



Development Control Committee

10th September 2009

Report of Head of Planning and Building Control, Regeneration

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2	1	09/0917/FL	LAND AT WALSALL COLLEGE OF ARTS AND TECHNOLOGY (WALCAT), SOUTH OF LITTLETON STREET WEST	Variation to Condition B27 (i) and (ii) of application 06/0367/OL/W7 to increase floorspace of proposed new retail store.	Grant Subject to conditions
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6	62	08/0520/FL	HYDEVILLE TOWER SCHOOL, 25 BROADWAY NORTH, WALSALL, WS1 2QG	A) Extension to Art and Technology Building B) change of use of 33 Broadway North to part of school (years 1 and 2) C) Use of vacated year 1 and 2 for nursery provision	Grant Permission Subject to Conditions and a Planning Obligation
7	72	08/1818/OL	LAND BETWEEN RICHARDS STREET AND WHITWORTH CLOSE, DARLASTON,W S10 8AJ	Outline application (considering access only) for up to 90 residential units and associated works comprising, 9 two bedroom flats, 10 two bedroom bungalows, 34 three bedroom houses, 21 four bedroom houses and 16 five bedroom houses; 6 low carbon dwellings; vehicular and pedestrian access from Richards Street only.	Refuse
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				services housings, external security cameras & site lighting.	
11	139	09/1015/FL	LAND TO SIDE AND REAR OF 43 MIDDLETON ROAD, STREETLY, B74 3ES	Outline: Erection of 2 no. detached houses, demolition of existing garage construction of private drive and associated works. Layout and access to be determined at this stage.	Grant Subject to conditions
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13	158	09/0841/FL	34 WOOD LANE, STREETLY, B74 3LR	Proposed front, side and rear extensions, reconstruct and enlarge roof with dormers to the front.	Grant Subject to conditions
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17	189	09/0795/FL	86 WALSALL ROAD, DARLASTON, WS10 9JT	Two storey and single storey rear extension.	Refuse



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

REASON FOR BRINGING TO COMMITTEE: Major Application

Application Number: 09/0921/RM
Application Type: Reserved Matters
Applicant: Tesco Stores Ltd
Proposal: Reserved Matters submission for the demolition of existing college buildings and erection of retail (use class A1), including large foodstore, cafe/restaurant (use class A3/A5), offices (B1a), petrol filling station, car parking, landscaping and associated highway works, including new streets and bus stops/layover facilities. Facilities proposals include refurbishment of existing walkways building on Littleton Street West.
Ward: St. Matthews

Case Officer: Andrew Thompson
Telephone Number: 01922 652403
Agent: DPP LLP
Location: LAND TO SOUTH OF LITTLETON STREET WEST (FORMER WALSALL CAMPUS) / ST PAULS STREET, WALSALL

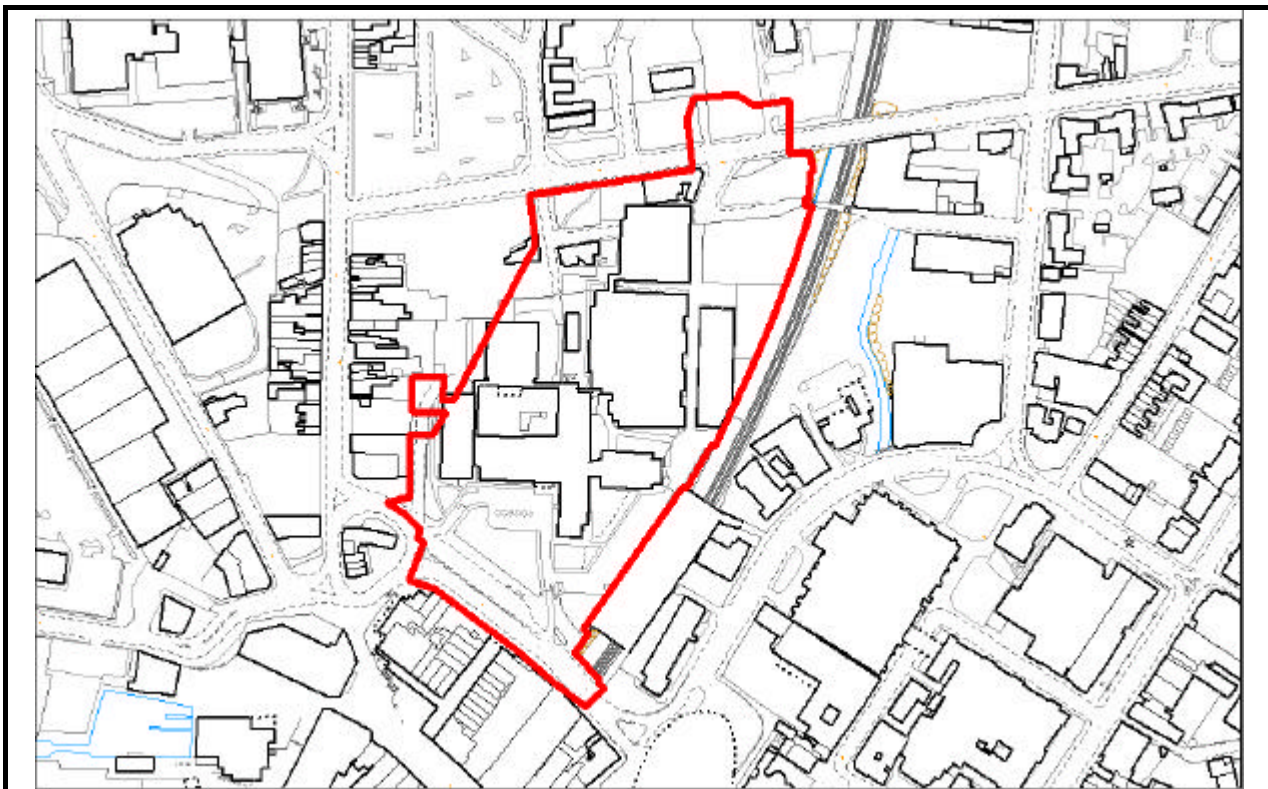
Expired: 08/10/2009

Recommendation Summary: Approve Reserved Matters with Conditions

Application Number: 09/0917/FL
Application Type: Full application
Applicant: Tesco Stores Ltd
Proposal: Variation to Condition B27 (i) and (ii) of application 06/0367/OL/W7 to increase floorspace of proposed new retail store.
Ward: St. Matthews

Case Officer: Andrew Thompson
Telephone Number: 01922 652403
Agent: DPP LLP
Location: Land at Walsall College of Arts and Technology (Walcat) south of Littleton Street West
Expired: 07/10/2009

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

This report considers applications 09/0917/FL and 09/0921/RM, both relating to the proposed new Tesco Store which will be located on the site of the old Walsall College between Littleton Street West and St Pauls Street.

Outline planning permission for the Tesco store (including access and layout) was given under planning permission reference 06/0367/OL/W7 under the same permission as the new Walsall College.

Broadly the reserved matters application (09/0921/RM) proposes the following:

- A 10,880sq.m. retail store (Tesco Extra) – essentially at first floor and at an additional mezzanine level - with associated café, service yard,
- car parking of 752 spaces, including some on a deck structure, with motorcycle and cycling facilities and recycling facilities (much of the car park is under / inside the store building)
- pick up points and ancillary facilities including ATMs, lifts and plant and machinery.
- 4 retail premises and a new café/restaurant premises
- 2,959sq.m. of three storey offices fronting St Paul's Street
- an 16 pump (on 8 islands) petrol filling station – close to the Littleton Street West frontage (but behind buildings envisaged in later phases and the Walkways Building)
- retention and refurbishment of the Walkways building on Littleton Street West with 10 associated car parking spaces.
- minor alterations to the internal road layout to include a roundabout into the store rather than a filtered junction as proposed in the outline application (this is between the petrol station and the store car park, behind the buildings envisaged on the Littleton Street West frontage).

The site area is 4.02 hectares and the car parking ratio would be 1 space per 14.5sq.m. The proposed store would be designed to Tesco's new Environmental Format Store, which seeks to reduce the carbon footprint of the proposed store. This is described further below in the energy statement précis.

The outline planning permission established several key aspects in relation to the access to the store. These included:-

- the principal accesses into the store from Littleton Street West
- the creation of the proposed new Wisemore boulevard and public square;
- to narrow St Paul's Street to two lanes and create a better pedestrian and town centre environment in that area;
- to relocate bus stops and layover facilities.

The proposals will also facilitate the final stages of the Town Centre Transport Package (TCTP) which includes a bus lane moving in the opposite direction (anticlockwise) to traffic on Hatherton Road, the installation of a bus gate, and alterations to the entrances to the Registrar parking at the Civic Centre. Many of these changes flow from the changes to St Paul's Street and the bus facilities there.

The application is supported by plans and details of the proposed new store, a Design Statement, Statement of Community Involvement, Energy Statement, Drainage Statement, A Transport Statement, Arboricultural Survey, and Air Quality Statement.

Application reference 09/0917/FL seeks to vary to Condition B27 (i) and (ii) of the outline planning permission to increase floorspace of proposed new retail store. Condition B27 states:

B27 (i) The retail development approved under this permission shall comprise a large food-based store of no more than 10,306 sq.m. gross, plus a total of no more than 1,190 sq.m. gross provided in the form of 12 (number) unit shops.

(ii) The maximum net sales floor space (excluding the checkout area, public circulation areas behind the checkouts, areas behind service counters, customer toilets and lobbies to be defined on a plan and agreed with the local planning authority) of the large food-based store within the development hereby permitted shall not exceed 6,979 sq.m. of which no more than 4,900 sq.m. is to be occupied for the sale of convenience goods and no more than 3,100 sq.m. is to be occupied for the sale of comparison goods.

(iii) The large food-based store shall not be subdivided into separate units for retailing or for other uses.

(iv) The 12 (number) shop units permitted shall be retained as individual units and shall not be amalgamated or sub-divided without the written permission of the local planning authority.

The variations are:

- In part (i) of the condition, increase the overall floorspace from 10,306sq.m. to 10,880sq.m.
- Under parts (i) and (iv), the applicant seeks to alter the wording relating to the individual shop units, changing "in the form of" to read "up to" 12 units and to delete the reference to 12 units in part (iv).
- In Part (ii) altering the proposed comparison goods floor area from 3,100sq.m. to 3,420sq.m..

The detailed building design is set out in application 09/0921/RM, and the changes to the conditions are reflected in the now proposed design which considers scale, external appearance and landscaping.

Design Statement

The Design Statement indicates how the store has evolved from the outline planning permission. The design wraps the store around frontages of St Paul's Street and the new Wisemore Boulevard creating active links between the new College, the Town Centre retail core and public transport infrastructure. In the building, on the corner of St Paul's Street and Wisemore will be the Tesco's ancillary café with the smaller ancillary units and other café/restaurant being on the Wisemore frontage.

Energy Statement

The Energy Statement indicates that through sustainable ventilation methods (including wind catchers), optimising natural light, intelligent lighting solutions and in-store energy initiatives the proposed store would produce 1,563 tonnes of CO₂ per annum, as opposed to 2,441 tonnes of CO₂ in a standard store. This represents an efficiency saving of 36%. Tesco are also investigating a Combined Heat and Power facility which could increase energy savings to 44%.

The application also details the reconfiguration of the bus stops and bus layover facilities and presents several options. There are currently four stops on St Paul's Street. These would be relocated from the existing position outside the College. The options presented comprise the following:

1. Expansion of stops outside Boots/Park Place.
2. New stop outside the job centre
3. New stops/layover facilities on Hatherton Road opposite the Civic Centre and Fordbrook Court.
4. Outside the existing Tesco Store on Bridge Street
5. In the parking area next to the entrance to the Post Office distribution centre.
6. Extension to facilities on Lichfield Street outside RBS/Town Hall.

Relevant Planning History

06/0367/OL/W7 – Hybrid application – part outline, but with details of the college included formally described as:-

OUTLINE: Demolition of existing buildings and erection of replacement college facilities (planning class use D1), on land north of Littleton Street West, retail (planning class use A1), including a food store, residential (planning class use C3), office (planning class use B1a), petrol filling station and car parking on land south of Littleton Street West, means of access and other associated works. Granted 15th December 2006.

The application was not called in by the Government Office and the new college (having been approved in detail as part of that application) is now completed and operational.

Relevant Planning Policy Summary

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

Unitary Development Plan (UDP)

GP1: Supports the sustainable location of development.

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

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

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

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

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

3.16, GP7, ENV32, and 3.116: seeks the design of developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

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

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

T13: sets maximum car parking standards, account should be taken of the location of development in relation to local facilities and public transport and unless demonstrated. Retail development should provide a maximum of 1 space per 14sq.m. of gross floorspace, at least 1 bike stand for every 20 car parking spaces and taxi facilities.

Local Development Framework (LDF)

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. Submission to the Secretary of State is anticipated in October/November 2008 following a further period of public consultation. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of recent national and regional planning guidance

Supplementary Planning Documents (SPD)

Designing Walsall SPD

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

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

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

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

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

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

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

Natural Environment SPD

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

Protection is proposed for protected animals, plants etc.

Regional Spatial Strategy for the West Midlands (RSS 11)

The Regional Spatial Strategy has been revised and republished on 15th January 2008 to reflect the first Phase of Review. The Strategy seeks to provide broad regional directives and recognises the role of the regeneration of the Black Country to the overall performance of the West Midlands Region. The next phases of review are underway.

The focus for the Black Country policies is to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

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

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

Policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas. Policies seek to ensure retail and office development are located in the town centres.

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

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

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

National Policy

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

PPS6: Seeks to ensure that town centre uses are developed in the most sustainable locations.

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

Consultations

Transportation – No Objections

The Applicant has decided to retain the carriageway and footways in private ownership. We expected the new Wisemore Boulevard to be adopted and maintained at public expense.

The concerns of the Highways Authority have been formally presented to the applicant for consideration, stating the advantages of adoption, and putting forward the case to address any concerns the applicant may have about adoption but the view to retain private ownership is still their preferred option.

This being the case Highways would ask that the Planning Authority give consideration to those aspects of the development that are now not safeguarded by the benefit of adoption.

Pollution Control

Scientific Team – No objection to this application in principle.

As this is a reserved matters application there is nothing to add to comments already provided regarding 06/0367/OL/W7.

Part of this submission includes a proposed petrol filling station. It is important to ensure that the applicant is aware that they must obtain a permit to operate such a facility and that a Stage II Petrol Vapour Recovery system must be provided as a condition of that permit for new installations. A note is suggested to highlight the requirement of this permit.

Contaminated Land Team - Contaminated Land support this development, previous comments and conditions to the outline application should be carried over to this permission

Fire Service - No objection

Landscape Team – Additional plans and detail required to discharge the landscape conditions of the outline permission

Access Officer – No objection however the scheme needs to clarify aspects of the internal layout, shared surface and parking with regard to ensuring that visually impaired and disabled persons have appropriate access.

Rights of Way - The proposed improvements to pedestrian links currently end at the edge of the development site. The route beyond this (and outside the site), over the railway bridge from Little Albert Street and along Albert Street is currently in a poor condition, comprising an unmade surface, with pot holes and vehicles parked along it. It would benefit from improvements, including better surfacing, provision of a segregated or demarked route for pedestrians and clearance works on the bridge. Would welcome the opportunity to explore this as an option.

If pedestrian access is improved on the development site linking into this, but not along the length of the route, this may result in increased footfall and in turn lead to greater conflict between pedestrian and vehicle access, and possible trips / falls due to the current surface condition.

Delivery and Development Team – Support

The development is vital to the ongoing regeneration of Walsall town centre. The development will improve pedestrian linkages to the site and the surrounding area, as well as improve the environment and landscape in this location. As such, no objections are raised to the details considered within the application.

There have been preliminary discussions in regard to the possible relocation of Walsall's Shopmobility unit, combined with the Centre for Independent Living, into the associated units that are included in this development. Therefore, we would recommend that this use is permitted as part of any planning permission that might be granted.

(This is not legally possible.)

Centro - Support application subject to ensuring the interests of the 5Ws and bus services are maintained through agreed mechanisms. Centro has previously commented on the Outline

application for this site (application reference: 06-0367/OL/W7) and re-iterate points made in our letter of 2nd May 2006, of particular significance, Centro stated that “The proposed access road that will be situated in front of the foodstore, will need be shared with the metro route. For this reason, the access road needs to be 16m minimum (a design parameter which has already been shared with Walsall Council previously). This would allow for a single track segregation of the tram, to avoid any congestion that could occur at peak times. We would recommend also that the kerbline, as implemented, be built to accommodate this requirement to minimise abortive/disruptive works in the short term and also that any statutory undertaking be kept clear of the proposed tramway. Centro and our consultants would be happy to work with the applicant and their consultants on any of these matters. Centro would support the adoption of the access road as public highway but would need to acquire the road by Compulsory Purchase Powers in the future if it were not”.

Public Participation Responses

One letter has been received from Enoch Evans raising no objection to the development except for the re-instatement of the bus stop outside 6 to 8 Hatherton Road (Enoch Evans' Office). Enoch Evans also question the reasons for preventing access from Hatherton Road to Lichfield Street as this would make access to the southern part of Walsall from their offices, difficult.

Determining Issues

- Increase in floorspace and ratio of comparison goods (condition variations)
- Proposed number of ancillary units
- Design and scale of the new store
- The design and scale of the proposed office buildings
- Landscaping to the public realm
- The Walkways building
- The petrol filling station
- The new Wisemore link
- Public footpath along Albert Street
- The proposed bus stops and layover facilities

Observations

Increase in floorspace and ratio of comparison goods (condition variations)

The proposed increase in floorspace of the retail store to 10,880sq.m. is an increase of 574sq.m. or 5.5% on the outline planning permission. The proposed increase would not significantly alter the scale or retail character of the proposed store. In this respect therefore the proposed alteration to Condition B27 of the outline planning permission is acceptable.

	Total Floorspace	Convenience Goods	Comparison Goods	Comparison as % of total
Outline Permission	10,306sq.m.	4,900sq.m.	3,100sq.m.	30%
Current Variation/ Reserved Matters Applications	10,880sq.m.	3,490sq.m.	3,418sq.m.	49%

In respect of the proposed increase in the floor area of comparison goods to 3,420sq.m., it is necessary to consider

the increase of this against the total sales area. The outline planning permission granted a

maximum sales area of 6,979sq.m and the Reserved Matters works within that scope at 6,908sq.m..

The approved floorspace allowed for a maximum of 4,900sq.m. to convenience goods and 3,100sq.m. to comparison goods or 70% convenience goods. This is altered by the Reserved Matters submission to 3,490sq.m. to convenience goods and 3,418sq.m. to comparison goods or 51% of the sales area being convenience goods.

Whilst officers do not consider these changes to be de-minimis (legalism for “too small to matter”), it is recognised that changes in the retail industry and the nature of supermarket sales have resulted in the development of the comparison goods component (in particular clothes and electronics) and that this is now a common feature of supermarkets, in particular the larger format stores. However it is important that the town centre continues to be the principal location for comparison goods sales. It is a welcome feature of this development that it is part of the town centre.

It is considered that, whilst the proposal is acceptable at this proportion, the level of floorspace dedicated to convenience goods at the new store should continue to exceed that of the comparison goods and that any increases to the sales area should be directed towards convenience goods. The proposed wording of the condition would allow the Council to retain satisfactory control of this aspect and ensure that the primary purpose of the store, i.e. as a convenience store, is retained.

Proposed number of ancillary units

The detailed permission now shows five ancillary stores and the applicant has requested two alterations to Condition B27 of the outline planning permission to facilitate this change.

On the proposed Wisemore link, the proposed stores would comprise:

- A café/restaurant of 119sq.m. (17m by 7m)
- Three identically-sized retail (Class A1 units) each 142.5sq.m. (15m by 9.5m)
- A further retail store of approximately 185sq.m. with a corner treatment facing the new public square

The total floorspace of ancillary units would therefore be 731.5sq.m., which would be within the remit of the outline planning permission. The size of the stores would also be reasonable and not competing with the main store while still generating activity and diversity to the proposed Wisemore link. It is therefore considered that the alterations to the Condition B27 in relation to the ancillary stores, taking into account the proposals would be acceptable.

The outline planning permission highlights that 1,190sq.m. in 12 stores will be delivered as part of the development (this includes new buildings on Stafford Street, Littleton Street and the opposite side of the new Wisemore boulevard). The remainder of the approved ancillary retail floorspace not included in the current design / application (approximately 460sq.m.) could be delivered in the further phase(s) of development. The applicant also highlights that this floorspace is being reviewed due to the changes in the economic climate. It is noted that a significant proportion (over 60%) of the permitted ancillary retail will be delivered as part of this permission and officers will continue to assess this aspect in the development of future phases of development.

Design and scale of the new store and ancillary retail units

With the exception of the proposed main entrance and café, a significant proportion of the bulk and mass of the proposed new Tesco store will be located behind the proposed offices and ancillary retail and not readily visible from the new Wisemore link or St Paul's Street. The design of the store also minimises, through landscaping and external façade treatment, the impact of the car parking, in particular the decked car park, from Littleton Street West.

The buildings would have a maximum height of 12.5m for the foodstore and 8.2m for the frontage ancillary stores on the new Wisemore link.

The main elements of atrium and ancillary shops would be of modern design with large elements of glazing interspersed with hard materials allowing active frontages to the new Wisemore link. The proposals would also allow for a building to be created to the new square at the top of the Wisemore link as part of Phase 2.

As indicated by the Delivery and Development Team there have been preliminary discussions in regard to the possible relocation of Walsall's Shopmobility unit, combined with the Centre for Independent Living, into the associated units that are included in this development. This use would be a sui generis use and would require separate permission unless the proposals were incorporated into the main part of the Tesco store in a way which could be considered as ancillary to the use of the main food store. However, care is needed in using the ancillary floorspace, as this would potentially harm the retail viability of the remaining proposed ancillary stores. Overall, the issue would be best dealt with separately, later in the construction programme, though a specific planning application.

The design and scale of the proposed office buildings

The proposed office buildings would be 3 storeys in height and comprise 2,959sq.m.. The design would front St Paul's Street and include accesses into these units from St Pauls Street. The scale would be in keeping with the size and height of development proposed and existing in the area.

The proposed design is a largely glazed feature with solar shading breaking up the mass of the building. The window frames would feature aluminium as a detail with stairwells being of granite-style blocks presenting also a solid feature to the street scene breaking up the large glazing elements and adding interest to the street scene. The designs would present a cohesive and active frontage to St Paul's Street and thereby aiding movement from the bus station to the College and improving the local environment. It may also have a positive impact on the regeneration of the opposite side of St Paul's and the improvement to this façade.

Overall the offices represent a positive element to the scheme, will aid and improve the town centre's regeneration and the overall viability and vitality of the scheme.

The Petrol Filling Station (PFS)

The PFS is an 8 island, 16 pump facility with associated kiosk of approximately 80sq.m. The canopy would be a standard horizontal design painted blue with the Tesco corporate logo on the fascia. The canopy would have a 4m clearance.

Overall, whilst more basic in design, in comparison to the main store, the PFS would provide an important feature in the surrounding area and therefore the materials will be important to the final design.

Officers and the applicant are detailing improvements to the materials and the external appearance of the PFS kiosk. It is anticipated that these improvements will significantly improve the PFS and present a similar design to that of the main store and the decked car park. These changes will be reported in the Supplementary Paper. However, on balance, when considered against the wider scope of the proposed store and the surrounding area, the proposed PFS is considered to be acceptable.

Landscaping to the public realm

The applicants have worked closely with the Council's Urban Designer to develop and understand the landscaping materials used in regeneration projects elsewhere in the town centre and to develop co-ordination with other projects. In this respect the proposed public realm will develop visual links to the Waterfront developments and the new College development as well as creating its own identity and character.

There are several locations where landscaping has been incorporated. The precise species and details will require refinement to ensure longevity and quality is maintained, however broadly the principles / locations are acceptable. The landscaping around the Petrol Filling Station and Walkways building are particularly welcomed.

One unusual feature is the landscaping at the top of Wisemore. This is temporary, as it will form part of the Phase 2 of the development.

The Walkways building

The current proposals, as indicated in the applicant's Design and Access Statement, are to retain and refurbish the Walkways building on Littleton Street West in its entirety.

This is welcomed by officers as the building presents an attractive frontage to Littleton Street West, creating a presence in the street scene. The proposals would shield the more functional petrol filling station and also create continuity in built form between the new College and the new Wisemore link at a human scale.

Without this building in the street scene the Tesco decked car park and the Petrol Filling Station will dominate the pedestrian environment, and views from Littleton Street West, and discourage connectivity between the town centre and the new College and the wider Gigaport regeneration. Officers have therefore proposed conditions in relation to the retention and refurbishment of the Walkways building.

The new Wisemore link

The proposed Wisemore link will be the primary link between the new College and the town centre and its public transport infrastructure. It is also the route of the proposed 5Ws public transport route (the Metro scheme). The Boulevard will contribute significantly to the development of public realm and pedestrian movement to the town centre as well as providing one of the accesses into the car park.

The proposed metro has proven difficult to deliver and it is plausible to suggest that other forms of transport (for example bus based rapid transit) may be delivered ahead or instead of the proposed metro scheme. In this respect, in considering this Tesco are keen to ensure that the high quality public realm is maintained and that the route does not become the primary route for the town's bus network and at this time therefore wish to retain landowner control over the new Boulevard. Tesco are, however, committed to the delivery of the 5Ws public transport on the new Wisemore. The proposed functional clauses will aim to deliver certainty for all parties (Centro, the Council and Tesco).

Following several discussions and meetings with the applicant, an option is being progressed for the route remaining private and under the applicant's control and ownership until the implementation of the 5W public transport route. The applicant would then, in effect, 'gift' this area to the public transport authority (Centro) at the time of the installation and Centro, in turn would seek to adopt the route.

A section 106 agreement is being explored to control the future of this link. Discussions are continuing with regard to the precise wording and detailing but officers and the applicant and

Centro have agreed in principle to both the above options with the following being included in the S106 Agreement.

- Ensuring free passage of pedestrians and vehicles along Wisemore at all times day and night and that no barriers or obstructions shall be installed, or erected to obstruct the free movement of pedestrian or vehicular traffic, or emergency services at any time, other than as may be necessary for such actions as maintenance;
- Ensure uninterrupted access for residents, business owners and occupiers for the proposed Phase 2 of the development, who will depend on Wisemore as the means of access and egress from the site;
- Ensuring the future introduction of the proposed Metro link is not compromised including agreement that the future Metro proposals will be provided for whichever sort of transport system is to be introduced and that engineering detail of the construction for the Metro proposals are agreed in writing with Centro;
- Ensure that the use of wheel clamping and use of private parking enforcement organisations does not lead to vehicle tail backs onto the adopted highway that may compromise free movement of pedestrians, vehicles or the operation of public transport services. Outline Permission Condition B25 (B) iii), relates to the site operator consulting with the Council in writing of any changes to the management scheme
- Provide a legal agreement to ensure the safety and integrity of Wisemore is provided for the benefit of all users as well as customers of the Tesco store;
- Ensure agreements are in place to safeguard access to Utilities, services, deliveries and waste management, and any waste collection required to be made by Walsall Waste Management is done in accordance with a waste management strategy, with the agreement and approval of Walsall Waste Management, and that Walsall Council are indemnified against any claims for alleged damage that may be caused by Walsall refuse vehicles;
- That any temporary works required that may impact on the operation or integrity of the immediate or surrounding highway network will require the approval and agreement with Walsall Council Traffic Management;
- Provision that the waiting, movement and operation of taxi services is controlled to ensure the safe use of Wisemore;
- Wayleave agreements for Statutory Undertakers

The applicant has agreed in principle to the objectives of the above and officers are continuing to work on the precise wording of the clauses to ensure that they are legally robust. Should members consider the Reserved Matters to be acceptable, Officers recommend that the above clauses be incorporated into the existing legal agreement and request authorisation to continue to develop the precise detail of the Agreement with the applicant.

Public footpath along Albert Street

Officers note the comments of Rights of Way Officers. The scope of improvements and this access were agreed at outline stage and as such it is outside the power of the Council to request further improvement, outside the application site, at this stage.

However, the land on the opposite side of the railway bridge forms part of the Gigaport proposals and will be coming forward as part of those development proposals.

The proposed bus stops and layover facilities

The details of the proposed revised bus stops and layover facilities are submitted with the application and have been agreed in principle with the bus operators and Centro (as the public transport authority) and the comments of Enoch Evans are noted. Due to the significant number of stops and facilities shown (exceeding the number that require replacing) discussions and details on which of the facilities and stops are to be provided as the replacement stops and facilities. These discussions are ongoing between bus operators and Centro and the Highways Authority with safety audits being undertaken. The alterations to the highway network form part of the Town Centre Transport Package (TCTP) with the final stops to be chosen will then form part of an amended agreement under s278 of the Highways Act and amended Traffic Restriction Orders.

The submitted details, subject to final agreement with the relevant parties, would satisfy Condition B20 subject to details of the timetable of works being submitted in accordance with the Condition of the Outline Permission.

Summary of Reasons for Granting Planning Permission

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

The proposals are consistent with the outline planning permission given under application reference 06/0367/OL/W7, which established the principle of retail in this location as well as the layout and access to the proposed store. The environmental impact of the development is not considered to be significant enough to require an Environmental Statement under the guidelines of Circular 02/99.

The development is a significant regeneration project for Walsall Town Centre (as that is defined in the Unitary Development Plan and Black Country Joint Core Strategy) and will deliver a modern retail foodstore with associated retail units, petrol filling station and offices, with high quality, sustainable design at the heart of the proposals.

The proposed amendments to condition B27 of the outline planning permission, separately proposed under application reference 09/0917/FL, and which are incorporated into this Reserved Matters submission, are not considered to materially alter the scope of the outline planning permission.

The application also establishes the principle of the location of amended bus stops and layover facilities and amendments to the highway network which form part of the Town Centre Transport Package (TCTP).

The new Wisemore link will be an important and significant feature, linking the town centre and its associated infrastructure to the new College and the Gigaport office offer. The intention is that this is to remain private, in the ownership of the applicant, and therefore additional clauses and conditions are added to ensure that this link as well as the interests of public transport initiatives is maintained both now and in the future.

Overall the proposals are considered to be in compliance with the aims and objectives of the Unitary Development Plan taking into account the strategic role and requirements of the town centre and the need for regeneration.

Having considered the impact on other town centre regeneration projects (for example Gigaport, the New College and Walsall Waterfront) and balancing the traffic impact and air quality objectives as well as setting an appropriate framework to deliver a high standard of architecture and public realm, the proposals are considered to be acceptable.

As such, the proposed development, having considered all relevant public participation responses and consultation comments is considered to comply with the relevant policies of the Development Plan (namely Walsall Unitary Development Plan and the Regional Spatial Strategy for the West Midlands) and national planning guidance and best practice guidance. In particular policies GP1, GP2, GP3, GP4, GP5, GP6, GP7, T1, T2, T3, T4, T5, T6, T7, T8, T9, T10, T11, T12, T13, ENV9, ENV10, ENV11, ENV13, ENV14, ENV17, ENV18, ENV19, ENV21, ENV22, ENV23, ENV25, ENV26, ENV27, ENV29, ENV31, ENV32, ENV33, ENV34, ENV35, ENV39, ENV40, JP2, JP3, JP7(d), S1, S2, S3, S4, S5, S7, S8, S10, LC1, LC2, LC6, LC7, LC8, WM1, WM4, WA3, WA4, WA5, WA6, WA7(I) and (VI), WA8, WA13, WA15, WA16, WA17, WA18, WA19, and paragraphs 4.6, 4.13 and 4.14 of Walsall Unitary Development Plan, March 2005; Policies PA1, PA2, PA3, PA4, PA5, PA6, PA11, UR1, UR3, UR4, QE1, QE2, QE3, QE4, QE5, QE7, EN1, EN2, T1, T2, T3, T4, T5, T7, T8 and T9 of the Regional Spatial Strategy for the West Midlands (RSS11); Adopted Supplementary Planning Documents including Designing Walsall SPD and Natural Environment SPD, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Recommendation: Approve Reserved Matters with Conditions

In relation to the area outlined in red on the submitted plans:-

- a) Conditions B2a), B2b), B2c) (the reserved matters), and B3 are complied with.
- b) Conditions B4, B7, B8, B17 and B21 are complied with, subject to the details being carried out in accordance with the approved plans
- c) And subject to the following new conditions:-

RM1. The existing Walkways building is to be retained. As a result of the refurbishment of this building should any demolition or external alteration to the building be necessary, prior to the carrying out of any such operations, details shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interests of safeguarding the integrity of important building to the street scene and character of the area.

Recommendation: Grant Subject to conditions

Condition B27 of planning permission reference 06/0367/OL/W7 is amended to state:

B27 (i) The retail development approved under this permission shall comprise a large food-based store of no more than 10,880 sq.m. gross, plus a total of no more than 1,190 sq.m. gross provided in up to 12 (number) unit shops.

(ii) The maximum net sales floor space (excluding the checkout area, public circulation areas

behind the checkouts, areas behind service counters, customer toilets and lobbies to be defined on a plan and agreed with the local planning authority) of the large food-based store within the development hereby permitted shall not exceed 6,979 sq.m. of which no more than 4,900 sq.m. is to be occupied for the sale of convenience goods and no more than 3,420 sq.m. is to be occupied for the sale of comparison goods.

(iii) The large food-based store shall not be subdivided into separate units for retailing or for other uses.

(iv) The ancillary shop units permitted shall be retained as individual units and shall not be amalgamated or sub-divided without the written permission of the local planning authority.

The remaining conditions of planning permission reference 06/0367/OL/W7 are unaltered.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

REASON FOR BRINGING TO COMMITTEE: Major application

Application Number: 09/0605/FL

Application Type: Full application

Applicant: Oakus Developments Ltd.

Proposal: Erection of Three stand-alone, gateway office units of 3 and 4 storeys, with related landscaping, balancing pond, car parking and infrastructure at J10, M6, Tempus Way, Walsall.

Ward: Pleck

Case Officer: Marilyn Kowalski

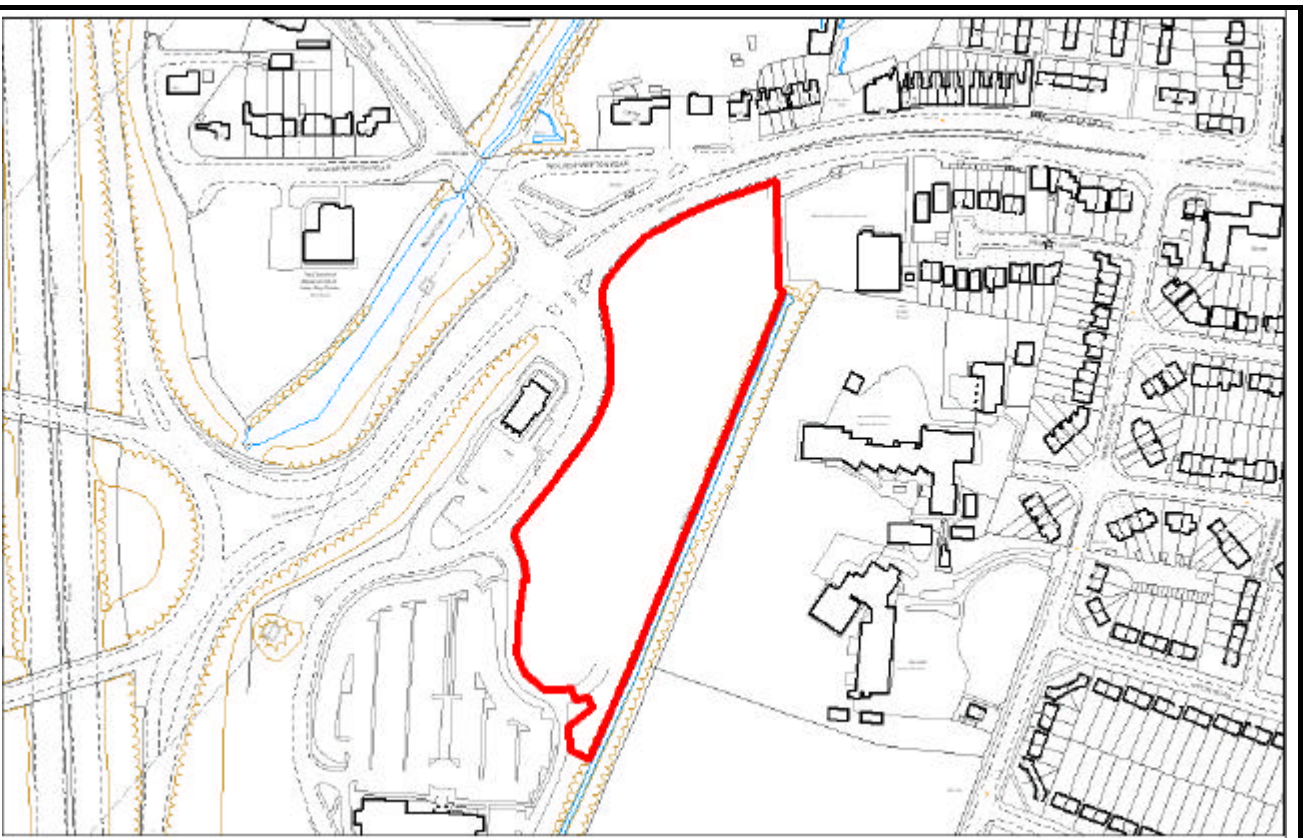
Telephone Number: 01922 652492

Agent: Archial

Location: J10, M6, TEMPUS WAY,
WALSALL

Expired: 18/08/2009

Recommendation Summary: Grant subject to conditions and referral to the Secretary of State and the West Midlands Regional Assembly under the RSS conformity procedures.



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Application and Site Details

This is part of a site known as Tempus 10. Members have seen previous components of the overall development in the past, e.g. the Village Hotel, Budget Hotel and drive-thru restaurant. There have also been earlier versions of this office development.

This is a full application for three rectangular shaped stand alone office buildings of three and four stories in height. One building will flank Wolverhampton Road with the other two side by side parallel with the Sneyd Brook. A balancing pond is proposed at the Southern end of the site in compliance with Environment Agency requirements. The total floorspace proposed is 9,808 sq m. and is split as follows:-

Unit 1 – 4,084m² (Facing Wolverhampton Road 4 storeys)

Unit 2 – 2,862m² (3 storeys)

Unit 3 – 2,862m² (3 storeys)

The proposal is 2308 sq m greater than the original outline planning permission which indicated an office component of 7,500 sq metres.

Tempus 10 takes access off Wolverhampton Road, through a new road on the development area. An in-only access to the offices is proposed off this site road. Two way access is also available (alongside the Village Hotel car park) running round the back of the site and alongside the brook.

A two way access to the Church at Junction 10 is proposed at the end of this road alongside the brook.

The development will contain 312 car parking spaces which are fairly evenly spread around the buildings on site, 10 spaces are allocated for the use of the Church at Junction 10. Disabled parking is provided at 5% approx. Covered and illuminated cycle stands are provided to assist in achieving the intended appropriate BREEAM rating (Building Research Establishment Environmental Assessment Method). In addition car share spaces are provided at around 5% of the total provision and are located close to the building entrances. There will be an automatic barrier across the site accesses to ensure use only by authorised persons.

A public cycleway and pedestrian route run alongside the brook adjoining the site. In addition the developer has stated that it has been agreed, with the relevant officer of the Council, that an Air Quality Statement was inappropriate given the location of the site and type of development being proposed. Also it has been agreed, with the relevant officer, that a Noise and Vibration Assessment is not necessary due to the non residential nature of the development.

The developer puts forward a case that the scale of office development is consistent with the quantum of development previously agreed. However, officer's view is that the increase in floorspace means that consideration should be given to the impact of this application on the major regeneration schemes within and on the edge of Walsall Town Centre.

In terms of the Waterfront and Gigaport schemes, these are mixed developments. The Waterfront scheme comprises mixed uses including restaurants/leisure, offices, retail as well as residential. The Gigaport proposal is for 127,000 sq. m. of offices, a data centre, hotel with conference facilities, live/work facilities, health and sport facility and a small element of retail. The developer argues that Waterfront and Gigaport proposals were brought forward in the full knowledge of the original planning consent for Tempus 10 and that it would be unrealistic to suggest that schemes such as Gigaport (which is 56 times bigger than the net increase in floorspace proposed at

Tempus 10) would be adversely affected.

The applicant points out, that the original planning permission was granted in 2002 before the Gigaport scheme was promoted. During this time, offices were being prominently marketed at Junction 10, and this did not detract from prospects for the Gigaport.

The applicant states that the development would deliver an employment generating development of high quality in a key location in accordance with the adopted development plan, without any constraint such as requiring public investment or any other pump priming. They emphasise that this is a key consideration in the context of the major regeneration schemes in the town centre. The applicant makes a case for the need for the development and the benefits of bringing the development forward as quickly as possible. The site is acknowledged to be located at the most important arrival and departure point for road traffic into and out of Walsall. As such the applicant states that there has to be an emphasis upon a quality of design and it is argued that this can only be achieved through high values such as offices. In addition, the applicant states that there is a need to bring the site forward, as soon as possible, having regard to its prominence and gateway location and to promote the local job market and assist in the regeneration of other areas.

Various documents have been submitted with the application:-

Design and Access Statement

Concludes that the proposals accord with and complement national and local planning policies and would benefit the local area in terms of use, amount of development, layout, scale and appearance landscaping and access.

Planning Statement

This concludes that the scheme conforms to relevant policies and will secure a high quality development in a strategically important location. It sets out a case that the proposal will not have an adverse impact on the Town Centre Waterfront and Gigaport proposals. The developer has stated in the Planning Statement that the new uses across part of the overall site are in substitution for some or all of other elements of the extant consent, in particular the B2/B8 floorspace. This refinement of the development profile of the site as a whole has enabled Counsel to advise that the small and notional increase in office floorspace is both reasonable and appropriate.

Environmental Summary

Summarises the ground investigation works that have been carried out and the environmental and geotechnical constraints or opportunities in relation to ground conditions and the proposed development. Recommendations are given with respect to the scope of works that are considered necessary to provide sufficient information to support a full planning application.

Ecological Statement

The document concerns the flora, fauna and habitats potentially affected by the proposed construction of the office block and the potential direct and indirect ecological impact on these features of the proposed scheme in design, construction, and operation. Appropriate mitigation and enhancement measures to offset and compensate for potentially significant adverse effects are proposed.

Flood Risk Assessment

This concludes that the majority of the proposed development is outside the 1 in 100 year flood

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level of the Sneyd Brook. The parts that are within this area are not considered to be a significant issue. The scheme is considered to provide betterment by providing an additional area of floodplain storage capacity. Safe, dry, pedestrian access and egress to and from the development is achievable in compliance with PPS25. All buildings will front onto and be accessed from the higher ground outside the floodplain. Plans will be put in place to cope in the event of a flood event. SUDS systems are included.

Transport Statement

This assesses the implications of the development on the operation of the junction with Wolverhampton Road. It demonstrates the opportunity for potential employees to access the development by either public transport, walking and / or cycling. It concludes that the operation of the junction during opening year 2010 will not be compromised.

Framework Travel Plan

Contains measures geared towards reducing, as a minimum, trips associated with the development by 15%.

Waste Minimisation Statement

The proposed buildings will be assessed under BREEAM (Offices 2006) with an intended rating of "Excellent".

Statement in respect of Public Art

The applicant has stated that they will provide public art on the site in an area within the soft landscaping adjacent to the Wolverhampton Road. Two podiums are proposed to give this prominence and importance when seen by traffic to and from the town centre. It is proposed that this will link to the town's history. The developer is planning to promote a design competition involving local people.

Draft Heads of Terms for a Unilateral Undertaking in respect of Land at, Tempus 10

This states that the developer is prepared to provide a means of access and egress to the Church at Junction 10 to enable them to redevelop their site, in an agreed manner, plus 10 parking spaces.

Relevant Planning History

On the application site

BC44428P (Detailed application) erection of buildings for warehouses, factories and ancillary offices. No decision was made by Walsall MBC and an appeal was lodged on non determination. The appeal was dismissed in 1997, primarily on grounds that the development did not propose a sufficiently high quality of design and landscaping and there was insufficient information to ensure that ground contamination and stability problems had been addressed. In the present context, the determination of the application was most important in that the inspector accepted the requirement for a particularly high standard of design and landscaping for such an important "gateway" site.

BC56152P Outline: Mixed uses including combined 3 storey budget hotel and 5 storey hotel, conference and leisure complex. Grant Subject to conditions 2002. This was the outline permission which establishes the context for the determination of the present submission although

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the current application is a full submission.

02/2279/FL/W2 Reserved Matters: Hotel (5 star) with conference/leisure facilities and restaurant with drive-thru facilities. Approved 2003 (now Village Hotel)

04/0549/RM/W2 Restaurant with drive-thru facilities Approved 2004 (Implemented)

05/0262/FL/W2 Variation of condition 1A of planning permission BC56152P to extend time for submission of applications for approval of reserved matters Grant subject to condition (2 extra years) 2005.

05/0839/FL/W2 Erection of a four storey Budget Hotel together with associated parking Grant Subject to Conditions 2005

07/1281/RM/W2 Erection of B8 distribution and storage building to the south of the site and offices to the north. UNDETERMINED

On other sites

(Please note outline permissions only quoted)

08/0951/OL Walsall Gigaport - Outline application (access only considered). Erection of 127,000 sq m of b1(a) offices, a 4,206 sq m data centre, 4,300 sq m hotel with conference facilities, 23,195 sq m of live/work space, a 5,890 sq m health and sports facility and 621 sum of a1/a3 (retail/non-retail) floorspace together with associated highways works, public transport facilities, new public square, landscaping and car parking. (revision of planning application reference 07/2659/OL/W7). Grant Subject to Conditions 18th December 2008

06/1450/OL/W1 (Walsall Waterfront) Outline application for a mixed use scheme including leisure, offices, retail, apartments and associated multi storey parking (consisting of 12 buildings, 7 of which are submitted as reserved matters) (excluding landscape proposals). Grant Subject to Conditions 21/12/2006

Relevant Planning Policy Summary

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

Unitary Development Plan

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

3.7...proposals for development or redevelopment should protect people from unacceptable noise, pollution and other environmental problems...encourage relocation of bad neighbour uses from residential and other sensitive areas

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

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

ENV14...encourage reclamation and development of derelict and previously developed land where feasible,

ENV32 Aims to provide good design features

ENV33 Deals with landscape design and opportunities to create and enhance environmental quality

4.1...seek to improve the local environment and enhance the image of the area, introduce security improvements to reduce crime and vandalism and create new, and safeguard existing, job opportunities.

4.2...promotes investment and diversification to meet the needs of both inward investors and existing firms

Policy JP4.1 East of M6 Junction 10 (site E13):

(a) This site is safeguarded for high quality development which must satisfy all of the following:

- I. A particularly high standard of design and landscaping.
- 11. Creation of gateway or landmark features which make a powerful statement promoting Walsall as a place for high quality development:
- 111. Enhancement of the nature conservation value of the site:
- 1V. No adverse affect on the amenities of users of land nearby, especially schools;

(c) The site is allocated for employment uses under Policy JP1 , but exceptionally , will also be considered for other high quality uses including hotels and B1 (a) offices, subject to there being no adverse impact on investment in any centre.

Offices are defined as a town centre use in Policy S1.

Policy S7 relates to out-of-centre developments, and requires among other things:

- need to be demonstrated
- compliance with the sequential approach (i.e. there are no more centrally-located sites)
- no adverse impact trade and investment in centres;
- accessibility by a choice of means of transport and compliance with policies to reduce the need to travel.

4.27 The site is at Walsall's most important arrival and departure point for road traffic

GP1... location of development guided by principles of sustainable development and involve:-

a) Locating facilities where they are accessible to everyone and minimise the need to travel... a sequential approach requiring the location of development.... Development should be of a scale appropriate to the size of the centre

c) A sequential approach maximising re-use of derelict, vacant and underused urban land and buildings ... make best use of urban land and buildings...development proposals should not prejudice beneficial use of any adjoining land or buildings, or other parts of a building (e.g. upper floors above shops).

GP2... expect all developments to make a positive contribution to quality of the environment...development having adverse impact on environment will not be acceptable

GP4...promote and encourage comprehensive local area regeneration initiatives which revitalise local economy, create/ safeguard jobs, protect / enhance natural and built environment, bring forward derelict, vacant or underused land and buildings for new uses.

T13 states parking requirements for different types of development. For offices 1 car parking space per 30m² of gross floorspace is required plus 1 bike locker for every 10 spaces and taxi facilities.

Supplementary Planning Documents (SPD)

Designing Walsall SPD

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

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 - Character -design to respect and enhance local identity;

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

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

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

DW7 – Diversity – provides choice and richness, vitality and activity.

DW8 – Adaptability – buildings and spaces should be able to respond to changes in technology, the environment, market conditions and living circumstances.

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

DBW10 - new development should make a positive contribution to creating a sustainable environment.

Natural Environment SPD

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

Regional Spatial Strategy for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

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

Policy QE1 – Environment

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

Local Development Framework (LDF)

The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, high quality design etc. are further advanced in the document taking account of recent national and regional planning guidance

National Policy

Planning Policy Statement (PPS) 1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character

and quality of an area should not be accepted.” Paragraphs 33 to 39 also state the importance of good design. Supplementary document published on the need to address climate change through the planning system.

PPG4...seeks a positive approach to the location of new business developments and assisting small firms....economic growth and high-quality environment to be pursued together....the importance of industrial and commercial development to be considered with that of maintaining and improving environmental quality.

PPS6 (published in March 2005) defines that competition is not a planning issue but that offices are identified as a town centre use. Outside of centres applicants are required to demonstrate the acceptability of proposals in terms of:

- need
- appropriate scale (to meet any need identified)
- the sequential approach
- impact on existing centres
- accessibility (including in terms of the effects on the need to travel and on traffic).

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

PPS23...aim of planning and pollution control policy is to ensure the sustainable and beneficial use of land...polluting activities that are necessary for society and the economy should be so sited and planned, and subject to such planning conditions, that their adverse effects are minimised and contained to within acceptable limits.

PPG24...advises on noise standards.

Consultations

Transportation – No Objection subject to conditions relating to retention of parking; cycle storage; details of parking and a turning facility for site operatives and a Travel Plan. A note regarding the need to keep the highway free from any mud is recommended. Drainage arrangements shall be provided to ensure that surface water from the development does not discharge onto the public highway. No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway. The Travel Plan should be developed in partnership with the Sustainable Travel Officer and included in as part of a S106 Legal Agreement (*this will be dealt with by condition*).

Pollution Control -:

Scientific Team - No objections on the grounds that measures are put in place to address noise issues arising. A condition has been recommended.

Contaminated Land Team - No objections. Contaminated Land Team support these proposals however there are concerns that residual contamination from previous land uses may impact the proposed development. A condition requiring site investigation and an assessment of the risk has been recommended to deal with these concerns.

Highways Agency – No objections. The proposed travel plan will deliver a net reduction in vehicle trips and provide benefits for the local and Strategic Road Network. A condition should be imposed to ensure the travel plan is implemented and maintained in accordance with the framework document.

Severn Trent Water – No objection. Conditions suggested regarding drainage.

National Grid – Negligible risk

Inland Waterways Association – No adverse comments

Environmental Health – No objections.

Centro - The development site is currently within the minimum standards for accessibility by public transport and is well served by bus services operating along Wolverhampton Road. Also, the development will have no impact on existing infrastructure, or any current proposals. The Framework Travel Plan is welcome. Although the number of proposed employees is not stated, if it exceeds 50, then the developer (or final occupiers) should be required to affiliate to Company TravelWise and promote various sustainable travel practices. It is important that all pedestrian access points from the development to bus stops are convenient, well lit and of a safe and secure design, to ensure the development meets minimum standards for accessibility and is fully integrated into the wider public transport network. This is particularly important for employees accessing the site from the western side, which experiences a severance affect from the M6 (as highlighted in the Framework Travel Plan). The proposal should meet guidelines on car parking set out in PPG 13-Transport and Walsall Metropolitan Borough Council's standards. The proposed number of parking spaces seems very high for such an accessible location and may cause a significant increase in delays, queues and journey times. On this basis it is recommended that the parking provision be reduced and a significant investment is made to improving public transport to cater for the high number of trips that the development will generate.

Landscape Design - No objection. Soft Landscape proposals need some modification. Hard landscape details are missing. Conditions are recommended regarding:- the submission of proposals to explore recycling in situ soils; revision of wildflower seeding soil specification; revision of tree pit/station detail; planting areas to be mulched; detailed lighting proposals; detailed hard landscape proposals; maintenance plan for the establishment and longer term management proposals for planting and wildflowers.

The developer has used hard landscaping to define independent zones and enhance the setting of the soft landscaping. A soft landscaping boundary has been proposed to the edge of the site with shrub planting interspersed with small specimen tree planting.

Detailed comments have been received from the landscape officer regarding the submission of proposals:- to explore recycling in situ soils; revision of wildflower seeding soil specification; revision of tree pit/station detail; planting areas to be mulched; lighting proposals; hard landscape proposals; maintenance plan for the establishment and longer term management proposals for planting and wildflowers, these are addressed in the text.

A general landscaping condition will require details of hard landscaping paving (materials and layout), walls, fencing/gates (materials, height), site furniture etc. The landscape officer requires planted areas to be mulched to conserve soil moisture and reduce weed competition. He also requires a commitment from the developer to ensure long term management / maintenance to successfully sustain planting and seeding particularly for wildflower seeded areas which require specialised and experienced operatives to carry out cutting etc at crucial timing, dependant on season and growth conditions, which can vary from year to year. This will be required through a landscape maintenance plan. A condition is suggested.

Since the majority of planting areas are native species the landscape officer would prefer it if site soil is processed from construction excavations and then stockpiled for proposed planting/seeding areas in order to conserve the use of topsoil. Conditions are suggested to achieve this end.

The landscape officer feels that tree pit detail is inadequate as isolated tree planting stations in paved areas such as car parks can be vulnerable to accidental damage (e.g. when snow hides kerbs) he requires tree trunk protection barrier detail to prevent damage from vehicles. In addition, to thrive long term, these trees also require a greater volume of root zone, ideally at least 10m³. This can be achieved without sacrificing parking space, with special load bearing tree soil extending beneath surrounding tarmac construction. Conditions are suggested.

Regarding lighting, to enhance the landscaping, this should be aesthetically pleasing as well as functional, and include low level lighting as well as columns. Harsh lighting should be avoided as this casts deep shadows and can temporarily blind people. In addition, the public art feature will need to have designated lighting. A condition is suggested.

Environment Agency – No objection, conditions regarding surface water drainage, flood evacuation plan, risks associated with contamination; verification report; reports on monitoring, maintenance and contingency action, prevention of infiltration of surface water drainage and restrictions of foundation designs have been suggested.

Police Architectural Liaison Officer – PPS1 states that a key objective for new developments should be that they create safe and accessible environments where crime and disorder or fear of crime does not undermine quality of life or community cohesion. Design and Access statements should demonstrate this. The applicant should adhere to Secured by Design accreditation to reduce crime. The layout of the site affords good levels of surveillance to the parking and communal areas, however CCTV should be used also plus a monitored intruder alarm. External lighting complying with BS5489 should be installed and care should be taken to ensure that there is no conflict between planting and lighting. Any landscaping should not impede natural surveillance or provide hiding places for intruders to the site. All parking and pedestrian routes should be well illuminated. Cycle/pedestrian routes should not be segregated from vehicle routes that provide valuable surveillance of the users. The cycle path on this development should be redirected to follow the existing foot and vehicle routes. Gating the church access is satisfactory. Gates should remain locked outside the times agreed for church access. The main entrance to each block should have access control measures. A security control system should be employed to allow access to private or non-public areas of the buildings. Other security measures for windows, boundaries, barriers, restrictions of parking along vehicle routes, bollards, double kerbs, restriction of access up to the building line to prevent opportunities for 'ram raiding' and signage to direct visitors around the site and individual building being clearly named. Regarding the amendments planting or natural growth that occurs around the balancing pond should not provide hiding places for potential intruders or be allowed to grow to a height that would obscure surveillance of the premises.

Regeneration Strategy Team – No objections. This is a full application for 9800sqm of offices on land next to Junction 10. However there is an existing extant renewed detailed planning permission based originally on the 2002 consent for a mixed use scheme, including offices. The original consent was based on land covered by 1995 UDP policy E4, which allowed out-of-centre offices. The current Unitary Development Plan (UDP), adopted in 2005, however restricts offices to site JP4.1, which is the southern part of the previous E4 site, partly taken up by the Village Hotel. The land relevant to this proposal is now covered by UDP policy JP7 – which restricts acceptable uses to industry and logistics, other services and, exceptionally, housing, with a prohibition on offices.

Nevertheless, because there is an existing permission involving offices which is still extant and covering this site, offices can be acceptable in principle. Indeed, the reasoning in UDP Policy JP4.1 that justifies offices, based on the 'gateway' nature of the site, applies to this site which is

part of the same location and shares the same access, and is more prominent in relation to the A454 as it leaves Junction 10 than JP4.1. It is also better located in relation to public transport on the existing A454 than JP4.1, with buses serving the surrounding communities of Walsall, Willenhall, Bentley and Alumwell.

The other main issue is whether the proposed scheme would have an adverse effect on investment in Walsall Town Centre (Policy S7 (A) III), given that this is a full application. As the applicant points out, the original planning permission was granted in 2002 before the Gigaport scheme was promoted. During this time, offices were being prominently marketed at Junction 10, and this did not detract from prospects for the Gigaport. I agree that the Gigaport scheme was promoted after consent for offices was allowed at Junction 10, and that in net terms this full application does not provide significantly more office floorspace than that allowed previously. It could be viewed as a continuation and refinement of the original scheme, which is already priced into the Gigaport, and therefore office prospects for Walsall Town Centre.

On balance therefore the above reasons are sufficient to overcome the prohibition on offices on this site as set out in JP7 (c) IV, in this exceptional case.

Urban Design – No objections - recommend that the application is approved subject to conditions. The existing site forms undeveloped previously developed land and the proposed office buildings will be an improvement over the appearance of this derelict land. The existing buildings at Junction 10 – the hotels and fast food outlet - consist of a low architectural quality and the proposed office buildings will be an improvement over the appearance of these. The existing buildings are surrounded by a public realm dominated by car parking and the proposal is commensurate with the level of quality already achieved on site in this respect and will not worsen the current situation. The public art statement submitted by the applicant should not be approved in its entirety as its contents currently limit the potential to deliver a high quality piece of artwork. A planning condition is recommended to secure these details prior to an artist being appointed.

Representations

Four letters of objection have been received on the following grounds:

- The design falls short of the quality expected;
- This does not provide any commitment to the Church at J10 which is an essential community facility in situ and the access and parking provisions for the Church are inadequate and inappropriate;
- Good design and invigorating the community are key factors of concern;
- There are enough derelict buildings around without making more these should be reused;
- This will spoil the skyline for everyone around the development;
- The application does not take the opportunity to take a wide , up to date and informed view of planning needs, opportunities and constraints in this important location the material presumes to follow an earlier outline planning permission;
- The outline permission stipulated a maximum B1 floor area of 7,500sq m.;
- There now needs to be a positive planning justification for new or additional floorspace above that figure, this needs to be over and above the requirements set out in JP4.1 (a)
- There is nothing in the application that provides the required measures of added justification, without this the proposals are contrary to policy;
- S54A of the Town and Country Planning Act 1990 requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise;
- Planners should support an access to the Church as per an informative note on the existing permission for the church;
- The unilateral undertaking to provide church access is unreasonable and inappropriate and does not go far enough in favour of the church;

- The provision of a full and unrestricted means of access to the church would be a new and material consideration to help justify the proposals;
- Access to the church should be required for planning policy and sound highway reasons;
- The current proposals allow the developer to give with one hand and take back with the other;
- The S106 Heads of Terms should be amended to allow existing rights and entitlements now enjoyed by the church to continue;
- Future Community Academy proposals should be supported;
- Talk of a pre-let by the developer is a red herring to allow an increase in floorspace;
- Locating new offices at J10 would adversely affect the town centre;
- There needs to be a positive and substantial planning justification for the increase in floorspace the design and access statement does not provide this;
- The Gigaport proposal should not be prejudiced by this application

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

Determining Issues

- Compliance with policy
- Design and Layout
- landscaping
- Access and Parking
- Ground issues
- Referral to Government office

Observations

Compliance with Policy

The principle of office use on the site has previously been established by outline consent BC56152P which allowed for 7,500 sq metres of office space (controlled by condition. The site is allocated for employment purposes in the Unitary Development Plan and office use is considered to be acceptable subject to there being no excessive impact on town centres

Officers agree with the developer that high quality development in this location is required by the Unitary Development Plan. The offices element of the outline approval has always been seen as offering the opportunity to achieve a “particularly high standard of design” as required by saved Unitary Development Plan policy JP4.1

Officers agree with the statement made by the developer, that the Gigaport scheme was promoted after consent for offices was allowed at Junction 10, and that in net terms this full application does not provide significantly more office floorspace than that allowed previously. It could be viewed as a refinement of the original scheme, which is already reckoned into the Gigaport scheme, and therefore the office prospects for Walsall Town Centre.

The developer has stated that the new uses across part of the overall site are in substitution for some or all of other elements of the extant consent, in particular the B2/B8 floorspace. This could be controlled by condition, however, it is felt that this is not necessary as the increase is not seen as significant in overall terms, and the Council would not want to reduce the potential for development of the unused parts of the site.

It is therefore concluded that the increase can be supported. The Highway Agency has not raised any objections.

The regeneration strategy officer has not raised an objection to the proposal due to the fact that there is an existing extant renewed detailed planning permission based originally on the 2002 consent for a mixed use scheme, including offices. Because of this, offices can be acceptable in principle.

On balance therefore the above reasons are sufficient to overcome the resistance to offices on this site set out in JP7 (c) IV, in this exceptional case.

Design and Layout

There have been extensive discussions prior to the application being submitted.

It is understood that the developer has secured a pre-let for one of the units. This has dictated the design to a certain extent. Commercial considerations mean that the company cannot be revealed at this stage.

The primary building is at the head of the site to address Wolverhampton Road. The building is oriented to present a glazed and contemporary façade to traffic and create a full stop to the ribbon of buildings fronting Wolverhampton Road.

Overall, the buildings are in scale with the surrounding development. The façade treatments are governed by the requirement to provide daylight into working spaces. They consist of a mix of glass and extensive cladding and brickwork which reflects the surrounding vernacular. It is felt that the extent of glass and occasional use of contemporary cladding systems will identify the development as new and forward thinking. Cladding will provide visual relief, and depth is given by the introduction of louvered shelves which can serve as solar shading devices. Windows to principle elevations have full height glazed panels to end elevations. Unit 1 has a clad and glazed fourth floor. Plant rooms are located within designed enclosures.

The developer has stated that it is the intention to create office buildings which are relevant and viable in the current market and reach a standard of BREEAM “excellent”. On this basis the design is acceptable

Given the gateway location of the development, the developer has chosen to meet the obligation for public art required in the Designing Walsall SPD by providing public art on site, as already set out.

The Police architectural liaison officer has suggested the installation of CCTV and a monitored intruder alarm, a condition is proposed. He has also suggested that external lighting should be used with care to ensure that there is no conflict between planting and lighting, this is to ensure that planting does not grow in front of lights and therefore create areas where there is no surveillance and therefore create hiding places for intruders on the site. This will be taken account of in the landscaping scheme, and a note for applicant is suggested to assist with detailed design of the landscaping scheme.

Landscape

The developer has used hard landscaping to define independent zones and enhance the setting of the soft landscaping. A soft landscaping boundary has been proposed to the edge of the site with shrub planting interspersed with small specimen tree planting.

Detailed comments have been received from the landscape officer regarding the proposals. A landscaping condition will ensure details are agreed for hard landscaping, paving (materials and layout), walls, fencing/gates (materials, height), site furniture etc. A landscape maintenance plan will be controlled by condition, as are other details.

The Police Architectural liaison officer has stated that any landscaping should not impede natural surveillance or provide hiding places for intruders to the site. This will be incorporated in to the landscaping condition.

Access and Parking

Centro have commented that the proposed parking provision is high and should be reduced. However, the Unitary Development Plan expects 327 car parking spaces for the amount of floorspace proposed. The applicant has proposed 312 car parking spaces which is below this figure.

The Police Architectural Liaison Officer has asked that all parking and pedestrian routes should be well illuminated to deter criminal activity and provide re-assurance to users (a condition is proposed). He also states that the cycle path makes the site permeable at all times. He points out that it appears to have very little use and has no surveillance. Cycle/pedestrian routes should not be segregated from vehicle routes that provide valuable surveillance of the users. However, the cycleway runs alongside a row of car parking and a pedestrian route which will provide surveillance. Therefore it is not proposed to alter the cycle route.

It has been an ongoing issue in the past on the part of the Church at Junction 10 (adjoining the site) that access should be provided for them from the development to improve accessibility and allow an opportunity for the expansion of the Church in the future. The Church also has aspirations of having some form of a unilateral undertaking from the developer to allow parking for the Church on the development site. In discussions with the developer on this matter an indication has been given that a small number of spaces will be available for the Church to use, 10 spaces have been indicated running alongside the Brook closest to the Church. This would be on an informal basis.

The developer has also provided a draft unilateral undertaking to accompany the application which identifies how provision will be made for access to the church adjoining the site, over the Sneyd Brook and the provision of the 10 car parking spaces. This is currently being processed by the Legal Department, to test that it does what is purports to do.

The Church have made a detailed statement regarding their disappointment that the opportunity to close the existing church access and provide a new access for the church over the development site has not been taken. They state that this would be an example of comprehensive development control best practice. They feel that the draft unilateral undertaking would place restrictions on the use of the access which would be unreasonable and inappropriate. However, there is no planning reason for the Council to insist on the provision of this access and it is irrelevant to the determination of this planning application as the matters covered are things that cannot be required by the Planning Authority. They therefore carry no weight in the determination of the application.

Neither is there a reason to oppose the present application, irrespective of the status of the unilateral undertaking offered by the developer. Officers have, in the past, sought to facilitate the aspirations of the church and continue to do so. The previous outline permission BC56152P set out an invitation to the developer to consider this idea.

In addition, the church have included a long submission regarding a new community academy, which would be a new institution to be proposed on land owned by the Church. It is stated that vehicular site access would need to be provided via the four arm traffic light junction and the Tempus 10 development site, with the existing church site entrance off Wolverhampton Road being closed for public highway safety reasons. However, as no firm scheme has been formulated and forwarded, the proposal can be given no weight in terms of the planning application currently being considered.

The Police Architectural Liaison Officer requires a range of security measures. Conditions are proposed.

Transportation has not objected to the application, subject to conditions, and these have been included in the proposed list of conditions.

Ground Issues

The Environment Agency has arrived at a position where conditions can be used to satisfy their requirements. Pollution Control Contamination and Scientific teams do not object to the proposal but suggest conditions.

Referral to Government office

The Town and Country Planning (Consultation) (England) Direction 2009 (Circular 02/2009) identifies this scheme as a departure. The application has been advertised as such. The application has to be referred to Government Office, as part of this process.

Conclusion

It is considered that the principle of office use on the site has previously been established by outline consent BC56152P which allowed for 7,500 sq metres of office space by condition.

It is felt that it is not necessary to condition the reduction of B2/B8 floorspace on the other parts of the site as the increase is not seen as significant in overall terms, and the Council would not want to reduce the potential for development of the unused parts of the site.

Office use is consistent with the allocation for employment purposes in the Unitary Development Plan. The application has been assessed in terms of the Waterfront and Gigaport town centre schemes. It is therefore concluded that the increase can be supported. The Highway Agency has not raised any objections.

In terms of design, it is felt that the extent of glass and occasional use of contemporary cladding systems will identify the development as new and forward thinking. The developer has stated that it is the intention to create office buildings which are relevant and viable in the current market and reach a standard of BREEAM "excellent". On this basis the design is acceptable.

Public Art will be provided on the site. Two podiums are proposed to give prominence and importance for traffic to and from the town centre it is proposed that this will link to the town's history. This is supported and is in line with "Designing Walsall Supplementary Planning Document".

Hard landscaping is indicated to define independent zones and enhance the setting of the soft landscaping. A soft landscaping boundary has been proposed to the edge of the site with shrub

planting interspersed with small specimen tree planting. This is supported in principle subject to further detail being submitted by conditions.

The scheme is acceptable in highway terms and will provide access for “Church at Junction 10” adjoining the site. A condition is proposed requiring details of the phasing of the scheme, to include road construction works.

The Environment Agency is satisfied that measures can be put in place to prevent the land from flood risk.

The proposed scheme conforms to all relevant planning policies in terms of principle of use. It will secure a high quality development in a strategically important location which will to form a gateway development into the rest of Walsall and assist in the town centre regeneration proposals.

Recommendation

Grant subject to conditions and referral to the Secretary of State and the West Midlands Regional Assembly under the RSS conformity procedures.

Summary of Reasons for Granting Planning Permission

The principle of office use on the site has previously been established by outline consent BC56152P which allowed for 7,500 sq metres of office space by condition.

The developer has stated that the new uses across part of the overall site are in substitution for some or all of other elements of the extant consent, in particular the B2/B8 floorspace. This could be controlled by condition, however, it is felt that this is not necessary as the increase is not seen as significant in overall terms, and the Council would not want to reduce the potential for development of the unused parts of the site.

Office use is consistent with the allocation for employment purposes in the Unitary Development Plan. The application has been assessed in terms of the Waterfront and Gigaport town centre schemes. It is therefore concluded that the increase can be supported. The Highway Agency has not raised any objections.

In terms of design, it is felt that the extent of glass and occasional use of contemporary cladding systems will identify the development as new and forward thinking. The developer has stated that it is the intention to create office buildings which are relevant and viable in the current market and reach a standard of BREEAM “excellent”. On this basis the design is acceptable.

Public Art will be provided on the site. Two podiums are proposed to give prominence and importance to traffic to and from the town centre it is proposed that this will link to the town’s history. This is supported and is in line with “Designing Walsall Supplementary Planning

Document”.

Hard landscaping is indicated to define independent zones and enhance the setting of the soft landscaping. A soft landscaping boundary has been proposed to the edge of the site with shrub planting interspersed with small specimen tree planting. This is supported in principle subject to further detail being submitted by conditions.

The scheme is acceptable in highway terms and will provide access for “Church at Junction 10” adjoining the site. A condition is proposed requiring details of the phasing of the scheme, to include road construction works. The Church at Junction 10 objects to the proposal and see it as a missed opportunity to close the existing church access and provide a new access for the church over the development site. They feel that the draft unilateral undertaking would place restrictions on the use of the access which would be unreasonable and inappropriate. However, there is no planning reason for the Council to insist on the provision of this access and it is irrelevant to the determination of this planning application as the matters covered are things that cannot be required by the Planning Authority. They therefore carry no weight in the determination of the application. Neither is there a reason to oppose the present application, irrespective of the status of the unilateral undertaking offered by the developer.

In addition, the church have included a long submission regarding a new community academy, which would be a new institution to be proposed on land owned by the Church. It is stated that vehicular site access would need to be provided via the four arm traffic light junction and the Tempus 10 development site, with the existing church site entrance off Wolverhampton Road being closed for public highway safety reasons. However, as no firm scheme has been formulated and forwarded, the proposal can be given no weight.

The Environment Agency is satisfied that measures can be put in place to prevent the land from flood risk.

On balance the development proposals are considered to comply with the policies of the development plan, in particular policies 2.2, 3.6, 3.7, 3.16, ENV10, ENV14, ENV32, ENV33, 4.1, 4.2, JP4.1, S1, S7, 4.27, GP1 (a) and (c), GP2, GP4, T13 “Designing Walsall” SPD (DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9, DBW10); “Natural Environment” SPD (N8, N9 & N10) Regional Spatial Strategy for the West Midlands was published in June 2004; Local Development Framework (LDF); National Policy Planning Policy Statement (PPS) 1, PPG (Policy Planning Policy Guidance) 4, PPS6 (published in March 2005), PPG13, PPS23 and PPG24.

Recommendation: Grant subject to conditions and referral to the Secretary of State and the West Midlands Regional Assembly under the RSS conformity procedures.

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

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

2. No development shall be carried out until a schedule of facing materials to be used in the external walls, roofs, windows, doors and rainwater goods and hard landscaping works have been

submitted to and approved in writing by the Local Planning Authority and the works shall only be carried out in accordance with those details so approved.

Reason: To ensure the satisfactory appearance of the built environment to meet policy in Supplementary Planning Document Designing Walsall and Walsall UDP.

3. Development shall not begin until details of a scheme for the provision of public art, to meet the needs of the development in accordance with Unitary Development Plan policies GP3 and ENV34 and Policy DW9 of the Designing Walsall Supplementary Planning Document, has been submitted to and approved in writing by the Local Planning Authority. The details shall include a brief and schedule for the appointment of artist(s), a programme for artist and community engagement, a timetable for the provision to be made and a process for decommissioning and shall then be carried out in accordance with the approved details. The scheme shall be retained and maintained in good order for the life of the development.

Reason: To ensure the satisfactory provision of public art to meet policy in Supplementary Planning Document Designing Walsall.

4. No development shall commence until details of the proposed refuse/recycling compounds have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

Reason: In the interests of visual amenity and to define the permission.

5. In order to address potential impact from land contamination the following matters shall be addressed prior to built development commencing:

- d) additional site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)
- e) a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- f) a "Remediation Statement" setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- g) The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- h) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the "Remediation Statement" required by part iii) of this condition has been amended to address any additional remedial

or mitigation works required and agreed in writing by the Local Planning Authority.

- i) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

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

Notes for Applicant – Contaminated Land

CL1

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

CL2

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

CL3

Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports.

This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

6. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority, and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed/occupied

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

7. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted in accordance with Flood Risk Assessment, BWB Consulting, Water Engineering, Oakham and Abacus Joint Venture Land at Junction 10, Walsall, July 2009 Ref SN/DBG072/FRA/Rev03 and approved details before the development is completed. The scheme shall also include:

- ? A Sustainable Urban Drainage (SuDS) design including a balancing pond shown on drawing no. 06051/0100 RevE..
- ? A maintenance strategy for any drainage features.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of drainage features.

8. Development shall not begin until a Flood Evacuation Plan for the site has been submitted to and approved in writing by the local planning authority. The Scheme shall also include an appropriate water level alert system. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed/occupied and maintained thereafter.

Reason: To mitigate against flood risk.

9. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:-

- i) A preliminary risk assessment which has identified:
 - ? all previous uses
 - ? potential contaminants associated with those uses
 - ? a conceptual model of the site indicating sources, pathways and receptors
 - ? potentially unacceptable risks arising from contamination at the site.
- ii) 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.
- iii) The site investigation results and the detailed risk assessment (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.

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

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented and retained as approved.

Reason: To ensure the protection of controlled waters.

10. Prior to development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority. Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure the protection of controlled waters.

11. If, during 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 the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: To ensure the protection of controlled waters.

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

Reason: To ensure the satisfactory appearance of the development

13. No development shall be carried out until details of secure, covered and illuminated cycle storage have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approval before the development is completed/occupied and retained thereafter.

Reason: To promote environmentally sustainable forms of transport.

14. No development shall be carried out until details of parking and a turning facility for construction operatives, within the application site, have been submitted to and approved in writing by the Local Planning Authority, the provision shall be retained during construction

and removed to the satisfaction of the Local Planning Authority on completion of the development.

Reason: To ensure the satisfactory functioning of the development.

15. Within 3 months of first occupation of the development hereby permitted, a full Travel Plan developed in partnership with this Council's Travel Wise co-ordinator shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be developed and implemented within six months of approval. Following the expiry of this period of time, an annual review of the Plan, in partnership with the Local Authority's Sustainable Travel Officer shall be submitted to, and agreed in writing by, the Local Planning Authority. This shall identify refinements and clarifications deemed necessary to the Plan. The approved, revised plan shall thereafter be implemented in conjunction with the use approved under this permission, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To promote environmentally sustainable forms of transport.

16. During construction, no development shall be commenced until a protocol has been submitted to and approved in writing by the Local Planning Authority to ensure that the immediately surrounding highways are not adversely affected by the accidental deposition of materials from vehicles leaving the site. (This may involve the use of a wheel wash, road sweepers, etc.) The details shall be implemented and retained during the course of building work on the site.

Reason : To safeguard the amenity of the area.

17. 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 07.00 to 18.00 weekdays and 08.00 to 16.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: To safeguard the amenities of the occupiers of adjoining premises.

18. No development shall be carried out until full details of existing and proposed levels of the site, accessway and floor levels have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site or adjoining land, and any drainage or other works necessary to facilitate this development.

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

19. Details of external lighting complying with BS5489 shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and the lights shall be installed in accordance with the approved details and retained as such.

Reason: In the interests of visual amenity.

20. No development shall be carried out until a detailed landscaping scheme for the site has been approved in writing by the Local Planning Authority. The scheme shall provide details of:-

- the submission of proposals to explore recycling insitu soils;
- revised wildflower seeding soil specification;
- revised tree pit/station detail;
- planting areas to be mulched to conserve soil moisture and reduce weed competition;
- lighting proposals;
- hard landscape proposals (materials and layout), walls, fencing/gates (materials, height), site furniture etc;
- maintenance plan for the establishment and longer term management proposals for planting and wildflowers

The approved scheme and maintenance plan shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

21. All hard and soft planting and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

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

Reason: To ensure the satisfactory appearance of the development.

22. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason: To ensure the protection of controlled waters.

23. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To ensure the protection of controlled waters and to ensure that the act of piling will not cause mobilisation of the residual contamination.

24. Before this development is brought into use, the access-ways, vehicle parking and manoeuvring areas shown on the approved plans shall be hard-surfaced in materials to be agreed in writing by the Local Planning Authority. The parking spaces shall have been clearly marked out and used for no other purpose. The parking areas shall not be allocated to individual units unless otherwise agreed in writing by the Local Planning Authority.

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

25. Before the development hereby approved is brought into use, details of evidential quality video camera(s) and a monitored intruder alarm, covering the parking and communal areas, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development is brought into use and thereafter retained in working order.

Reason: In the interests of security.

26. Access to the Church shall be gated and locked at all times other than when in use, and a protocol shall be submitted to and agreed in writing by the Local Authority to ensure that the gates remain locked outside the times needed for church access.

Reason: To prevent unauthorised access to the site.

27. Before the development hereby permitted is brought into use, details of access control measures to the main entrance of each block, to prevent unauthorised access to the private areas beyond the reception, of the buildings, shall be submitted to and approved in writing by the Local Planning Authority the system shall be implemented and thereafter retained before the development is brought into use.

Reason: to prevent unauthorised access to the site.

28. Before the development hereby permitted is brought into use details of barriers or gates to be installed at the access and access/egress to the site and details of times and use shall be submitted to and approved in writing by the Local Planning Authority the barriers shall be implemented before the building is brought into use and thereafter retained before the development is brought into use.

Reason: to prevent unauthorised vehicular access.

29. There shall be no additional mezzanine floors other than those approved by this permission without the submission and approval of a separate planning application.

Reason: To enable the Local Planning Authority to retain effective control over the site and in the interests of highway safety.

30. The development hereby approved shall at no time be subdivided to form separate unit(s) other than that those approved unless otherwise agreed by the submission and approval of a separate planning application.

Reason: To define the permission and for the Local Planning Authority to retain effective control over the development.

31. Unless otherwise agreed in writing by the Local Planning Authority The development will continue to be designed, constructed and operated to meet the 2005 Building Research Establishment Environmental Assessment Method (BREEAM) 'excellent' standard, unless otherwise agreed in writing by the local planning authority.

Reason: In order to meet the aims and objectives of sustainable development and efficient use of natural resources.

32. Parking should be restricted to allocated parking spaces and parking along vehicle routes should be actively discouraged, this could be reinforced by using physical features such as bollards, double kerbs and landscaping. Care should also be taken to ensure that there is no vehicle access up to the building line to prevent opportunities for 'ram raiding'

33. No development shall be carried out until details of the phasing of the scheme, to include road construction works, have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with any agreed phasing.

Reason: To ensure the satisfactory development of the site.

NOTES FOR APPLICANT:

A. The Coal Authority has been consulted on this application and your attention is drawn to the attached reply.

B. The police offer the following advice with regard to condition 25:-

(i) The system should be designed and developed to a standard in accordance with all Home Office and PSDB guidance documents to include (but not limited to):

(ii) CCTV Operational Requirements Manual (PSDB Publication 17/94)

(iii) UK Police Requirements for Digital CCTV Systems

(iv) Guidelines for Handling Video Tape (PSDB Publication 21/98)

(v) The development should be designed and built to achieve Secured by Design accreditation as recent research shows that developments constructed to this standard suffer on average around 50% less crime than non Secured by Design developments. This would also ensure that minimum security standards are installed from the outset and would also be a valuable letting or selling point.

(vi) Care should be taken to ensure that there is no conflict between planting and lighting this is to ensure that planting does not grow in front of lights. Any landscaping should not impede natural surveillance or provide hiding places for intruders on the site. All parking and pedestrian routes should be well illuminated to deter criminal activity and provide reassurance to users.

(vii) All windows in the development should comply with BS7950 and ground floor windows should be glazed with laminated glass for additional security and safety. The rear of the site should have boundary protection to prevent unauthorised access from an area that is secluded and has no natural surveillance. It is recommended that this should be 1.8m close mesh fence which should run along the boundary between Wolverhampton Road to the access road at the opposite side of the site.

(viii) Clear signage should be employed to direct visitors around the site and each individual building should be clearly named. This will assist legitimate visitors and deter unauthorised intrusion.

Details can be found at <http://scienceandresearch.homeoffice.gov.uk/hosdb/crime-investigation-safety/cctv-resources/?version=3> .

C. There is a public sewer which crosses the site. . In order to maintain essential access for maintenance, repair, renewal, and to protect the structural integrity of the public sewerage system no buildings shall be erected or trees planted within 7.5 (1200 FWS) metres either side of this sewer. The applicant may wish to apply to Severn Trent Water to divert the sewer in accordance with section 185 of the Water Industry Act 1991



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 07/1878/FL/E10

Application Type: Full application

Applicant: Mrs Josophine Doherty

Proposal: Change of use for stationing one
residential caravan for one gypsy family.

Ward: Pelsall

Recommendation Summary: Grant Subject to conditions

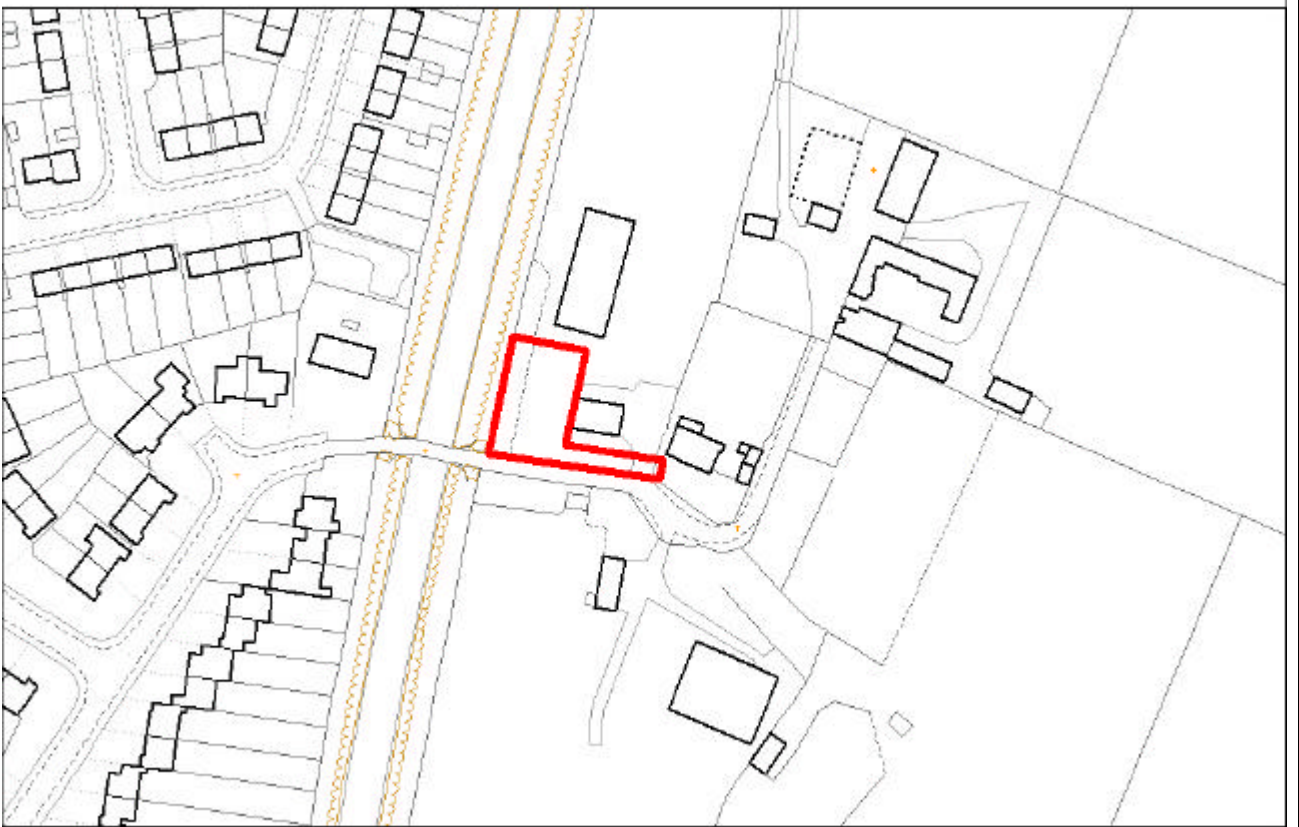
Case Officer: Barbara Toy

Telephone Number: 01922 652429

Agent: Beresford Webb

Location: Railswood Nurseries, Railswood
Drive, Pelsall, WS3 4BE

Expired: 21/01/2008



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Application and site details

Site

The site is situated at the eastern end of Railswood Drive (beyond the railway bridge – the railway has gone and is now a public walkway, in a cutting). The adopted highway ends at the railway bridge, with an unadopted access drive running beyond.

The site is part of the former Railswood Nurseries site, and is situated within the Green Belt. The Railswood Nursery site no longer operates as a nursery. Historically, the nursery complex comprised a bungalow and caravan, both at the southern end of the site, with 2 no. nursery poly tunnels, a green house and storage buildings situated to the north.

The application site itself does not incorporate the whole of what was historically the nursery complex. The application site comprises land to the south and west of the bungalow, (approx 643sqm), on which previously a caravan was situated. The applicant advises that the previous caravan was used as ancillary accommodation to the bungalow and was occupied by a member of the nursery owners family and was connected to all services.

Surrounding Area

Railswood Drive west of the railway bridge comprises semi detached two storey houses, with a block of four flats at the end of the drive adjacent to the railway bridge.

Immediately to the east of the nursery site are other residential properties, known as Laburnum Cottage and Railswood Farm. To the west is a disused railway line in a cutting, now a public footpath. An existing caravan storage facility is situated to the south east of the site which has planning consent to store up to 60 caravans.

The Application

The application proposes the change of use of land for the stationing of one residential caravan for one gypsy family. It also shows the site access from the unadopted section of Railswood Drive, sharing the existing access to the bungalow and the former nursery.

The mobile home would replace the caravan previously on the site, and would be occupied independently of the existing bungalow, by the applicant, her partner and four children, who have gypsy status. The proposal would create a separate planning unit for residential accommodation, independent of the remainder of the former Railswood Nursery site.

The submitted plans show a single storey pitched roof mobile home (5.8m x 11m x 5m maximum height), approx 63.8 sqm floor area, situated to the west of and at right angles to the bungalow. A mobile home of these dimensions would comprise a caravan for the purposes of the relevant legislation. An enclosed garden area (165sqm) is shown to the north of the mobile home, enclosed by a 1.8m high timber fence. In addition, a separate patio area and two dog kennels are shown to the west of the unit.

The proposed development has been implemented. Since the registration of the application in November 2007:-

- additional information has been requested and submitted,
- the original caravan has been removed from the site,
- a mobile home delivered to the site (different in size and design to the submitted plans),
- the mobile home sited (in a different position to that shown on the submitted plans),
- the land purchased by the applicant and/or her partner,
- a new vehicle access created off Railswood Drive (adjacent to the bridge), and

- the applicant and her family have moved into the unit.
- A boundary wall and vehicle access gates have been erected

The mobile home installed on the site measures 6.1m (wide) x 7.78m (length) and maximum 3.2m high, providing a floor area of 47.5 sqm approx 16.3 sqm smaller than the details submitted. This unit, although different to that on the submitted plans, also satisfies the statutory criteria.

The unit is situated 16.6m set back into the site from Railswood Drive, with a new independent access created off Railswood Drive which now has a boundary wall and recessed double vehicle access gates. A raised patio has been created to the frontage of the unit.

Relevant Planning History

The Railswood Nursery Site

EA5451, erection of a bungalow, approved subject to conditions 1966. Condition to restrict to agricultural use (see BC60205P)

BC60205P, Removal of condition on EA5451, which restricted the occupancy of the dwelling to persons employed or last employed locally in agriculture or forestry or dependents of such persons, approved 1999.

Railswood Caravan Storage Site, Railswood Drive

BC37446P, change of use to storage of caravans approved 1993, a temporary 5 year consent.

BC54249P, full consent sought for caravan storage site, approved subject to conditions 1998. Condition restricted to 60 caravans to be stored at any one time, with hours of movement restricted. 5 year temporary consent granted.

03/2287/FL/E6, permanent retention of caravan storage facility, granted subject to conditions 2004, restriction to 60 caravans.

03/2279/PT/E5, 12.5m high timber monopole telecoms mast with 2 transmission dishes, 3 antenna (total height 15m), equipment cabinet and ancillary development. Refused 2004. Subsequent appeal allowed 2004.

56 Cartbridge Lane

06/1386/FL/E11, permanent retention of residential gypsy caravan site, following temporary consent granted on appeal. Refused 02-07-2007.

Subsequent appeal allowed 10-02-2009. Conditions imposed by the Inspector to personalise the consent to the applicants and the immediate family, a restriction on the number of caravans on the site and a temporary 4 year consent to allow for the completion of the Land Allocations DPD.

Relevant Planning Policy Summary

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

Walsall's Unitary Development Plan 2005

Policy 2.1 and 2.2(d) identifies social inclusion as one of the main aims of the UDP's policies, providing the right number, type and distribution of homes.

Policies 3.6 and 3.7 states that development should help to improve the environment of the Borough whilst seeking to protect people from environmental problems.

GP2: Environmental Protection

Development should be sustainable and contribute to environmental improvement and have no adverse effect on the countryside and the Green Belt.

GP5: Equal Opportunities

The needs of all sections of the community should be taken account of with no discrimination against any individual or group, particular attention will be given to the needs of people who are in any way disadvantaged in order to maximise equality of opportunity engender greater social inclusion.

Policy 3.3 states that the character and function of the Greenbelt will continue to be safeguarded, as part of the wider West Midlands Green Belt. Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

Policy 3.23 states that the Green Belt has a positive role to play in terms of retaining attractive landscapes.

Para 3.21 and ENV 1: defines the purpose of the Green Belt.

ENV2: Control of Development in the Green Belt

In the Green Belt there will be a presumption against new buildings except in very special circumstances. Where development is acceptable in principle the siting, design, form, scale and appearance should be compatible with the surrounding area and careful consideration of the openness and character of the Green Belt.

ENV32: Design and Development Proposals

States that poorly designed proposals which fail to take account of the context or surroundings will not be permitted. This is particularly significant within or adjacent to Green Belt, agricultural or open land.

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

Policy 6.5: In considering proposals for housing development, the Council will take into account the needs and characteristics of the Boroughs population, including the particular requirements of certain groups.

Regional Policy

The Regional Spatial Strategy (RSS 1)

This was issued in Jan 2008 and replaces the former RPG 11. Policy CF5 F of RSS 1 states that development plans should ensure that adequate provision is made for suitable sites to accommodate gypsies and other travellers. Phase 3 (RSS 3) includes a review of provision for gypsies and travellers, consultation on the options for the various topics in Phase 3 is currently underway (29-06-09 – 14-08-09). This consultation concerns how the results of the Black Country GTA (below) for pitches and plots are to be split between the various authorities.

Joint Core Strategy

This is being prepared by the four Black Country Local Authorities. It is intended to publish the Joint Core Strategy (JCS) in Autumn 2009, prior to submitting to the Secretary of State in Spring 2010, after which examination in public will follow. The JCS does not seek to allocate sites or locations; this will be done through Development Plan Documents (DPD) prepared by the individual authorities. Work on Walsall's Land Allocations DPD started in July 2009, with adoption likely in September 2012. To inform this Land Allocations DPD and assist with the evidence base for the JCS, the Council has commissioned a Strategic Housing Land Availability Assessment (SHLAA) which is expected to be completed by the end of Sept 2009 with publication approx 2 months later. Amongst other possible housing sites the SHLAA is intended to identify sites that might be suitable for sites for gypsies, traveller and travelling show people.

The Black Country Gypsy and Traveller Accommodation Needs Assessment (GTAA) (Sept 2008)

This identified a need for:

- 30 permanent residential site pitches for 2008 – 2013 within Walsall
- with a further 9 pitches from 2013 – 2018 within Walsall
- a total of 98 pitches over the next 10 years in the Black Country as a whole

The 39 pitches in Walsall includes 6 further planned pitches within Phase 3 at the Council's Willenhall Lane site resulting in a requirement for 33 pitches in Walsall.

National Policy

PPS1: Delivering Sustainable Development

Promotes sustainable and inclusive patterns of urban and rural development and emphasises the need to reject poor design.

PPG2: Green Belts

Advises on the control of development in the Green Belt. Paragraph 3.1 states there will be a general presumption against inappropriate development except in very special circumstances. Para 3.2 states that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. New gypsy and traveller sites in the Green Belt are normally inappropriate development. PPG 2 applies equally to applications for planning permission from gypsies and travellers and the settled population at large.

PPS3: Housing

Seeks to achieve a wide choice of high quality homes and mixed housing to support a wide variety of households in all areas and provide a sufficient quantity of housing taking into account need and demand.

Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites

The main aims of the Circular are to:

- create and support sustainable, respectful, inclusive communities
- where Gypsies and Travellers have fair access to suitable accommodation, education, health and welfare provision;
- reduce the number of unauthorised encampments;
- increase the number of gypsy and traveller sites to address under-provision;
- recognise, protect and facilitate the traditional travelling way of life of Gypsies and Travellers, whilst respecting the interests of the settled community;
- promote private Gypsy and Traveller provision
- help to avoid Gypsy and Travellers becoming homeless through eviction from unauthorised sites without an alternative to go to.

Paragraphs 41-46 give advice on transitional arrangements to be used where site allocation development plan documents are in the course of preparation.

Paragraph 49 recognises the presumption against inappropriate development in the Green Belt as new gypsy and traveller sites in the Green Belt are normally inappropriate development as defined by PPG 2.

Other Legislation

Caravan Sites & Control of Development Act 1960, Section 29;

This provides that a 'caravan' means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted.

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Caravan Sites Act 1968, Section 13;

This expands the definition of a caravan stating that it must be composed of not more than two sections separately constructed and assembled on site by bolts, clamps or other devices; and when assembled, physically capable of being moved by road from one place to another, and not to exceed any of the following limits-

- (a) length (exclusive of any drawbar): [65.616] feet ([20] metres);
- (b) width: [22.309] feet ([6.8] metres);
- (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): [10.006] feet ([3.05] metres)."

Human Rights Act 1998 - Article 8 of the European Convention on Human Rights provides that everybody has the right to respect for his private and family life and his home, and there should be no interference by a public authority with the exercise of this right, except where that interference is (amongst other considerations) in accordance with the law and is necessary in a democratic society for the protection of rights and freedoms of others.

Circular 11/1995 The Use of Conditions in Planning Permission

Paragraph 110 of the circular advises that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of a period of the temporary permission. Where there is unmet need but no available alternative gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet the need, local planning authorities should give consideration to granting temporary permission for such uses.

Consultations

Transportation – no objections.

Strategic Policy – The development represents inappropriate development in the Green Belt and is therefore contrary to ENV2 and PPG 2. However it is clear from the GTAA that there is currently a shortfall of pitches for gypsies and travellers in Walsall and throughout the West Midlands Region. This shortfall is unlikely to be addressed until the development plan process has been completed down to the 'site allocations' level. Note should be taken of the recent appeal decision at 56 Cartbridge Lane, where the Inspector granted a temporary consent pending the outcome of the development plan process.

Housing Standards and Improvement – following the granting of any planning permission the owner will be required to apply for a site licence under the Caravan Sites Control of Development Act 1960. Any licence will have conditions attached to it, based on the Model Standards 2008 for caravan sites in England.

Gypsy & Travellers Officer – Undertook a needs assessment with the applicant and her family in October 2008.

The Council has an authorised Gypsy site at Willenhall Lane, which is currently undergoing a phased refurbishment to provide a total of 19 plots. 15 plots are currently completed and occupied with all the remaining plots allocated and accepted and awaiting completion. Accordingly, there are no vacant/available plots at the site (July 2009).

Fire Service – satisfactory for fire service access

Landscape Officer – no objections. The site is well screened by mature trees and hedging and cannot easily be seen from nearby housing or publicly accessible areas. The siting of the caravan

would not appear to affect any trees although the front hedge has been removed to create a new access. The removal of this hedge would however have little to no visual impact beyond the immediate confines of the site. It is not considered that the caravan situated alongside the existing bungalow would be prominent such as to affect the openness of the surrounding Green Belt landscape

West Midlands Police – The police have been called to the site 3 times in the last 12 months. Two of the visits related to 25th February when a mobile home was being delivered and blocked the access bridge.

The Gypsy Council – Awaiting a response. Three letters have been sent seeking their views, but there has been no reply.

Public Participation

48 Individual letters of objection (some anonymous) and a petition containing 1115 signatures have been received objecting to the development, following the original consultation.

The petition objects to the development on the grounds of Green Belt policy issues, the presumption against residential development in the Green Belt, fear of an increase in crime and anti social behaviour, and concern that increased activity at the site will have a negative impact on the existing amenity of neighbouring properties.

Objections raised in the 48 letters:

- Increase in vehicles using Railswood Drive, HGV's, tractors, caravans, horse boxes, scrap lorries etc
- Rubbish and scrap littering the area with environmental impacts
- Development in the Green Belt unacceptable
- Railswood Drive once a quite residential street, not any more
- Likely to result in other uses on the site, possible vehicle repairs and scrap business
- It wont stop at 1 caravan as this is a large area of land, it will be the thin end of the wedge
- Set a precedent
- Possibility of an extension of access to the side of the unit to allow further access to the rest of the site.
- access route over the bridge unsuitable for more traffic
- property devaluation
- fear of crime
- anti social behaviour
- Already a large number of caravans use the access for the caravan storage
- Site is a nursery and should be used for no other purpose
- Will they pay council tax?
- Have they paid income tax on the income they have bought the land with?
- Insufficient information re gypsy status, are they travellers or currently settled in the area?
- There are other gypsy sites in the Borough, consideration of vacancies should take place
- Noise and disturbance from activities on the site
- Not in keeping with the area
- Fears of similar situation as evidenced in a newspaper article of a case in Essex.

Following the receipt of additional information and clarification of the development description neighbours were re-consulted on the proposals. This re-consultation has resulted in a further 16 letters of objection (some anonymous and 1 with 13 signatures) and 1 letter of comment, querying whether a 2 bed unit is large enough for a family with 3 children.

Objections:

- Limited access over the bridge
- Land should be for nursery use only and not for any other use, including the tractor business now operating
- Potential for a lot of different uses
- Will open the floodgates to more families and caravans
- The definition of '1 family' is ambiguous, this could mean a lot more caravans for extended family etc
- Anti social behaviour
- Property devaluation
- Increase in commercial traffic in Railswood Drive
- Increase in traffic, litter and noise and disturbance
- Green belt land that should stay that way, the proposals conflict with Green Belt policy
- Change in Railswood Drive, previously a quiet residential street now a busy through route
- Applicants already have a permanent home locally so refusal of proposals would not make them homeless
- Feeling of vulnerability and safety and security issues.
- Set a precedent
- Would this mean the site would be residential only for gypsies and no commercial activity?
- Similar situation to Lime Lane (just outside Walsall) where the original consent was for 2 caravans and now a full gypsy site.
- Chalet style mobile home not a caravan has already on site with disregard for the planning process
- The unit is now on site and is in occupation and a new access drive created, which is not in accordance with the plans and in contravention of planning regulations.

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

Determining issues

The development comprises inappropriate development which is by definition harmful to the Green Belt. Therefore for permission to be granted it is necessary for the appellant to demonstrate that very special circumstances exist which outweigh the harm caused by reason of the development being inappropriate in the Green Belt, and any other harm.

- What is the application for?
- Whether very special circumstances exist to outweigh the harm from inappropriate development in the Green Belt
- In this case, the very special circumstances the applicant relies on are;
 - The applicant's gypsy status,
 - The applicant's personal need for a site,
 - The need for further site provision in the area,
 - The fact that the unit would replace an existing caravan on the site
 - Concerns raised by objectors

Observations

What is the application for?

Some of the objectors point to the structure on the site not matching what is set out in the application documents.

The application is for a change of use. It is not for a specific structure. All that is necessary, if permission is given, is that the site should be used to accommodate the stationing of one residential caravan for one gypsy family. Any caravan, meeting the legal definition of a caravan, can be on the site, in any location, and meet that definition.

It is open to the Council, if permission is given, to restrict the position within the site where a caravan can be sited in order to protect the safe functioning of the site and restrict views from the green belt.

Whether very special circumstances exist to outweigh the harm from inappropriate development in the Green Belt

The site is situated in the Green Belt. The development by definition, is inappropriateness, which is harmful to the Green Belt.

PPG 2 indicates a general presumption against inappropriate development within the Green Belt and such inappropriate development should not be approved except in very special circumstances where those circumstances outweigh the harm of inappropriateness and any other harm.

The site sits within but on the edge of a large area of Green Belt (which stretches to the north, east and south of the site).

Whilst Circular 01/2006 (Planning for Gypsies and Travellers Caravan Sites) is a material consideration, it should not be considered in isolation. Indeed, paragraph 49 of the circular states 'New gypsy and traveller sites in the Green Belt are normally inappropriate development as defined in PPG 2: Green Belts.' However, the circular also states its aim to create and support sustainable, respectful, inclusive communities where Gypsies and Travellers have fair access to suitable accommodation, education, health and welfare provision, whilst respecting the interests of the settled community, to promote private Gypsy and Traveller provision and help to avoid Gypsy and Travellers becoming homeless through eviction from unauthorised sites without an alternative to go to.

With appropriate justification, the proposal could be approved, as a justified departure from Green Belt policy presumptions. The applicant's stated reasons for seeking exception from the requirements of Green Belt policy are assessed individually, below.

The applicant's Gypsy Status

Mrs Doherty (the applicant) in her statutory declaration states that she comes from a well established local gypsy family, and save for the last 3 years she, her partner and children have lived in caravans. Nevertheless, for the last 3 years they have lived in a house, to provide a fixed base to allow their children to receive "meaningful education".

However this has proved too expensive so for large parts of the year the house has lain empty as the applicant and her family travel for work. The house was put on the market but did not sell, it is now let out.

The family are known to the Gypsy Liaison Officer and it is accepted that they have Gypsy Status.

The applicant's personal need for a pitch

Whilst it is a general principle that Gypsies and Travellers should not become homeless through eviction from unauthorised sites, without an alternative site to move to (Circular 01/2006 para 12i), this principle must be seen in the context of harm to the Green Belt.

Paragraph 61 of Circular 01/2006 states that any facts that may be relevant should be established and considered in determination of a planning application. A needs assessment to establish the personal circumstances of the applicant and her family has therefore been undertaken by the Council's Gypsy and Travellers Officer. This confirms that the family have lived in the mobile home since October 2008 and that 3 out of the 4 children of the family attend a local school in Pelsall and are settled (the 4th child is only a few months old). The family are registered at Rushall Medical Centre. Until 2004 the applicant lived at 56 Cartbridge Lane gypsy site with her husband's family, but moved to 60 Norton Road, Pelsall to live in a house. The applicant found it very difficult to live in a house and sought to find alternative accommodation in the area so that the children could remain at the same school and not disturb their education. The family wish to "live on their own land, in their own culture and allow their children access to education and health".

Willenhall Lane provides the Council's only site for Gypsies and Travellers. The site has been undergoing a phased refurbishment since 2006, and the works are still ongoing with no date for final completion at this time. The works will result in a total of 19 plots, with 15 already occupied and the remaining plots already allocated and accepted, awaiting a completion date. Consequently, there are no vacant/available plots at the site and the Council is not in a position to offer the applicants alternative accommodation within the Borough.

It is clear that the applicant has a personal need for a caravan site. However, this does not, in itself, provide any exemption from Green Belt policy.

The need for further pitch provision in the area

The Black Country GTAA identifies the need in Walsall for 30 permanent residential site pitches for 2008 – 2013 and a further 9 from 2013 – 2018, although the planned Phase 3 development of the Council's Willenhall Lane site would provide 6 of these further pitches, this still demonstrates a significant unmet need for additional sites in Walsall.

Circular 01/2006 says that data collected through the GTAA process will inform an overall assessment at regional level and the preparation of the development plan documents, to identify land to meet needs. In Walsall the Land Allocations DPD will be informed by the Strategic Housing Land Availability Assessment (SHLAA), currently being undertaken on behalf of the Council by consultants and due for publication November 2009. Whilst this may identify suitable sites, it will feed into the Land Allocations DPD which is due for adoption in September 2012.

The very recent appeal decision at 56 Cartbridge Lane (10-02-09) for the retention of a residential gypsy caravan site is relevant to this case. In the Cartbridge Lane matter, the Inspector concluded that whilst the development was inappropriate within the Green Belt, very special circumstances existed sufficient to justify a further 4 year temporary consent to await the completion of the Land Allocations DPD to identify additional sites to meet the needs of Gypsies and Travellers in Walsall identified in the GTAA.

In view of the personal circumstances of those living at the site and the absence of suitable alternative sites at the present time the Inspector restricted the use to the named occupiers of the site, providing they continued to fall within the definition of Gypsies and placed a restriction on the number of caravans on the site to 6, with no more than 4 as residential (as opposed to touring caravans), at any one time. In granting a temporary permission the Inspector referred to Circular 11/1995, the use of conditions and Circular 01/2006 paragraphs 45 and 46 relating to a situation where a local authority is preparing the Land Allocations DPD.

It is clear that there is an un-met need in Walsall. The evidence of the Cartbridge Lane decision is that this can amount to justification for a Green Belt exception, albeit only for a temporary period while the Development Plan process moves to its conclusions.

The fact that the unit would replace an existing caravan on the site

The applicant, in her statutory declaration states that:

- this piece of land (the subject of the application) has for several years been used for residential purposes,
- they brought the land in the belief that it had planning permission as the land has been used for the siting of a caravan for about 8 years.

The agent for the application, in the planning statement submitted with the application states that *'there is a mobile home on the site which has to-date been used as ancillary accommodation for the bungalow. The site is connected to main water and electricity and mains sewer'* and further confirmed that they were unaware of when the existing mobile home was put on the site, but understood it had been used as additional accommodation for the bungalow.

Since the submission of the application the applicant has completed a Needs Assessment in conjunction with the Council's Gypsy Liaison Officer. In this the applicant states that *'...the piece of land had always had a chalet on it, all they had done was remove the old chalet and put a new chalet in its place.... There has always been someone living here in a chalet, for over 10 years....'*

Whilst the applicant states that the caravan was in situ for several years, the Council has no planning records which confirm its siting. Aerial photographs dating back to 2003 show the caravan in situ, to the north west of the bungalow and to the south of one of the nursery polytunnels. In the photographs the caravan appears to be situated in the position now occupied by the current mobile home.

The caravan was in situ when the application was first submitted and during the initial site visits by planning officers. The caravan measured 9.5m x 3.6m providing a footprint of 34.2sqm. It had a small garden area immediately outside together with paving to both doorways.

The mobile home now in situ occupies a very similar position to the previous caravan, to allow use of the existing connections to services. It measures 6.1m x 7.78m, a footprint of 47.45sqm, 13.25sqm larger than the original caravan. This is, as already noted, a larger unit than that depicted in the planning application.

Apparently due to the increased depth of the new mobile home, the poly-tunnel to the rear of it has been removed (being redundant as no longer in use for the nursery). The position of the new unit within the site, set back 16.6m from Railswood Drive, means that it is set towards the rear of the application site, (as already set out, this is not shown on the deposited plans). The change means that the rear private amenity space shown on the deposited plans does not exist. However the applicant has created a raised patio area on the frontage of the unit, 7.6m in depth, the width of the unit, with an angled corner and steps up to it in order to provide access. This provides approx 55sqm of amenity space. This is a satisfactory arrangement for the amenity space for the unit.

The patio area is independent of the mobile home and provides no support for it; the mobile home sits on its own wheels and legs on a concrete base remaining transportable and satisfying the definition of a caravan (as detailed above). The remainder of the frontage (approx 126sqm) provides parking for two vehicles, further play area for the children and flower beds set against the western, tree lined boundary. The applicant has recently erected a boundary wall and gates set back from Railswood Drive to secure the site, so that the children can play safely on the frontage.

In summary, the new mobile home is set in broadly the same position as the original caravan, has a slightly larger footprint (13.25sqm) and is of a similar height to the caravan it replaces. In this

context, it should also be noted that the introduction of the new mobile home has led to the removal of one of the poly tunnels that previously stood on site. As such, it is considered that the new unit would have no material additional adverse impact on the openness and character of the Green Belt over and above that of the previous caravan. The site is screened from the adopted section of Railswood Drive (to the west) by a band of trees along the former railway embankment, is screened from the Green Belt (to the north) by existing trees and the existing structures on the Railswood Nurseries site and from the east by the existing Railswood bungalow and Laburnum Cottage. It is not considered that the mobile home in its current position would interrupt any long views into or from the Green Belt, or would adversely impact the visual amenity of the Green Belt.

Green Belt policy is unusual, in planning, in that it is, by definition fundamentally wrong to put inappropriate development in the Green Belt. However, in this case, the practical conclusion is that this development has little or no effect on the Green Belt characteristics which are to be defended. It follows that, in practise, there is no demonstrable harm from the development.

Concerns Raised by Objectors

'Increased vehicles in Railswood Drive'

The use for which permission is sought is for the stationing of one caravan for one gypsy family. This is unlikely to generate significant traffic movements over and above that from the previous siting of a static caravan. The unadopted section of Railswood Drive also provides access to the Nursery site, Laburnum Cottage, Railswood Farm and caravan storage field (consent for up to 60 caravans to be stored), which all generate their own traffic.

'Rubbish and scrap materials, detrimental to the environment'

The application site is now occupied by one family and is clean and tidy now all the work is completed.

'It won't stop at one caravan, likely to become a gypsy encampment'

The application site is 643sqm in total and it is conceivable that more than one caravan could be accommodated on it. However, when the area of the caravan/ amenity/ spaces for parking are taken into account, the site is not considered to be particularly large.

If permission is given, it is open to the Council to condition that the site shall not be used for more than one caravan to accommodate one gypsy family.

'Set a precedent'

Each application is dealt with on its own merits

'New access'

A new access from Railswood Drive has been created to provide independent access to the application site, rather than sharing the access to the Railswood bungalow. Further access gates have been installed to the rear of the site to land at the rear, (outside of the red line of the application site), and does not form part of this application.

'Council Tax, Income Tax and Property Devaluation'

These are not material planning considerations

'Noise and disturbance'

It is considered that the proposed use of the site is unlikely to generate any additional noise and disturbance over and above that of the previous caravan located at the site.

Conclusion

Whilst it is recognised that the proposals are, as a matter of principle inappropriate development in the Green Belt it is considered that:

- at the present time, very special circumstances exist to justify the granting of planning permission
- there is significant effect on the character of the Green Belt arising from this development.

The applicants benefit from Gypsy status and therefore the guidance contained in Circular 01/2006 is a material consideration. The applicant and her family are now settled in the Pelsall area (since Jan 2004), with their children attending a local school. The Council are not in a position to provide alternative accommodation in the near future, as all 19 pitches at Willenhall Lane are already occupied or allocated. In addition, there are no other private sites available. Whilst the SHLAA is now underway and may identify suitable sites for Gypsies and Travellers, this is only the start of the development plan process and the Land Allocations DPD is not due for adoption until September 2012. Eviction from the site would therefore render the applicant and her family with no pitch on which to pursue their way of life.

The mobile home on site (although different in certain respects from that identified in the planning application) replaces a caravan (and poly tunnel) that was previously occupied independently to the Railswood nursery bungalow and had been in situ for at least 6 years. The new unit, whilst approx 13sqm larger footprint than the previous caravan, is approximately the same height, is situated in the same position on the site (to utilise the existing connections to services) and is considered to have no materially additional adverse impact on the openness and character of the Green Belt over and above that caused by the original caravan. The unit is well screened by existing trees and buildings and does not interrupt views into or from the Green Belt and does not harm the visual amenity of the Green Belt.

Overall this recommendation for a permanent permission for a caravan site is warranted in this instance.

As it does not raise issues striking at the principles of the Development Plan (because of the absence of impact on the characteristics of the Green Belt) it does not have to be referred to the Secretary of State.

Summary of Reasons for Granting Planning Permission

Whilst it is recognised that the proposals are inappropriate development in the Green Belt it is considered that, at the present time, very special circumstances exist to justify the development and outweigh the harm.

The applicants benefit from Gypsy status and therefore the guidance contained in Circular 01/2006 is a material consideration. The applicant and her family are now settled in the Pelsall area (since Jan 2004), with their children attending a local school. The Council are not in a position to provide alternative accommodation in the near future, as all 19 pitches at Willenhall Lane are already occupied or allocated. In addition, there are no other private sites available. Whilst the SHLAA is now underway and may identify suitable sites for Gypsies and Travellers, this is only the start of the development plan process and the Land Allocations DPD is not due for adoption until September 2012. Eviction from the site would therefore render the applicant and her family with no pitch on which to pursue their way of life.

The unit installed falls within the definition of a caravan within the relevant legislation and replaces a previous caravan that was previously in situ for a minimum of 6 years. The new unit, whilst

approx 13sqm larger footprint than the previous caravan, is approximately the same height, is situated in the same position on the site (to utilise the existing connections to services) and is considered to have no additional adverse impact on the openness and character of the Green Belt than the original caravan. The site is well screened by existing trees and buildings and therefore does not interrupt views into or from the Green Belt and does not harm the visual amenity of the Green Belt.

It is considered that the proposed single caravan for a single gypsy family there is very special circumstances exist to justify the development and outweigh the harm to the character and appearance of the Green Belt and is considered to accord with the aims and objectives of the development plan, in particular policies 2.1, 2.2(d), 3.6, 3.7, GP2, GP5, 3.23, 3.21, ENV1, ENV2, ENV32, 6.3, 6.5 and T13 of Walsall's Unitary Development Plan (2005) and National Planning Guidance PPG2: Green Belts and Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites.

Recommendation: Grant Subject to conditions

- There shall only be one caravan on site at any one time and shall be used for residential purposes only for one gypsy family and there shall be no commercial use on any part of the site.

Reason: In order to define the permission and safeguard the amenities of the surrounding occupiers and the character, openness and appearance of the Green Belt.

- Neither the caravan, nor any ancillary building (eg. dog kennels and storage buildings) shall be sited between the southern elevation of the adjoining Railswood Bungalow and the access road to the south.

Reason: In order to define the permission and to safeguard the appearance of the Green Belt.

- There shall only no more than one dog kennel and one storage building on the site at any one time, and it/they shall only be used for purposes ancillary to the residential caravan.

Reason: In order to define the permission and to safeguard the appearance of the Green Belt.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

REASON FOR BRINGING TO COMMITTEE: Adjacent to another case with significant community interest

Application Number: 08/1863/LE

Application Type: Certificate: Lawful Existing use /
Development

Applicant: David Mosedale

Proposal: Certificate of Lawfulness for existing
use for the repair, refurbishment and storage of
tractors, agricultural implements and equipment
and part, and sales of the above and retention of
10 buildings on site, and a greenhouse and
polytunnel

Ward: Pelsall

Recommendation Summary: Grant

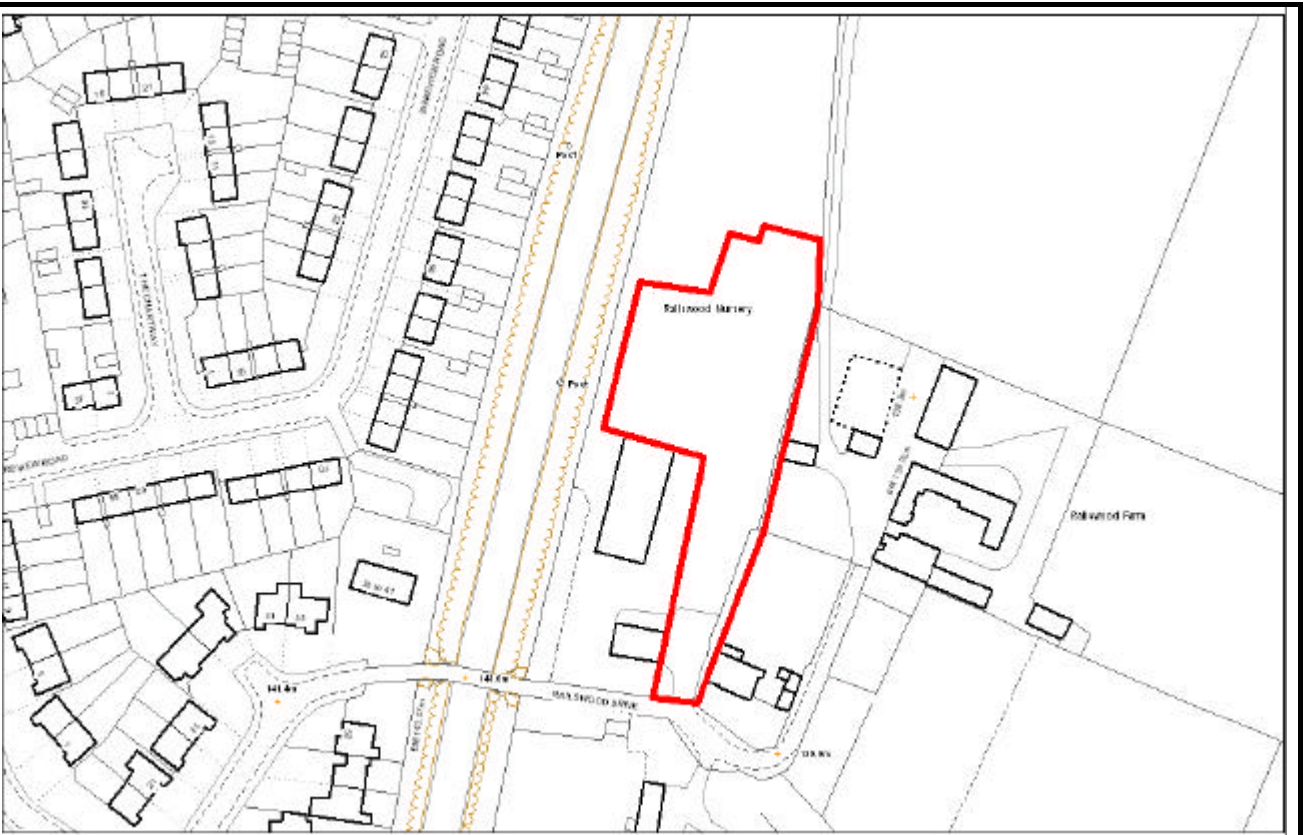
Case Officer: Barbara Toy

Telephone Number: 01922 652429

Agent: John Dring

Location: Railswood Nurseries, Railswood
Drive, Pelsall,

Expired: 16/02/2009



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Application and Site Details

This application is made under Section 191 of the Town and Country Planning Act 1990 for a Lawful Development Certificate for an existing Use for the repair, refurbishment and storage of tractors, agricultural implements and equipment and parts and sales of the foregoing and retention of 10 buildings on the site.

The site is situated at the eastern end of Railswood Drive (beyond the railway bridge) and forms part of the former Railswood Nurseries site, and is situated within the green belt.

The amended redline boundary for this application includes the access and parking area to the east of the existing bungalow (occupied by the applicant), a strip of land to the east of the existing polytunnel and the remainder of the site to the north within the applicants ownership, it does not include 'Railswood bungalow' the former nursery green house or polytunnel.

Circular 10/97: Enforcing Planning Control, Legal Provisions and Procedural Requirement, Annex *: Lawfulness and the Lawful Development Certificate makes it clear that the onus of proof in Lawful Development Certificate applications is firmly on the applicant.

The applicants have submitted documentary evidence in support of their application including:

- Statutory declarations from the applicant and his wife
- Six statements from customers of the business, since its occupation of the application site
- Documents dating back to 1987 illustrating operation of the business prior to occupation of the application site.
- Various business documentation dating from 1993 to 2008.

Relevant Planning History

EA5451, erection of a bungalow, approved subject to conditions 08-12-1966. Condition to restrict to agricultural use (see BC60205P)

BC10826P, Section 53 Determination, erection of glass house. Planning permission not required, 04-04-1984.

BC27958P, loft conversion (existing bungalow) approved 12-12-1989.

BC37456P, 3 poly tunnels and 1 replacement poly tunnel for horticultural crops, approved 25-01-93.

BC47403P, resiting of 3 poly tunnels, approved 09-10-1996.

BC60205P, Removal of condition on EA5451, which restricted the occupancy of the dwelling to persons employed or last employed locally in agriculture or forestry or dependents of such persons, approved 20-12-1999.

BC62485P, change of use of horticultural land to keeping of horses and erection of field shelter. Approved subject to conditions 13-02-2001. Condition to ensure no more than 4 horses or ponies grazing.

BC62487P, formation of hardstanding for 1 x 7.5 tonne lorry. Withdrawn 08-12-2000

Railswood Caravan Storage Site, Railswood Drive

BC54249P, full consent sought for caravan storage site, approved subject to conditions 26-10-1998. Condition restricted to 60 caravans to be stored at any one time, with hours of movement restricted.

03/2279/PT/E5, 12.5m high timber monopole telecoms mast with 2 transmission dishes, 3 antenna (total height 15m), equipment cabinet and ancillary development. Refused 09-01-2004. Subsequent appeal allowed 03-11-2004.

07/1056/PT/E12, prior notification for telecommunications, 14.9m high timber clad monopole supporting 3 antennae with equipment cabinet at ground level. Refused 12-07-2007.

Relevant Government Guidance

Circular 10/97: Enforcing Planning Control, Legal Provisions and Procedural Requirements, Annex 8: Lawfulness and the Lawful development Certificate

The onus of proof is firmly on the applicant. While the local planning authority should always co-operate with an applicant seeking information they may hold about planning status of land, by making records readily available, they need not go to great lengths to show that the use, operations, or failure to comply with a condition, specified in the application is, or is not, lawful.

Something is lawful if no enforcement action may be taken and it is not in contravention of any enforcement notice which is in force.

If the local planning authority are provided with information satisfying them of the lawfulness, at the time of the application, of the use, operation or other matter in the application they must issue a certificate to that effect; and, in any other case, they shall refuse the application.'

Consultations

Legal Services – There are no enforcement notices to prevent a certificate being granted and the 10 years required for the use to be made out appear to have been supported in the Statutory Declarations and the Customer Statements. The LPA has no information to contradict the Statutory Declarations or the Customer Statements.

Public Participation

There is no statutory requirement to consult and no consultation of an informal nature has taken place.

Determining Issues

Whether the evidence provided by the applicant is satisfactory to determine that the use, operation or activity is lawful and whether the Certificate of Lawfulness should be issued.

Observations

The purpose of an application for a Certificate for lawful existing use is to determine whether there is enough evidence provided by the applicant that a development has been in place for a certain length of time making it immune from enforcement action. The certificate will then establish whether it has become lawful over the passage of time. The onus of proof in a LDC application is firmly on the applicant. If the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probably, there is no good reason to

refuse the application provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of certificate "on the balance of probability".

In this case it is for the applicant to prove that the use of part of the site for the repair, refurbishment and storage of tractors, agricultural implements and equipment and parts and sales of the above and retention of 10 buildings on the site has been in use continuously for a minimum of 10 years.

The Statutory Declarations submitted by the applicant and his wife both declare that the said business has been operating continuously from the site since they acquired it in April 1996. The business has operated from the 10 buildings on the site. The submitted site plan (received 16-02-09) clearly identifies the 10 buildings referred to in the Statutory Declarations and they have been observed on site, currently being used for the purposes declared.

Six statements have also been submitted from customers, suppliers and a mechanic who has maintained vehicles at the site. These all clearly state that the site and buildings have been used since 1996 for the use described.

Further business evidence has been submitted, (invoices and receipts) dating from 1993 through to 2008. This shows the business in operation prior to moving to the site and since moving to the site in 1996.

The green house and polytunnel at the site are not included within the redline site boundary for this application as they were used for the Railswood Nursery business only and not the tractor business. Likewise the Railswood bungalow is outside the redline as this provides the residential accommodation for the applicant only and is not part of the business use.

There are no enforcement notices relating to the site to prevent a certificate being granted.

The 10 year period required for the use described is supported in the Statutory Declarations and the Customer Statements submitted. The Local Planning Authority has no information to contradict the Statutory Declarations or the Customer Statements.

Conclusion

As a matter of fact and degree, it is recommended that a certificate of lawful existing use can be issued for the use described in the application.

Summary of Reasons for Granting Planning Permission

Recommendation: Grant

Walsall Metropolitan Borough Council, hereby certify that on 3rd December 2008 the use described in the first schedule hereto, and as more particularly described on the red edged amended site plan received on 16th February 2009 and attached to this certificate, would have been lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended).

For the following reasons:-

- The evidence supplied by the applicant demonstrates that the use of this site commenced more than ten years prior to the submission of this application and the Council has no information to contradict the submitted evidence.

First Schedule:

Use for the repair, refurbishment and storage of tractors, agricultural implements and equipment and parts and sales of the foregoing and retention of 10 buildings on the site.

Second Schedule:

Railswood Nurseries, Railswood Drive, Pelsall, Walsall. WS3 4BE.

Red edged Amended Site Plan dated 16th February 2009.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 08/0520/FL

Application Type: Full application

Applicant: Hydesville Tower School

Proposal: A) Extension to Art and Technology
Building

B) change of use of 33 Broadway North to part of
school (years 1 and 2)

C) Use of vacated year 1 and 2 for nursery
provision

Ward: St. Matthews

Case Officer: Jan Scrivens

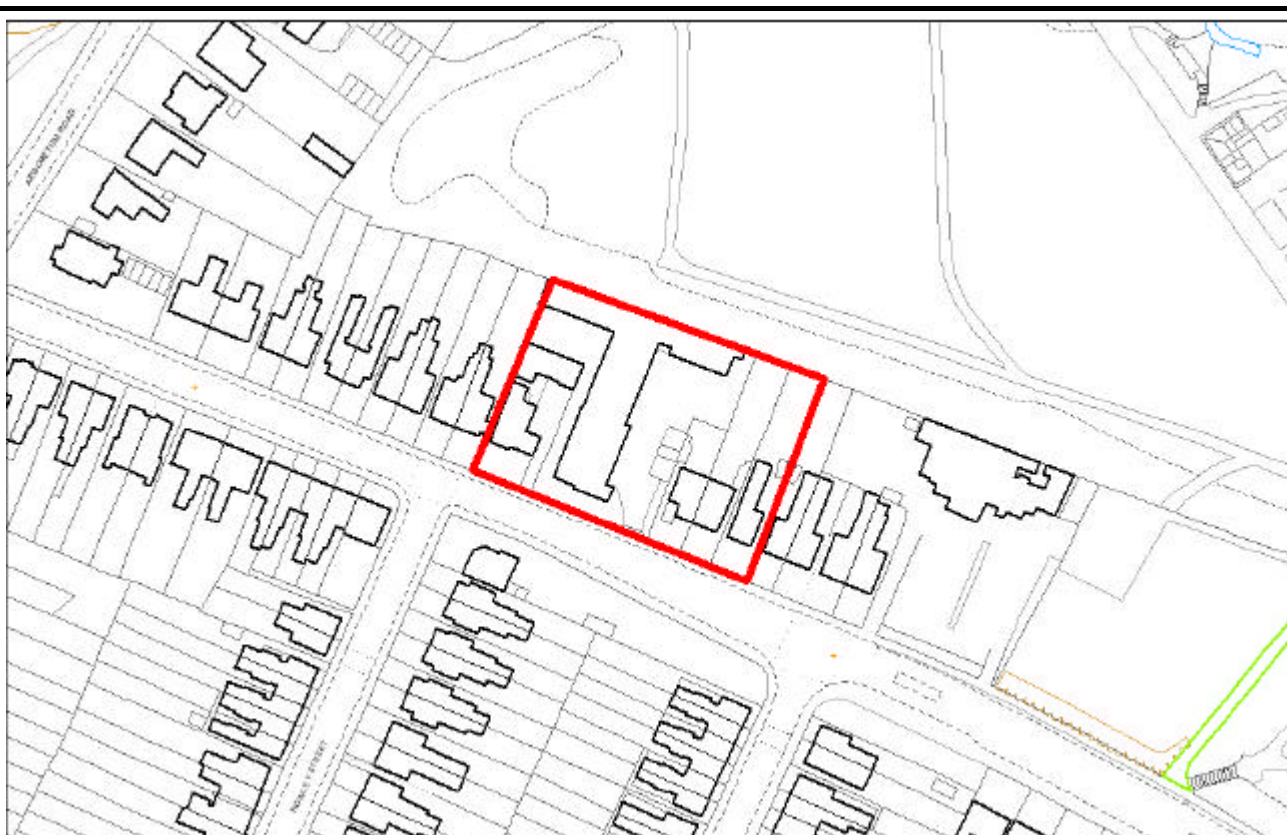
Telephone Number: 01922 652436

Agent: Broadway Malyan

Location: Hydesville Tower School, 25
Broadway North, Walsall, WS1 2QG

Expired: 21/05/2008

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



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Current Status

This application was considered by Members on 21.5.09 when it was recommended for refusal unless a binding arrangement could be demonstrated to allow the school suitable use of the nearby public house car park.

Members resolved to defer determination of the application to enable further negotiations to take place with the applicant.

The applicants have now prepared a Travel Plan which has been submitted as part of the application. The report has been updated.

Application and Site Details

The school has been in place many years. There is parking on the site for 4 cars and 2 mini-buses. A Traffic Regulation Order (TRO) applies to the road outside the site (double yellow lines). A residents' parking scheme is in place in the side streets opposite.

The Council is promoting red route designation for Broadway North. The critical element of this, in relation to the present application, is a prohibition on stopping at any time outside this school, and the likely enforcement of the new designation more stringently than is currently the case with the existing TRO.

The school is open between the hours of 7.30 a.m. and 6.30 p.m. This includes before and after school activities. The school is in the Arboretum Conservation Area.

The key element of the application is the change of use of a house (No. 33) to part of the school. No. 33 is to provide 4 classrooms for the relocation of years 1 and 2 (5 to 6 year olds) into 33. The house shares a driveway with No. 35, a house which is owned by the school and was until recently occupied by the headmaster. The two houses have frontage parking and a garage at the rear. The drive would be gated between the buildings.

This application:-

- Shows the existing parking for the school to be 4 spaces although two minibuses are also parked at the rear of the Art and Technology building.
- Proposed parking is 6 spaces retaining four on the current school site (the 2 minibus spaces are lost to the extension) plus parking on No. 33 (1 space on the forecourt, and one in the garage at the rear of no.33).
- No pupils will be allowed to access the school via No. 33 direct from the street
- The rear of No. 33 is shown to be slightly modified by the removal of steps from the house onto rear garden and provision of a ramp – it follows that use of the garden by children is proposed (though it is not specified)
- Use of vacated year 1 / 2 space in the existing school buildings for a nursery
- The nursery expands from the present 2 rooms to 6 (ignoring the combining of two rooms into one, for this purpose).
- The reception class moves to a different part of the existing building, and increases in area.

- A 94 sq.m extension to the Art and Technology building is proposed.
- School had 35 nursery pupils in 2008 and 36 the previous year.
- Maximum increase in nursery pupils is 19.
- Maximum school roll currently is 383 increasing to 415 as a result of the present application.
- School capacity is stated to be 450 and to have been so for many years.
- No change is intended to school capacity.
- The school uses a coach to transport pupils to playing fields etc.
- The school proposes to use a bus drop off area 150 metres from the school on Broadway North which is being created as part of the Red Route proposals. This is consistent with the red route scheme but would be shared with the Arboretum and the general public.
- The school also proposes to use a car drop off area for 16 cars, 200 metres from the school on Broadway North, which is being created as part of the Red Route scheme. This would also be shared with the Arboretum and general public.

There is a temporary building within the school grounds (to the rear of the building which would form the nursery). The planning permission for this has expired. The applicants have been advised of this and have indicated that they wish to retain it. It has not however been included within this application nor has a separate application been submitted, to date.

The application as originally submitted proposed that the school minibuses would operate a park and ride scheme for the children, based upon Ward Street car park. This has now been deleted from the scheme following detailed consideration of the proposal by officers. There have also been investigations with the applicants into alternative sites for a school park and ride but these have been unsuccessful.

The application is now supported by a Travel Plan which aims to reduce the numbers of staff and children travelling to and from school by car and increase travel by sustainable modes. The school will be introducing a new school bus, a car share database, cycle training opportunities and parking facilities as well as walking/walking bus.

The school bus is presently provided by hired coaches but as part of the Travel Plan it is intended to employ 'Yellow School Buses' based upon the American model. These will offer allocated seats with children separated by age group, seat belts, CCTV, and phone contact with parents. The drivers receive training in transporting children, anti-bullying procedure and first aid, to provide a safer environment for the children. In addition the school has reviewed the existing route and intends to revise it to make the service easier to use.

The Travel Plan sets out targets for the reduction of car travel. These will be monitored annually to provide feedback on its success, with the results being reported to the Council.

The applicants have indicated that although there are no proposals to increase the school role in excess of 400 pupils, if the Travel Plan fails to meet the modal shift targets set out, there will be a reduction of 5% in nursery school admissions until such time as measures achieve the target.

The school also has the use of the car park of the Park Tavern public house, Broadway North. Previously, this use was by an agreement which could be terminated by two weeks notice. The pub car park previously provided 30 spaces for parents to park, between 8.15a.m. and 9.15a.m. and 3.15p.m and 4.15p.m, Monday to Friday in term times. Parents did not get priority over customers or a guarantee of a space.

It is understood that the school now has only a verbal agreement with the latest owners of the Park Tavern.

Relevant Planning History

The school was created in the mid-1950s, and there is a history of gradual expansion since then. Not all of the extensions to the school site or the buildings appear to have been given permission, though some were approved retrospectively. Some elements are now lawful as a result of the passage of time. Overall, the school as it exists is lawful.

No 29 Broadway North became part of the school in 1982 (BC4389P). No. 31 was added in 2001 (BC62951P/C). At that time, there were objections to use of the rear garden of the house for parking (though this was not part of the proposal). Conditions require the rear garden to be kept as open amenity space, and that the accommodation only to be used as detailed on plans (study and practise rooms, not to be converted to class rooms). The applicant said that 385 pupils was the maximum capacity for the school, and that there were only 352 on roll at that time.

In 2003 application 03/1957/FL/E6 was approved for 5 years. The permission was for the retention of a temporary classroom in the north-west corner of the site. It had been retained on temporary permissions since 1989 (it had been a retrospective application at that time). This most recent renewal has now expired, and the school need to remove it or make a further renewal application.

In January 2008, application 07/1476/FL/W3, for an essentially similar proposal to that which is now before you (the key difference was the location of the nursery in No. 33), was refused on the basis of:-

- j) insufficient parking to meet its own needs
- k) parking area in front of no. 33 Broadway North unsuitable for use by the proposed nursery
- l) the change of use of no.33 to a nursery as proposed would deprive no. 35 of some of its parking
- m) off-site parking provision (it was proposed to share the car park of the nearby Park Tavern – this is not part of the present application) is not secured by any long term agreement and is inadequate in terms of numbers
- n) the increase in numbers of children attending the school, without any corresponding increase in parking is unacceptable
- o) proposed use of no. 33 would have an adverse effect on the adjacent house no. 35 due to increased activity, loss of privacy and the restriction on the use of the shared area between the two properties

Relevant Planning Policy Summary

Unitary Development Plan

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

GP2 and 3.6 require new development to contribute to the improvement of the environment. ENV29 requires the effect of development on a Conservation Area to be considered. ENV32 requires the design of proposals to take account their context or surroundings. H10 requires residential development to provide a high quality living environment. Residential Development Standards, which were adopted on 25.4.05 support this principle.

T4 defines Broadway North as part of the Strategic Highway Network. Street parking and direct access will be kept to a minimum and priority will be given to measures which assist traffic flow. T7 and T13 relate to car parking. Development is required to demonstrate that it will provide adequate off-street car parking to meet its own needs and that there will be no adverse effect on highway safety and the environment. Car parking standards for schools are two parking spaces per classroom / 4 bike lockers for every parking space and taxi facilities.

8.7 supports the enhancement of existing and provision of new facilities for education.

National Policy

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

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

Consultations

Transportation: Original Comments Object on the basis of the under provision of car parking to serve the proposed development, and provision for mini bus parking to serve the school:

- Prior to any approval being granted details should be submitted of an agreement between Hydesville Tower School and the Park Tavern Public House with regard to the use of the pub car park.
- There is no parking capacity in adjoining side streets, due to the resident parking scheme.
- The use of the pub car park needs to be an integral part of the schools parking arrangements, and to ensure the safe and free use of the highway there would need to be a formal agreement submitted, in the interest of highway safety.
- In the absence of an agreement with the Park Tavern, the applicant has failed to demonstrate that the under provision of parking within the school site has been accommodated to meet its own needs.
- Broadway North is part of the Strategic Highway Network,
- The limited options proposed to deal with parent traffic do not provide sufficient measures to satisfy the Highways Authority. Therefore the current application would be contrary to the interests of highway safety.
- The applicant has failed to provide parking for the school mini buses.
- The agents state that there are to be 400 pupils, although there is capacity for 450.
- This would suggest the minimum of classrooms to serve the school would be 20, and the UDP parking standard for schools is 2 spaces per class room
- The maximum parking standard to serve the entire site would be 40 spaces though the agents have referred to 33 classrooms, which would require a maximum standard of 66 spaces.
- The agents state there are seven spaces, and they do not propose to provide any additional parking within the site.
- On the most recent drawing revision only six spaces are shown
- The school are prepared to encourage and promote sustainable travel options and create an environment for modal change through the implementation of a Travel Plan to help mitigate the gross under provision of parking.

- The originally submitted Travel Plan failed in many respects, but in particular, that the majority of the traffic generated to and from the school was from parents. The Travel Plan failed in that it did not even attempt to survey the parents to look to start to address this issue.
- The school have now worked with officers to prepare an acceptable Travel Plan in accordance with current guidance.
- With the agreement of the school, the current number of pupils is not to exceed 400 until Travel Plan measures and targets are set within the Travel Plan, and have been met.
- Children attending the nursery travel almost entirely by car.
- No provision is shown for construction vehicles.
- The Highways Authority considers that the proposal does not meet the following UDP policies: Policy GP2, T4, T7, and T13.
- The control of development likely to cause interference with the flow of traffic is an essential instrument which must be used relating to national and local policies. All development of land adjoining main traffic routes is therefore strictly controlled. The effects of traffic flow and road safety are always taken into account, and weighed with other relevant considerations. The more important the road, the greater the weight attached to these factors.
- The effect and ensuing results of the Travel Plan which is in the course of preparation cannot, as yet be determined.
- With the granting of permission the school would have capacity for increasing pupil numbers by an additional 50, and without the public house car park it is inevitable that the traffic activity would increase at this location, without any contingency measures to accommodate for this.
- It is one of the duties of the Highways Authority to protect strategic roads from proposals which will impair their traffic efficiency and increase danger to road users.
-

Transportation Comments following submission of the Travel Plan:

An obligation under Section 106 should be sought to ensure the implementation of the school travel plan. The targets stated in the action plan element of the Travel Plan must be met and in the event that they are not achieved, a reduction of 5 % in the nursery intake the following year shall occur. *(The school travel plan indicates that this would be acceptable to the school)*

The use of the parking spaces on the public house car park is essential if this application is to be approved, particularly for the parents of nursery children. If this facility should be lost then an alternative needs to be secured so that the safe collection and dropping off of children is maintained.

Centro (comments made prior to the submission of the latest travel plan) – no objection in principle to the original scheme, but

- i) Bus services to site are limited
- ii) Travel plan does not appear to have been written in consultation with WMBC
- iii) Travel plan needs to be personalised for school

Environmental Health No adverse comments

Regeneration – Conservation – some concerns

- a) Unaltered access welcomed as not disturbing front wall
- b) Conditions should protect the wall though
- c) Art / technology extension acceptable though should have timber windows

d) Objects to bricking up of openings in 33 – never works well – should be panelled instead so could be re-opened if needed

Pollution Control (Contaminated Land): No specific contaminated land requirements

Environment Agency – low environmental risk

Fire Service: No objection

Representations

Three objections were received to the original submission which included the park and ride scheme:-

- Welcome amendments since refusal but still issues of concern
- School site is growing in area by taking in No. 33 which is presently a house – this is cause for concern
- School capacity is stated to be 450, but roll is only 399 at present – there is considerable scope for expansion, more pupils, more teachers, more traffic
- Welcome intentions of travel plan
- Interested to see if park and ride idea works
- School has not been consulting neighbours about their plans
- After school club means resident's garden (no.19) is unpleasant and noisy until 1730 most weekday evenings.
- Parking problems (despite residential permit scheme) at beginning and end of school day
- Danger from parking problems
- Traffic problems range from parking on double yellow lines to teachers parking in residential roads
- Parking and safety problems will intensify with growth of school
- Committee should make an unannounced visit to see traffic problems caused by parents

Reconsultation following the deletion of the park and ride element from the application produced three further objections on the following grounds:

- concern about the school purchasing houses before making a planning application, using the property as a headmaster's house and then including it within the school and then purchasing the next house for the headmaster, expanding the school incrementally in this way
- the use of buildings in the Arboretum Conservation Area should be protected as well as the buildings themselves
- an increase in over 10% to 450 pupils and the extra staff to cope with them is not acceptable in a residential area; it will generate more traffic
- residents often have difficulty parking their cars; they have to use Rowley Street which is also used by staff of the school; this is inconsiderate when parking is at a premium and should be addressed in the application
- residents have never been consulted by the school over anything which affects them.
- The after school club makes it very noisy in no.19's garden until around 5.30 on most weekday evenings.
- The occupiers of no.19 would not wish any part of the proposed building to overlook their garden
- the school should create better parking facilities for parents and staff which would ease the burden on residents and be safer for the children who are dropped off.
- one writer expresses concern that the problems which the school creates are not being addressed.

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

Determining Issues

- the Arboretum Conservation Area
- amenity
- parking/highway safety

Observations

The Arboretum Conservation Area

The proposed extensions to the school and no. 33 would be to the rear of both buildings and would have no adverse impact on the visual amenity of the Arboretum Conservation Area. Conservation officers seek revisions to the techniques to be used for filling windows. These can be achieved by condition.

Amenity

The proposal would have the potential to have an adverse impact on the amenities of the ex-Headmaster's house due to increased activity, and loss of privacy. The occupation of no. 35 for example by the Headmaster should not result in a different view being taken in respect of loss of amenity.

From an amenity point of view the current site boundary, to the north west of no. 33, which is a detached house that is turned away from the site, is preferable to a school boundary which falls between 33 and 35, as now proposed. However this could be ameliorated to some extent by conditions requiring a substantial boundary treatment between nos. 33 and 35 and by requiring the rear garden area of no.33 to remain as garden (rather than, for example, becoming a playground). Suitable boundary treatment should overcome overlooking on the ground floor of no.35, although the side facing windows in no.33 would have to be obscure glazed for this problem to be overcome completely. This is not supported, as the effects are similar to the overlooking that would occur from use as a house.

The occupier of no.19 is concerned about potential overlooking of that property. This application does not propose any alterations to the existing windows nearest this property. They also express concern about extra noise from the use of the temporary building in the evening. This will not alter as a result of this proposal but the matter can be considered in the future in the context of any subsequent planning application (or enforcement action).

Parking/highway safety

The UDP parking standards require 2 parking spaces per classroom, plus 4 cycle lockers per car space. The number of classrooms or rooms available for teaching has been given as 33 but was stated in the previous application (07/1476/FL/W3) to be 35, which excludes library, dining and music practise rooms. This latter figure would result in a parking requirement in accordance with UDP maximum standards of 70 spaces for the existing school plus eight additional spaces for the application proposal.

There is a significant shortfall in the parking available for the site. Residents have highlighted the difficulties of parking in the vicinity of their homes and also that inconsiderate parking is an issue. The Park Tavern car park is said to be well used but with occasional queues to exit onto Broadway. Despite this provision, parents regularly drop off children outside the school.

Eight spaces are required for this proposal. One space, on the frontage of no.33 could be used by the school but this would have to be restricted to a particular user within the school to avoid competition for the space with an adverse effect upon highway safety.

It is only appropriate to consider increased demand for parking **as a result of this proposal**, but the significant shortfall in parking for the site as a whole is clearly relevant to the present decision. The proposed changes would worsen the parking situation for the school which is already unsatisfactory. In addition to increased numbers of children the application proposes the increase to take place in the nursery. Children of this age are the most likely to be brought to school by car and cannot just be dropped off. These children are likely to require longer stay parking than more independent older children and could reduce the availability of spaces for shorter stays.

Objectors are concerned that some parents park in an inconsiderate or illegal manner and other parents or staff occupy on-street parking that is needed by residents of the area who have no alternative parking. Broadway North will become a red route and the streets opposite the school have restricted parking and many of the houses have no alternative but to park on-street. Parking derived from the red route scheme cannot be counted as these are essentially for public use.

Residents indicate that parents and staff parking compete with residents for parking space. The lack of a defined parking area for the school will result in parents and staff dropping children off in unsuitable locations, parking illegally or manoeuvring in proximity to the red route and narrow residential streets, to the detriment of highway safety.

Given these circumstances it is not considered that this development, which would increase the parking requirement of the school with a detrimental effect upon highway safety, could be approved on its face value.

However, the school has been working on a Travel Plan with the assistance of the Council and this has now been submitted as part of this application. In order to effectively support the application, the Plan need only make modest improvements in travel patterns, sufficient to compensate for the 8 extra car spaces created by the application. It is likely that such improvements could be achieved in other parts of the school, not the nursery.

The Travel Plan sets out targets for a reduction in single car journeys and an increase in most other means of transport, allied to a growth in school size to 400 pupils. To encourage compliance/delivery of the targets the Plan proposes that, if the targets are not met, the intake of the nursery will be reduced by 5% in the following year.

This is broadly acceptable.

However, in addition to the Travel Plan and its targets, the school needs to use the pub car park, or its equivalent, to ensure that there is parking for the parents of nursery pupils who would be less able to take advantage of other means of transport,

The school does not currently have a legal agreement to park on the pub car park.

For the targets set out in the Travel Plan to be monitored and delivered, and the parking on the pub car park to be secured, or a suitable replacement, it is necessary for a Section 106 Agreement to be put in place.

It is recommended that this requires:

The School Travel Plan to be monitored and the results reported to the Local Planning Authority

The school to deliver the target for the reduction in single car journeys and an increase in most other means of transport as set out in the Travel Plan

In the event of the school failing to deliver this target, the intake of nursery pupils in the following school year must be reduced by 5%

The school demonstrates an entitlement to use 30 parking spaces, and a restriction to nursery parent use, at a suitable location (i.e. close to the school) and if this is lost

A commitment to either find a 30 space replacement car park at a suitable location within 6 months or commit to a suitable penalty

The 'penalty' is a requirement to cease taking new pupils for the nursery from that point. A total prohibition on new nursery entrants is seen as relevant because this is the parking element most likely to be needed and least easy for the Travel Plan to discourage. It is made particularly relevant as the trigger is the total loss of this car park (presently available to the school) rather than the loss of, say, an increase in the parking allocation.

On a more modest issue, there are two car spaces within no.33, but one of these spaces (to the rear of the building) could not properly be used without affecting the amenity of no. 35.

The proposal would also effectively lose one space within the curtilage of no.35 (again at the rear of the building) since it would be hazardous to the schoolchildren in no.33 if it was to be used during school time. This would reduce the parking available to this dwelling to one space on the frontage; which is below the Council's maximum standard of three spaces for a four bed dwelling. The area of the presently shared drive could be used to provide replacement parking. As 33 and 35 are both in the ownership of the school, it would be possible to condition this, even if the school subsequently sells the property.

Summary of Reasons for Granting Planning Permission

Recommendation: Grant Permission Subject to Conditions and a Planning Obligation



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

REASON FOR BRINGING TO COMMITTEE: Major Application

Application Number: 08/1818/OL

Application Type: Outline Application

Applicant: Mr Mark Horsley

Proposal: Outline application (considering access only) for up to 90 residential units and associated works comprising, 9 two bedroom flats, 10 two bedroom bungalows, 34 three bedroom houses, 21 four bedroom houses and 16 five bedroom houses; 6 low carbon dwellings; vehicular and pedestrian access from Richards Street only.

Ward: Bentley & Darlaston North

Recommendation Summary: Refuse

Case Officer: Andrew Thompson

Telephone Number: 01922 652403

Agent: Michael Robson

Location: LAND BETWEEN RICHARDS STREET AND WHITWORTH CLOSE, DARLASTON, WS10 8AJ

Expired: 23/06/2009



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Application and Site Details

The application site is located on land between Richards Street and Whitworth Close opposite an existing area of open space to the east.

The site is on the edge of a large area of Core Employment Land, which has also been designated as part of the Darlaston Strategic Development Area. The site and its surroundings are strongly industrial in character, to the north and east. Immediately adjoining to the east is Manheim Car Auctions.

To the south there are residential properties but beyond this (to the south-east) is more employment land. Residential development is found primarily to the southwest and northwest of the site. Darlaston Town Centre is approximately 800metres to the southwest.

The site comprises two large warehouse buildings surrounded by a large area of hard surfacing used for vehicle manoeuvring and car parking on a total site area of about 2.44 hectares. Within the site are hedgerows and scattered trees have been planted around the boundaries of the site with a few areas of lawn and ornamental shrubs to the east of the buildings.

Along the southern boundary of the site is a raised embankment where trees have been planted. The height of the embankment is perhaps 4-5 metres above the surrounding neighbourhood, although its height is not constant. This wooded area separates the houses in Richards Street, Florian Grove and The Flatts from the industrial and commercial activity within the site and was constructed to achieve this.

The application is in outline with only access being considered at this stage. All pedestrian, cycling and vehicular access points are from Richards Street, and include a home zone area.

The application includes 6 zero energy dwellings and the applicant has committed to building the remainder of the development at Code for Sustainable Homes 3 stars standard.

The development description indicates a mix comprising: -

- 9, two bed flats
- 10, two bed bungalows
- 34, three bedroom houses
- 21, four bedroom houses
- 16, five bedroom houses

Indicative plans have been submitted showing how this quantum of development would be accommodated on the site. These plans show the removal of part of the embankment and landscaping to the southern boundary (this would be mandatory given the proposed number of dwellings) and would involve the closure of the existing emergency access point on Richards Street.

Following concerns raised by Officers, the applicant has superseded these with additional indicative plans showing 84 dwellings and a housing mix comprising:-

- 9, two bed flats
- 9, two bed bungalows
- 32, three bedroom houses
- 18, four bedroom houses
- 16, five bedroom houses

In addition to plans the application is accompanied by a range of information.

The applicants are aware of the designation of the site as being within a Core Employment Area (Policy JP5) in the UDP. The objectives of the JP5 designation are explored below, but in essence the land is of strategic importance for employment purposes and the policy seeks to reserve the area for core B Class employment uses). The applicants have made submissions on the subject. Their case to justify the departure is that the following issues are material in overcoming the planning policy for the site:

1. The site constraints militate against using it for industry
2. The Government is increasingly recognising the potential contribution of employment land towards meeting housing targets
3. There is no prospect of the site being used in the future for employment related uses.
4. The proposal has good accessibility by a choice of means of transport
5. The dwellings would have excellent sustainability credentials
6. Whilst this cannot be secured now, the applicant would seek to provide a higher level affordable housing (at 70%)
7. The housing mix being agreed with Housing Strategy Officers and meeting a housing need.
8. Local residents support the proposals.

The applicant considers that these together outweigh the JP5 designation as core employment land.

Also in support of the application the applicants have submitted a Development Summary which surmises:

Future employment redevelopment use is restricted by poor building and site layout, site location with respect to proximity to the M6 corridor, residential neighbours, enforcement notices and planning restrictions, as reiterated by the District Valuer in his independent report

The sustainable residential redevelopment proposals:

- has support from PRG and Walsall Housing Strategy, and the District Valuer concurs with viability
- would be a significant benefit to the local community in terms of economic advantage to Darlaston Town Centre
- creates more jobs and training than the current use
- in line with, and moving the objectives forward of, key national, regional and local sustainable development policy as well as key standards
- satisfies a specific housing need in the Borough
- offer a diverse choice of homes and tenure for existing and new residents
- include low carbon usage homes, creating a flagship development for Darlaston.
- reuses a dying site, which will become vacant shortly, possibly resulting in a derelict site, which would blight the surrounding residential area in the future
- improves the quality and use of Owen Park and local recreation facilities, also creating attractive new amenity spaces for existing and future residents
- is suitable for pedestrians, cyclists and vehicles travelling to and from the town centre -
- will be regarded as great example of brownfield regeneration in Walsall

Planning Statement

- The site is in a sustainable location.
- The proposals should not be considered solely on the employment land designation.
- There is a need for housing sites in the Borough.
- The site is not needed for employment uses
- Improves the environment
- Provides potentially a higher level of affordable housing
- A sustainable scheme

Marketing Assessment

- The site has been extensively marketed
- No interest has been forthcoming
- Planning constraints make the site unattractive
- Impact of Manheim Car Auctions (high levels of traffic on auction days)
- Distance from the motorway and poor profile
- The specialist nature of the buildings and the position on the buildings on site restricts the way in which the buildings can be used. Examples quoted include:
 - i) the long, thin design of the buildings,
 - ii) the number of roller shutters,
 - iii) layout of buildings restricts movement on the site,
 - iv) limited offices and toilet provision in the southern warehouse
 - v) too many offices in the northern warehouse
 - vi) height clearance under the offices in the northern warehouse is only 3.8m which is too low.

Investors are deterred by the poor quality of the buildings and that redevelopment is unattractive due to the poor access and the location on the periphery of the Darlaston Road network which could take 15-20 years to improve.

The Marketing Assessment considers that onerous planning conditions, and the layout and configuration of the buildings have limited appeal, and the location has limited appeal due to distance from the motorway and the impact on the motorway.

Report on Viability of Industrial Land

The report considers the continued use of the premises, and redevelopment for a large single operator, and supply and demand within the region, and current market conditions. The applicant considers that there is adequate supply in the Borough for the next five years and conclude:

The site is a very secondary location not recognised by tenants seeking industrial/warehousing space. The existing planning consent is far too restrictive to allow a suitable tenant to operate commercial business

The site is close to existing residential dwellings and is therefore not ideal for its existing use. The existing buildings are too long and thin and will only suit a very selective audience. The building would not divide well and the costs of carrying this out produce a negative value, therefore this is not viable.

The site's remediation costs make the redevelopment of the site unfeasible.

The current market conditions are in a downward cycle due to the current economic recession, and tenant demand is in decline for industrial space.

Supply of newer better located buildings is at a high with 5.1 million sq ft standing stock currently available.

The investment market for commercial property has suffered major decline
Therefore the report considers that given the purchase price paid by the applicants the most viable option to dispose of the property is to pursue an enhanced planning permission for an alternative such as residential.

Other submitted information

The submitted Design and Access Statement sets out the locational aspect of the proposals, design considerations and how the applicant has sought to address these issues.

The habitat survey aims to demonstrate the ecological aspects of the proposals whilst concluding that further study is required to assess the full ecological potential of the site. The application also includes a tree survey.

The Flood Risk Assessment seeks to demonstrate that the development will not result in an adverse impact on flood risk.

The Geo-Environmental Investigation document seeks to assess and evaluate the contamination of the land and provide responses and recommendations to the issues raised for construction.

An Air Quality Assessment assesses issues in particular in relation to the impact from neighbouring industrial uses.

The submitted Noise Assessment seeks to assess the impact and relationship of the proposed residential development against neighbouring industrial development and suggesting appropriate mitigation methodology.

A Statement of Community Involvement shows the level of pre-application consultation that has been undertaken. This includes the presentation of the scheme to the Council's Development Team, a supportive response from local residents following a consultation event and a letter drop to the local area.

The applicant has also submitted a Sustainability Statement and Statement on Zero Energy Dwellings assesses the location of the site, the provision of zero energy dwellings and the relationship to the carbon footprint of the site in terms and the value of the proposed development in terms of providing affordable housing and the built and natural environment.

The submitted Community Art Competition Report suggests a sculpture in the nearby Owens Park in place of public art provision. Also submitted is a Transport Assessment assessing the impact of the proposals on the local highways network.

Relevant Planning History

BB12663R – Outline application for the development of 15,000sq ft buildings for Class III or IV Use, and the remainder of the site (excluding an area of open space) for Class X Use at Land fronting Richards Street – Granted 19/07/1979.

BB14541R – Outline: Vehicle maintenance workshop and area transport depot – Granted 28/02/80

B.C.15137 – Reserved Matters to BB14541R: Vehicle maintenance workshop and area transport depot – Granted 3rd April 1980

BCW310 – Temporary Change of use from B2 to B8 – Granted 28th August 1992.

BCW470 – Permanent use for B8 storage and distribution (continuation of previous temporary use for B8 granted under BCW310) – Granted 24th April 1995

BCW571 – Change of use to Class B8 storage and distribution - Granted 20th September 1996.

BCW612 – Variation of condition nos. 7 & 11 of planning permission BCW571, relating to the location of loading/unloading and opening of roller shutter doors – Granted 27th June 1997

Relevant Planning Policy Summary

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

Adopted Unitary Development Plan

JP5 and 4.4 – seeks to safeguard core employment land for employment uses

GP1: Supports the sustainable location of development.

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

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

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

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

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

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

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

ENV36: seeks public art contributions to development

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

6.3 and H3: encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved and there is no overriding need for the land to be retained for employment or any other use.

H4 sets out the Council's policy to deliver affordable housing in the Borough

H9: Housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites, however higher densities are encouraged in locations close to town and district centres and in locations with good accessibility to a choice of means of transport.

7.1: Seeks to promote an efficient highway network;

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

T12: seeks to achieve satisfactory access to public transport facilities and that residential development should not be more than 400m to a bus stop.

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

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

Flats with communal parking - 1.5 spaces per unit.

LC1: seeks to retain and enhance existing urban open spaces and readdress any deficiencies in the provision or accessibility of these. Residential developments will be required to make financial or other contributions, which will enable the provision of new, or the improvement of existing urban open spaces.

8.8: Residential developments will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved

educational facilities or other forms of social and community infrastructure the Council will require developers to make a financial contribution to the costs of providing these facilities

Supplementary Planning Documents (SPDs)

Designing Walsall SPD

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

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

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

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

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

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

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

The SPD also amplifies guidance on how public art contributions will be sought from development.

Natural Environment SPD

Policies N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees. Protection is proposed for protected species, and important wildlife, flora and fauna habitats. Discussed in further detail later in this report.

Affordable Housing SPD

Details the need for affordable housing in terms of the Borough's requirements and how this should be brought forward in developer contributions. The document has to be read in conjunction with the Council's Adopted Housing Needs Study.

Urban Open Space SPD

Amplifies the Council's policy for open space provision in the Borough and the calculation method for developer contributions

Education SPD

Amplifies the Council's policy for education provision in the Borough and the calculation method for developer contributions

Healthcare SPD

Amplifies the Council's policy for healthcare provision in the Borough and the calculation method for developer contributions.

Walsall Local Development Framework

Core Strategy

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. Submission to the Secretary of State is anticipated in late 2009 following further public consultation. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of recent national and regional planning guidance

The site is located in Regeneration Corridor 6 which identifies the broad area for investment to create high quality employment (110Ha). There are potential highway improvements to Darlaston Strategic Development Area along Bentley Mill Way to improve access to Junction 10 of the M6 with about 110ha for local employment.

In addition the Council are currently undertaking their Employment Land Assessment (ELA) and Strategic Housing Land Availability Assessment (SHLAA) which will form the evidence base

Regional Spatial Strategy for the West Midlands (RSS11)

The Regional Spatial Strategy has been revised and republished on 15th January 2008 to reflect the first Phase of Review. The Strategy seeks to provide broad regional directives and recognises the role of the regeneration of the Black Country in the overall performance of the West Midlands Region.

The focus for the Black Country is to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

- a) to reverse out-migration accommodating within the Black Country all of the generated household growth from 2011 and meeting at least the identified levels of housing provision;
- b) to raise income levels raising demand and household incomes (average earnings, GDP per head and reducing unemployment) to the UK average by 2033;
- c) to create an inclusive and cohesive society within the Black Country removing barriers to opportunity and changing the socio economic mix by increasing the proportion of social grades A and B to match the national profile by 2033 or earlier; and
- d) to transform the Black Country Environment by protecting and enhancing the sub-region's environmental and heritage assets and biodiversity.

As part of the ongoing review of the RSS to produce regional targets to 2026, the RSS Phase Two Revision Preferred Option that has recently been reconsulted on and will be submitted to the Secretary of State indicates that between 2006 and 2026, Walsall should be looking to accommodate the annual housing land supply requirement for Walsall (amplified by Policies CF3 and CF6) (based on the adopted RSS) at a minimum of 500 dwellings per year until 2011 and 825 dwellings per year between 2011 and 2013. The revised RSS (Phase 2 revision, incorporating the Nathaniel Lichfield and Partners additional assessment) suggests this figure should then rise to 840 dwellings for the next five years.

Policies UR1 and UR1A indicate that urban renaissance will require an integrated approach to improving the urban environment, housing choice, access to jobs, transport efficiency, the distinctiveness of centres, and service delivery. To tackle these issues holistically requires integrating land-use decisions with other activities (such as education, health, community safety, leisure and environmental services) and joint working with others, including residential and business communities.

Policy UR1B, states

A) Within the growth corridors the Black Country Joint Core Strategy and Local Development Documents will define the Employment Land Investment Corridors [the application site is located in one of these areas] shown on the revised spatial strategy diagram.

B. Within the growth corridors and the Employment Land Investment Corridors, local authorities through the Joint Core Strategy and LDDs will:

- (i) identify and protect those sites most suitable for employment purposes to ensure the provision of subregional employment sites (10ha - 20 ha) and a portfolio of employment land,*
- (ii) identify sites, including through the transfer of employment land, for housing and mixed uses to ensure that the housing requirements in policy CF3 are met,*
- (iii) work towards the balanced development of both uses, and*
- (iv) produce water cycle strategies to ensure the quantity and quality of surface and ground water produced by developments does not exceed the capacity of supply and treatment infrastructure.*

Policies CF1, CF4 and CF5 seek to ensure that residential development is of a high standard and delivers affordable housing that meets local needs.

Policy PA1 (part A in particular) directs that Economic growth should, wherever possible, be focused on the Major Urban Areas (MUAs), with an emphasis on creating greater opportunities for development and support for existing economic activities within agreed regeneration areas. Policy PA2ii) also directs that in order to encourage urban renaissance and help reverse long-standing trends of decentralisation of economic activity and population and to encourage the regeneration of economies, policies and programmes of local authorities, AWM, local economic partnerships and other agencies should focus investment within the Regeneration Zones of the North Black Country and South Staffs (Future Foundations with this area being identified as an “Employment Land Investment Corridor”).

Policy PA6 part C and D are also important C. As part of the review of development plans local planning authorities should review all existing employment sites within their area to establish their continued suitability for employment development. This assessment should take account of:

- i) the physical suitability of the use of the land for employment purposes;
- ii) a realistic assessment of the market attractiveness of the site for employment purposes, irrespective of the attractiveness of the land for alternative, higher-value uses;
- iii) whether the site is or can be served by high-quality public transport; and
- iv) the likely level of employment land required over the plan period.

D. Where the above review establishes that existing employment sites have no realistic prospect of development under current market conditions in their current physical state within the plan period, careful consideration should be given to:

- i) what remedial action/infrastructure works will be required to justify the retention of the site within the portfolio; and
- ii) identification/re-allocation of the site for an alternative use or uses.

QE1, QE2, QE3, QE7, QE8 and QE10 seek to ensure high quality, sustainable design taking account of any natural environment interests and ensuring the development takes account of local surroundings and its context.

EN2 encourages proposals for the use of renewable energy resources, including biomass, onshore wind power, active solar systems, small scale hydro-electricity schemes and energy from waste combustion and landfill gas.

T2, T3, T4, T5 and T12 seeks to reduce the need to travel and promote sustainable modes of transport, have appropriate regard to car parking and transport movement and seek contributions to identified public transport projects from developers.

National Planning Policy

(The terms Planning Policy Statement and Planning Policy Guidance Note are abbreviated to PPS and PPG respectively).

PPS 1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted." Paragraphs 33 to 39 also state the importance of good design. A supplementary document has been published on the need to address climate change through the planning system.

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

PPG4 seek to encourage a modern working environment and to encourage enterprise and innovation. The role of IT and new technologies are important considerations.

PPS9 sets out planning policies on protection of biodiversity and geological conservation through the planning system. This should be read in conjunction with the associated Best Practice Guidance and Circular 06/2005 (Biodiversity and Geological Conservation -statutory obligations and their impact within the planning system) which requires survey work for protected species, if required, to be undertaken before planning permission is granted (paragraph 99).

PPS12 guides on Local Spatial Planning. PPG13 on transportation seeks to minimise the use of the car by the sustainable location of development.

PPS23 and PPS24 consider the requirements of development to take account of pollution, contamination and noise.

PPS25 seeks to ensure that appropriate safeguards from flooding are incorporated into new development. The use of Sustainable Drainage Systems and other methods to reduce rainwater runoff are encouraged.

Circular 02/99 (Environmental Impact Assessments), 07/99 (Departures and Development Plans), Circular 05/2005 (Planning Obligations) are of relevance (the latter with regard to the appropriate level of planning contributions that will be sought).

Consultations

Walsall Regeneration Company (WRC) – Object – despite several meetings and discussions, the application is not supported with a robust evidence based justification – reinforced by reference to a properly conducted up to date marketing campaign that provides a clear basis for a decision to take this site out of employment use at this juncture.

At the same time we are very aware that housing led regeneration within Darlaston is likely to be a significant driver for the town's future prosperity. The Council are preparing their Strategic Regeneration Framework (SRF), with a clear focus on housing and town centre revitalisation. We are very much in support of a high quality housing offer as part of the holistic regeneration formula for building and reinforcing a higher quantity and quality of skills and employment opportunities for Darlaston. The SRF overlaps with the WRC's own work for the Darlaston Strategic Development Area which is also not yet at a mature stage. The MarCity evidence base does not support the aims of this initiative.

The WRC are also concerned that the proposal for delivery of 6 dwellings to a high standard of environmental sustainability (although laudable) may not be practically achievable. With only a handful of such dwellings built in the UK, it is a standard that is technically and financially extremely challenging to the industry. In the circumstances we would consider that a greater number of dwellings built to Code Levels 4 or 5 may be more deliverable and achieve an overall higher reduction in the carbon footprint of the development.

Delivery and Development Team – Object - Having considered the application, we do not believe that a strong enough justification has been provided for the loss of the employment land. There is no evidence of a recent marketing campaign to test the viability of this site as employment land, contrary to the advice given in pre-application meetings.

We also consider that the proposal to build 6 dwellings to Level 6 accreditation under the Code for Sustainable Homes may not be practically achievable and suggest that a lower level such as 5 or 4 would be more likely to be delivered. These lower levels are still considered to provide a high level of environmental sustainability and would be welcomed if the site were to eventually be developed for residential purposes. Similarly, the proposed bungalows would also be supported and welcomed.

The Whitworth Close site also falls within the boundary of the Darlaston Strategic Regeneration Framework (SRF) study area. The SRF study will focus on housing-led regeneration and town centre revitalisation, and will also consider the long-term sustainability of some of the employment areas in Darlaston. This study has only just commenced, therefore the final recommendations of this study will not be available until early 2010. If this application were to be resubmitted in 12 months time after the completion of the SRF, and depending on the conclusions of the SRF study, there may be an improved case for the development of this site for residential use.

In addition, consultants have been appointed to conduct a Strategic Housing Land Availability Assessment (SHLAA) for Walsall, whereby any site in the Borough can be considered for residential use in the future, including core employment land. The Whitworth Close site should be referred to this study if it has not already.

Economic Regeneration - Object in relation to the impact that residential development could have on neighbouring industry. Housing developments in close proximity to employment sites can cause severe disruption to operations and exacerbate disincentives to investment.

Given the current scarcity of good quality employment sites in Walsall, we would prefer to explore opportunities to stimulate commercial development rather than release employment land for residential.

Strategic Policy - Recommend refusal of this application, as contrary to JP5, and (potentially) T12, and taking account of PPS3/Employment Land Guidance Note; PPG4; the RSS and the JCS.

With regard to Core Employment Area South of Heath Road, the amount of vacant space is notable. The site including the current buildings have been marketed for over two years. The lack of success reflects the poor condition of the existing buildings, the restricted access pending the completion of the new canal bridge on Bentley Road South and the current economic situation.

The larger of the vacant premises in the north west of this area has recently been put on the market by the administrators of the former occupier. The adjacent premises, being marketed by GVA Grimley, have been marketed for just over four weeks, and the market response has been good with the guide price exceeded. A potential buyer has been found, with the adjacent land amongst the bidders. We would suggest this bidder might be the TL Harvey Motor Salvage Business. If this is the case, such a purchase is of significant interest in the context of the recent purchase by Manheim Car Auctions of the nearby former British Waterways site, which also fronts on to Heath Road.

Such a pattern of vacancies and acquisitions suggests the trajectory of this employment area is towards the two key majority land holders, both space extensive operations of low employment density, enhancing their business bases in the area. This pattern is of particular note as we understand the aim of protecting the integrity of this employment area is not necessarily about protecting the component sites for their current use, but also about not prejudicing it's redevelopment as part of a comprehensive regeneration approach to the whole employment area. The acquisitions activity, a de-facto site assembly, by these two key occupiers suggests a long term vision routed in the individual operations of the respective businesses, which would militate against a wider redevelopment strategy involving the wider employment zone.

Housing Strategy - The scheme is supported subject to:

Planning viability

If planning policy issues are resolved and the scheme receives planning permission, then able to support it as a HCA (Homes and Communities Agency) grant funding application. However it should be noted that the scheme does not contribute to the key regional or local spatial priorities. The Council's local spatial priorities being towards housing development in Moxley, Goscote, Brownhills and Walsall Town Centre.

Housing mix

The property type and size mix is excellent and meets Walsall's Housing Need and Strategic priorities for bungalows and larger family homes. The overall tenure mix is agreed, but the detail may be subject to slight alteration. Support is also dependant on the provision of the 6 zero carbon homes and at least the 10 bungalows being fully wheelchair adapted. This has all been agreed with MarCity prior to the funding submission.

Grant rate

The grant rate being achievable for the HCA in the context of not adversely affecting the amount of funding remaining for Walsall Council priorities.

District Valuers Service (DVS)

The DVS have been instructed to consider two aspects – the current viability of the employment land and the S106 offer and commercial viability of the proposals. These are contained within the main body report. However broadly:

In terms of viability of employment use and marketing of the site.

The report of the DVS notes the current state of the market and that their own assessment is only valid for a short period due to the current state of the market and that the report does not set aside the long term planning aspirations of the Council or any regeneration strategy being progressed and the DVS Report is only valid for a period of three months.

The overall conclusion is that in the current climate the site would be difficult to develop for employment uses in the current market and the applicant has demonstrated that this is the case. However, regeneration of the area, improvements to the road system (which are planned) or relaxing of planning conditions may result in a viable scheme coming forward in the future as the market recovers.

S106 contributions and development viability

This report of the DVS considers several issues relating to rental income generated, the purchase price and the viability of a residential scheme. The report considers the amount of S106 contributions sought by the Council against those offered by the Developer with the report concluding that whilst the full level of S106 contributions cannot be met in the current market, a higher level than that offered (£145,000) could be achieved.

Transportation – No objection subject to conditions

Pollution Control (Contaminated Land Team) no objection to this development proposal subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues on the site associated with the former historical uses i.e. mining and quarrying, unknown filled ground and road haulage. Conditions to address these concerns have been provided.

Pollution Control Scientific Team – No objection subject to conditions.

Natural Environment Team (Nature Conservation) – No objection in principle however the following aspects should be considered.

Nature conservation.

The site contains a small woodland and several tree and hedge lines which link into the wider green infrastructure in the neighbourhood. The small woodland on an embankment to the south of the site has recently been felled but is already regenerating. The existing trees and woodland should be properly retained within any development. The revised layout shows the majority of this southern woodland being retained.

There are no protected species issues.

I am not convinced that the indicative landscape and ecological proposals are feasible as the potential space for them is very limited. Not all proposals are shown on the indicative landscape plan which does not give much confidence that the treatments can be incorporated. However, this can be resolved at reserved matters stage.

Landscape.

Of concern is the proposal to construct housing inside a core industrial area. The boundary treatment proposed is inadequate compared with the substantial embankment and planting which currently separates the two uses. It is possible that the future of dirty or noisy industrial uses on the adjacent sites are under threat because they are incompatible with adjacent residential uses.

The eastern and northern boundaries are of particular concern because important screen planting is proposed in relatively narrow beds or where it may cause future nuisance. However, this can be resolved at reserved matters stage.

I feel that this is a site where housing could be feasible with effective and substantial boundary landscaping. Reducing the number of units would more easily resolve the landscape issues.

Natural Environment Team (Trees) – No objections to the application in principle subject to the detailed tree retention issues being addressed through the Reserved Matters submission.

Centro - Whilst existing infrastructure is not affected by the proposal the site does not meet the Passenger Transport Authority's minimum standards for accessibility by public transport. The nearest bus stops to the development are over 400 metres from the site on The Green and the most frequent route, the 333, only provides 2 buses per hour Monday to Saturday in the peaks and daytime, with an hourly service at all other times. A residential travel plan and developer contributions are required to address this shortfall. In addition the site is in walking distance to the proposed 5W Metro stop at Darlaston Green and therefore should contribute towards the delivery of this infrastructure.

Environment Agency – No objection subject to appropriate conditions.

Built Environment Team (Urban Design) – The application is in outline with all matters reserved and therefore comments to the layout will need to be addressed at detailed stage. The proximity of the industrial uses immediately to the north of the development site causes concern for the impact upon the proposed residential properties next to the boundary. The relationship to the existing embankment is unsatisfactory and the indicative layout has failed to detail the site's constraints with the site levels needing to address this in detail. As such it is the view of Urban Design Officers that the proposals have yet to conclusively demonstrate that the quantum of development can be accommodated on the site but that comments of the Natural Environment Team Officers are noted.

In terms of more detailed consideration of the indicative layout there has been no change in our previous comments. The scheme lacks a sense of place or local distinctive and whilst this could be improved to a degree by high quality housing architecture and public realm, the fundamental lack of innovation in the layout design would undermine achieving this. The scheme relies on numerical dimensions rather than innovative and high quality design that draws in particular on the principles of character, legibility and high quality public realm.

Education - The level of surplus places in local primary schools is above 10% so no contribution is required for this phase. However, the level of surplus places in local secondary schools is below 10% and therefore we do require a contribution towards secondary school provision.

The contribution calculation is sensitive to the type and mix of dwellings to be built. It involves combining the expected pupil yield for the development by a Building Cost Multiplier provided by the DCSF at the start of every financial year. Based on current prices and calculation methods and within the Adopted Supplementary Planning Document would seek a contribution of £226,642.30. based on the mix shown on the submitted indicative plans.

Fire Service – There should be vehicle access to within 45m of all points within each dwelling.

Access and Disability Officer – No objections

Building Control (Safety) – No objection subject to an informative requesting that Building Control be made aware of any demolitions

West Midlands Police Authority – based on the indicative plans seeks a contribution of £195.68 per household created, equating to a total sum of £22,307.42. The development should meet Secured by Design standards.

Green Space – Based on indicative plans submitted with the application a sum of £210,642 would be sought in line with the Council's Adopted SPD

Healthcare – Based on indicative plans submitted with the application a sum of £116,827.20 would be sought in line with the Council's Adopted SPD

Public Art – This development would be subject to a public art contribution of £350 per dwelling which totals £31,500 via a Section 106 contribution. No on-site public art is being sought by the council so in accordance with Policy DW9 and Appendix D of Designing Walsall SPD and the emerging public art framework the full Section 106 amount will be sought. The SPD promotes a strategic approach to public art provision through community arts, art in public spaces and art as public places and public realm. The accumulation of Section 106 funds from developments across the Darlaston area will allow more thoughtful and effective art projects to be undertaken rather than the installation of individual artworks on separate developments across the same geographical area. For these reasons, whilst the reference and commitment to public art in the planning submission is welcomed, the proposed approach to provide it all on-site at Owens Park is not supported as this is seen as contrary to the distribution of funds as outlined in Designing Walsall SPD, which will be reinforced through the emerging public art framework.

Public Participation Responses

Darlaston Strategic Regeneration Framework Project Reference Group (PRG) – Support residential development on this site despite being contrary to UDP Policy. The site is considered by the local community as being under utilised and the potential for an alternative and viable use should be strongly investigated, and where possible realised. The PRG was keen to support the development and recommend that it should take place as soon as possible and that this should be enforced by condition.

The development should continue to consider an environmentally sustainable approach as a) a method of leveraging funding and b) as a benchmark for an environmental focus for future development within the wider Darlaston area (including residential and town centre development under the SRF work and employment led regeneration under the WRC within the Darlaston Strategic Development Area).

In relation to the previous amended plans:

Manheim Car Auctions maintain their view to the proposals on the grounds that houses on the eastern boundary will be adversely affected by the operations and that the buffer strip shown should be increased to at least 5 metres as the preparation and movement of vehicles occurs throughout the opening hours of Manheim Car Auctions (which is unrestricted). Also concerned that the proposed cul-de-sac may result in use by residents and conflict in commercial and residential traffic with users of the car auction site using the development for parking (it is noted that this access would be closed off by the proposals).

The applicant has forwarded the following comment from the neighbouring resident who objected to the original plans:

"Thank you for confirming that the replantation of a range of trees will take place to the rear of my own property. Based on the latest landscape layout, which shows 90 units and none that are positioned directly along the borders of my land, I can confirm that we lift our objection to the principle of residential development. However, we wish to reserve the right to object at the reserve matters stage should we wish."

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

Determining Issues

- Core Employment Policy and Employment Land Supply
- The potential contribution of housing land towards meeting housing targets and meeting housing need
- Northgate Appeal Decision
- The prospect of the site being used in the future for employment related uses and the Darlaston Strategic Development Area (DSDA) and employment land viability
- The dwellings would have excellent sustainability credentials and has good accessibility by a choice of means of transport.
- The site constraints
- Ecology, landscape and tree issues
- Vehicular Access and Pedestrian Access points
- The indicative layout
- Affordable Housing, Education, Healthcare, Open Space, Public Transport, Police and Public Art Contributions

Observations

Core Employment Policy and Employment Land Supply

The central issue to this proposal is that the application site is subject to Policy JP5. The policy seeks to protect our best employment land and states:

“(a) The core employment areas are shown on the Proposals Map. These areas will be safeguarded for core employment uses, permissions for which may be subject to conditions to prohibit change to other uses, such as Class B1(a) offices. Proposals for other uses will only be permitted where it can be demonstrated that:-

- I. A need would be met which could not be satisfied elsewhere in the Borough; or*
- II. The range and quality of employment opportunities would be significantly increased.*

(b) When windfall sites or buildings in core employment areas come forward for reuse or redevelopment they will normally be safeguarded for core employment uses according to the above policy.”

Taking into account objections of Strategic Policy and Economic Regeneration, together with the WRC and Delivery and Development Team, and balanced against the comments of the PRG, the importance of keeping this site in employment uses are highlighted. The presumption is to retain the site in employment use unless there is a material consideration that outweighs this retention. The applicant's case to justify the Departure has been set out.

GVA Grimley as part of the Joint Core Strategy evidence base highlighted that the required development path for the Black Country economy is based on a restructuring towards, service sector, office based activities and the comparative advantage that the location has in relation to logistics. The GVA assessment also highlighted the need for a cautious approach to the release of employment land.

The GVA Grimley review also states that Walsall will have a deficit in employment land by 2026.

Walsall's overall deficit would be at best 6 -9ha at 2026 but after the sensitivity analysis is applied – the worst case scenario - this could rise to between -36 and -62ha.

The Black Country supply is a part of the Joint Core Strategy process and including the calculation of the industrial land supply means that Walsall and Wolverhampton will have to help meet the overall Black Country supply. This deficit could be between 289ha and 400ha.

The applicant does not argue that the land falls within Core Employment policy and that the proposals would be a Departure from UDP policy. The test is whether or not there are any special circumstances to this case that would justify the change of allocation to residential use. Consideration of such issues is discussed below.

The evidence base urges a cautious approach towards the release of employment land and this is consistent with the robust protection of Core Employment Areas.

The proposals would fail in this regard and negatively impact on the supply of employment land in the Borough and the Black Country as a whole.

The potential contribution of housing land towards meeting housing targets and meeting housing need.

Whilst not part of the applicant's case, one of the principle issues that would justify the release of land would be if the Council was not meeting its housing targets but there is no housing land supply requirement.

In assessing the next 5 years supply (as required by PPS3) the annual requirement (based on the adopted RSS) is a minimum of 500 dwellings per annum until 2011 and 825 dwellings between the years of 2011 and 2013. The revised RSS (Phase 2 revision, incorporating the Nathaniel Lichfield and Partners additional assessment) suggests this figure should rise to 840 dwellings per annum for the next five years.

Capacity of current known supply (allocations and commitments) is 11,329 dwellings in Walsall. This is discounted against risk of non-delivery (75% on commitments and 65% on other sites) to a level of 7,990 dwellings (known as the constrained supply).

The five year requirement in the current RSS is 3,150 and in RSS Phase Two Revision Preferred Option is 4,200 (gross equivalent). Therefore both these figures are significantly exceeded.

There is a strong argument for a windfall allowance in advance of a UDP replacement. Based on the last 6 years (2002-2008) Walsall has approved 7,885 dwellings at an average of 1,314 per annum. Using this average for the next 5 years and, applying a higher risk of non-delivery (40% completion rate), this could take the constrained supply up to 10,618 dwellings.

There is also a need to evaluate building patterns over the past years and whether at the current rate of building (i.e. over the past decade) a higher rate of building has taken place.

Monitoring data shows that development (i.e. completions) in Walsall has peaked in two years – these being 1997-1998 and 2004-2005 - at approximately 800 dwellings (811 and 793 respectively). However, in other years this figure has dropped to as low as 327 in 2001-2002. The average completion rate for the last 11 years (i.e. 1st April 1997 to 31st March 2008) is 589 dwellings (6,482 total). Removing the peak of 1997-1998, i.e. considering the last 10 years, this figure drops to 567 per annum.

Therefore based on the build rate for the past 10 years Walsall's current commitments will give a housing land supply of 19.9 years (based on unconstrained figure) and 14.1 years based on the discounted figure. Including a windfall allowance this figure rises again to 18.7 years supply.

Based on the current RSS figures the supply of housing is:

Unconstrained: 17.9 years

Discounted: 12.6 years

Discounted plus windfall allowance: 16.8 years

Based on the revised RSS figures the supply of housing is:

Unconstrained: 13.4 years

Discounted: 9.5 years

Discounted plus windfall allowance: 12.6 years

In line with the Vision for the Black Country this will be based on a polycentric social and economic fabric. One of the key changes to the new fabric will be the re-use of industrial land and the creation of logistics zones.

The Joint Core Strategy will address the actual and perceived low quality environment, across all locations. The separate initiative to create an urban park and related physical improvement is an essential pre-requisite to achieving the desired transformation.

Overall, Walsall is already well in excess of its minimum RSS target of using brownfield land for housing. Walsall's housing land supply is significantly in excess of the 5 year requirements detailed in PPS3. Paragraph 4.6B of the RSS states that the release of former employment sites for housing will only be considered if there is an adequate supply of good quality employment land is maintained in the Black Country.

Whilst the application is in outline, the proposed mix is included within the development description and therefore a consideration and the supportive comments of Housing Strategy are an important consideration.

Having regard to the large amount of affordable housing (in particular 2 and 3 bedroom units) in the immediate area and with regard to the overall need for accommodation identified in the Housing Strategy (2008-11) and Housing Needs Study (2008), the Council supports the delivery of bungalows and five-bedroom houses. The remainder of the accommodation is already satisfied in the Borough and as such any additional accommodation of this type would not meet an established need in the Borough. Whilst aspirational, the Housing Needs Study and Housing Strategy do not reference Zero Carbon Dwellings.

The applicant has indicated in their Planning Statement that they are seeking to provide a high level of affordable housing (70%), however the submitted viability statement to justify 25% in line with Council's adopted policy. The applicant has confirmed that the only lower level (25%) is guaranteed with the remainder not being part of the S106 offer and being dependent on obtaining national funding. There are significant questions therefore as how the higher level is proposed to be secured and delivered and whether this is viable (even with HCA funding). With regard to the high level of affordable housing the Council would not support a 100% affordable scheme.

Therefore it is the view of officers that

1. there is ample supply of housing land within the Borough to meet the regional requirements as set out in PPS3
2. there is no requirement to locate these units in this specific location
3. this provision could be located within developments elsewhere in the Darlaston area
4. given the position with regard to the offer of affordable housing, this provision cannot set aside the overarching employment policy in this instance.

The Northgate Appeal Decision

An outline planning application (reference 07/2559/OL/E11) for residential development on core employment land in Aldridge was refused in June 2008. An appeal has been dismissed on policy grounds relating to the Core Employment Area [CEA] and associated policy. The appeal raises similar issues and debates.

With regard to purpose of Core Employment Areas and Policy JP5 the Inspector comments:

"It is the purpose of policy JP5 to ensure that these [Core Employment] areas, the best industrial areas that Walsall has to offer, will be retained for these uses. They are strategic employment areas, where their critical mass, as well as the quality of individual sites within them is important. Historically, the Borough has had a fragmented portfolio of employment sites that are generally less well suited to modern industry as a whole. Policy JP5 provides a policy framework for securing a sufficient critical mass of industrial land that will enable the creation of large sites and the clustering of use related smaller enterprises. Whilst in the current recession these factors will not alone be enough for firms to remain solvent, in my opinion, they provide the necessary pre-requisite for the Borough's long-term economic regeneration prospects."

The Inspector also noted with regard to the impact on neighbouring industrial sites and the creation of a precedent:

"I consider that it is highly likely that granting permission in this case would increase 'hope' value of neighbouring industrial sites, including that to the south. That owner has expressed an interest in the residential redevelopment of his site and the Appellant's indicative layouts show how it could be connected to the appeal site. Thus, this is a realistic outcome, which notwithstanding the need to justify individual cases, the Council would find increasingly difficult to resist, and which could result in a creeping erosion and fragmentation of the CEA that would be contrary to the Council's economic regeneration aims for the Borough."

I conclude that cumulatively, these consequences would result in loss of cohesion and functioning of the CEA, loss of overall provision for employment land and the thwarting of the regeneration aims for the Borough."

With regard to the Employment Land Supply in the Borough the Inspector noted:

"I am not convinced that there is a significant over-supply of vacant employment floorspace or land in Walsall. Consequently, I conclude that the loss of the appeal site would result in a material reduction in the supply of employment land in the Borough."

The overall conclusion on the development proposals were that:

"my conclusions on this key issue are that the development is contrary to policy JP5 and, furthermore, that it would result in loss of cohesion of the CEA, the loss of valuable employment land and consequently, that it would hinder the economic regeneration aims for the Borough. I further conclude that neither individually nor collectively the material considerations presented by the Appellant in support of the proposal are sufficient to outweigh its conflict with the development plan and the harm that it would cause to the wider economy of the Borough"

The appeal site is in a similar position in relation to the Core Employment Area (being on the edge of the Area), there are no significant changes to the Employment Land Supply assessment and therefore this decision adds further weight against the proposals in this application and supports the Council's case for retention of the land in employment use.

The prospect of the site being used in the future for employment related uses and the Darlaston Strategic Development Area (DSDA) and employment land viability

Even assuming that the site is not suitable for industry at the moment it could serve as part of a larger development that better meets the needs of industry in the future. PPS3 refers to the 2004 Employment Land Guidance Note. In paragraph 4.30, the Guidance Note states “*strategic planning factors, for example where a site is key to delivering economic development objectives or an overriding spatial vision or indeed forms part of a wider regeneration proposal, may support retention of an apparently unsustainable site. Sites, which are marginal or give ambiguous results, in terms of sustainability, should be left in the frame for more detailed appraisal.*”

The site is identified for strategic planning purposes as within a Core Employment Area, and also could form part of the high quality land supply identified in emerging Joint Core Strategy Regeneration Corridor 6.

Walsall Regeneration Company and the Council’s Delivery and Development Team, who are preparing strategies for this area, both object to the proposals.

Walsall Regeneration Company (WRC) is supportive of the need for employment led regeneration and the need to bring forward sites in line with the Vision for the area. The Regeneration Company and Council consider that the Darlaston Strategic Development Area (SDA) is a major strategic location of more than 54 developable acres, Darlaston SDA represents one of the West Midlands’ prime regeneration opportunities. Falling both sides of the M6 at the very heart of the national motorway network, and with easy access to Birmingham International Airport, Darlaston SDA presents a compelling case for national and international companies looking to establish a high profile presence.

The work is ongoing and no specific site evaluation or public consultation has taken place on any strategy or document. The site allocation within the Core Strategy for employment purposes is also salient. It is noted that no representations have been received to the Core Strategy consultation in relation to this site. As such the proposals are considered to be premature to be considered whether they are in compliance with the forthcoming strategy for the area and whether infrastructure improvements planned in the near future will have an impact on the surrounding area.

The employment land viability is considered in the following aspects

- i) Walsall Regeneration Company work on the Darlaston Strategic Development Area
- ii) The Council’s own work including the Strategic Regeneration Framework and Joint Core Strategy (through the report of GVA Grimley)
- iii) The Northgate Appeal Decision
- iv) The report submitted by the applicant
- v) The report of the District Valuers Service

With regard to points i) and ii) this is detailed above and the objections of all consultees to the proposals are noted. The conclusions of the Northgate appeal are also discussed above and this also lends no support to the application.

In so far as the applicant's reports Officers have the following response:

- The site is a very secondary location not recognised by tenants seeking industrial/warehousing space.

Acknowledged however this does not take into account the regeneration initiatives or the supply and demand for employment land, in addition a wide range of employment sites are required in order to provide for a diverse range of users. Not all are likely to be capable of accommodating large, single user developments.

- The existing planning consent is far too restrictive to allow a suitable tenant to operate a commercial business

As previously highlighted it is noted that the applicant has not sought to vary the planning conditions. In addition the site has, until recently, been operating as an employment use

- The site is close to existing residential dwellings and is therefore not ideal for its existing use.

The site was designed to accommodate this with the landscape bund between the employment and residential properties. Conversely this also confirms Officers concerns with regard to the potential impact on the future viability of other commercial operators if residential encroached further into the Core Employment Area.

- The existing buildings are too long and thin and will only suit a very selective audience.

Noted, however, these have been operational for some time and the buildings have remained in use until recently. The former users have left due to their leases ending and the applicant exercising lease breaks to the site. The proposals may need to be remodelled and improved in order to be attractive to the market, this may involve a short term loss in order to gain long term viability.

- The remediation costs make the redevelopment of the site unfeasible.

The remediation costs are equally restrictive, if not more so, for residential use.

- The building would not divide well and the costs of carrying this out produce a negative value therefore this is not viable.

Whilst the current viability is not disputed, the long term viability is currently unknown, though the DVS report currently shows land being redeveloped for employment uses in the current market as unviable. However, the DVS report on viability is valid for a period of three months and reviews the current situation. The impact of regeneration projects such as the IMI works and planned improvements to infrastructure (improving access to Junction 10 and the Black Country Route along Bentley Mill Way) could have an impact on the site and demand for industrial uses in the area, although the precise timeline may be more long term than immediate. It is therefore important that the proposals take account of the report on employment land provision and the future work on the Employment Land Supply within the Core Strategy and Darlaston specific regeneration (both within the Council and the Regeneration Company). The proposals are noted supported by this work.

- The current markets conditions are in a downward cycle due to the current economic recession, and tenant demand is in decline for industrial space.

Current market conditions stretch beyond the industrial sector to the construction and development industry as a whole. The short-term construction jobs are off-set by the long term loss of employment provision and the potential impact on other commercial operators. The long term requirement for employment land is also shown to be at a deficit within the Borough and any loss of areas should be considered through Development Plan Documents and full evidence based assessment of the long term provision of jobs to which Darlaston and this application site play a key role.

- Supply of newer better located buildings is at a high with 5.1million sq ft standing stock currently available.

The applicant has submitted a list of available premises. A significant majority are not in this Borough, nor in the Black Country. Some of the sites identified are not in the West Midlands Region. Therefore, the evidence base to the Joint Core Strategy is of more relevance which shows that there is likely to be a long term deficit of employment land. This is discussed above and has been supported in the Northgate Appeal.

In terms of the wider impact on the surrounding industrial users, if approved, the proposals would leapfrog an established boundary between industrial and residential development, with no guarantee that an equal or better replacement being progressed. The land to the north and east are not separated from the application site by a defendable or defined boundary and furthermore, given the heavy industrial nature, particularly at European Metal Recycling, encroachment of residential could have wider implications for continued safeguarding of employment land and would establish a precedent of residential encroachment into Core Employment Areas that could be replicated on other similarly positioned sites.

If safeguarded for long term employment regeneration, officers view that the site could be amalgamated with sites to the north, to produce a larger and potentially significant employment area that would have significant regeneration value. Equally Officers consider that the site could, in the long term have an equal value on its own as an employment site with improvements to the road network and access to the M6 motorway.

Therefore whilst the applicant considers that the most viable option is to dispose of the site to an enhanced planning permission, such as residential use, Officers maintain the view that the long term requirements and the lack of employment land in the Borough do not support the loss of employment land in this location.

The Site Constraints

The applicant's stated constraints stem from the housing immediately to the south. But allowing housing on this site would not solve this problem – it could simply move the problems further into the industrial area and have an adverse effect on operations there – e.g. to the coachbuilders and manufacturing uses to the north.

PPG4 (paragraph 18), highlights the implications of residential development proposed in the vicinity of industrial activity, and this is relevant here. This paragraph states:

“Planning authorities should consider carefully whether particular proposals for new development may be incompatible with existing industrial and commercial activities. The juxtaposition of incompatible uses can cause problems for the occupiers both of the new and of the existing development. For example, where residential development is proposed in the vicinity of existing industrial uses, the expectations of the residents may exceed the standards applied by the planning authority, and may give rise to pressure to curtail the industrial use. This may be a particularly acute problem where other legislation, such as

that relating to environmental pollution or public health, might subsequently result in costly new conditions or restrictions being imposed on the industry as a consequence of the new neighbouring development.”

There are planning conditions on the site which limit the hours of loading and unloading outside the buildings outside the hours of 10pm and 7am and require the closure of roller shutters during these times if the buildings are in operation. Other conditions prevent outside storage and that access to the Richard Street shall be for emergency purposes only. Whilst these conditions are restrictive, they are not considered by Officers to be overly onerous nor have they been challenged by the applicant. They reinforce the importance of a buffer between housing and unrestricted employment uses.

Whilst site constraints exist limiting hours of operation outside the buildings between 7am and 10pm these are not overly onerous or restrictive of the use of the site and officers consider that the buildings themselves are a greater constraint to the continued use of the land. The buildings are becoming outdated and were built to a specific end-user/design methodology which is now no longer up-to-date. This is supported by the applicant's marketing assessment (paragraph 6.1) which states that although the buildings are well presented, they are starting to “show their age”. In addition the Marketing Assessment identifies other issues (set out in the opening passages of this report). However, redevelopment of the site for employment uses can resolve some of these issues. There is no support in this issue for the concept that this should cease to be an employment site.

The proposals would not result in the range and quality of employment opportunities being significantly increased and Officers reject the assertion that the site constraints militate against using it for industry and consider that residential use on this site could result in adverse impacts on neighbouring commercial operators resulting in the loss of further employment land. It is considered that redevelopment of the site, but for employment uses, should be the primary focus for marketing of the site.

As discussed under the Northgate consideration, if this application were approved, the precedent would be set for other sites, particularly those neighbouring the application site, which could replicate this argument and therefore lead to the piecemeal and significant loss of core employment land. There is also concern that release of this land would compromise wider regeneration of the area under the Darlaston Strategic Development Area (DSDA) and continued operations of other commercial operators in the area, particularly those which are noisy and / or could cause air quality issues and also on traffic generation, movement and highway safety in the area.

The Departure cannot be justified by this aspect.

The dwellings would have excellent sustainability credentials and has good accessibility by a choice of means of transport

The first of these issues is not site specific, while accessibility by a choice of means of transport is a requirement of all new housing development in Walsall. It is also a great advantage for the current use as an employment site.

The applicant's sustainability statement discusses the following objectives which the applicant considers to be important in the consideration of the application. These comprise the following

1. Community – in safeguarding and improving health, safety and well being, providing a vibrant, diverse inclusive community
2. Transport and Movement - reduce traffic congestion, promote sustainable modes of transport and ensure easy access to key services and facilities

3. Climate Change and Energy - Minimise the proposed development's impact on climate change
4. Building – providing affordable housing and the built and natural environment
5. Place Making – building high quality environments and a landmark development.
6. Resources – reducing waste, energy and water consumption
7. Ecology – reduce impact on the natural environment and protected species.
8. Business – the economic value of the development

Sustainability is a wide ranging word and has significant implications. In referring to 'sustainability' Officers consider wholly the criteria of sustainability in terms of the Brundtland Report definition i.e. "meets the needs of the present without compromising the ability of future generations to meet their own needs."

The concept of sustainable development focused attention on finding strategies to promote economic and social development in ways that avoid environmental degradation, over-exploitation or pollution, and sidelined less productive debates about whether to prioritize development or the environment

Notwithstanding the conclusions of the DVS taking into account the Employment Land Supply in the Borough there is a need to retain the land for employment uses and to ensure that the employment land is provided in sustainable locations. The limited economic benefits of the development would not be long lasting and would not result in substantive economic improvement over the use of the land for employment purposes. The loss of economic output and the potential impact on neighbouring industrial users and the deliver of wider economic regeneration of the area are negative factors economically not considered by the applicant.

The applicant's sustainability statement does not consider the value of economic development the need to promote easy access to jobs in the core employment area, the value that employment development on place making capability and by being close to the residents and employees, reducing the need to travel and access to jobs. The transport and movement benefits from the site would be negated by the need for the residents to travel further to places of work that may instead have been provided on this site.

There would be limited benefit from the proposals and unless the existing employment activity is upgraded there would be little social benefit from the retention of the proposals. Overall this is considered to be a neutral factor.

Environmentally whilst it is recognised that the development would include an element of sustainable construction, the development industry will be required to build to Level 3 standard in 2010 leading to the Government target of zero energy development by 2016 (as amplified by the Government on 17th December 2008). There is a distinct possibility that by the time the proposals would be built, more stringent environment standards to building will be in place.

Other environmental factors to consider are the ecological factors and the effect of low-carbon buildings will be negated if developments are located too far from public transport and walking distance of a range of day to day facilities, thereby increasing the potential for increased car usage. Therefore whilst there are some positive environmental aspects to the development, the potential impact of the development on the ecological factors, the lack of public transport facilities in walking distance from the proposals and the need to supply jobs in sustainable locations. As such, there is at best a neutral impact in terms of sustainability.

It is agreed that the site fulfils Policy T12 of the UDP in being less than 1000m walking distance (by adopted pedestrian routes) of Darlaston District Centre. However, the position is borderline in relation to bus stops being about 450m (serving the Walsall route) and further away for the other

direction. The site therefore does not meet the Passenger Transport Authority's minimum standards for accessibility by public transport. The nearest bus stops to the development are over 400 metres from the site on The Green and the most frequent route, the 333, only provides 2 buses per hour Monday to Saturday in the peaks and daytime, with an hourly service at all other times.

Taking into account the above site does not therefore benefit from a good accessibility to a choice of means of transport, however its location to Darlaston Town Centre is noted. The proposals would require significant contributions to public transport and a robust residential travel plan in order to meet this claim.

Although fairly close to the site, the current proposals for the 5Ws Metro/Rapid Transit route would not affect or be affected by the development, however, the proposed Darlaston Green Stop is within walking distance of the site and could significantly increase the public transport accessibility of the development.

Officers consider that the applicant's sustainability statement lacks consideration of the value of Core Employment Areas, their role in the economic value in a contiguous and the development of a critical mass or cluster and the value of the site as an employment site and the value that this can present. This argument is readily dismissed on the basis of the marketing evidence and the opportunity that employment development can deliver in the remaining objectives is largely ignored. The importance of sustainably located employment development is of equal importance and can have equal benefit to the community and Darlaston Town Centre as residential development. The scheme as yet has also not demonstrated itself to be a landmark development, as discussed later in this report, the indicative proposals do not progress a high quality design ethos that could be considered as a material consideration.

Overall the sustainability credentials of the site, when taking into account the economic, social and environmental value of the Core Employment Area as a contiguous area and as a cluster for economic development can best be described as neutral and, in the view of officers, cannot be relied upon as a justification for the Departure.

Ecology, landscape and tree issues

The comments of the Natural Environment Team are noted. Whilst the amount of development has been reduced in the amended submission there remains questions as to the indicative layout shown, with the boundary treatment proposed, is inadequate compared with the substantial embankment and planting which currently separates the two uses. It is possible that the continuation of dirty or noisy industrial uses on the adjacent sites would be under threat because they are incompatible with adjacent residential uses.

The principle comments in this regard therefore relate to each of the boundaries.

Southern Boundary

While the existing mound would largely be retained, some questions remain. Officers consider that with only a small triangle of land of the embankment is now excluded from retention within the layout that the whole of the embankment could be retained for the loss of only one further plot. With the applicant now in effect accepting the value of the embankment and its wholesale retention the bank should become an integral feature of any further submission.

The existing bank would be a dominating feature and potentially cause shading problems in close proximity to proposed houses. Sections would helpful to understand the relationship and amendments to the layout to ease this potential conflict would be necessary.

Eastern boundary

The houses backing onto the eastern boundary have rear garden lengths from 9 metres long to about 11 metres (excluding planting). The shading caused by the proposed planting belt on the off-site tree planting is still likely to lead to problems in the future. Responsibility for maintenance of the planting belt in a consistent way is also a question mark. The apartment block in the north-east corner of the site still has a very substandard external space heavily shaded from both building and boundary trees. More detail is required on these issues.

Northern boundary

The scope for effective boundary treatment boundary to separate housing from adjacent industrial uses remains limited compared with the effective treatment currently in place. Many of the boundary trees are outside the site and therefore outside the applicant's control.

Western boundary

No apparent changes proposed from previous layout.

Tree issues

TPO 1 of 2009 covers a large area of trees whether they be individual, in groups or as part of a woodland. The southern end of this site is covered by a woodland TPO containing mixed deciduous species. It was placed on a raised banking area that used to be totally covered in trees until a large amount of them were felled (prior to the TPO being made). However, it was considered, given the nature of the site, regeneration would occur and the woodland would return in a short period of time. Recent site visits have indeed indicated that this is the case.

The impact of the proposed development on the banked woodland has been greatly reduced through amendments although there are still some concerns over the indicative layout and shading. However, it would be beneficial, from a tree retention point of view and the impact on future occupants point of view, if any development was kept outside the boundary of the banked area and consideration given to the aforementioned points when the plans are submitted at Reserved Matters stage.

The submitted plans indicate the retention of significant trees along the Richards Street frontage. These trees are of high amenity value and their loss will be detrimental to the amenity, aesthetic and landscape value of the area. However, careful consideration is required, at Reserved Matters stage, in designing a layout which ensures their retention along with supplementary planting to the south of the existing tree line.

Conclusion on the impact on natural environment issues.

The indicative layout is somewhat unsatisfactory for a number of reasons. The main problem is a lack of certainty about the scheme which will be eventually submitted if outline planning permission is granted. This is a site with natural features worthy of retention and in a sensitive location at the junction of residential and industrial uses. Officers are not convinced that the indicative scheme provided addresses these issues satisfactorily. This is a site where all the constraints to development are around the edges; seemingly an ideal situation for any developer. The indicative layout is dependent on encroachment onto these natural features. As such Officers are unconvinced that a case has been made for this number of houses on this site.

Officers note that the applicant's submitted evidence and that the layout is indicative only. There is no guarantee that the development will be built in this form, if planning permission is granted. Problems with boundary landscape treatment on the eastern edge of the site is in the grounds of individual properties, and while the applicants may assure the council that landscaping will be managed effectively, the landscape treatment is vital in ensuring a screen between the proposed housing development and the adjacent car auction site. There is likely to be a conflict between residents who want both sunlight in their gardens and freedom from visual intrusion on adjacent land. It should be noted that the landscape treatment is not continuous on the eastern boundary. There are a number of places where development is so close to the site boundary that there is no room for planting.

The proposed indicative flats in the north-east corner of the site only have heavily shaded amenity space. This is not acceptable and there is a danger that, when a detailed application is made, the site is actually too small for the numbers of dwelling proposed and there may be pressure to encroach further into the southern tree belt or reduce plot sizes.

It is questionable whether the layout shown accords with the Development Plan policies. However with the retention of the embankment established as an integral feature of the proposals, the detail of the layout and its relationship to this feature will be an integral and important part of the Reserved Matters.

Vehicular Access and Pedestrian Access points

There is no objection in principle to the main vehicular access point into the development, in principle, however there are several issues with regard to the implications for design and layout, that would need to be overcome at Reserved Matters, if the principle of the development was considered to be acceptable. These primarily relate to the layout, servicing, relationship to protected trees and the requirement for a significant buffer to neighbouring industrial users, if it is considered that these issues can be overcome.

It is also necessary to consider the access points to driveways from Richards Street and pedestrian access points including the 'homezone'. Whilst there are no concerns with regard to highway safety, there are concerns with regard to the protected trees (considered above).

Therefore it is not considered that it has been demonstrated that the proposed pedestrian accesses from Richards Street can be achieved satisfactorily and that further work on the layout and impact on the protected trees are required.

The indicative layout

The overall layout continues to be rather symmetrical in nature and appears to lack scope for imbuing any particular level of character or sense of place. The proposal lacks design quality or understanding of how to build urban design quality. The scheme continues to draw from numerical residential standards rather than being based on design quality. Whilst standards for residential design are important, it should be emphasised that these are subservient to the overall ethos of Designing Walsall towards promoting and achieving strong design quality in new development. It should be noted that the apartments in the northeast corner have been designed without their own private attached amenity space as required in Appendix E of Designing Walsall, nor would it seem they have been provided with 20sqm each of communal amenity space (again part of the SPD), in addition the relationship to both the trees and neighbouring commercial and industrial occupiers would render the space provided unsatisfactory and of poor quality as a residential environment.

The inclusion of Zero Energy Dwellings (ZED) properties is positive in the sense that it brings an innovative and more sustainable form of architecture and development to Walsall, however, the ethos and development of this concept has not been taken forward and as such this aspect of the proposals appear to be nothing more than tokenistic and a design approach of this merit deserves to set the design ethos and character for the whole development. The submitted plans and elevations for the remaining properties appear 'off the shelf' in nature and reflect none of the architectural or proportional dimensions of the ZED properties, which is the very least that could be designed in to create a more integrated development. Six sustainable dwellings cannot be considered to constitute a flagship project and it is disappointing that the remainder of the scheme does not reflect this approach towards sustainable development in any way. Visitors would certainly be greatly disappointed by the vast drop in quality beyond these properties. The applicant has failed to understand the concept and the difference in house sizes and associated plot sizes between the ZED and standard house types exemplifies of the lack of cohesion and inadequacy of the standard house types being progressed across the remainder of the site.

Whilst it is noted from the submitted information that details regarding public realm, landscaping and housing detail would be submitted as part of any future reserved matters application, the basis of this development with its standard road layout and 'off the shelf' housing units lacks any character whatsoever and officers are not convinced that the addition of superficial details could overcome these fundamental issues. The application refers to the creation of character areas but in reality these are exceptionally small areas dispersed across the site. Character areas should embrace the whole site and encompass appropriately designed streets, houses and landscaping rather than simply paving a small parking area in a different material and classifying it as a homezone. As a result the homezone shown appears to be tacked on and not a cohesive part of the proposals.

The layout continues to fail to take into account the significant change in land levels across the end of the site adjacent to Florian Grove nor the groups of TPO trees to the eastern and western boundaries. The layout continues to lack the understanding of the natural environment and their constraints and officers are unconvinced by the relationship of the bungalows and indeed the communal space. How this area would be managed, including the TPOs are either ignored or confused. It is doubtful that this area would be a qualitative feature and in all likelihood the area would become a target for anti-social behaviour.

This proposal continues to demonstrate a lack of understanding in developing a hierarchy of streets, in conjunction with lacking character. The proposal demonstrates no legibility. The building typologies are monotonous as are the streets. The mix of dwelling sizes lack legibility and character. Nothing contained within the supporting information suggests that the homes will be designed to Lifetime Homes standards.

Consideration of the public realm has been delegated to the detailed consideration stage, although the provision of homezones through distinctive public realm is specified as part of the Design and Access Statement. As the streets (except the 'homezone') have all been shown to be designed along similar principles rather than being designed to convey their own character, the likely result is that they will continue to look identical and lack a cohesive design quality.

Overall the applicants have not demonstrated that the proposals will be of any quality that could be considered as material to the application. The design needs fundamental and complete review and, although this would form part of a Reserved Matters submission, Members should note that the proposed layout is in no way acceptable. The relationship to the southern embankment, northern boundary and tree and ecological constraints still require significant work.

Affordable Housing, Education, Healthcare, Open Space, Public Transport, Police and Public Art Contributions

The applicants in their Design and Access Statement suggest that in partnership with an Registered Social Landlord, they will deliver 70% affordable housing (and as a result have the support of housing strategy officers). Policy H4 and the Affordable Housing SPD guides that 25% of the total development should be sought for affordable housing.

The applicant has confirmed that the higher level of affordable housing is dependent on applying to the Housing and Communities Agency for additional funding. Therefore the offer of 25% can only be considered at this stage.

The Community Art Competition Report submitted in support of the application is broadly welcomed but it has failed to take into account the Public Art Framework in the Designing Walsall SPD. In addition public art will form a part of the DSDA development framework but in a coordinated manner. The present proposals to incorporate a single structure in Owen Park will fail to form part of a strategic approach to public art. The proposals therefore fail in this regard and would be contrary to Policy DW9 of the Supplementary Planning Document.

A viability report has been submitted to the District Valuers Service for comment. This proposes 25% affordable housing and £90,000 towards other contributions at the Council's discretion.

The Police are seeking payment to meet generalised needs. Such issues have been considered by the Council on other issues (e.g. education, open space or healthcare). Before setting in place a system of levies for those other issues, the Council has gone through a complex process, creating Supplementary Planning Documents (including public consultation). In the absence of such an exercise, officers do not consider that this Council can agree to the request from the Police.

This differs from the approach to public transport contributions due to specific schemes together with targets and thresholds being identified in existing Adopted Development Plan Documents.

The comments of Centro are salient in seeking public transport improvements in the area. It is a government requirement that light rail scheme funding packages include a 25% local contribution and that is why it is important that larger developments such as this should participate in the proposed funding package. However, it is also acknowledged that any such agreement should, perhaps, be conditional on the proposed Metro scheme progressing and in this case Centro would be seeking contributions towards other public transport service improvements. It should be noted that there is a clear commitment by Walsall Council to supporting and developing this Metro route in principle, as stated in Policy T3 of the Adopted UDP 2005. As the proposed 5Ws Metro route could significantly enhance the public transport accessibility of the proposed development if implemented and because of the development's size and proximity to the proposed Metro route and current lack of public transport serving the site, Centro recommends that a developer contribution towards the proposed Metro route should be sought. Should the proposed Metro scheme not progress, as detailed above, the developer should be required to make a contribution towards upgrading of bus services or infrastructure in the surrounding area. This is supported by Walsall UDP Policy T10, which states that planning conditions / obligations will be used to ensure that accessibility standards are met throughout the life of the development.

The District Valuers Service have concluded the total amount of contributions sought (£585,641.50 plus affordable housing and Centro contributions) are not viable on the scheme. However it should also be noted that, based on current valuations, the scheme can accommodate

and remain viable with a contribution of £145,000 with a further review of viability at the Reserved Matters Stage.

Under the Instruction of *“Was the subject land acquired at the Market Value at the time it was acquired.”* The Market Value of the freehold interest subject to the existing leases, with vacant possession to be available to the remaining buildings, and also subject to the Special Assumptions stated. The DVS concludes that having considered the matter carefully, I am of the opinion that the required value is in the region as follows: £2,775,000 to £2,500,000. The applicant considers this establishes the value of the land.

However, under the Instruction *“Can the proposed redevelopment scheme accommodate a higher level Section 106 contributions, i.e. closer to the amount sought by Walsall Metropolitan Borough Council, based on affordable housing at 25% of the proposed scheme, Education Contribution of £226,642.30 towards secondary school provision, Open Space Contribution of £210,672, Healthcare Contribution of £116,827.20, and Public Art Contribution of £31,500”* the DVS concludes if a smaller Section 106 Payment in the region of £145,000 were to be proposed, which resulted in a residual land value of £2,250,000, and based on an approximate gross site area of 6.36 acres/2.58 hectares, would equate to £353,774 per acre/£872,093 per hectare. In DVS's opinion, in the current market this figure would be potentially viable.

The applicant has submitted a draft legal agreement for comment. The applicant includes a higher level of affordable housing as a maximum ceiling for affordable housing. This higher level of affordable housing has not been tested against viability and, as previously stated, is dependent on funding mechanisms that have not yet been agreed or secured. The wording of the S106 requires amendment and improvement.

The applicant also disputes the conclusions of the DVS that £145,000 is a viable offer and seeks to only offer £90,000 at this stage. These are based on the price the applicant paid for the site in 2008 and the applicant seeking to apply this land value as a base for the reduction in viability. It is officer's view that the land value of the site should be assessed at the time of the application (i.e. now) and the historic value of the land which has, as a result of the economic change decreased. Officers are in agreement with the DVS that £145,000 is a viable offer.

Should members be minded to approve the application then in the view of Officers the S106 contributions would be sought at a level of 25% for affordable housing and £145,000 towards other financial contributions as opposed to the applicant's offer of £90,000.

Conclusion

The proposals would be a Departure from the Unitary Development Plan and the emerging Core Strategy.

Whilst comments of the Darlaston Project Reference Group are noted, significant attention is drawn to the comments of Strategic Policy Officers, Walsall Regeneration Company, Economic Regeneration Officers and Development Team Officers. There is no extra housing requirement in new supporting documentation to the Regional Spatial Strategy for the Borough. The emphasis is on employment development and with the lack of housing requirement in the Borough (based on current commitments), significant regeneration benefit would need to be demonstrated.

The land should be retained for employment use and the employment needs of the Borough should not be readily dismissed, particularly where this could lead to the erosion of Core Employment areas.

With regard to regeneration of the area attention is also drawn to the Darlaston Strategic Development Area (DSDA), an employment led regeneration project (to which this site is located within) being developed by the Walsall Regeneration Company and the Council. The proposals would need to be in compliance with the strategy for this initiative.

Officers consider that if reallocating this site to residential development is to occur, it should only take place through the strategic plan making and regeneration process; i.e. in the Black Country Core Strategy and subsequent Land Allocations Development Plan Document the Council prepares or as part of the DSDA project. It is Officers view that an ad hoc planning proposal, such as this would compromise the delivery of wider regeneration aims.

In addition to the in-principle objection to this type of development on this strategically important employment site, there are several detailed issues, relating to design, access and the natural environment which are also significant issues that the development has not adequately considered. Officers have also added these issues as reasons for refusal.

Recommendation: Refuse

1. The development falls within Core Employment Area and would be directly contrary to development plan policies which seek to protect strategically important employment land in such Areas; in particular it would be contrary to UDP policy JP5 and the Council is not satisfied that there are exceptional circumstances which would over-ride the presumption against such development. The development would set a precedent which would be likely to undermine the Council's key strategic employment policy and lead to further erosion of the Borough's strategically important Core Employment Areas. Walsall's Housing Land and Employment Land monitoring demonstrates that there is currently no significant excess of employment land and there is an ample supply of housing land in the Borough for the next five years and that there is a potential shortfall in employment land in the future. The proposals have failed to demonstrate that there is a need for the land to be developed for residential purposes and that the land could not be developed for employment purposes and the proposals would not result in the piecemeal, ad hoc loss of Core Employment Land. As such the proposals are contrary to Policies CF3, CF6 and PA6 (parts C and D) of the Regional Spatial Strategy for the West Midlands; Policies H3 and JP5 of the Adopted Unitary Development Plan and guidance contained within PPS3 and associated Employment Land Review Guidance Note (2004).

2. The site lies within

- the area identified as Regeneration Corridor 6 in the emerging Joint Black Country Core Strategy,*
and
- in an Employment Land Investment Corridor as identified in Policies UR1B, PA1, and the key diagram of the Regional Spatial Strategy for the West Midlands*
and
- the Darlaston Strategic Development Area identified by Walsall Regeneration Company in their 2009 Prospectus.*

These initiatives focus development on comprehensive employment led development and as such the proposals are considered to be contrary to the wider regeneration initiatives and the piecemeal, ad hoc loss of Core Employment Land and are contrary to Policies UR1B, PA1, PA6 (parts C and D) of the Regional Spatial Strategy for the West Midlands; Policies GP2, GP4 and JP5 of the Adopted Unitary Development Plan; the emerging Black Country Joint Core Strategy; and the initiatives being progressed by Walsall Regeneration Company.

3. The proposals have not adequately demonstrated that contributions sought towards Public Transport, Urban Open Space, Education or Healthcare facilities in the area and have failed to bring forward an appropriate mechanism for the delivery of strategic public art and a mechanism for the delivery of appropriate affordable housing on the site. As such the proposals are contrary to Policy T12 of the Regional Spatial Strategy for the West Midlands, Policies GP3, LC1, H4, T3, T10, T12 and ENV36 of Walsall's Adopted Unitary Development Plan and Adopted Healthcare, Urban Open Space, Education and Designing Walsall Supplementary Planning Documents.



To: DEVELOPMENT CONTROL COMMITTEE

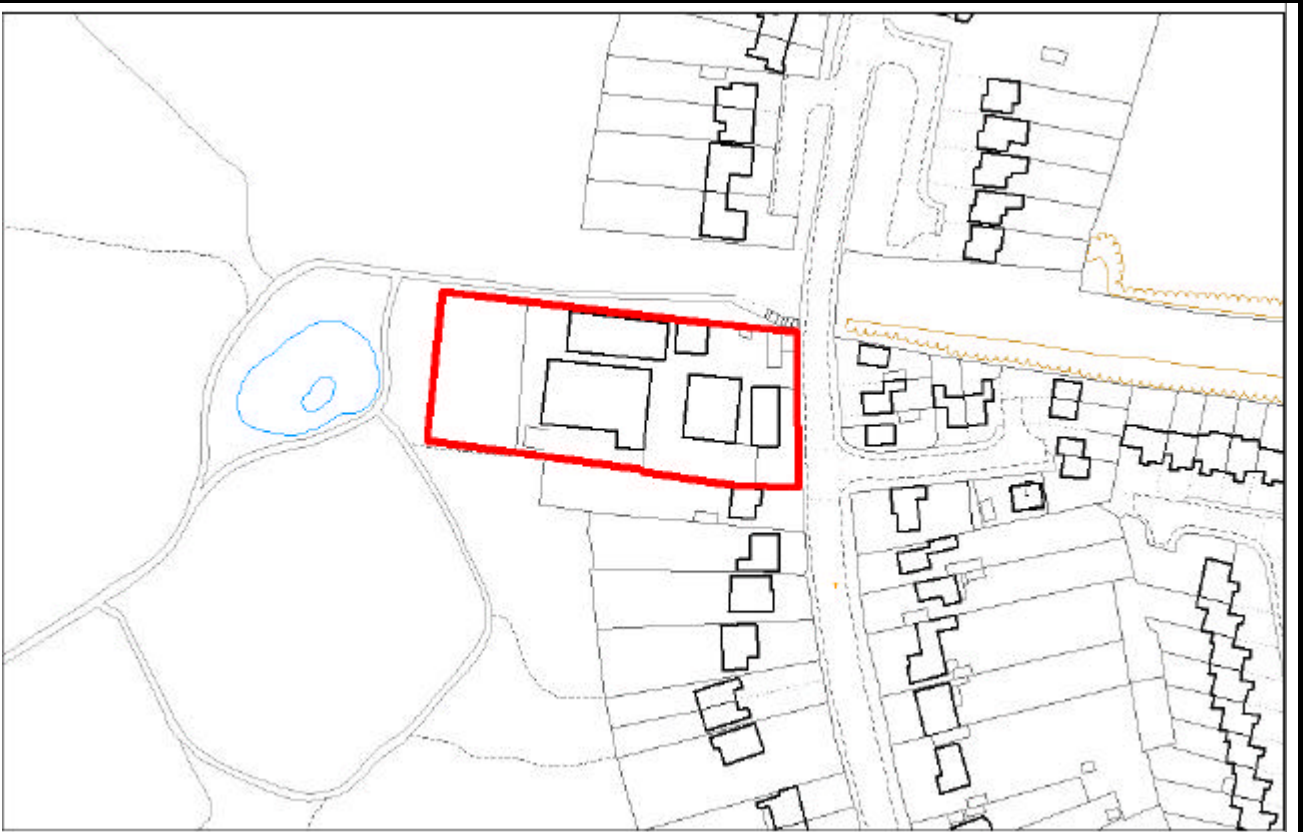
Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

REASON FOR BRINGING TO COMMITTEE: Major application

Application Number: 09/0838/FL
Application Type: Full application
Applicant: Frank Allart and Co Ltd
Proposal: Erection of 10 houses, with associated
access, car parking and landscaping
Ward: Willenhall South

Case Officer: Val Osborn
Telephone Number: 01922 652436
Agent: Daniel Hurd Associates
Location: 56
FIBBERSLEY, WILLENHALL, WV13 3AD
Expired: 23/09/2009

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



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Application and Site Details

The site is on the western side of Fibbersley, south of the bridge over the canal culvert. The site is currently occupied by a range of foundry buildings including a large chimney.

The proposal is for 10 houses – four 4-bed and six 3-bed, arranged around a new cul-de sac.

The site is rectangular with the northern, western and approximately one third of the southern boundaries abutting a Local Nature Reserve (LNR). The remaining eastern boundary adjoins 60 Fibbersley, a detached house. On the opposite side of Fibbersley are detached houses with frontage lawns and parking directly off Fibbersley.

The site falls away from the road and at this point Fibbersley is rising in level to the nearby bridge. The foundry and chimney sit at the back of the site, nearest to the Local Nature Reserve.

851 sq m of the application site is within the LNR and this element will remain outside the area to be developed. The land is generally overgrown as a 'wild/natural' area with a range of vegetation and trees, as well as partial infestation with Japanese knot weed.

The proposal is for traditional two storey house types with pitched roofs and bay windows. All are proposed with two solar panels on the roof. Plots 1-4 fronting Fibbersley are detached with parking on the frontage. Plots 5, 6, 7 and 8 are a semi-detached four bedroom houses with 2 parking spaces. Plots 9 and 10 are semi-detached three bed houses with tandem parking on the frontage. Plot 1 has a rear garden that adjoins the access road and is screened by a garden wall.

The application is supported by a Design and Access Statement explaining the proposal, Habitat, Bat and Tree Surveys detailing the investigation of these issues, and a desk study/assessment of pollution.

The development site (excluding the LNR element) is 0.28 ha and provides 10 houses at 36 dwellings per hectare.

Rear gardens are in excess of 68 sq m.

Relevant Planning History

08/0591/FL – erection of 13 dwellings, refused for reasons related to design access, open space and Section 106 contribution requirements.

Relevant Planning Policy Summary

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

Walsall Unitary Development Plan March 2005

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

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

Unitary Development Plan

2.2, 2.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided, to strengthen and diversify the economy of the Borough and promote economic revitalisation.

GP3: planning obligations will be used, as appropriate, to secure the provision of any on or off site infrastructure, facilities, services or mitigating measures made necessary by a development.

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses and to revitalise the local economy and safeguard jobs.

ENV14: encourages the development of derelict and previously developed land.

ENV17, ENV18, 3.64: encourages new planting as part of landscape design and seeks to protect existing vegetation.

ENV23: Proposals must take account of opportunities for nature conservation

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted, particularly in locations such as visually prominent sites. Designing out crime' through design, layout, landscaping and boundary treatments.

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

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

6.25 & 6.30 refers to windfall sites that come forward for redevelopment other than as development plan allocations.

H9: net density of residential development should be at least 30 dwellings per hectare. Densities exceeding 50 dwellings per hectare will be encouraged on sites located at major transport corridors.

8.8: states that residential developments will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved educational facilities a financial contribution to the costs of providing these facilities will be required.

7.5, 7.52 and 7.36, PPG13: parking policies should be used to promote sustainable transport choices and reduce the reliance on the car by improving public transport.

T7: states that all development should satisfy the car parking standards set out in Policy T13.

T12: for residential developments the walking distance should be no more than 400 metres to a bus stop.

T13: car parking standards

1, 2 & 3 bedroom houses 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

Supplementary Planning Document “Designing Walsall” (February 2008) Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

Appendix E sets out numerical guidelines- garden dimensions of 12m in length or 68m² for housing, 13m separation between habitable room windows and blank walls exceeding 3 metres in height. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Supplementary Planning Document for Urban Open Spaces

Identifies the requisite local standards and contributions that developers will be required to make towards provision and improvement of open spaces. The application generates a requirement for a 106 contribution in respect of Urban Open Space amounting to £23,562.

Regional Spatial Strategy

The Regional Spatial Strategy for the West Midlands promotes the regeneration of the metropolitan area and sustainable development in accordance with national government guidance. Overall the strategy promotes sustainable regeneration of previously developed land, a high quality environment and sustainable development capable of being accessed by a variety of transport modes. It contains a policy relating to the maintenance of a portfolio of employment land (PA6) and one that deals with housing and employment land (UR1B).

National Policy

PPS1 Delivering Sustainable Development – Emphasises the need to reject poor design and the need for sustainable development.

PPS3 Housing - Promotes sustainable development and the efficient use of previously developed land. It promotes the need for well designed new housing developments. Consideration of design and layout must be formed by the wider context.

PPS9 Biodiversity & Geological Conservation – seeks to promote sustainable development, conserve, enhance and restore the diversity of England's wildlife and geology and contribute to rural renewal and urban renaissance.

PPG13 Transport - Promotes sustainable patterns of development, which reduce the need to travel, especially by car.

Other relevant policy guidance includes PPS23 Planning and Pollution Control, PPS24 Planning and Noise, PPS25 Development and Flood Risk, 'By Design' companion to PPG's, Urban Design Compendium, Safer Places- The Planning System & Crime Prevention; and the 2004 Employment Land Review Guidance Note.

Consultations

Transportation – No objections, subject to conditions related to the provision of the proposed parking and new vehicular to the site.

Regeneration Strategy Team – No objections. The proposal generally accords with policy, subject to their being no adverse impact on the nature reserve.

Countryside Services Team – no objection though:-

- two bat surveys undertaken have failed to identify any bat roosts within the site. If the development proceeds soon, no further work will be required.
- the bat survey recommends installation of bat roost and bird nest boxes - they should not be erected within trees, but on solid surfaces to reduce long-term maintenance requirements.
- great crested newt is not thought to be present within the site, but it is recommended that a licence is obtained to ensure that any on site work which may expose newts does not delay the development once begun.
- if site clearance work begins between 1st March and 30th September an experienced ecologist should be present to confirm that no breeding birds are present. Ideally, initial site clearance should take place outside of these dates.
- The LNR area should be retained by the developers
- Japanese Knotweed - determine the full spread and appropriate mitigation to prevent further spread during development
- the proximity of sycamore on or near to the boundary with the nature reserve should be avoided
- fly tipping from householders can be an issue for the LNR adjoining the houses though there is little scope of altering the layout
- areas such as at the turning head should have vertical bar fencing or similar as an alternative to close boarded allowing some natural surveillance of the nature reserve by residents

Environment Agency – No objections, subject to conditions, as recommended. The proposed development will be located on a site previously used as a foundry. The applicant has indicated that part of the site is suspected to be contaminated and that the proposed use would be particularly vulnerable to the presence of contamination. Without the imposition of conditions the proposed development may cause pollution to the underlying aquifer and nearby watercourses.

CENTRO – No objections. There are two bus services operating along Fibbersley which are frequent during peak times and an hourly service on Sundays. Given the nature of the scheme there will be insufficient demand to improve the service.

Fire Service – Satisfactory access

Severn Trent Water – No objection, subject to a condition in relation to drainage.

Environmental Health – No objections

National Grid - There is a 275,000 volt cable buried more than 1.1m below ground at the west edge of the site (beyond the LNR element). (*The applicant has been informed of this constraint*).

Public Participation Responses

None

Determining Issues

- Policy
- Impact on amenity
- Impact on Local Nature Reserve
- Section 106 obligations

Observations

Policy

The site is unallocated in the development plan and is therefore a windfall site. It is surrounded by residential uses and the LNR. As an industrial use, it is a non-conforming use. The use of the site for residential purposes would be more compatible with adjacent uses, subject to considerations of impact on the LNR.

The proposal is therefore acceptable in principle.

Impact on amenity

The layout of the site is constrained by access and Transportation has advised that the proposal's junction with Fibbersley is the only point at which satisfactory visibility can be achieved.

This has resulted in one dwelling being sited to the north of the access road. However this single dwelling will be viewed in association with three other identical houses also fronting Fibbersley and would not therefore appear isolated or out of character.

The application proposes principles of landscaping, such as hedges at garden boundaries where they are contiguous with the Nature Reserve. The boundary nearest to the steps down to the public open space is currently a concrete panel wall with barbed wire over and the application proposes its replacement with a new hedge. Where the layout adjoins open space with public realm within the site, it would be appropriate to have low / transparent boundaries so as to

maximise passive surveillance to surrounding areas, for example at the turning head. However these details would be resolved through a landscape scheme, to be submitted, as recommended.

The houses all have gardens in excess of Designing Walsall guidelines. Separation between buildings is also above guidelines, with the exception of plots 2 and 3, where the gable of plot 5 would only be 12m from the rear elevations. The proximity of the gable is off-set by the open aspect of the development to the south, and the size of the gardens of plots 2 and 3, 20% above the guideline provision.

The land included in the LNR has been allocated for that in the Development Plan Permitted development rights might allow for physical changes to the site and conditions are therefore recommended to ensure the land remains in its current appearance and accessibility, as land in private ownership but accessible to the public, as at present.

Conclusion

The application proposes an acceptable arrangement of dwellings. Approval should be accompanied by a section 106 agreement reflecting the Supplementary Planning Document for Urban Open Spaces, and the Identified £23,562 contribution in respect of Urban Open Space.

Summary of Reasons for Granting Planning Permission

There are no objections from the Local Highway Authority to the proposed parking and access, subject to the conditions set out.

The proposal generally accords with policy protecting the local nature reserve.

Bat roost and bird nest boxes are required by condition, to improve natural provision. Great crested newt is not thought to be present on the site, A range of details relating to other aspects of the natural environment are controlled by condition.

The previous use as a foundry may have implications for ground contamination and control is proposed through conditions.

The site is unallocated in the development plan and is therefore a windfall site, acceptable in principle for residential.

The proposed buildings and associated works show satisfactory designs to fit the area.

The Local Nature Reserve status of [art of the site is protected by the design propose and by condition.

A section 106 agreement reflecting the Supplementary Planning Document for Urban Open Spaces, for the Identified contribution has been signed and controls the development.

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP2, ENV 32 and H10 of Walsall Unitary Development Plan 2005, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Recommendation: Grant Permission Subject to Conditions and a Planning Obligation

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

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

2. This development shall not be carried out other than in conformity with the -Design and access statement dated June 2009 and the following plans;

Site Location Plan Dwg. no 01 Rev A

Site layout Dwg. no 466 -04 Rev F

Street Elevations 466 -04 Rev F

Plot 1, House type 1, Dwg. no 466 -20 Rev *

Plot 2, House type 1A, Dwg. no 466 -21 Rev *

Plots 3 and 4, House type 1B, Dwg. no 466 -22 Rev *

Plots 5 and 6, House type 2, Dwg. no 466 -23 Rev *

Plots 7 and 8, House type 3, Dwg. no 466 -24 Rev *

Plot 9 and 10, House type 4, Dwg. no 466 -25 Rev *

Topographical survey by Tower Surveys, Dwg. no DHA/15070270/201

Bat Survey Report by Betts Ecology, dated July 20009

Planning Statement, dated June 2009.

Desk Study, by GIP Ground Investigation and Pilling Ltd, dated 29th February 2008.

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

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

Reason: To ensure the satisfactory appearance of the development.

4. No development shall be carried out until a detailed landscaping scheme for the site, (including any necessary phasing of implementation and specifications in accordance with BS 5837), has been submitted to and agreed in writing with the Local Planning Authority. The landscaping scheme shall provide for the planting of extra heavy standard trees to the street frontage, trees to be retained, including trees on land to be retained as part of the Local nature reserve, proposed boundary treatment including hedges and high fencing on rear boundaries. The landscaping scheme shall include full details and specifications of plant material together with detailed locations of the species proposed, full details of the management of the site and full details of hard landscaping. The approved scheme shall be implemented in accordance with any agreed phasing or within one year of any part of the development being brought into use or such other period of time as may be agreed in writing by the Local Planning Authority

Reason: To ensure the satisfactory appearance of the development.

5. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years months from the full completion of the approved scheme. Within this period:

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

Reason: To ensure the satisfactory appearance of the development.

6. No development shall commence until details of tree protection measures, including root protection fencing, in accordance with BS 5837:2005, have been submitted to and approved by the Local Planning Authority in relation to the trees to be retained at the site. The protection measures shall remain in place until the completion of the development, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the satisfactory appearance of the development and protection of trees during the site's development.

7. Development shall not begin until drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been submitted to and approved by the Local Planning Authority and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed/occupied.

Reason- To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

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

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

9. No built development shall commence on site until details of all boundary treatment have been submitted to and approved by the Local Planning Authority. The approved details shall be implemented prior to first occupation of the premises and shall be retained as approved.

Reason: In the interests of securing the development and the amenity of the locality.

10. Prior to the first occupation of the proposed development, the existing access arrangements shall be removed / reinstated as kerbs.

Reason: In the interests of highway safety.

12. No development shall commence on site until details of the refuse collection systems and related storage for the proposed dwellings, together with associated landscaping and / or screening, have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to first occupation of the premises and shall be retained as approved.

Reason: In the interests of amenity.

13. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall otherwise only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local

Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Note for applicant

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

Reason; In the interests of the amenity of nearby occupiers

14. During construction, no ground fires shall be permitted on the development site for the purposes of waste disposal.

Reason; In the interests of the amenity of nearby occupiers

15. Prior to the commencement of this development (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - 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 site investigation results and the detailed risk assessment (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 (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason; To ensure the protection of controlled waters, and to ensure compliance with the Water Framework Directive.

16. Prior to occupation of any dwelling, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

Reason; To ensure the protection of controlled waters, and to ensure compliance with the Water

Framework Directive.

17. If, during 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 the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason; To ensure the protection of controlled waters, and to ensure compliance with the Water Framework Directive.

18. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason; To ensure the protection of controlled waters, and to ensure compliance with the Water Framework Directive.

19. . The parking areas shown on the approved plans to serve the occupiers of the site shall be hard-surfaced in a material to be approved by the local planning authority and marked out and available for use before the related residential unit is brought into use. The parking and access areas shall be retained as such and available for such use.

Reason; In the interests of amenity and safety.

20. Unless otherwise agreed in writing by the Local Planning Authority, development shall not begin until parking for site operatives during construction has been provided within the application site or at an alternative location approved by the local planning authority, in accordance with details to be submitted to and approved by the Local Planning Authority, and such provision shall be retained and kept available during construction of the development.

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

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

Reason To ensure the satisfactory development of the site.

22. Other than in relation to the rear gardens of the proposed dwellings, and their associated fences, at all times there will otherwise be unrestricted pedestrian access to the land identified on plan 'Proposed site layout, ground floor layout, drawing number 466 -04 Rev F', as 'Land identified as Nature Reserve'.

Reason To ensure the availability of the land allocated as Local nature Reserve as accessible to the public, as required by the development Plan.

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, as amended, or succeeding legislation, development as defined by

Schedule 2, part 2 shall require the approval of the Local Planning Authority by an application for planning permission.

Reason To ensure the satisfactory development of the site and the relationship with the Local nature Reserve site.

24. NO development shall commence until details of bat roost and bird nest boxes (including a timetable for implementation / installation) in the development have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed in accordance with the approved details, and thereafter retained.

Reason: To promote bird and bat variety and presence in the natural environment.

NOTES FOR APPLICANT

A) Great crested newts are not thought to be present within the site, but it is recommended that a licence is obtained to ensure that any on site work which may expose newts does not delay the development once begun.

B) If site clearance work begins between 1st March and 30th September in any year an experienced ecologist should be present to confirm that no breeding birds are present. Ideally, initial site clearance should take place outside of these dates.

C) Japanese Knotweed is present on the site. It is appropriate to determine the full spread and appropriate mitigation to prevent further spread during development .



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

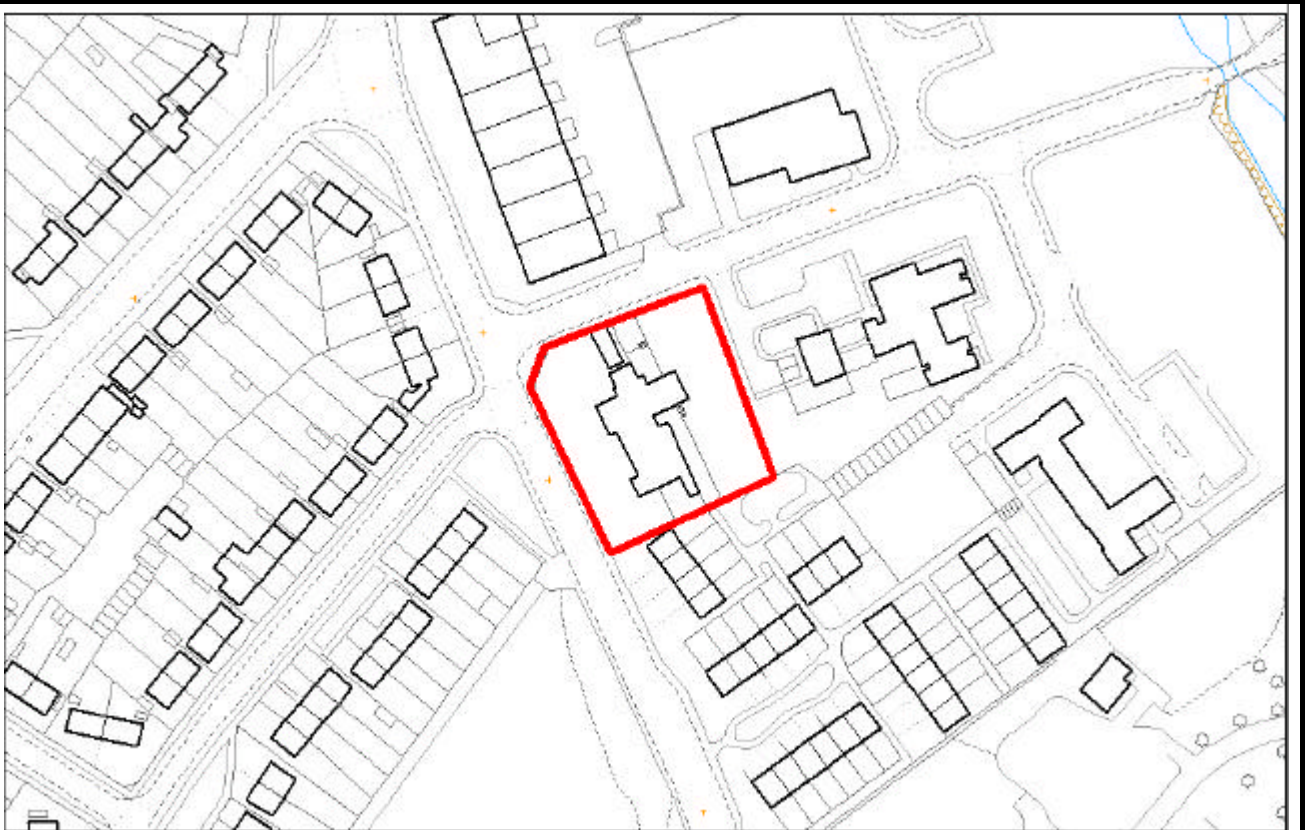
REASON FOR BRINGING TO COMMITTEE: Major application

Application Number: 09/0857/FL
Application Type: Full application
Applicant: Gora Developments
Proposal: Redevelopment of derelict land on a site formally known as the Dolphin Public House into 26 2 and 3 bedroom flats.
Ward: Blakenall

Case Officer: Paul Hinton
Telephone Number: 01922 652420
Agent: Cousins Wojciechowski Architects
Location: THE DOLPHIN P.H., GOSCOTE LANE, WALSALL, WS3 1PD

Expired: 28/09/2009

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



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Application and Site Details

This application is a re-submission following a delegated refusal of a scheme for 39 apartments in June 2008.

The application proposes the erection of 26 two and three bedroom apartments on the site of the former Dolphin Public House which was demolished following a fire in 2007. The proposal is a four storey building, with seven apartments on the ground floor, nine apartments on the first floor, eight on the second floor and two apartments on the third floor. Thirty three parking spaces (including three disabled bays) and two motorcycle bays are provided to the rear of the site accessed through a secure entrance. A secure cycle store with access from within the apartment block for 26 bicycles is proposed at ground floor. Amenity space is proposed in the form of a large communal grassed area to the rear of the apartments at ground floor (262m²). Seven apartments at ground floor have their own private patio areas (6m²) and balconies are provided to 1 apartment at first floor, 6 apartments at second floor and the 2 apartments on the third floor.

The 'L' shape building would be 12m in height at its maximum point, spanning 49.2m width along Goscote Lane and 38m along Slacky Lane. The shallow pitch zinc roof is concealed behind parapet walls and therefore gives the impression of a flat roof building. To the Goscote Lane elevation the building is proposed to be brick with infill powder coated metal panels, zinc cladding and glazing. Painted steel balustrades are proposed to the second floor balconies. To the Slacky Lane elevation a shaped design to the window orientations is proposed. The elevation is proposed to be part brick and part powder coated metal panels with ceramic tile infill and glazing.

The application includes a piece of stainless steel public art on the corner of Goscote Lane and Slacky Lane. The art work is the numbers 210 stacked on top of one another and would form the new address point for the proposed apartment block.

To Goscote Lane, Slacky Lane and rear boundaries tree planting and hedging are proposed. To both Goscote and Slacky Lane 1.5m high metal railings are proposed at the back of footpath. 2.2m high timber fencing is proposed to the boundaries with Rivers House and the houses on Goscote Lane.

The site is located on the corner of Goscote Lane and Slacky Lane, with terrace properties to the south of the site, a local supported housing building (Rivers House) to the east, and a three storey flat roof supported housing building further north. The Wyrley and Essington Canal is further to the north. Goscote Industrial Estate is directly across Slacky Lane which comprises of units with B2 General Industrial Uses. To the west of the site are semi-detached dwellings and public open space. The site levels drop from Goscote Lane towards the canal, with a drop of 1.84m

The following documents have been provided with the application:

- Design and access statement
- Phase 1 Environmental report
- Transport Assessment
- Noise Assessment

The application makes the following changes from the refused application:

- p) Reduced from 39 apartments to 26 apartments.
- q) Reduction in maximum height by 2.4m and reduction of one storey.
- r) Removal of parking spaces to frontage of Goscote Lane and replacement with lawn.
- s) Removal of undercroft car park and replacement with level parking to the rear of the site.

- t) All units are dual aspect.
- u) Reduction in width of building by 2m and depth reduction of 9m along Slacky Lane frontage.
- v) Change in architectural design.
- w) Shaped window design to Slacky Lane.
- x) Removal of access ramp to Slacky Lane.

Relevant Planning History

08/0595/FL – Redevelopment of the Dolphin PH for 39 two and three bedroom apartments. Refused on 30th June 2008 for the following summarised reasons:

1. Layout and design does not achieve a high quality level of design and would create an unsatisfactory residential environment that would be detrimental to the character and visual amenity of the area.
2. Poor residential outlook with single aspect apartments looking onto Goscote Industrial Estate or residential parking areas. The closeness of ground floor apartments to the Goscote Lane parking and Slacky Lane pedestrian access areas with a lack of defensible space to habitable room windows.
3. Failed to provide an adequate level of apartments with satisfactory access for disabled people.
4. Failed to take the opportunity to maximise its environmental sustainability potential by incorporating sustainability measures.
5. Communal amenity space is excessively distant from the proposed living accommodation of units fronting Slacky Lane with no direct or safe access.
6. Absence of appropriate financial contributions or other arrangements.

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

Unitary Development Plan

Policy 2.1 and 2.2 state that the aims of the Plan include sustainable development, urban regeneration and environmental improvement.

GP1: The Sustainable Location of Development

- Locating facilities where they are accessible to everyone and minimise the need to travel.
- (c) development proposals should not prejudice the beneficial use of any adjoining land or buildings.

GP2: Environmental Protection and Policy 3.6, requires new development to contribute to the improvement of the environment.

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

Policy 3.17 and 3.18 development proposals must take account of the need to reduce the consumption of energy and water.

Policy 3.114 good design can discourage crime and increase safety and design can achieve more sustainable environment by reducing energy consumption through orientation of buildings.

Policy 3.115 landscape design can have a major role to play in the creation of an environment which is distinctive and creates a sense of place.

GP3: Planning Obligations, used to secure the provision of any on or off-site infrastructure, facilities, services or mitigating measures made necessary by the development.

GP7: Community Safety, proposals would be expected to have regard for the objectives of 'designing out crime' which include maximising the surveillance of public areas from the living areas of homes and from other buildings.

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

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

Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved.

H4: Affordable Housing, 25% of total dwellings shall be affordable homes.

H9: Minimum Densities, indicates that housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites.

H10: Layout, Design and Dwelling Mix, requires a high quality living environment to be created, well integrated with surrounding land uses and local character.

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

3.45, PPS23: Planning and Pollution Control seeks to ensure that land uses and development are not affected by major existing or potential sources of pollution.

3.47, PPG24, noise sensitive developments are located away from existing or planned sources of significant noise.

3.48 susceptible uses will be protected from the effects of pollution.

ENV14: Development of Derelict and Previously-Developed Land and Policy 3.9

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

ENV18: Existing Woodlands, Trees and Hedgerows, seeks to protect, manage and enhance existing trees and where developments are permitted which involve the loss of trees developers will be required to minimise the loss and to provide appropriate planting of commensurate value.

ENV32: Design and Development Proposals and Policy 3.16, considers development in relation to its setting with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

ENV33: Landscape Design, good landscape design is an integral part of urban design.

ENV34: Public Art, the Council requires the provision of public art to enhance the quality and individuality of buildings.

ENV39: The Council will encourage proposals for the development of renewable sources and for the efficient use of energy.

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

LC1(d): Urban Open Space, residential developments will be required to make a financial contribution to enable the provision of new or improved urban open spaces.

LC8: Local Community Facilities (including Para 8.37) - Loss of local community facilities including public houses should demonstrate there are other facilities in equally convenient location or no longer a need for the facility.

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

T7 – Car Parking, all development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

Flats with communal parking 1.5 spaces per unit

Flats with individual parking 2 spaces per unit

Policy 7.59 requires reserved parking for disabled people.

Urban Open Space (SPD) (April 2006)

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

Education (SPD) (February 2007)

Requires a contribution towards local education facilities on residential developments of 10 units or above.

Affordable Housing (SPD) (July 2005)

Requires provision of affordable housing in developments of at least 1 hectare or 25 dwellings.

Designing Walsall SPD (February 2008)

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

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

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

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

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

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

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

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Local Character Guidance: Goscote Lane Corridor – The Council will encourage quality residential schemes to add character areas to the estate. Interesting and innovative architecture to add vibrancy to the built environment.

Goscote Lane Corridor Regeneration Master Plan 2007 – Defines the site as a node, an area which should act as a focal point.

Regional Spatial Strategy for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

Policy CF1 - Scale and range of new housing development

Policy QE1 - Environment

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

National Policy

PPS1: Delivering Sustainable Development, emphasis is given to the need to reject poor design and the need for sustainable development. Local planning authorities should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.

PPS 3: Housing, the objective of the revised guidance is to:

- iv) Support further increased housing needed across the country
- v) Bring additional brownfield land back into use
- vi) Increase the design and environment standards of new homes and neighbourhoods in order to move towards zero carbon development

PPG13: Transport, promotes sustainable patterns of development, which reduce the need to travel, especially by car.

PPS22: Renewable Energy, development proposals should demonstrate any environmental, economic and social benefits as well as how any environmental and social impacts have been minimised through careful consideration of location, scale, design and other measures.

Consultations

Transportation – no objection subject to the use of recommended conditions in regards to access and visibility.

Pollution Control Scientific Team – no objection subject to the use of conditions controlling hours of construction work and the submission of noise mitigation measures.

Pollution Control Contaminated Land Team – no objection subject to ground gas monitoring being carried out at the site.

Landscape – objects. No details have been provided for the numbers and size of the proposed tree and shrub planting. Only one tree and two shrub species are proposed for the whole site. There is a sharp distinction between public and private space and this should be reflected in the planting. Tree planting in many instances is shown in locations that would almost immediately cause concerns of overshadowing and physical contact between trees and buildings. For example trees are proposed less than 1m away from the south elevation of the parking courtyard which would block sunlight to room windows. On the basis of the information provided the scheme does not meet the requirements of UDP policy ENV33.

Police Architectural Liaison Officer – no objection. The area has a high crime rate and therefore security of the development should be given the utmost attention. The vehicle access gates should be of an open construction and should be self closing and locking to ensure the security of the parking area at all times. In agreement with the 1.5m high fencing and defensive planting along the perimeter, self-closing gates should be considered on the paths leading to the block. The main entrances should be fitted with an access control system to allow occupants to speak or see callers. The doors affording access to the bin and cycle stores from Slacky Lane should be self closing and locking. Doors should comply with PAS24 and windows should comply with BS7950. All access doors from the public side of the building should be self closing and locking to prevent unauthorised access.

Environmental Health – no objections.

Environment Agency – no objection subject to the use of recommended conditions.

Natural England – no objection.

Tree Officer – no objection. The proposed planting would benefit from more than one choice of species.

Housing Strategy – no objection. 25% affordable housing required on this site and would need to be social rent.

British Waterways – no objection. Given the proximity of the application site to the Wyrley and Essington Canal, contributions for further access and towpath improvements to the south of Goscote Hall Bridge could be secured to benefit future residents.

Equality and Diversity – objects. The Design and Access does not cover all the required aspects.

Walsall Children's Services – Serco – no objection. A contribution towards secondary school provision of £33,410.42 is required.

Centro – no objections. There is a frequency of 2 buses an hour Monday to Saturday daytimes and an hourly bus service Sundays and evenings to Walsall and Bloxwich. There is a bus stop located opposite the development site on Goscote Lane.

Fire Services – no objection subject to the inlet valve for the rising fire main in the staircases being sited outside the building.

Public Participation Responses

None received.

Determining Issues

- e) Principle of residential development
 - Whether the scheme overcomes previous reasons for refusal in respect of:
 1. Layout and design
 2. Satisfactory residential environment
 3. Access for disabled people
 4. Sustainability measures
 5. Communal amenity space
 6. Urban Open Space, Healthcare, Education, Affordable Housing and Public Art provision
 - Access and parking
 - Landscape and community safety
 - Impact upon adjacent properties

Observations

Principle of residential development

The application site consists of a vacant area of land where the Dolphin Public House stood until a fire in 2007. The site is covered in rubble, subject to fly-tipping and as a consequence has a significant impact upon visual amenity. The condition is so bad that the Council has served an amenity notice under S215 of the Town and Country Planning Act. The proposed development would satisfy the objectives of policies 3.9 and ENV14 of the UDP which encourage the development of previously developed land. Policy H3 further encourages the provision of additional housing through the reuse of previously developed windfall sites and PPS 3 – Housing, encourages development of brownfield sites for residential purposes. The Goscote Regeneration

Framework considers the application site a development opportunity and is noted as a site which should act as a focal point within the Goscote Lane corridor. This proposal is an opportunity to kick start the redevelopment and modernisation of Goscote.

Policy LC8 states that proposals involving the loss of public houses will only be permitted if it can be demonstrated that there are other existing facilities in an equally or more convenient location, there is no longer a need for the facility or it would not be possible to retain the facility. There are three public houses within 800m of the application site, including The Barley Mow also on Goscote Lane, The King's Head on Ingram Road and the New Inn on Blakenall Lane. There are also a range of other services and facilities within the Local Centre of Blakenhall 700m from the application site. There is a pressure to retain the principle of the site being used as a Public House and following its forced demolition after a fire, there has been no attempt to re-build a public house on this site. There are other existing facilities in a convenient location which means the loss of the Public House can be supported.

The proposal would provide a density of 106 dwellings per hectare, which is higher than the requirements of Policy H9. The local centre of Blakenall is 700m from the application site. Policy H9 encourages densities higher than 50 dwellings per hectare if it is within or close to a town, district or local centre or other location with good accessibility by a choice of means of transport.

The site is adjacent to a bus stop on Goscote Lane which is served by two services. Centro comment that Mondays to Saturdays there are two bus services an hour to Walsall and Bloxwich and hourly services in the evening and on Sundays. A large bicycle store is proposed and the site is 150m from the canal towpath and 200m from the national cycle path. While Blakenall Local Centre is probably just outside reasonable walking distance for some, there are alternative means of transport available. Also considering the site's focal location as the start of the wider regeneration of Goscote, the density is considered appropriate.

Layout and design

The previous application was refused as the scale and design failed to take account of the context of its surroundings. As a result of reducing the amount of apartments to 26 the proposal is reduced by one storey, has lowered the highest part of the building by 2.4m and reduced its depth along Slacky Lane by 9m. Consequently the scale of the building has been reduced to ensure that it is more in keeping with its surroundings. Next to the two storey terraced property of 208 Goscote Lane the apartment block has the same two storey height which then rises to four stories on the feature point of Goscote Lane and Slacky Lane junction. The scale now addresses its context.

The previous application had a dominance of car parking/hard-standing within the street scene including a prominent bin store which presented limited opportunities for landscaping and raised noise and disturbance issued for ground floor flats. The front car park and bin store have now been removed and replaced with landscaping.

The prominent pedestrian ramp to Slacky Lane has been removed which increases surveillance and creates a more open aspect. The proposal now has one continual building line which is in line with the adjacent properties along Goscote Lane, this avoids projecting blank features.

All apartments are now dual aspect which avoids occupiers along the Slacky Lane elevation having one outlook across Goscote Industrial Estate. This elevation now has a shaped window effect which directs views out of the windows over towards the canal or towards residential properties of Goscote Lane and Hardy Road. Dual aspect also reduces the reliance on additional natural resources to heat, light and cool the apartments.

The access arrangements have been altered so that there are no longer 28 apartments accessed from two separate access points. The proposal now has a situation where there is a balance of apartments accessed from the four access points, with a maximum of eight apartments accessed from one access which improves security.

The architecture of the building is contemporary and brings a new character to Goscote. This part of the borough has an absence of modern design and the proposal brings a new vibrancy to the area which is referred to in both Designing Walsall SPD and the Goscote Lane Corridor Regeneration Master Plan. The Goscote Lane elevation has a vertical element which is framed to continue the grain of the terrace properties next door. Slacky Lane has a distinct appearance provided by the shaped window bays and use of ceramic tiles and powder coated metal panels. The metal panels take reference from the adjacent industrial estate with the floor to ceiling glazing akin to a modern residential development. The overall design is considered a focal point which would become a local landmark and consequently meets the objective of the regeneration master plan for this site.

It is therefore considered that reason 1 has been overcome by the reduction in the mass of the building with a contemporary design which has respect for its surroundings with innovative architecture providing vibrancy to the Goscote Lane corridor. The removal of the frontage car park and bin store, dual aspect units, creative design for the outlook over Slacky Lane and revised pedestrian access arrangements means that this part of the proposal is acceptable.

Satisfactory residential environment

The use of dual aspect apartments and removal of the frontage car park and Slacky Lane access ramp overcomes the previous concerns. A noise assessment has been submitted with the application and Pollution Control have no objections subject to the use of mitigation measures to protect potential occupiers from noise.

The proposal includes 262m² of amenity space to the rear of the building, 290m² to the frontage next to Goscote Lane. Private patio areas (6m²) and balconies (4m²) are also proposed. The application site is 21m from the open space and recreation ground on Goscote Lane. Therefore appropriate level of amenity space is available to future occupiers.

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

Education

The level of surplus places in secondary schools are below 10% therefore a contribution of £33,410.42 is required towards secondary school provision within the local area, in line with Policy 8.8 of the UDP.

Urban Open Space

An Urban Open Space contribution of £38,360.00 is required to comply with the Urban Open Space SPD policy.

Public Art

A Public Art contribution of £9,100.00 is required to comply with Policy ENV34 of the UDP and Policy DW9 of Designing Walsall SPD. The applicant wishes this to be on site as shown on the submitted plans. It is considered that this can be achieved by condition (in accordance with policy DW9) subject to the art work being of equal value to the required contribution.

Affordable Housing

25% of the total units will need to be provided as social rented units in accordance with Policy H4 of the UDP and the Affordable Housing SPD.

British Waterways suggest given the proximity of the application site to the Wyrley and Essington Canal, contributions for further access and towpath improvements to the south of Goscote Hall Bridge could be secured to benefit future residents. It is considered that the development would not have direct or immediate impact on the canal sufficient to require a contribution in this case.

The applicant has submitted a financial appraisal to establish whether the development could proceed in light of these contributions or whether a reduction would need to be sought. A financial appraisal is currently under assessment by the District Valuers Office and their consideration will be presented in the supplementary paper.

Access for disabled people

The previous application failed to provide apartments with satisfactory access for disabled people. The re-submission has specifically designed two apartments to be DDA compliant and includes three disabled parking spaces, an internal lift is also proposed.

The Equality and Diversity Officer objects to the application as the design and access statement does not include the required 'Inclusive Access' elements, but does not object to the proposed built form. The previous application did not include a lift from the car park to the only, then proposed, accessible apartment. The proposal now includes a lift which is accessible from the car park and which leads to the accessible apartments.

Access within buildings is not usually a planning consideration with minimum standards for disabled people's access within buildings being set out in the Building Regulations (Part M of Schedule 1). It is not necessary for the planning system to duplicate the controls available under the Building Regulations where this matter would be assessed. In the circumstances there is no reason to suggest that the application would not comply with the Building Regulations and therefore the application would comply with policy GP6 of the UDP.

Sustainability measures

In the Design and Access Statement it confirms that the scheme will achieve a minimum level 3 rating under the Code for Sustainable Homes and this is proposed to be secured by condition.

Communal amenity space

Due to the configuration of the accesses the previous application had communal amenity space excessively distant from living accommodation of units fronting Slacky Lane and as consequence occupiers would have to cross through the car park to get to the amenity space. The proposal now includes direct access which avoids the car park.

Access and parking

Transportation raise no objection to the application. For 26 flats the UDP requires a maximum of 39 car parking spaces. The application looks to provide 33 spaces car parking spaces including 3 disabled spaces. Two motorcycle spaces and secure cycle storage for 26 push bikes is also proposed. The site is located within close proximity of bus stops which provide frequent service to Walsall town centre. Therefore the level of parking is acceptable taking into account the sustainable location and on site parking for alternative modes of transport. There is adequate visibility for the ingress and egress of the Slacky Lane entrance.

Landscape and community safety

The Landscape Officer objects to the application on the grounds that the proposal does not meet the requirements of UDP policy ENV33. This policy requires on larger sites full details of external layout and landscape proposals. No details have been provided for the numbers and size of the proposed tree and shrub planting. Of the details provided the officer has concerns with the limited

number of species and in some cases the locations of trees which would cause concern of overshadowing.

Landscape design is an integral part of good design. The officer's comments are important to achieving an appropriate landscape scheme and have been provided to the agent. While policy ENV33 requires full landscape details to be submitted with an application it is considered a full and satisfactory landscape scheme can be achieved within the site. In these circumstances it is considered that the landscape scheme can be dealt with by way of a condition which would prevent development commencing until a satisfactory scheme had been agreed by the Local Planning Authority. This supports the regeneration initiative more than would a refusal.

The Police advise that the area has a high crime rate and therefore security of the development should be given the utmost attention. 2.2m high fencing is proposed to boundaries to Rivers House and the adjacent houses on Goscote Lane, which is supported by the Police, as is the prickly type planting next to these boundaries. The main issue is that all access doors from the public side of the building should be self closing and locking to prevent unauthorised access and all accesses should be fitted with an access control system. An appropriate condition is recommended.

Impact upon adjacent properties

The proposal projects 4.2m to the rear compared to 208 Goscote Lane. The proposal does not breach the 45° code. The end elevation of Slacky Lane has balconies at first and second floor, these would have views over the canal and Goscote Valley. The end of the building has been positioned so that it would overlook the front open grassed area and car park of River House. It is therefore considered that the proposal would have no impact upon adjacent properties and would increase surveillance to this space.

Summary of Reasons for Granting Planning Permission

The proposed 26 apartments are considered to overcome the previous reasons for refusal of planning application 08/0595/FL. The scale of the building is appropriate to its settings. The design makes reference to the character of the area but also introduces a modern element to assist the regeneration of the area. Landscaping is proposed along Goscote Lane to provide a green frontage. Slacky Lane would have increased surveillance.

The proposal avoids blank edges and creates active frontages to both elevations creating more activity at the junction of Goscote Lane and Slacky Lane. All units are dual aspect and outlook from Slacky Lane apartments are controlled by the innovative shaped window design. Defensible space is proposed to help protect future occupiers from noise and disturbance.

Two apartments are specifically designed for disabled access with a lift accessible from the car park. Full accessibility issues will be considered under the Building Regulations. Communal amenity space is directly and safely accessible for each apartment. It is considered that the lack of detailing on landscape design can be overcome through the use of an appropriate condition which would overcome the Landscape Officer's concern. There have been no further objections from consultees or neighbours. The proposal offers a regeneration opportunity which would significantly improve the amenity of this site.

Accordingly, the proposal accords with the aims and objectives of the Unitary Development Plan policies GP1, GP2, GP3, GP7, 3.6, 3.16, 3.48, 3.114, ENV32, ENV33, ENV39, H3, H4, H9, H10, LC1, LC8, 8.8, T7 AND T13. Supplementary Planning Documents Urban Open Space, Education,

Recommendation: Grant Permission Subject to Conditions and a Planning Obligation

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

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

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

Reason: To ensure the satisfactory appearance of the development.

3. No development shall be carried out until a detailed landscaping scheme for the site (including any necessary phasing of implementation) has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with any agreed phasing or within one year of any part of the development being brought into use or such other period of time as may be agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

4. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

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

Reason: To ensure the satisfactory appearance of the development.

5. No development shall commence until full details of the onsite public art in accordance with the provisions of policy DW9 of Supplementary Planning Document Designing Walsall has been submitted to and approved in writing by the Local Planning Authority. The approved artwork shall be implemented in accordance with the agreed details and shall be retained and maintained thereafter.

Reason: To comply with the requirements of UDP policy ENV34 and policy DW9 of Supplementary Planning Document Designing Walsall.

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

Reason: To ensure the satisfactory appearance of the development.

7. No development shall commence until details of external lighting to be installed on the site have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed in accordance with recommendations issued by *The Institution of Lighting Engineers* for the reduction of light pollution and thereafter retained in accordance with the approved details and maintained in working order. No light shall be directed at, illuminate, reach or cross any occupied dwelling.

Reason: To safeguard the amenities of the occupiers of adjoining premises.

8. No development shall commence until details for a video monitored access control system to the apartments hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented prior to the first occupation of the apartments and retained in working order thereafter.

Reason: In the interests of community safety.

9. No development shall take place until suitable mitigation measures to protect internal and/or external areas from noise have been agreed in writing with the local planning authority, and the development shall not be occupied until such measures have been fully implemented (See note for applicant ST1).

Reason: To protect the amenity of future occupiers.

10.

- Prior to built development commencing an additional assessment of ground gas, having regard to current best practice, shall be undertaken. (see Note for Applicant CL1)
- Prior to built development commencing a copy of the findings of the ground gas assessment together with an assessment of the hazards arising from any ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- Prior to built development commencing a “Remediation Statement” setting out details of remedial measures to deal with the identified and potential hazards of any ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- The remedial measures as set out in the “Remediation Statement” required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination is encountered development shall cease until the “Remediation Statement” required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

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

11. Development shall not begin until drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been submitted to and approved in writing by the Local Planning Authority, and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed/occupied.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

12. No development shall commence until details for the removal and reinstatement of the existing redundant vehicle accesses in Goscote Lane and Slacky Lane back to footway levels have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the apartments.

Reason: In the interests of highway safety.

13. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: In the interests of adjacent residential occupiers.

14. Before this development is brought into use, the accessways, vehicle parking and manoeuvring areas shown on the approved plans shall be hardsurfaced in materials to be agreed in writing by the Local Planning Authority. The areas shall thereafter be retained and used for no other purpose. Prior to the first occupation of the building the parking spaces shall have been clearly marked out, numbered and assigned to particular dwellings or for visitors.

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

15. Prior to the occupation of the proposed apartments, the location of a communal satellite dish shall be submitted to and agreed in writing, prohibiting any others on the building, by the Local Planning Authority. The satellite dish shall be erected in accordance with the approved details and shall thereafter be retained in working order.

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

16. All access doors and gates from the public side of the building should be self-closing and locking.

Reason: In the interests of community safety.

17. The dwelling shall achieve Code Level Three in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measure of sustainability for house design that replaces that scheme). No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that Code Level Three has been achieved.

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

18. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: To prevent the pollution of controlled waters. The proposed development is site upon a minor aquifer with high vulnerability to contamination.

19. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason: To prevent the pollution of controlled waters. The proposed development is sited upon a minor aquifer with a high vulnerability to contamination.

20. No planting or structures shall exceed 600mm in height above ground level within a visibility splay measuring 2.4m x 90m in a southerly direction at the junction of Goscote Lane/Slacky Lane.

Reason: In the interests of highway safety and to define the permission.

21. This permission relates to the following plans E-01 Rev A, E-02 Rev A, S-01 Rev A received by the Local Planning Authority on 29th June 2009. P-01 Rev C, P-03 Rev C, P-04 Rev C, P-05 Rev C, P-06 Rev C, P-07 Rev C, P-08 Rev B, P-09 Rev C Received by the Local Planning Authority on 10th August 2009.

Reason: In order to define the permission.

Note for applicant

Contaminated Land

CL1 Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any

relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

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

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

Scientific Team

ST1 With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

- a). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level, $L_{Aeq(8 \text{ hours})}$, of 30dB together with a maximum instantaneous level of 45 dB L_{AFmax} , between the hours 23.00 to 07.00;
- b). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level, $L_{Aeq(16 \text{ hour})}$, of 35 dB between the hours 07.00 to 23.00;

West Midlands Police

All doors should comply with PAS24 and windows should comply with BS7950.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

REASON FOR BRINGING TO COMMITTEE: Major Application

Application Number: 09/0800/FL

Application Type: Full application

Applicant: G & P Batteries Ltd

Proposal: Re-build storage & processing unit following fire damage, site drainage & surfacing, water storage & treatment plant, replacement boundary fencing, surfacing CP, windows & entrance ramp/steps to Unit 2, erection of sundry services housings, external security cameras & site lighting.

Ward: Bentley & Darlaston North

Recommendation Summary: Grant Subject to conditions

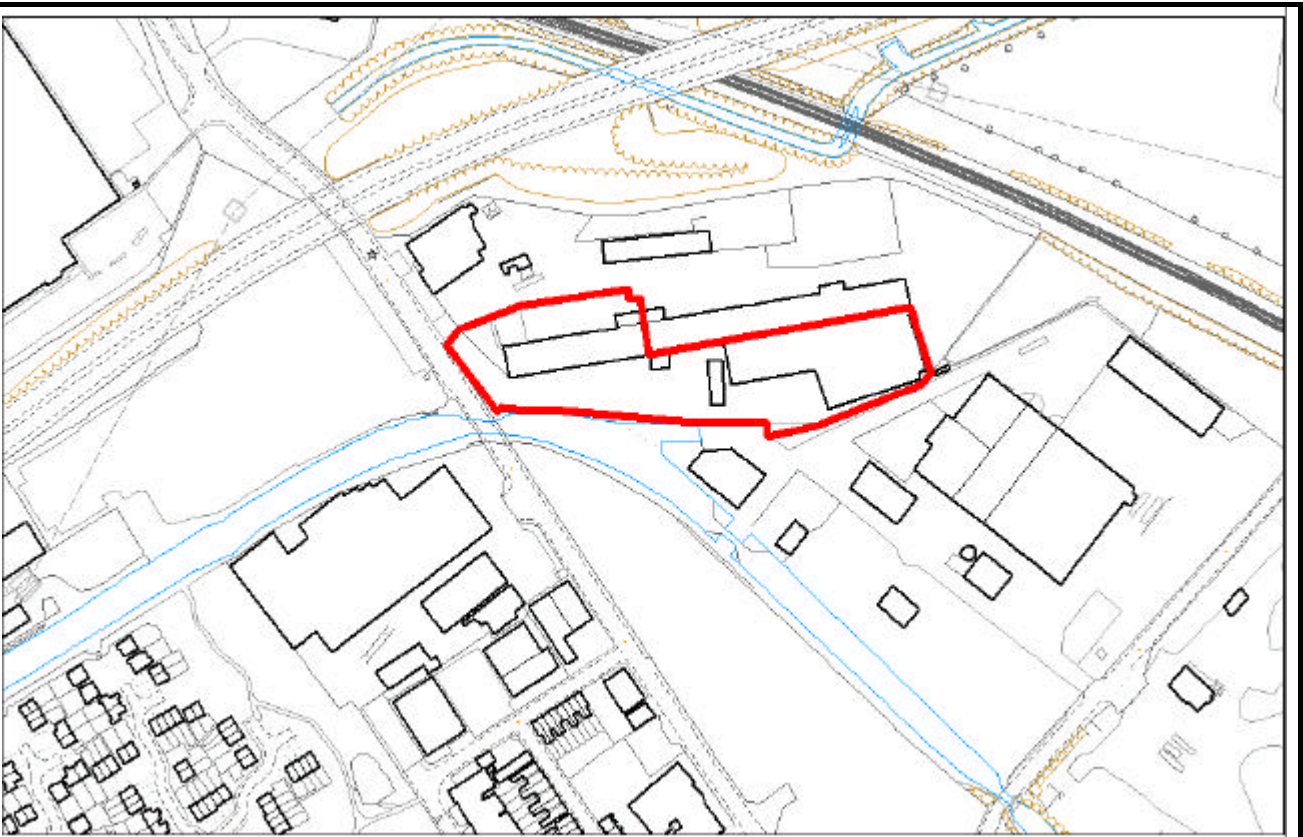
Case Officer: Karon Hulse

Telephone Number: 01922 652492

Agent: Hulme Upright

Location: G & P BATTERIES LTD, CRESCENT WORKS, WILLENHALL ROAD, DARLASTON, WEDNESBURY, WS10 8JR

Expired: 09/10/2009



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Application and Site Details

G & P Batteries are a specialist service provider within the waste management industry, the UK's largest nationwide collector of all types of waste batteries. The company principally deal with collection, sorting, consolidation and processing of end-of-life batteries prior to transshipping to secondary refiners for their chemical / physical recycling

The company has managed to continue its operations from the site, following a fire, by the use of temporary structures. The application is accompanied by a comprehensive design and access statement which includes details of the following:

- Demolition of fire damaged building and existing single storey office building
- Use of unit 2 for office and welfare facilities
- Erection of new industrial storage / processing building
- Extension of contaminated and uncontaminated surface water disposal systems including the provision of new waste water storage tanks and treatment plant
- Bunding and surfacing of yard areas
- Replacement boundary security fencing
- Addition of office entrance and external elevational alterations to unit 2
- Provision of external disabled access to unit 2
- Landscaping area adjacent to unit 2
- Installation of new site lighting and security cameras
- Covered cycle stands

The redevelopment will provide the company with a site that can operate more efficiently.

The application is also accompanied by a construction method statement, Environment Agency permits, environmental protection recommendations (removal of contaminated soils), Method statements on the removal of contaminated excavations, and Coal Authority ground stability reports.

The proposed scheme will incorporate a one way traffic management system with controlled access

The application site forms part of a larger industrial estate which has the Black Country Route to its north and the Walsall Canal to the south.

Unit 2 sits at the entrance of the estate, south of the main gate off Willenhall Road. This is a large two storey unit which runs along the G & P Batteries boundary.

Relevant Planning History

None relevant to the determination of the application.

Relevant Planning Policy Summary

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

Unitary Development Plan (UDP)

GP1: Supports the sustainable location of development.

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

GP4...promote and encourage comprehensive local area regeneration Initiatives which revitalise local economy, create/ safeguard jobs, protect / enhance natural and built environment, bring forward derelict, vacant or underused land and buildings for new uses.

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

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

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

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

ENV17, ENV18, 3.64: encourages new planting as part of landscape design and seeks to protect existing vegetation.

ENV35: The design of commercial premises should be appropriate to their setting.

ENV40: Seeks conservation and protection of all water resources and adequate foul and surface water drainage infrastructure should be provided.

4.1...seek to improve the local environment and enhance the image of the area, introduce security improvements to reduce crime and vandalism and create new, and safeguard existing, job opportunities.

4.2...promotes investment and diversification to meet the needs of both inward investors and existing firms

JP5: Core Employment Areas will be safeguarded for core employment uses.

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

7.1: Seeks to promote an efficient highway network;

T7: All development should satisfy the car parking standards set out in Policy

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

Supplementary Planning Documents (SPD)

Designing Walsall Supplementary Planning Document (February 2008) Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process. It identifies eight key urban design principles for consideration including sustainability, safe and welcoming places, character, continuity, ease of movement, legibility, diversity and adaptability. Local Character Guidance is also included.

Natural Environment SPD

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

Protection is proposed for protected animals, plants etc.

Local Development Framework (LDF)

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. Submission to the Secretary of State is anticipated in October/November 2008 following a further period of public consultation. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of recent national and regional planning guidance

Regional Spatial Strategy for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

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

Policy QE1 – Environment

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

National Policy

PPS1 Delivering Sustainable Development: Emphasises the need to reject poor design and the need for sustainable development.

PPG4 Industrial and Commercial Development & Small Firms: Seeks to take account of the locational demands of business.

PPG13 Transport: Promotes sustainable patterns of development which reduce the need to travel, especially by car.

PPS23 Planning and Pollution Control: Seeks to control the effects of pollution.

PPS24 Planning and Noise: Seeks to minimise the adverse impact of noise.

Consultations

Transportation – No objections

Fire Service - No objections

Pollution Control (Scientific Team) – No objections

Pollution Control (Contaminated Land) – No objections

Environment Agency – No objections subject to satisfactory updated Flood Risk Assessment

British Waterways – No objections

Inland Waterways – No objections subject to no surface run off into adjacent canal

Network Rail – No objections

Regeneration (Landscape) – No objections

Regeneration (Design) – No objections

Severn Trent Water – No objections

Public Participation Responses

None

Determining Issues

- Principle of use of the site
- Design / Operations
- Impact on flood waters, environment, etc.

Observations

Principle of use of the site

This has been a long established use of a site by a very successful local company. It was unfortunately the subject of a fire in March 2008 which destroyed a large part of the storage / sorting building. It has presented the company and the council with the opportunity to revisit the site and address the way it functions and operates..

The company are keen to progress its development which will provide a site more suited to its purpose.

Design / Operations

The site will be developed to provide a new storage / processing unit and new welfare facilities. This together with traffic management measures will ensure that there are no conflicting traffic manoeuvres around the site involving pedestrians and vehicles. The proposed layout segregates the main operations of the site, visitors and staff with visitors having their own designated parking and access via a new entrance. This is to be created at the front of the site around unit 2, this will increase the companies profile along Willenhall Road and improve and enhance its appearance within the street scene.

The application includes landscaping to the front of unit 2 which will be planted and provide seating areas, and again this will improve the appearance of the unit and the industrial estate from Willenhall Road.

The operation of this site is very specific and the new buildings have been designed to accommodate the processes. Measures such as the surface water drainage design will ensure that there is no impact on the environment and other measures have been introduced to ensure the safety of its employees.

Impact on flood waters, environment, etc.

The Environment Agency have no objections with regards to groundwater concerns as the proposal is to redevelop the site on the existing concrete slab and there will be no breaking of new ground. With regards to the Flood Risk Assessment the applicants are currently updating this to suit the Environment Agency's requirements and it is anticipated that the Flood Risk Assessment will be acceptable to the Environment Agency.

The Inland Waterways have concerns of any potential run off into the adjacent Walsall canal will be controlled, restricted and monitored throughout the construction process and by Environment Agency permits.

Summary of Reasons for Granting Planning Permission

The use of the site for core employment is in accordance with policies of the Unitary Development Plan, PPS1, PPG4, PPG13, PPS23 and PPS24 and will allow for the continued occupation of a successful company in Walsall. All matters regarding potential ground and water contamination have been satisfactorily addressed with all statutory bodies supporting the development. Furthermore, its redevelopment provides an opportunity to enhance the appearance of the site within the public realm namely from Willenhall Road and improve its overall operations with the buildings being designed to fit the specific operations of the company and improved safety measures for movement of both pedestrian and vehicles around the site.

Recommendation: Grant Subject to conditions

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

Reason: Pursuant to the requirements of Section 91 of the Town & Country Planning Act 1990.

2. No development shall be carried out until details of proposed refuse facilities have been approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use, and shall be thereafter retained.

Reason: To prevent congestion on site to the potential detriment of highway safety and to ensure the satisfactory appearance and functioning of the development

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, there shall be no vehicular access to the site other than through the accesses shown on the deposited plan, without the prior submission and approval of a planning application.

Reason: To ensure the satisfactory functioning of the development and in the interests of highway safety.

4. All loading and unloading of goods shall take place within the curtilage of the site.

Reason: To ensure the satisfactory functioning of the development and in the interests of highway safety.

5. No amplification equipment shall be installed in the premises until details of the equipment and any necessary soundproofing have been submitted to and approved in writing by the Local Planning Authority. The soundproofing works shall be carried out before the amplification is brought into use, and thereafter retained.

Reason: To safeguard the amenities of the occupiers of adjoining and nearby residential premises.

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

Reason: To safeguard the amenities of the occupiers of adjoining and nearby residential premises and in the interests of highway safety.

7. The landscaping scheme shown on the approved plans shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

8. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

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

Reason: To ensure the satisfactory appearance of the development.

9. The materials used shall be those indicated on the approved plans.

Reason: To ensure the satisfactory appearance of the development.

NOTES FOR APPLICANT

Network Rail has been consulted on the planning application and you are advised to contact them regarding installations and work in close proximity to their infrastructure. Their contact details are :

Territory Outside Party Engineer
Network Rail (London North Western)
11th Floor
The Mail Box
100 Wharfside St
Birmingham
B1 1RT

British Waterways have been consulted on the planning application and you are advised to contact them prior to any development commencing in order to ensure that any necessary consents are obtained and that the works comply with British Waterways' "Code of Practice for Works affecting British Waterways". The contact details are as follows : Mr Des Harris, Senior Third Party Works Engineer on 01827 252038

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

REASON FOR BRINGING TO COMMITTEE: Significant community interest and requiring a balanced judgement

Application Number: 09/1015/FL

Application Type: Outline Application

Applicant: Mr J Mangan

Proposal: Outline: Erection of 2 no. detached houses, demolition of existing garage construction of private drive and associated works. Layout and access to be determined at this stage.

Ward: Streetly

Recommendation Summary: Grant Subject to conditions

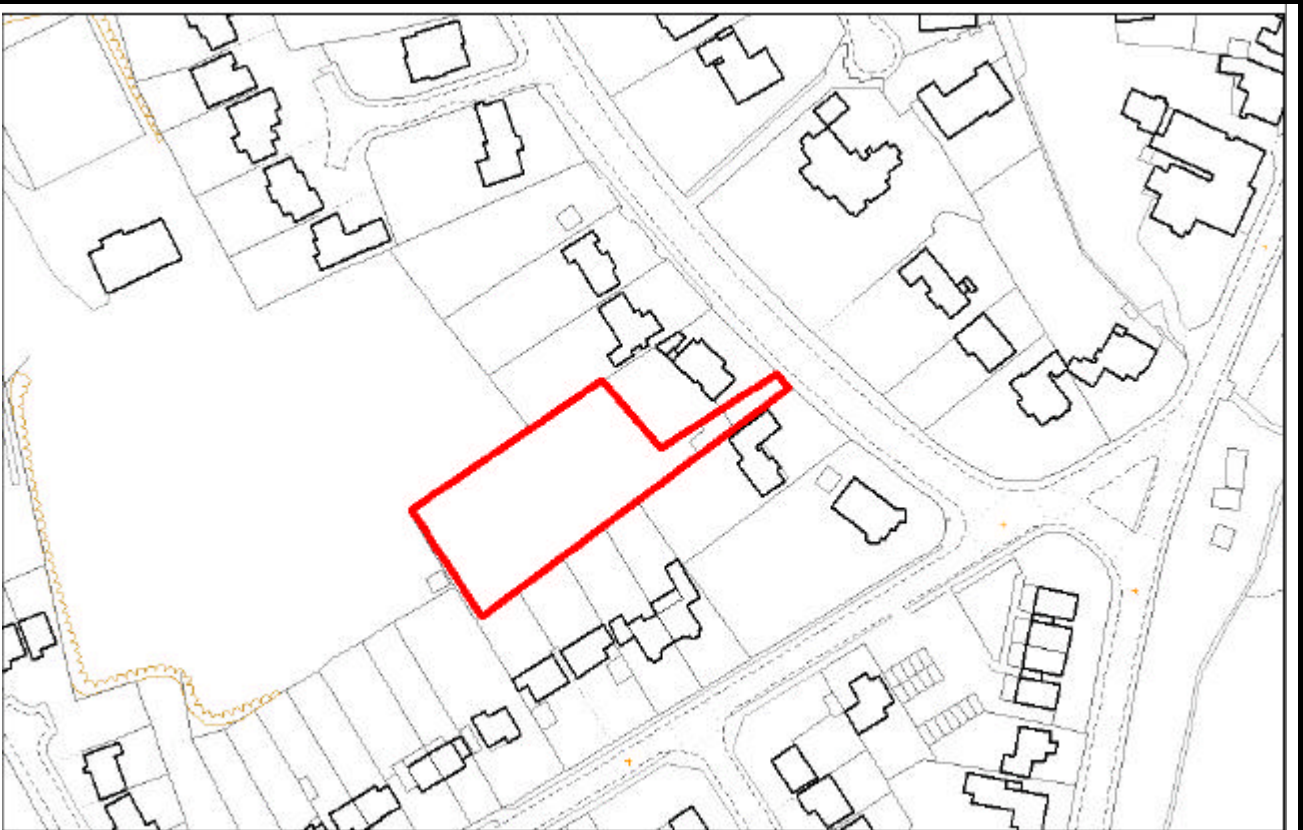
Case Officer: Paul Hinton

Telephone Number: 01922 652420

Agent: CT Planning Limited

Location: Land to side and rear of 43 Middleton Road, Streetly, B74 3ES

Expired: 22/09/2009



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Application and Site Details

This application is a re-submission of a virtually identical application refused in April 2008 and which was dismissed at appeal on the grounds of impact upon residential amenity by virtue of noise and disturbance of vehicles using the access drive.

This outline application proposes the demolition of the existing garage at number 43, the replacement of a lean-to side extension with a replacement garage and construction of private driveway to serve two detached dwellings. This application seeks consent for the layout and access, all other matters are reserved. This application now also proposes a 2m high acoustic fence to the side boundary and rear garden of 43a Middleton Road and the rear gardens of 1, 3 and 3a Manor Road which would be in line with the proposed access drive. The application is supported by a noise survey and a method statement for the erection of the fence in proximity to the existing trees along the boundary.

The site comprises the 75m rear garden of number 43 which is in a predominantly residential area characterised by large houses with street frontage accesses, generously occupying most of the plot width set within extensive rear gardens. The north, east and south boundaries are residential with Streetly Sports Club to the west.

The submitted plan shows two detached dwellings accessed from a separate access drive located along the boundary shared with number 43a. Plot 1 and its detached garage is shown to be perpendicular to number 43 midway along the access track with plot 2 at the end of the access track. Plot 2 is shown to have a detached garage. While the application is in outline, it is anticipated to be two storey construction with a ridge height of some 8.5m. The access track is 70m long with a width of 4.1m for the first 14m and 3.25m thereafter.

There are 14 trees covered by tree preservation order 49/2006, with additional trees providing significant boundary screening for most of the rear garden. In the garden area of plot 2, three Lawson cypresses, one cherry tree and a crab apple tree (none protected) are proposed to be removed.

Relevant Planning History

07/1550/OL/E6 - Outline: Erection of 2 no. Detached Houses, Demolition Of Existing Garage, Erection Of Replacement Garage And Construction Of Private Driveway. Refused 13/9/2008.

08/0291/OL - Erection of 2 no. detached houses; demolition of existing garage, erection of replacement garage and construction of private driveway (Outline: access and layout). Resubmission of application 07/1550/OL/E6. Refused 16th April 2008 for the following reasons. A subsequent appeal was dismissed, however this decision discounted the Council's concerns over its impact on the character of the area, over looking, security, impact on protected species and waste collection. Significant weight is attached to the outcome of the appeal in regards to the current application.

- The proposed development would provide an unacceptable backland development with no street frontage and would be out of character with the pattern of development in the surrounding area. The proposed access drive by reason of occupation of the site for residential purposes would blur the public and private realm by way of exposing private rear amenity areas of 43 and 43a Middleton Road and numbers 1, 3 and 3a Manor Road to the public realm. The proposal would result in additional noise and disturbance by way of the comings and goings of vehicles at all times of the day and night together with general noise of car doors opening and closing, people's voices, car horns and headlights

shining during the evening would collectively reduce the level of amenity that is currently available to the occupiers of 43, 43a Middleton Road, 1, 3 and 3a Manor Road. The proposal would reduce the security to the neighbouring dwellings and gardens which would be detrimental to residential amenities.

- The front of plot 1 would overlook the rear amenity space of 43a Middleton Road, 1 and 3 Manor Road to the detriment of residential amenity.
- The application fails to demonstrate that the proposed development would not have an adverse impact on protected species. The protected species survey report is inconclusive and provides no real support for the application. Therefore the application fails to appropriately confirm or deny the presence of roosting bats within the existing building.
- The application fails to demonstrate an appropriate situation with regards to the collection of domestic waste, creating an excessive walking distance for both occupiers of the proposed plots and Council refuse operatives.

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

Unitary Development Plan

Paragraphs 2.1 and 2.2 state that the aims of the Plan include sustainable development, urban regeneration and environmental improvement.

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

Policy 3.17 and 3.18 development proposals must take account of the need to reduce the consumption of energy and water.

GP2: Environmental Protection and Policy 3.6, requires new development to contribute to the improvement of the environment.

GP7: Community Safety, proposals would be expected to have regard for the objectives of 'designing out crime' which include maximising the surveillance of public areas from the living areas of homes and from other buildings.

ENV14: Development of Derelict and Previously-Developed Land and Policy 3.9

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

Policy ENV18 seeks to ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows.

ENV23: The Council will require the layout of all new development to take full account of existing features of value for wildlife or geology.

ENV32: Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.

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

H10: The Council will expect the design of residential developments, including residential extensions create a high quality living environment, well integrated with surrounding land uses and local character

T7: Car Parking

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

T13: Parking Provision

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

Designing a better Walsall SPD

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

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

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

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

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

DW9 new development must seek to ensure it creates places with attractive environmental quality.

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

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Conserving Walsall's Natural Environment SPD - advises on the information requirements and survey standards for protected species to accompany planning applications.

Area of Special Townscape Character, Thornhill Road, Middleton Road and Foley Road East, Streetly. (2003)

Provides guidance for new development within the area, which includes requirements to provide a building footprint not exceeding 25% of the total area of the plot within which it is to be set, to provide appropriate design, boundary treatment and planting and appropriate use of materials.

Regional Spatial Strategy for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

Policy QE1 - Environment

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

National Policy

Planning Policy Statement 1: Design which fails to take the opportunities available for improving the character and quality of an area should not be accepted.

Planning Policy Statement 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes. Is well integrated with, and complements, the neighbouring buildings and the local area more generally in terms of scale, density, layout and access. Creates, or enhances, a distinctive character that relates well to the surroundings and supports a sense of local pride and civic identity. Provides for the retention or re-establishment of the biodiversity within residential environments.

PPS9 on biodiversity and geological conservation says that the aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. If significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.

Manual for Streets 2007 – Residents should not be required to carry waste more than 30m to the storage point. Waste collection vehicles should be able to get within 25m of the storage point.

Consultations

Transportation – no objection subject to the use of recommended conditions.

Pollution Control Contaminated Land Team – no objections.

Pollution Control Scientific Team – no objection subject to use of recommended condition in regards to construction hours.

Environmental Health – no objection.

Arboricultural Officer – no objection subject to adhering to the recommendations of the method statement and details of replacement tree planning to mitigate for the loss of trees on site.

Landscape – no objections. Landscape condition is recommended.

Building Control - no objection. Recommended note for applicant.

Fire Service – consideration should be given to the provision of fire fighting sprinklers in the properties.

Public Participation Responses

Five letters have been received objecting to the application on the following grounds, three letters also state that their previous objections to the two previous applications remain (see below):

- y) Noise from the driveway
- z) Loss of privacy
- aa) Impact upon property values (not a material consideration)
- bb) Conclusion reached by the Planning Inspectorate remains
- cc) No fundamental differences to previous applications
- dd) Acoustic fence would add nothing towards prevention noise and nuisance
- ee) Part of existing fence considered to be in ownership of 3a Manor Road
- ff) Aesthetic impact of fence, i.e. those used alongside the motorway
- gg) Loss of Cedar tree
- hh) Noise and vibration from larger 4 X 4 vehicles not taken into account
- ii) Overlooking back gardens and bedrooms
- jj) Lack of consultation with Streetly Cricket Club (consultation have been carried out)

Previous objections:

- Reduce privacy
- Overlook adjacent properties
- Impact upon property value
- Increased traffic movements
- Unrestricted access to rear of properties, security would be compromised.
- Home to colony of bats in rear garden

- Wildlife will be disturbed
- Removal of trees under a Tree Preservation Order and bushes would be detrimental to visual amenity
- Proposal would be vulnerable to strikes from cricket balls
- Increase density of building in the area
- Proposal would reduce the right to light and sunshine
- The closeness of the access road would create significant noise, nuisance and traffic problems.
- Inadequate infrastructure to cope with even more properties
- Plans do not correctly show extensions to rear of 37 and 43a Middleton Road
- Inadequate access for construction traffic
- Access for emergency vehicles would be difficult and impossible for the recycling and refuse collection
- The closeness of the properties to the boundaries and an area of fairly extensive gardens are out of character with the surrounding properties
- Would set an unwelcomed precedent

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

Determining Issues

- vii) Principle of residential development
- f) Whether it overcomes previous reasons for refusal in respect of:
 - g) Impact on the character and appearance of the surrounding area
 - h) Overlooking of private amenity space
 - i) Security
 - j) Impact on protected species
 - k) Collection of domestic waste
 - l) Noise and disturbance
- m) Impact upon trees
- n) Parking and access

Observations

Principle of residential development

The site is situated within a predominantly residential area, characterised by a mix of housing ages, types and styles, but predominantly set in large plots. The site is occupied by one large detached house with a detached double garage with an extensive rear garden. The proposed development would satisfy the objectives of policies 3.9 and ENV14 of the UDP which encourage the development of previously developed land. Policies H3 and 6.3 further encourages the provision of additional housing through the reuse of previously developed windfall sites and PPS 3 – Housing, which encourages development of brownfield sites for residential purposes. The principle of residential development is considered acceptable subject to a satisfactory residential environment being achieved.

Impact on the character and appearance of the surrounding area

The previous applications were refused as the backland development was considered to be out of character with the existing pattern of development where properties typically have a frontage with the street. In the appeal decision, the inspector dismissed this argument saying that the proposed houses would not be noticeable in the street scene and that any views of the buildings would be mainly of their roofs and their relative siting to buildings that front the roads in the area would be comparable to that of the houses on Lingfield Grange (90m to the north). As a consequence the

inspector considered that the proposal would be in keeping with the pattern of development in the area and would not harm the surrounding character or appearance. Due to the Planning Inspectorates stance on this position, which is a material consideration, the Local Planning Authority is unable to continue with this reason for refusal.

Overlooking of private amenity space

The previous application was refused due to the front of plot 1 overlooking the private amenity space of 43a Middleton Road and 1 Manor Road diminishing the quality of private amenity space. The inspector in his report considered that plot 1 would be sufficiently distant from the boundary to ensure that, with the retention of the existing boundary fence and vegetation and control of levels by a planning condition, it would not cause any unacceptable overlooking of these gardens. Again, due to the Planning Inspectorates stance on this position the Local Planning Authority is unable to continue with this reason for refusal. Retention of the fence and details of site levels is put forward as a recommended condition.

Security

The access to the site would run adjacent to the gable wall and private rear garden of 43a Middleton Road, extending to the rear of the private rear gardens of 1, 3 and 3a Manor Road. The access drive would expose the private realm to public access, which as part of the previous application was refused because it would reduce security to neighbouring boundaries to the detriment of residential amenity. The inspector dismissed this argument saying that the access would be private and could be gated; furthermore it would be overlooked from the proposed dwellings. A gated access is proposed as part of the application. Therefore, the Local Planning Authority is unable to continue to pursue this reason for refusal. The retention of the gate is recommended as a condition.

Impact on protected species

The protected species report submitted with the previous application had conclusions, which were unsupported by much justification or evidence. At the appeal further information was provided to overcome the LPAs objection which confirmed no evidence of bats roosting on the site, but gave evidence that a number of species are using the trees on site for feeding. The LPA was concerned whether the mature trees on the site would be able to be retained in the long term which would then effect the mitigation recommended in the survey. The inspector however concluded that the buildings would be sited a sufficient distance away from the trees to ensure that their future removal would not be justified on the grounds of shading of the proposed dwellings. Therefore, the Local Planning Authority is unable to pursue this reason for refusal.

Collection of domestic waste

The application proposes a private drive. Therefore refuse collection would need to take place from Middleton Road. The application proposes a hardstanding for bins 36m from Middleton Road, and 36m from plot 2 and 10m from plot 1. These measurements are outside the guidance given in the Department for Transport document Manual for Streets. The inspector said that all future residents of the proposed dwellings would be aware of the situation and they could make alternative arrangements for refuse storage and collection. The inspector concluded that this arrangement would not be sufficient reason on its own to refuse planning permission. In light of the inspector's comments, Transportation do not object to the application subject to the use of a condition requiring details for the arrangement of collection of refuse bins from the site.

Noise and disturbance

Therefore, the only area where the inspector agreed with the LPA was on grounds of noise and disturbance. The proposal by virtue of the access drive would expose the rear gardens of adjacent properties to vehicular noise. While the inspector stated that the volume of traffic would be relatively low, there would be no restrictions on the times of its use and vehicles would need to

manoeuvre near to the boundary. The inspector stated that this would result in noise and disturbance to neighbours within the rear gardens of these dwellings which are currently secluded, and in particular those at 1, 3 and 3A Manor Road and 43a Middleton Road.

The inspector stated that he had been given insufficient details of any noise protection measures such as fencing to show that they could be satisfactory provided and also ensure that trees along the boundary would be retained.

It is in response to this issue that a noise survey has been undertaken and a 2m high acoustic fence is proposed. The noise survey makes an assessment of the existing noise climate and also determined the predicted noise impact upon existing dwellings from vehicles using the proposed access road to the new dwellings in accordance with the guidance within Planning Policy Guidance 24: Planning and Noise. The survey data indicates existing steady noise levels throughout the daytime and early evening with level reduction during late evening and into the nighttime. It states that the highest sound levels were recorded in the early morning period 04.00-05.00 and were attributable to birdsong.

The noise from vehicles for the 5 seconds it would take to pass along the drive is indicated within the report that within dwellings it is unlikely that vehicle movement would be noticeable, whilst within gardens, vehicle movement may, at times just be noticeable during a lull in general ambient noise. The report goes on to consider average vehicle movements for both dwellings to be 20 across the entire day, which for the 5 seconds of drive along the access would represent 0.1% of each 24hr period. Consequently, these short durations suggest that there would be negligible noise impact from vehicle movement. The report further notes that noise from birdsong far exceeds noise likely to be generated by vehicle movements. While the report suggests that noise levels would be within the guidance of PPG24, it recommends that the southern edge of the proposed new driveway be provided with a solid barrier fence of minimum height 1.5m. The barrier should be continuous to ground level and have a minimum mass of 10kgm². The report considered in practice this can be achieved with a close boarder timber fence using boards of a minimum thickness 13mm.

Therefore, the findings of the technical report and the mitigation measures proposed, the application demonstrates that it would not have an undue impact upon adjacent residents by virtue of noise and disturbance. Neither Pollution Control nor Environmental Health object to the application.

It is considered that an appropriate condition can secure and retain the proposed 2m high acoustic fencing, the design of which would be akin to high quality boundary treatment. One letter of objection refers to physical ownership of part of the existing fence and access to its replacement. This would be a matter between the relevant parties and is not material in the determination of this application.

Impact upon trees

The inspectors report comments on the provision of noise protection measures and possible impacts upon the trees to the existing boundary. A method statement has been provided which states that replacing the existing fence would be no problem provided that fence posts are placed as to avoid damaging any main roots on trees. The statement also includes a plan which plots the required location of fence posts and in particular has been designed around one of the trees. The Tree Officer has no objection to the application subject to the recommendations in the method statement being adhered to and replacement tree planting to mitigate against the loss of trees within the boundary of plot 2. These can be secured by condition.

Parking and access

On the grounds of parking and access Transportation do not raise any objections to the application. The dwellings would be provided with appropriate number of parking spaces to meet the requirements of the UDP. Access to the site is considered acceptable.

Summary of Reasons for Granting Planning Permission

The proposed layout and access for two dwellings are considered to overcome the previous reasons for refusal of planning application 08/0291/OL. Application 08/0291/OL was dismissed at appeal, however in dismissing the appeal the inspector also dismissed the Local Planning Authorities concerns over the impact upon the character and appearance of the area, issues of overlooking, security, waste collection and protected species and therefore only raised objection to noise and disturbance. The remaining concerns from neighbours with regard to the impact upon the character and appearance of the area, issues of overlooking, security, waste collection and protected species have therefore previously been considered and dismissed by the Appeal Inspector.

In response a noise survey has been submitted with this application which demonstrates that vehicle movements would not have an undue impact upon adjacent residents by virtue of noise and disturbance and proposes the use of acoustic fencing which would be retained by condition. There have been no objections from Pollution Control or Environmental Health. A method statement for the erection of the acoustic fence in proximity to the boundary trees demonstrates that it would not have an impact on the long term retention of the trees. Despite objections regarding noise and disturbance and that the noise survey does not take into account noise from larger vehicles Pollution Control and Environmental Health consider the submitted survey adequate to address earlier concerns. The proposals now include provision of an acoustic fence which addresses the earlier noise and disturbance issues, and therefore overcome the reason for refusal of the earlier application. An objection to the appearance of the acoustic fence has been made but this is positioned along the boundary of the site where boundary fencing is normally to be expected and the inclusion of tree planting along this boundary will reduce any visual prominence of the fence.

The Tree Officer has no objections to loss of trees subject to recommendations in the applicant's method statement being adhered to and replacement tree planting. Nevertheless the objector's concerns regarding loss of trees has been considered but is not sufficient ground to refuse the proposal given replacement planting is proposed.

Accordingly the proposal meets the aims and objectives of the Unitary Development Plan policies 3.6, 3.9, 3.16, GP2, GP7, ENV14, ENV18, ENV23, ENV32, 6.3, H3, H10 and T13, the aims and objectives of Supplementary Planning Document Designing Walsall and Planning Policy Statement 1: Delivering sustainable development and 3: Housing.

Recommendation: Grant Subject to conditions

1. Application for approval of the Reserved Matters shall be made not later than the expiration of 3 years beginning with the date of this permission and the development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the Reserved Matters application, or the last Reserved Matters approval.

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

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

- a) The scale of the buildings
- b) The appearance of the buildings
- c) The landscaping of the site

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

3. No dwelling shall be occupied until the drive to that dwelling has been fully consolidated, hard surfaced and drained, in materials to be submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory functioning of the development.

4. No development shall commence until full details of the acoustic fence including its location and density in accordance with the recommendations of the report on existing noise climate and noise impact of access road by Hoare Lea Accoustics and the Method Statement by Rodney Helliwell received by the Local Planning Authority on 27th July 2009. The fence shall be erected prior to the first occupation of the dwellings in accordance with the approved details and shall be retained thereafter.

Reason: In the interests of visual amenity and to provide appropriate mitigation measures in regards to noise and impact upon trees along the boundary.

5. The landscaping scheme to be submitted as Reserved Matter shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

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

Reason: To ensure the satisfactory appearance of the development.

7. No development shall commence until details for replacement trees to be planted (including species, size and location), including a time period for planting, within the application site have been submitted to and approved in writing by the Local Planning Authority. Should the replacement tree(s) die, become seriously diseased, damaged or is removed within three years of the planting; it shall be replaced by a tree of the same or greater size as originally agreed.

Reason: To mitigate for the loss of protected trees within the application site.

8. This development shall not be carried out until a schedule of facing materials to be used in external walls and roofs has been approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

9. No development shall commence until details of a domestic sprinkler system have been submitted to and approved in writing by the Local Planning Authority; and the dwelling hereby permitted shall not be occupied until the sprinkler system has been constructed in accordance with the approved details. The sprinkler system shall be retained and maintained thereafter.

Reason: To ensure the satisfactory functioning of the development.

10. No development shall commence or site clearance works take place until a scheme fully detailing the provision of artificial bat roosts upon the building and attached to existing trees has been submitted to and agreed in writing with the Local Planning Authority. Details shall include full construction details and the precise location of all such features. The artificial bat roosts shall be retained thereafter or as otherwise agreed in writing by the Local Planning Authority.

Reason: In order to safeguard and enhance the habitat of protected species

11. All parts of the building where bats may be roosting shall be demolished carefully using hand tools only under the direct supervision of a suitably licensed and experienced ecologist.

Reason: To avoid the needless mortality of bats, which are protected species.

12. No development shall be carried out until details of the design and location of protective guards or fencing to trees (in accordance with BS: 5837 2005) to be used during construction has been approved in writing by the Local Planning Authority. The approved guards or fencing shall be implemented prior to the commencement of construction and retained until the development is complete. The soil level shall not be altered within the approved guard or fencing and this area shall be kept clear of materials and machinery.

Reason: To safeguard the trees to be retained on the site in the interests of the amenity of the area.

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

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

14. No development shall commence until details of the access gates have been submitted to and approved in writing by the Local Planning Authority. The gates shall be erected in accordance with the approved details prior to the either of the dwellings being first occupied and shall be thereafter retained.

Reason: In the interests of visual amenity and community safety.

15. No development shall take place until details of a refuse management scheme have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented upon the first occupation of any part of the development and maintained thereafter.

Reason: To ensure the development has satisfactory arrangement for waste collection.

16. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 1995, or succeeding Orders, the dwelling hereby permitted shall not be altered or enlarged to deprive it of an existing garage or its drive or parking area as approved and first constructed, except with the express permission of the Local Planning Authority.

Reason: To ensure the satisfactory provision of off-street parking.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

Reason: In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

18. The dwellings shall achieve Code Level Three in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measure of sustainability for house design that replaces that scheme). No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that Code Level Three has been achieved.

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

19. No construction or engineering works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday, and such works shall only take place between the hours of 0700 to 1800 weekdays and 0800 to 1400 hours Saturdays, unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Note for Applicant

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

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

20. Development shall not begin until drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been submitted to and approved by the Local Planning Authority, and the scheme shall be subsequently be implemented in accordance with the approved details before the development is completed/occupied.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

Note for applicant

Your proposals include demolition work, it will therefore be necessary for you to notify Building Control Services of your intention to demolish (Section 80 of the Building Act 1984). This should

be done as soon as possible but not less than 6 weeks before commencement of the demolition work. Helpline number 01922 652408.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

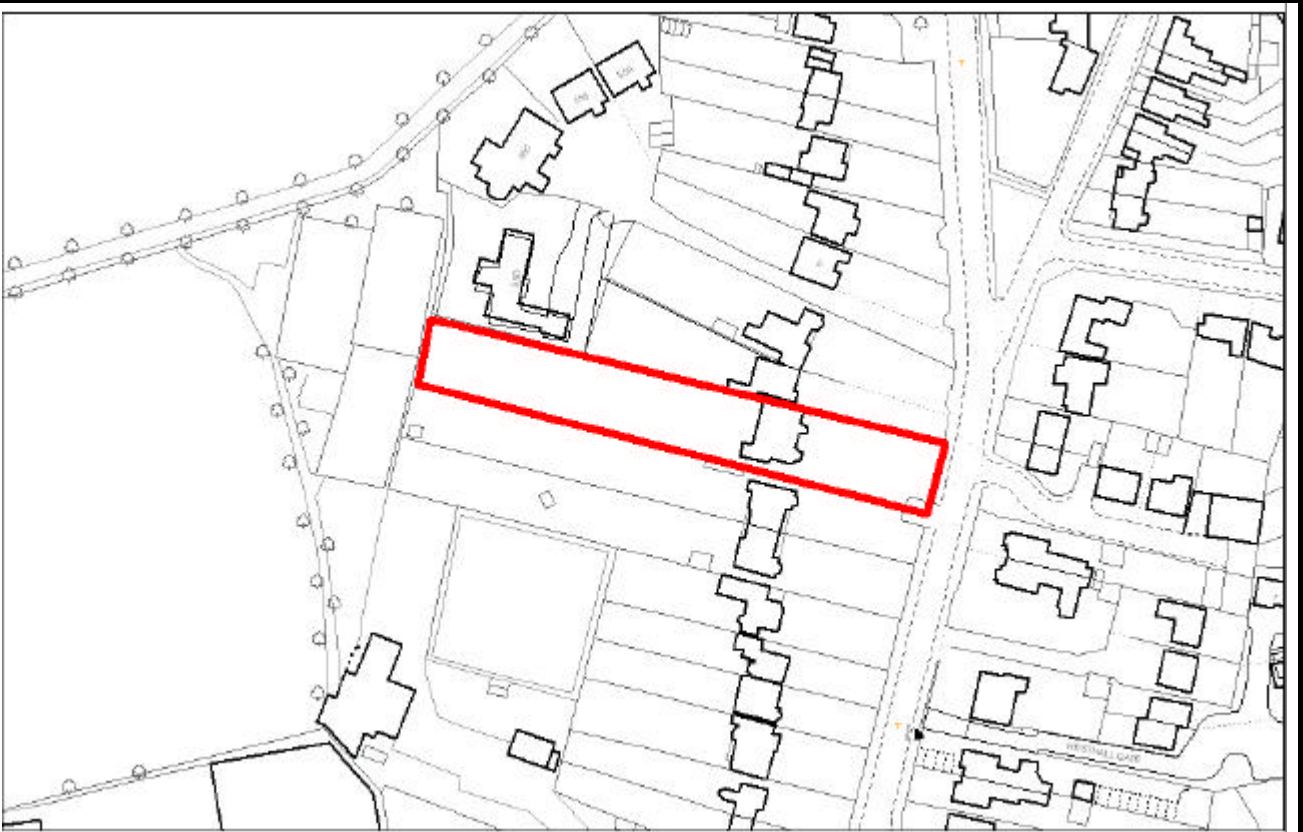
REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 09/0946/FL
Application Type: Full application
Applicant: Mr & Mrs J Hill
Proposal: Rear garden room extension to house

Ward: Bloxwich West

Case Officer: Helen Smith
Telephone Number: 01922 652486
Agent:
Location: 53 STAFFORD
ROAD, BLOXWICH, WS3 3NJ
Expired: 07/09/2009

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

This application is for a single storey extension to the rear of a traditional detached bungalow to provide a garden room. The properties to either side of number 53 are bungalows and this proposal will be located to the rear of an existing garage. The extension will project 4.9 metres from the rear of the existing house and would be 2.5 metres high, with a flat roof.

This proposal would lie close to the rear garden boundary with 53a which has a single storey extension along the same rear boundary projecting 6.9 metres further back than the existing extension at 53 (i.e. 2 metres further than the proposal). There is a rear facing non-habitable room window in the extension at 53a.

The opposite side of this extension will lie approximately 14 metres from the boundary with bungalow number 51. Number 51 has a detached garage, with a blank side elevation, along the rear garden boundary with the application house. Number 51 is approximately 0.5 metres higher than number 53. The proposed extension will have a door and window which faces the existing garage at 51.

The extension will have no rear facing windows and will lie approximately 45 metres from bungalow number 55d which is located to the rear of the application house.

This application also shows a single storey extension across the rear of the application property which is to be built under permitted development allowances and does not form part of this planning application.

The applicant has provided additional information in which he states that:-

- kk) the extension is to upgrade the property (which hasn't been touched for 50 years) to bring it up-to-date and in line with the neighbouring properties;
- ll) the extension would be screened from number 51 by the extended garage belonging to 51 and it is for use by his elderly mother-in-law and to store paperwork
- mm) the occupiers of 55D has told him he doesn't object to the extension, only to the dogs
- nn) only one of his dogs has puppies at the moment
- oo) Environmental Health have no records of any complaint regarding dog noise at his property.

Relevant Planning History

None relevant.

Relevant Policies

(Note the full text version of the UDP is available from First Stop Shop in the Civic Centre and on the Council's web site: <http://www.walsall.gov.uk/planning>

Unitary Development Plan Policies

GP2: Environmental Protection

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

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

H10: Layout, Design and Dwelling Mix.

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

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

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

Supplementary Planning Documents

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

National Policies

PLANNING POLICY STATEMENT 1

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

Consultation Replies

Environmental Regeneration – Arboriculture – No objections

Public Participation Responses

The occupiers of 51, 53A and 55D Stafford Road have objected to this proposal on the following grounds:

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- No objections to the extension but concerned about the proposed use as a garden room and whether this extension is intended to be used to house breeding dogs as there are already 8 breeding dogs at the property.
- The nuisance of dog barking and running a dog breeding business from home.
- The issue of what happens to all of the dogs waste.
- The plans do not show the exact use of this extension as the applicant has advised that this will be used to house dogs
- There is a large tree house and climbing frame at the end of the garden that intrudes on our privacy and creates additional noise from children playing.
- Work has started before planning permission has been given.

The occupiers of 53a have provided a plan showing the position of the dog kennels in relation to their bungalow.

Determining Issues

- Impact on Amenity of Nearby Residents

Observations

Impact on Amenity of Nearby Residents

This proposal would project 2 metres less than the existing extension at number 53a and the proposed rear extension would not be visible from the ground floor rear windows of 53a. It is considered that the extension would have minimal impact on the daylight available to the occupiers of 53a.

The proposed extension would lie to the north of number 51 and as there would be a gap of 14 metres to the blank garage wall of 51 it is considered that this proposal would have minimal impact on the daylight received by the occupiers of 51.

The neighbours concerns relate to the proposed use of the extension rather than to the construction of the extension. Their concerns are about increased dog breeding and the nuisances associated with this. References to dog waste and dogs barking are dealt with via environmental health legislation. The applicant has advised that the garden room is to be used as a sitting room. A condition can be attached requiring the extension to only be used for purposes incidental to the enjoyment of the existing bungalow.

The building works that have already started relate to the works being commenced as permitted development.

Summary of Reasons for Granting Planning Permission

The position of the proposed rear extension would have little impact on the privacy, daylight and sunlight received by nearby properties.

The proposed extension is considered ancillary to the dwelling house and in this instance would be acceptable. Nuisance of dog barking is not covered by planning legislation.

The reference to construction started without planning approval relates to a garden structure being erected under permitted development rights.

The proposed development is considered to accord with the aims and objectives of Walsall's Unitary Development Plan, in particular policies GP2, ENV32, H10, and the Supplementary Planning Document 'Designing Walsall' and other material planning considerations.

Recommendation: Grant Subject to conditions

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

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

2: The walls and roof of the extension shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise previously agreed in writing by the local planning authority.

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

3: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

4: The extension shall only be used for purposes incidental to the enjoyment of the dwelling as such.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

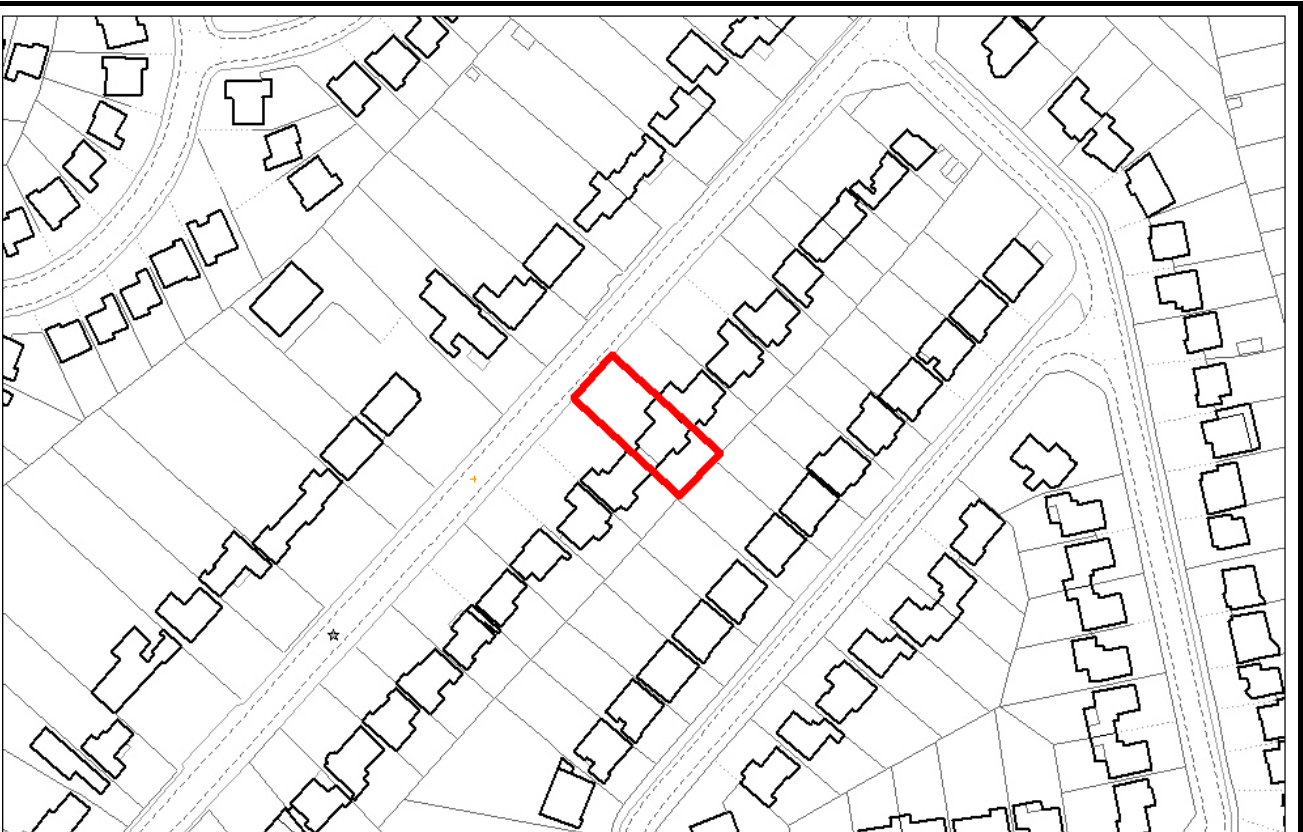
REASON FOR BRINGING TO COMMITTEE: Significant community interest

Application Number: 09/0841/FL
Application Type: Full application
Applicant: Mr Jason Aldridge
Proposal: Proposed front, side and rear extensions, reconstruct and enlarge roof with dormers to the front.
Ward: Streetly

Case Officer: Jenny Townsend
Telephone Number: 01922 652485
Agent: Plotnet LTD
Location: 34 WOOD
LANE, STREETLY, B74 3LR

Expired: 20/08/2009

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

This application is for extensions to a detached bungalow which is fire damaged and currently has no roof. The proposed extensions would enlarge the existing garage and hallway at the front, enlarge the existing dining room to the rear and add new roof with 4 bedrooms (one with en-suite shower room) and a bathroom created within the roof space.

Three small dormer windows (with pitched roofs) are proposed in the front roof slope of the new hipped roof whilst at the rear a small flat roofed dormer is proposed to serve the new bathroom. Two gables are proposed on the rear elevation with full length windows with grills across facing towards the rear boundary with the properties in Inglewood Grove.

The front of the garage would project 3.5 metres forward of the front of the garage belonging to number 36 and would have a hipped roof to match the hipped roof proposed over the existing bedroom projection on the other side of the bungalow nearest to number 32.

The original submitted plans proposed a half hipped roof 4.1 metres deep with eaves approximately 1.9 metres higher than the original. However amended plans have been received which propose the roof to be the same depth but the eaves to be 0.8 metres higher than the original eaves. The proposed front dormers have also been reduced in size and a small flat roofed dormer added at the rear.

Velux windows are proposed in both of the side roof slopes which would all serve the new loft bedrooms.

The rear extension would infill the area between the existing side wall nearest to 32 and the rear of the existing lounge projection.

The rear garden of the application bungalow is approximately 7.5 metres long, similar to the adjoining properties which back onto the rear gardens of the properties in Inglewood Grove. The distance between the rear of the application bungalow and the rear of 81 Inglewood Grove (also a bungalow) is approximately 28.5 metres.

Number 32 lies to the north of the application bungalow and is approximately 0.5 metres higher than 34 at eaves level. The bungalows are in line at the front and rear and have a gap of approximately 1.0 metre between them. Number 32 has windows in the side elevation which serve the hall and landing, ground floor bathroom and a secondary window to the rear lounge and there is a side dormer window which is clear glazed and serves an en-suite bathroom.

Number 36 lies to the south-west and is approximately 0.5 metres lower in level than 34. At the rear 36 has a sitting room patio window at ground floor level which is in line with the rear corner of 34 and at first floor level there is a rear facing dormer which has an obscure glazed bathroom window.

Relevant Planning History

None.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website www.walsall.gov.uk/planning)

Unitary Development Plan Policies

GP2: Environmental Protection

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

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

H10: Layout, Design and Dwelling Mix.

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

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

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

T7 – Car Parking

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

T13: Parking Provision

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

Designing Walsall – Supplementary Planning Document

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

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.

PLANNING POLICY STATEMENT 1

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

Consultations

None.

Public Participation Response

6 letters of objection were received regarding the original plans and in respect of the amended plans, 7 objections have been received from the occupiers of 32, 36 and 38 Wood Lane and 79, 81, 83, 85 and 87 Inglewood Grove. These are that:-

- size of the extensions will dwarf properties either side and be out of keeping with surrounding homes and not in proportion with the small rear garden
- the proposal will be a gross overdevelopment changing a 2 bedroom bungalow to a 5 bedroom house and the two gables to the rear will total transform the original property
- the proposal will be aesthetically detrimental to the area, not in keeping with the spacious character and will look 'crammed in'
- full length rear windows with Juliet balconies at first floor level and rear dormer will allow overlooking to bungalows to the rear and cause a loss of privacy, due to the short rear garden and the proximity to the boundary, also a loss of privacy to the rear of 36
- loss of light to 36 and to the side windows at 32
- removal of the existing roof and demolition of walls in assumption that consent is a foregone conclusion

A further letter has been received from the occupiers of number 32 which advises that they have asked Councillor Hughes to speak on their behalf. This letter also includes extracts from the deeds of number 32 and covenants which they claim also apply to the application bungalow as the properties were built at the same time. No new planning issues were raised.

Determining Issues

- pp) Design of Extension and Impact on Character of Area
- qq) Impact on Amenity of Nearby Residents
- rr) Parking

Observations

Design of Extension and Impact on Character of Area

The design of the roof would be compatible with the original roof shape and in keeping with the hipped roofs to the neighbouring bungalows. The hipped roofs proposed to the existing front projection and the proposed garage extension would be very similar to those at number 32.

The ridge of the roof would be approximately 0.2 metres higher than the ridge of the roof at 32 and although it would be approximately 0.7 metres higher than the ridge of the main roof at 36, the variation in roof shapes and ridge lines to the roofs either side means that the new roof would not have an adverse impact on either the appearance of the bungalow or the street.

Wood Lane comprises a mixture of houses and bungalows of a variety of designs. This section is mainly bungalows with hipped roofs and most have added dormer windows to at least one of the

roof slopes. The road 'dips' in level approaching the application bungalow and consequently number 30 is slightly higher at eaves level than number 32, 32 is higher than 34 and 34 is higher than 36. Numbers 36 and 38 are approximately level with number 40 slightly higher in level than 38. Number 40 has enlarged the roof and added similar dormers to the front however there is a single storey section to the side which lies alongside the garage of number 38.

Dormers are a characteristic of the area (both neighbours have added them at the side and rear) and therefore the dormers proposed to the front and rear would be in keeping with the established character of the area.

Impact on Amenity of Nearby Residents

There would be little impact to number 36 from the proposed front garage extension as it would lie alongside the garage belonging to number 36.

The velux windows proposed in the side elevation would allow a potential for overlooking to 36 however this would be mainly the roof. A condition for obscure glazing is to be added to overcome this.

Next to number 32, the new pitched roof to the existing front wing would be almost identical to the previous hipped roof to this part of the bungalow.

The eaves of the roof as shown on the amended plans would be approximately 0.2 metres higher than the eaves belonging to number 32 and as 32 lies to the north of 34 and there is only approximately 1.0 metre between them, there would be some loss of light to the side ground floor windows of 32 caused by the roof. However two of the side windows are obscure glazed and serve non habitable rooms whilst the rear window is leaded and is a secondary window to the lounge with a larger rear facing window also serving the same room. The rear of the extension is not proposed to project beyond this rear window of 32.

At the rear the extension would not project beyond the rear of 36 and although the eaves would be higher than the existing, the extension would lie to the north of 36 and would therefore cause little additional loss of light or shading.

As for the side first floor window at 32, this also serves a non habitable room.

The velux windows proposed in the side roof slope facing towards 32 would be conditioned to have obscure glazing to avoid overlooking to 32.

The rear part of the extension would be in line with the existing rear lounge projection and would not be any closer to the boundary with the bungalows in Inglewood Grove than the existing rear lounge of the bungalow.

The distance between the proposed first floor windows and the rear of 81 Inglewood Grove (the property directly in line with 34) is approximately 28.5 metres and would exceed the minimum distance separation required between facing habitable room windows.

The rooms proposed in the roof would introduce a new level to the bungalow however this would not be dissimilar to both of the neighbouring bungalows which already have rooms into the roof space and in the case of number 32, have bedroom windows facing towards the rear of the bungalows in Inglewood Grove.

Number 79 Inglewood Grove have also added dormers to the rear roof slope which face towards the rear of the properties in Wood Lane at a similar distance.

Parking

There is sufficient space in the front garden area to provide 3 off-road parking space to meet Council's requirements for a property with 4 or more bedrooms.

Summary of Reasons for Granting Planning Permission

The design of the roof would be similar to the nearby bungalows and the dormer windows are a characteristic of the area. The new bedroom would be created in the roof space, similar to what has already been done at nearby properties.

The proposal will not cause a significant increase in overlooking, a loss of privacy or a loss in the daylight or sunlight enjoyed by nearby properties as the separation between the rear of the extension and the properties to the rear exceeds the minimum required by policy. The side windows on the neighbouring bungalow serve non habitable rooms or are secondary windows to the rooms.

The parking provision complies with policy.

The proposed development is considered to comply with Walsall's Unitary Development Plan, in particular policies GP2, ENV32, H10, T7 and T13, and the Supplementary Planning Document "Designing Walsall" and other material planning considerations.

Recommendation: Grant Subject to conditions

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

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

2: The walls and roof of the extension shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise previously agreed in writing by the local planning authority.

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

3: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

4: The velux windows shown in the side roof slopes facing both number 32 and 36 are to be obscure glazed which shall be retained thereafter.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

5: Before the development is brought into use, the front driveway shall be enlarged and hard-surfaced to provide a total of at least 3 car parking spaces, each measuring at least 2.4 by 4.8 metres. Drainage from the spaces should be to a soakaway or the surface should be porous within the curtilage of the dwellinghouse, unless otherwise agreed in writing by the local planning authority. The spaces and drainage shall thereafter be retained as such.

Reason: To ensure the satisfactory provision of off street parking and in accordance with T 7 and T13 of Walsall's Unitary Development Plan.

6: This permission relates to the amended drawings numbered CT4973/02 Rev B deposited on 23 July 2009.

Reason: To define the permission.



To: DEVELOPMENT CONTROL COMMITTEE

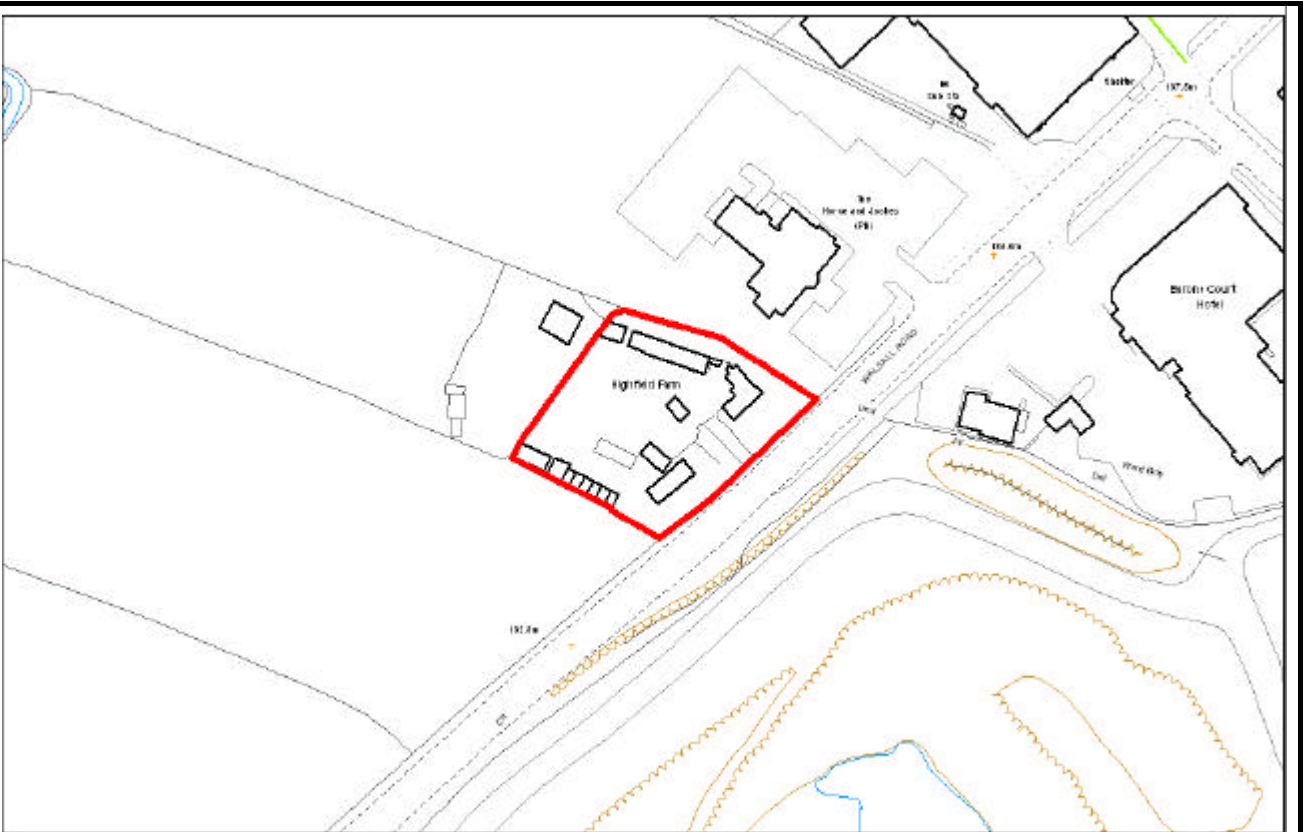
Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

REASON FOR BRINGING TO COMMITTEE: Requires Delicate Judgement.

Application Number: 09/0609/FL
Application Type: Full application
Applicant: Taylor Construction
Proposal: Erection of replacement dwelling,
landscaping, parking, amenity space and
associated works.
Ward: Aldridge North and Walsall Wood

Case Officer: Barbara Toy
Telephone Number: 01922 652429
Agent: Cerda Planning Ltd
Location: 158 WALSALL ROAD,
HIGHFIELDS FARM, WALSALL
WOOD, WS9 9AJ
Expired: 30/07/2009

Recommendation Summary: Grant Subject to conditions



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Application and site details

The site is situated on the north western side of Walsall Road (A461, part of the Strategic Highway Network), within the Green Belt. It comprises approx 0.25 hectares of land, formerly part of the wider agricultural holding extending north westwards from the site and containing a farmhouse building together with outbuildings.

The applicant purchased the land in 2007, and it is now no longer connected to the agricultural holding.

Until recently (September 2008) the site comprised a two storey Victorian farmhouse of traditional appearance, situated in the eastern corner of the site, facing Walsall Road, with planting to the frontage, together with a number of detached outbuildings around the site, including a former stable block to the rear of the farmhouse and pigsty's and storage buildings set adjacent to the south western boundary of the site.

Following pre application discussions with the Council the applicant began demolition of the outbuildings and farmhouse, but work ceased when a breach of planning control was identified. Part of the front corner wall of the farmhouse remain in place (approx 10% of the building) together with all materials, and the foundations of the house remain in place.

The site is adjoined to the north, south and west by open agricultural land, immediately adjacent to the north western boundary of the site is a large agricultural storage building. The Horse and Jockey pub adjoins the site to the north east with office and industrial premises beyond , which all front Walsall Road. On the opposite side of Walsall Road to the south east of the site is Highfields South Quarry. The Green Belt land immediately to the south west of the site forms part of Jockey Fields Site of Special Scientific Interest (SSSI).

The application proposes the erection of a replacement dwelling, landscaping, parking, amenity space and associated works at the site. The replacement dwelling would comprise a 3 bed bungalow to be sited across the site facing Walsall Road, in line with the existing vehicle access to the site, which would continue to be utilised.

The bungalow would have a contemporary design, whilst incorporating some traditional features and key elements from the design of the adjoining pub. The building would form a cross shape with the principle rooms situated on the four corners with the outer quadrants in filled to provide a games room to the north and a sun room to the south. Each principle room would have dual aspect windows looking out over the new garden area that would surround the building and provide natural sunlight. The bungalow would be constructed from reclaimed bricks and tiles.

Since the original submission of the application the scheme has been amended to reduce the overall footprint of the proposed bungalow and reduce the site area and the residential curtilage. A new paddock area would be situated to the south and west of the site.

The revised site area is 0.2 hectares.

The applicant is currently living on the site in a static caravan and portacabin building for security reasons.

The submission includes a Planning Statement, Design and Access Statement, Sustainability Statement as well as photos of the original farm house.

Relevant Planning History

None

Relevant Planning Policy Summary

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

Walsall's Unitary Development Plan 2005

Policies 3.6 and 3.7 states that development should help to improve the environment of the Borough whilst seeking to protect people from environmental problems.

GP2: Environmental Protection

Development should be sustainable and contribute to environmental improvement and have no adverse effect on the countryside and the Green Belt.

Policy 3.3 states that the character and function of the Greenbelt will continue to be safeguarded, as part of the wider West Midlands Green Belt. Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

Policy 3.16 requires high quality design.

Policy 3.23 states that the Green Belt has a positive role to play in terms of retaining attractive landscapes.

ENV2: Control of Development in the Green Belt

In the Green Belt there will be a presumption against new buildings except in very special circumstances. Where development is acceptable in principle the siting, design, form, scale and appearance should be compatible with the surrounding area and careful consideration of the openness and character of the Green Belt.

ENV3: Detailed Evaluation of Proposals within the Green Belt

Proposals will be assessed for their impact on the Green Belt including:

- layout
- siting, design, grouping, height and scale of buildings
- colour and suitability of materials
- use of redundant land and buildings for alternative uses
- quality landscaping
- impact on significant views
- cumulative physical effect in one area

ENV18: Existing Woodlands, Trees and Hedgerows

Seeks to protect, manage and enhance existing trees and where developments are permitted which involve the loss of trees developers will be required to minimise the loss and to provide appropriate planting of commensurate value.

ENV19: Habitat and Species

Development which might directly or indirectly destroy, damage or adversely affect a SSSI will not be permitted.

ENV23: Nature Conservation and New Development

The layout of all development must take account of the potential for enhancement of the natural environment and the nature conservation opportunities provided by buildings by designing in features which provide roosting/nesting places for bats/birds etc.

ENV32: Design and Development Proposals

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

ENV33: Landscape Design

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

H10: Layout, Design and Dwelling Mix

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

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

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

T7 – Car Parking

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

T13: Parking Provision

1, 2 & 3 bed houses – 2 spaces per unit.

Regional Policy

The emerging Black Country Core Strategy aims to attract more affluent households.

National Policy

PPG2: Green Belts

Paragraph 3.6 states that replacement of existing dwellings need not be inappropriate development within the Green Belt, providing the new dwelling is not materially larger than the dwelling it replaces.

PPS7: Sustainable Development in Rural Areas

Promotes sustainable patterns of development and sustainable communities in rural areas to ensure effective protection and enhancement of the environment, prudent use of natural resources and maintain high and stable levels of economic growth and employment. Para 19 The replacement of buildings in the Countryside should be favoured where this would result in a more acceptable and sustainable development than might be achieved through conversion, for example where a new building would bring about an environmental improvement in terms of the impact on its surroundings and the landscape.

Consultations

Transportation – no objection subject to conditions re access and visibility. The proposals meet UDP parking standards and utilise the existing access to the site onto Walsall Road, with some improvements to visibility in both directions along the road.

Strategic Policy – No objection. The site lies adjacent to the Jockey Fields SSSI. It is noted that the former farmhouse has been demolished, and the proposals therefore appear to be for a new dwelling in the Green Belt and would occupy a larger footprint than the dwelling it replaces. It is however understood that a photographic record of the site was taken prior to demolition of the farmhouse and other buildings on the site and the total built form represented a larger footprint and had a greater impact on the openness and visual quality of the Green Belt. The proposals therefore represent appropriate development according to paras 3.4 and 3.6 of PPG2 and ENV2. In the circumstances it may be appropriate to control permitted development rights at the site to prevent future harm to the openness and character of this part of the Green Belt from additional buildings on the site.

Pollution Control – Scientific Team – no comments

Contaminated land Team – no objections subject to conditions. Due to the nature and age of the property, post demolition testing to ensure that the garden and landscaped areas do not contain any contaminated materials that could potentially be hazardous to the future users and occupiers of the premises.

Fire Service – satisfactory for fire service access

Environmental Health – no adverse comments.

Landscape Officer – No objections to the amended planting scheme. The scheme consists of native trees and shrubs which will form a hedge to the Green belt boundaries and the Walsall Road frontage, and help integrate the property into the landscape. A rigid mesh fence would be provided to the boundaries which has been successfully used elsewhere within visually sensitive locations in the green Belt.

Natural Environment –

English Nature – no objections, it is considered that the proposals will not have a significant effect on the interest features of Jockey Fields SSSI. If mindful to approve the Council should consider appropriate landscaping and management of grounds in relation to the SSSI, including the plating of native species hedge around the property.

Public Participation Responses

None. Further consultation on the amended plans have been sent out and any comments received as a result of this will be reported in the supplementary papers.

Determining issues

- Principle of Development within the Green Belt
- Whether the proposal satisfies the Assessment Criteria for Development in the Green Belt.

Observations

Principle of development within the Green Belt

The site is situated in the Green Belt. UDP Policy ENV2 states that there will be a general presumption against the construction of new dwellings except for limited extension, alterations or replacement of an existing dwelling provided that this will not result in disproportionate additions or a new dwelling materially larger than the original dwelling. PPG 2 paragraph 3.6 relates to replacement dwellings and considers that replacement of existing dwellings need not be inappropriate providing the new dwelling is not materially larger than the dwelling it replaces.

Firstly it is necessary to establish whether the proposals represent a new dwelling in the Green Belt or a replacement dwelling and therefore whether inappropriate or appropriate development within the Green Belt.

The majority of the original two storey farmhouse was recently demolished by the applicant following pre application. The applicant misunderstood the advice and thought they had consent to demolish and commenced work on demolition in September 2008. The front corner wall (approx 10%) of the farmhouse remains in situ together with the foundations and the demolished materials, as demolition work ceased as soon as the breach of planning control was identified. All the original outbuildings, a two storey stable block to the rear of the farm house and pigsties and storage buildings to the south western boundary of the site have been completely demolished.

Negotiations on a replacement dwelling took place prior to the demolition and the Council has its own evidence of the original farmhouse and outbuildings, through photographs taken on site in February 2008 and historical maps and aerial photographs. The applicant has submitted further evidence to supplement the Council's evidence to determine the footprint and scale of the

buildings. Due to the evidence available, the Council involvement with the site prior to demolition and the short time frame between demolition and submission of this planning application it is considered that the development rights of the site should be retained and the proposals regarded as a replacement dwelling, rather than a new dwelling in the Green Belt and therefore appropriate development within the Green Belt.

The applicant moved onto the site, living in a static caravan and portacabin building, at the start of the demolition process, to be on site during the development process for security reasons and to oversee the project. This maintains the residential use of the site, despite the demolition of the dwelling, and makes clear the intentions of the applicant.

Whether the proposal satisfies the Assessment Criteria for Development in the Green Belt.

The proposals should therefore be assessed for its impact on the Green Belt in terms of UDP Policy ENV3, in this case taking into consideration:

- I The detailed layout of the site
- II The siting, design, grouping, height and scale of buildings
- III The colour and suitability of building materials
- V The quality of new landscaping
- VI The impact on significant views

Detailed Layout of the Site

The original farmhouse was situated in the eastern corner of the site, set back approx 8m from the back of pavement, with detached brick built two storey stables set to the rear and brick built single storey pigsties and storage building adjacent to the south western boundary. The existing pattern of development within the site is that of detached buildings across the site with substantial areas of hardstanding between the buildings. Aerial photographs show that the site was previously littered with outbuildings and open storage cluttering and intruding on the openness of the Green Belt.

The proposed replacement dwelling would occupy a revised position set further back into the site (approx 17m from back of pavement) in line with the front building line of the Horse and Jockey pub adjoining the site to the north and moved away from the northern boundary. The dwelling would sit in front of the existing vehicle access into the site, which would continue to be utilised. All the previous outbuildings and sheds have been removed from the site and the proposed layout plan shows only the bungalow, a single domestic shed, bin store, existing propane cylinder and septic tank within the site. The hardstanding is restricted to the land between the access gates and the dwelling and is reduced from an excessive 600sqm to 150sqm, with the remainder of the site grassed and landscaped as garden for the dwelling. The proposals therefore provide a concentration of built form in just one part of the site and a significant reduction in hardstanding, providing more openness, appropriate to the character and appearance of the Green Belt.

The siting, design, grouping, height and scale of buildings

The original farmhouse had a total floor area of 138.88sqm and was a traditional two storey detached house. A stable block (two storey) previously sat to the rear of the house and had a floor area of 103.92sqm and the pigsty's (single storey building) adjacent to the south western boundary had a floor area of 72.61sqm, giving a total floor area of substantial brick built buildings of 254.28sqm. Additional less substantial storage buildings and sheds also occupied the site.

The revised proposed replacement dwelling would be single storey and have a floor area of 213sqm. Whilst larger than the original farmhouse it would cover less floor space than the original brick buildings on the site and the area of hardstanding on the site would be reduced by 450sqm (from 600sqm to 150sqm).

The proposals would result in one single storey structure on the site rather than a two storey house and a number of other structures in different parts of the site. The maximum height of the new dwelling would be 6.7m in the centre with lower elements surrounding, reducing the overall impact and scale of the building. The proposals would therefore provide a concentration of built form at a reduced height in one part of the site and a significant reduction in hardstanding within the site, it is therefore considered that the proposals would be less intrusive on the openness and character of the Green Belt than the previous buildings.

The design, whilst contemporary in its overall shape and concept also provides a number of traditional features, pitched plain tiled roof, soldier coursed arched windows, chimneys and use of reclaimed materials, and consideration given to the height and detailing on the adjoining pub building. The main roof height is centred over a central reception hall with reduced height around it, reducing the overall impact and massing of the building. The maximum roof height (6.7m) matched that of the pub adjacent. The main front door is situated opposite the access gates to provide good legibility. Consideration has been given to the positioning and orientation of the building to allow natural sunlight to each of the principle rooms, as well as views and a sun room facing south. The bungalow would comply with Code for Sustainable Homes Level 4, to comply with Designing Walsall (DW10) and is considered a sustainable development through the re-use of the original building materials (which still remain on site) and a high level of natural light into each of the main rooms through dual aspect windows and roof lights. The bungalow will be less visible from Walsall Road than the demolished house, due to the reduced height and scale of the building and its set back position.

The colour and suitability of building materials

The original farmhouse and outbuildings have been carefully demolished by the applicant in order to preserve as many of the original materials as possible. The original bricks have been cleaned/reconditioned to allow them to be used on the replacement dwelling together with further matching reclaimed materials. These are currently, carefully stored on site, together with roof tiles and some of the original timbers. These will all be used on the replacement dwelling to maintain the original colour, texture and appearance of the materials.

The quality of new landscaping

A detailed landscaping scheme has been submitted following consultation with the Council's landscape officer. It comprises planting of native trees and shrubs, forming a hedge to the boundaries (including the frontage to Walsall Road, the Green Belt and SSSI), to assist in integrating the new dwelling into the landscape. The scheme includes rigid mesh fencing to the boundaries, which has been successfully used in other sensitive locations in the Green Belt and is considered appropriate for the site. The proposed landscaping scheme is considered of high quality and appropriate for the site and its surroundings and would provide an environmental improvement to the site.

The impact on significant views

Prior to the applicant purchasing the site it was in a very poor condition with a large expanse of hardstanding surrounding adhoc storage buildings, considerable open storage and generally a very unkempt site that intruded on the openness and character of the Green Belt.

The proposals would reduce the overall number, height and massing of the buildings within the site and would significantly reduce the extent of hardstanding and improve the overall visual impact of the proposals on views into and from the Green Belt through an extensive landscaping scheme to the boundaries and open garden area surrounding the building. It is considered that the proposals would represent a significant enhancement in the appearance of the site and the openness and character of the Green Belt.

It is therefore considered that the proposed replacement dwelling would comply with policy ENV3 in terms of evaluating proposals for development within the Green Belt and would have no adverse impact on the adjoining SSSI.

Summary of Reasons for Granting Planning Permission

The proposed bungalow would replace the original farmhouse and outbuildings at the site. Whilst demolition of the outbuildings and the majority of the farmhouse has taken place, part of the building, the materials and the foundations remain and there is evidence from the applicant and in information held by the Council of the footprint and scale of the buildings together with extensive pre application negotiations prior to demolition. It is therefore considered that the development rights of the site can be retained and the proposals regarded as a replacement dwelling, and appropriate development within the Green Belt.

The bungalow would provide a concentration of one building on the site at a lower level than the farmhouse and with a smaller footprint than the original complex of buildings. The proposals provide a significant reduction in hardstanding and extensive landscaping to the boundaries and an open garden surrounding the building. The design of the building whilst contemporary includes traditional features and is considered appropriate for the site. The proposals would improve the overall visual appearance of the site.

The proposed development would therefore have no adverse impact on the character and appearance of the Green Belt or the adjoining SSSI and is considered to accord with the aims and objectives of the development plan, in particular policies 3.3, 3.6, 3.7, 3.16, 3.23, GP2, ENV2, ENV3, ENV18, ENV19, ENV32, ENV33, H10, T7 and T13 of Walsall's Unitary Development Plan (2005) and Supplementary Planning Document – Designing Walsall (2008).

Recommendation: Grant Subject to conditions

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

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

2. The dwelling hereby approved shall be constructed using the original materials from the demolished buildings on the site, and other reclaimed materials to match, unless otherwise agreed in writing by the Local Planning Authority.

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

3. No development shall commence on site until details of the disposal of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

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

4. No development shall be carried out until full details of existing and proposed levels of the site, access way and floor levels for the proposed dwellings, have been approved in writing by the

Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site and any drainage or other works necessary to facilitate this development. The development shall be carried out and retained in accordance with these approved details.

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

5. Following the final demolition of the buildings on the site the developer shall carry out testing to demonstrate that any proposed garden and landscaped areas do not contain any contaminated materials that would potentially be a hazard to future users and occupiers of the dwelling. Should any contaminated materials be identified then details and locations of these materials shall be forwarded to the Local Planning Authority along with a "Remediation Statement" setting out details of remedial measures to deal with the identified hazards and a timetable for their implementation. (see Note for Applicant CL2). Should remedial measures be required then they shall be implemented as set out in the "Remediation Statement", and agreed with the Local Planning Authority, (as required by part ii). A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

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

6. No development shall take place until details of the access gates and control system for the vehicle access have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and they shall be retained in working order.

Reason: In the interests of securing the site.

7. Landscaping at the site shall be completed in accordance with Drawing Number 2027/9 hereby approved before the development is first occupied, unless otherwise agreed in writing with the Local Planning Authority. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs of plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree. Shrub or plant of the same or greater size and same species as that originally required to be planted.

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

8. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no development within Classes A, B, D, E and F of Schedule 1 to the Order shall be carried out to the dwelling or on the site, as appropriate, without the prior submission and approval of a planning application.

Reason: To enable the Local Planning Authority to retain effective control over future development of this site and the Green Belt.

9. The temporary accommodation on the site identified on drawing no 2027/03, including: 3 containers, a shed, a mobile home, a temporary building (portacabin) and raised platform will be removed from the site within one month of first occupation of the bungalow hereby approved and

the land will be restored in compliance with the landscaping scheme approved under drawing no 2027/09 within three months of first occupation of the bungalow hereby approved.

Reason: In order to define the permission and ensure the satisfactory development and appearance of the site and the Green Belt.

10. No development shall commence until details confirming measures used to ensure that the development shall be constructed in accordance with the Code of Sustainable Homes (Level 3) or equivalent relating to energy efficiency / CO₂, water efficiency, surface water management, site waste management, household waste management and use of materials, has been submitted to and approved in writing by the Local Planning Authority.

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

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

Existing Block Plan 2027/01 received on 8th May 2009
Proposed Block Plan 2027/02B received on 28th August 2009
Site Survey & Temporary Accommodation 2027/03 received on 8th May 2009
Proposed Site Layout 2027/04C received on 28th August 2009
Proposed Plans & Elevations 2027/05A received on 28th August 2009
Existing & Proposed Site Sections 2027/07A received on 29th June 2009
Proposed Roof Plan 2027/08A received on 28th August 2009
Proposed Boundary Planting 2027/09 received on 1st July 2009
Planning Statement by Cerda Planning received on 8th May 2009
Design & Access Statement by CTD received on 8th May 2009

Reason: In order to define the permission.

Notes for Applicant – Contaminated Land

CL1

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

CL2

When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 “Model Procedures for the Management of Land Contamination”, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 “Updated technical background to the

CLEA model” and Science Report – SC050021/SR2 “Human health toxicological assessment of contaminants in soil” or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3

Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports.

This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

CL4

The desk study and site reconnaissance shall have regard to the previous unknown filled ground and materials used and processes carried on. Further details on the matters to be addressed is available in “PPS 23 : Planning and Pollution Control”, Annex 2, Development on Land Affected by Contamination”, paragraphs 2.42 to 2.44. and “Model Procedures for the Management of Contamination” (CLR 11, DEFRA/Environment Agency). The results of the desk study and reconnaissance will be used to determine the need for further site investigation and remediation.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

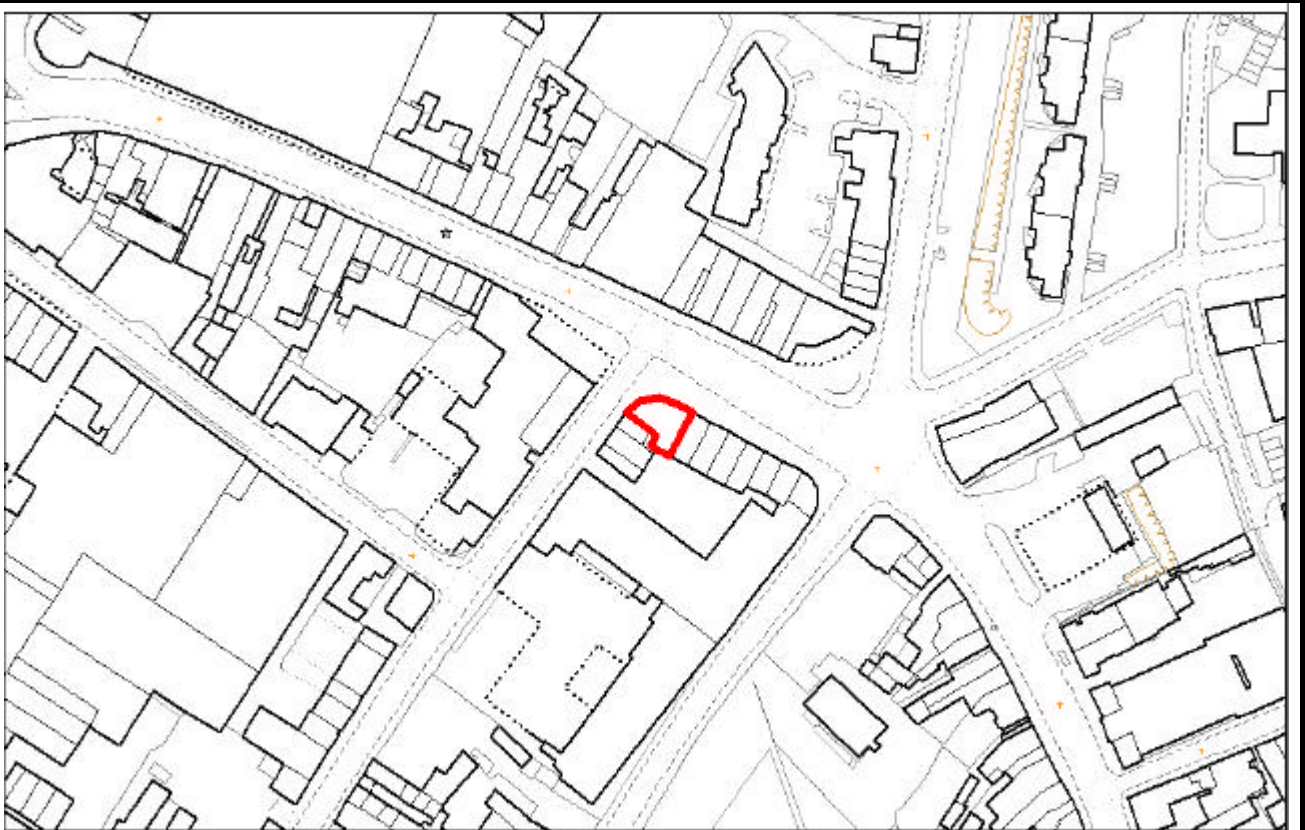
REASON FOR BRINGING TO COMMITTEE: Unresolved objection by consultee.

Application Number: 09/0475/AD
Application Type: Advertisements
Applicant: Church's Chicken
Proposal: 4 internally illuminated fascia signs

Ward: St. Matthews

Case Officer: Jan Scrivens
Telephone Number: 01922 652436
Agent: Mr Darren Johnson
Location: 54 BRIDGE
STREET, WALSALL, WS1 1JG
Expired: 02/07/2009

Recommendation Summary: Grant Advert 5 years



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Application and Site Details

The application relates to four internally illuminated fascia signs which have been erected (since its submission) on the building at the junction of Bridge Street and Goodall Street (previously Kentucky Fried Chicken). This is a small part of a substantial post-war building with shops on the ground floor, which have slightly recessed frontages, and vacant offices above.

The fascia signs occupy most of the depth of the fascia, which has been painted red. The signs are predominantly yellow, with red and blue detailing.

The site is within the Bridge Street Conservation Area.

On the opposite corner of Goodall Street is Tameway Tower.

Relevant Planning History

05/1959/FL/W6 New shopfront and cladding. Granted subject to conditions 23.11.05

05/1966/AD/W6 4 no. illuminated fascia signs and 2 no. illuminated projecting signs. Granted subject to conditions 24.11.05

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

Unitary Development Plan

GP2 and 3.6 require new development to contribute to the improvement of the environment. ENV29 requires development to preserve or enhance the character and appearance of conservation areas.

ENV32 requires development to take account of its context, particularly in conservation areas and on visually prominent sites.

ENV35 requires the design of frontages to shops to be appropriate to their setting and sympathetic to the building on which they are sited.

WA5 recognises Bridge Street as important to the streetscape of the town centre

DW3 of the adopted Designing Walsall Supplementary Planning Document supports maintaining and enhancing an areas character

National Policy

PPS 19: Outdoor Advertising states that advertising should be considered in terms of public safety and amenity.

Consultations

Conservation Officer: Objects to the application. The signage is unsuitable and harmful within the conservation area as it is internally illuminated and too deep. External illumination is more appropriate to a conservation area. The signage should take into account the building's location in a conservation area and to the setting of the neighbouring buildings.

Representations

None.

Determining Issues

- public safety
- visual amenity

Observations

Public safety

There are no public safety concerns.

Visual amenity

The use of internal illumination, other than halo illumination, is not generally acceptable for signs in conservation areas since it has an overpowering appearance which can easily detract from its surroundings. However, this building is large and defines the character of the street frontage for more than 50 metres (between Upper Rushall Street and Goodall Street).

It is modern (by comparison) and there is a major difference in scale between it and the buildings on the opposite side of Bridge Street. The presence of Tameway Tower on the opposite side of Goodall Street further influences the character of the Conservation Area at this point.

Overall, the impact of the signs is entirely consistent with the appearance of the building. A refusal based on the suggestion that it has an adverse impact on the character of the Conservation Area can not be justified.

Summary of Reasons for Granting Planning Permission

Recommendation: Grant Advert 5 years

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission

Reason: It is a requirement of the Regulations that the site owners permission be obtained before any advertisement is displayed.

2. No advertisement shall be sited or displayed so as to-

- ss) Endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
- tt) Obscure, or hinder the ready interpretation of, any traffic sign, railway signal, or aid to navigation by water or air; or
- uu) Hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

Reason: In the interest of public safety

3. Any advertisement displayed, and any site used for the displaying of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: To ensure the satisfactory appearance of the development

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: In the interest of public safety and amenity

5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: In the interest of public safety and amenity

6. The brightness of the advertisements shall not cause glare to users of the highway.

Reason: In the interests of highway safety.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

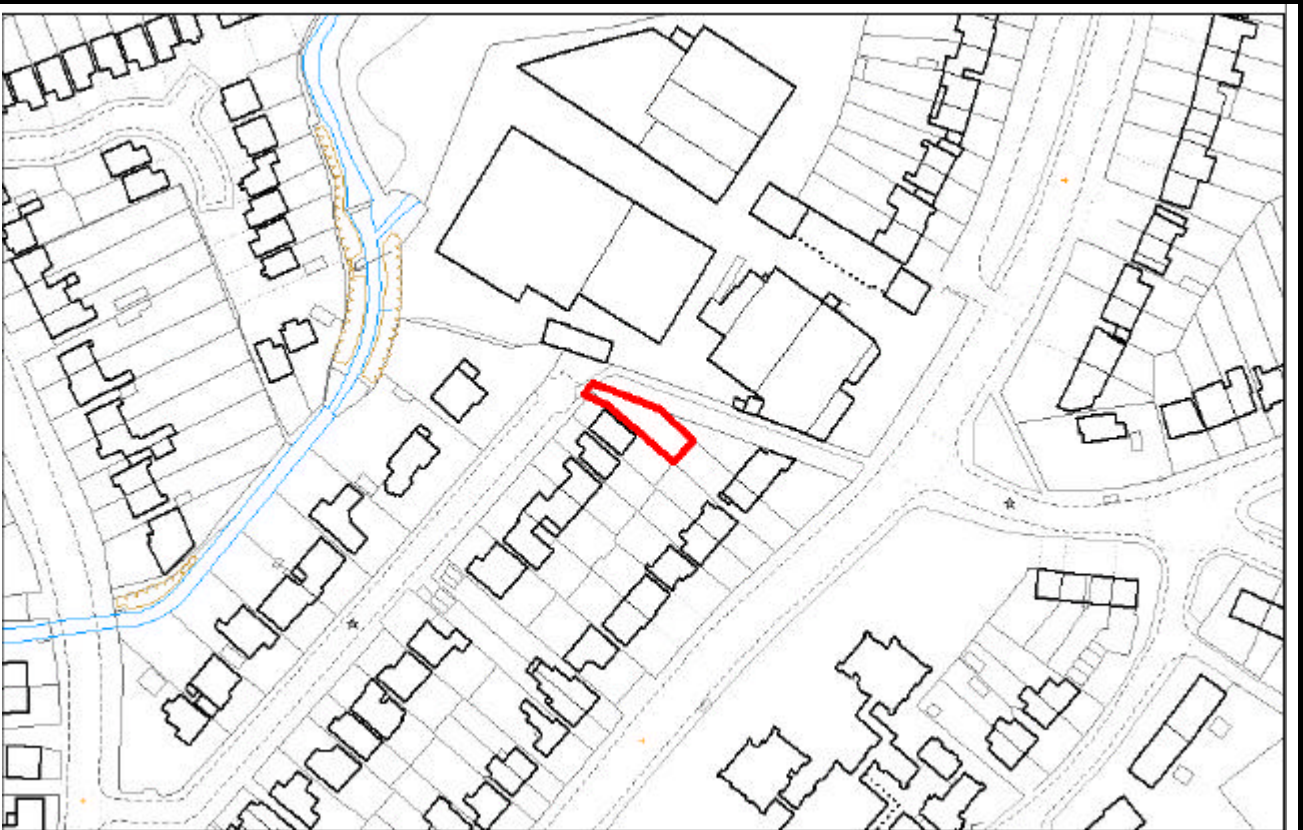
REASON FOR BRINGING TO COMMITTEE: Non-compliance with distance separation standards

Application Number: 09/0568/FL
Application Type: Full application
Applicant: Mr & Mrs Barry Partridge
Proposal: Proposed new detached house.

Case Officer: Alison Deakin
Telephone Number: 01922 652487
Agent: Mr Nick Massey
Location: LAND ADJACENT
44, WESTMINSTER
ROAD, RUSHALL, WALSALL, WS4 2HA
Expired: 06/08/2009

Ward: Rushall-Shelfield

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

The proposal is for erection of a detached two bedroom house on land at the side of 44 Westminster Road. The land is presently grass and is fenced around so it remains separate from the remainder of the garden at 44 Westminster Road. It is also at a lower ground level. There is a public footpath adjoining the northern boundary which is also at a higher ground level and has a wide grass verge running alongside. The public footpath links with Lichfield Road.

The proposed house is positioned 2m further back than number 44 and has a staggered building footprint. The main two storey element of the proposed house is 9.7m long and 5.6m wide with a pitched roof. The overall height is 6.5m. There are ground floor bay windows projecting to the front, side and rear serving the kitchen, hall/lounge and lounge/dining room respectively. The front space will provide parking for 2 vehicles. The rear garden is just over 11m in length and 7.2m wide providing over 78m² private garden. The main entrance is set back from the front elevation. A separate pedestrian access leading to the rear garden is available on the northern side of the house.

The application site lies at the end of the row of properties on the eastern side of Westminster Road where the former head of cul-de-sac adjoins a public footpath linking with Lichfield Road. The cul-de-sac has now been extended by development of new housing on the former William Bird Sawmill site adjacent. There are predominantly single storey dwellings in Westminster Road up to the point of numbers 42 and 44 which are two storey houses. However, there is a residential development currently under construction beyond the head of the original cul-de-sac on the former industrial site that comprises two storey houses.

There is a street lighting column and telegraph pole within the footway immediately outside the application site. These will have to be repositioned to accommodate access to the development.

The Design & Access Statement states the layout of the site and scale and appearance of the proposed dwelling is in keeping with surrounding properties and that the site is convenient for access to Rushall village.

Relevant Planning History

04/2724/FL/E6 – Erection of a detached dwelling – Refused 24/02/05 for three reasons broadly relating to (1) lack of information on levels to demonstrate that satisfactory access can be achieved and an acceptable relationship to the adjacent footpath, (2) projection of the dwelling beyond the rear wall of 44 Westminster Road detrimental to residential amenities and (3) insufficient parking spaces.

B46487P – Outline application to erect a dwelling with new vehicular access to Westminster Road – Refused July 1996 for two reasons relating to (1) unsatisfactory access resulting in loss of privacy and amenity for the occupiers of 44 Westminster Road and loss of parking for 44 Westminster Road (2) development of house and necessary boundary treatment would obstruct visibility to the adjacent public footpath.

Relevant Planning Policy

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

Walsall UDP March 2005

GP1: Supports the sustainable location of development.

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

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

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

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

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

7.1: Seeks to promote an efficient highway network;

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

T13: car parking standards - 1, 2 & 3 bedroom houses – 2 spaces per unit

Designing Walsall SPD

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

DW2 - Safe and Welcoming places: all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 - Character: design to respect and enhance local identity;

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

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

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

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Regional Spatial Strategy for the West Midlands

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

National Policy

PPS1: Promotes sustainable development and good design.

PPS 3: Encourages reuse of previously-developed land for housing. Paragraph 10 indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. Some of the specific outcomes that the planning system should deliver are well-designed housing built to a high standard and in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

PPG13: Promotes sustainable patterns of development which reduce the need to travel, especially by car.

Consultations

Transportation – No objections subject to provision of details relating to access, street furniture and a highway stopping up order. The UDP parking standard for a 2 bed dwelling is 2 spaces which the proposal achieves. The proposal also retains 2 spaces for the existing dwelling.

Pollution Control (Scientific Team) – No objections in principle. It is recommended that hours of working are restricted to prevent noise issues from affecting the amenity of nearby residents.

Pollution Control (Contaminated Land) – No objections.

Public Rights of Way – No objections. Details are required to ensure provision of a properly constructed dropped kerb for the parking spaces that cross the adopted footpath.

Environmental Health – No objections.

Fire Service – No objections.

Severn Trent Water – No objections.

Public Participation Responses

Two letters of objection received. These are summarised below:

- Proposed dwelling closer to existing properties
- Overlooking of garden and windows
- Loss of privacy
- Two previous refusals
- Site too small to accommodate the development
- Single storey building preferred

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

Determining Issues

- Whether the proposals address previous reasons for refusal of 04/2724/FL/E6 in terms of:
 - I. Achieving satisfactory levels
 - II. Protection of residential amenities of adjacent occupiers
 - III. Provision of sufficient off street parking
- Relationship with surrounding development

Observations

**Whether the proposals address previous reasons for refusal of 04/2724/FL/E6 in terms of:
Achieving satisfactory levels**

The supplied drawings illustrate how the proposed dwelling will be built at a similar ground level to the adjacent dwelling 44 Westminster Road and how the ground levels at the front of the house would be brought up to the same level as the adjacent footway. This would enable a satisfactory gradient for the driveway to be created to accommodate two off-street parking spaces. The overall height of the proposed dwelling would also be no greater than the existing dwelling at number 44 and lower than 42 Westminster Road.

The proposed house almost fills the width of the plot but this is no different to adjacent dwellings in the vicinity. There is a separate pedestrian access to the rear garden adjacent the northern

elevation of the house that provides separation to the boundary with the footpath. In addition there is also a wide grass verge adjoining the newly resurfaced public footpath that runs alongside the northern boundary of the site. For these reasons the proposed new house is considered not to have a detrimental effect upon the adjacent footpath by virtue of prominence, siting or proximity. It is also considered that inclusion of secondary windows in the side elevation of the proposed dwelling facing the footpath will increase surveillance and improve pedestrian safety.

For the above reasons the proposal is considered to address the first refusal reason of the most recent refusal.

Protection of residential amenities of adjacent occupiers

The proposed house projects beyond the rear elevation of 44 Westminster Road but does not project beyond a 45 degree line from the rear corner of the existing dwelling and in the circumstances will have no adverse impact upon outlook, daylighting or privacy for this dwelling. The proposal therefore addresses the second reason for refusal of the most recent refusal.

Objections have been received from occupiers of dwellings in Lichfield Road that back onto the site. There is approximately 23 metres separation between the rear facing elevations of 54 Lichfield Road and the proposed house. Despite this being 1m short of the guideline 24m in SPD: Designing Walsall it is considered acceptable as there is a limited amount of planting on the boundary and the character of the surrounding area already has back to back separation distances below the guideline 24m. In fact back to back distances between properties on this side of Westminster Road and those on Lichfield Road vary between 21m and 23m and some of the surrounding properties have already extended to the rear (for example 42 Westminster Road has a conservatory) and further reduced separation distances in the vicinity. The proposal is only 1m short of the required separation and it is recommended that permitted development rights are restricted to prevent any further encroachment in this instance the proposal is considered acceptable. The increased potential for overlooking the gardens and dwellings of adjacent dwellings to the rear is considered not to significantly reduce privacy to such an extent as to warrant refusal of permission and is not dissimilar to the situation between existing dwellings.

The new dwellings on the former industrial site to the north of the application site are within 20m of the side elevation of the proposed house. The separation between dwellings is therefore below 24m and habitable room windows are included in this elevation of the proposed house. However, there is a private driveway in front of the new houses and the public footpath and grass verge between the two sites whereby potential for overlooking or loss of privacy from the new house would be no greater than that from pedestrians using the footpath.

Provision of sufficient off street parking

The site layout demonstrates that two vehicles can be accommodated on the site frontage to comply with policy requirements. Transportation are satisfied with this arrangement. The proposals also demonstrate how two off-street spaces are retained for the existing dwelling. The proposal therefore provides sufficient parking spaces to comply with policy and as a consequence there is no reason to consider that the proposal would lead to increased pressure for on-street parking to the detriment of highway safety. This addresses the third reason for refusal of the most recent refusal.

In order to create the vehicle crossing the existing street lighting column and telegraph pole within the footway outside the application site will need to be relocated. This is a matter to be addressed by the applicant under separate agreement with the utilities providers.

Relationship with surrounding development

The proposed dwelling has a staggered footprint in order to achieve the room sizes and maximise potential development of the site. This results in the front entrance being set back from the front elevation of the house. However, it does still face the street and immediately overlooks the parking areas at the front of the dwelling. There are no other dwellings of this design in the vicinity and despite its contrived shape the scale, massing and design of the proposed house would not cause obvious harm to the visual amenities of the area. A single storey dwelling as suggested by one of the objectors would be likely to be more obtrusive as it would be more sprawling and viewed amongst existing two storey housing. On balance the proposed dwelling is considered to have an acceptable relationship with surrounding properties.

An objection has been made that the site is too small to accommodate the proposed development. However, despite the separation distances being below the standard requirements there is considered to be ample separation to ensure that potential for overlooking and loss of privacy is minimised. In addition, the proposed house does have a generous rear garden size in excess of 78m². There will also be separation to the side of the proposal which adjoins the footpath. In the circumstances the site is considered to accommodate the level of development proposed subject to restricting further additions or extensions.

Summary of Reasons for Granting Planning Permission

The proposed ground levels would enable a satisfactory gradient for the driveway to be created to accommodate two off-street parking spaces and the overall height of the proposed dwelling would be no greater than the existing dwelling at 44 Westminster Road.

The proposed house does not project beyond a 45 degree line from the rear corner of the existing dwelling 44 Westminster Road and will therefore have no adverse impact upon outlook, daylighting or privacy for this dwelling. The character of the surrounding area already has back to back separation distances below the 24m guideline in the SPD and as the proposal is only 1m below this and it is recommended that permitted development is restricted it is considered that the potential for overlooking adjacent gardens and dwellings is no greater than that between existing properties and will not significantly reduce privacy to such an extent as to warrant refusal of permission. It also reflects the existing spatial character. In this respect the objector's concerns are considered to be addressed.

The site layout demonstrates that two vehicles can be accommodated on the site frontage to comply with policy requirements and retains two spaces for the existing dwelling. This complies with policy and as a consequence there is no reason to consider that the proposal would lead to increased pressure for on-street parking to the detriment of highway safety.

Objectors state there have been two previous refusals for the site. However, the previous reasons for refusal have been overcome by the revised application in terms of providing satisfactory levels that reflect the height of surrounding dwellings and achieve adequate access and off-street parking whilst retaining parking for the existing dwelling. They also show reduction in the projection of the building beyond the rear elevation of no.44 therefore reducing the proximity, removing any adverse impact upon neighbour's amenity. As the size, scale, height and design of the proposed dwelling reflect the surrounding properties and adequate off-street parking and garden area is provided it is considered that the site is not too small to accommodate the proposed dwelling. Matters relating to reduced separation distances are addressed above.

The design, scale and massing of the proposed house are considered to be acceptable given the context of surrounding properties that provide a variety of different styles. The site is can accommodate the level of development proposed subject to restricting further permitted

development for additions or extensions. Whilst one objector prefers a single storey dwelling, development of a bungalow in this position where surrounding properties are all two storey would be out of keeping and considered unacceptable.

For the above reasons the proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP1, 2.2, 3.6, 3.7, GP2, 3.16, GP7, ENV32, 3.116, 3.117, ENV33, ENV40, 6.3, H3, H9, H10, 7.1, T7 and T13 of Walsall's Unitary Development Plan; Supplementary Planning Document: Designing Walsall and the Regional Spatial Strategy for the West Midlands (RSS).

Recommendation: Grant Subject to conditions

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

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

2. The works hereby approved shall only be carried out in accordance with details contained within the following approved plans and specifications except insofar as may be otherwise required by other conditions to which the permission is subject;

- Location Plan received 12/05/09
- Block Plan received 12/05/09
- Floor Plans, Roof Plan, Elevations, Section & Street Scene drawing received 11/06/09
- Site Section received 12/05/09
- Design & Access Statement received 30/04/09

Reason: In order to define the permission and ensure the satisfactory development of the application site.

3. No engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday, and such works shall otherwise only take place between the hours of 07.00 to 19.00 weekdays and 08.00 to 14.00 on Saturdays, unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: To protect the residential amenities of surrounding occupiers.

4. No development shall be carried out until samples of facing materials to be used in external walls and roofs of the development have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

5. No development shall be carried out unless and until arrangements have been made for the satisfactory sustainable drainage of the site, in accordance with details to be first submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenity of the area and to ensure satisfactory means of drainage.

6. No buildings shall be erected or trees planted within 2.5 metres (225 SWS) either side of the public sewers in the vicinity of the site.

Reason: To maintain essential access for maintenance, repair, renewal, and to protect the structural integrity of the public sewerage system.

7. Prior to the first occupation of the development, the driveway shown on the approved plan shall be fully consolidated, surfaced and drained and maintained thereafter.

Reason: To ensure the satisfactory development of the site and ensure availability of off-street parking.

8. Prior to the driveway shown on the approved plan being first brought into use the existing vehicular footway crossing shall be widened to the width of the new driveway. The footway crossing shall be maintained thereafter.

Reason: To maintain highway safety and ensure the satisfactory appearance of the development.

9 Prior to the commencement of the development full details of the proposed alterations, including levels, to the existing drainage gulley located in the highway verge between the proposed site boundary and the public footpath as a result of the proposed regrading of the verge shall be submitted for approval in writing by the Local Planning Authority. The agreed details shall be implemented prior to commencement of the development and maintained thereafter.

Reason: To ensure the satisfactory development of the site.

10. A revised plan shall be submitted for approval by the Local Planning Authority demonstrating a pedestrian visibility splay measuring 2.4m x 3.4m in a northerly direction from the centre of the northernmost driveway serving the new dwelling. The splay shall at all times be kept clear of any planting or structures exceeding 600mm in height above ground level and shall thereafter be retained for this purpose.

Reason: To ensure pedestrian visibility is maintained in the interests of highway safety.

11. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no development within Classes A, B, C, E and F of Part 1, Schedule 2 to the Order or Classes A and B of Part 2, Schedule 2 to the Order shall be carried out at the dwelling hereby approved without the prior submission and approval of a planning application.

Reason: To enable the Local Planning Authority to retain effective control over future development at the site and protect neighbour's amenities.

12. Prior to the commencement of the development full details of all proposed boundary treatment shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the agreed details prior to the first occupation of the dwelling unless the Local Planning Authority agrees in writing to any variation.

Reason: To enable the Local Planning Authority to retain effective control over future development at the site.

Note to applicant in respect of condition 3

Bank Holidays and Public holidays for this purpose may be taken to include: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday, and August Bank Holiday Monday.

Note to applicant in respect of condition 6

The developer may wish to apply to Severn Trent Water to divert the public sewer in the vicinity of the site in accordance with Section 185 of the Water Industry Act 1991. For further details contact Severn Trent Water Ltd, Regis Road, Tettenhall, Wolverhampton, WV6 8RU. Tel: 01902 793883.

Note to applicant in respect of street lighting column

The permission does not authorise the resiting of any street lighting column affected by the proposed works, the applicant should contact Walsall Council Street Lighting Partner Amey regarding the relocation (0121 568 3674). Furthermore this permission does not authorise any works or alterations to the highway and the applicant should contact the Local Highway Authority before undertaking any works to the highway.

Note to applicant in respect of telegraph pole

The permission does not authorise the resiting of the telegraph pole affected by the proposed works, the applicant should contact British Telecom regarding the relocation.

Note to applicant in respect of Highway Stopping Up

A Highway Stopping Up Order shall be made under Section 247 of the Town and Country 1990 and confirmed by the Government Office for the area of highway verge alongside the public footpath within the site boundary required to facilitate the development.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building
Control, Regeneration Directorate on
10th September 2009

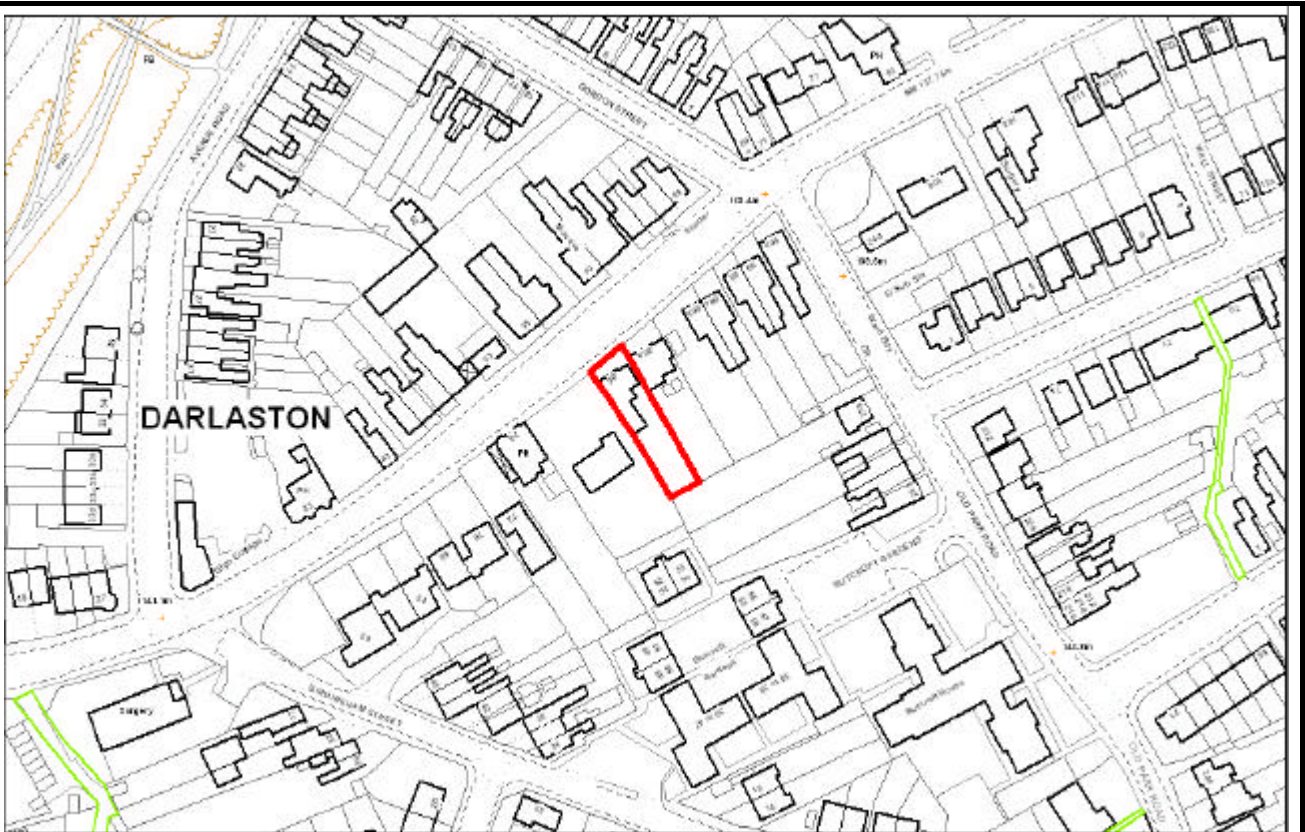
REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Wilkes

Application Number: 09/0795/FL
Application Type: Full application
Applicant: Mr Mohammed Maruf

Proposal: Two storey and single storey rear
extension
Ward: Darlaston South

Case Officer: Helen Smith
Telephone Number: 01922 652486
Agent: Mansel Thomas Architectural
Services
Location: 86 WALSALL
ROAD, DARLASTON, WS10 9JT
Expired: 07/08/2009

Recommendation Summary: Refuse



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Background

Councillor Wilkes considers that, as the last planning application was refused and this current proposal falls outside of planning policy, the applicant should have the right to address the committee.

Application and Site Details

This planning application is an amendment following the refusal of a previous application. This revised proposal reduces the length of a two storey rear extension and a single storey extension repositioning an existing kitchen whilst providing a ground floor bathroom with a fourth bedroom above.

The application house has an existing two storey rear wing which projects 7.4 metres to the rear and is approximately 1.7 metres narrower than the front part of the house. The proposal will increase the ground floor to 15 metres in total length and the first floor to 10.4 metres long. This proposal will have a gable roof which will be a continuation of the existing roof. There will be a pitched roof above the single storey part of this proposal which will be between 2.6 and 3.5 metres high. Additional habitable room windows will be inserted into the side elevation of this proposal which will face towards the rear garden of house number 86a and in the first floor rear elevation. The house also has an existing garage to the side of the property.

House number 86 lies to the north-east of the application house and the two storey rear part of 86a lies approximately 7.4 metres forward of the rear of the application house. Number 86a has a rear conservatory with a brick side wall facing 86 which projects approximately 3.2 metres from the rear of their house and habitable room windows at first floor above the conservatory. There will be a gap of approximately 4.7 metres between the side elevation of the proposed extension and the rear garden boundary with 86a.

The opposite side of this proposal will face the blank side elevation of number 84 which is a bungalow. The front elevation of this property lies approximately 12 metres further back than the application house and the rear elevation of 84 projects 6.1 metres further back than 86. There are dormer windows in the front and rear roof slopes of 84 and this proposal will lie along the side boundary with 84. There is a gap of 3.7 metres between 84 and 86 and habitable room windows in the rear elevation of 84.

The ground floor rear part of the extension will face across rear gardens to the habitable room windows in the rear of 52, 53, 54 and 55 Butcroft Gardens at a separation distance of approximately 25 metres and the first floor at approximately 29 metres.

To try to overcome these reasons the amended proposal has reduced the length of the two storey part of the extension and the proposed first floor side facing habitable windows have been removed. Additional ground floor habitable windows have been included in this proposal.

Relevant Planning History

08/1722/FL – Two storey rear extension – refused permission on 23 December 2008 on the grounds that the proposed extension would have an overbearing impact and cause an unacceptable loss of privacy to the adjoining house number 86a Walsall Road, because of its excessive length, height and orientation in relation to this property and the proposed side facing windows.

Relevant Policies

(Note the full text version of the UDP is available from First Stop Shop in the Civic Centre and on the Council's web site: <http://www.walsall.gov.uk/planning>)

Unitary Development Plan Policies

GP2: Environmental Protection

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

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

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-

- I. The appearance of the proposed development
- II. The height, proportion, scale, and mass of proposed buildings/structures.
- III. The materials proposed for buildings, external spaces and means of enclosure.
- IV. The integration and co-ordination of buildings and external space.

H10: Layout, Design and Dwelling Mix.

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

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

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

T7 – Car Parking

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

T13: Parking Provision

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

Supplementary Planning Documents

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst

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reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character Appendix E includes;

- 24 metre separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front.
- 45 degree code : particularly where new development impacts on existing (details of this code are available on request or can be downloaded from www.walsall.gov.uk)

National Policies

PLANNING POLICY STATEMENT 1

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

Consultation Replies

None

Public Participation Responses

The occupiers of 52, 53, 54 and 55 Butcroft Gardens have objected on the grounds that;

- the two storey extension will further reduce the natural light available which is already severely limited by the dense row of conifers along the boundary
- the extension will add greatly to the bulk of what is already a large house
- appears to have been designed to take away privacy they enjoy in the garden area solely to increase the market value of the property.

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

Determining Issues

Whether the application has addressed the reasons for refusal of the previous application or raises any new issues in respect of the

- Impact on Amenity of Nearby Residents; and
- Parking.

Observations

Impact on Amenity of Nearby Residents

The length of the two storey part of this proposal has been reduced from the previous application by 2.2 metres. This proposal will lie to the south-west of house number 86a and the combined length of the existing rear wing of the application house and this proposal at first floor will project 12.5 metres in total further than the rear two storey elevation of number 86a. There are mature conifer trees along the rear garden boundary in the garden of 86a next to 86 although these cannot be relied on in the long-term to provide screening.

However, it is considered that the increase in length of the first floor part of this proposal would still have an overbearing and unacceptable impact on the daylight and privacy enjoyed by the occupiers of 86a, even with the reduction in length of the proposed first floor. The proposal would also breach the 45 degree code in relation to the rear conservatory at 86a. Therefore the current proposal has not overcome the previous reason for refusal.

There are existing side-facing windows in the application house but these are partly screened from 86a by the rear corner of the application house. Their obscure angle relative to 86a also limits their potential to overlook the neighbour. The proposed first floor side window would serve a non-habitable room. It is considered that the two additional ground floor side facing, windows in the proposed extension would not have an adverse impact on the privacy of the occupiers of 86a or the application house because of the angle between the two houses.

The two storey part of this proposal would not project beyond the rear of number 84, a bungalow, having little additional impact on the rear of number 84. The single storey part will only project approximately 2 metres beyond the rear elevation of 84 and as there is a gap of 3.7 metres between the side elevation of 84 and the side garden boundary with 86 this part of the proposal will have minimal impact on the daylight available to the rear of 84.

The separation distances of approximately 29 metres between the proposed first floor extension and the flats at 52, 53, 54 and 55 Butcroft Gardens exceeds the minimum separation distance between facing habitable room windows referred to by policy. The two storey Butcroft Gardens flats lie to the south of the application house and it is considered the orientation and separation distance between the flats and the proposed first floor extension, would have minimal impact on daylight and privacy available to these properties. The issues raised by neighbours about the height of the conifer trees at 86 and market value of the property are not material planning considerations.

Parking

The increase in the number of bedrooms to four would require the provision of three parking spaces each measuring 2.4 by 4.8 metres. The frontage of the application house is too narrow to provide a parking space and although there is a garage many of the older houses along this road have little or no off-road parking. It's considered unreasonable in this instance to refuse planning permission on this basis.

Recommendation

Refuse for the following reasons:

1. The proposed extension would have an overbearing impact to the adjoining house number 86a Walsall Road, because of its excessive length, height and orientation in relation to this property. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document, Designing Walsall.

Recommendation: Refuse

2. The proposed extension would have an overbearing impact to the adjoining house number 86a Walsall Road, because of its excessive length, height and orientation in relation to this property. The development would therefore be contrary to Walsall's Unitary Development

Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document, Designing Walsall.
