



PLANNING COMMITTEE

AGENDA

Thursday 21 July 2022 at 5.30 pm

Walsall Council House

Public access to meeting via: [Walsall Council Webcasting Portal](#)

MEMBERSHIP:

Councillor M. Bird (Chair)
Councillor G. Perry (Vice Chair)
Councillor B. Allen
Councillor B. Bains
Councillor H. Bashir
Councillor P. Bott
Councillor S. Cheema
Councillor S. Cooper
Councillor N. Gandham
Councillor A. Harris
Councillor A. Hussain
Councillor I. Hussain
Councillor K. Hussain
Councillor R. Larden
Councillor J. Murray
Councillor A. Nawaz
Councillor S. Samra
Councillor M. Statham
Councillor A. Underhill
Councillor V. Waters

QUORUM:

Seven Members

A G E N D A

PART I – PUBLIC SESSION

1. Apologies.
2. Declarations of Interest.
3. Deputations and Petitions.
4. Minutes of the previous meetings:
 - a. 7 April, 2022 – Copy **enclosed**
 - b. 20 June, 2022 – Copy **enclosed**(Pages 5 – 20)
4. **Local Government (Access to Information) Act 1985 (as amended):**

To agree that, where applicable, the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.
5. Application List for Permission to Develop:
 - a) Items subject to Public Speaking;
 - b) Items 'Called-in' by Members
 - c) Items not subject to 'Call-in'

- Copy **enclosed** (Pages 21 - 100)

The Relevant Authorities (Discloseable Pecuniary Interests) Regulations 2012

Specified pecuniary interests

The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Localism Act 2011 are the interests specified in the second column of the following:

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a member in carrying out duties as a member, or towards the election expenses of a member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Regulations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to a member's knowledge):</p> <p>(a) the landlord is the relevant authority;</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to a member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

Schedule 12A to the Local Government Act, 1972 (as amended)

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
 - (a) to give any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Information being disclosed during a meeting of a Scrutiny and Performance Panel when considering flood risk management functions which:
 - (a) Constitutes a trades secret;
 - (b) Its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the risk management authority);
 - (c) It was obtained by a risk management authority from any other person and its disclosure to the public by the risk management authority would constitute a breach of confidence actionable by that other person.

PLANNING COMMITTEE

7 April 2022 at 5.30 pm

In the Council Chamber, Council House, Walsall

Present:

Councillor M. Bird (Chair)
Councillor G. Perry (Vice Chair)
Councillor G. Ali
Councillor P. Bott
Councillor C. Creaney
Councillor A. Harris
Councillor A. Hicken
Councillor K. Hussain
Councillor J. Murray
Councillor A. Nawaz
Councillor M. Nazir
Councillor I. Robertson
Councillor S. Samra
Councillor M. Statham
Councillor V. Waters

In attendance:

P. Venables	Director of Regeneration & Economy
A. Ives	Head of Planning & Building Control
K. Moreton	Head of Highways & Transport
M. Brereton	Group Manager – Planning
S. Wagstaff	Principal Planning Officer
A. Scott	Senior Planning Officer
L. Wright	Principal Planning Officer
S. Bird	Senior Environmental Protection Officer
J. Raan	Major Projects Minor Improvements Manager
I. Jarrett	Principal Environmental Protection Officer
J. Grant	Environmental Protection Manager
F. Whitley	Senior Planning Enforcement Officer
A. Sargent	Principal Solicitor
J. Price-Jones	Planning Solicitor
D. Smith	Senior Legal Executive
C. Goodall	Principal Democratic Services Officer
E. Cook	Assistant Democratic Services Officer

59/22

Apologies

Apologies for absence were submitted on behalf of Councillors Cooper, Craddock, Rasab and Underhill.

60/22 **Declarations of Interest**

There were no declarations of interest.

61/22 **Minutes**

Resolved:

That the Minutes of the meeting held on 10 March 2022, a copy having been previously circulated to each Member of the Committee, be approved and signed as a true record.

62/22 **Deputations and Petitions**

There were no deputations introduced or petitions submitted.

63/22 **Local Government (Access to Information) Act 1985 (as amended)**

Exclusion of the Public

Resolved:

That, during consideration of the items on the agenda, the Committee considers that the relevant items for consideration are exempt information for the reasons set out therein and Section 100A of the Local Government Act 1972 and accordingly resolves to consider those items in private.

64/22 **Application list for permission to develop**

The Chair announced that a special meeting of the committee would take place on 4 May 2022.

Councillor Nazir addressed the meeting explaining that it was his last Planning Committee meeting as he was standing down at the election. He thanked Members and Officers for their support.

The application list for permission to develop was submitted, together with supplementary papers and information for items already on the plans list (see annexed).

The Committee agreed to deal with the items on the agenda where members of the public had previously indicated that they wished to address the Committee and the Chair, at the beginning of each item for which there were speakers, confirmed they had been advised of the procedure whereby each speaker would have two minutes to speak.

65/22

Plans List Item 5 – 21/1740 – 8 Burton Farm Road, Walsall, WS4 2HN

The report of the Head of Planning and Building Control was submitted (see annexed) and was presented to the Committee.

The Committee then welcomed Alison Oakley who spoke in support the application.

There then followed a period of questioning and debate by Members.

It was **Moved** by Councillor Nawaz and duly **Seconded** upon being put to the vote was:

Resolved:

That, contrary to the recommendation in the officer report, the Head of Planning and Building Control be delegated authority to grant application 21/1740, subject to the amendment and finalising of conditions to include, but not limited to, the choice of materials and working hours. The reasons for this are:

- The whole nature of the neighbourhood has changed since the previous inspector decision;
- There was no longer open green belt to the rear of the property;
- The extension was not out of keeping with other properties in the locality.

66/22

Plans List Item 1 – 20/0721, Streetly Community Centre, Streetly Sports and Community Association, Foley Road East, Streetly, B74 3HR

The report of the Head of Planning and Building Control was submitted (see annexed) and was presented to the Committee.

The Committee then welcomed one speaker, Mark Welch, in support of the application. A speaker registered to speak against the application did not attend the meeting.

There then followed a period of questioning and debate by Members.

It was **Moved** by Councillor Bird, **Seconded** by Councillor Samra, and upon being put to the vote was:

Resolved:

That Planning Committee delegate to the Head of Planning & Building Control to grant planning permission for application 20/0721 subject to:

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions.

Councillor Hicken arrived

61/22

Plans List Item 6 – 20/0882 4 Ellesmore Meadow, Aldridge, Walsall, WS9 0PR

The report of the Head of Planning and Building Control was submitted (see annexed) and was presented to the Committee.

The Committee then welcomed one speaker in support of the application, Steve Hare, and one against, Chris Harding. Mr Harding also read a statement from Geoff Howles.

There then followed a period of questioning and debate by Members.

It was **Moved** by Councillor Bird, **Seconded** by Councillor Hicken, and upon being put to the vote was:

Resolved:

That, contrary to the recommendation in the officer report, Planning Committee refuse permission for application 20/0882, for the following reasons:

- The impact on neighbours caused by the height of the balcony including the addition of bi-fold doors in place on windows;
- As the property is located in the green belt permitted development rights had clearly been removed;
- The air conditioning unit had not received planning permission or been submitted for review by Environmental Health.

62/22

Plans List Item 7 – 21/1447 – 99 Birmingham Road, Aldridge, Walsall, WS9 0AJ

The report of the Head of Planning and Building Control was submitted (see annexed) and was presented to the Committee.

The Committee then welcomed one speaker in support of the application, Teresa Gray, and one speakers against the application, James Withers.

There then followed a period of questioning and debate by Members.

It was moved by Councillor Samra to refuse the application. This proposed resolution was not seconded so failed for this reason.

It was **Moved** and duly **Seconded** by Councillor Bird, and upon being put to the vote was:

Resolved:

That, contrary to the recommendation in the officer report, the Head of Planning and Building Control be delegated authority to grant application 21/1447, subject to the amendment and finalising of conditions to include, but not limited to, the choice of materials. The reasons for this are:

- The previous reasons for refusal had been overcome by the applicant;
- The proposed bungalow would be part of a parade of bungalows;
- Whether or not the proposed development fitted in with the existing environment was a personal and/or subjective view.

63/22

Plans List Item 2 – 21/0134, Former Sabre Leather Co LTD, 19-21 Sandwell Street, Walsall, WS1 3DR

The report of the Head of Planning and Building Control was submitted (see annexed) and was presented to the Committee.

There then followed a period of questioning and debate by Members.

It was **Moved** and duly **Seconded** and upon being put to the vote was:

Resolved:

That the Planning Committee delegate to the Head of Planning and Building Control to grant planning permission for application 21/0134 subject to

- securing a section 106 agreement to secure an urban open space contribution of £8,412;
- the amendment and finalising of conditions.

64/22

Plans List Item 3 – 19/0206 197 Stafford Street, Walsall, WS2 8ED

The report of the Head of Planning and Building Control was submitted (see annexed) and was presented to the Committee.

It was **Moved** by Councillor Harris and was **Seconded** by Councillor Statham, and upon being put to the vote was:

Resolved:

That the planning permission for application 19/0206 be refused.

Councillor Nawaz asked that it be recorded that he voted against refusal of the application.

65/22

Plans List Item 4 – 21/0795 - 24 Gwendoline Way, Walsall, WS9 9RG

The report of the Head of Planning and Building Control was submitted (see annexed) and was presented to the Committee.

It was **Moved** by Councillor Perry and was **Seconded** by Councillor Waters, and upon being put to the vote was:

Resolved:

Resolved (Unanimously):

Planning Committee delegate to the Head of Planning and Building Control to grant planning permission for application 21/0795, subject to conditions and subject to the amendment and finalising of conditions.

66/22 **36 Upper Lichfield Street**

The report of the Head of Planning and Building Control was submitted (see annexed) and was presented to the Committee.

There then followed a period of questioning and debate by Members.

It was **Moved** by Councillor Hicken and duly **Seconded** by Councillor Murray and upon being put to the vote was:

Resolved:

1. That authority is granted to the Head of Planning and Building Control to issue an Enforcement Notice under the Town and Country Planning Act 1990 (as amended) to require remedial actions to be undertaken as specified in 5.5 of the report;
2. To authorise the Head of Planning and Building Control to institute prosecution proceedings in the event of non-compliance with an Enforcement Order;
3. To authorise the Head of Planning and Building Control to amend, add to or delete from the wording set out below stating the nature of the breaches, the reasons for taking enforcement action, the requirements of the notice, or the boundaries if the site, in the interests of ensuring that accurate and up to date notices are served.

67/22 **117 Sandringham Avenue**

The report of the Head of Planning and Building Control was submitted (see annexed) and was presented to the Committee.

There then followed a period of questioning and debate by Members.

It was **Moved** by Councillor Hicken and duly **Seconded** by Councillor Statham and upon being put to the vote was:

Resolved:

1. That authority is granted to the Head of Planning and Building Control to issue an Enforcement Notice under the Town and Country Planning Act 1990 (as amended) to require remedial actions to be undertaken as specified in section 3 of the report;
2. To authorise the Head of Planning and Building Control to institute prosecution proceedings in the event of non-compliance with an Enforcement Order;
3. To authorise the Head of Planning and Building Control to amend, add to or delete from the wording set out below stating the nature of the breaches, the reasons for taking enforcement action, the requirements of the notice,

or the boundaries if the sire, in the interests of ensuring that accurate and up to date notices are served.

68/22 **Private Session**

Exclusion of the Public

Resolved:

That, during consideration of the following items on the agenda, the Committee considered that the items for consideration were exempt information by virtue of Paragraphs 3, 6 and 7 of Schedule 12(A) of the Local Government Act 1972 (as amended) and accordingly resolved to consider that item in private session.

Please note that whilst the items below took place in private session the below is full and open minute of the discussion that took place.

67/22 **Minutes of the previous meeting – 10 March 2022**

Resolved:

That the Minutes of the meeting held on 10 March 2022, a copy having been previously circulated to each Member of the Committee, be approved and signed as a true record.

68/22 **Poets Corner**

Resolved:

That the item on Poets Corner be deferred to a future meeting.

Termination of meeting

There being no further business, the meeting terminated at 7.35 pm

Signed

Date

PLANNING COMMITTEE

20 June 2022 at 5.30 pm

In the Town Hall, Council House, Walsall

Present:

Councillor M. Bird (Chair)
Councillor B. Bains
Councillor H. Bashir
Councillor P. Bott
Councillor S. Cheema
Councillor S. Cooper
Councillor N. Gandham
Councillor A. Harris
Councillor A. Hussain
Councillor I. Hussain
Councillor R. Larden
Councillor J. Murray
Councillor A. Nawaz
Councillor S. Samra
Councillor M. Statham
Councillor V. Waters

In attendance:

R. Ark	Senior Environmental Protection Officer
M. Brereton	Group Manager – Planning
E. Cook	Assistant Democratic Services Officer
K. Gannon	Developmental Control and Public Rights of Way Manager
N. Gough	Democratic Services Officer
J. Grant	Environmental Protection Manager
A. Ives	Head of Planning & Building Control
I. Jarrett	Principal Environmental Protection Officer
K. Moreton	Head of Highways & Transport
J. Price-Jones	Planning Solicitor
A. Scott	Senior Planning Officer
D. Smith	Senior Legal Executive
P. Venables	Director – Regeneration and Economy
A. White	Team Leader Development Management

82/22

Apologies

Apologies for absence were submitted on behalf of Councillors B. Allen, K. Hussain, G. Perry, and A. Underhill.

83/22 **Declarations of Interest**

A declaration of prejudicial interest was made by Councillor Bird regarding Plans List Item 1- 20/0832 – Former Old Bush Inn, Walsall Road and Plans List Item 2 – 20/0830 – Pelsall Villa Football Club, Walsall Road.

84/22 **Deputations and Petitions**

There were no deputations introduced or petitions submitted.

85/22 **Local Government (Access to Information) Act 1985 (as amended)**

Exclusion of the Public

Resolved:

That, during consideration of the items on the agenda, the Committee considers that the relevant items for consideration are exempt information for the reasons set out therein and Section 100A of the Local Government Act 1972 and accordingly resolves to consider those items in private.

86/22 **Application list for permission to develop**

The application list for permission to develop was submitted, together with supplementary papers and information for items already on the plans list (see annexed).

The Committee agreed to deal with the items on the agenda where members of the public had previously indicated that they wished to address the Committee and the Chair, at the beginning of each item for which there were speakers, confirmed they had been advised of the procedure whereby each speaker would have two minutes to speak.

87/22 **Plans List 1- 20/0832 – Former Old Bush Inn, Walsall Road**

Officers had requested prior to the meeting that the item be deferred to a future meeting of the Planning Committee. Having already declared an interest, Councillor Bird did not vote. It was **Moved** and **Seconded** and upon being put to the vote was:

Resolved:

That consideration of the item Plans List 1- 20/0832 – Former Old Bush Inn, Walsall Road, be deferred to a future meeting of the Planning Committee to provide the applicant with sufficient time to consider the points made.

88/22

Plans List Item 2 – 20/0830 – Pelsall Villa Football Club, Walsall Road

Officers had requested prior to the meeting that the item be deferred to a future meeting of the Planning Committee. Having already declared an interest, Councillor Bird did not vote. It was **Moved** and **Seconded** and upon being put to the vote was:

Resolved:

That consideration of the item Plans List Item 2 – 20/0830 – Pelsall Villa Football Club, Walsall Road, be deferred to a future meeting of the Planning Committee to provide the applicant with sufficient time to consider the points made

89/22

Plans List 7 – 21/0048 – Car Park former Walsall Wood Library

The Report of the Head of Planning and Building Control as introduced by the Senior Planning Officer. An overview of the application was given, including the layout, context and location of the proposed site. The site was in the vicinity of a heritage asset, the Grade II Listed War Memorial at the St Johns Church, but now heritage impact assessment has been received.

There was one speaker against the application, Councillor Sears, and one speaker in support of the application, Mr PK Sehdeva (agent).

Councillor Sears claimed the proposed development represented an overly-intensive use of the land, with no regard for the heritage asset. There would be an encroachment on private land and the privacy of neighbouring properties, as well as increased congestion and traffic potentially impacting negatively on highways safety.

Mr Sehdeva claimed the land had been sold by the local authority for redevelopment and that splitting the site allows for more efficient use. The applicant has never refused to submit evidence and stressed that he was never asked for a heritage assessment by officers. In 2021, communication from the Planning department was much delayed. Responding to member questions, Mr Sehdeva reiterated that the applicant was never asked for a heritage assessment but would have provided one if asked and stated that Officers had never suggested the application would be refused and there were no highways objections.

Responding to member questions, the Head of Planning and Building Control clarified that due to staffing challenges there were some delays providing information and communication in 2021, but the applicant would have had a duty to determine if a heritage assessment was required, which they did not do.

The Developmental Control and Public Rights of Way Manager explained that a development should not be dependent on off-site parking, and that Government advises against access onto the strategic road network. If this development was backed, there would not be such an access for the other part of the development (application 21/0842).

There then followed a period of debate. The Committee agreed they were not opposed to the principle of development on the site, however only one of the three reasons for refusal related to the lack of information. The remaining reasons for refusal, reasons 2 and 3 as detailed within the report, still remained.

It was **Moved** by Councillor Murray and duly **Seconded** and upon being put to the vote was;

Resolved (14 for, 1 against):

Members agreed as set out in report and supplementary paper that the resolution would have been to refuse had an appeal for non-determination not have been lodged.

90/22

Plans List 8 – 21/0842 – Car Park Former Walsall Wood Library

The Report of the Head of Planning and Building Control as introduced by the Senior Planning Officer. An overview of the application was given, including a description of the site, the layout, context and location of the proposed site, and access proposals.

There was one speaker against the application, Councillor Sears, and one speaker in support of the application, Mr P.K. Sehdeva (agent). Councillor Sears had nothing to add from the points raised with regards to the previous item, application 21/0048.

Mr Sedheva identified that there was considerable overlap with the points raised with regards to the previous item, application 21/0048 and added that if the information required had been requested the applicant would have provided it. Responding to questions, Mr Sedheva claimed the applicant was not given the opportunity to amend the application with regards to any of the reasons for refusal outlined in the report. If they had been asked, they would have negotiated these. Responding to whether the applicant had not thought about the need for a heritage assessment, Mr Sedheva claimed that the application stood still in the system for a long period, making things very difficult, but had the applicant been asked, they would have provided the information. Additional information was provided when requested. The reduction of parking to 8 vehicles compared with the library site with a constant flow and 20 parking spaces, represents a reduction in traffic flow, not an increase.

The Developmental Control and Public Rights of Way Manager explained that trips to the library when it was open were spread over the day, not concentrated at peak times as would be the case with the proposed development. The proposal would result in unnecessary turning and movements around junctions on a classified A-road, potentially posing a highways hazard. It was likely more manoeuvres could increase accident risk.

There then followed a period of debate.

It was **Moved** by Councillor Hicken and **Seconded** by Councillor Bott and upon being put to the vote was:

Resolved (unanimously):

That Planning Committee refuse planning permission for application 21/0842 for the reasons set out in the Officer's report and supplementary paper.

91/22

Plans List Item 4 – 21/1670 and 21/167 – 132 -132A Lichfield Street

The Report of the Head of Planning and Building Control as introduced by the Group Manager - Planning. The item was two applications being considered together including conversion of a Grade II listed property and erection of apartment block. Context was given, including lying within a conservation area. An overview of the plans was provided, including the floor plan, elevations and artists impressions. No objections had been received from consultees but there had been recommendations for conditions.

There was one speaker in support of the application, Mr J. Bal (agent). The applicant had worked for 2 years with planning and the heritage team, to develop a proposal which focused on refurbishment. Responding to Member questions, Mr Bal explained that there was initially a larger mix of properties proposed but they had been led by the existing fabric of buildings and entrances resulting in some smaller properties. Most apartments would be courtyard facing leaving 3 properties with windows at street level on Intown Row. Secured by Design had been consulted but conservation officers had asked for windows to be kept as planned.

The Group Manager – Planning, explained that alternative access for the disabled had been identified, but it was not always possible to make listed properties as accessible as would be desired. The Developmental Control and Public Rights of Way Manager explained that as it was a town centre site identified as sustainable with some parking at the rear, parking needs would be met.

There then followed a period of debate. It was **Moved** by Councillor Nawaz and **Seconded** by Councillor Statham and upon being put to the vote was:

Resolved (unanimously):

1. That Planning Committee delegates authority to the Head of Planning & Building Control to grant planning permission for application 21/1670 subject to conditions and S106 to secure Urban Open Space contribution of £21,731.00 and subject to:
 - the amendment and finalising of conditions;
2. That Planning Committee delegates authority to the Head of Planning & Building Control to Grant Listed Building Consent for application 21/1671 and subject to;
 - The amendment and finalising of conditions.

92/22

Plans List 9 21/1339 – 6 Linden Lane

The Report of the Head of Planning and Building Control as introduced by the Team Leader Development Manager. An outline of the proposal was provided, including the context, photographs of the site and the neighbouring area. No highways objections had been received.

There were two speakers against the application - Councillor Whitehouse and Mr Brian Smith (local resident). Councillor Whitehouse argued that the proposed development would represent an overdevelopment of the site, the plot being too big and not in keeping with the surroundings. Neighbouring properties would be boxed in and all other properties were set back from the road. Mr Smith explained that the estate was built with an open-plan aspect without walls and hedges and with open corner plots. The principle had been maintained for 60 years. The proposed development would destroy this concept. Green spaces should be protected and the local school uses the area as a cycle area, so highway safety was important.

There then followed a period of questioning by Members. The Team Leader Development Manager responded to a question claiming that the street scene would be destroyed by an incongruous development by explaining that the proposal still retained grass verges and would be a continuation of the street scene. The Council previously owned the land and though there was a covenant placed by the original builder, this was not a material planning consideration. Planning officers had requested an intrusiveness investigation as a suggested condition but this was unlikely to be an issue due to reduced fence depth and green spaces kept.

There then followed a period of debate. Several members argued the proposal would be incongruous and damaging to the street scene. It was **Moved** by Councillor Murray and **Seconded** by Councillor Samra and upon being put to the vote was:

Resolved (unanimously):

That, contrary to the recommendation in the officer report, Planning Committee refuse permission for application 22/0127, for the following reasons and to delegate the finalising of precise wording of the refusal reason(s) to the Head of Planning and Building Control:

- The proposed development would be an incongruous feature in the street scene;
- The proposed development would be an over-development which would have a detrimental effect on the amenity of residents, especially of Pinewood Close, because of the prominent position on the corner of Pinewood Close and the size of the development.

93/22

Plans List item 3 – 21/1781 – Land between Canalside Close and Canal

The Chair highlighted Page 16 of the Officer's report where members were asked for priorities, and suggested Priority B, that any available financial contribution should be spent on Open Space up to the policy-compliant level and any additional financial contribution should be spent on Off-Site affordable housing and access improvements and wayfinding to the Wyrley & Essington Canal towpath [in a [50/50] split].

The Head of Planning & Building Control clarified that currently Section 106 was valid as the proposed Infrastructure Levy had not passed into legislation at this time.

It was **Moved** by Councillor Bird and **Seconded** by Councillor Nawaz and upon being put to the vote was:

Resolved (unanimously):

That Planning Committee delegates to the Head of Planning & Building Control to grant planning permission for application 21/1781 subject to conditions and a S106 to secure a contribution to Affordable Housing, Open Space, Landscape Management and access improvements and wayfinding to the Wyrley & Essington Canal towpath and subject to

- Forming a set of planning conditions in order to make the development acceptable in planning terms;
- Overcoming the outstanding objections raised by the Local Highways Authority, Ecology, Canal and River Trust, Lead Local Flood Authority and Environmental Protection which may require substantive layout changes;
- Addressing any outstanding comments from the Council's tree officer;

- No further comments from a statutory consultee raising material planning considerations not previously addressed including following any layout changes.

94/22

Plans List 5 – 18/1431 and 19/0122 - 32-34 Bradford Street

It was **Moved** by Councillor Bird and **Seconded** by Councillor Samra and upon being put to the vote was:

Resolved (unanimously):

1. That Planning Committee delegate to the Head of Planning and Building Control to grant planning permission for application 18/1431, subject to conditions and subject to:
 - No new material considerations being received within the consultation period;
 - The amendment and finalising of conditions;
 - No further comments from a statutory consultee raising material planning considerations not previously addressed;
2. That Planning Committee delegates to the Head of Planning & Building Control to grant Listed Building Consent for application 19/0122, subject to conditions and subject to;
 - The amendment and finalising of conditions;

95/22

Plans List 6 – 21/1669 – Land at Former Pear Tree Cottage Inn

Officers were asked to clarify whether the 2m fence was allowed on the street side and alongside the adjacent Number 31. The proposal included an angled corner to ensure visibility met legislative requirements on visibility. The required display was 2.4m x 3.4m visibility splay for pedestrians. There was a 2m requirement from the edge of the curb to where a driver was sitting. The proposal included a 2.4m gap.

It was **Moved** by Councillor Bird and **Seconded** by Councillor Harris and upon being put to the vote was:

Resolved (unanimously):

That Planning Committee delegate to the Head of Planning & Building Control to grant planning permission for application 21/1669 subject to:

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;

96/22

**Private Session Item
Exclusion of the Public**

Resolved:

That, during consideration of the following items on the agenda, the Committee considered that the items for consideration were exempt information by virtue of Paragraphs 3, 6 and 7 of Schedule 12(A) of the Local Government Act 1972 (as amended) and accordingly resolved to consider that item in private session.

97/22

Minutes of previous meeting

Resolved:

That the Minutes of the meeting held on 26 May 2022, a copy having been previously circulated to each Member of the Committee, be approved and signed as a true record.

Termination of meeting

There being no further business, the meeting terminated at 7:36 pm.

Signed

Date



Development Management Planning Committee

Report of Head of Planning and Building Control on 21/07/2022

CONTENTS

Item	Planning Application Number	Planning Application Site Address	Planning Application Proposal	Officer Recommendation
1	21/1234	IBSTOCK BRICK ALDRIDGE LTD, BRICKYARD ROAD, ALDRIDGE, WALSALL, WS9 8TB Ward: Rushall-Shelfield and Aldridge Central and South	FULL APPLICATION FOR DEMOLITION OF FORMER DRYER BUILDING AND CONSTRUCTION OF NEW REPLACEMENT DRYER BUILDING. FURTHER DEMOLITION OF REDUNDANT DRYER BUILDING AND FORMATION OF EXTERNAL STOCK YARD.	GRANT PERMISSION SUBJECT TO CONDITIONS
2	22/0035	FORMER EAGLE WORKS AND SHAKESPEARE INN SITES, LAND AT THE JUNCTION OF SOMERFORD PLACE, SUMMER STREET AND PINSON STREET, WALSALL. Ward: Willenhall South	DEMOLITION OF ALL STRUCTURES ON THE SITE AND THE REDEVELOPMENT FOR 51 DWELLINGS TO COMPRISE 9 NO. 1 BED 2 PERSON APARTMENTS, 22 NO. 2 BED 3 PERSON APARTMENTS, 10 NO. 2 BED 4 PERSON HOUSES, 6 NO 3 BED 5 PERSON HOUSES	GRANT PERMISSION SUBJECT TO CONDITIONS

			AND 4 NO. 4 BED 6 PERSON HOUSES FOR AFFORDABLE RENT WITH ASSOCIATED INFRASTRUCTURE, INCLUDING AMENITY SPACE, LANDSCAPING, CAR PARKING, CYCLE PARKING, BIN STORES AND BOUNDARY TREATMENTS.	
3	20/1001	LAND AT GOMER STREET, WILLENHALL, WV13 2NR Ward: Willenhall South	FULL APPLICATION FOR 14 (8 X 1 BED AND 6 X 2 BED) APARTMENTS AND ASSOCIATED PARKING AND AMENITY SPACE	REFUSE PERMISSION
4	20/1575	2, WALSALL ROAD, WILLENHALL, WV13 2EH Ward: Willenhall South	PROPOSED CONSTRUCTION OF 3 NO. NEW THREE BED HOUSES WITH ASSOCIATED PARKING, ACCESS, EXTERNAL LIGHTING AND BIN STORES.	REFUSE PERMISSION
5	20/0851	SITE OF FORMER 37 TO 38, PINFOLD STREET, DARLASTON, WS10 8SY Ward: Darlaston South	PROPOSED DROPPED KERB TO PROVIDE SECOND VEHICLE ACCESS TO PREMISES	GRANT PERMISSION SUBJECT TO CONDITIONS

Planning Committee

Report of Head of Planning and Building Control on 21 July 2022

Plans List Item Number: 1

Reason for bringing to committee

County Matters Application

Application Details

Location: IBSTOCK BRICK ALDRIDGE LTD, BRICKYARD ROAD, ALDRIDGE, WALSALL, WS9 8TB

Proposal: FULL APPLICATION FOR DEMOLITION OF FORMER DRYER BUILDING AND CONSTRUCTION OF NEW REPLACEMENT DRYER BUILDING. FURTHER DEMOLITION OF REDUNDANT DRYER BUILDING AND FORMATION OF EXTERNAL STOCK YARD.

Application Number: 21/1234

Case Officer: Leah Wright

Applicant: Ibstock Brick Limited

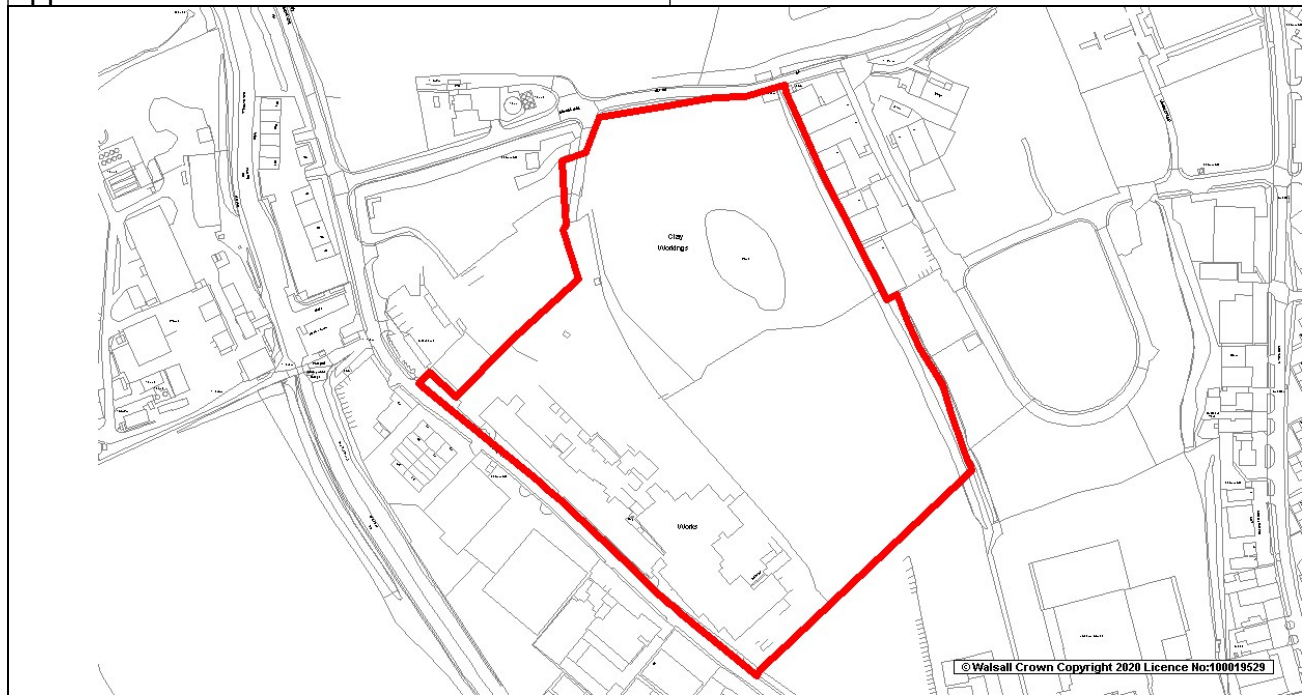
Ward: Rushall-Shelfield, Aldridge Central And South

Agent: Wood Goldstraw Yorath LLP

Expired Date: 07-Dec-2021

Application Type: County Matters: Minerals Application

Time Extension Expiry:



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Recommendation:

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to
 - The amendment and finalising of conditions.

Proposal

Full application for Demolition of former dryer building and construction of new replacement dryer building. Further demolition of redundant dryer building and formation of external stock yard.

Site and Surroundings

The site is located to the west of Aldridge and can be found on Brickyard Road in the Industrial Estate. The site sits within a heavily developed and established industrial area.

Aldridge works runs predominately parallel with Brickyard Road with various additions to the southeast and north east of the site. Southern access to the site is via Stubbers Green Road and to the north via Boatman's Lane. The proposed cannot be seen from a public highway.

Ibstock Brick Ltd are the site owner and applicant. Ibstock Brick Ltd are the key manufacturer of clay bricks and concrete products and are currently engaging in many new building projects to their current sites to increase productivity to meet ever changing demands. Brick Manufacturing has taken place on this site for some 150 years.

The current site holds brick production, external storage, office, and staff/visitor parking. The quarry can be located north/east of the proposal. The existing buildings are predominantly brick construction/asbestos roof sheeting with some later additions being steel clad.

The boundary of the West Midlands Green Belt runs adjacent to the site. The site is not within a Conservation Area, nor does it comprise a listed building.

Relevant Planning History

IBSTOCK BRICK CO LTD, BRICKYARD ROAD, ALDRIDGE, WALSALL WS9 8TB

08/0302/FL- Re-submission of 07/1404/FL/E9 - Construction of new access leading from Brickyard Road to administrative offices- **GSC 17.04.2008**

11/0799/FL- Construction of a new access leading from Brickyard Road to the Ibstock Administrative Offices- **GSC 19-08-2011**

IBSTOCK BRICK LTD, ATLAS FACTORY, STUBBERS GREEN ROAD, ALDRIDGE, WALSALL, WS9 8BL

20/1589- Environmental Impact Assessment (EIA) Screening Opinion for widening of site access, rearrangement of employee and visitor car park, extensions to the existing Brickworks building to accommodate new plant and offices, new exhaust stack, an extension to the existing brick stockyard, new box feeder building and overhead conveyor, investigation of and works to the existing anchor culvert if necessary and new planting and landscaping works. **EIA Not Required, 2021-03-02**

20/0184 - Environmental Impact Assessment Scoping Opinion for an extension to the existing clay preparation building, new box feeder and enclosed overhead conveyor, new exhaust stack and scrubber for the production building, extension to the production building, widening of the existing stockyard access from Stubbers Green Road for exit and egress, extension to the quarry clay stack, extension to the existing brick stocking area, amendments to existing consented quarry phasing area and revised restoration scheme, new surface water drainage scheme.
Scoping Opinion Response Issued - 2020-03-31

13/1380/SCOP - Environmental Impact Assessment Scoping Opinion for extension to Atlas Quarry, export brick making clays and creation of compensatory habitat for loss of Stubbers Green Site of Importance for Nature Conservation (SINC). **Scoping Opinion Response Issued - 2014-02-11**

04/1603/MI/M1 - New Condition for Existing Mineral Working Permission, 2004-07-26. **GSC 2004-12-08**

BC54933P- Provision of concrete yard slab for the storage of bricks/materials, including access ramp. **GSC 15-12-1998**

BC27424P- reserved matters to BC24328P for Siting, Design and External Appearance for Brickworks, Offices (in part) Stockyard, Ancillary Works and Landscaping. **Granted 18-08-1989.**

BC24328P - the erection of brickworks, ancillary offices and stockyard, extraction of Etruria Marl and restoration by infill to open space and or woodland at Dumblederry Farm, Stubbers Green Road, Aldridge, Walsall. **GSC 27-07-1989**

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**
- **NPPF 17 – Facilitating the sustainable use of minerals**

On **planning conditions** the NPPF (para 56) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions

that are required to be discharged before development commences should be avoided, unless there is a clear justification.

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

National Planning Policy Guidance

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

Reducing Inequalities

The Equality Act 2010 (the '2010 Act') sets out 9 protected characteristics which should be taken into account in all decision making

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV25: Archaeology
- ENV26: Industrial Archaeology
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- JP8- Bad Neighbour Industrial Uses
- T1 - Helping People to Get Around
- T2 - Bus Services
- T4 - The Highway Network
- T5 - Highway Improvements
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network

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- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality
- MIN 1 Managing and Safeguarding Mineral Resources
- MIN3 Maintaining Supplies of Brick Clay
- EMP3 Local Quality Employment Areas
- WM5: Resource Management and New Development

Walsall Site Allocation Document 2019

Policy IND3: Retained Local Quality Industry
 EN1: Natural Environment Protection, Management and Enhancement
 EN3: Flood Risk
 M1: Safeguarding of Mineral Resources
 M2: Safeguarding of Minerals Infrastructure
 M6: Brickworks- Future Supply Requirements
 M7: Brick Clay Extraction- Stubbers Green
 T2: Bus Services
 T3: The Rail Network
 T4: The Highway Network

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

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

Air Quality SPD

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

Consultation Replies

Area Partnership Aldridge/Streetly/Pheasy

- No response

Area Partnership Brownhills/Pelsall/Rushall

- No response

Archaeology

- No archaeological implications

Canal and River Trust

- No response

Coal Authority

- Area where the built development is proposed is not within the defined Development High Risk Area. No objection.

Drainage

- No response

Ecology Officer

- No response

Environment Agency

- No objection subject to imposition of conditions.

Environmental Protection

- No significant issues/concerns with the Air Quality Assessment and/or the Noise Assessment and are of the opinion that no specific planning conditions are required.

- The ground investigation work has discovered unknown obstructions, including metallic objects below the surface of the site where development is to be undertaken and has also encountered some hydrocarbon contamination. Conditions recommended to address further investigations and remediation.

Health and Safety Executive

- No comment.

Lead Local Flood Authority

- No objection to the application subject to imposition of pre-commencement conditions.

Local Highways Authority

- Support; note to applicant regarding the need to keep the highway free from mud and debris.

Natural England

- No response

Regeneration and Development

- No response

Severn Trent Water

- No objection subject to a condition requiring the submission of drainage plans for the disposal of foul and surface water flows.

Strategic Planning Policy

- Broadley supported in principle.

Tree Preservation Officer

- No response

West Midlands Fire Service

- Note to applicant regarding compliance with building regulations.

Representations

None received.

Determining Issues

- Principle of Development
- Design, Layout and Character
- Noise and Air Quality
- Contaminated Land
- Ecology Trees and Landscape
- Flood Risk / Drainage
- Highways

Assessment of the Proposal

Principle of Development

This scheme proposes the demolition of the existing dryer building and erection of a larger, replacement building with associated walling, along with the demolition of another redundant dryer building. Drying is understood to be the process of storing brick clay moulded bricks for 24-

48 hours before firing in a kiln.

The wider area is allocated in the Walsall Local Plan Policies Map (2019) as an Occupied Local Quality Industrial Site IN9.9 under Policy IND3 and the site specifically is identified as MB1 Aldridge Brickworks.

The National Planning Policy Framework at paragraph 214 states that Minerals planning authorities should plan for a steady and adequate supply of industrial minerals by maintaining a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant, and the maintenance and improvement of existing plant and equipment. The Black Country Core Strategy states that the Black Country will aim to provide a supply of Etruria Marl to each operational local brick and tile works in the Black Country for as long as possible and will aim to provide a 25-year supply to each works where feasible.

The Brick manufacturing has a long history in the Black Country, and it still has a presence within the area. The proposals within growth network are likely to generate a continuing demand for bricks and tiles for house building and commercial building projects. The Core Strategy should therefore support the local industry as much as possible subject to not compromising other important objectives, in the interests of minimising the distance that materials need to travel. Policy EMP3 (Local Quality Employment Areas) of the Black Country Core Strategy states that by 2026, we will provide 1,294 ha of local quality employment land. Local quality employment areas are characterised by a critical mass of industrial, warehousing and service activity in fit for purpose accommodation with good access to local markets and employees. These areas will provide for the needs of locally based investment and will be safeguarded for uses including Industry, warehousing and trade wholesale retailing and builder's merchants.

The Design and Access Statement submitted along with the proposal states that

- The works will not affect or increase brick production levels of 30 million bricks per annum.
- There will be no change in vehicle movements or staff numbers will occur.

It is considered that the proposal on this site is broadly supported in local and national policy as detailed above, which seeks to support the efficient improvement of minerals production facilities. The site is also allocated for this use and other Local Quality Industrial Uses are expressly supported in the vicinity.

It should be noted that although the site sits within the predominantly industrial area of Stubbers Green, the nearby (and downwind) residential community of Leighswood may be impacted by the expanded building and associated works. UDP Policy JP8 provides provisions in this regard under section (b) to mitigate against bad neighbour industrial uses.

In this instance, appropriate conditions would be imposed on the decision notice to ensure the new building would not have a negative effect on the existing community of Leighswood.

Strategic Planning Policy also noted that consultation with environmental health colleagues would be recommended. There is an active consultation with Environmental Health; if any conditions are considered necessary to mitigate against any negative effects the development may bring about they will be included on any decision notice.

In conclusion, the principle of the site for re-development in this instance would be acceptable.

Design, Layout and Character

The development seeks approval for a replacement Dryer Building. The proposed building would measure 45m in depth, 24.8m in width, with a dual pitch roof reaching a maximum height of 13m with eaves of 9m. The total floor area of the building would be 1189sqm. There will be 6 no air vents incorporated within the building that would terminate 3m above the ridge line, bringing the total height of the proposal to 16m.

The building is proposed to be a steel partial frame building in order to have the specialist plant and machinery. Due to the process, traditional steel can not be used it is therefore proposed to

galvanise all steel components and clad the building in fibre cement sheets, coloured grey. It is proposed to omit traditional gutters and downpipes and include a 'curved' eaves detail to enable rainwater run off the building which will be collected via a perimeter drainage channel.

Due to the current topography of the site, the proposed floor level will sit lower than the existing ground level. This will be protected by a perimeter 'bund' retaining wall and will also act as fire escape protected route. A small link building is to be formed between the existing building connecting to the proposal.

A new external wall is to be constructed together with additional open storage; this will be surfaced in well compacted crusher run limestone.

The proposed development is designed to be functional and to allow the operational requirements of the brickworks to be fulfilled. The design and character of the proposed building is typical of its use and would assimilate well within the surrounding industrial area. It is considered that whilst the building would represent a new, larger building within the site, the existing building would be demolished and the proposed building is not significantly taller or larger in mass to cause a negative visual impact. On balance it is considered the development is practical, functional and in accordance with the established character of the site.

Noise and Air Quality

The Applicant has included a number of relevant documents, including an Air Quality Screening Assessment and Noise assessment. Environmental Protection have no significant issues/concerns with the Air Quality Assessment and/or the noise assessment and are of the opinion that no specific planning conditions are required.

Contaminated Land

The Applicant has submitted a Ground Investigation Report, by Strata Renewables Ltd, Report No. SRL1090, dated November 2019 to support the application. The ground investigation work has discovered unknown obstructions, including metallic objects below the surface of the site where development is to be undertaken and has also encountered some hydrocarbon contamination.

The Consultant has recommended that further intrusive assessment be undertaken to determine the nature of the unknown objects and the extent of the hydrocarbon contaminants. Environmental Protection agree with this conclusion and a set of planning conditions to address such an investigation and subsequent remediation is being provided and will be included on any decision notice.

Ecology, Trees and Landscaping

A Preliminary Ecological Appraisal by Elite Ecology, dated July 2021, was submitted to support the application. The proposed works will result in the temporary loss and/or alteration of some of the habitats located on the proposed re-development site. No designated sites or protected species revealed from the ecological data set provided by EcoRecord fall on or adjacent to the proposed re-development site. Therefore, the proposed redevelopment will have no impact upon any designated sites as the works are due to remain within the site boundary. Based upon the results from the desktop survey, field survey and using a degree of academic supposition, the uncompensated re-development impacts have deemed to be of a negligible impact to all species groups.

It is considered that due to the negligible potential of the two buildings, no activity surveys for bats will be required. No artificial lighting is to be shone on any linear features, scattered trees, shrubs,

waterbodies, or woodland. For the site itself, an artificial lighting plan is required. All lighting must avoid the features of interest for the local bat populations. This is required due to the habitats within the local landscape meaning there is likely to be foraging and commuting bats within the local landscape

It is recommended as a precautionary measure that provisions are incorporated during the construction phase. This will be to create provisions for hedgehogs to escape in the form of creating slopes or the inclusion of ramps at the end of each working day from all trenches dug into the ground. Additionally, any pipework left on site that is greater than 150mm in diameter will need to be planked off. Should this information be strictly adhered to, then the development works will not negatively impact on the local mammal populations.

Site enhancements have also been recommended within the PEA; these include the incorporation of a Bumblebee Box , Bug Hotel and two Eco Hedgehog Nest Boxes in the scheme.

In order to ensure that the mitigation takes place it is recommended that conditions to secure them, will be included on the decision notice.

There are no protected trees within the boundary of the application site or within 20m of this proposal and as such an arboritucultural report was not required to support the proposal. In terms of landscaping, due to the existing nature of the site and location of the proposal it is not considered a landscaping scheme would be necessary in this instance.

Flood Risk / Drainage

The property is within Flood Risk Zone 1. The Local Lead Flood Authority have no objection to the application, subject to pre-commencement conditions to ensure that the full detailed drainage design is submitted for review and that sufficient measures will be put in place to ensure no increase in flood risk during the construction phase.

The Environment Agency were consulted on the application and have made reference to the 1:50,000 scale geological map that indicates the site is located on the Etruria Formation which is designated a Secondary A Aquifer by the Environment Agency. These are permeable strata capable of supporting water supplies at a local rather than strategic scale and in some cases forming an important source of base flow to rivers. Superficial Glacial Till deposits are also indicated which are designated Secondary Aquifer (Undifferentiated). The site is not located within a groundwater Source Protection Zone and there are no licensed abstractions within 500m of the site. The Daw End Branch Canal is located approximately 80m to the West of the development site.

The site is currently occupied comprising a brick manufacturer with a concrete yard consisting of two buildings with drier sheds. A limited intrusive site investigation has been undertaken of which a small number of soil and groundwater samples were obtained and subject to analysis for organic and inorganic contamination. It is understood that obstructions were encountered during site investigation that may indicate the presence of subsurface structures such as pipes and tanks. Along with visual and olfactory evidence, the limited sampling exercise undertaken has revealed elevated levels of hydrocarbon contamination within soils and groundwater.

Further targeted intrusive investigation is required to delineate the extent of the contamination and to determine the presence of any underground infrastructure and if this is providing an ongoing source of contamination. The results of such investigations should inform a suitably robust risk assessment to determine if or what remediation works are required to protect controlled waters receptors.

controlled waters are recommended.

Highways

The current access for HGV's will remain unaffected, this is located on the southern corner of the site direct access off Brickyard Road. Staff and visitor access is currently a separate entrance off Brickyard Road located on the eastern boundary. Exit from the site is via the northern exist on to Coppice Lane.

The site currently holds 30 staff/visitor parking and a separate staff parking area within the isolated areas of the site. The current car parking provision will remain unaffected by the proposal.

The Local Highways Authority have been consulted on the proposal and do not have any comments to make nor do they recommend any conditions; they offer their support on the proposal and have recommended a note to applicant be provided on the decision notice in regard to keeping the highway free of mud and debris.

It is considered that the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF paragraph 111.

Conclusions and Reasons for Decision

The proposal would allow for the redevelopment of the redundant dryer buildings at the Ibstock Brick Factory. There is no increase in production envisaged nor would there be a change in parking, staff numbers or vehicle movements.

The principle of development is supported in principle and is considered to align with National and Local Policy. The design, character and scale of the replacement building is considered to be acceptable and would assimilate well with the existing site and local surroundings. Appropriate conditions will be included on the decision notice to ensure the development is acceptable.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

Grant Permission Subject to Conditions

Conditions and Reasons

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

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

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

- 4579-02-01 EXISTING SURVEY SITE PLAN received on 23/08/2021
- 4579-02-02 EXISTING SURVEY PLAN AND ELEVATIONS received on 23/08/2021
- 4579-02- 03 EXISTING FLOOR PLAN received on 23/08/2021
- 4579-02-07A NEW BUILD SITE PLAN received on 23/08/2021
- 4579-02-08B NEW DRYER BUILDING REV C received on 05/11/2021
- 4579-02-09 LOCATION PLAN received on 23/08/2021
- 4579-02-10 BLOCK PLAN received on 23/08/2021
- Drainage Design – COUCH CONSULTING ENGINEERS DOC RAF 7992 received on 23/08/2021
- Elite Ecology Report received on 23/08/2021
- Wardell Armstrong NIA received on 23/08/2021
- SRL TECHNICAL NOTE received on 23/08/2021
- SRL GROUND INVESTIGATION REPORT NO 1090 received on 23/08/2021
- WARDELL ARMSTRONG AQA received on 23/08/2021
- REDBOX FLOOR PLANS received on 23/08/2021
- KINGFISHER LIGHTING DESIGN DRAWING NO 41554/RD/D received on 23/08/2021
- GHG PHASE 1 CONTAMINATED LAND RISK ASSESSMENT REPORT NO 19-1120 PART 1 AND PART 2 received on 23/08/2021

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

3a. Prior to the commencement of the development hereby permitted a surface water drainage scheme for the site and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority. The scheme shall include the following:

- Surface water drainage system(s) designed in accordance with the Non-technical standards for sustainable drainage systems (DEFRA, March 2015).
- SuDS design to provide sufficient water quality treatment, in accordance with the CIRIA SuDS Manual Simple Index Approach and SuDS treatment design criteria. Mitigation indices are to exceed pollution indices for all sources of runoff. All SuDS measures are to be demonstrated on the drainage plan.
- Limiting the discharge rate generated by all rainfall events up to 100 year plus climate change in accordance with the guidance in the SCC SUDS Handbook. Provision of surface water runoff attenuation storage to achieve the limited discharge.
- Detailed design (plans, network details and full hydraulic calculations) in support of any surface water drainage scheme, including details on any attenuation system, SuDS features and the outfall arrangements.
- Calculations should demonstrate the performance of the designed system and attenuation storage for a range of return periods and storm durations, to include as a minimum the 1:1 year, 1:30 year and the 1:100-year plus climate change return periods.
- Evidence of infiltration testing in accordance with BRE digest 365 should be provided.

- Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system. Finished floor levels to be set higher than ground levels to mitigate the risk from exceedance flows.
- Provision of an acceptable management and maintenance plan for surface water drainage to ensure that surface water drainage systems shall be maintained and managed for the lifetime of the development. To include the name and contact details of the body(-ies) responsible.

3b. The development shall not be implemented otherwise than in accordance with the approved details.

Reason: To reduce the risk of surface water flooding to the development and properties downstream for the lifetime of the development in accordance with NPPF14, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

4a. Prior to the commencement of each phase of the development hereby approved, a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, shall be submitted to and approved in writing by the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:

- i. all previous uses
- ii. potential contaminants associated with those uses
- iii. a conceptual model of the site indicating sources, pathways and receptors
- iv. potentially unacceptable risks arising from contamination at the site

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

4b. The development shall not be implemented otherwise than in accordance with the approved details.

4c. If, during further proposed works or development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority.

4d. The development shall not be implemented otherwise than in accordance with the remediation strategy as per part C of this condition.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site, in line with paragraph 174 of the

National Planning Policy Framework.

5a. Prior to the commencement of the development hereby approved, a further site investigation, ground contamination survey and assessment of ground gas having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

5b. Prior to the commencement of the development hereby approved, a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of identified and/or potential hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

5c. Prior to the commencement of the development hereby approved 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 in writing to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

5d. The remedial measures as set out in the 'Remediation Statement' required by part c) of this condition shall be implemented in accordance with the agreed timetable.

5e. If during the undertaking of the approved remedial works or during the construction of the approved development unexpected ground contamination not identified by the site investigation required by part a) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part c) of this condition has been amended to address any additional remedial or mitigation works required and has been submitted in writing to and agreed in writing by the Local Planning Authority.

5f. A validation report setting out and confirming the details of the remedial measures implemented, cross referencing those measures with the approved Remediation Statement, together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted in writing to and agreed in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

5g. The development shall not be carried out otherwise than in accordance with the approved Remediation Statement.

Reason: To ensure safe development of the site and to protect human health and the environment. In addition, to meet the requirements of the National Planning Policy Framework (2019) 170 and 178.

6a. Prior to commencement of the development hereby approved, a scheme showing the proposed location and specification including materials method of erection, heights and dimensions of a Bumblebee Box, Bug Hotel and two Eco Hedgehog shall be submitted in writing to and approved in writing by the Local Planning Authority.

6b. The development shall not be carried out otherwise than in accordance with the approved details and the approved details shall be implemented prior to the development first coming into use and thereafter retained for the life time of the development.

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

7. The development hereby permitted shall be constructed from red brick and grey cement fibre sheets to the walls, grey cement fibre sheets to the roof, White PVC windows and powder coated blue doors and shall thereafter be retained for the lifetime of the development.

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

Notes for Applicant

Construction Working Hours

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)

Highways

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

Environmental Protection

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 2018; British Standard BS10175: 2011 +A2:2017 '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); Land contamination risk management (LCRM) 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 and within 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.

Local Lead Flood Authority

Developer to ensure that satisfactory arrangements for the control of surface water are in place as part of any temporary works associated with the permanent development, to ensure that flood risk is not increased prior to the completion of the approved drainage strategy and flood risk assessment.

Environment Agency

It should be noted that in accordance with Government policy detailed in the National Planning Policy Framework (paragraph 183), 'where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'. Therefore should any significant contamination subsequently become apparent then responsibility will remain with these parties.

It should be noted that the Environment Agency has not had any influence or control over the selection of site investigation locations or any aspect of the sampling and analysis undertaken. Therefore we must assume that the information submitted is both genuine and representative of site conditions and treat it in good faith. Advice for the Applicant We recommend that developers should:

- Follow the risk management framework provided in Land Contamination Risk Assessment when dealing with land affected by contamination.
- Refer to our Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site. The local authority can advise on risk to other receptors, such as human health.
- Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed.
- Refer to the contaminated land pages on GOV.UK for more information.

We would like to refer the applicant/enquirer to our groundwater position statements in 'The Environment Agency's approach to groundwater protection', available from gov.uk. This publication sets out our position for a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heat pumps
- Drainage

Should you wish us to review any technical documents or want further advice to meet the requirements of the conditions recommended, we may do this as part of our charged for planning advice service.

Further engagement will provide you with the opportunity to discuss and gain our views on potential options to discharge these conditions before formally submitting further information as part of your application to discharge conditions. It should also result in a better quality and more environmentally sensitive development. [Page 38 of 100](#)

As part of our charged for service we will provide a dedicated project manager to act as a single point of contact to help resolve any problems. We currently charge £100 per hour, plus VAT. We will provide you with an estimated cost for any further discussions or review of documents. The standard terms of our charged for service are available [here](#).

If you would like more information on our planning advice service, including a cost estimate, please contact us on the details below.

West Midlands Fire Service

Approved Document B, Volume 2, Buildings other than Dwellings, 2019.

Requirement B5: Access and facilities for the fire service

Section 15: Vehicle access

Buildings not fitted with fire mains

15.1 For small buildings (up to 2000m², with a top occupied storey that is a maximum of 11m above ground level), vehicle access for a pump appliance should be provided to whichever is the less onerous of the following.

- a. 15% of the perimeter.
- b. Within 45m of every point of the footprint of the building (see Diagram 15.1).

15.2 For all other buildings, provide vehicle access in accordance with Table 15.1.

15.3 Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m (e.g. a 150m elevation would need a minimum of two doors) .

Design of access routes and hard-standings

15.7 Access routes and hard-standings should comply with the guidance in Table 15.2.

Requirements can only apply to the site of the works. It may not be reasonable to upgrade the route across a site to a small building. The building control body, in consultation with the fire and rescue service, should consider options from doing no work to upgrading certain features, such as sharp bends.

15.8 Where access to an elevation is provided in accordance with Table 15.1, the following requirements should be met, depending on the building height. a. Buildings up to 11m, excluding small buildings (paragraph 15.1): pump appliance access should be provided adjacent to the building for the specified percentage of the total perimeter. b. Buildings over 11m: access routes should comply with the guidance in Diagram 15.2.

15.9 Where access is provided for high reach appliances in accordance with Table 15.1, overhead obstructions (such as cables and branches) should be avoided in the zone shown in Diagram 15.2.

15.10 Dead-end access routes longer than 20m require turning facilities, as in Diagram 15.3. Turning facilities should comply with the guidance in Table 15.2.

Overall

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

Section 16: Fire mains and hydrants

Provision of private hydrants

16.8 A building requires additional fire hydrants if both of the following apply.

- a. It has a compartment with an area more than 280m².
- b. It is being erected more than 100m from an existing fire hydrant.

16.9 If additional hydrants are required, these should be provided in accordance with the

following.

- a. For buildings provided with fire mains – within 90m of dry fire main inlets.
- b. For buildings not provided with fire mains – hydrants should be both of the following.
 - i. Within 90m of an entrance to the building.
 - ii. A maximum of 90m apart.

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

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

Water

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

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

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

The approval of Building Control will be required to Part B of the Building Regulations 2010 Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 2, Section 8)

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

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 21 July 2022

Plans List Item Number: 2

Reason for bringing to committee

Major Application

Application Details

Location: FORMER EAGLE WORKS AND SHAKESPEARE INN SITES, LAND AT THE JUNCTION OF SOMERFORD PLACE, SUMMER STREET AND PINSON STREET, WALSHALL.

Proposal: DEMOLITION OF ALL STRUCTURES ON THE SITE AND THE REDEVELOPMENT FOR 51 DWELLINGS TO COMPRISE 9 NO. 1 BED 2 PERSON APARTMENTS, 22 NO. 2 BED 3 PERSON APARTMENTS, 10 NO. 2 BED 4 PERSON HOUSES, 6 NO 3 BED 5 PERSON HOUSES AND 4 NO. 4 BED 6 PERSON HOUSES FOR AFFORDABLE RENT WITH ASSOCIATED INFRASTRUCTURE, INCLUDING AMENITY SPACE, LANDSCAPING, CAR PARKING, CYCLE PARKING, BIN STORES AND BOUNDARY TREATMENTS.

Application Number: 22/0035

Case Officer: Ann Scott

Applicant: Fitzpatrick Group and Green Square Accor

Ward: Willenhall South

Agent: RCA Regeneration Limited

Expired Date: 15-Apr-2022

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

Time Extension Expiry: 31-Jul-2022



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Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to the amendment and finalising of Conditions
- And if members consider appropriate secure a Section 106 Agreement for an off-site public open space contribution.

Proposal

Demolition of all structures on the site and the redevelopment for 51 dwellings to comprise 9 no. 1 bed 2 person apartments, 22 no. 2 bed 3 person apartments, 10 no. 2 bed 4 person houses, 6 no 3 bed 5 person houses and 4 no. 4 bed 6 person houses for affordable rent with associated infrastructure, including amenity space, landscaping, car parking, cycle parking, bin stores and boundary treatments.

Site and Surroundings

The site occupies the former Eagle Works and Shakespeare Inn Sites, on 0.93 hectares of land at the Junction of Somerford Place, Summer Street and Pinson Street Walsall.

Relevant Planning History

19/01355 – Outline application for the demolition of the existing factory units and the erection of 54 dwellings comprising 20 houses and 34 flats (access, layout and scale to be considered). – Withdrawn 07-05-2021.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

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

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 56) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted,

enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV5: Stabling and Riding of Horses and Ponies
- ENV6: Protection and Encouragement of Agriculture
- ENV7: Countryside Character
- ENV9: Environmental Improvement Initiatives
- ENV10: Pollution
- ENV12: Hazardous Installations
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV16: Black Country Urban Forest
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV25: Archaeology
- ENV26: Industrial Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV28: The 'Local List' of Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- H1: Renewal of Existing Residential Areas
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing
- H4: Affordable Housing
- T1 - Helping People to Get Around
- T2 - Bus Services
- T4 - The Highway Network
- T5 - Highway Improvements
- T6 - Traffic Calming
- T7 - Car Parking:
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Spaces NOTE
- LC3: Children's Play Areas
- LC4: Allotment Gardens
- LC8: Local Community Facilities

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure

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- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- HOU5: Education and Health Care Facilities
- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- EMP3: Local Quality Employment Areas
- EMP4: Maintaining a Supply of Readily Available Employment Land
- EMP5: Improving Access to the Labour Market
- EMP6: Cultural Facilities and the Visitor Economy
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres
- CEN3: Growth in the Strategic Centres
- CEN4: Regeneration of Town Centres
- CEN5: District and Local Centres
- CEN6: Meeting Local Needs for Shopping and Services
- CEN7: Controlling Out-of-Centre Development
- CEN8: Car Parking in Centres
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN3: The Efficient Movement of Freight
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

- RC1: The Regeneration Corridors
- HC1: Land allocated for New Housing Development
- HC2: Development of Other Land for Housing
- HC3: Affordable Housing and Housing for People with Special Needs
- HC4: Accommodation for Gypsies and Travellers and Travelling Show People
- IND1: Existing High Quality Industry
- IND2: Potential High Quality Industry
- IND3: Retained Local Quality Industry
- IND4: Local Industry Consider for Release
- IND5: New Employment Opportunities
- SLC1: Local Centres
- SLC2: Local Centres Development Opportunities
- OS1: Open Space, Sport and Recreation
- LC5: Greenways
- EN1: Natural Environment Protection, Management and Enhancement

EN2: Ancient Woodland
EN3: Flood Risk
EN4: Canals
EN5: Development in Conservation Areas
T2: Bus Services
T3: The Rail Network
T4: The Highway Network
T5: Highway Improvements

Supplementary Planning Documents

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

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

Open space, sport and recreation

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

Affordable Housing

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

Air Quality SPD

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

Other Policy/guidance:

- National Design Guide
- Historic England Good Practice Advice Note 3: The Setting of Heritage Assets.
- Historic England Advice Note 12: Statements of Heritage Significance: Analysing Significance in Heritage Assets.
- Black Country Historic Landscape Characterisation (2009).
- Willenhall Conservation Area Appraisal and Management Plan.

Consultation Replies

Planning Policy – 14/2/22

- Whilst we understand that viability issues mean that it may not be possible to provide nil grant affordable housing on this site through a S106. in any case
- 14/3/22 The proposal is supported on strategic planning policy grounds. See the detailed policy references in the comments to Development Team attached to the Planning Statement. Note that the paragraph numbers in the current (2021) NPPF are slightly different to those stated.
- The affordable housing contribution will be subject to vacant building credit, with a reduction equivalent to the floor space of the existing buildings to be demolished.
- Reference should continue to be made to our earlier comments dated 22 March 2022. The additional documents received on 11th May 2022 raise no new strategic planning policy issues.

29/6 – **Conservation Officer** – Concerns with regard to design of dwellings some of the heights not being in keeping with the locality. The main building former Middleton's Works is a non-designated heritage asset and is being considered for local listed status.

Community Safety Officer – Overall support but concerns regarding some of the parking locations to the side of proposed properties which may present a security risk as the cars can be used as a climbing aid, together with the proposed gates/fences being out of sight.

Police architectural liaison officer – no objections.

Lead Local Flood Authority

22/6/22 –LLFA have no objections to the grant of full permission.

Exceedance Plans illustrating flow paths in the event of exceedance of the drainage system. To include building FFLs. Maintenance Please state the parties responsible for the maintenance of the proposed surface water system including contact details and address details. To include a schedule of planned activities with the frequencies of required maintenance.

Housing standards – refer to the bathrooms in the proposed flats that have no windows and advise that either a window or mechanical extract ventilation is required.

Highway Authority – The Highway Authority supports the proposal and considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2021 paragraph 111. Conditions are suggested in relation to parking, turning and manoeuvring areas to be implemented prior to occupation. Cycle shelters to be provided and all highway works to be completed prior to occupation of the dwellings.

Highways England – no objections.

Environmental Protection – Air quality assessment required to advise on whether the site is suitable for development and if so any mitigation required prior to us assessing the application.

22/6 requires the applicant to:

- (i) Prevent installation of a solid fuel appliance
 - (ii) Agree an Air Quality Low Emission Scheme in writing
 - (iii) Agree a Construction Management Plan
 - (iv) Prior to demolition, an asbestos survey shall be undertaken and a report produced identifying any asbestos containing material and measures to remove it.
 - (v) Following the requirements of the Supplementary Ground Investigation Report submit and agree a Remediation Statement and a Remediation Statement.
 - (vi) The requirements of the acoustics survey will need to be met and acoustic mitigations measures agreed in writing with the Local Planning Authority.
- Conditions to address the above have been provided.

Natural England – No objections or comments to make.

Historic England – do not wish to offer any comments. Advise that the LPA seeks the views of their specialist conservation and archaeological advisors.

Archaeology – There are no archaeological implications for this proposal.

Coal Authority – 8/2/22 Objection - substantive concerns the application falls within the defined high risk area; therefore within the application site and the surrounding area there are coal mining features any hazards which need to be considered in relation to the determination of the planning application. The application is accompanied by a CMRA dated February 2020. From the report findings the Coal Authority has no objections to the proposed approached to the investigation and remediation but highlights that Given that the stand-off radius reflects the area of potential instability associated with the shaft, the Coal Authority would expect the applicant to outline suitable measures to mitigate against ground movement for those external parts of the site which fall within this area of potential instability. Until the above matter is satisfactorily addressed, the Coal Authority's Planning & Development Team must OBJECT to the planning application.

21/6/22 – **Coal Authority** withdraws its objections subject to conditions in relation to remedial works being carried out in full, Mitigation measures in the submitted Coal Mining report are carried out and a statement prepared by a suitably qualified person confirming the site has been made safe and stable to be submitted and agreed in writing with the LPA.

West Midlands Fire Officer – Advice on fire safety standards provided.

Representations

3 letters of third-party comment/objections with regards to the following matters.

- Parking issues/congestion/highway safety
- Street scene and loss of privacy
- Environment and pollution
- Adverse impact on residential amenity
- Potential for damage to existing property from demolition of buildings

Determining Issues

- Principle of Development
- Heritage Assessment
- Housing need
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Crime and antisocial behaviour
- Highways
- Ecology
- Flood Risk / Drainage
- Trees / Protected Trees
- Ground Conditions and Environment
- Planning Obligations
- Local Finance Considerations
- Other key issues

Assessment of the Proposal

Principle of Development

The revised NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed. The application is mostly on commercial land in a sustainable location. The NPPF also says that housing applications should be considered in the context of the presumption in favour of sustainable development.

The application is on a parcel of land used as former industrial premises. The site lies near to a junction with a number of roads including Somerford Place, Summer Street and Pinson Street Walsall and is an allocated site for housing references, IN0073.1 SHLAA and IN0073.2 SHLAA.

In addition, the Willenhall Framework plan is a document that is a 10 year vision and delivery strategy for the future housing growth and development of Willenhall. The Cabinet supported taking forward the Willenhall Framework Plan at the meeting on the 9th February 2022. The document has limited weight at the present time as it is not yet adopted as a Supplementary Planning Document.

The principle of development for housing is supported in accordance with the BCCS Policies CSP1,

HOU1, SAD Policy HC2, and the NPPF paragraphs 68 and 119.

Heritage Assessment

The application is accompanied by a heritage assessment in accordance with the advice in the NPPF Paragraph 194. Which requires applicants to describe the significance of any heritage assets affected. The existing factory building is not yet “locally listed” but is now being put forward for local listing due to the historic links to the manufacturing industry in Willenhall and its present condition and historic merit. It is presently a non-designated heritage asset as defined in the NPPF, and is a 20th Century purpose brick built factory circa 1939 known as The “Eagle Works”. Some later alterations were added to the West Side of the factory in the mid to late 20th Century. Some internal alterations have taken place in the latter part of the 20th century to provide office and facilities for the use of the site as part of the Middleton Paper Company that took the premises on in the latter half of the 1970’s approximately 1979. The submitted heritage statement does describe the significance of the building in accord with paragraph 194, suggests that the likely use of the building for future industrial use in the future is unlikely but does indicate that the impact of the existing building on the site is positive and is a local landmark, but is in a state of disrepair. Many original features are retained including some original critical windows which are largely covered up but some may require either repair or replacement.

Nearby there is a garage at the junction of Wolverhampton Street and New Road and is a non-designated heritage asset as defined in the NPPF. In addition there are two nearby listed buildings The Portobello War Memorial and 54 New Road (The Locksmiths House Museum).

Other heritage assets nearby identified include St Stephens Church, and a number of locally listed properties on New Road including numbers 33, 71, 72, 75 and 82-94, and numbers 15-16 Wolverhampton Street. The heritage statement submitted advises that the proposal does not cause harm to anything of significance.

The conservation officer has expressed concerns with regard to the flats and the proposed flat roof. In addition some of the dwellings incorporated dormers and an irregular pattern of fenestration which was considered out of keeping with the character of the area. In addition some of the heights of the proposed dwellings were irregular and not reflective of the pattern of development in the locality.

The garage at the junction of Wolverhampton Street and New Road is considered to be a non-designated heritage asset. The demolition of Eagle Works and the erection of flats would have some harm to the significance of this NDHA, that level of harm would be low to medium.

The proposed buildings including the flats and houses are of a contemporary design using simple elevational treatment and the use of brick, tile and render. The flats are flat primarily flat roofed and some of the dwellings incorporate flat roofed dormers. There are no objections in principle to the proposed design of the flats and dwellings which are functional and use modern material but are different in scale and design to nearby dwellings of traditional design and construction. Some of the flats incorporate glazed balconies to facilitate additional amenity space for occupiers. Whilst the Conservation Officer objects to the design of the taller housing and considers that some of the details are not reflective of the character of the area. On balance the benefit to the locality from the resulting dwellings, would overcome the minor issues in relation to the design of the flats and dwelling houses. In relation to the fenestration treatment some of the window proportions are more typical of modern contemporary development and will have their own character in terms of the contribution of the new development to the wider area. The area is characterised by older terraced housing of Victorian and Edwardian era circa 1890’s to 1910 in particular along Summer Street, along with post war council housing circa 1947-1950s. Materials are largely brick, tile and white or cream render to the fronts of properties. Opposite the site on Summer Street is a large composite clad elevation to existing commercial premises, which will be developed as part of this application

and will therefore be demolished as the Eagle Works brick building is intended to be demolished.

Paragraph 203 of the NPPF states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'.

Policy ENV26 Industrial Archaeology of the "saved policies" in the Walsall UDP seeks to ensure that the Council will define buildings and structures of industrial archaeology interest. In considering proposals for development, the Council will have regard to the industrial/ and or historical importance of the site or building. There will generally be a presumption against the granting of planning permission for development schemes which involve the demolition or damaging of significant buildings or sites relating to the Boroughs Traditional Industries. Restoration and appropriate adaptation will be encouraged. Where development proposals affect buildings that do not merit retention the council will make positive recommendations for recording and preservation of artefacts and features.

It is considered that the submitted heritage statement considers the appropriateness of the conversion of the building to another use or its use for industrial purposes in the future to be limited due to the poor condition of the building. The site is also in an area at high risk of flooding and it is considered any necessary mitigation measures to facilitate the use of the building for residential purposes would be difficult to achieve given the poor condition of the building internally and externally. The building would be in need of refurbishment to make it suitable for habitation again for either commercial or residential purposes. Together with the site being in a high flood risk area on balance it is considered that the conversion of the building would not be likely to be practical for a residential use. Therefore it is considered that the proposal to demolish the building and build flats on this part of the site is more sustainable in the longer term.

Paragraph 201 of the NPPF advises that where a proposed development will lead to substantial harm or total loss of significance of a designated heritage asset planning authorities should refuse consent unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh the harm or loss. If the following apply, the nature of the heritage assets prevents all reasonable uses of the site and no viable use of the heritage asset can be found in the medium term through appropriate marketing that will enable its conservation. Conservation by grant funding of some form or not for profit, charitable or public ownership is demonstrably not possible and the harm or loss is outweighed by bringing the site back into use. It is considered that the site is allocated for residential development and paragraph 11d) is in effect. On balance the grant of permission to demolish the building for a replacement residential development would outweigh the substantial harm or total loss and is necessary to achieve substantial public benefits of granting permission for 51 dwellings on the wider site.

The Conservation Officer has recommended that if the building is to be demolished then a condition requiring a 'building recording survey' in accordance with Historic England's Understanding Historic Buildings: A guide to good recording practice (2006) to Level 3 shall be commissioned by an accredited archaeologist and shall be submitted to and approved in writing by the local planning authority.

Housing Need

The proposal is in a sustainable location in the built up area of Walsall on an allocated housing site. The affordable housing scheme proposed is therefore supported on strategic planning policy grounds by BCCS policies CSP1 and HOU1, SAD policy HC2 and NPPF paragraphs 68 and 119.

create a network of cohesive, healthy, and prosperous communities and for the provision of sufficient land to provide for sustainable housing growth.

The latest available figures show that there was a 5 year housing land supply as at April 2021, however the Council failed the Housing Delivery Test published in January 2022 based on low levels of delivery over the last 3 years. This means that the size of the required supply buffer has increased resulting in the supply at the time of preparing this report being slightly less than 5 years, and the presumption in favour of sustainable development as described in the NPPF paragraph 11d) is in effect.

Design, Layout and Character

The proposed development is designed around separate parcels of land forming part of the whole development which is centred largely around the old Eagle Works where existing buildings will be removed to facilitate the housing development and Summer Street.

Policy ENV26 states 'there will be a presumption against the granting of planning permission for development schemes which involve the demolition or damaging of significant buildings or sites relating to the Borough's traditional industries'. The policy also states 'restoration and appropriate adaptation will be encouraged. The discussion in relation to the loss of the building is set out in the heritage section of this report.

The proposed buildings including the flats and houses are of a contemporary design using simple elevational treatment and the use of brick, tile and render. The flats are flat primarily flat roofed and some of the dwellings incorporate flat roofed dormers. Whilst they are out of keeping with the traditional pattern of development in the locality other than the dwellings fronting the main street pattern. There are no objections in principle to the proposed design of the flats and dwellings which are functional and use modern material but are different in scale and design to nearby dwellings of traditional design and construction. Some of the flats incorporate glazed balconies to facilitate additional amenity space for occupiers. Some dwellings are taller than the traditional properties of the locality however the site is to be developed as a holistic approach and the design incorporates features including finished floor levels and heights of buildings necessary to achieve flood risk measures due to the flood risk status of the site. The flood risk is discussed in that section of the report.

The proposal is considered to accord with Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, DW3 Character, and DW5 Ease of movement of the Designing Walsall urban design document. Together with the design advice in Chapter 12 of the NPPF Achieving well-designed places. Together with the SPD Policies in Designing Walsall DW1 Sustainability, DW2 Safe and Welcoming Places, DW3 Character and DW10 Well Designed Sustainable Buildings.

Amenity of Neighbours and Amenity of Future Occupiers

The proposed development will be situated in the proximity of existing residential properties together with other commercial businesses nearby. Some objections have been received from third parties with regard to parking issues/congestion/highway safety impact on the street scene and a loss of privacy. In addition to an adverse impact on the environment and pollution and the potential for damage to existing property from demolition of buildings.

The proposed dwellings are not considered to create any undue overlooking or overbearing situation. However, it is not discounted that the proposal will generate a degree of noise and disturbance during construction but these matters can be controlled by a condition to secure a

construction management plan and hours of operation to avoid unnecessary disturbance to nearby occupiers. In addition, it is considered appropriate to restrict permitted development rights to ensure that no extensions or additions as defined by Schedule 2, Part 1 development within the curtilage of a dwelling house without the prior consent of the Local Planning Authority. The proposal is considered to accord with the Saved Unitary Development Plan Policy GP2 (Environmental Protection), and Policies DW1 (Sustainability), DW2 (Safe and Welcoming places) and DW6 (Legibility). Of the Designing Walsall SPD.

The proposed balconies are considered to be a key design feature which will not only provide valuable amenity space for the occupants of the apartment building but will also assist in the provision of natural surveillance which is a key attribute in the prevention of crime, fear of crime and antisocial behaviour. Natural surveillance is considered in the design policies in the Designing Walsall SPD Policy DW2 Safe and Welcoming places.

The proposal is considered to accord with the Saved Unitary Development Plan Policy GP2 (Environmental Protection), and Policies DW1 (Sustainability), DW2 (Safe and Welcoming places) and DW6 (Legibility). Of the Designing Walsall SPD.

Crime and Antisocial Behaviour

The proposal is not considered to have the potential to result in harm to the amenities of the locality from crime and antisocial behaviour subject to conditions. The design of the development gives opportunities for pedestrian access through the site and includes balconies and fenestration details including the communal stair access areas which feature large full height windows which are intended as part of the design to increase the level of natural surveillance.

This application is considered to accord with Saved Unitary Development Plan Policy GP2 (Environmental Protection), Site Allocation Document Policy HC2 (Development of Other Land for Housing), the aims of Appendix D (Numerical Guidelines for Residential Development) of the Designing Walsall SPD and the National Planning Policy Framework 2021.

Highways

The Highway Authority have no objections to the proposal subject to conditions requiring some changes to the parking spaces for plots 41 to 43 Somerford Place and Pinson Road are classified roads, the B4464 and the B4484 respectively. Both are District Distributors. All three roads are bus routes.

The site is highly sustainable being within reasonable walking distance of Willenhall District Centre with a wide range of public and commercial facilities and public transport.

The parking spaces to Plots 41 to 43 are considered too close to the Pinson Road/Somerford Place roundabout. The position of the proposed building (Plot 41 to 43) virtually up to the highway boundary will severely impair inter-visibility for drivers egressing the parking spaces to vehicles exiting the roundabout into Pinson Road from a westerly direction and vice-versa.

A Revised Plan will be required relocating these 3 spaces away from the junction.

91 parking spaces for the 51 dwellings is proposed. This equates to a 178% level of provision. Taking into account the site's sustainable credentials, the level of provision is considered acceptable. The development is unlikely to have a significant impact in traffic terms. There will be a benefit by the removal of some commercial traffic from the streets. The highway authority consider conditions necessary to provide a CEMP to include methods of demolition and off-site improvements to footways. Subject to the changes the application is considered to accord with "saved policies" T7 - Car Parking T13: Parking Provision for Cars, Cycles and Taxis, and the Black

Ecology/Trees/Landscape

The proposal will affect some trees on the site which will be likely to be affected from the resulting development either by removal or from impact of the built development. A tree protection condition is considered necessary to protect those trees to be retained on the submitted tree protection drawing. Whilst some landscaping measures are demonstrated on the submitted drawings. A condition In addition a condition to secure additional landscaping to augment and integrate the development into the surrounding locality is considered appropriate. Standard tree protection conditions are also considered appropriate to protect the existing trees during construction there are no objections in principle to the proposal in relation to the impact on existing trees within the site.

The proposal is considered to accord with the Unitary Development Plan Policies ENV14 (Development of Derelict and previously developed sites), ENV18 (Existing Woodlands, Trees and Hedgerows) and ENV23 (Nature conservation and new development).

Flood Risk / Drainage

The application site lies mainly in flood zone 1 to the South and the North of the application site but also is partly in Flood Zone 2 and partly adjacent to flood zone 3, but is accompanied by a flood risk assessment to demonstrate the risk of flooding to the site from fluvial flood risk.

Paragraph 159 of the NPPF seeks to ensure that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at the highest risk either now or in the future. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

If it is not possible for development to be located in areas at lower risk of flooding taking account of wider sustainable development objectives the exception test will need to be applied and should be informed by a site specific flood risk assessment depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk and the development will be safe for its lifetime, taking account of the vulnerability of its users without increasing flood risk elsewhere.

Mitigation measures provided in the Flood Risk Assessment suggest a minimum finished floor level of 600mm above AOD for the housing and 300 mm above AOD for the apartments. Together with other SUDS methods to provide for surface water run-off these measures include the potential for drainage attenuation within the site. In accordance with standing advice.

Appropriate conditions are considered necessary to secure measures for foul and surface water run-off. There are no objections to the proposal from the LLFA who consider that the submitted information to amend the proposed drainage strategy have overcome their concerns.

The proposed development is considered to be in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

Ground Conditions and Environment

The application site was previously used to manufacture paper. It is unknown as to whether or not there is any existing contamination on the site. The submitted Coal Authority Report advises of legacy shallow coal mining activity and the presence of a former Mine Entry (CA Ref no. 395298-023). The Coal Mining Authority recommend appropriate conditions in relation to remedial

treatment is required together with the submission of a signed statement to incorporate a signed statement from a suitably qualified person confirming the site has been made safe. Subject to a condition to secure the above scheme of investigation for contamination potential the proposal is considered to accord with “Saved” Unitary Development Plan Policy ENV10: Pollution and The Black Country Core Strategy ENV8 Air Quality.

Planning Obligations

Policy HOU3 of the BCCS, and the Affordable housing SPD requires provision of 25% affordable housing on qualifying sites of 15 units or over. In accordance with policies GP3 and LC1 of the UDP, policy DEL1 of the BCCS and Urban Open Space SPD the proposal triggers the need for urban open space.

The developer has submitted a Viability Assessment Report which concludes that the development would not be viable if any s106 contributions were sought. The proposal is to provide 100% affordable housing at 100% affordable rent. The Affordable Housing SPD indicates that 25% social rent housing should be provided.

The Viability Assessment has been independently corroborated with a recommendation that s106 contributions would not be appropriate if the development is to go ahead. It is therefore recommended that planning obligations be waived in this instance although it should be noted that without a Section 106 the Council cannot guarantee the delivery of at least 25% affordable housing affordable rent tenure.

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 51 new homes.

The Government has indicated that, for 2020-21, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling.

Other key issues

In relation to the development of the site going forwards. The existing building formerly Middleton Works which is being considered for local listing status. It is considered that the likelihood of a use coming forward for the existing building in the future is very limited. The building would be in need of refurbishment to make it suitable for habitation again for either commercial or residential purposes. Together with the site being in a high flood risk area on balance it is considered that the conversion of the building would not be likely to be practical for a residential use. Therefore it is considered that the proposal to demolish the building and build flats on this part of the site is more sustainable in the longer term. Given that flood risk measures will be built into the new replacement flats to ensure that the development is not adversely affected by or increases the risk of flooding to nearby properties. In accordance with the advice in the NPPF Chapter 14 Meeting the challenge of flood risk and coastal change.

Open Space Contributions

In relation to Open Space contributions as set out in the Planning Obligations Section of the report. The developer has submitted a Viability Assessment Report which concludes that the development

would not be viable if any s106 contributions were sought. Committee Members may wish to secure contributions for open space if they consider it is appropriate to do so via a Section 106 legal agreement.

Conclusions and Reasons for Decision

Officers have worked with the applicant and their agents positively and creatively to provide an opportunity to address the concerns raised by the Council and by consultees and interested parties. A satisfactory way forward has been negotiated and the amendments have been submitted which overcome previous concerns to the extent that the application can now be supported.

Taking into account the above factors it is considered that the application should be recommended for approval subject to conditions.

Officers have spoken with the applicant's agent and in response to concerns raised regarding visual impact and character and appearance of the proposed building, amended plans have been submitted which enable full support to be given to the scheme.

Positive and Proactive Working with the Applicant

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern and allowing opportunities for the proposals to be amended.

Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to the amendment and finalising of Conditions
 - and if members consider appropriate secure a Section 106 Agreement for an off-site public open space contribution.

Conditions / Reasons

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

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

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

2020031 04H Site Plan

2020031 08B Site Location Plan

2020031 10 Site Block Plan

2020031 15A Street elevations 1 of 2

2020031 16A Street elevations 2 of 2

2020031 20 Flat layout plans

2020031 21A Ground floor flat plans

2020031 22A First floor flat plans

2020031 23A Second floor flat plans

2020031 24A Roof plans

2020031 25 Plots 1-21 Front Elevations

2020031 26 Plots 1-21 Rear Elevations

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2020031 27 Plots 38-43 Elevations/front/side/rear
2020031 28A Plots 44-47 Elevations front/side rear
2020031 31 2B House
2020031 32 3B House
2020031 33 4B House
2020031 2B4P Wide House
AEL-18432-TCNLP Tree Constraint New Layout Plan
AEL-18432 Existing Tree Constraint Plan
AEL- 18432-TIP Tree Impact Plan
AEL-18432-TPP Tree Protection Plan
AEL-18432-TSP Tree Shadow Plan
AEL-18432-TWP Tree Work Plan

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

3 Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.

b. The development shall not be carried out otherwise than in accordance with the approved details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.

c. The development hereby permitted shall not be occupied until the approved drainage has been installed in accordance with the approved plans.

Reason: To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

4. Prior to occupation of the development hereby permitted, the parking and vehicle manoeuvring areas set out on plan 2020031 04H Site Plan shall be consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain, together with the demarcation and retention of parking bays. These areas shall thereafter be retained and used for no other purpose for the lifetime of the development.

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

5. Prior to commencement of any building operations above the damp proof course of the development hereby permitted details of the proposed finished floor levels, ridge and eaves heights of the buildings hereby permitted shall be submitted in writing to and approved in writing by the Local Planning Authority.

a. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding properties.

b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and thereafter be retained for the lifetime of the development.

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

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

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

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

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

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

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

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

8. a. Prior to the commencement of the development hereby permitted a Construction Methodology Statement shall be submitted in writing to and approved in writing by the Local Planning Authority detailing where the parking and turning for site operatives and construction deliveries will be located and including full details of wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.

b. This provision shall be retained during construction in accordance with the approved details.

Reason In order to minimise on street parking during construction and the potential disruption to the free flow of traffic on the public highway in the interests of highway safety.

9. a. Prior to commencement of the development hereby permitted a site survey to identify any potentially hazardous materials shall be carried out and a Method Statement detailing actions to be taken and timescales for the taking of such action to prevent localised contamination shall be submitted in writing to and approved in writing by the Local Planning Authority.

b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Method Statement.

c. Prior to any building or engineering operations on site following demolition of the building hereby permitted and removal of the demolition material a validation report shall be submitted in writing to and agreed in writing with the Local Planning Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials and the building and to verify that the approved Method Statement has been carried out.

Reason: To prevent potential contamination of the ground due to any potentially hazardous materials associated with the buildings or their previous use in accordance with saved policies GP2

and ENV14 of Walsall's Unitary Development Plan.

10 a: Prior to the commencement of development hereby permitted an Air Quality Low Emission Scheme for the installation of electric-vehicle charging points and Ultra-Low NOx boilers shall be submitted in writing to and agreed in writing, with the Local Planning Authority.

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

c: Prior to the first occupation of the development hereby approved an independent validation report shall be submitted in writing to and agreed in writing, with the Local Planning Authority that demonstrates the approved mitigation measures have been carried out in accordance with the approved details.

Reason: in the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.

11a. Prior to the commencement of building operations above damp proof course of the development hereby permitted details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

b. The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

c. Prior to occupation of the development hereby permitted until all boundary treatments have been erected in accordance with the approved schedule.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

12. Prior to commencement of the development hereby permitted the following details shall be submitted in writing to and approved in writing by the Local Planning Authority:

a. A plan showing the location of and allocating a reference number to each existing tree on the site which has a stem with a diameter measured over the bark at a point 1.5metres above ground level exceeding 75mm showing which trees are to be retained and the crown spread of each retained tree

b. Details of the species diameter (measured in accordance with paragraph a) and the approximate height and an assessment of the general state of health and stability of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs iii and iv apply

c. Details of any proposed topping or lopping of any retained tree or of any tree on land adjacent to the site

- d. Details of any proposed alterations in existing ground levels and of the position of any proposed excavation within the crown spread of any retained tree or any tree on land adjacent to the site, from any retained tree or any tree on land adjacent to the site equivalent to half the height of that tree.
- e. Details of the specification and position of fencing and of any measures to be taken for the protection of the retained trees from damage before or during the construction of the development.
- f. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To safeguard the existing trees on the site in accordance with saved policy ENV18 of Walsall's Unitary Development Plan.

13. Prior to the commencement of development:

- a. details of protective fencing and ground protection to be installed around all retained trees shall be submitted in writing to and approved in writing by the Local Planning Authority
- b. The approved protective fencing and ground protection shall be installed
- c. One month's written notice of the intention to commence development shall be given to the Local Planning Authority to allow the Council's Arboricultural Officer to fully inspect the installation of the protective fencing and ground protection
- d. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved details before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.
- e. Nothing shall be stored or placed nor any fires started, any tipping, refuelling, disposal of solvents or cement mixing carried out inside the protective fencing or on the ground protection referred to in part a to this condition .Ground levels within protective fencing and on ground protection areas shall not be altered nor shall any excavation or vehicular access or drainage routes be made.
- f. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Saved Policy ENV18 of the UDP and Conserving Walsall's Natural Environment SPD.

14. Prior to commencement of any building operations above the damp proof course of the development hereby permitted details of the proposed finished floor levels, ridge and eaves heights of the buildings hereby permitted shall be submitted in writing to and approved in writing by the Local Planning Authority in accordance with the submitted Flood Risk Assessment.

- a. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding properties.
- b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: In the interests of the amenities of the area in accordance with saved policies GP2

(Environmental Protection) and ENV32 (Design and development proposals), and ENV40 (Conservation, protection and use of water resources) of Walsall's Unitary Development Plan, NPPF Chapter 10 Meeting the Challenge of Flood Risk and Coastal Change, Black Country Core Strategy Policy ENV5 Flood Risk, Sustainable Drainage Systems and Urban Heat Island.

15. Prior to the commencement of development hereby permitted, a 'building recording survey' in accordance with Historic England's Understanding Historic Buildings: A guide to good recording practice (2006) to Level 3 shall be commissioned by an accredited archaeologist and shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure there is a record of this non-designated heritage asset in accordance with Paragraph 205 of the NPPF.

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

- All external doors to individual dwellings to be PAS24; 2016
- All ground floor windows and over accessible roofs to be PAS24; 2016
- All ground floor windows and over accessible roofs including French doors and patio doors to have not less than one pane of 6.4mm laminated glass.
- All shared external doors for flatted development shall have a door entry phone system and electronic lock release linked to each flat
- Mail boxes for the flatted development shall be constructed of a minimum 1.5 metre steel construction, being lockable individual letter boxes, secure anti-theft proof and wall mounted located at the primary entrance/exit lobby point of the building, covered by CCTV
- lighting within flatted internal communal areas shall be PIR activated
- Dusk until dawn lights (white light source) to be installed adjacent to each door including either side of garage doors
- 1.8m high closed board fencing with 0.3m trellis topper to be erected around the perimeter of each dwelling.
- All garden access gates shall be of the same construction of the perimeter fencing, self-closing, facing the street, lockable with a key front and rear, designed to not create any climbing aids
- No Lead or metal shall be used on the ground floor.
- All the dwellings shall be suitably with an intruder alarm by a registered SSAIB or NSI engineer to British Standard (BS EN 50131 Grade 2)
- Recycling and refuse areas to be secured at the rear of the flatted properties in a lockable storage facility
- All energy meters shall be placed at the front of the dwellings

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

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

- Class A (enlargement, improvement or other alterations),
- Class AA - enlargement of a dwelling-house by construction of additional storeys
- Class B (additions to the roof),
- Class C (other alterations to the roof),
- Class D (porches),
- Class E (building incidental to the enjoyment of a dwelling house),
- Class F (hard surfaces incidental to the enjoyment of a dwelling house),

Shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

18. Notwithstanding the details submitted of the development hereby permitted and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, there shall be no installation of any solid fuel stove, fire or heating appliance in the development hereby permitted for the lifetime of the development.

Reason: To ensure safeguarding of local air quality in accordance with BCCS Policy ENV8.

19. a) Prior to the first occupation of the any dwelling on the development, all access ways, vehicle manoeuvring areas and parking spaces for that dwelling shall be fully implemented, the areas being fully consolidated, hard surfaced in tarmacadam or similar material and drained so that surface water run-off from the area does not discharge onto the highway or into any highway drain, together with the clear demarcation of all parking bays.

b) 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.

20. a) Prior to the first occupation of any flat on the development, full details of the proposed cycle shelters, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and the facilities shall be fully implemented in accordance with the approved details.

b) The cycle shelter facilities shall thereafter be retained and used for no other purpose.

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

21a. Prior to the first occupation of any dwelling on the development, the following highway related works shall be fully implemented to the specification of and to the of satisfaction of the Highway Authority;

b The relocation of the existing Speed Humps in Summer Street,

c The widening of the existing footways fronting the development in Summer Street to 2 metres together with the repositioning/adjustment of any street furniture, including street lighting columns as required,

d The installation of vehicular footway crossings at all new access points,

e The removal and reinstatement of all redundant footway crossings back to full kerb height. The visibility splays at all vehicle access points on the development and shown on Site Layout 04H, shall be kept free at all times of structures and planting exceeding 600mm in height above highway levels.

Reason: In the interests of highway safety.

22. Prior to the commencement of the development, including demolition, a Construction Methodology Statement shall be submitted to and approved by the Local Planning Authority detailing;

a. where the parking and turning facilities for site operatives and construction deliveries will be

- located,
- b. full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.
 - c. b) The demolition and construction of the development shall be in accordance with the approved details.

Reason: In order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 21 July 2022

Plans List Item Number: 3

Reason for bringing to committee

An appeal has been made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission. Officers are therefore seeking a resolution from Members of this Planning Committee on how they would have otherwise determined this application. The resolution will be forwarded to the Planning Inspectorate and will form part of the Council's appeal documents.

Application Details

Location: LAND AT GOMER STREET, WILLENHALL, WV13 2NR

Proposal: FULL APPLICATION FOR 14 (8 X 1 BED AND 6 X 2 BED) APARTMENTS AND ASSOCIATED PARKING AND AMENITY SPACE

Application Number: 20/1001

Case Officer: Leah Wright

Applicant: Simon North

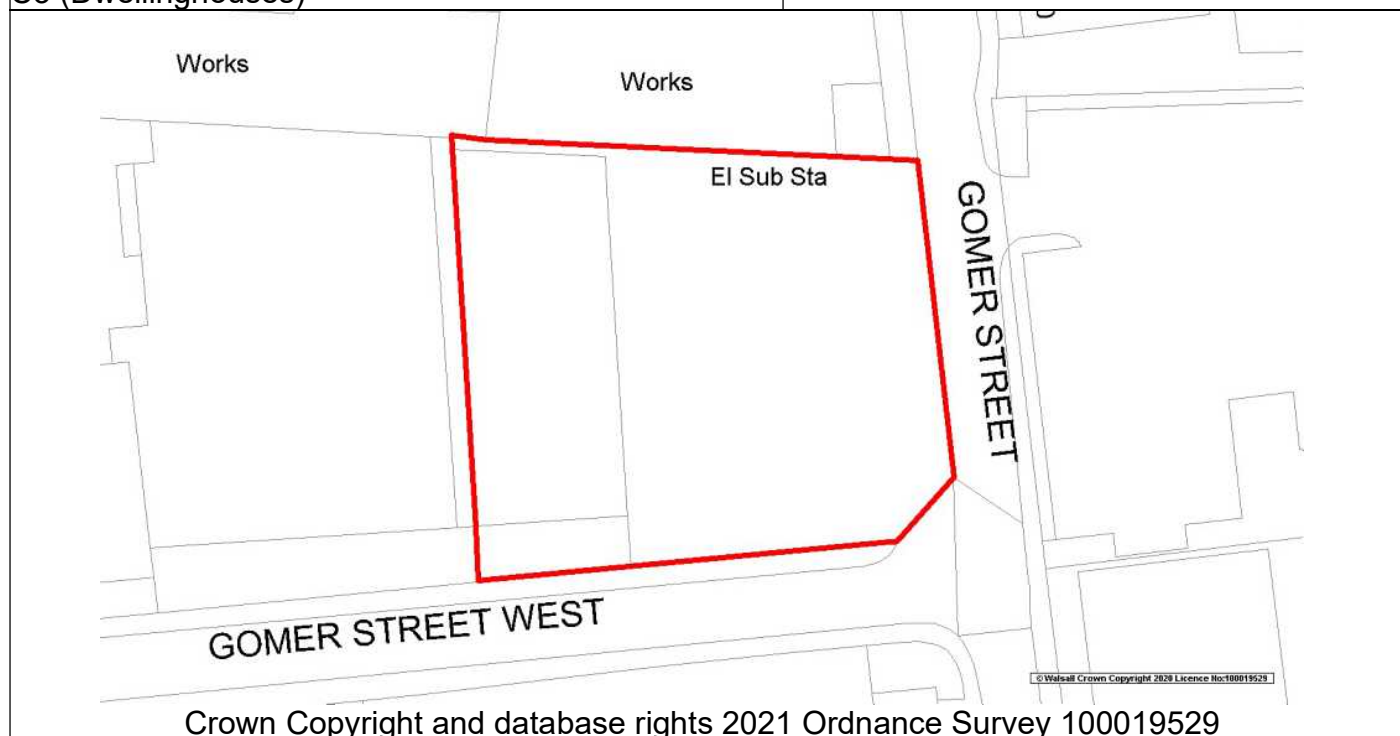
Ward: Willenhall South

Agent: J Mason Associates Ltd

Expired Date: 17-Nov-2020

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

Time Extension Expiry: 12-Aug-2021



Recommendation:

Refuse Planning Permission

Proposal

Full application for 14 (8 x 1 bed and 6 x 2 bed) apartments within a building which ranges from two to four storeys and associated parking and amenity space.

To note, the originally submitted scheme proposed 18 apartments, however the number was reduced to 14 to allow for more amenity space at ground floor level.

There will be 18no parking spaces provided with 3 electric vehicle charging points. There is a secure bin store proposed with 2no spaces, in addition to an internal, secure bin store.

A total of 338sqm of communal amenity space is proposed to the northern section of the site. Further, around the site there is soft landscaping proposed.

Site and Surroundings

The application site is located on the corner of Gomer Street and Gomer Street West. To the North and West side of the site sits industrial buildings, with the East of the site adjoining a residential street. The immediate context to the South consists predominantly of industrial and residential buildings. Most notably is the 14-storey residential block directly opposite the south elevation of the site.

The site is within a Coal Development High Risk Area and the Willenhall Conservation area is located to the east of the site.

Relevant Planning History

No relevant history.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 56) says:

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- ENV10: Pollution
- ENV11: Light Pollution
- ENV13: Development Near Power Lines, Substations and Transformers
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV25: Archaeology
- ENV26: Industrial Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV29: Conservation Areas
- ENV30: Registered Parks and Gardens
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP1: The Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- DEL1: Infrastructure Provision
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- EMP5: Improving Access to the Labour Market
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV8: Air Quality

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing

IND4: Local Industry Consider for Release

EN3: Flood Risk

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EN4: Canals
T2: Bus Services
T3: The Rail Network
T4: The Highway Network
T5: Highway Improvements

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall

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

Open space, sport and recreation

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

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**

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

Consultation Replies

Archaeology

- No archaeological implications for this proposal.

Coal Authority

- Coal Authority concurs with the recommendations of the Phase II Geotechnical Assessment report; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. Recommend granting of planning permission subject to conditions.

Ecology Officer

- No comment.

Environmental Health

- No comment

Environmental Protection

- If the application involved the re-development of the entire block, including the industrial buildings, i.e. part of a larger re-development scheme, then Pollution Control would be in support. However, as far as Pollution Control are aware, the existing industrial units have no planning restrictions, can operate 24-hours per day, seven days a week, if they wanted and could involve any B1, B2, B8 activity. Cannot support the application as is. If the application was to be re-submitted as part of a larger scheme then Pollution Control will provide additional comments on contaminated land, Air Quality SPD, and noise concerns.

Highways England

- No objection.

Historic England

- No comment.

Housing Standards

- No comments to make, however no dimensions provided to determine the bedroom sizes.

Local Highways Authority

- No objections subject to conditions regarding full details of the proposed cycle shelter, the submission of a construction methodology statement, full consolidation and hard surfacing of the parking and vehicle manoeuvring areas and the implementation of the highway footway.

Local Lead Flood Authority

- No objection to the application at this stage subject to the pre-commencement conditions below being attached to any planning permission, to ensure that the full detailed drainage design is submitted for review and that sufficient measures will be put in place to ensure

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no increase in flood risk during the construction phase

Natural England

- No comment

Network Rail

- No comment

Public Lighting

- No street lighting implications concerning this development as lighting columns are absent from the proposed demolition and rebuilding by virtue of their being positioned away from the site. Security lighting is to be provided for the vehicle access; requested that the footprint of this lighting installation is confined to the site with no spill lighting onto adjacent properties.

Severn Trent Water

- No objections subject to a condition for the disposal of foul and surface water flows. Note to applicant advising there may be a public sewer located within the application site.

Sport England

- Application does not fall within remit; no detailed advice given.

Strategic Planning Policy

- The reduction from 18 to 14 dwellings means that no contribution to affordable housing is now required. The remaining points in our earlier response of November 2020 still stand.

Tree Preservation Officer

- No comment received.

Waste Management (Clean and Green)

- No comment received.

West Midlands Fire Service

- Note to applicant regarding compliance with building regulations.

West Midlands Police

- No objection; recommend principles of secure by design.

Representations

No representations received.

Determining Issues

- Principle of Development
- Heritage Assessment
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways
- Ecology
- Flood Risk / Drainage
- Trees / Protected Trees and Landscaping
- Coal Authority
- Environmental Protection

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- Planning Obligations
- Local Finance Considerations
- Presumption in favour of sustainable development.

Assessment of the Proposal

Principle of Development

The allocation of the site as part of a “consider for release” site under SAD policy IND4 means that the loss of the site for employment use is acceptable in principle subject to the requirements of BCCS policy DEL2 being met.

It is understood that the site is now vacant so there are no existing occupiers to relocate. Strategic Planning Policy have stated that advice will need to be obtained from Environmental Protection colleagues about whether the remaining industrial activities in the rest of site IN206 would have an adverse impact on the amenity of future residents. In accordance with the “agent of change” principle in the NPPF, the development would be required to provide suitable mitigation to safeguard residents.

Emerging evidence for the Black Country Plan, which will replace the BCCS once adopted, is that there is a need for a substantial increase in the quantity of employment land across the Black Country. However, it is accepted that various factors relating to this site, including the surrounding uses which are mainly residential, the poor road access particularly for larger vehicles, and the quality of the existing buildings on the site, means that it is not suitable for long-term retention for industry regardless of need.

A residential use is supported in principle, subject to the inclusion of an adequate level of amenity space for each unit.

In terms of the design and dwelling types, a high-density residential development is supported on this site in principle. The site lies immediately adjacent to Willenhall District Centre which has good public transport access and is proposed to be served by a new railway station in the next few years.

As such, it is considered the proposal could be supported in principle subject to seeking advice from Environmental Protection and subject to other material considerations as set out below.

Heritage Assessment

The Willenhall Conservation area, a heritage asset, lies some 62m to the east of the site.

The traditional terrace housing along the southern half of Gomer Street has been demolished and the street is characterised by a parcel of open space used for dumping waste materials (application site), 15 storey high tower block and health care centre and ancillary car parking. A group of four 19th century building at the junction of Gomer Street and Wolverhampton Street survive.

The northern part of Gomer Street is characterised by traditional 19th and 20th century terrace dwellings. There is a modern infill development of two dwellings between numbers 32 and 39 Gomer Street.

The properties along Stafford Street vary in height from two stories to three stories. From Union Street, which is within Willenhall Conservation Area, small glimpses of the upper part of the 15 storey block are visible. There is no zone of the potential plan which identifies prominent views of

the development from within the conservation area.

It is considered that given the development is maximum four storeys in height, the distance of the site from the edge of the conservation area and the application site, the proposed development would have some harm to the character and setting of the Willenhall Conservation Area, however that level of harm would be weighed as low and as such there are no objections from a Conservation perspective.

Midland Engineering Works to the north of the application site, the single storey saw tooth buildings can be seen on historic mapping dating from the 1930's, as such, they would be classed as non-designated heritage assets. There is a small extract that shows the relationship with the new development and these existing industrial buildings. The proposal illustrates that the proposed development would be stepped away from the boundary with these existing industrial buildings, which is welcomed. It is considered that the proposed development would have some harm to the significance of the non-designated heritage asset, however the level of harm would be scaled as low to medium and again there is no objection from a conservation perspective.

Design, Layout and Character

The submitted Design and Access statement states that the design of the proposal has been fully considered within the varied local context of the site in order to provide a contemporary design which respects the established urban grain and pattern of development.

The scheme reaches a maximum of four stories in height and follows the existing building line of neighbouring properties. It is considered that the varying height ensures the proposed building respects the surrounding scale of development and does not appear at odds, nor is overbearing.

It is considered that the design would be modern and appropriate in the surrounding area where residential properties are mixed in style and size and where there are blocks of flats already present.

The materials of the proposed building are proposed to be a mix of red and white brick with light mortar. The windows are proposed to be finished in a dark grey and the balconies will be black aluminium. It is considered that these are high quality.

The proposed layout makes efficient use of the site and there is appropriate shared amenity space and communal facilities provided which are secured.

As such, the proposal is acceptable from a design, layout and character perspective.

Amenity of Neighbours and Amenity of Future Occupiers

The Council has minimum standards for residential amenity the key standards relevant to this case are:

- 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
- 13m separation between habitable windows and blank walls exceeding 3m in height
- 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)

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- 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.

There are a number of residential properties which border the site with the nearest properties being at 20 Gomer Street and neighbouring properties, some 22m to the north east of the site, St Marys Court, some 30m to the south of the proposal and a flat at the Falcon Inn, some 34m to the west of the site.

The proposed building has habitable windows facing outwards onto all directions of the surrounding area. It is considered that there is sufficient distance between the surrounding residential properties and the proposal, and the separation distances as above are met. It is considered that the proposal would not unduly affect the privacy of existing residents and is therefore acceptable from this perspective. Further, given the sites distance from other residential properties, the proposed development would not result in a loss of light, nor overshadowing.

The National Space standards (NSS) stipulate various standards including the minimum floor area of single and double bedrooms (7.5 and 11.5sqm) and the minimum gross internal floor areas of dwellings. All of the new dwellings meet the national space standards and would be dual aspect with no north aspect single dwellings proposed. As such it is considered that a good standard of internal amenity is achieved.

In terms of amenity space, the dwellings are provided with small balconies. Whilst it is noted that the balconies would not meet the minimum standard for private amenity space (20sqm per flat if shared space is provided) there has been shared amenity space provided to the north of the site and Willenhall Memorial Park is sited 0.3m from the site. As such, it is considered on balance that the shortfall in private amenity space is acceptable in this instance due to the shared amenity space and nearby open space which would allow future occupiers a good standard of amenity.

There is concern that the surrounding commercial occupiers may have a negative effect on the proposed sensitive use and future occupiers of the building; this is explored further in the Environmental Protection section of this report.

Highways

The Local Highways Authority have commented upon the application and have no objection to the scheme. 17 parking spaces are proposed which is considered acceptable in a district centre location and the development offers public benefits in terms of the provision of a new footway along the Gomer Street frontage and junction radius.

The Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2018 paragraph 109 subject to conditions regarding full details of the proposed cycle shelter in order to encourage sustainable methods of travel, the submission of a construction methodology statement to minimise on street parking by site operatives and the potential disruption to free flow traffic, the consolidation and hard surfacing of parking and vehicle manoeuvring areas to ensure the safe and satisfactory operation of the development and for the adopted highway footway to be fully implemented.

Ecology

The application is supported by Bat survey for the bat roost potential at Gomer Street by Absolute Ecology.

demolish the building to facilitate the sites redevelopment of a residential apartment block with parking and amenity area. A building inspection was undertaken 04/05/21 by Absolute Ecology LLP who assessed the building to be of low potential for supporting roosting bats. As such a subsequent activity survey was carried out by Absolute Ecology. Bats were confirmed to be absent from the building, with no bats seen to emerge from or re-enter during the activity survey.

As no bat roosts were identified during the survey, it will not be necessary to apply for a Natural England European Protected Species (EPS) licence and no further survey actions are considered necessary. However, where surveys have demonstrated a likely absence of bats in the building, it should be noted that it is possible that bats could begin to utilise the building at any time, and any works should be undertaken with care and vigilance for bats. Should bats be found during development, then all works must cease, and a qualified bat ecologist should be consulted. No nesting birds were observed internally or externally on the building; therefore, no further actions are required.

Flood Risk / Drainage

The site and immediately boarding areas are within Flood Zone 1. The Local Lead Flood Authority (LLFA) have commented on the application and have no objection to the application subject to pre-commencement conditions to ensure that a full detailed drainage design is submitted for review and that sufficient measures will be put in place to ensure no increase in flood risk during the construction phase.

Trees / Protected Trees and Landscaping

There are no protected trees within the boundary of the application site or within 20m of this proposal and as such an arboritucultural report was not required to support the proposal.

The proposal has put forward a soft landscaping scheme and this would be conditioned as any approval of the development.

Coal Authority

The application site falls within the defined Development High Risk Area. The Coal Authority's information indicates that the site lies in an area where historic unrecorded underground coal mining activity is likely to have taken place at shallow depth. Voids and broken ground associated with such workings can pose a risk of surface instability.

The applicant submitted a Phase II Geotechnical Assessment report (July 2021, prepared by SP Associates) in support of their application and the Coal Authority concurs with the recommendations of the Phase II Geotechnical Assessment report; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. As such, should planning permission be granted for the proposed development.

The Coal Authority therefore recommend that planning permission is granted subject to pre-commencement conditions regarding a scheme of intrusive investigations to establish the risks posed to the development by past coal mining activity and that any remediation works/ or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. Further a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. . This is in order to ensure the safety and stability of the development, in accordance with

Environmental Protection

Environmental Protection were consulted on the proposal and have raised concern to the residential use. It was considered that taking one small section of an industrial estate and place a sensitive use upon it is piecemeal that fails to take a comprehensive approach to the redevelopment of the area and is not something that they could support.

The main concern from a Pollution perspective is whether the Applicant can address the Agent of Change Principle, which has been introduced into Planning Guidance/Legislation/Policies. Environmental Protection are of the opinion that due to the proximity of the site to industrial premises, then this has not been fully assessed.

The Applicant has attempted to address two areas of concern, noise and contaminated land, however, Environmental Protection feel that the noise assessment may not be representative of the normal week, as it was undertaken Friday to Monday. Additionally, by placing a sensitive receptor in such proximity it will curtail future activities and potential expansion plans, which factory owners may wish to undertake.

If the factories had planning restrictions places upon them, which required for only certain activities to be undertaken and time restrictions e.g. light engineering between 0700 to 2300 Monday to Saturdays, then this would be a mitigating factor. However, from Environmental Protection's understanding, the existing factories do not have any such planning constraints i.e. they can undertake 24-hour working and generate noise/vibration, emit odorous emissions, emit particulates/dust/gases as much as they like, provided they are in compliance with other legislative requirements.

In addition to the noise concerns, Environmental Protection do not have any specific details on emissions or odours from the existing industrial processes. As the businesses are located within an industrial area, away from sensitive receptors, Pollution Control have not received any significant complaints about them, therefore Pollution Control have no information on the businesses, their activities, and their emissions to atmosphere, water or land.

It is considered that if the application involved the re-development of the entire block, including the industrial buildings, i.e. part of a larger re-development scheme, then Environmental Protection could support the scheme. However, as above, the businesses do not have any current restrictions and as such the application is not supported. Detailed comments regarding contaminated land, Air Quality SPD, and noise concerns have not been provided at the time of writing this report due to the fact the proposal is currently not acceptable in 'principle' from an Environmental Protection perspective.

Planning Obligations

A contribution to off-site open space improvements will also be required, based on the number of bedrooms proposed in accordance with the open space SPD. This has been calculated as £13,860 and would need to be secured through a S106 agreement.

Local Finance Considerations

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

This application proposes 14 new homes.

The Government has indicated that, for 2021-22, it will award £350 for each affordable dwelling, but the payment for all new homes (including both affordable and others) varies. There is no fixed payment of £1,000 per home: the sum will vary from £0 to an undisclosed figure. Essentially there is a fixed pot of money each year that is divided between all authorities depending on how many homes in total have been completed across the country.

The money is worked out based on performance in previous years (18 months in arrears), so the payment in 2022-23 will be based on the number of homes completed between October 2020 and October 2021.

Presumption in favour of sustainable development

The latest available figures show that there was a 5-year housing land supply as at April 2021, however the Council failed the Housing Delivery Test published in January 2022 based on low levels of delivery over the last 3 years. This means that the size of the required supply buffer has increased resulting in the supply at the time of preparing this report being slightly less than 5 years, and the presumption in favour of sustainable development as described in the NPPF paragraph 11d) is in effect.

Permission should be granted for the development unless any adverse impacts of doing so would 'significantly' and 'demonstrably' outweigh the benefits when assessed against the policies in the NPPF.

Paragraph 187 of the NPPF clearly states that Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). In this instance the existing businesses that surround the proposed site have the potential to have unreasonable restrictions placed upon them as a result of the proposed development, after these businesses have been established. This existing businesses could have a significant adverse effect on new development and there has been no mitigation of such effects put forward to support this planning application to safeguard future residents.

The purpose of the planning system is to contribute to the achievement of sustainable development with three overarching objectives, an economic objective, a social objective and an environmental objective. By allowing a residential use in this area, sustainable development would not be achieved. The existing businesses may have unreasonable restrictions on them meaning their growth may be limited and in terms of an impact socially, the existing businesses may negatively impact upon future occupiers, leading to a diminished quality of life with a poor level of amenity.

Weighing up the planning balance, it is considered that although the presumption in favour of sustainable development is in effect, permission should not be granted as in doing so it would significantly and demonstrably, as above, outweigh the benefits when assessed with the policies in the NPPF.

Conclusions and Reasons for Decision

FOR Refuse

The proposed residential development would not integrate effectively with the surrounding industrial businesses and it is considered that these existing businesses could have the potential to have unreasonable restrictions placed upon them as a result of development permitted after they

were established. No mitigation measures have been put forward to support the application. This would be contrary to paragraph 187 of the NPPF.

The planning balance has been weighed up and it is considered that although the presumption in favour of sustainable development is in effect, permission should not be granted as in doing so it would significantly and demonstrably, as above, outweigh the benefits when assessed with the policies in the NPPF in relation to the above.

Positive and Proactive Working with the Applicant

Refuse

In this instance officers are unable to support the proposal for the reasons given above.

Recommendation

Reasons for Refusal

1. The proposed residential development would not integrate effectively with the surrounding commercial and industrial businesses, and it is considered that these existing businesses could have the potential to have unreasonable restrictions placed on them as a result of development permitted after they were established. No mitigation measures were put forward to support the application in terms of noise and odours arising from the surrounding commercial and industrial activities and as such this application fails to demonstrate that future occupiers would be provided with a satisfactory living environment. This application is therefore contrary to Saved Policies GP2, ENV14 and ENV32 of the UDP, Policy IND4 of the Site Allocation Document and paragraph 187 of the NPPF.
2. As the application is being refused the s106 cannot be entered into at this stage in order to make the development acceptable in planning terms. Consequently, the lack of the S106 for a contribution to Urban Open Space would be unacceptable due to the impact on the amenity of the local community, whilst reducing the facilities for outdoor sport and recreation contrary to policy OS1 (open space, sport and recreation) of the Site Allocation Document, GP3 (Planning obligations).

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 21 July 2022

Plans List Item Number: 4

Reason for bringing to committee

Called in by Councillor Andrew due to public interest

Application Details

Location: 2, WALSALL ROAD, WILLENHALL, WV13 2EH

Proposal: PROPOSED CONSTRUCTION OF 3 NO. NEW THREE BED HOUSES WITH ASSOCIATED PARKING, ACCESS, EXTERNAL LIGHTING AND BIN STORES.

Application Number: 20/1575

Case Officer: Ann Scott

Applicant: W13 Ltd

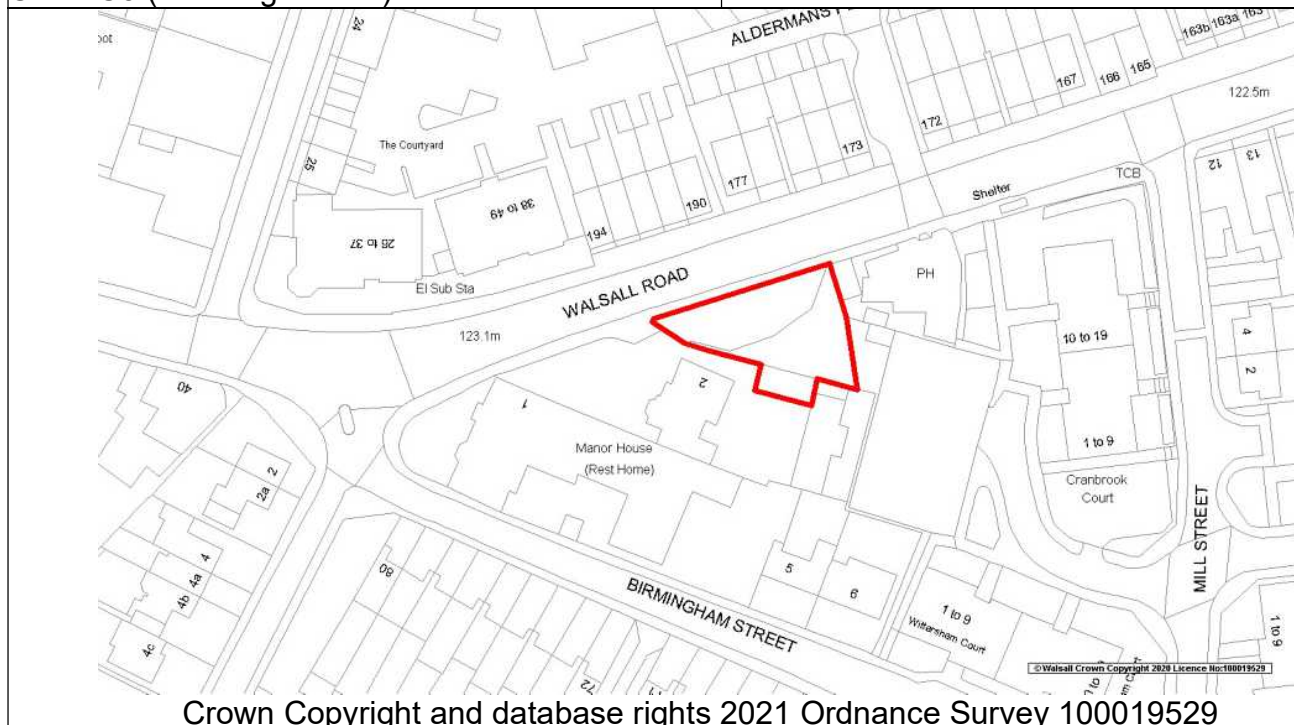
Ward: Willenhall South

Agent: W13 Ltd

Expired Date: 07-Apr-2021

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

Time Extension Expiry: 11-May-2022



Recommendation

Refuse Planning Permission

Current Status

At the Planning Committee meeting of 26th May 2022 Members resolved to defer to the 21st July Planning Committee meeting to enable negotiated changes to scheme.

The following section of this update report will set out any changes since the original report (which follows at the end of the committee report), including matters to be addressed which were contained within the previous supplementary paper.

Supplementary Paper

Deferred to the 21st July Planning Committee meeting to enable negotiated changes to scheme.

Any Other Updates

- Amended plans received to delete one dwelling and change of description as follows; Proposed construction of 3 no. new three bed houses with associated parking, access, external lighting and bin stores. (Amended description).
- Air Quality Assessment received.
- Incorrect red edge submitted does not include the red edge up to the highway.

Consultation Replies

Highways – Views to be reported.

Conservation Officer – Views to be reported.

Environmental Protection - Views to be reported.

Fire Authority – Views to be reported.

Police Architectural Liaison Officer - Views to be reported.

Severn Trent Water - Views to be reported.

Representations

Comments to follow; Views to be reported.

Assessment of the Proposal

Refusal Reason 1:- Unacceptable highway impacts

Amended plans have been received to alter the layout of the parking and turning area and to reduce the number of dwellings to three detached dwellings and three parking spaces plus one visitor space and increased turning area.

The highways officer still objects to the application on the grounds of the shared access and parking being constrained.

Therefore this current application has failed to overcome the concerns and is recommended for refusal in relation to unacceptable highway safety impacts.

The application site is accessed off a shared vehicle access and parking area with no turning

head, which principally serves as a rear access to the adjacent commercial premises, and the development proposed. The parking and turning provision is constrained and limited and if permitted, the development would add further vehicular traffic to this road from new residents, visitors, and service and delivery vehicles, resulting in added congestion and obstruction to the detriment of the existing residents. Resulting in the potential for pedestrian and vehicular conflicts detrimental to the safe and satisfactory operation of the development and to highway safety contrary to UDP Policy GP2, T1, and the NPPF 2021.

Refusal Reason 2:- Character of area and cramped development

The amended plans fail to overcome the concerns with regard to the limited amenity space in particular to plot 1.

The site location plan is incorrect and the red edge does not include the access. An amended drawing has been requested.

The proposed amenity space to plot 1 is still very limited and the detached dwellings, proposed are spaced so that a similar amount of space is taken up by the houses. The amended layout is still cramped in terms of scale, mass and design and the parking and turning provision is still very limited.

The proposed layout of 3 no. 3 storey 3 bedroom detached houses with associated access and parking provision within the site is cramped in terms of scale, mass and design. There is insufficient room within the site to park and turn around adequately. Plot 1 has limited amenity space and overall the proposal is considered to be a cramped form of development on a constrained site with the potential for conflict between pedestrians and vehicles. As such the development is not considered to accord with the Supplementary Guidance set out in Designing Walsall SPD. In particular Policy DW3 Character, DW5 Ease of Movement and DW8 Adaptability.

Refusal Reason 3:-Impact on Local Heritage Assets

The amended plans fail to overcome the concerns with regard to the impact on the non-designated heritage asset.

Paragraph 203 of the NPPF states ‘*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset*’.

Whilst, the amended detached dwellings proposed are designed to replicate the dwellings on the opposite side of Walsall Road. The proposed dwellings would compete with 2 Walsall Road by virtue of their height, a non-designated heritage asset which has a medium to high level of significance due to its architectural features.

The proposed development fails to provide adequate justification in terms of its impact on nearby local heritage assets. The proposal would involve the erection of four terraced dwellings which would create less than substantial harm to the setting of the adjacent locally listed heritage assets and there is insufficient information in the submission to demonstrate the significance of the heritage assets and how the proposal would impact on them contrary to Paragraph 194 and 195 of the National Planning Policy Framework. The Black Country Core Strategy ENV2 Historic Character and Local Distinctiveness.

Refusal Reason 4 – Failed to make an assessment of Air Quality

The applicant has put forward an air quality assessment. The amendments have therefore overcome the previous reason for refusal in relation to the assessment of air quality.

Conclusion

Consultee and nearby third party comments have been fully considered in the assessment of this amended application along with local and national policies and guidance. Whilst the social and environmental benefits of providing any residential dwellings on this brownfield site is understood, on balance, this is not sufficient in this instance to outweigh the potential harm arising as set out in this report and this currently amended application fails to overcome three of the previous refusal reasons as set out in this report.

Considering the above factors, it is considered that the application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Whilst additional supporting information has been submitted by the applicant's agent, this is insufficient to address the concerns as set out in this report and the application cannot be supported in its current form.

Recommendation

REFUSE

1. The application site is accessed off a shared vehicular access and parking area with no turning head, which principally serves as a rear access to the adjacent commercial premises, and the development proposed. The parking and turning provision is constrained and limited and if permitted, the development would add further vehicular traffic to this road from new residents, visitors, and service and delivery vehicles, resulting in added congestion and obstruction to the detriment of the existing residents. Resulting in the potential for pedestrian and vehicular conflicts detrimental to the safe and satisfactory operation of the development and to highway safety contrary to UDP Policy GP2, T1, and the NPPF 2021.

2. The proposed layout of 3 no. 3 storey 3 bedroom detached houses with associated access and parking provision within the site is cramped in terms of scale, mass and design. There is insufficient room within the site to park and turn around adequately. Plot 1 has limited amenity space and overall the proposal is considered to be a cramped form of development on a constrained site with the potential for conflict between pedestrians and vehicles. As such the development is not considered to accord with the Supplementary Guidance set out in Designing Walsall SPD. In particular Policy DW3 Character, DW5 Ease of Movement and DW8 Adaptability.

3. The proposed development fails to provide adequate justification in terms of its impact on nearby local heritage assets. The proposal would involve the erection of four terraced dwellings which would create less than substantial harm to the setting of the adjacent locally listed heritage assets and there is insufficient information in the submission to demonstrate the significance of the heritage assets and how the proposal would impact on them contrary to Paragraph 194 and 195 of the National Planning Policy Framework. The Black Country Core Strategy ENV2 Historic Character and Local Distinctiveness.

THE ORIGINAL REPORT FOLLOWS:

Reason for bringing to committee:

Called in by Councillor Andrew due to public interest.

Recommendation:

1. Refuse

Proposal

Proposed construction of 4 no. new three bed townhouses with associated parking, access, external lighting and bin stores.

Site and Surroundings

The application site is at 2 Walsall Road Willenhall and is in proximity to an existing commercial premise with a shared access from Walsall Road. The application site currently forms part of the site with 3 no advertising hoardings displayed with a fence and grassed area in front facing Walsall Road. The adjacent premises are a clinic and the site incorporates an existing parking area to the rear of the advertising hoardings.

To the front of the application site along Walsall Road there is a single yellow line parking restriction in place.

The site lies between commercial developments being a clinic to the West of the application site and the Three Tuns public house to the East of the application site. The proposed rear garden/amenity areas of the new dwellings would back onto the car parking area to the Clinic site which shares vehicular access with the proposed dwellings parking and turning area.

Relevant Planning History

02/0529 – Two storey Rear extension and change of use of land to car park for the flat above 3 Tuns Public House – Granted 16-07-2002.

Mills and Allen Ltd – Advertising Right 614 Adjacent 3 Walsall Road Willenhall

04/01487/OL – Demolition of existing office and construction of new build residential consisting of 9 x 1 bed apartments – Refused 12-07-2004

17/0944 Change of use of building from B1 to D1 Nursery – Refused 09-08-2017.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF says:

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

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- ENV9: Environmental Improvement Initiatives
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV25: Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV28: The 'Local List' of Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV36: Poster Hoardings
- ENV40: Conservation, Protection and Use of Water Resources
- H3: Windfall Sites on Previously Developed Land and Conversion of
- T1 - Helping People to Get Around
- T2 - Bus Services
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision

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- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- CEN2: Hierarchy of Centres
- CEN3: Growth in the Strategic Centres
- CEN4: Regeneration of Town Centres
- CEN5: District and Local Centres
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM1: Sustainable Waste and Resource Management

Site Allocation Document

- HC2: Development of Other Land for Housing

Supplementary Planning Documents

Conserving Walsall's Natural Environment

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

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures
Survey standards
- NE4 – Survey Standards
The natural environment and new development
- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision
Development with the potential to affect trees, woodlands and hedgerows
- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting

Designing Walsall

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

- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

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

Consultation Replies

Highway Authority – objection with regard to parking turning areas and shared access, including the position of the bin store. Spaces for plot one too remote and will be underutilised. Parking for plot 3 is awkward to reverse out of. Fencing fails to provide adequate visibility for vehicles entering and exiting the access.

Further comments on amended plans still raises concerns around access and parking.

- The parking spaces at an awkward acute angle to the access road and will be reliant on turning on the commercial access areas over which the residents would have no control and is likely to result in conflicts and disputes.
- The access to the parking spaces mixes residential traffic with commercial traffic parking and is likely to result in conflicts and disputes and not a safe environment for residents.
- The dwellings have stepped access to the front doors which is not fully inclusive design.
- The bin collection point presumably has a stepped entrance which is unacceptable from a collection point of view.
- The 2.1m high screen fence alongside the access fails to provide adequate inter-visibility at the access onto Walsall Road.

Conservation Officer – Concerns raised with regard to the number of units which needs to be reduced, a pair of semi-detached houses would be more supportable. The proposed development would result in medium harm to the significance of the non-designated heritage assets, 2 Walsall Road and the Three Tuns Public House.

The design needs to be amended, so that the proposed houses sit subservient to the adjacent locally listed buildings.

Environmental Protection - Due to the new information on Air Quality from WHO (World Health Organisation) and concerns regarding exposure to poor air quality the applicant is required to carry out and provide an Air Quality assessment for the development site prior to reviewing any documents associated with this application.

Planning Policy - The amended plans do not raise planning policy issues.

Severn Trent Water Authority – No objections.

Coal Authority - The Coal Authority Response: Material Consideration.

The Coal Authority objected to this planning application in our previous letter dated 23 March 2021 as no Coal Mining Risk Assessment had been submitted at that time to identify and mitigate the risk to the proposed development from former coal mining activity.

The Coal Authority has no specific comments to make on the amended plans and our previous comments remain valid and relevant to the decision-making process.

Representations

3 letters from third parties in relation to the following:

- Highway safety, parking and congestion/risk of accidents
- Residential amenity in proximity to commercial business including pub garden/outdoor smoking area which will cause complaints from occupiers
- Trees at the rear of the development
- Poor design not in keeping with the area
- Flood risk – Walsall Road floods during heavy rainfall

Determining Issues

- Principle of development
- Layout and design
- Housing need
- Access and parking
- Impact on residential amenity
- Impact on character of the area
- Impact on heritage assets
- Flood risk and drainage
- Other issues
- Air quality
- Local Finance Considerations

Assessment of the Proposal

Principle of development

The revised NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed. The application is mostly on commercial land in a sustainable location. The NPPF also says that housing applications should be considered in the context of the presumption in favour of sustainable development.

The proposal is in a sustainable location being within the built-up area of Willenhall. However, the development is not a sustainable form of development if it fails to consider the environmental role - protecting and enhancing our natural, built, and historic environment. The report considers this further.

Layout and design

The proposed layout of 4 no. 3 bedroom houses with associated access and parking provision within the site is cramped in terms of scale, mass and design and there is insufficient room within the site to park and turn around adequately. There are other issues associated with the proposed layout of the development that would have an adverse impact on the amenities of the locality and highway safety due to the shared vehicular access to the site from Walsall Road and proximity of the proposed development to nearby commercial premises.

In particular plot 1 has very limited rear amenity space and overall, the proposal is considered to be a cramped form of development on a constrained site with the potential for conflict between pedestrians and vehicles. The proposal includes rear amenity space which due to its triangular shape and diminishing gardens brings the residential uses closer to the commercial uses at the rear of the site. As such the development is not considered to accord with the Supplementary Guidance set out in Designing Walsall SPD. In particular Policy DW3 Character, DW5 Ease of Movement and DW8 Adaptability.

Housing need

Chapter 5 of the NPPF relates to delivering a sufficient supply of homes. Paragraph 60 seeks to ensure the governments' objective of significantly boosting the supply of homes. Paragraph 61 relates to strategic housing supply policies and should be informed by local housing need. The council has an emerging housing supply shortfall and has recently failed the Housing Delivery Test because of low housing delivery over the last three years. Paragraph 73b of the NPPF seeks to ensure that the supply of new homes should be well located and designed, and supported by the necessary infrastructure and facilities including a choice of transport modes

The site is part of a commercial area and forms part advertising site/part car park to the adjacent clinic. The site lies within the built-up area of Willenhall. The housing scheme proposed is therefore supported on strategic planning policy grounds by BCCS policies CSP1 and HOU1, SAD policy HC2 and NPPF paragraphs 69 and 119.

Paragraph 74 relates to maintaining supply and delivery of housing sites over the development plan period. Local Planning Authorities should update annually a supply of deliverable sites against their housing requirement set out in adopted strategic policies.

The Black Country Core Strategy Policy HOU1 Delivering Sustainable Housing Growth seeks to create a network of cohesive, healthy, and prosperous communities and for the provision of sufficient land to provide for sustainable housing growth.

The latest available figures show that there was a 5 year housing land supply as at April 2021, however the Council failed the Housing Delivery Test published in January 2022 based on low levels of delivery over the last 3 years. This means that the size of the required supply buffer has increased resulting in the supply at the time of preparing this report being slightly less than 5 years, and the presumption in favour of sustainable development as described in the NPPF paragraph 11d) is in effect.

Access and parking

The site is accessed via a shared access to the commercial premises of Walsall Road. To the front of the site are parking restrictions. The access is narrow and the car parking for the proposed development would be provided to the left of the access fronting Walsall Road.

The highways officer has expressed concerns about the amended plans and highlights the lack of adequate parking and turning provision within the site. Which may lead to conflict regarding

the shared access to the adjacent commercial premises. In addition, the fencing in proximity to the access would restrict visibility and the stepped access to the dwellings would not be inclusive in design terms to users with disabilities. The fencing is proposed to maintain privacy for future occupants and would be retained.

The access to the parking spaces mixes residential traffic with commercial traffic parking and is likely to result in conflicts and disputes and not a safe environment for residents.

Para 110 of the National Planning Policy Framework 2021 seeks to ensure that specific plans for development should provide 'safe and suitable access to the site that can be achieved for all users' and that, under para 112, applications for development should 'give priority first to pedestrian and cycle movements, address the needs of people with disabilities and reduced mobility, create places that are safe and secure and attractive which minimise the scope for conflicts between pedestrians, cyclists and vehicle movements, allow for the efficient delivery of goods and access by service and emergency vehicles'.

The application is not considered to accord with the BCCS Policy TRAN2 Managing transport impacts of new development which seeks to ensure that application for development provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development including, access by walking, cycling, public transport and car sharing and Policy DW5 Ease of movement in the Designing Walsall SPD.

Impact on residential amenity

The site lies between commercial developments being a clinic to the West of the application site and the Three Tuns public house to the East of the application site. The proposed rear garden/amenity areas of the new dwellings would back onto the car parking area to the Clinic site as the Clinic shares the vehicular access with the proposed dwellings parking and turning area. Pedestrian access would be to the front and rear of the application site with a possible conflict with pedestrians and vehicles as the proposed gardens back onto the shared access.

The proposed dwellings are not considered to be adversely affected by overlooking to the rear gardens or amenity spaces other than from the potential for nearby commercial premises during hours of operation creating the potential for noise and disturbance. The site is enclosed to the rear by boundary fencing which is adjacent to the access to the parking for the wider site and plot 4. It is considered that the proposal meets with the separation distances in Annex D of Designing Walsall SPD but that does not preclude consideration of other matters in other Development Plan policies.

Impact on character of the area

The proposed dwellings are similar in character to those opposite the site fronting Walsall Road. The dwellings are however situated in very close proximity to two locally listed heritage assets and medium harm is considered from the resulting development. There are no details of proposed materials but that could be potentially secured by a planning condition. The dwellings take reference from opposite the application site but the Heritage statement does not adequately assess the impact on the adjacent buildings and the context of the proposal in terms of design and materials. The site is fairly constrained and it is considered that the proposal would aim to squeeze 4 dwellings on a cramped site which in its scale, form, size and siting would fail to reflect the existing character of the locality in terms of its direct impact on the character and appearance of that part of Walsall Road in context with the surrounding buildings. Contrary to saved Policy GP2 and saved Policy ENV32 Environmental Protection of the Walsall UPD and the BCCS Policy CSP4 Place Making and Policy ENV2 Historic character and local distinctiveness and the Designing Walsall SPD, in particular Policy DW3 Character, DW5 Ease of Movement and DW8 Adaptability.

Impact on heritage assets

The site is adjacent The Three Tuns PH, No 1 Walsall Road and 170-173 Walsall Street, all three are locally listed and classed as non-designated heritage assets. That are in close proximity to the application site.

There is a further property of historical and architectural interest at 2 Walsall Road (currently functioning as beauty salon) – and although this building is not nationally designated or on the Local List it should also be given consideration as a non-designated heritage asset. This is due to the positive contribution the three buildings together make to the historic environment (and also in relation to the 18th century Toll House building on the other side of the Walsall Road / Birmingham Street junction) at this ‘entry point’ to Willenhall town centre.

Both the Manor House 1 Walsall Road, and the property currently at 2 Walsall Road (sometimes referred to as ‘Holloway House’) are of 19th century date and associated with the locally notable Harthill family, who were e.g. involved in the parish life of the nearby by Giles Church and medical professionals and clergymen in the town.

Paragraph 203 of the NPPF states *‘The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset’.*

Whilst, the proposed dwellings are designed to replicate the dwellings on the opposite side of Walsall Road. The proposed dwellings would compete with 2 Walsall Road by virtue of their height, a non-designated heritage asset which has a medium to high level of significance due to its architectural features.

The proposed development would result in medium harm to the significance of the non-designated heritage assets, 2 Walsall Road and the Three Tuns Public House.

Flood risk and drainage

The application site is situated in Flood Zone 1 an area at the lowest risk of flooding as defined on the Environment Agency Flood Map for Planning. There are no objections to the proposal from Severn Trent Water Authority and the proposal accords with the Black Country Core Strategy Policy ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island.

Drainage could be dealt with by a planning condition to secure details for the disposal of foul and surface water.

Other issues

Regarding the existing advertising hoardings on the site. Poster contractors own the panels on which the posters are displayed; these contractors have rights to use the sites on which posters are placed. The contractor generally does not own the site, and the site owner may receive a rent from the contractor. The site presently has a right to advertise Mills and Allen Ltd – Advertising Right 614 Adjacent 3 Walsall Road Willenhall. These hoardings would need to be removed from the site to facilitate the development. There is limited information in the submission as to whether this hoarding is still in use presently.

The Coal mining report submitted with the application concludes that there is the possibility of shallow workings at the site and advises that intrusive investigations including boreholes should be carried out to identify the presence of workings at the site. If any workings are found, then a detailed ground investigation report and treatment would be required. Including a Coal Authority Licence closure document. These matters could be dealt with by a planning condition.

The site falls under the threshold for the need for open space contributions.

Air Quality

Walsall has adopted Air Quality SPD and Policy ENV8 of the Black Country Core Strategy. Air Quality relates to Promoting healthy living is a key element of the Sustainable Communities direction of change which underpins the Vision. Reducing exposure to poor air quality will improve the health and quality of life of the population and support Spatial Objectives. This application has failed to make an assessment of air quality, and has failed to provide details of any necessary mitigation measures and is therefore contrary to Black Country Core Strategy Policy ENV8 (Air Quality), the Air Quality SPD and the National Planning Policy Framework. The Environmental Protection Officer has requested an air quality report in advance in accordance with WHO guidance. Officers requested this information, but this has not been submitted.

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 4 new homes.

The Government has indicated that, for 2020-21, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling.

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

Conclusions and Reasons for Decision

Officers have spoken to the applicant's agent in this instance and requested amendments and additional information in accordance with the recommendations of statutory consultees. This information has not been forthcoming and as such there have not been changes put forward to overcome the Policy concerns and officers are unable to support the proposal.

Given that the amended plans submitted with this proposal gives no material planning considerations to overcome the policy concerns and nothing put forward in the current submission to provide support for the proposal in relation to highway safety, impact on heritage assets, air quality and the scale and form of the development proposed it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Officers have spoken to the applicant's agent in this instance as there are no recommendations considered sufficient that could be changed in order to overcome the Policy concerns and no amendments put forward that would overcome the concerns officers are unable to support the proposal.

Recommendation

Refuse Planning Permission

Reasons for Refusal

1. The proposed shared vehicular access and parking area with no turning head is considered to be inadequate. The access serves as a rear access to the adjacent commercial premises, and the development proposed. The parking and turning provision is constrained and limited and if permitted, the development would add further vehicular traffic to this road from new residents, visitors, and service and delivery vehicles, resulting in added congestion and obstruction to the detriment of the existing residents. Resulting in the potential for pedestrian and vehicular conflicts detrimental to the safe and satisfactory operation of the development and to highway safety contrary to UDP Policy GP2, T1, and the NPPF 2021.
2. The proposed layout of 4 no. 3 bedroom houses with associated access and parking provision within the site is cramped in terms of scale, mass and design. There is insufficient room within the site to park and turn around adequately. Plot 1 has limited amenity space and overall, the proposal is a cramped form of development on a constrained site with the potential for conflict between pedestrians and vehicles. As such the development is not considered to accord with the Supplementary Guidance set out in Designing Walsall SPD. In particular Policies DW3 Character, DW5 Ease of Movement and DW8 Adaptability.
3. The proposed development fails to provide adequate justification in terms of its impact on nearby local heritage assets. The proposal would involve the erection of four terraced dwellings which would create less than substantial harm to the setting of the adjacent locally listed heritage assets and there is insufficient information in the submission to demonstrate the significance of the heritage assets and how the proposal would impact on them contrary to Paragraph 194 and 195 of the National Planning Policy Framework. The Black Country Core Strategy ENV2 Historic Character and Local Distinctiveness.
4. This application has failed to make an assessment of air quality, and has failed to provide details of any necessary mitigation measures and is therefore contrary to Black Country Core Strategy Policy ENV8 (Air Quality), the Air Quality SPD and the National Planning Policy Framework.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 21 July 2022

Plans List Item Number: 5

Reason for bringing to committee

Council Owned Land

Application Details

Location: Site Of Former 37 To 38, Pinfold Street, Darlaston, WS10 8SY

Proposal: PROPOSED DROPPED KERB TO PROVIDE SECOND VEHICLE ACCESS TO PREMISES

Application Number: 20/0851

Case Officer: Rebecca Rowley

Applicant: Mr Mehimi

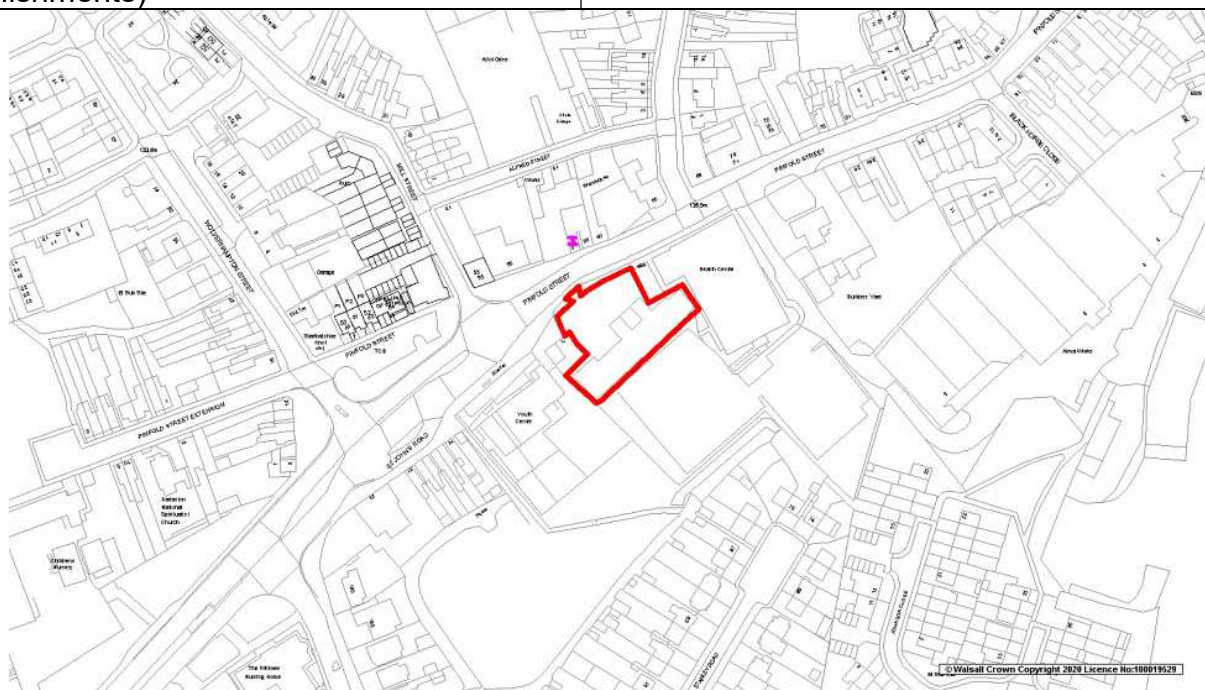
Ward: Darlaston South

Agent: Mr Amardeep Bharg

Expired Date: 27-Apr-2021

Application Type: Full Application: Minor Use Class Sui Generis (Pubs and Drinking Establishments)

Time Extension Expiry: 30-Sep-2021



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Recommendation:

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to
 - The amendment and finalising of conditions;
 - The purchase of the defined area of Council owned land that the applicant will be required to cross to access the public highway.

Proposal

This application requests permission to install a dropped kerb for the purpose of egress from the approved car park of the application site onto the public highway.

As there is some variation in the dimensions of the constructed front boundary treatment at the application site, compared to the front boundary treatment that was initially proposed for the site, the design of the boundary wall 'as built' has also been included in this application for regularisation.

Site and Surroundings

The application site is the Shri Guru Ravidass Gurdwara Temple located towards the western edge of the Darlaston District Centre Boundary. It is located on Pinfold Street, which is a classified road (A4038) and is also a District Distributor road. There are double yellow lines directly in front of the property and along much of Pinfold Street.

The temple building, car park and front boundary wall site has constructed but the site is not yet in use.

Relevant Planning History

09/0709/FL - Demolition of existing building and erection of purpose designed temple with associated facilities and car parking – GSC on 24/05/2010

Conditions relevant to this application:

3. No development shall be carried out until further details of the proposed boundary treatment of the site, including elevation details of the proposed wall, gates, and railings along the Pinfold Street frontage, have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use or in accordance with any phasing to be agreed in writing by the Local Planning Authority.
12. The access and egress shall be installed prior to the development being brought into use and thereafter retained. Each shall be a minimum of 3.1 metres wide.
14. The gates to the entrance and exit shall be kept open at all times when the premises are in use.
15. The proposed 'no entry' signs shall be erected on either side of the exit prior to the development being brought into use.

The application to discharge condition 3 was submitted on 02/02/2011. Following a request for revisions, amended plans for the front boundary wall were submitted and acknowledged on 29/07/2014. There is no evidence of further correspondence in relation to the discharge of this condition, nor a decision notice in response to the discharge of this condition.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 4 – Decision Making**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 56) says:

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

- sex
- sexual orientation

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T4 - The Highway Network
- T5 - Highway Improvements
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- TRAN2: Managing Transport Impacts of New Development
- ENV3. Design Quality

Consultation Replies

Asset Management

Asset management would prefer to sell the parcel of Council owned land that the applicant would have to cross to allow egress from the application site onto the highway, rather than provide permission to cross it.

Local Highways Authority

Initial concerns about land ownership and inaccuracies on the site plan have been overcome.

Support subject to conditions to ensure the satisfactory completion and operation of the access including removal of a bollard and consolidation and drainage of the land to prevent surface water run off onto the highway as well a condition to ensure that the in/out access conditioned by the original permission for the site is enforced.

Representations

None Received

Determining Issues

- Principle of Development
- Land Ownership
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highway safety

Assessment of the Proposal

Principle of Development

The access and egress points to the application site were approved by application 09/0709/FL as outlined in the planning history. To use the access/egress lawfully requires the installation of a dropped kerb for the egress point. A dropped kerb already exists for the access.

Land Ownership

A section of grassed land between the front boundary wall of the site and the public highway is owned and maintained by Walsall Council. The users of the temple would be required to cross this land to access the public highway from the carpark egress point. The Council's asset management team have confirmed, they would prefer to sell this land to the applicant rather than grant permission to crossing the land to avoid any future potential for disputes over land maintenance. The applicant has clearly outlined the boundary of the land that they wish to purchase on the site plan and this would be edged with kerb stones to define the land within that would be owned and maintained by the applicant and the land outside of this edging treatment that would remain in the ownership and maintenance of the Council.

Design, Layout and Character

The position of the dropped kerb would be required to align with the car park egress for vehicles exiting the car park onto the public highway. A request was made for discharge of condition 3 of the original permission, which related to approval of the front boundary wall and gates. Some amendments were requested at the time and amended plans were submitted. There is no correspondence available to confirm that this condition was ever formally discharged. In any case, there are some minor discrepancies between the amended front boundary treatment plans submitted for the application to discharge condition 3 of the original permission and the front wall and railings that have been constructed on site. Therefore the front boundary treatment is being assessed as part of this application to regularise.

Although there are slight variations (0.1m-0.2m) in the distance between the pillars compared to the plans submitted for discharge of condition 3, and a 0.3-0.5m reduction in the height of some of the pillars, the general alignment, overall appearance and design is similar to the original proposal, for which are considered minor amendments. The original plans proposed flat top railings between the pillars to a similar height as the pillars. The built design includes rounded top railings at a lower height. The most significant difference is the increased width of the gap between the pillars which will support the exit gates from 3.1m to 4m. These differences are within the constraints of condition 12 of the original permission which required the gates to be a minimum of 3.1m wide and are considered of limited harm to the overall appearance or character of

the front boundary treatment that was originally proposed and approved. It is reflective of a boundary treatment that could be expected to front a temple building and is therefore acceptable. Facing materials reflect the facing materials of the main site building and integrate with the site.

Amenity of Neighbours and Amenity of Future Occupiers

There are no immediate adjacent residential neighbouring occupants. Surrounding uses are commercial with some residential on the opposite side of the highway. It is considered that the boundary wall is reflective of what would be expected to be seen in such a district centre location and would not cause harm to the amenity of any neighbouring occupant.

Highway Safety

The local highways authority has confirmed their support for the scheme subject to a number of conditions to ensure consolidation of the ground and drainage to prevent surface water run off onto the highway. Also provision of the 'no entry' signs on either side of the exit gates that were secured by condition 15 of the original permission for this site. The Highway Authority will require this Condition to be fully implemented prior to the dropped kerb being installed as it was originally intended that the car park is to operate on a one-way in and out basis.

Furthermore, condition 14 of the original permission required that the gates to the entrance and exit shall be kept open at all times when the premises are in use. It is considered prudent to carry this condition forward to this permission in order to prevent any potential for backed up traffic on the highway.

Conclusions and Reasons for Decision

When assessing the material planning considerations and taking into account the local and national planning guidance and representations received, this application has demonstrated that these proposed dropped kerb and front boundary wall would not result in harm to the character of the local area and would not harm the amenity of neighbouring occupants nor cause harm to highway safety and thus complies with the policies and guidance set out in this report.

The use of safeguarding conditions in respect of the materials and plans to maintain its appearance and conditions to maintain highway safety will further ensure that the local amenity is protected and that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding land ownership and discrepancies in the site plan, amended plans have been submitted which enable full support to be given to the scheme.

Decision Recommendation

Grant Permission Subject to Conditions

Conditions

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

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

- Proposed Site and Location Plan and Boundary Walls Plans and Elevations, drawing no. 20:417:PO1 rev D, submitted 09/06/2022

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

3: Prior to the use of the development hereby permitted until a vehicle footway crossing has been installed that aligns with the car park egress. The vehicular footway crossings shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory completion and operation of the access, in accordance with UDP Policy GP2, the Council's footway crossing procedure and in the interests of highway safety.

4a: Notwithstanding the details submitted, prior to the use of the development hereby permitted, details shall be submitted in writing to and approved in writing by the Local Planning Authority for:

i) The removal of the existing street bollard obstructing the existing eastern access together with footway reinstatement

ii) The consolidation and hard surfacing of the intervening land between the gates and the back of public highway including drainage to prevent surface water run-off onto the public highway or into the public highway drains

4b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained and maintained for the lifetime of the development.

Reason: To ensure provision of adequate car parking and to avoid increased surface flooding to comply with Walsall's Unitary Development Plan saved policies T13, T7, GP2 and ENV40

5. Notwithstanding the details submitted and prior to the use of the development hereby permitted, the development shall not be carried out otherwise than in accordance with 'no entry' signs being erected on either side of the exit gates facing the public highway and shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory functioning of the site in accordance with the approved one way system around the vehicle car park, in accordance with the requirements of saved UDP policy GP2, T4 and in the interests of highway safety.

6. Notwithstanding the details as submitted, for the development hereby permitted shall not be carried out otherwise than in accordance with the vehicular gates to the car park entrance and exit shall be kept open at all times when the premises are in use. The gates shall be designed to only open into the application site car park and not at any time be able to open outwards for the lifetime of the development.

Reason: To prevent vehicles waiting on the highway to enter the site to ensure the satisfactory functioning of the site in accordance with the requirements of saved UDP policy GP2, T4 and in the interests of highway safety.

Notes for Applicant

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
2. The applicant will be required to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the dropped kerb footway crossing within the public highway. For further information and application forms please visit the Council's webpage under **Transport and Streets - Parking Roads and Vehicles**.
3. The Highway Authority's permission is required under the Highways Act 1980 and the New Roads and Street Works Act 1991 for all works on or in the highway.

END OF OFFICERS REPORT