



PLANNING COMMITTEE

13th March 2013

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

Hydesville Tower School, Broadway North, Walsall, WS1 2QG

1.0 **PURPOSE OF REPORT**

To advise and update members of the position with regard to the S106 Legal Agreement entered into by Hydesville Tower School in conjunction with planning permission 08/0520/FL which were discussed by Planning Committee on 13 February 2014 as a consequence of the proposed redevelopment of the Park Tavern Public House under planning reference 13/1529/FL.

2.0 **RECOMMENDATION**

2.1 That the Committee notes the report.

3.0 **FINANCIAL IMPLICATIONS**

None arising from this report

4.0 **POLICY IMPLICATIONS**

The following planning policies are relevant in this case:

National Planning Policy Framework (NPPF)

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

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

- Seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas
- Conserve heritage assets in a manner appropriate to their significance.

Key provisions of the NPPF relevant in this case:

4: Promoting Sustainable Transport

32 All development should have safe and suitable access to the site for all people. Development should only be refused on transport grounds where the residual cumulative impacts of development are severe.

207 LPAs should act proportionately in responding to suspected breaches of planning control.

On **planning conditions** the NPPF says:

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

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

The Development Plan

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

The Black Country Core Strategy (BCCS)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

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

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

The relevant policies are:

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

ENV3: Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits. Implementation of the principles of "By Design" to ensure the provision of a high quality networks of streets, buildings and spaces.

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

Walsall's Unitary Development Plan (UDP)

www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm

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

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment.

T4: The Strategic Highway Network is for long distance and strategic traffic

T8: Developments should promote walking

T9: Developments should promote cycling

T13: Unless otherwise justified developments should provide appropriate car parking to meet their needs. Schools should provide 2 spaces per classroom and 4 bike lockers per parking space.

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

5.0 LEGAL IMPLICATIONS

None arising from this report as the steps being taken fall within the provisions of an existing section 106 agreement.

6.0 EQUAL OPPORTUNITY IMPLICATIONS

None arising from this report.

7.0 ENVIRONMENTAL IMPACT

None arising from this report.

8.0 WARD(S) AFFECTED

St Matthews

9.0 CONSULTEEES

None.

10.0 CONTACT OFFICER

Andrew Thompson – 01922 652603
Development Management

11.0 BACKGROUND PAPERS

Planning permission 080520/FL and Section 106 Agreement dated 16 July 2010

David Elsworthy
Head of Planning and Building Control

Planning Committee
13th March 2014

12.0 BACKGROUND AND REPORT DETAIL

- 12.1 Planning permission was granted under reference 08/0520/FL for the following development description:
- 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.
- 12.2 Under the consideration of the previous application it was noted that 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.
- 12.3 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 was used at the time of the Planning Application by the school. This resulted in occasional queues to exit onto Broadway. Despite this provision, parents regularly dropped off children outside the school.
- 12.4 The changes proposed by the 08/0520/FL application were considered to worsen the parking situation for the school which was already unsatisfactory. In addition to increased numbers of children the application proposed the increase to take place in the nursery. Officers considered that 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.
- 12.5 There were 6 objectors to the 2008 application all of whom were 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.
- 12.6 Given these circumstances it was 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.
- 12.7 However, in consultation with officers, the school worked on the production of a Travel Plan which was submitted as part of the 2008 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 was considered to be likely that such improvements could be achieved in other parts of the school, not the nursery.

- 12.8 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.
- 12.9 In addition to the Travel Plan and its targets, the school and officers agreed that there was a need to provide car parking for parents of nursery students. The school proposed that it used the Park Tavern 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.
- 12.10 For the targets set out in the Travel Plan to be monitored and delivered, and the parking on the Park Tavern car park to be secured, or a suitable replacement, a Section 106 Agreement was put in place.
- 12.11 The Council is aware that the Park Tavern Car Park is unlikely to be available to the school in the future, following the grant of planning permission for its redevelopment. However, it is understood that currently the car park remains in use by the school. There has been no breach of planning control in this regard. As such it is not appropriate to issue an enforcement notice, neither is it the case that the s106 has been breached by the loss of the car park. This is because the s106 specifically makes provision for a situation where the car park ceases to be available to the school. Officers continue to monitor the position and have already made contact with the School in relation to their obligations pursuant to the Section 106 agreement.
- 12.12 Officers note that the Park Tavern Public House has now closed and has been sold for redevelopment. The agreements with the Public House are not being taken forward by the new owners and alternative arrangements are necessary.
- 12.13 Clause 4.3 of the S106 Legal Agreement requires the following actions from the School:
- 4.3.1 *to notify the Council within 10 working days that the car park facility (Park Tavern) is no longer available.*
 - 4.3.2 *within 6 calendar months identify for use a replacement car park facility for the use of Parents of Nursery Pupils at an Approved Site*
 - 4.3.3 *provide evidence that 30 spaces are available and that the school has a legal right to use the replacement facility*
 - 4.3.4 *to make the replacement available for the use of Parents of Nursery Pupils*
 - 4.3.5 *defines the subsequent agreed replacement as the car parking facility.*
 - 4.3.6 *In the event of a failure to establish a replacement car park facility to cease taking new nursery pupils from the commencement of the next following academic year until such time as a replacement facility is made available.*
- 12.13 The School has not yet notified the Council that the Park Tavern Public House car park is unavailable to them. The public house is currently closed but the car

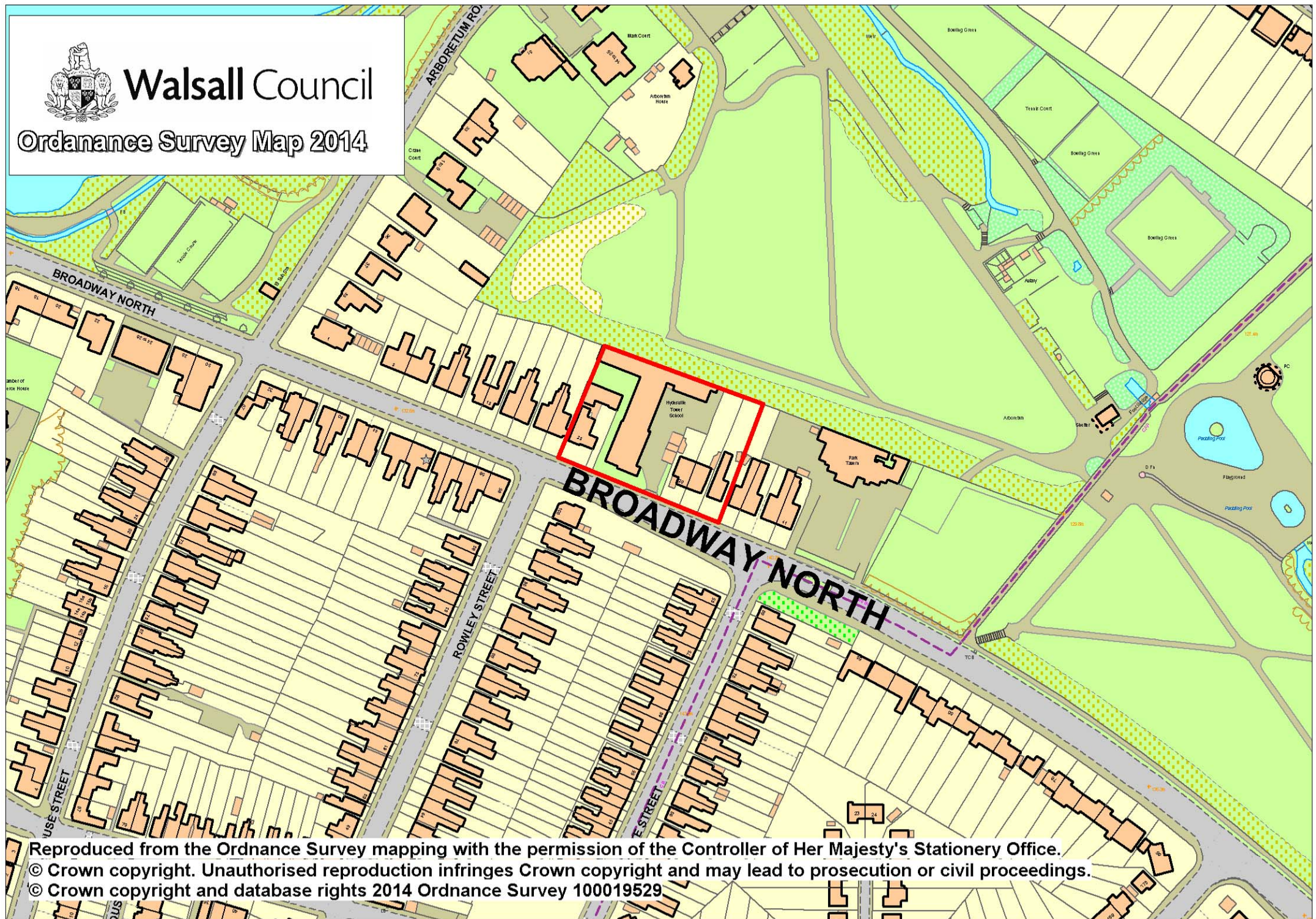
park is not restricted and it is believed that use by the school continues presently. The Local Planning Authority have written to the School, on 20th February 2014, with regard to the future unavailability of the car park and currently await a response.

- 12.14 Pursuant to the Section 106 Agreement, once the car park is no longer available for use by the School the Council should serve formal notice on the School/Owner pursuant to para 2 Schedule 4 of the Section 106. This must be done within 28 days of the Council becoming aware of the situation or within 28 days of being notified of such by the School.
- 12.15 The service of the notice by the Council starts a 6 month clock within which the school is to secure alternative provision. If, at the end of that six month period, it has not been able to do so, the school would be prevented from taking nursery children in the following Academic Year intake.



Walsall Council

Ordnance Survey Map 2014



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office.
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
© Crown copyright and database rights 2014 Ordnance Survey 100019529