservation Area property possessing discernible architectural or historic interest, the Council will require the applicants to undertake a building recording scheme to a specified standard.

(c) The Council will not permit development within Conservation Areas that incrementally erodes those special features which the Council wishes to preserve and enhance.

3.104 The Council has a duty to preserve or enhance the character and appearance of conservation areas.

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

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

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

### **Designing Walsall (Feb 2008 as amended)**

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

DW3 – Character -design to respect and enhance local identity;

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

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

### **Other relevant legislation**

#### **Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990**

**Section 66(1) General duty as respects listed buildings in exercise of planning functions:** In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

**Section 72(1) General duty as respects conservation areas in exercise of planning functions:** In the exercise, with respect to any buildings or other land in a conservation area, of any **[F1]** functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

### **Consultations**

**Conservation** – No objections

### **Representations**

None

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

### **Determining Issues**

- Impact on the Conservation Area
- Conditions

### **Observations**

#### **Impact on the Conservation Area**

The original permission required that the windows be of timber and were approved to be finished in white. The maintenance of these windows has been poor which has affected the appearance of the development. It is considered that the removal of this condition so that plastic windows can be used would not be unduly harmful to the appearance of the conservation area in this instance due to the modern appearance of the flats.

#### **Conditions**

Since the original permission there have been case law updates and the conditions have been updated to reflect this. Pre-commencement conditions have also been removed having either already been discharged or relate to works completed over ten years ago.

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

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

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

1. Construction traffic visiting the site shall only use the section of Westbourne Road on the east side of the existing road barrier.

Reason: To protect the amenity of the residents of Westbourne Road and to comply with policy GP2 of Walsall's Unitary Development Plan.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, there shall be no vehicular access to the site, other than through the access(es) as shown on the deposited plans, without the prior approval of a planning application.

Reason: In the interests of highway safety.

3. The accessways, vehicle parking and manoeuvring areas shown on the approved plans shall be retained and used for no other purpose.

Reason: In the interests of highway safety.

4. The boundary treatment of the site approved under planning permission no.02/0237/FL/E6 shall be retained.

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

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding orders, no gates, fences, walls or other means of enclosure, except those included on the approved plans, shall be moved or erected.

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

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, there shall be no development of any kind, other than as shown on the approved plans, within the spread of any tree included in the Tree Preservation Order on the site.

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

7. This development shall not be carried out other than in conformity with the following approved plans: -

BAR 1395.PA2.001; BAR1395.PA2.101; and BAR 1395.PA2.100 all deposited on 23.1.03.

Reason: For the avoidance of doubt and in the interests of proper planning.

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





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/03/2014

**Plans list item no: 8.**

**Reason for bringing to committee: Significant community interest**

**Application Number:** 14/0010/FL

**Application Type:** Regulation 3 Consent (V)

**Applicant:** Engineering & Transportation Services

**Proposal:** Creation of car park for 8 vehicles on existing grass verge.

**Location:** Land fronting 37 to 51 Stanley Road, Walsall, WS4 1EJ

**Ward:** Rushall-Shelfield

**Case Officer:** Paul Hinton

**Telephone Number:** 01922 652607

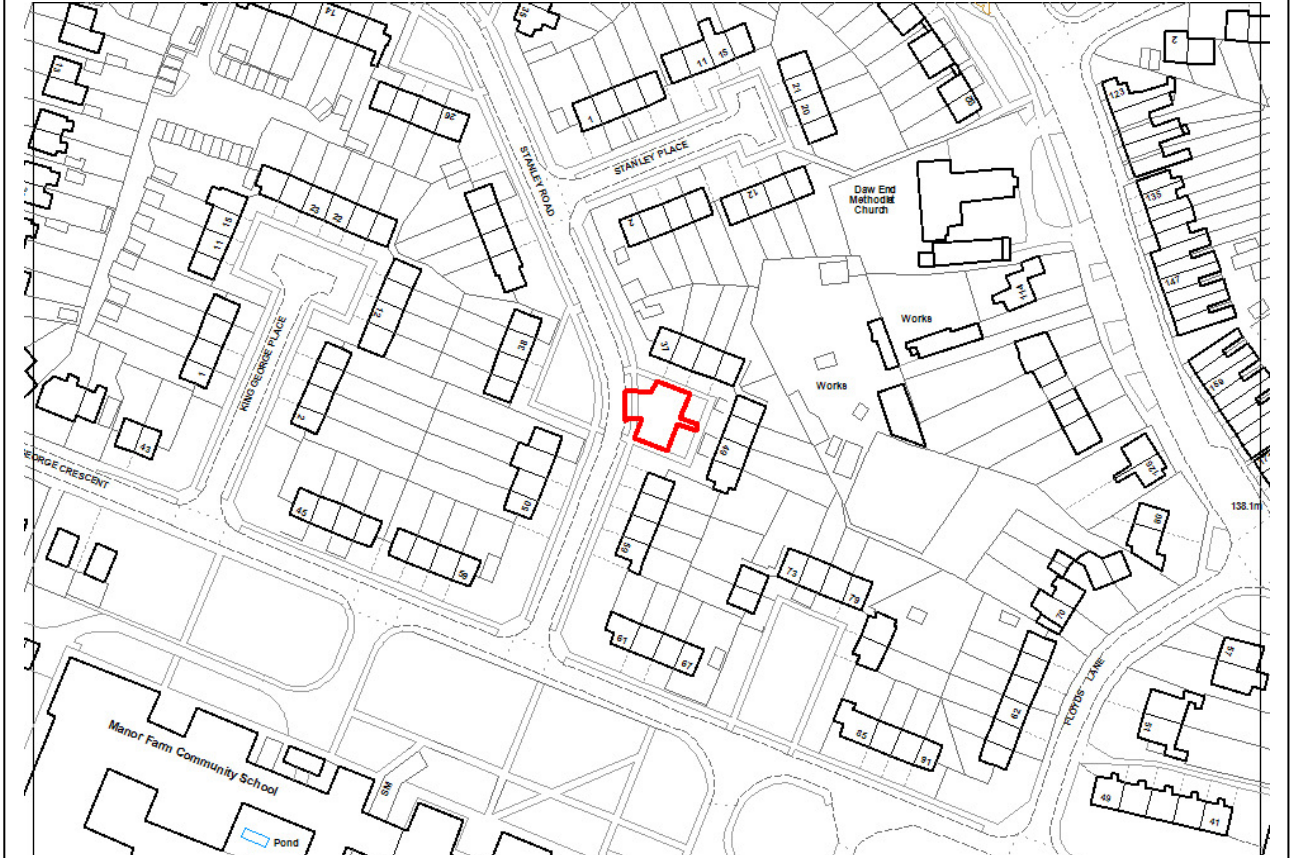
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:**

**Expired Date:** 04/03/2014

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

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## **Current status**

This application was withdrawn from consideration at the last Planning Committee at the request of the Chair for consideration of an alternative location that best meets the majority needs.

In response the applicant has considered the triangular shaped grass verge in front of 20-26 Stanley Road as an alternative location. This location has a mature Swedish Whitebeam tree located in the centre. The applicants state that:

- There are a number of utilities infrastructure located in the footpath that would need to be lowered/diverted (at an estimated cost of £10k-20k). This would also prevent a parallel parking option.
- An existing sewer and manhole is located below the footpath. Invert levels will need to be checked for sufficient cover.
- Root growth from the existing tree in the centre of the grassed area could damage any new car park construction.

Transportation have considered the suitability of this area for a possible car park in this location (in the absence of any plans) and state the following:

- The shape of the land is restrictive in its suitability for creating permanent parking spaces. Although subject to a formal design being done it is considered that allowing for the minimum parking space and reversing space required it could possibly accommodate three spaces.
- The horizontal alignment would mean forward intervisibility would be restricted in the south westerly direction
- The site is compromised by the fact that there is a semi mature tree in the middle of the site. There is a likelihood that there would be objections to the removal of the tree. There would need to be an assessment of the tree and whether the removal would be a loss to the amenity to the street scene.
- If the tree was to remain it would be impractical for the site to operate as a car park, in terms of restrictions to vehicle turning movements, and creating the car park surfacing and drainage without those works impacting on the tree.
- In the event of the removal of the tree the shape of the land does not lend itself well to the car park layout and operation.

In summary, the creation of a car park at this location would not be the most efficient use of the land due to the limited number of spaces that could be created. If it was assessed that only two spaces could be accommodated providing sufficient reversing width, it may need two access points. By increasing the parking off the highway by two spaces, the introduction of two vehicle crossing points to accommodate the car park would mean there was no increase in parking provision, because two spaces would be lost on the highway in creating the drop crossings. With the issues of forward visibility, the potential loss of a tree, movement and manoeuvring issues in the operation of the land as a car park, the limited number of spaces that could be created, it is suggested that other sites be considered to achieve maximum utilisation of land and budget.

Tree Officers consider the mature tree has amenity value and should be retained. Accordingly the applicants consider the planning application at land fronting 37-51 Stanley Road as the most practical and efficient location to provide additional off-street parking. The application is considered on its merits below:

## **Application and Site Details**

This application seeks planning permission for the creation of a communal car park for eight vehicles within a square shaped flat grass verge. A single access point, 6m wide, would be created leading to two bays of four parking spaces. A path leading from the car park to the existing perimeter paving is also proposed. The car park would occupy 178sqm of the 272sqm verge and would have a surface finish of asphalt concrete with a concrete strip around the edges of the parking area to protect the verge. The application is submitted by the Council's Engineering and Transportation Services.

The proposal is located on the outer bend in Stanley Road. This is an existing grassed verge in front of 8 houses. The houses have their own front gardens between the verge and a pathway that runs around the perimeter of the verge. Number 51 has its own long drive and dropped crossing next to the grassed verge, with the exception of this property; the other houses fronting the verge do not have accesses across this land for off-street parking provision. Directly opposite is a triangular shaped grassed verge. This is a residential area, with most of the properties along Stanley Road not having off-street parking.

The applicant has submitted the following documents in support of the application:

### *Background statement*

The Council receives numerous requests for off-street parking spaces and these range from individual requests to petitions covering large areas. As funding in previous years has been very limited very few requests from the lists are implemented. At the Cabinet meeting on 22<sup>nd</sup> April 2013 approval was given along with a budget to introduce one or two parking schemes in area of the Area Partnership areas. Subject to planning approval construction is anticipated for the latter part of February early March. Future maintenance of the car park will be undertaken by Engineering and Transportation.

### *Copy of report to Brownhills, Pelsall, Rushall, Shelfield Area Panel*

Explains indicative budget of £41,600 per Area Partnership. Public engagement consultation undertaken through range of media – e-mail, press releases, attendance at events, social media and the internet.

## **Relevant Planning History**

None

## **Relevant Planning Policy Summary**

### **National Planning Policy**

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

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

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Seek to secure high quality design and good standards of amenity for all existing and future occupants.
- Take account of the different roles and character of different areas.
- Contributing to conserving and enhancing the natural environment.



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

**4: Promoting Sustainable Transport**

32 All development should have safe and suitable access to the site for all people. Development should only be refused on transport grounds where the residual cumulative impacts of development are severe.

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

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

**7: Requiring Good Design**

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

58. Decisions should aim to ensure that developments:

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

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

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

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

**11. Conserving and enhancing the natural environment**

109. The planning system should contribute to and enhance the natural and local environment by, protecting and enhancing valued landscapes.

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

123. Planning decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts

125. Limit the impact of light pollution

**On planning conditions** the NPPF says:

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

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

## **The Development Plan**

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

## **The Development Plan**

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

## **Local**

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

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

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

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

The key planning policies include:

CSP4 – develops the need for high quality place making and design

CSP5 – sets out the need to develop and manage movement and ensure that sustainable modes of transport are promoted.

TRAN1: All new developments will address the transport network and provide adequate access for all modes

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

ENV3 – Design Quality – seeks to promote this aspect of developments

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

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

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

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

The relevant policies are:

GP2: The Council expects all developments to make a positive contribution to the quality of the environment and that the creation of, or susceptibility to, pollution of any kind will be taken into account in the assessment of development proposals.

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

ENV32: Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.

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

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

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

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

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

4 bedrooms and above: 3 spaces per unit

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

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

*Designing Walsall SPD*

Seeks to guide development and deliver high quality design through local distinctiveness and sustainable design.

## **Consultations**

**Transportation** – no objection subject to a condition defining surfacing and the use of the car park.

## **Public Participation Responses**

Two letters have been received objecting to the application on the following grounds:

- Parking spaces being in general use would devalue properties
- Residents may have to park down the road due to the general use
- Cars parking outside lounge window
- Parking at this end of Stanley Road is not the problem, it is further up the road, application should be located there.
- Residents haven't been informed, only told after planning as gone through.

Five letters have been received (three from the same address) not objecting to the application and making the following comments:

- In favour of the creation of the car park
- Grass verge is a waste of space
- Would put value on property
- There is a difficulty where to park and the road is narrow
- Delivery vehicles, bin men and emergency services sometime have to mount the kerbs to get past.
- Proposal makes vehicles safer and more visible to owners
- Maybe the area should be permit controlled

A petition with 30 signatures has been received stating that the parking spaces are needed more at the lower end of Stanley Road, between no.s 18-26.

P.P



# Petition to change the planning application for verge parking on Stanley Road.

Parking spaces are needed more at the lower end of Stanley Road, between no's 18 - 26, not where they propose to put them, between no's 37 - 51.

Print Name	Address	Signature
	20 STANLEY RD	
	" " "	
	20 Stanley Rd	
	24 Stanley Rd	
	22 STANLEY RD	
	22 STANLEY ROAD	
	2 Stanley rd	
	2 Stanley Place	
	5 STANLEY PLACE	
	9 STANLEY PLACE	
	11 STANLEY PLACE	
	15 STANLEY PLACE	
	15 STANLEY PLACE	
	15 STANLEY PLACE	
	21 STANLEY PLACE	
	12 Stanley Place	
	6 Stanley Place	
	6 Stanley Place	
	1 STANLEY PLACE	
	34 Stanley Place	
	34 Stanley Place	
	14 STANLEY RD	
	12 Stanley Rd	

**Parking spaces are needed more at the lower end of Stanley Road, between no's 18 – 26, not where they propose to put them, between no' s 37 – 51.**

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

### **Determining Issues**

- Impact upon highway safety
- Impact upon visual amenity
- Impact upon residential amenity

### **Observations**

#### **Impact on highway safety**

The application has been submitted following local consultation in regard to the need to address issues of on street parking and this location has been considered one which requires improvements. Due to the location of two grass verges opposite each other means that residents with vehicles have no alternative but to park in the street. Properties in Stanley Road are largely without driveways resulting in a lack of off-street parking; as a consequence parking would have to take place on the road. In this location there is a bend in the road, with the road having a narrow width of 4.6m. Pavements are separated from the carriageway by a grass verge. This verge has been damaged in part as a result of on street parking or vehicles having to pass parked vehicles.

The addition of eight off street parking spaces would provide some alleviation to this situation, resulting in a net gain of parking provision giving residents the option to park off street and the opportunity to have fewer vehicles on the highway removing eight vehicles from the highway, to the benefit of the free flow of traffic. The car park would ensure some residents can park closer to their homes with a proposed path improving the safety of pedestrians getting to and from their vehicles.

One resident objects to the parking spaces being in communal use would devalue properties. Property values are not a material planning consideration, and therefore are not material to the determination of the application. Comment is also made that as the car park would be communal, immediate residents may have to park down the road if others use these spaces and the car park should be subject to a permit scheme. The use of permits or the allocation and enforcement of individual parking on communal land would not be practical. The provision of a car park would provide benefits to residents who have to park in the street and collectively would be of a benefit to the community.

The petition has been submitted and one resident objects on the grounds to the car park in this location and that it would better serve the parking problem at the opposite end of Stanley Road. This location has been proposed following community consultation undertaken by the Area Partnership and was agreed at the area panel, based on community votes and comments. The Area Partnership resolved that this location would be taken forward and designed to provide the best value within the budget available. While there may be other locations, the planning application is assessed on its merits in this location.

On balance the proposal would offer an improvement to highway safety, subject to conditions in regard to surfacing, demarcating the parking spaces, drainage and retention of the parking area, as recommended by Transportation.

### **Impact upon character of the area**

The open grassed verges either side of the road form a dominant part of the character of the area. The rest of the area is front gardens/drive leading directly to the road. The grassed verge has an amenity value. Parts of the verges have been damaged as a result of vehicles parking on them, which diminishes the quality of the verge. The proposed hardsurfacing would remove two thirds of the grassed area. The existing verge is not an area of designated open space and does not have features such as benches. Grassed areas would be maintained to the front of the car park and to the rear.

While there would be some loss of greenery, given the existing verges in the area that would be retained, the proposal would not have a significant impact upon the wider character of the area. Significant weight is given to the benefits to the local area and the gain to highway safety. In the circumstances, this community benefit would outweigh the loss of large portions of the verge.

### **Impact upon residential amenity**

One resident objects to parking in front of the lounge window. The car park would be a minimum of 6m from the front windows of the houses, with their private front gardens and the retained perimeter path between. Vehicle movements, with the noise and lights associated is typical to what is experienced in most residential areas. It is not considered that the proposal would have such an adverse impact upon residential amenity to warrant refusal of the application.

One resident objects that they have not been informed and only told after planning has gone through. Immediate residents have been consulted on the planning application and as discussed above have responded to the consultation prior to the determination of the planning application.

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

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

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

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

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

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

- Location and layout plan (HM675/GL/0) received 7<sup>th</sup> January 2014.
- Vehicle crossing detail (SD11/8) received 7<sup>th</sup> January 2014.

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

3a. Prior to the car park first coming into use, it shall be fully consolidated, hard surfaced and drained, the parking bays shall be clearly demarcated on the ground and the new vehicle access point created onto Stanley Road, in accordance with the approved details.

3b. The car park shall thereafter be retained and used for no other purpose.



*Reason:* To ensure the satisfactory completion and operation of the car park.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/03/2014

**Plans list item no: 9.**

**Reason for bringing to committee: Significant Community Interest**

**Application Number:** 14/0097/FL

**Application Type:** Full application

**Applicant:** JD Wetherspoon PLC

**Proposal:** Change of use from D2 social club to A4 public house, including beer garden

**Location:** 156A, HIGH STREET, BLOXWICH, WALSALL, WS3 3JT

**Ward:** Bloxwich East

**Case Officer:** Barbara Toy

**Telephone Number:** 01922 652615

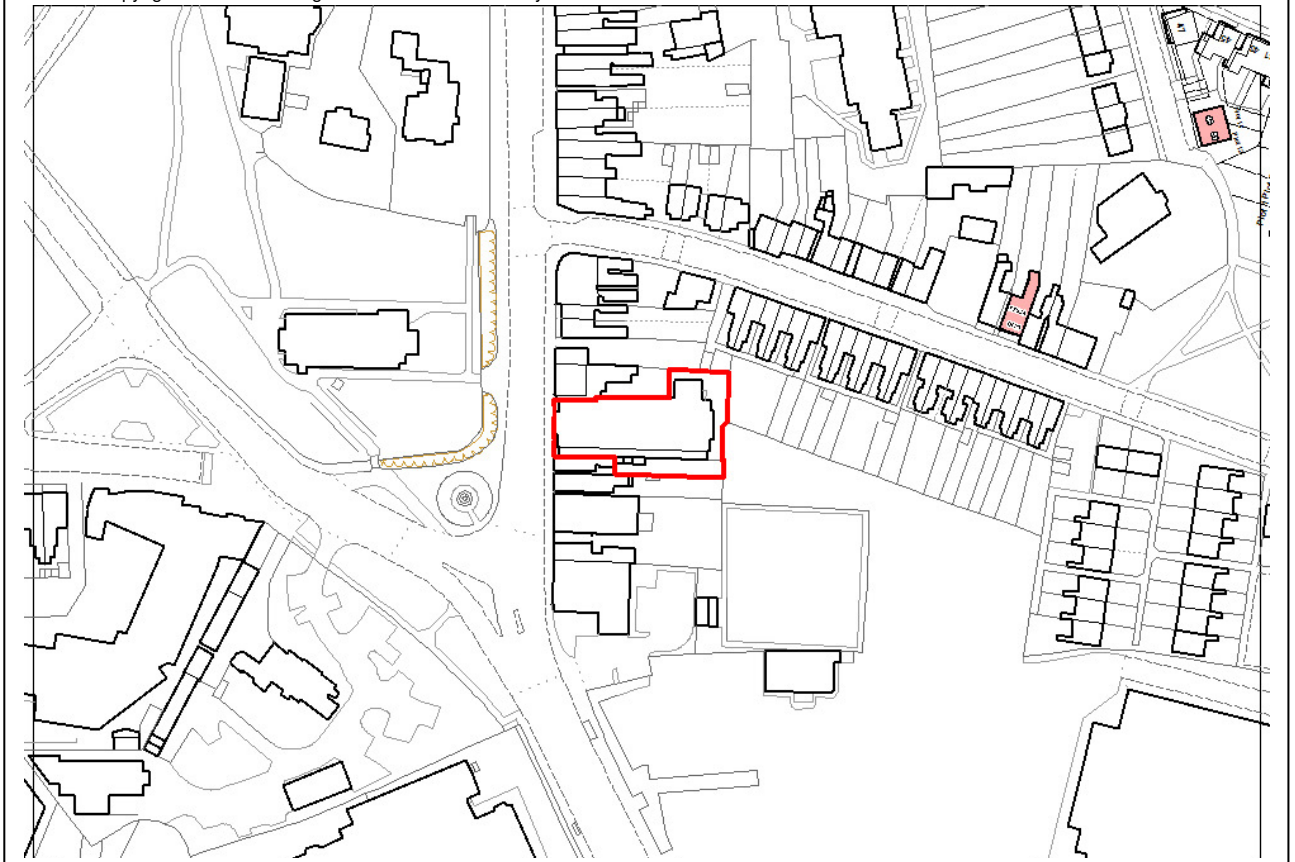
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** K D Paine & Associates Ltd

**Expired Date:** 21/03/2014

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

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## **Application and Site Details**

The site is situated on the eastern side of High Street (A34, part of the Strategic Highway Network and a 'Red Route'), just to the north of the traffic light controlled junction with Elmore Green Road. The site sits within the Elmore Green Conservation area, in close proximity to a number of Grade II listed buildings and a Scheduled Ancient Monument and at the southern end of Bloxwich District Centre.

The site comprises a large two storey art deco former cinema building originally known as the Grosvenor Cinema (opened in 1922) which has been most recently used as a youth centre (Use Class D2) and has a floor space of approx 750sqm. Both the frontage and the exterior of the building have been neglected over the years and have recently suffered fire damage rendering the upper parts of the building unusable, however parts of the original interior are still in place. Immediately to the south of the building is an entry with double gates leading to an open yard area to the side of the building which originally formed the rear yard of 154c High Street (the adjacent property). The building has no off street parking facilities.

The site sits within the district centre and immediately to the north fronting High Street is an A3 restaurant, A1 shops, A2 offices and a dentist surgery. Church Street to the north (one way street running west to east from High Street) comprises terraced residential properties. Immediately to the south are two retail shops with flats above (154c and 154b High Street), with a funeral directors beyond (with flats above). To the east of the site are the rear gardens of properties in Church Street and part of Asda car park. To the west on the opposite side of High Street is All Saints Church (Grade II Listed) and War Memorial (Scheduled Ancient Monument) at the junction of Elmore Green Road.

The application proposes the restoration and refurbishment of the building to convert it to an A4 public house and restaurant, with a beer garden/smoking area within the yard area to the side of the building.

To allow access out to the beer garden and allow for some natural light into the building, new windows/doors at ground floor would be provided in the side (southern) elevation and the original bricked up circular windows at first floor opened up. The ground floor would be opened up to an open plan layout with a long bar along the northern side of the building. Gents toilets would be provided at the rear of the ground floor of the building (former stage area) and a kitchen, ladies toilets, staff facilities and cooled beer store would be provided at first floor. The main front entrance (with steps) would be utilised with a level access provided to the side of the building (within the entry).

The scheme has been amended since submission to move the bin store and beer garden away from the rear of 154c High Street. The bin store would be provided in the south eastern corner of the side yard area beyond the beer garden, a smoking shelter would be provided in the beer garden and a landscaped buffer provided immediately to the rear of 154c.

The applicants have indicated that it is their intention to refurbish the building reinstating original features as far as possible.

The proposal requests opening hours between 0700 and 0030 hours Sunday to Wednesday and Thursday to Saturday 0700 and 0130 hours.

The use would provide up to 50 jobs (both full and part time).

Whilst the applicants have previously expressed an interest in the Bull's Head pub site at the northern end of the district centre, they withdrew from this site sometime ago and are now committed to the application site.

The following have been submitted in support of the proposals:

Design and Access Statement

This discusses the existing building and the works required for the conversion and refurbishment of the building, the layout, scale, appearance, landscaping and access arrangements.

The JD Wetherspoon's Management Plan

This provides details of the management structure of the company which is designed to encourage responsible behaviour. It also highlights that CCTV is used throughout their premises. The Management Plan includes policies on disabled facilities, health & Safety, Fire Safety, Prevention of Public Nuisance, Pavement and Outside Areas, Dealing with Odour, protection of children and gambling.

**Relevant Planning History**

BC8158, change of use from cinema to Skateboard arena, granted subject to conditions 14-12-77

BC8633, extension to ladies toilets, granted 08-07-78

BC11414, change of use from cinemas to nightclub and restaurant, granted subject to conditions 24-01-79 (no restriction to opening hours).

BC16589, external decoration and modifications to form discotheque, granted 22-12-80

**Relevant Planning Policy Summary**

**National Planning Policy**

**National Planning Policy Framework (NPPF)**

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

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

- Proactively drive and support sustainable economic development to deliver business
- Always seek a high quality design and a good standard of amenity for all existing and future occupants
- Enhance and improve the places in which people live their lives;

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

1: Building a Strong, Competitive Economy

18. The Government is committed to securing economic growth in order to create jobs and prosperity.

19. The planning system should do everything it can to support sustainable growth

20. Meet development needs of businesses

#### 4: Promoting Sustainable Transport

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

#### 7. Requiring good design

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

57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

- Planning policies and decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.

63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

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

#### 8: Promoting Healthy Communities

70. Ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable and retained for the benefit of the community.

#### 11. Conserving and Enhancing the Natural Environment

123. Planning policy should aim to avoid noise from giving rise to significant adverse impact on health and quality of life as a result of new development.

#### 12. Conserving and Enhancing the Historic Environment

132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be.

134. Where development proposals will lead to less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal.

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

### **The Development Plan**

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

## **Local**

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

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

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

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

The key planning policies include:

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

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

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

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

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

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

CEN1: Mixed-use developments that are well integrated with existing provision will be encouraged in centres, including the use of upper floors.

CEN2: Defines a hierarchy of centres.

CEN5: Within the District and Local Centres, developments for comparison retail, offices or leisure uses of up to 200 sqm gross will be permitted where they satisfy local requirements and are appropriate to the scale and function of that particular centre. Any proposed development above these thresholds will only be considered favourably if evidence demonstrates that they are of an appropriate scale to the function of the centre and which would not undermine the vitality and viability of other centres.

CEN8: Except where there is an accepted need for secure dedicated provision, car parking within or on the edge of District Centres will generally be required to be available to the public to serve the centre as a whole.

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

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

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

The relevant policies are:

3.6, 3.7, & GP2: Environmental Protection

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

ENV10: Pollution

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

ENV14: Development of Derelict and Previously Developed Sites

Seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV29: Conservation Areas

The Council will determine whether a development preserves or enhances the character and appearance of a conservation area

3.116 & ENV32: Design and Development Proposals

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

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- The appearance of the proposed development
- The height, proportion, scale, and mass of proposed buildings/structures.
- The materials proposed for buildings, external spaces and means of enclosure.
- The integration and co-ordination of buildings and external space.
- Community safety and security
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.
- The proposed vehicular and pedestrian circulation patterns.
- The integration of existing natural and built features of value.
- The maintenance requirements of the developments.

3.117 & ENV33: Landscape Design

Deals with landscape design and opportunities to create and enhance environmental quality.

S1: Definition of Town Centre Uses

Defines town centres uses including drinking establishments (Class A4).

S2: The Hierarchy of Centres

Identifies Bloxwich as a District Centre whose main role is to meet the needs of their districts for convenience goods, local services and community facilities.

S3: Integration of Developments into Centres

All development within the established centre should make best use of land and buildings and be of a scale and nature appropriate to the size and function of the centre.

S4: The Town and District Centres – General Principles

It will be a priority to safeguard the existing level of shopping, leisure and other town centre uses in all centres. The Council will seek to increase short stay parking provision for shoppers and visitors to the centre.

#### S10: Hot Food Takeaways, Restaurants and other Food and Drink Outlets

These uses will be appropriate in the Town, District and Local Centres subject to the following considerations:-

- I. The use proposed must not adversely affect the amenities of the existing or proposed dwellings by reason of noise, smell, disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on residential amenity.
- II. Where the Council is minded to grant planning permission, the closing time for hot food takeaways will be considered in relation to the amenities of nearby dwellings. In such locations the Council will usually impose a condition requiring the premises to close at 2300 hours Monday to Friday and 2330 hours on Saturdays. Later opening hours and Sunday opening will be considered on their merits.
- III. Permission will not be granted where the absence of adequate off street parking would be likely to lead to on street parking in a hazardous location.
- IV. Permission will only be granted where ventilation and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment would not be detrimental to visual amenity.

#### S8: Housing in Town Centres

Recognises that the acceptable level of residential amenity in town centres may not be the same as that expected in suburban areas.

#### LC8: Local Community Facilities

Proposals involving loss of community facilities, including clubs and other meeting places, will only be permitted if it can be demonstrated that there are existing facilities in an equally or more convenient location, a replacement facility could be provided, there is no longer a need for the facility or it would not be possible to retain the facility because it is not financially viable.

#### T7: Car Parking

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

#### T8: Walking

Encourages walking and provision in development to enhance this.

#### T10: Accessibility Standards – General

(a): Refers to accessibility standards for public transport.

#### T13: Parking Provision

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

Buildings for public assembly & food and drink: 1 space per 22m<sup>2</sup>, 1 bicycle stand for every 10 car parking spaces (minimum 2 bike stands) plus taxi facilities.

### **Designing Walsall (SPD) (Feb 2008)**

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

DW1: New development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2: All development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3: Design to respect and enhance local identity;

DW4: Attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

DW6: New development should contribute to creating a place that has a clear identity;



DW9: New development must seek to ensure it creates places with attractive environmental quality;

DW10: New development should make a positive contribution to creating a sustainable environment.

### **Consultations**

**Transportation** – No objections.

The site has no parking but the site is within Bloxwich district centre with both public and private parking nearby and with good public transport links. High Street (A34) is part of the strategic highway network and a red route to ensure no stopping and there are parking restrictions directly outside to control indiscriminate parking. It is considered that the lack of parking is unlikely to present any significant highway safety or traffic flow issues. Deliveries could be accommodated on High Street within the formal on street loading bay positioned a few meters to the north.

**Environmental Health** – No objections subject to conditions to ensure details re odour control, extraction flue and grease traps are submitted for approval prior to implementation.

**Conservation** – No objections subject to conditions. The proposals will bring the building back into use. The facade is currently in poor condition and the application should secure the repair and refurbishment to reflect the period of the building.

**Fire Service** – No objections.

**West Midlands Police** – No objections

**Town & District Centre Management Team** – The Bloxwich Business Partnership support the proposals which will support and enhance the local area and bring much needed investment to the town. It is considered that the use will complement the existing retail mix and have potential to support the night time economy creating a destination after retail hours. The proposals will help preserve a historic landmark, well known by the local community and links with Pat Collins who once owned the site. The proposals will offer a much needed service catering for family dining, currently a gap in the market. This will rejuvenate a large prominent void unit, perceived as an eyesore, a negative image for the centre.

### **Public Participation Response**

Five objections received.

Objections:

- Church Street is a narrow residential street that already has parking issues for residents due to parking from shoppers to the High Street
- Church Street likely to be used by staff and customers from parking
- No dedicated parking for the proposed use
- Noise and unsociable behaviour
- Beer garden in close proximity to residential bedrooms in Church Street
- Deliveries likely from Church Street as High Street is a red route
- Enough pubs already in Bloxwich
- Other more suitable locations for a Wetherspoons
- Adverse impact on existing food outlets in the High Street

- Whilst the use would bring employment to the area it will also bring unemployment to food outlets and create empty properties in the High Street as they won't be able to compete with Wetherspoons.
- Proximity of main door to busy junction will create difficulties in emergency evacuation procedures.
- Bloxwich 'black spot' with many fights in the area.

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

### **Determining Issues**

- Principle of the use
- Layout and Design
- Impact on surrounding occupiers
- Other matters

### **Observations**

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

The site is situated within Bloxwich District Centre and the proposed use for a Class A4 drinking establishment (public house/restaurant) is an acceptable scale to meet local community needs in accordance with the aims of policies CEN2 and CEN5 of the BCCS and saved policy S2 of the UDP. It is also a welcome investment within the District Centre and the Conservation Area as it would re-use and refurbish of a prominent vacant building that has fallen into disrepair.

Although one of the objectors considers there are enough pubs already in the area policies do support leisure uses such as Class A4 in the District Centre. The premises were previously occupied as licensed premises when operated as a night club for a number of years (Flix) so there is a precedent for this type of use. The information supplied by JD Wetherspoons in support of the proposals identifies the management regime for the licensed premises will be carried out in a professional manner.

One of the objectors further considers that the proposals would have an adverse impact on the existing food outlets in the centre, and whilst the use would bring employment to the area it would also result in the loss of other businesses who would not be able to compete with Wetherspoons. Competition is not a material planning consideration and the Bloxwich Business Partnership support the proposals which they feel will bring much needed investment to the area and complement the existing uses and assist with the night time economy. The proposed use is appropriate within a district centre and would bring a vacant, neglected, prominent building in the conservation area back into use.

#### **Layout and Design**

The existing building would be refurbished and original features reinstated where possible, opening out the ground floor to an open plan layout. To allow light into the ground floor of the building windows/doors would be provided in the southern elevation as well as reinstatement of the original circular first floor windows. The new doors would also allow access to the proposed beer garden/smoking area in the yard to the side of the building.

The design and layout of the side yard area has been amended since submission to move the bin store away from the boundary with 154c (which has residential accommodation at first floor level) and to redesign the beer garden to provide a landscape buffer and acoustic fence to the boundary.

The existing ramped access to the side of the building would be utilised for disabled access as the main front entrance (to be retained) has steps up from the street.

The proposed layout of the building and external area is considered appropriate.

The proposals would retain, refurbish and reinstate the original front facade of the building facing High Street and generally improve the overall appearance of this prominent building within the High Street and the Elmore Green Conservation Area which has fallen into disrepair. A number of existing unsightly forms of extraction equipment and ducting exist around the building which would be removed and new equipment installed.

Conditions are recommended for the applicant to provide details of all replacement extraction equipment and ducting, windows, doors or facing materials in order to preserve the character of the building within the appearance of the Conservation Area.

### **Impact on surrounding occupiers**

The site is located within a predominantly commercial and retail area of Bloxwich district centre and it is considered that the proposed physical changes to the building would have no adverse impact on the surrounding business premises.

The nearest residential properties are flats above 154c and 154b High Street, immediately adjacent to the site and the proposed external seating/smoking area and the rear gardens of houses in Church Street to the rear of the site.

Objectors consider that there will be potential for increased noise and disturbance. Although the premises will be open later in the evenings the site is within a District Centre where later opening is considered appropriate and the Environmental Health officers are satisfied that odour can be controlled by adequate equipment of which details are to be provided. Policy S8 of the UDP recognises that an acceptable level of residential amenity in district centres is not likely to be the same as that in suburban areas. In this case the flats are situated above the shops on part of the Strategic Highway Network at a busy traffic light controlled junction, with Asda's car park to the rear, where the level of residential amenity is already significantly less than that in a solely residential area. The application site whilst originally a cinema was a night club for nearly 20 years until 2001 and more recently a social club/youth club falling within use class D2 and so has a history of late night use. The proposals now include an outdoor seating/smoking area but the amended layout provides a landscape buffer and acoustic fence to the boundary with 154c and it is considered that the proposed smoking shelter within the area would help to reduce any impact of noise or smoke on the immediate residential occupiers. It must be recognised that the premises could be used for any use within Use Class D2 (assembly and leisure) without the requirement of any planning consent, which may involve late night opening (currently hours of use are not restricted in any way). Environmental Health have raised no objections subject to conditions to ensure that details for odour control are submitted for approval.

The residential properties in Church Street (to the north east of the site) are situated on the opposite side of the building from the proposed beer garden where the building has no window openings. It is considered that the proposed use would have no additional adverse impact on the amenities of the occupiers of Church Street.

Issues of potential anti social behaviour by public house customers is a matter for the police to deal with and essentially if the problem continues then the liquor license for the premises can be withdrawn. Nevertheless, the site is within 100m of Bloxwich Police Station and the JD Wetherspoons Management Plan and Code of Conduct demonstrates that measures will be put in place to limit opportunities for such behaviour by their customers.

### **Access and Parking**

The property has no dedicated off street parking or service facilities. However the site is situated within the district centre where there are good public transport links and public car parks are situated within walking distance of the site.

High Street forms part of the Strategic Highway Network and is a Red Route, whilst this would control indiscriminate parking directly outside the premises it does allow for some on street parking to the north of the site (beyond the junction with Church Street) and dedicated loading bay immediately to the north of the site.

Transportation have raised no objections regarding the lack of parking and consider that the deliveries could be accommodated by use of the existing loading bay.

Whilst objectors have concerns about the impact of the proposals on the availability of on street parking in Church Street for residents, it is considered that the proposals would have no greater impact over the existing authorised use of the site for assembly and leisure. Two public car parks (without any restrictions on use) are situated within the district centre (within walking distance of the site) within Elmore Row and Samuel Street, as well as some restricted parking on street within High Street as well as some private parking (including Asda). The site is within a District Centre where there are bus stops within walking distance within High Street. This is considered a sustainable location where by the nature of the use not all customers will arrive by car.

Despite concerns by objectors regarding emergency evacuation procedures the Fire Service have raised no objections to the proposals.

Given the above comments it is considered the proposals would not have any adverse impact on highway safety.

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

Officers have sought additional information and amendments to the layout of the external space during the course of the application.

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

1. The 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.

2a. Prior to the commencement of development on site the following details shall be submitted to and approved in writing by the Local Planning Authority:

- All new windows and doors at a scale of 1:20
- Paint finish to all external joinery, exposed steel framing and render
- Brick soldier course over the lintel to the new terrace windows on the southern elevation
- External lighting strategy

2b. All works shall be implemented in accordance with the approved details.

*Reason:* To ensure the satisfactory appearance of the development within the Conservation Area.

3a. Prior to the commencement of the development full details of an odour extraction system from the premises shall be submitted to and approved in writing by the Local Planning Authority.

3b. The premises shall not be open for business until this approval has been given and the approved details have been fully implemented.

3c. The approved equipment shall thereafter be retained and maintained in accordance with manufacturer's or installers requirements.

3d. All existing external extraction ducting shall be removed from the building prior to the first use of the premises for the use hereby approved and prior to the installation of any new equipment.

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

4a. No development shall commence until details of a method to prevent grease entering the drainage system have been submitted to and approved in writing by the Local Planning Authority.

4b. The premises shall not be open for business until this approval has been given and the approved details have been fully implemented.

4c. The approved equipment shall thereafter be retained and maintained in accordance with manufacturer's or installers requirements.

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

5a. Prior to the commencement of the development on site a detailed soft and hard landscaping scheme, (including any necessary phasing of implementation) shall be submitted to and agreed in writing with the Local Planning Authority. The scheme shall include; indication of all hard surfaces, proposed planting (and times of planting), boundary treatment and access gates. The scheme shall include full details and specifications of plant material together with detailed locations of the species proposed.

5b. The approved scheme shall be implemented in accordance with any agreed phasing or within one year of any part of the development being brought into use.

5c. If within a period of five years from the date of the planting of any tree or shrub, that tree or shrub, or any planted in replacement for it, is removed, uprooted or destroyed or dies, another tree of the same species and size as that originally planted shall be planted in the same place.

*Reason:* In order to preserve and enhance the visual amenities of the locality in accordance with Policy ENV33 of the Walsall Unitary Development Plan.

6a. Prior to the installation or use of any electronic/electrical equipment designed for the purposes of amplifying music and other sounds at the premises details of the equipment and any necessary noise mitigation measures shall be submitted to and approved in writing by the Local Planning Authority.

6b. Agreed mitigation measures shall be carried out before the equipment is brought into use and maintained thereafter.

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

7. The emergency egress route onto Church Street identified on drawing 6947 - 04 (Proposed Lower Ground Floor) submitted on 24<sup>th</sup> January 2014 shall remain for emergency egress only and shall not be used for general pedestrian access to the premises.

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

8. The premises shall not be open to the public outside the hours of 0700 and 0030 hours Sunday to Wednesday and 0700 to 01.30 hours Thursday to Saturday.

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

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

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

*Reason:* In order to protect the residential amenities of nearby occupiers.

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

Site Location Plan Drawing 6947 PL-01 submitted on 24<sup>th</sup> January 2014

Block Plan Drawing 6947 PL-02 submitted on 24<sup>th</sup> January 2014

Existing Lower Ground Floor Drawing 6947-01 submitted on 24<sup>th</sup> January 2014

Existing Ground Floor Drawing 6947-02 submitted on 24<sup>th</sup> January 2014

Existing First Floor Drawing 6947-03 submitted 24<sup>th</sup> January 2014

Proposed Lower Ground Floor Drawing 6947-04 submitted 24<sup>th</sup> January 2014

Proposed Floor Plans Drawing 6947-PL03 submitted 24<sup>th</sup> February 2014

Existing and proposed Elevations Drawing 6947-PL04 submitted on 24<sup>th</sup> February 2014

Design and Access Statement submitted on 24<sup>th</sup> January 2014

JD Wetherspoon Operating Policies – Principles of Management for Licensed Premises submitted on 24<sup>th</sup> January 2014.

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

**Note for applicant regarding adverts**

This permission does not authorise the installation of advertisements at the site which is subject to separate legislation.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/03/2014

**Plans list item no: 10.**

**Reason for bringing to committee: Significant community interest**

**Application Number:** 14/0073/AD  
**Application Type:** Advertisements

**Case Officer:** Devinder Matharu  
**Telephone Number:** 01922 652602  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Integrated Designs  
**Expired Date:** 18/03/2014

**Applicant:** Appliance Electronics  
**Proposal:** Installation of 2 no.fascia signs measuring 2.5m x 14.2m and 0.7m x 10.5m.  
**Location:** 52A HARRISON STREET, WALSTALL, WS3 3HW  
**Ward:** Bloxwich East

**Recommendation Summary:** Grant Advert 5 years

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## **Application and Site Details**

The application site is located on the southern side of Harrison Street and accessed from adjacent to 52 Harrison Street. There is a large car park fronting Harrison Street with the building located towards the rear of the site. There is access to the site from Revival Street. The site has a square parcel of land to the west of the building that sits towards the rear of numbers 40 to 48 Harrison Street and 56 to 90 Revival Street.

The rear of numbers 52 and 54 Harrison Street face onto part of the existing building. Numbers 46a to 56 face onto the rear of the existing building.

To the eastern side of the application site is a car garage and towards the rear of the garage and adjacent the rear eastern side is the bowling alley.

The application proposes the installation of a non illuminated advertisement. The advertisement would be positioned on the front elevation of the building above the entrance to the premises and would be "T" shaped. The main bulk of the advert would measure 14.2m by 2.5m and then would taper down to 10.5m by 0.7m.

The text on the main advert would be white and yellow lettering with the name of the company and contact details. The smaller section of the sign would advertise manufacturers of electrical products.

The original scheme included a trough light at the top and bottom of the sign to externally illuminate the sign.

## **Relevant Planning History**

BC35955P – display of illuminated 4 canopy signs, 2 forecourt box signs and 1 projecting sign from bungalow. Granted advert consent for 5 years in 1992.

## **Relevant Planning Policy Summary**

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

The NPPF was published on Tuesday 27<sup>th</sup> March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

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

- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- Always require high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- Encourage effective use of land by reusing land that has been previously developed

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

7. Requiring good design

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

57. Important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

- Planning policies and decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.

63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

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

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

**The Development Plan**

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

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

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

The key planning policies include

ENV3: Design Quality

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

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

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

### **Saved policies of the Unitary Development Plan**

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

Policies GP2, 3.6, 3.7 seeks to make a positive contribution to the quality of the environment, whilst protecting people and not permitting development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

VII. The adequacy of the access, and parking.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV14 encourages the development of previously developed land.

ENV35 The design of commercial premises should be appropriate to their setting and sympathetic to the building on which they are situated. In considering proposals for signs, the Council will take the following factors into account:-

I. The architectural and historic merits of the building.

II. The character of the area in which they are located.

III. The prominence of the building.

IV. Whether the building is subject to surveillance by CCTV.

V. Any exceptional justification for the proposal.

VI. Any proposals and initiatives for the enhancement of the centre in which they are located.

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

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

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

### **Designing Walsall (2013)**

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

DW3 – Character -design to respect and enhance local identity;

## **Consultations**

**Transportation** –No objection

**Pollution Control Scientific Team** – No objection subject to the illumination being switched off to protect the amenity of neighbouring residential properties.

**Access Forum** – No objection

## **Public Participation Responses**

Four letters have been received objecting to the proposal on the following grounds:

- Unsightly
- Glare from light
- Residential area
- Light pollution impacting on neighbouring residential amenity
- Already street lighting in area
- Two commercial premises opposite residential property
- Loss of light due to size of signs
- The site has been renovated and secured at rear with wall.

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

## **Determining Issues**

- Visual Impact
- Highway and public safety
- Impact upon surrounding residential occupiers

## **Observations**

### **Visual impact**

The existing commercial unit is a large unit that is positioned further back into the site from Harrison Street. The large building could accommodate a large sign above the entrance to the premises that would visually break up the mass of the roof structure of the building. The external illumination has been deleted from the scheme, so that the advert would not be illuminated, and as such the advert would not be unsightly within the street scene.

### **Highway and public safety**

The advert would be attached to the building so would not have any highway or public safety issues. It is not considered that the sign would be a distraction to users of the highway by virtue of its design and location.

### **Impact upon amenities of surrounding occupiers**

There are residential properties along Harrison Street. The existing commercial building is located within the site and set back. The external illumination has been deleted from the scheme, so that the advert would not be illuminated, this would address the concerns raised by nearby residential occupiers.

Objectors have raised concerns over loss of light from the size of the sign. The sign would be attached to the building and as such would not have any undue impact on loss of light to any nearby residential occupiers.

Objectors have raised concerns that the area is residential in nature. The area is residential in nature with two commercial businesses within Harrison Street; the commercial businesses are long established and set back within the sites, so as not to impact upon neighbouring occupiers.

On balance, it is considered that the proposed development is acceptable subject to conditions.

**Recommendation:** Grant Advert 5 years

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

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

2. The development hereby approved shall be completed in accordance with the following plan numbers:

- BV-701-0c entitled "new shop front, shutters and signage" submitted on 13<sup>th</sup> February 2014.

*Reason:* To define the permission.

3. Any advertisement displayed and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.

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

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.

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

5. Where any advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.

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

6. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

*Reason:* It is a requirement of the Regulations that the site owner's permission be obtained before any advertisement is displayed.

7. No advertisement shall be sited or displayed that would endanger anyone using any highway, railway, waterway, dock, harbour or aerodrome (civil or military), or would obscure or hinder the ready interpretation of any traffic sign, railway signal, or aid to navigation by water or air. It also prohibits the siting or display of an advertisement that would hinder the operation of any device used for the purpose of security or surveillance (such as closed circuit television cameras) or for measuring the speed of any vehicle (speed cameras or other speed-measuring devices)

Reason: Standard condition required by the Town and Country Planning (Control of Advertisement) (England) Regulations 2007.





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/03/2014

**Plans list item no: 11.**

**Reason for bringing to committee: Significant Community Interest**

**Application Number:** 14/0088/FL  
**Application Type:** Full application

**Case Officer:** Stuart Crossen  
**Telephone Number:** 01922 652608  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:**

**Applicant:** Mr A Nazir  
**Proposal:** New Bungalow  
**Location:** 16 BROADWAY WEST, WALSALL, WS1 4EA  
**Ward:** Palfrey

**Expired Date:** 24/03/2014

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

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## **Application and Site Details**

The site is part of the rear garden of a house. It backs onto a car parking area in Tame Close, with an existing housing development at the rear. There is also an alleyway to the west, which leads onto Alexandra Road.

The proposal is a resubmission of a recently refused application for a new bungalow which, was to replace a single storey garage that was in a poor state of repair and since demolished. The foundations for the bungalow have already been implemented. The previous garage access, from Tame Close, adjoins the car parking spaces in that area.

The proposed bungalow differs from the previous application, being narrower, lower in height and set further back from the highway.

The building will be set back 5.4 metres (600mm further back than the previous application) from the Tame Close parking area, to create 2 car parking spaces.

The bungalow would have a gable roof with main habitable room windows on the front and rear elevations. Access to the bungalow would be from the side. The bungalow would measure:

6.3 metres wide (700mm less than previously proposed)

11.35 metres deep

2.3 metres high to the eaves

3.9 metres high to the highest point (300mm less than previously proposed).

The application site is surrounded by 2 storey dwellings of a variety of ages. Tame Close is a 1960s development of terraced housing and flats.

The nearest house is number 34 Tame Close a modern end of terrace, the nearest windows of this house to the proposal, 6.5 metres away, serve the kitchen on the ground floor and bedroom on the first floor. The shared boundary fence is 1.8 metres high.

The proposal would be within the garden of number 16 Broadway West, a 2 storey semi-detached house, the rear elevation of which would be 20.5 metres away.

To the west of the application site is an Electricity substation. The front door of the proposed bungalow would be directly adjacent to this.

Local shops, public transport and a public park are within 120 metres of the proposal.

A noise report has been submitted as part of the application, due to the proximity to the substation.

## **Relevant Planning History**

07/2042/FL/W7 – Erection of a new bungalow – Rear of 16 Broadway West. Refused by Planning Committee 29/10/08

The decision was appealed and the Planning Inspectorate granted the application subject to conditions 17/09/09

13/1562/FL - New bungalow - Rear of 16 Broadway West. Refused by Planning Committee 07/01/14 for the following reasons:

1. The development would be detrimental to the amenities of the adjacent neighbours due to its proximity having an overbearing impact and the impact of on street parking.
2. The bungalow would appear and would provide a cramped development and be detrimental to the character of the area.

### **Relevant Planning Policy Summary**

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

The NPPF was published on Tuesday 27<sup>th</sup> March 2012. It cancels and replaces all PPGs and PPSs (except for PPS10 'Planning for Sustainable Waste Management'), several Mineral Policy Statements and Planning Guidance, a number of Circulars and several Letters to Chief Planning Officers.

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

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

- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- Always require high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- contribute to conserving and enhancing the natural environment and reducing pollution
- Encourage effective use of land by reusing land that has been previously developed
- conserve heritage assets in a manner appropriate to their significance.

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

1. Building a strong, Competitive economy
  18. committed to securing economic growth in order to create jobs.
  19. support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth.
4. Promoting sustainable transport.
  29. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.
  32. opportunities for sustainable transport modes should be taken up depending on nature and location of site and safe and suitable access to the site can be achieved for all people.
6. Delivering a wide choice of high quality homes.
  49. Housing applications should be considered in the context of the presumption in favour of sustainable development
  53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.
7. Requiring good design
  56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
  57. Important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.
  58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area.

Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

- Planning policies and decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.

63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

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

#### 11. Conserving and enhancing the natural environment

109. contribute to and enhance the natural and local environment

118. opportunities to incorporate biodiversity in and around developments should be encouraged.

120. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location.

121. Planning policies and decisions should ensure the site is suitable for its new use taking account of ground conditions and land instability, including natural hazards or former activities such as mining.

123. Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

125. Planning policies and decisions should limit the impact of light pollution from artificial light on local amenity and nature conservation.

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

### **The Development Plan**

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

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

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

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

to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The key planning policies include

HOU2: Housing Density, Type and Accessibility

States that the density and type of new housing provided on each site will be informed by, amongst other factors, the need to achieve high quality design and minimise amenity impacts, taking into account the characteristics in the area where the proposal is located. All developments will aim to achieve a minimum net density of 35 dph except where higher densities would prejudice historic character and local distinctiveness.

TRAN2 – Managing transport impacts of new development

permission would not be granted for development that is likely to have significant transport implications unless applications are accompanied by proposals to provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of the development including walking, cycling and public transport.

ENV1 – Nature Conservation

Safeguarding species that are legally protected.

ENV2: Historic Character and Local Distinctiveness

proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness.

ENV3: Design Quality

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

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

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

### **Saved policies of the Unitary Development Plan**

Policies GP2, 3.6, 3.7 seeks to make a positive contribution to the quality of the environment, whilst protecting people and not permitting development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV13 – In order to protect the general amenity of occupiers and users, development for uses other than industry and warehousing will not normally be permitted in close proximity to high voltage electricity transmission lines, substations or transformers.

ENV14 encourages the development of previously developed land.

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

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

T4 – District distributors are important routes connecting the main residential and employment areas of the Borough. Street parking and direct frontage access will be strictly regulated.

T7: Car Parking

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

T10: Accessibility Standards – General

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

i small residential developments within existing residential areas including infill plots

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

T13: Parking Provision

3 bedroom houses and above, 2 spaces per unit

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

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

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

### **Designing Walsall (Feb 2008)**

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

DW3 – Character -design to respect and enhance local identity;

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

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

Annexe D: 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, setbacks 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.

### **Consultations**

**Transportation** – No objections

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

**Pollution Control – Contaminated Land** – No objections

**Fire Service** – No objections

**Environmental Health** – TO BE UPDATED FOR COMMITTEE

**National Grid** – TO BE UPDATED FOR COMMITTEE

**Police Architectural Liaison Officer** – No objections

### **Representations**

2 Neighbour objections have been received regarding the following issues:

The applicant begun the development without planning permission

Invasion of privacy to occupiers of number 34

The ground level has been increased

The distance between number 34 and the bungalow is less than was recorded in the previous appeal decision

Would set a precedent

Bedrooms facing the highway would not aid visual surveillance

Noise and upheaval

Limited parking

Not in keeping

Size of building

Access issues for emergency services

Unless there are significant changes no further application should be submitted.

### **Determining Issues**

- Principle of development
- Character of the area and street scene
- Neighbouring residents amenity
- Relationship to the electricity substation.
- Emergency service access
- Parking

### **Observations**

#### **Principle of development**

The application is a windfall site and subject to UDP policy H3. This identifies the need to create a satisfactory residential environment. The development would be within a back garden, fronting Tame Close. It is considered to reflect the pattern of development in Tame Close which combined with its proximity to local shops and public transport is considered acceptable.

The Planning Inspectorate has considered a similar scheme to be acceptable and recommended that the application be granted subject to conditions. There are no changes in policy, which are considered inconsistent with this previous decision. The decision by the Planning Inspectorate is a material consideration of this planning application. 19/12/13 planning committee refused a similar application for a new bungalow. It is considered that this application largely overcomes committee's concerns set out within the body of the report below.

### **Character of the area and street scene**

The site occupies a small part of the frontage of a car parking area. The immediate vicinity is characterised by 1960s modern housing, and this will be one more dwelling. It will be single storey rather than two storey, but this does not cause significant issues as the relationship between the heights of the buildings will not be very evident on site.

The effect on the house and garden to the east will be negligible, as much of that boundary is another car parking / garaging area for Tame Close.

The house and gardens to the west are partly screened by the substation.

The proposed reduction in width, height and increased setback from the highway of the bungalow would not now result in a cramped appearance which is considered overcomes part of the second refusal reason of 13/1562/FL.

### **Neighbouring residents amenity**

In this respect the properties principally impact upon 18 and 20 Broadway West, 82 Alexandra Road and 34 Tame Close. Other properties on Tame Close would be affected less.

No. 34 Tame Close is approx 0.5 to 0.75m higher than the application site with a 1.8 metre boarded fence to the boundary. Given that the proposed bungalow is to be set back by approximately 5.4m from the front boundary this would lead to, a window to window relationship of over 6.4m (bedroom to kitchen in the case of the ground floor). The measurements have been disputed, Officers have been to the site since the last committee meeting and consider that the revised measurements above are accurate to what has been built. Also disputed is the ground level, it is not now clear what the original ground level was due to the construction work, however Officers have visited the site and consider that the foundations are level with the highway, and the application is determined on this basis. Although closer than originally illustrated the angle is considered relatively oblique, the boundary fencing would restrict views, and it would not be easy to see from one property to another. For these reasons the proposal would not result in significant overlooking, loss of light or an overbearing impact.

The proposals would also result in a separation from the rear of the proposed bungalow of 20m from the rear elevation of No. 18 Broadway West and 23m in the case of the 20 Broadway West (though the latter is at an angle). While these are less than the expectation of Designing Walsall (seeking 24 metres), as this is a bungalow, it is considered this is acceptable in this instance.

No. 16 Broadway West has parking at the front of the property and in terms of parking would not be adversely affected by the loss of the previous garage in the rear garden.

The proposals include a garden of 11m (88 sqm) leaving a garden of approximately 9.5m (76 sq.m.) in length for 16 Broadway West. Designing Walsall expects 12 metres minimum length or a minimum of 68 sqm. The latter figure is met.

The separation between the site and 16 Broadway West would be 20.5m. Designing Walsall seeks 24 metres, and states that it is to be applied more robustly at the rear of properties than at the front. However, in this case, at present, only the applicant is affected by this relationship. As a reason to refuse, it is considered to be of limited weight.

**The relationship to the electricity sub-station.**

The Pollution Control officers have two aspects of concern related to developments near to sub-stations low-frequency noise and electro-magnetic (non-ionising radiation) fields.

The applicant has previously undertaken a noise survey that demonstrated the noise from the sub-station was negligible as road traffic noise is dominant and the electrical hum was inaudible at the development site due to traffic noise.

Clarification will need to be sought that the substation adjacent to the development site will comply with national guidance for non-ionising radiation. These details can be conditioned.

Pollution Control Officers also recommend that construction times are controlled by condition to minimise impacts on neighbouring residential premises.

**Emergency Service access**

This dwelling is no worse and no better than any of the others in Tame Close. The Fire Officer has no objections and it is likely that their vehicles would be the most restrictive of the emergency service vehicles. The Planning Inspector considered that access would be available within 45 metres to all parts of the development which is the standard required by the Fire Service. This issue was not a reason to refuse a planning application.

**Parking**

A similar scheme under application 07/2042/FL/W7 was allowed on appeal. The Inspector considered the original concerns of the Highway Authority relating to the potential loss of communal parking as a result of the development and the level of parking provision and concluded that it was satisfactory.

The proposal is for a 2 bedroom house fronting onto Tame Close with 2 parking spaces. The existing house no.16 has parking on the property frontage and would not be affected. There is already vehicle access into the rear garden with a single dropped kerb access onto a parking area on Tame Close, which is under the control of Walsall Housing Group. Provided the parking area is hard-surfaced, does not drain onto the highway and is not enclosed, which can be conditioned there are no objections from Transportation Officers.

**Security**

The front bedroom windows would provide more visual surveillance of this part of Tame close than is currently provided and is considered an improvement. The Crime Prevention Officer has requested that the developer is made aware of Secure by Design due to the number burglaries in the area, he has recommended lock specifications details of which can be conditioned.

Due to the national increase in metal thefts it is also recommended that where possible lead substitute products should be used, a condition for materials to be submitted can be attached.

**Recommendation:** Grant Permission Subject to Conditions

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

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



2(a): No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority.

2 (b): The approved scheme shall be fully implemented before the development is brought into use and shall be thereafter retained.

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

3 (a): No development shall take place until details are submitted of the proposed security measures for the house.

3 (b): The approved details shall be fully implemented and retained thereafter.

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

4: No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00 Monday to Fridays and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

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

5: Prior to the development first coming into use details shall be submitted which demonstrate that the electro-magnetic field (EMF) strengths from the substation comply with UK national guidelines.

Reason: To safeguard the amenities of occupiers and to comply with policies GP2 and ENV13 of Walsall's Unitary Development Plan.

6 (a): Prior to the development first coming into use full details of the proposed boundary treatments of the site shall be submitted to and approved by the local planning authority.

6 (b): The approved scheme shall be fully implemented before the development is brought into use and shall be thereafter retained.

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

7 (a): Prior to the development first coming into use the car parking spaces shown on the site frontage shall be fully consolidated, hard surfaced, drained and brought into use.

7 (b): The parking spaces shall thereafter be retained and used for no other purpose.

7 (c): The existing dropped kerb crossing at the access point shall be suitably widened and extended to align with the proposed parking spaces, with the agreement of the land owner and thereafter retained.

Reason: To ensure the satisfactory completion, appearance and operation of the development and in accordance with UDP Policy GP2, ENV32, T7 and T13.

8: There shall be no means of enclosure to the frontage parking spaces which shall remain open at all times.

Reason: To ensure the adequacy and practicality of the access point and parking spaces and in the interests of vehicle/pedestrian inter-visibility.

9: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking or re-enacting that order with or without modification), no side-facing windows or doors, other than as shown on the approved plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the neighbouring and to comply with policies GP2 of Walsall's Unitary Development Plan.

10: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking or re-enacting that order with or without modification), no buildings, enclosures or containers, shall be installed within the application site.

Reason: To safeguard the amenities of the neighbouring and to comply with policies GP2 of Walsall's Unitary Development Plan.

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

Site location plan deposited 18 November 2013;  
Block plan deposited 18 November 2013;  
Proposed elevations and floor plans deposited 18 November 2013.

Reason: For the avoidance of doubt and in the interests of proper planning.

### **Note for applicant**

1. Due to the presence of National Grid apparatus in proximity to the specified area, the contractor should contact National Grid before any works are carried out to ensure our apparatus is not affected by any of the proposed works.

*E-mail: [plantprotection@nationalgrid.com](mailto:plantprotection@nationalgrid.com)  
Telephone: +44 (0)800 688588*

2. Due to the high percentage of burglaries in the area you should be aware of the Secure by Design specifications which will significantly increase the security of the building (doors and windows). Information can be found at [http://www.securedbydesign.com/pdfs/SBD\\_New\\_Homes\\_2010.pdf](http://www.securedbydesign.com/pdfs/SBD_New_Homes_2010.pdf)

Particular attention should be paid to the locks on all external doors if they are euro profile cylinder locks due to the increase in lock snapping as a means to gain entry to properties. If euro profile cylinders are to be used they should be a minimum of 3 star standard TS - 007 rating, ideally with Secure by Design approved and Sold Secure Diamond Standard e.g. ABS anti snap europrofile cylinder <http://www.avocet-hardware.co.uk/abs-secure.asp>

3. The applicant is recommended that they obtain written confirmation from the electricity supplier and/or undertake an independent assessment of the electro-magnetic field (EMF) strengths from the substation at the distance where the proposed development is to be located. Results from the assessment shall be submitted in writing to the local planning authority prior to development commencing.

For electro-magnetic (non-ionising radiation) fields the UK Government has adopted the recommendations of the International Commission on Non-Ionizing Radiation Protection (ICNIRP).



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/03/2014

**Plans list item no: 12.**

**Reason for bringing to committee: Called in by Councillor Nazir**

**Application Number:** 13/1650/FL  
**Application Type:** Full application

**Case Officer:** Helen Smith  
**Telephone Number:** 01922 652606  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Mistry Design Services

**Applicant:** Mr & Mrs H Singh

**Proposal:** Two storey side, rear and single storey extensions including loft extension and conversion

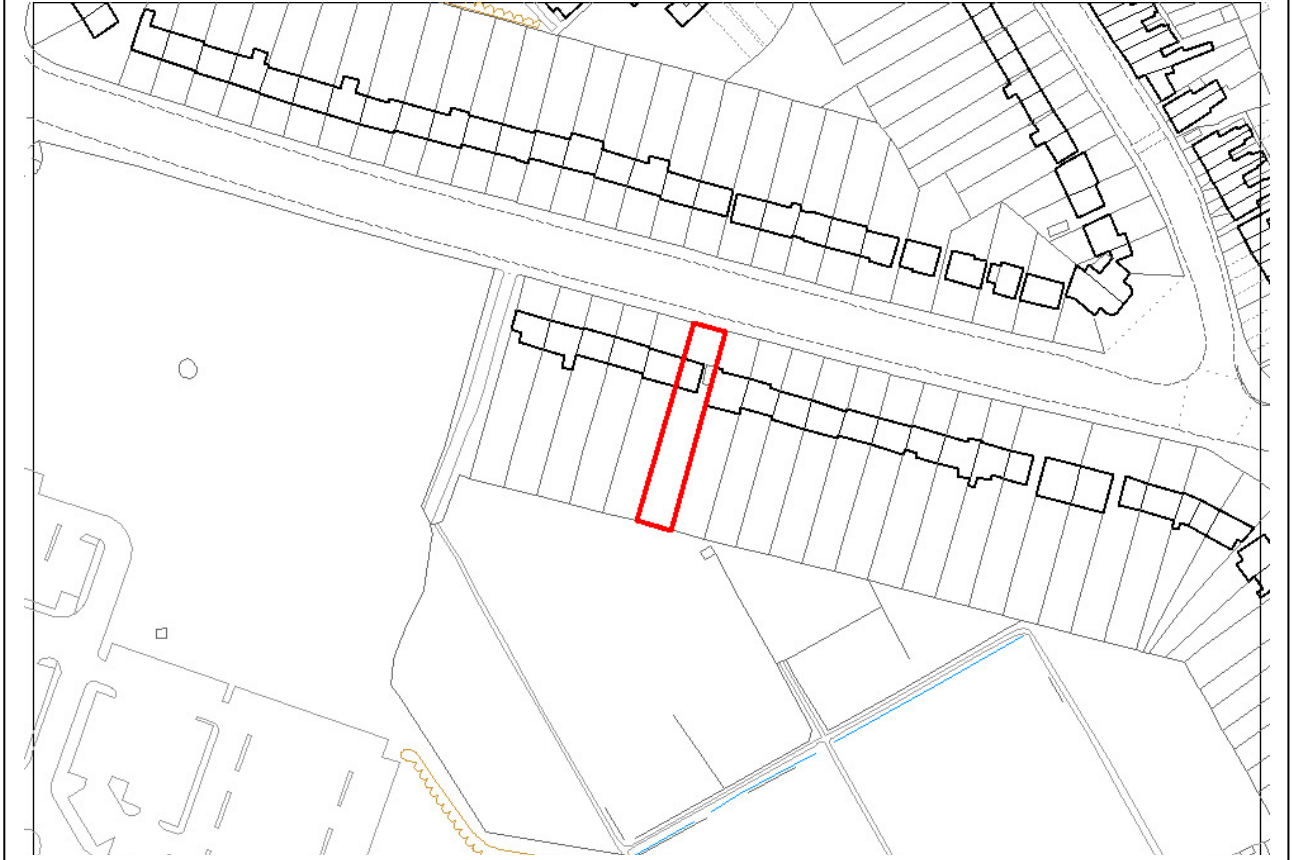
**Location:** 123 BROADWAY WEST, WALSALL, WS1 4DW

**Ward:** Palfrey

**Expired Date:** 10/02/2014

**Recommendation Summary:** Refuse

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## **Background**

Councillor Nazir considers that this part of Broadway West is characterised by a mixture of residential developments that have been extended to the boundary line which have become a feature of the street scene and this application should be considered by the Planning Committee.

## **Application and Site Details**

The application house is a semi-detached property with a 3.2 metres wide gap up to the side boundary with house no. 121 and a 0.9 metres lower rear garden level than the house. The rear garden is identified as being within Flood Zone 2.

This section of Broadway West benefits from a mixed character of house designs and between house no's 113 and 127 and no's 108 to 118 there are first floor gaps of single or double garage width.

The extensions would provide a new lounge, garage, utility and shower room at ground floor and enlarge an existing kitchen/dining area. Four bedrooms, bathroom and an en suite would be provided at first floor and a further two bedrooms in the enlarged roof space. The proposal would result in the loss of two conifer trees. The proposal includes the following additions;

### **Single Storey Front Extension**

This extension would be 1.3 metres forward of the existing property to provide a porch and extended garage. The roof would have a pitched design, 2.3 metres high to the eaves increasing to 3.7 metres where it attaches to the front elevation.

### **Two storey side extension**

This extension would be 3.1 metres wide and would be set back 0.45 metres from the existing two storey front elevation. The roof would have a hipped design with the ridge height 0.2 metres lower than the existing ridge and boxed guttering would be introduced along the side elevation next to no. 121.

Two roof lights would be installed in the existing and new front and side roof slopes. This proposal would close the gap between the application property and the side elevation of no. 121, which has two side facing non-habitable room windows.

### **Two Storey Rear Extension**

This proposal would extend the application house 1.1 metres and 1.4 metres further than the rear two storey elevations of no's 121 and 125 respectively. A hipped roof would be added next to no. 125, 1.9 metres lower than the existing ridge height and a gable roof above the extension nearest to no. 121, 0.7 metres below the proposed new extension ridge height. Two roof lights would be installed in the rear roof slopes.

### **Single Storey Rear Extension**

The rear extension would extend 6.5 metres from the rear two-storey elevation, which has an existing two storey bay feature. The garden ground level would be raised by 0.9 metres for a distance of 5 metres from the existing house and patio ground level. No details have been provided of any new patio or steps to access the existing lower garden ground level.

The extension design would include two low-rise gable roofs, which would be 3.7 metres high from the natural garden level. The ridge heights would be 5 metres and 4.6 metres high from the natural garden ground level next to 121 and 125 respectively. A total of 9 roof lights would be installed in the rear roof slopes.

No. 121 has an existing two-storey side extension, set back 0.35 metres from the application house, with a parapet wall along the side boundary and incorporating two obscure glazed windows. This neighbouring house has first floor front and rear facing bedroom windows close to the side boundary with no. 123 and a single storey rear extension with rear habitable room windows. The two storey rear elevation of no. 121 extends 0.6 metres further than no. 123 and the neighbours' rear extension projects a further 3.1 metres.

House no. 125, the other semi, is in line with the application house and has front and rear facing habitable room windows, plus a rear conservatory, which extends 3 metres beyond no. 123. This property has an existing first floor side extension.

The rear garden is 37 metres in length with allotments to the rear of the application site.

The agent has provided a Flood Zone questionnaire but fails to include information of any proposed flood proofing or resilience and resistance techniques as stated.

### **Relevant Planning History**

14/0066/FL – Single storey detached outbuilding in rear garden – refused permission 3/3/14

### **PLANNING POLICY**

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

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

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

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants

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

#### **7: Requiring Good Design**

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

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

63. Great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

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

10. Meeting the challenge of climate change, flooding and coastal change

103. When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

On **planning conditions** the NPPF says:

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

On **decision-taking** the NPPF sets out the view that pre-application engagement is encouraged and

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

### **The Development Plan**

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

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

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

This was adopted under the current Local Development Framework System, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advised that "...due weight should be given to relevant policies....according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight they may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist (published by the Planning Advisory Service) and have discussed the

results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on the 24 July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy policies should be given full weight in planning decisions.

The relevant policies are:

ENV1, ENV2 and ENV3 states that all development should aim to protect and promote the special qualities, design quality and local distinctiveness of the Black Country.

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

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

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

The relevant policies are:

GP2: 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.

ENV23: Nature Conservation and New Development.

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. This policy will be applied to all development but will be particularly significant in the following locations:-

- Within or adjacent to transport corridors, including canals, railways, motorways and major roads.

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- The appearance of the proposed development.
- The height, proportion, scale, and mass of proposed buildings / structures.
- The materials proposed for buildings, external spaces and means of enclosure.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.



#### T7: Car Parking

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

#### T13: Parking Provision

1, 2 and 3 bedroom houses 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

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

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

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

#### **Designing Walsall**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk)).
- Garden dimensions: 12m in length or a minimum area of 68 sq m for houses and 20 sq m of useable space per dwelling where communal provision is provided.
- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character.

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

Provides guidance on development which may adversely affect trees, important species and habitats.

It is considered in this case that the relevant provisions of Designing Walsall are consistent with the NPPF.

#### **Consultation Replies**

**Transportation** – No objections

**Natural Environment Team, Ecology** – No objections

**Environment Agency** – Require applicant to be advised of their Flood Risk Standing Advice and submit a completed Flood Zone 2 Form as part of their application.

### **Public Participation Responses**

The applicant has submitted a letter from their neighbours at 121 Broadway West, which states the following:

- They have no objections to bricking up the 2 windows in the side of their property facing 123 Broadway West and the task will be undertaken as quickly as possible
- No objections to the proposal or to the rear extension 3.5 metres beyond their extension

### **Determining Issues**

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Flood Risk
- Protected Species
- Parking

### **Observations**

#### **Design of Extension and Character of the Area**

The introduction of boxed guttering to the proposed first floor side elevation is considered represents poor design by failing to match the eaves details of the existing house and would harm the appearance of the existing property.

The proposed side extension, which has a limited first floor front elevation set back of 0.45 metres, would close the first floor gap between the application house and no. 121 resulting in a terracing effect to the detriment of the existing house.

The character of the street between no's 113 and no's 108 to 118 includes single or double garage width gaps at first floor. It is acknowledged that wider afield there are examples of semi-detached dwellings which have been extended at first floor with no gaps to the side which has resulted in the poor appearance of terracing between semi-detached houses.

The gaps at first floor level are considered to be a dominant characteristic of this group of houses on Broadway West and losing this gap to the boundary with no. 121 is considered would harm the appearance of this group of properties.

The planning agent has referred to an extension to no. 134 Broadway West which was approved with a limited first floor front elevation set back of 0.45 metres. On balance this proposal was considered to be acceptable in this specific location, bearing in mind its immediate context that between house no's 136 and no. 150 (evens), all of the first floor gaps that originally existed between the pairs of houses have been in filled by first floor extensions.

This application house is within a group of properties, which have retained first floor gaps, and it is considered these gaps have a positive contribution to the existing street scene and should be preserved.

#### **Amenity of Nearby Residents**

The proposed side extension would not extend beyond the front of no. 121 and would be on the opposite side to no. 125. The two-storey side extension would be built in front of the existing two side windows in no. 121, which have existed more than 4 years. The construction of the extension would prevent the windows use, removing any positive benefit gained by these windows for the neighbours.

No. 121 is located outside the red line of the application site the removal of these windows, as suggested by the neighbours and does not form part of this planning application and cannot be addressed by a planning condition.

The rear elevations of the application house and neighbouring houses face south. This orientation combined with the modest length of the proposed first floor rear extension is considered would have a limited impact on neighbours existing light and visual amenity. This part of the proposal would comply with the Council's 45 degree guidance.

The proposed single storey rear extension would extend 7.1 from the original two-storey rear elevation and 3.5 metres further than the existing conservatory at no. 125 and rear extension to no. 121. To retain the same floor level as the existing house the rear garden ground level would be raised resulting in an extension height of 5 metres above the natural ground level to the proposed ridge.

The proposed excessive length and height, including the increase in ground level, of the rear single storey extension is considered would have a detrimental and unacceptable impact on neighbours' early morning and late afternoon daylight and a harmful impact on visual amenity.

The application fails to include details of how the occupiers of the application would access the rear garden from the rear extension and any possible future patio or steps addition would lengthen this development further and may result in an unacceptable overlooking of neighbours gardens. The height of new boundary treatments would need to reflect the increased ground levels of the patio/steps and the proposal is considered would have an unacceptable impact on neighbours existing amenity and privacy.

The agent refers to a recent planning approval for a single storey rear extension to no. 47 Buchanan Road. This relates to a different location in the borough, which does not have the same differences in rear ground level to the application property. This permission is not considered to be relevant to the current proposal.

### **Flood Risk**

This property is identified as being within Flood Zone 2. Insufficient information has been submitted to demonstrate how flood proofing, resilience or resistance techniques would be used in the development as required by the Environment Agency.

### **Protected Species**

The application property backs onto allotments, which are partially overgrown, and is close to scattered mature trees in a park created on the Broadway West frontage. The Council's Specialist considers that while there is a certain amount of green infrastructure providing links across the neighbourhood, the presence of a shopping centre and Walsall FC to the south and the wide well-lit Broadway West to the north fragment the infrastructure.

This development involves a side extension and loft conversion, which would create extensive disturbance to the roof. However, this is a marginal case and on balance the relatively fragmented green infrastructure is considered would not require the submission of a bat survey. An informative note for the applicant is required if planning permission is granted.

### **Parking**

The total number of bedrooms would increase from three to six, which would require the provision of three off-road parking spaces, each measuring 2.4 by 4.8 metres. The front drive is already hard surfaced and has sufficient space to accommodate three parking spaces to meet the requirements of UDP Policy T13.

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

Officers have liaised with the applicant's agent and whilst amended plans have been submitted it is considered the alterations made are insufficient to enable the proposed scheme to be supported.

### **Recommendation:** Refuse

1. The proposed first floor side extension would by closing the gap to the boundary with the adjoining house no. 121 Broadway West and having a limited first floor front elevation set back would create a terracing effect between the two which represents poor design and would harm the character of the area. The proposal would be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; the Black Country Core Strategy policies ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, and ENV32, Appendix D of Designing Walsall SPD.
2. The introduction of boxed guttering to the proposed first floor side elevation represents poor design, by failing to match the eaves details of the existing house, and is considered would have a detrimental impact on the appearance of the property and the immediate character of the area. The proposal would be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; the Black Country Core Strategy policies ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, and ENV32, Appendix D of Designing Walsall SPD.
3. The position of the proposed two storey side extension adjacent to the side boundary with no. 121 Broadway West would prevent the neighbours' use and benefit of the existing two side facing windows. These windows are outside the red line of the application site and their removal does not form part of this planning application. The proposal would be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; the Black Country Core Strategy policies ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, and ENV32, Appendix D of Designing Walsall SPD.

4. The proposed excessive length and height of the rear single storey extension would have a detrimental and unacceptable impact on neighbours' early morning and late afternoon daylight and visual amenity. The application fails to include details of how the occupiers of the application would access the rest of the rear garden and any additional patio or steps and new higher boundary treatment, would result in an unacceptable overlooking of neighbours gardens to the detriment of their amenity. The proposal would be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; the Black Country Core Strategy policies ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, and ENV32, Appendix D of Designing Walsall SPD.
5. This property is identified as being within Flood Zone 2 and insufficient information has been submitted to demonstrate how flood proofing, resilience or resistance techniques would be used in the development as required by the Environment Agency. This is contrary to the National Planning Policy Framework paragraph no. 103.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 13/03/2014

**Plans list item no: 13.**

**Reason for bringing to committee:** Contrary to policy – called in by Councillor Sears for application to be debated by Committee.

**Application Number:** 13/1563/FL

**Application Type:** Full application

**Applicant:** Mr David Moran

**Proposal:** Rear part two storey and part ground floor domestic dwelling extension.

**Location:** 59 KINGSHAYES ROAD, WALSALL, WS9 8RT

**Ward:** Aldridge North and Walsall Wood

**Case Officer:** Jenny Townsend

**Telephone Number:** 01922 652610

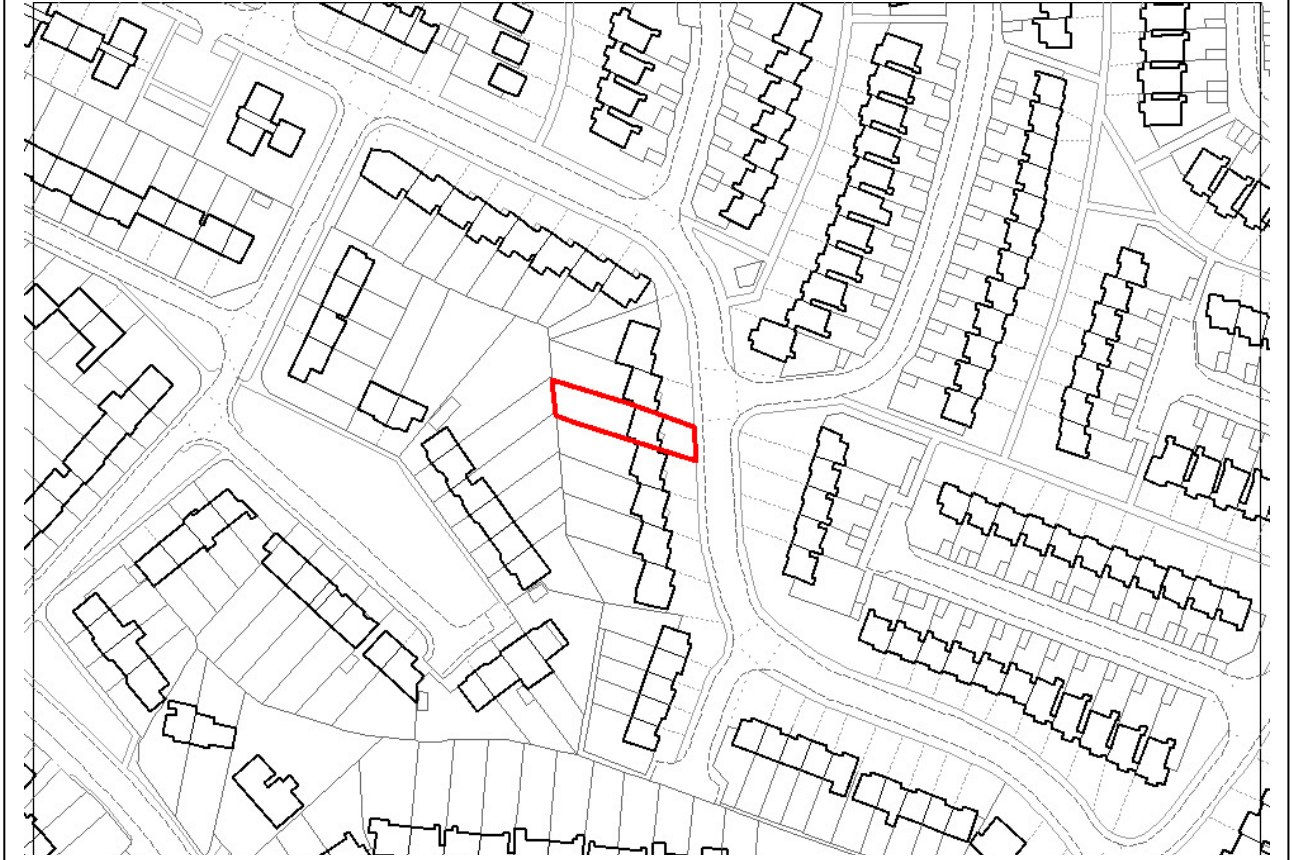
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Sueshire Services

**Expired Date:** 28/02/2014

**Recommendation Summary:** Refuse

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## **Application and Site Details**

This application is for extensions to the rear of a link detached house that would enlarge the existing dining room and kitchen at ground floor with an en-suite shower room and extension to one of the existing bedrooms built above. There would be no increase in the number of bedrooms.

The plans show a small flat roofed dormer inserted in the existing side roof slope to add head height to the existing bathroom. This would be permitted development and does not form part of the application.

The house is in a line of similar styled houses that have garages to the side which are attached for the full length to the side of the neighbouring house.

The ground floor extension would be 4.0 metres deep and across the whole of the rear elevation apart from the 1.1 metre wide lobby adjacent to number 57. Folding/sliding doors to the dining area and a window to the kitchen would face down the rear garden.

The bedroom extension and new en-suite shower room would be built above part of the proposed ground floor extension and would be 2.2 deep, 6.2 metres wide with a gable roof the same height as the original roof. Rear facing windows to the extended bedroom and new en-suite are proposed in the rear elevation.

The eaves of the first floor part of the extension would match with the original eaves and would overhang the boundary shared with number 61. The appropriate ownership certificate has been submitted and notice has been served on the owners of number 61.

Number 57 is to the south and has a conservatory on the rear adjacent the tall boundary fence. The rear of the conservatory is in line with the lobby door of the application house. The first floor part of 57 is 1.0 metre from the side of the application house, lies forward from the rear of the application house and has a bedroom window nearest to the boundary.

Number 61 is to the north and projects approximately 4 metres beyond the rear of the application house at both ground and first floor level. There are no side windows.

The rear garden backs onto the gardens of houses in Widney Avenue but the rear of the application house does not directly face towards any other house.

A statement from the agent challenges the opinion of your officers that the property is not considered to be a detached house. As such they are of the opinion that permitted development rights for a 4.0 metre deep single storey extension would apply.

## **Relevant Planning History**

03/1339/FL/H2 Single storey front extension. Grant subject to conditions 15/09/03.

06/1123/FL/H2 Single and two storey rear extensions. Granted subject to conditions 23/08/06.

## **PLANNING POLICY**

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

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

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

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas

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

#### **7: Requiring Good Design**

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

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

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

131. In determining planning applications, local planning authorities should take account of: the desirability of new development making a positive contribution to local character and distinctiveness.

On **planning conditions** the NPPF says:

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

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

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.



### **The Development Plan**

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

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

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

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

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

The relevant policies are:

ENV2 and ENV3 states that all development should aim to protect and promote the special qualities, design quality and local distinctiveness of the Black Country.

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

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

The relevant policies are:

GP2: Environmental Protection

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

I. Visual appearance.

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

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.

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- The appearance of the proposed development.
- The height, proportion, scale, and mass of proposed buildings / structures.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.

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

### **Designing Walsall**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area’s character.

- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk)).

‘It is considered in this case that the relevant provisions of Designing Walsall and Conserving Walsall’s Natural Environment are consistent with the NPPF.’

### **Consultation Replies**

None.

### **Public Participation Responses**

Two letters of support from both of the neighbours stating that they have seen the proposals and raise no objections.

### **Determining Issues**

- Amenity of Nearby Residents
- Positive and Proactive working with the applicant

### **Observations**

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

The proposed extension would not project beyond the rear of number 61 at either ground or first floor and although it would be to the south of number 61 it is considered there would be no impact in terms of shading or loss of light as the side of 61 is blank.

The proposed ground floor extension at 4 metres deep would breach the 45 degree code when measured from the midpoint of the rear elevation of the conservatory belonging to number 57 and would exceed the 3.5 metres normally allowed for single storey extensions that would otherwise breach the code. As such the proposed ground floor part of the extension is contrary to policy and is considered would have an overbearing impact on the amenity of the occupiers of number 57 due to the length. The applicant's agent states that common sense should be applied as an extension of this length could be added as permitted development.

Although the application house does have permitted development rights, in your officer's opinion and for the purposes of permitted development calculations, the application house whilst commonly being referred to as linked-detached is not a fully detached property as the ground floor part of the house is attached to the side of 57. A detached house stands alone with access around the whole of the house.

As linked or semi-detached house, an extension up to 3 metres could be added at the rear or a longer extension of up to 6 metres from the original rear wall could be applied for but this would be single storey only and not two storeys as proposed in the application.

The first floor part of the extension would be set in from the boundary shared with number 57 and screened from the first floor rear window of 57 by the existing two storey rear corner of the application house. It is considered that there would be little impact on the amenity of the occupiers of 57 from the first floor part of the extension.

The rear of the extension would be approximately 17 metres from the rear boundary and as the rear of the house does not face directly towards any other houses it is considered the extension would have no impact on the amenity of the occupiers of the houses in Widney Road.

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

Officers have spoken with the applicant's agent to request the ground floor part of the extension is reduced in length to 3.5 metres to comply with policy. The agent has advised that the applicant wishes the proposal to be determined on the submitted plans by Planning Committee.

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long that they safeguard the natural and built environment, highway network and the amenity of citizens. In this instance the council has not been able to support the proposed development as detailed in the planning report.

**Recommendation:** Refuse

The ground floor part of the proposed extension would breach the 45 degree code (when measured from the midpoint of the rear elevation of the conservatory belonging to number 57) and would exceed the 3.5 metres normally allowed for single storey extensions that would otherwise breach the code. As such the proposed extension is considered would have an overbearing impact on the amenity of the occupiers of number 57 due to the length. The proposal is contrary to the aims and objectives of the National Planning Policy Framework including paragraphs 56, 57, 58, and 64, Walsall's Saved Unitary Development Plan policies, in particular GP2, ENV32 and the Supplementary Planning Document "Designing Walsall".