



### Contents Sheet

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1	1	08/0394/FL	Land (including factory complex AP (UK) at Heathfield Lane West/Moxley Road, Darlaston.	Demolition of existing buildings and erection of 304 houses and apartments, revised access, amenity areas, parking and associated works. (Resubmission of 07/2465/FL/W2).	Grant Permission Subject to Conditions and a Planning Obligation.
2	33	08/0695/FL	Corner of Moreton Avenue & Beacon Road, Great Barr, Birmingham, B43 7BW.	Construction of 12x2 bed and 2x1 bed apartments within a 2 ½ storey block, and provision of one way access and 18 parking spaces.	Grant Subject to Conditions
3	46	08/0327/FL	Land c/o Mill Street/Cannon Street, Walsall, WS2 8AY.	Erection of 5 no. 2 bedroom houses, 6 no. 2 bedroom apartments and 1 no. 1 bedroom flat over garage (FOG).	Grant Permission Subject to Conditions and a Planning Obligation.
4	57	08/0556/FL	Ivydene, Noose Lane, Willenhall, WV13 3BJ.	Proposed new 24 bed, specialist, low secure hospital & 5 bedded support unit, for the care and treatment of women only	Grant Subject to conditions.
5	71	08/0206/FL	Junction of Kendrick Road & Heath Road, Darlaston, WS10 8BW.	In Building Timber Resource Recovery Centre	Grant Subject to Conditions

6	82	08/1001/FL	Former Garage Courtyard to the rear Cunningham Road, Willenhall, WS2 OAY.	Provision of 12 no. affordable rented dwellings which comprise of 8 no. 2 bed 3 person bungalows and 4 no. 2 bed 3 person flats, all category 1 sheltered for elderly together with associated access driveway and external works.	Grant Subject to Conditions
7	90	08/0488/FL	Canal Basin, Nr. Gallery Square, Walsall Town Centre	Change of use to stationing a canal boat restaurant in basin	Grant Subject to conditions.
8	95	08/0461/FL	72 Daw End Lane, Walsall. WS4 1JR.	Erection of 2 storey block of 2 no. 1 bedroom flats	Grant Permission Subject to conditions, unless additional information is received which raises matter.
9	104	08/0689/FL	4 Greaves Avenue, Walsall, WS5 3QE.	Single-storey rear extension, rear dormers and pitched roof to front over existing porch	Grant Subject to Conditions.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
On 15 Jul 2008

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

**Application Number:** 08/0394/FL

**Application Type:** Full application

**Applicant:** Muller Property Holdings Limited

**Proposal:** Demolition of existing buildings and erection of 304 houses and apartments, revised access, amenity areas, parking and associated works. (Resubmission of 07/2465/FL/W2).

**Ward:** Darlaston South

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

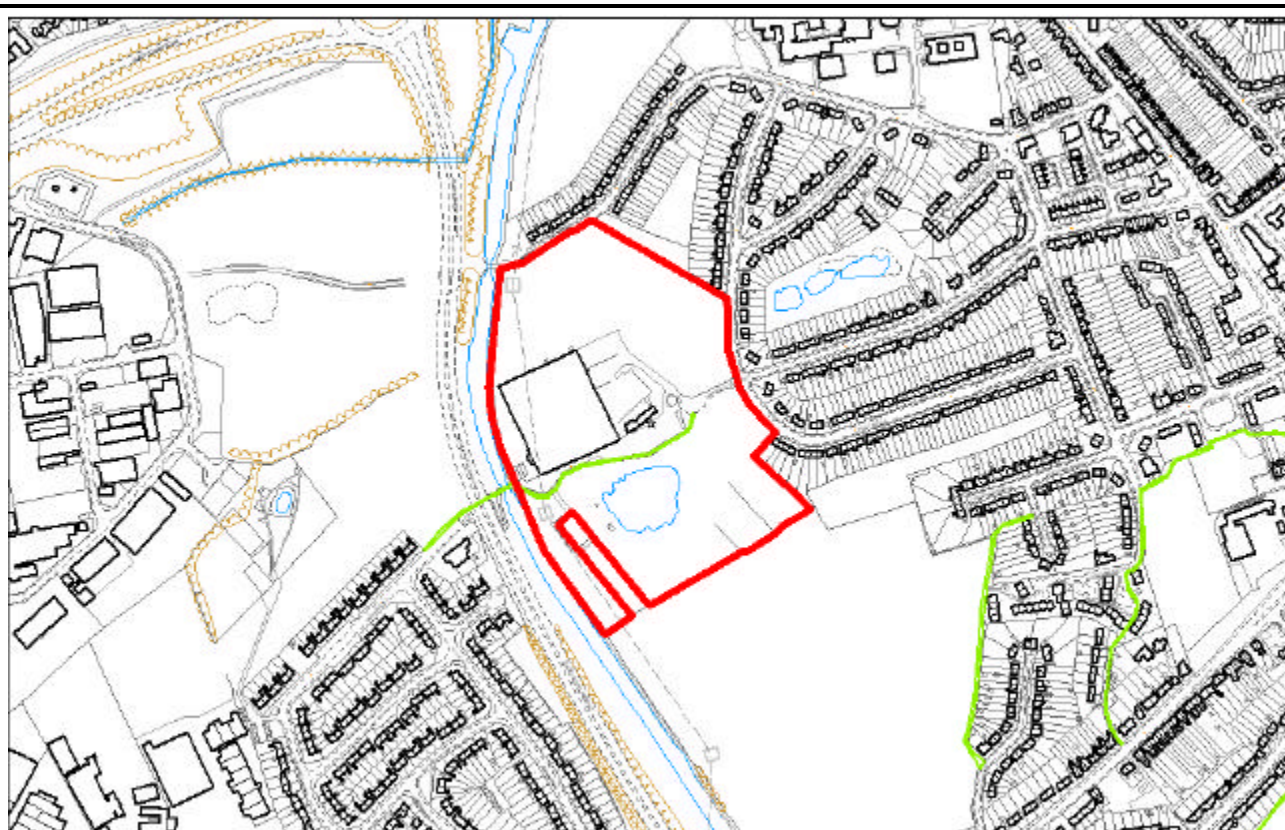
**Case Officer:** Marilyn Kowalski

**Telephone Number:** 01922 652492

**Agent:** Armstrong Burton Planning

**Location:** LAND (INCLUDING  
FACTORY COMPLEX AP (UK) AT  
HEATHFIELD LANE WEST/MOXLEY  
ROAD DARLASTON

**Expired:** 13/06/2008



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## **Recommendation**

**Grant subject to conditions, satisfactory resolution of issues arising from the report and a S106 Legal Agreement.**

## **Status**

A previous application on this site ref: 07/2465/FL/W2 for 321 houses and apartments was refused on 30<sup>th</sup> January 2008. This application is a resubmission of that refusal. An appeal, which is scheduled for public inquiry, is pending on this application. It is due to be heard at the end of September.

The current application is a revised version of the earlier refused scheme. It was presented to committee on 22<sup>nd</sup> April 2008. The application was deferred, pending the resolution of several outstanding matters. These have now been addressed to a large extent or can be dealt with by conditions.

## **Application and Site Details**

The site comprises a factory with office units and associated rough unused ground to the north. To the south of the factory is undulating rough scrub land and a hollow containing Wards Pool. The site frontage, to the west, is onto Stanbury Avenue via a cul-de-sac portion of Heathfield Lane West. To the east is the tow path to Walsall Canal and the Black Country New Road beyond. To the north is another road frontage to Herberts Park Road, Moxley Tip lies to the south (recently been granted planning permission for the provision of residential development and a large area of public open space).

This is a full application for 304 residential dwellings ranging from 1 and 2 bed apartments to 4 bedroom family homes. The housing mix is as follows:-

4% 1 bed apartments  
29% 2 bed apartments  
14% 2 bed houses  
38% 3 bed houses  
15% 4 bed houses

The site area is 7.4 ha. The density of the development is 43 dwellings per hectare.

The existing access to the site on Heathfield Lane West (extension) is to be closed and a new primary access is to be provided (35m approx. to the south of Heathfield Lane West) with a new secondary access to the site (50m approx. to the north of Heathfield Lane West. Potential future access points into the currently undeveloped land to the north and Moxley Tip to the south have been indicated on the plans.

The buildings proposed vary in height between two to four stories.

Crossing the site along the western boundary running parallel to the canal are overhead high voltage electricity cables. Two pylons are located within the site, one close to

Herberts Park Road and the second just to the south of the factory buildings adjoining the existing Gas Valve Compound.

An existing public footpath currently separates the factory premises from Wards Pool from Heathfield Lane West across the site to the Black Country New Road via the footbridge over the Walsall Canal.

There are also reports within the Design and Access Statement, of underground faults dissecting the site from east to west which will be located beneath the proposed highway framework.

Various documents have been submitted with the application including:-

Design and Access Statement

This gives an outline of the site and surroundings a description of the development and reasoning behind the proposal

Planning statement

This describes the site, surrounding area and the development. It outlines the planning policy background and gives an assessment of the development.

Updated ecological assessment

Suggests that the situation has remained largely static since surveys which were carried out in 2005. This 2005 survey concluded that the development would not affect the site subject to statutory protection but the Wards Pool SLINC would be affected. It was concluded that provided a strategy which was outlined was implemented, that the development would conform to relevant policy and legislation. The updated landscape and ecology concept plan has been submitted also. This shows that the development has been pulled back from the southern boundary to provide more room for the retained hedgerow. There is scope to design the roads to make them more "newt friendly" between the pool and the tip to the south, and adjacent to the open space between the site and the canal. Battered kerbs to facilitate movement of amphibians across roads are proposed and gully pots could be off-set from the pavement edge to minimise accidental mortality of amphibians. See also the information on Hydro ecological study, below.

Flood risk assessment

The areas proposed for residential development are located within Flood Zone 1 i.e. low risk of flooding. Some of the western edge of the site is within Flood Zone 2. Mitigating measures will be incorporated into the design. A drainage strategy is proposed. The site is presented as sustainable in terms of flood risk.

Archaeological Assessment

Concludes that the site is of negligible architectural or historic interest.

Geo-Environmental Assessment

Groundwater contamination is not considered to be likely, although controlled waters risk assessment will be required to support this conclusion for the Environment Agency. Foundations will need detailed attention according to site conditions. Ground gas is present on the northern part of the site and future

development will require gas protection. In any event the Report sets out a number of suggested protective measures. These would take place only if required.

#### Transport Assessment

This provides a detailed assessment of the development and concludes that the proposals are in line with policies on sustainable development. With the exception of the creation of the site access points, there are no specific off site improvements required to mitigate development impact. The proposal will have no material adverse impact on the safety or operation of the adjacent highway network.

#### Hydro ecological Assessment

In summary with the proposed treatment to maintain good water quality in Wards Pool SLINC, it is concluded that there will be no significant impacts on the interest for which the SLINC is designated. Instead, with the reedbed creation it is likely that the ecological value of the pool and bankside areas will be improved. It is considered therefore, that the site can be developed to maintain the interest of Wards Pool and hence would be in conformity with policy ENV21 protecting the SLINC.

#### Noise Assessment

Consideration has been given to noise mitigation measures. It is concluded that for the current site layout proposals, and subject to the incorporation of the suggested noise mitigation measures, the noise climate at the site will not pose a constraint to residential development.

#### Tree survey/Impact of development on trees/impact on trees of proposed development/Method Statement to protect trees.

This provides a survey of significant trees. It states that trees have been measured in their landscape setting, and that the aims are to incorporate worthy trees into the development, protect them during development and assist with ongoing tree management.

#### Viability Statement

The purpose of this statement is to justify a reduction in the S106 contributions required under the provisions of the Development Plan. A one off payment has been suggested.

### **Relevant Planning History**

BCW661 OUTLINE: Residential Development Grant Subject to Conditions 23<sup>rd</sup> March 1998

05/2498/ND/W1 Environmental Assessment Screening Opinion for residential, active and passive recreation and public house. Environmental Assessment not required 7<sup>th</sup> February 2006

07/2465/FL/W2 Demolition of existing building and erection of 321 houses and apartments, revised access, amenity areas, parking and associated work Refused 30<sup>th</sup> January 2008 for the following (abbreviated) reasons:-

(Please note, there was an error in the numbering sequence on the refusal notice, there are 2 refusal reason 2's)

*1. Unsatisfactory residential environment provided by the layout:*

- a) inadequate size gardens in some areas*
- b) houses too close together with inadequate separation between facing habitable room windows in some areas*
- c) flats lacking private amenity space*
- d) lacking in measures to design out crime*

*2. The layout makes inadequate provision for vehicles and pedestrians in the following ways:-*

- a) inadequate car parking which could give rise to problems to the detriment of highway safety.*
- b) inadequate garage dimensions*
- c) insufficient manoeuvring space on some plots*
- d) insufficient pedestrian forward visibility on some plots*
- e) lacking secure covered cycle storage*
- f) lacking bin storage/recycling facilities for the apartments*
- g) inadequate access for Walsall's refuse vehicles*
- h) insufficient waste management strategy*
- i) poor relationship between parking spaces/garages to their plots*
- j) More detail required to account for diversion of Bridle path No. 1*

*2. Development has dwellings too close to the edges of the overhead power lines UDP requires 50 metres from pylons and overhead cables*

- 3. a) insufficient landscape and ecological detail. Existing and proposed levels around the pool and along the boundary with Moxley Tip required.*
- b) insufficient tree impact assessment information*

*4. Inadequate dwelling mix in accordance with the Council's Housing Needs and Demand Study 2007*

*5. The surface water sewer running from ponds in the housing estate to the east-north-east of the site, under Stanbury Avenue, to a manhole to the side of no 50 Stanbury Avenue, then continuing and discharging into the small pool on the site needs to be diverted insufficient detail provided to show that this has been accounted for.*

*6. Unsatisfactory access for fire vehicle pump appliances to within 45m of all points within dwelling houses.*

- 7. a) Inadequate accessibility to public transport.*
- b) Information lacking in Transport Assessment*

*8. Compliance with the Council's Supplementary Planning Documents on open space, education, healthcare and affordable housing provision required neither does it make*



*arrangements for appropriate improvements to the canal (such as those sought by British Waterways).*

Site adjoining (Moxley Tip)

BCW 609 Outline: formal & informal recreation use, pub & housing plus reclamation strategy Grant Subject to Conditions 6<sup>th</sup> April 2000

04/0070/FL/M1 & 05/0598/FL/M1 (renewal applications for BCW609)

02/2122/FL-OL/M1 Reclamation strategy (detail) to secure development for informal recreational use and housing (outline) Grant subject to conditions 4<sup>th</sup> December 2007.

05/2498/ND/W1 Environmental Assessment Screening Opinion for residential, active and passive recreation and public house Environmental Assessment not required 7<sup>th</sup> February 2006

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

*Adopted Walsall Unitary Development Plan*

LC1 (d) residential developments required to make financial contributions towards open space

SPS 2.1 and 2.2 define the overall strategy of the plan. The aims of sustainable development, urban regeneration, & environmental improvement are identified.

GP1 - Development will be guided by principles of sustainability, minimising need to travel by car, maximising re-use of vacant land and buildings without prejudice of beneficial use of adjoining land or buildings.

GP2 - states that the Council 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.

GP3 and 8.8 - Planning obligations will be used to secure provision of on or off-site infrastructure, facilities, services or mitigating measures made necessary by development. These may include transport infrastructure, open space, drainage works, affordable housing, education facilities, health care facilities and other forms of social and community infrastructure

GP7 Development should have regard for “designing out crime”

3.16 development will be considered in relation to its setting, and will require a high quality of built and landscape design.

3.52 There are strong amenity grounds for avoiding development in close proximity to power lines and substations. Pylons and overhead cables have a significant adverse impact on visual amenity. It will normally be appropriate to seek a zone of separation of at least 50 metres, but this may vary with local circumstances.



8.8 Residential developments will only be permitted where adequate school capacity exists or can be provided financial contributions may be required.

8.9 Community healthcare facilities or contribution towards these must be provided to serve developments of 30 houses or more.

8.42 The Council will urge developers to consider from the earliest design stages the relationship of their proposals with canals so that optimum use can be made of their visual and recreational potential. The design of development adjacent to canals should consider the opportunity to incorporate elements of canal side vernacular architecture. The Council will, in appropriate circumstances, use planning agreements and obligations to secure improvements to the canal network.

ENV13 To protect the general amenity of occupiers and users, development for uses other than industry and warehousing will not normally be permitted in close proximity to high voltage electricity transmission lines

ENV13 (3.53) Although the justification for Policy ENV13 is general amenity (and not specifically health) it should be noted that the possible health hazards of exposure to low frequency electromagnetic fields associated with high voltage electricity transmission lines has attracted considerable attention in recent years. In late 1998, the Government published a Draft Circular on "Land-Use Planning and Electromagnetic Fields". This took the view that there is "lack of convincing evidence of a causal link between exposure to EMFs and cancer" and discouraged the inclusion policies in development plans for any "cordon sanitaire", on health grounds, around electricity supply or telecommunications equipment. Whilst Policy ENV13 is based upon general amenity rather than health grounds, it will have the by-product of 'prudent avoidance' against the possibility that convincing evidence of health effects might be forthcoming in the future.

ENV17 New planting

ENV18 Development schemes should, help improve the environment of the Borough whilst not allowing development that has an adverse impact on woodland, trees and hedgerows unless the desirability of the development significantly outweighs the ecological or amenity value of.

ENV19 Habitat and Species Protection

ENV21: Sites of Local Importance for Nature Conservation

ENV23: Nature conservation and new development

ENV24: Wildlife corridors

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.

ENV33: Landscape design

Policy H3 is a housing policy about windfall sites. This sets out that the Council will encourage the provision of additional housing through the re-use of brownfield previously-developed windfall sites providing that:

- A satisfactory residential environment can be achieved,
- There is no overriding need for the land or buildings to be retained for employment or any other use
- The proposal would have good accessibility by a choice of means of transport and be well related to schools, shops and other social and community facilities,
- Residential development would not unacceptably constrain the development of any adjacent site for its allocated or identified use

Policy H10 is about layout, design and dwelling mix of housing, This states that the Council will expect the design of residential developments to create a high quality living environment, well-integrated with surrounding land uses and local character, and in accordance with the principles of good design, provide adequate open space, or improvements to existing open space, provide an appropriate mix of housing types, sizes, and tenures with a variety of design, facilitate the efficient provision of public transport services, and maximise pedestrian and cyclist access to local amenities. All proposals for residential development will also be considered against the more detailed standards and guidelines set out in the Council's Supplementary Planning Guidance for residential design.

T7 - All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment. Policy T13 also sets parking standards.

T10 (c) Accessibility standards for all transport modes should continue to be met throughout the life of a development. This envisages the use of commuted payments to support the provision of transport infrastructure where appropriate. (However, detailed study to underpin such requirements has not yet been done, and this can not therefore be invoked.)

T12 (b) For residential development walking distance should be no more than 400metres to a bus stop which is, or will be, served by a bus service to an established centre; has a service frequency of at least 1 bus every 30 minutes during the day (between 0700-1900) Monday to Saturday; has a service frequency of at least 1 bus every hour on Sunday between 1200 and 1900.

T13 requires:- 1.5 spaces per unit for flats with communal parking and 2 spaces per unit for flats with individual parking, and 2 spaces for 1, 2 and 3 bedroom houses and 3 spaces for 4 bedroom houses and above.

**The Wards Pool part of the site is designated as housing land with planning permission in the Unitary Development Plan. And is referred to in TABLE 6.2: "Sites committed by planning permission over 0.4 hectare".**

## **Designing 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;

DBW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DBW3 – all new development must be designed to respect and enhance local identity

DBW4- Well defined streets with a continuity of built form are important.

DBW6 – new development should contribute to creating a place that has a clear identity

DBW9 new development must seek to ensure it creates places with attractive environmental quality

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

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

## **Walsall Local Development Framework**

The Urban Open Space SPD (April 2006), Education SPD (February 2007), Healthcare SPD (January 2007) and Residential Design Standards Document (April 2005) are all relevant.

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

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

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

### *Regional Spatial Strategy Review / Black Country Study*

The Regional Spatial Strategy is under review. The Draft Phase 1 Revision is currently subject to Examination in Public. The Draft Revision seeks to take the approach in the current RSS further forward in the design and delivery of high quality environments.

### **National policy**

PPS1 on delivering sustainable development and good design.

PPS 3: Encourages reuse of previously-developed land for housing.

Paragraph 10 of the new PPS3 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:

1. High quality housing that is well-designed and built to a high standard.
2. Housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

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

Other related documents are PPG25 Development and Flood Risk, 'By Design' companion to PPG's, Urban Design Compendium, Safer Places, The Planning System and Crime Prevention and By Design - Urban Design in the Planning System: Towards Better Practice.

## **Consultations**

**Transportation** – The revised proposals are acceptable subject to the imposition of conditions to ensure that refuse and re-cycle facilities for the apartments meet the Council's requirements in terms of capacity and location, that the current route of the bridleway is maintained until such time as the statutory procedures have been complied with and the new route is available for use, notwithstanding the notation on the plans, it should not be assumed that the two areas identified for future development can be accessed via this site without further justification, approval is required of the proposed surface materials and gateway features, all adoptable areas of carriageway that are intended to accommodate two way traffic are a minimum of 4.1 metres in width or suitable passing places are provided and a revised travel plan is submitted and approved by the LPA and the plan is implemented in accordance with the details in the plan. In addition, the cost of introducing traffic calming measures in Heathfield Lane and Heathfield Lane West, subject to agreement of residents affected, should be financed by the developers, as part of the section 106 agreement.

**Pollution Control – (Contaminated land)** due to the history of the site and the findings of intrusive works, it has been recognised through the submitted ground investigation that significant remediation will be necessary to reduce/remove contaminative risks upon site relating to issues of, (not exclusively) human health. It will be necessary for further discussion with the developer to agree the detail of those measures deemed to most suitably address the situation and allow the site to be brought back in to beneficial use.

**Pollution Control - scientific team** has no objection with the proviso that measures are put in place to address noise and other issues arising. Conditions are recommended to this end.

**Severn Trent Water** – No objection subject to conditions relating to drainage, and restriction regarding buildings and trees near the sewer.

**Housing** - This is an improved submission, which has taken on board some of the previous feedback, reducing the 1 bed apartments. Concerns, however, on the number of

apartments, in line with Table 7.3 of the Housing Need and Demand Study update November 2007 which states that Walsall has a surplus of flats. Flats should only be provided on sites to deliver suitable design solutions to the site/scheme. The site would be applicable for 25% on site affordable housing. The need in the November 2007 study was clearly biased towards social rent, but the updated SPD (replaced 16th April 2008) leans towards shared ownership. Therefore, the equivalent of 25% shared ownership (in cost terms to the developer) is to be provided on site, with the tenure mix to be agreed. This may equate to less than 25% in numbers, but would give the correct tenure. The affordable housing should be an even spread of dwellings, with the exception of 1 beds which will not be accepted.

**Environment Agency** – No objection but recommend conditions to deal with the risks of contamination on the site and an informative regarding the protection of controlled waters. The conclusions of the Flood Risk assessment submitted with the application are concurred with. It is felt that there is more opportunity to improve the water quality aspect of discharges. No objections to a free discharge to Wards Pool provided adequate water quality issues are incorporated within the drainage system. A number of alternative techniques other than permeable paving within car parking areas should be considered. Water butts should be installed within the curtilage of as many properties as possible. Additional treatment from the eastern half of the site could be provided via a swale area within the open space between the development and the canal, linking into the pond. Filtering and infiltration techniques prior to discharge should be incorporated. (These comments have been passed to the developer)

**Serco** – Contribution of £548,809.90p required towards local secondary school places.

**Structures & Geotechnics** – No objection. If the underground fault extended up to or near to the existing ground level then any development would have to take it into account. In this case however the fault is known to be overlain by a significant depth of sand clay and gravel, which, assuming that no deep piling is to take place, should negate the effects of any broken ground, at depth, in the vicinity of the fault.

**Drainage** – No objection but there is a surface water sewer running from the ponds in the housing estate under Stanbury Avenue to a manhole to the side of No 50 Stanbury Ave then running and discharging into the small pool. On the plans this pool appears to be infilled. The author of the drainage report is aware of this sewer, and it needs to be diverted. In the Flood Risk Assessment and Drainage Strategy the surface water sewer from the ponds in the housing estate to the smaller on-site pond is listed, but does not state where this sewer is diverted to when the small pond is in-filled. In para. 13.1.7 it states this will be confirmed as part of the detailed drainage design. This will need to be included on the design. It also states that the surface water is pumped into the Walsall Canal. British Waterways must give approval for this.

**Building Control** – No objections, note for applicant suggested regarding demolition.

**Rights of Way Officer** – No objections but Bridle path 1 Darlaston, runs across the centre of the site from the end of Heathfield Lane West across the open space next to the pool, over the canal and Black Country Route, then onto Hughes Road. The route will need to be diverted or extinguished to allow development to go ahead. The possible diversion of the bridle path as part of the development is supported.

The path should be diverted onto a new route through the development. Any new route should be hard surfaced and have a width of 3m which could be segregated for walkers and cyclists.

The existing bridle path links to an access on the canal towpath which is a promoted cycle route. Motorbikes have been used around the pool therefore some sort of entrance barriers, are required, e.g. a horse step over next to a chicane, which would accommodate pedestrians, cyclists and horse riders, but act as a deterrent to motorbikes should be included. There is a wide enough area to install this type of barrier in the area leading from the canal bridge and it may be desirable to install the same at the other end of the bridle path, dependant upon the preferred route it would follow.

**Landscape** – No objections as it will result in the effective retention of Wards Pool and some of the existing open land between the pool and the canal. A new reed bed is proposed around the pool to filter surface runoff from the new development so the water source for the pool is safeguarded. The reed-bed will add to the nature conservation value of the land. It is also proposed to create a belt of open space along the canal frontage which will be landscaped to provide both a visually attractive area and a valuable habitat for wildlife. The proposed development is in accordance with the council's UDP policies and recent queries over the landscape plan, the tree survey and levels have been resolved. All proposals made in the various survey reports will need to be enshrined in planning conditions. In particular, there will need to be a planning condition requiring a method statement for the construction of the reed-beds to avoid damage to the pool. This should provide details of methods of working and operation of machinery to ensure there is no physical damage to the pool or silt or soil washed into the pool. Planning conditions will also be required for a full landscaping scheme and tree protection conditions.

**Black Country Archaeologist** - No archaeological implications.

**Urban Design** – Proximity to pylons is not considered to achieve highest standards of urban design. Would prefer to see amendments to reduce number of apartments and omission of 1 bed units; Percent for Art Section 106 contributions of £350 per dwelling are necessary for every dwelling in line with Designing Walsall SPD this would amount to £106,400.

**Waste Management** – Concern about accessibility of bin stores from public highway. The extent of the adoptable area is yet to be agreed under the S38 procedure. If the location of the bins stores (yet to be agreed under condition) is still considered too remote from the public highway, and the refuse vehicle would have to enter private land, then the developer will be required to provide a turning area if required and / or enter into an agreement to ensure that the Council will not be liable for any damage to the surface of a private area as a result of the vehicle having enter.

**Regeneration Strategy** – No objections in principle. The emerging Black Country Core Strategy, although little weight can be given to it at this stage, envisages significant change across the sub-region from employment to residential use. It would also be consistent with the Council's regeneration priorities, in particular the Moxley Regeneration Framework, for which this site is a key development opportunity. The Regional Spatial Strategy Phase Two Revision Submitted to the Secretary of State envisages 61,200 net additional homes in the Black Country up to 2026. The proposed development would make a significant contribution to Walsall's share. Part of the site is still in employment use but it compares poorly with the criteria in UDP paragraph 4.3 and it is therefore appropriate in

terms of policy JP7 (d) to consider alternative uses. Given the policy restrictions on other uses and the general approach to housing-led regeneration being pursued at Black Country level, residential development on this part of the site would be the most appropriate use. Residential development would also be consistent with policies in the UDP (e.g. GP1, 6.3, H3), RSS (CF3), PPS 1, PPS 3 about building new homes on previously-developed land and making the most efficient use of land.

The scale of development brings the SPDs on affordable housing, urban open space, education and healthcare into consideration.

**Sustainable Travel Officer** – There are inadequacies with the current Travel Plan but it is considered that an acceptable solution can be achieved by condition.

**West Midlands Fire Service** – No objection

**West Midlands Fire Service** – No Objection.

**Police Architectural Liaison Officer** - This is an area of relatively high crime i.e. burglary and vehicle crime. Improvements have been made to the scheme which alleviates previous concerns. However, there should be no seating provided within the main square be it intentional or through poor design, as this will only attract local youths and raise issues of crime / ASB. There should be an element of defensible space in front of the buildings around this main square, in the form of low level fencing or planting. The open entrance to the court yard parking area off the main square needs to be gated both to vehicle and pedestrian access. Similar entry methods around the development where there is a coach house constructed over a drive leading to a parking area need to be gated also. The layout for parking around the perimeter of the site provides poor natural surveillance of vehicles I understand that defensible planting is to be utilised around the perimeter of the site in order to offer some form of natural protection for vehicles and create a barrier between the vehicles and the open land behind them. Suitable lighting of these parking areas is also essential.

**British Waterways Board** - No objections subject to the imposition of conditions and a legal agreement relation to: the resurfacing/ enhancement of the existing towpath along the length of the boundary of the proposed development to the canal; replacement of motorcycle barriers; commuted sums to assist in removal of graffiti on Barnes Meadow Bridge and Heathfield Bridge. Conditions are suggested requiring water control measures on the site to be approved by British Waterways in order to protect the quality of the water in the canal, and one stating that all works must be in accordance with the latest edition of the British Waterways code of practise for third party works.

**Greenspaces (Leisure Services)** - The site is used frequently by local residents for informal recreation and has been accepted by the local community as amenity green space. Walsall Youth Services have consulted with users of the site and there is strong local support to retain it as open space. There is clear concern that the loss of this site and Hughes Road will have a severe impact on the existing green space in the area. The developer proposes an element of open space as part of the development and there needs to be discussion as to who will assume future maintenance responsibility of the pool and the proposed open space. Darlaston's open space is below the borough average. The



quality is below the borough average with particular reference to George Rose Park.

Surveys tell that residents are dissatisfied with the open space in the area.

The 2 greenspaces in Darlaston are key green spaces and the aim is to make each of these sites premier spaces. George Rose Park is one of these sites, the other one is Kings Hill Park. There will be increased pressures on the Park to serve the needs, demands and expectations of the new residents moving onto the development. This development not sufficient in its quantity or provision to meet the collective needs and expectations of new residents who will occupy the site. At least 80% of any S106 contribution should be targeted towards improving the accessibility and quality of George Rose Park and its facilities.

### **Representations**

Two letters have been received objecting to the application on the following grounds:-

Increased traffic;

The surrounding roads are not wide enough to cope with the increase in traffic;

Increase in traffic would create a danger to children playing in the area;

Parked cars would create difficulties to vehicles on the highway to pass each other;

Heavy traffic during construction, and when built, on surrounding roads;

Pressure on local schools;

Dust and disturbance during construction;

Money should be spent on improving what already exists in the area;

I have also received a statement from the Moxley Project Reference Group as follows:-

Generally welcome the development proposals;

Traffic impact issues will need careful consideration particularly Herberts Park Road/Forge Road onto Wolverhampton Street and Heathfield Lane and Park Street Junctions;

Current visibility is poor;

Possibility of becoming a rat run if a link is built through to Moxley Tip;

If Moxley Infants School is developed there will be further pressure on Moxley Road;

Traffic calming measures should be considered;

Welcome the reduced number of 1 bed apartments; and the general improvements in the housing mix;

The pool should be made available for the public to enjoy particularly for fishing

A petition containing 43 signatures has been received requesting traffic calming measures on Heathfield Lane and Heathfield Lane West other points raised in the letter are as follows:-

- a) Other roads around the site have traffic calming measures therefore fears that traffic generated from this development will be displaced onto Heathfield Lane and Heathfield Lane West;
- b) Speeding vehicles on these roads would be a danger to road users;
- c) Heavy plant and equipment will have to use these roads when the development is being built;
- d) The increase in traffic will be intolerable unless alternative routes can be provided.

The Monarch's Way Association state that The Monarch's Way is an historic footpath approx. 615 miles long. It follows the canal towpath in this location and therefore abuts the proposed development. The author of the letter is the creator of the footpath and a member of the Walsall MBC Local Access Forum. Comments as follows:-

- a) The proposal involves diverting the public bridleway along/through an area of "homezone" and along estate roads which would eventually be adopted this is not attainable by law;
- b) The part of the diversion which may become an adopted estate footway would be an extinguishment not a diversion as in law one highway cannot be diverted onto another;
- c) The "homezones" would carry motor vehicles, pedestrians, cyclist etc. which would cause a hierarchy confusion;
- d) It is an offence to drive a motor vehicle along a public footpath
- e) An order to divert the path would be flawed;
- f) Has consideration been given to the disabled e.g. blind people?
- g) Has consideration been given to planning out crime?
- h) Will the open space by the canal remain open and unfenced?
- i) The effect of development on public rights of way is a material consideration (DEFRA Rights of Way Circular (1/08);
- j) Planning permission does not mean that an order will automatically granted;
- k) The effect of the development on public rights of way should be taken into account and developers should be told that separate consent is required for diverting rights of way;
- l) PPG13 contains advice on design, location and access arrangements of new developments;
- m) PPG17 states that rights of way are an important recreational facility which local authorities should protect and enhance;
- n) Links should be encouraged to existing rights of way networks;
- o) Unauthorised disturbance to the surface of a public footpath is an offence;
- p) The application should be advertised in the local press because of its affect on the setting of a public right of way;
- q) It should be made clear that the granting of any planning approval does not authorise the obstruction or diversion of a public right of way.

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

### **Determining Issues**

The determining issues are whether the development overcomes the reasons for refusal of planning application ref: 07/2465/FL/W2 for the erection of 321 houses and apartments which was refused earlier this year. In addition, a further issue of allocating contributions to affordable housing, open space etc is relevant, the matters raised by "The Monarch's Way Association" and the late petition.

An appeal on the earlier application is due to be heard at Public Inquiry at the end of September. The applicant has stated that he will withdraw this appeal if this application is approved.

For ease, the essence of the refusal reasons are reproduced in turn, in italics, and comments on these are set out after each reason. Please note there was a mistake in the numbering of the original refusal reason i.e. there were 2 reason 2's, this has not been corrected to avoid confusion.

1. *Unsatisfactory residential environment provided by the layout:*

- a) *inadequate size gardens in some areas*
- b) *houses too close together with inadequate separation between facing habitable room windows in some areas*
- c) *flats lacking private amenity space*
- d) *lacking in measures to design out crime*

Previously the layout proposed was felt to be very tight on garden and amenity space overall. The number of dwellings has been reduced in the current scheme and as a result the fabric of the scheme has loosened slightly. However, there are still 10 gardens with a garden length of less than 10m. It is felt that these shorter gardens (in the locations proposed) do not compromise other policies regarding the distances between habitable room windows or windows to blank gable standards.

In addition, there is only 10m between the habitable room windows of plots 108 and 109 and the side gable of plot 109, and there is only 20m between habitable room windows of plots 31 and 32 and plot 40. The Numerical Guidelines for Residential Development recently adopted identifies that good design requires 13m between habitable room windows and blank walls exceeding 3 metres in height, and 24 metres between facing habitable room windows. However, plots 39 and 40 are an important corner block in a feature mews proposed for the estate. It would be hard to redesign this corner, but equally hard to argue that such a modest infringement of the guidelines should prejudice the scheme. Overall, it is considered that, on a scheme of this size, the relationship issue between habitable room windows of plots 108 and 109 and the side gable of plot 109 and habitable room windows of plots 31 and 32 and plot 40 is considered to be acceptable.

On balance it is considered that refusal reasons 1(a) and (b) have been overcome.

The amenity space to the apartments remains very similar to the previous scheme. This was considered to be insufficient. The developer justified this by stating that the amount of open space on the site extending around Wards Pool and up to the canalside is located adjacent to the majority of apartments thus ensuring that it is usable. However, amendments have now also been made to the scheme which provides useable attached private amenity space by way of a balcony on all apartments except those fronting the main square. This will help to counter the fact that the 20sqm per flat of communal amenity space within the curtilage of flats which is required by the newly adopted Designing Walsall SPD has not been provided, (though this was not in place at the time of the previous refusal). It is considered that refusal reason 1 (c) has now been overcome.

Regarding the police liaison officer's comments, it is not uncommon that the advice in Secure by Design can conflict with other advice concerning urban design. However, amendments have been made to the scheme which will comply with many of the amendments required by the police liaison officer. These include the installation of gating under the coach house accessed from the main square and additional fencing/gating

around plots 238-267 to increase security in strategic places. A condition is suggested requiring details of the gates together with access control measures with self closing facilities. In addition, a condition is suggested requiring all apartment blocks to have access control measures in place such as a video intercom in line with the police liaison officer's comments. Also the old hawthorn hedge along the boundary with Moxley Tip, which currently contains several gaps, will be improved by planting to fill the gaps to increase security. With these measures to combat crime, it is considered that refusal reason 1(d) will be overcome.

2. *The layout makes inadequate provision for vehicles and pedestrians in the following ways:-*

- a) inadequate car parking which could give rise to problems to the detriment of highway safety.*
- b) inadequate garage dimensions*
- c) insufficient manoeuvring space on some plots*
- d) insufficient forward visibility on some plots*
- e) lacking secure covered cycle storage*
- f) lacking bin storage/recycling facilities for the apartments*
- g) inadequate access for Walsall's refuse vehicles*
- h) insufficient waste management strategy*
- i) poor relationship between parking spaces/garages to their plots*
- j) More detail required to account for diversion of Bridle path No. 1*

The plans have been substantially amended since the application was last presented to committee.

The Transportation officer has commented that adequate car parking has now been provided (2a has now been overcome)

The garage dimensions are now satisfactory (2b has now been overcome)

There is now sufficient manoeuvring space on plots (2c has now been overcome)

There is now sufficient forward visibility (2d has now been overcome)

Covered cycle areas have been provided to all of the apartment blocks (2e has now been overcome)

Communal bin and recycling stores have been provided to the apartments. The apartments now have communal bin and recycling stores containing standard 1100 litre "Eurobins". Collection arrangements will be as standard flats. The bins will be colour coded to coincide with the collection requirements of the Local Authority. A condition is suggested requiring that it be demonstrated that these are conveniently sited and accessible to refuse operators (2f and g will be overcome)

The majority of dwellings have been designed to have an integral store to the front of the property to house the individual wheelie bin for household refuse. The remaining storage provision for recyclable materials will be contained within rear gardens. All dwellings have rear access either directly or via their own garage enabling the additional bins to be moved adjacent to the public highway on collection day. (2h has now been overcome)

The relationship between parking spaces/garages to their plots has been improved (2i has now been overcome)

The diversion of the Bridle Path has been indicated on the plans. The plans have been amended to identify the extent of extinguishment of the Bridle path, extent of the diversion of the Bridle path and the two alternative routes available to the extinguished element of the path. It should be noted that development affecting the route of the Bridleway cannot

commence until separate statutory procedures have been complied with (2j is therefore in the process of being overcome)

Regarding the access to the canal, a condition is suggested, requiring entrance barriers, which would accommodate pedestrians, cyclists and horse riders, but act as a deterrent to motorbikes, should be included, on the bridle path where it links to the canal towpath which is a promoted cycle route, should the application be approved.

In addition it has been raised during discussions with the developer that there is a need for a barrier to the south of the main square where the access road meets the top of the pool. A condition is suggested. The developer has agreed to provide this facility.

In order to ensure minimum effect of the development on surrounding highways, it is proposed that traffic calming measures will be installed on Heathfield Lane and Heathfield Lane West, subject to agreement of residents affected, to ensure that the effect of the increase in traffic on these roads will not have a detrimental effect on the safety of pedestrians in the area. In order to carry out these works a sum of £20,000 approx. is required.

*2. Development has dwellings too close to the edges of the overhead power lines UDP requires 50 metres from pylons and overhead cables*

Officers have been consistent in advising, at development team meetings as far back as 2005, at meetings, and in correspondence, that, in addition to recommendations from National Grid, Unitary Development Plan policy ENV 13 states that any new development is to be located 50 metres away from pylons and overhead cables. This is due to visual and amenity reasons and not electro magnetic fields.

Three and four storey buildings, most with habitable room windows facing towards the power lines have been proposed. The buildings were 11m from the cables on the original application, this has been increased to 16 metres. The Council considers that there are strong amenity grounds for avoiding development in close proximity to power lines. Whilst it is accepted that there is some flexibility in the distances required, strong justification, is needed to allow any reduction in this distance.

To justify the proximity, the developer has stated in the supporting Design and Access Statement that the 25 metre exclusion zone from the centre line of the cables required by National Grid has been complied with. This is a safety requirement however, and not an amenity issue. The document further goes on to describe how, in line with Policy ENV13, the land has been used to provide permeability to the scheme and that the land under the cables will provide linear open space to enhance the canal alongside. This is welcomed.

The developer has stated that if 50m were provided, then a significant part of the site would be sterilized. They have quoted guidance contained within a National Grid document "A Sense of Place" showing how development can be accommodated in proximity to such overhead lines. This states that it can be demonstrated that buildings of conventional form up to heights of five storeys would look out beneath the lowest cables due to a narrower field of vision being created. The document says "a more enclosed and compact form i.e. narrower streets with taller buildings may enable development to be

sited closer to high voltage overhead lines without increasing the visual impact upon the public realm.

The scheme has been revised to take account of the pylon located at the northern end of the site where units have been positioned to look either side of the pylon, and not directly at the structure. To provide a continuous built frontage in this location a coach-house unit has also been incorporated but with only hallway, bathroom and kitchen areas (provided with Velux roof lights) on this side of the building. This corner element is now considered to be satisfactory.

The Urban Design Officer is of the opinion that dwellings within 50m of the pylons cannot be classed as achieving the highest quality of urban design. The developer has put forward a contrary argument that buildings at this proximity will look out under the power lines, and a cross section has been provided showing evidence of this.

On balance it is felt that although this does not meet the 50m required by policy, a combination of the interests of the economic viability, and regeneration of the site, plus the provision of the amenity/wildlife strip along the canal and evidence showing that the cables will not be easily seen from the windows of the closest apartments, it is felt that, on balance, the application can be supported.

3. a) *Insufficient landscape and ecological detail. Existing and proposed levels around the pool and along the boundary with Moxley Tip required.*  
b) *Insufficient tree impact assessment information.*

The landscape officer supports the scheme as it will result in the effective retention of Wards Pool and some of the existing open land between the pool and the canal. A new reed bed is proposed around the pool to filter surface runoff from the new development so the water source for the pool is safeguarded. The reed-bed will add to the nature conservation value of the land. It is also proposed to create a belt of open space along the canal frontage which will be landscaped to provide both a visually attractive area and a valuable habitat for wildlife.

The proposed development is in accordance with the council's UDP policies and recent queries over the landscape plan, the tree survey and levels have been resolved. All proposals made in the various survey reports will be enshrined in planning conditions. In particular, a condition is proposed requiring a method statement for the construction of the red-beds to avoid damage to the pool. This will need to provide details of methods of working and operation of machinery to ensure there is no physical damage to the pool or silt or soil washed into the pool. Planning conditions are also proposed requiring a full landscaping scheme and tree protection measures.

#### *4. Inadequate dwelling mix in accordance with the Council's Housing Needs and Demand Study 2007*

Previously, the housing mix in the scheme was considered to contain not only too many 1 bedroom apartments, but also too many apartments generally. The urban design officer and housing officer, would prefer to see a reduction in the number of apartments overall and an omission of 1 bed units altogether as these are the least sustainable housing type and Walsall has a surplus of them. However, the scheme has been amended so that it

now only contains 13, 1 bed apartments as opposed to 29 previously. Also there are 45, 4 bed properties in the scheme and it is felt that an appropriate mix has been achieved in line with Unitary Development Plan policy H10. The number of "Flats Over Garages" within the scheme has been reduced to 11. These are not something that are generally supported as a rule, due to the fact that they can create a visual problem in the street scene because of blank elevations. However, it is considered that a scheme of this size can support such a small number of FOG's especially as in this case they have been designed with windows in both front and rear elevations with an interesting half gable feature in the roof above full length windows, and they feature Juliet balconies.

*5. The surface water sewer running from ponds in the housing estate to the east-north-east of the site, under Stanbury Avenue, to a manhole to the side of no 50 Stanbury Avenue, then continuing and discharging into the small pool on the site needs to be diverted insufficient detail provided to show that this has been accounted for.*

This surface water sewer running from the ponds in the housing estate under Stanbury Avenue to manhole to the side of No 50 Stanbury Ave then running and discharging into the small pool appears to be infilled. The applicant is aware that this sewer needs to be diverted. It is not clear from the Flood Risk Assessment and Drainage Strategy where this sewer is diverted to when the small pond is in-filled. The statement says that this will be confirmed as part of the detailed drainage design. Severn Trent Water have suggested a condition requiring drainage details, therefore this will need to be controlled by condition. The statement also says that the surface water will be pumped into the Walsall Canal. The approval of British Waterways would be required for this, and an informative would be attached to any approval.

*6. Unsatisfactory access for fire vehicle pump appliances to within 45m of all points within dwelling houses.*

The fire officer does not object to the current proposal as the scheme has been revised and a turning head has been proposed in Herberts Park Road. This refusal reason has now been overcome.

*7. a) Inadequate accessibility to public transport.  
b) Information lacking in Transport Assessment*

The access road through the estate has been widened to facilitate the provision of a future bus service through the development and discussions will continue with bus operators as part of the Travel Plan negotiations.

*8. Compliance with the Council's Supplementary Planning Documents on open space, education, healthcare and affordable housing provision required neither does it make arrangements for appropriate improvements to the canal (such as those sought by British Waterways).*

As advised by Housing, the site would be applicable for 25% "on site" affordable housing. The need in the November 2007 study was clearly biased towards social rent, but the current SPD, which came into force on 16th April 2008, requires shared ownership. Therefore, as a transitional arrangement, the equivalent of 25% shared ownership (in cost terms to the developer) should be provided on site, with the tenure mix to be agreed. This



may equate to less than 25% in numbers, but would give the correct tenure. The affordable housing should be an even spread of dwellings, with the exception of 1 beds which will not be accepted.

### **Contributions (health, open space, housing etc)**

In addition, if approved, a S106 Agreement would normally be required to ensure financial contributions in accordance with supplementary planning documents. British Waterways is also seeking a contribution towards the towpath and local environment in order to ensure that the canal environment is upgraded to accommodate the increased pressure placed on it by the anticipated increase in local residents and access. In particular, they are seeking works to the pathway to extend it over the bridge and continue onto the towpath, and for dog bins and litter collection and control to be accommodated in a commuted sum for increased maintenance.

In addition, as part of this application, it has emerged that it is necessary to install traffic calming measures on Heathfield Lane and Heathfield Lane West to ensure that the effect of the increase in traffic on these roads does not have a detrimental effect on the safety of pedestrians in the area. In order to carry out these works a sum of £20,000 approx. is required.

Providing the requests for contributions can be justified these would normally be supported. However, the developer has submitted a Financial Viability Statement with the application due to economic concerns with the scheme. A one off payment of £503,000 has been proposed by the developer.

The viability has been assessed by the District Valuer. He has concluded that the scheme is very marginal and the profit level is likely to be below 15 per cent, therefore if a higher contribution were to be required the development would become unviable. These conclusions are supported by your officers.

Officers suggest 50% of the money to go towards the Education needs; all of the cost of traffic calming to be met; open space to receive 20% of the remainder in line with the Borough requirement of policy OS5 of the Supplementary Planning Document; and the remainder divided equally between the other demands i.e. housing, healthcare, British Waterways and public art,

Greenspace Services feel strongly that an off site urban open space contribution should be sought in line with the requirements of the SPD, and 80% of that amount would go towards improving the quality of George Rose Park.

The proposed development will provide some on-site open space. This is potentially a major resource for an area that, according to the Greenspace Audit, is not particularly well-provided for in terms of proximity to unrestricted open space. Some council work is being done towards evaluating the needs for open space that would arise from proposed new housing in the Moxley area and this will indicate how S106 monies should be spent (the Project Reference Group is very keen to keep resources in the area). This site is a major component of the Moxley Regeneration Strategy. However, officers do not consider this should change the conclusion in the preceding paragraph.

For ease of reference, I have set out below the various bodies who qualify for contributions, together with the prescribed financial amount required in brackets. Alongside, I have set out the actual amount likely to be allocated to each of the bodies.

Education (£338,251.80p), - £251,500

Open Space (£554,400),	- £50,300 (20% Borough Contribution)
Traffic Calming (£20,000)	- £20,000 approx.
Healthcare (£307,440)	- £45,300
Public Art (£106,400)	- £45,300
British Waterways (unspecified amount)	- £45,300
Affordable housing	- £45,300
TOTAL - £ £503,000	

Preparation for the S106 is at an advanced stage to enable a speedy decision to be issued should this application be approved. In order that the Appeal on the earlier refusal may be withdrawn to avoid the need for a Public Inquiry.

### **Additional Matters - The Monarch's Way Association**

The association has raised various matters. However, it is important to note that the proposed development does not affect the Monarch's Way itself, but a public right of way (Bridleway Darlaston No. 1) through the site which connects to the canal towpath, the permissive route of the Monarch's Way. Officers are satisfied that a suitable alternate route to ensure this linkage can be provided through the development, subject to normal statutory procedures.

Some of the issues raised by the Association are based on a mis-understanding caused in part by imprecise use of terminology, extinguishment being confused with diversion.

The Association has pointed out, correctly, that two highways can not co-exist on the same surface. This was known and arises from their imprecise use of terminology referred to above. It is proposed that western section of the bridleway, adjacent to Wards Pool will be diverted to a new segregated route and the eastern section of the bridleway will be extinguished (to prevent two highways co-existing on the same surface) and the alternate route will be along new public highway that will be created by the development. This will be either along the primary access or through the home-zone. This is subject to statutory procedures being complied with and the developer is fully aware that grant of planning permission does not enable that planning permission to be implemented unless the bridleway has been part extinguished and part diverted. The issue will then become one of timing; the existing route must always be available until the new route has been completed and is useable. This can be secured by condition.

The Association is concerned that the alternate route available, if and when the bridleway is extinguished, will be via a homezone and there will be confusion over who has priority. One of the main objectives of a home zone is to design a layout where all modes of transport share the same space and no one user has priority. Consequently, the concerns of the Association are unfounded in this respect.

In accordance with Circular 15/92, the revised plans have been advertised in the local press, specifically referring to the impact on the public right of way and proposed traffic calming.

The Association is concerned over the needs of the disabled and whether these have been considered. Disabled access between Stanbury Avenue and the Monarch's Way will

actually be improved over that currently available, as the route will be either along public highway within the estate (with level access, street lighting etc) or a newly constructed diverted route, suitably surfaced.

The land by the canal will be the subject of various different landscape treatments. The land to the rear of the parking areas will have hedging planted with trees interspersed to provide screening. There will be blocks of scrub land some damp/dry grassland, some existing rough species will remain and the land bordering the canal requires little groundwork other than to enhance existing wild life

Consideration has been given to planning out crime as evidenced by the comments in this report relating to refusal reason 1(d). In addition the footpath linkage will be better overlooked.

### **The petition**

The application site abuts the public highway along Stanbury Avenue, Berry Avenue and Herbert's Park Road. Consequently, the company does not have the right to construct an access to any other sections of public highway, for example across Moxley Tip to Moxley Road as this will pass over land they do not control or own. Additionally, the planning system could not require them to negotiate to purchase this land or obtain the right to construct a road over the land.

The first planning application had to be determined as submitted, that is, taking access from Stanbury Avenue and Berry Avenue, and the means of access through the existing streets was not among the reasons for refusal. Consequently, the company is entitled to expect that this principle is accepted by the Council and will not be a reason for refusal of any future planning application.

Clearly, the volume of traffic using the Heathfield Lane and Heathfield Lane West will increase over current levels since the closure of the AP UK site. Whether this increase will be greater or less than the traffic that was previously generated when the site was in full operation or that which might be generated by any future industrial use should the residential application fail, is debatable. However, once the housing development is completed, the number of heavy lorries will be significantly reduced.

This petition, for the introduction of traffic calming measures, is opposite to the outcome of the residents' survey which resulting in the surrounding streets being traffic calmed but not Heathfield Lane. In the present situation, the conclusion is that traffic calming should be introduced, and this is recommended, provided a simple majority of residents affected are in agreement. The scheme will be financed by the S106 money. Fortunately, the cost of any measures will be less than normal as these streets were included within in the 20 mph zone order and the necessary legal processes have already been completed.

### **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. 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.

3. 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, to ensure the satisfactory development of the site and to ensure the satisfactory drainage of the site.

4. No development shall be carried out until full drainage details, (which shall include details of surface water sewers and their diversion where necessary), 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, 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.

5. There are public sewers which cross the site. No buildings shall be erected or trees planted within 2.5 (LR FWS) and 5.0 (300 SWS) metres of either side of these sewers. 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.

*Reason:* To maintain essential access for maintenance, repair, renewal and to protect the structural integrity of the public sewerage system

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

***Note for applicant***

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

*Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.*

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

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

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

8. 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 :* To safeguard the amenities of the occupants in the area.

9. No development shall take place until suitable noise mitigation measures as recommended in report reference 12102654/002 in respect of this site from WSP Acoustics to protect internal and external areas have been agreed in writing with the local planning authority, and the development shall not be occupied until such measures have been fully completed.

*Notes for applicant*

*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,  $L_{Aeq(5 \text{ minutes})}$ , of 35 dB 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,  $L_{Aeq(1 \text{ hour})}$ , of 45 dB between the hours 07.00 to 19.00; and*

c). *internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq}(1 \text{ hour})$ , of 40 dB between the hours 19.00 to 23.00.*

*Sound level measuring instrumentation shall conform to either 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level meters' and/or BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' and/or Class 2 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications (or any superseding standards as applicable) which shall have been verified in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' within a preceding 2 year period.*

*Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:*

*Planning Policy Guidance Note PPG 24 'Planning and Noise'. 1994;  
Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005  
British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise".  
British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures;  
British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use  
British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits.  
British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas  
Calculation of Road Traffic Noise, 1988  
Calculation of Railway Noise, 1995  
This is not an exhaustive list.*

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

10. 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 by the Local Planning Authority, a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the Local Planning Authority. That scheme shall include all of the following elements unless specifically excluded, in writing by the Local Planning Authority:-
  - a) site investigation scheme to provide information for an assessment of the risk to all receptors that may be affected, including those off site.
  - b) The results of the site investigation and risk assessment (a) and a method statement based on those results giving full details of the remediation measures requires and how they are to be undertaken.
  - c) A verification report on completion of the works set out in (b) confirming the remediation measures that have been undertaken in accordance with the method

statement and setting out measures for maintenance, further monitoring and reporting.

*Reason:* To prevent pollution of controlled waters. Any visibly contaminated or odorous material encountered on the site during the development work, must be investigated. The Planning Authority must be informed immediately of the nature and degree of contamination present.

11. If, during the 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 Method Statement detailing how this unexpected contamination should be dealt with.

*Reason:* To prevent pollution of controlled waters

12. No development or site clearance works shall be carried out until a detailed landscaping scheme for the site has been approved in writing by the Local Planning Authority. The approved scheme 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. Apart from being attractive visually, the proposed planting shall be consistent with providing a good variety of species to encourage biodiversity and maintain the functions of the site as a wildlife corridor, and shall include details of increased planting to the hedge along the boundary with Moxley Tip, to close the existing gaps

*Reason:* To ensure the satisfactory appearance of the development, and increase security measures.

13. All planted and grassed areas and associated protective fencing will be maintained for a period of 5 years from the full completion of the scheme approved under condition 5. Within this period:
- (a) grassed areas will be maintained in a tidy condition by regular cutting and any areas that fail to establish will be reinstated;
  - (b) planted areas will be maintained in a tidy condition by regular weeding;
  - (c) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed will 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 will be made good.

*Reason :* To ensure the success of the landscaping and planting scheme, and the establishment of the plants.

14. No development shall be carried out until details of a method statement for the construction of the reed-beds around the pool has been submitted to and approved in writing by the Local Planning Authority, the statement shall contain details of



methods of working and operation of machinery to ensure there is no physical damage to the pool or silt or soil washed into the pool.

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

15. The landscaping scheme shall be submitted on a plan to an appropriate scale and shall include, where applicable, details of:-

- i. Existing and proposed ground levels;
- ii. Dimensions of planting beds;
- iii. Site preparation;
- iv. Plant species/densities; trees species/sizes and locations;
- v. Arrangements to be made for the disposal of surface water;
- vi. Hard landscaping works;

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

16. All landscape and ecological works outlined in the submitted documents shall be carried out in accordance with the information supplied, unless otherwise agreed in writing by the Local Planning Authority.

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

17. No development shall be carried out until a plan indicating the design and location of protective guards or fencing to protect all trees to be retained on site has been approved in writing by the Local Planning Authority. The approved details shall be implemented before any site preparation, or construction work, is undertaken and shall be retained until the development is finished, and all other equipment and installations have been removed from the site.

*Reason:* To protect the health and appearance of the trees, safeguard the visual amenity of the area and to ensure a satisfactory standard of work.

18. 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.)

*Reason :* To safeguard the amenity of the area.

19. No development shall 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.

20. No development shall be carried out until details of secure cycle parking facilities have been submitted to and approved in writing by the Local Planning Authority.

The areas shall thereafter be retained and used for no other purpose.

*Reason:* To ensure the satisfactory provision of cycle parking facilities.

21. Before this development is brought into use, details of the surfacing of the path to the south of the pool shall be agreed in writing by the Local Planning Authority and the accessways, vehicle parking and manoeuvring areas, which are not otherwise referred to on the approved plans shall be surfaced in tarmacadam (or alternative impervious hardwearing material to be agreed in writing by the Local Planning Authority. The areas shall thereafter be retained and used for no other purpose. The parking spaces shall have been clearly marked out.

*Reason:* To ensure the satisfactory provision of off-street parking, appearance and functioning of the development and in the interests of highway safety.

22. Prior to the first dwelling being occupied on the development hereby approved, a revised Residential Travel Plan developed in partnership with this Council's Travel Wise co-ordinator shall be submitted to, and agreed in writing by the Local Planning Authority. This shall identify a package of proposed measures consistent with the aim of reducing reliance on the car, and should include details on:
- a) Public transport information and ticket details;
  - b) Cycle provision, showers and lockers; and
  - c) Walking initiatives.

The approved measures shall be developed and implemented during the first six months following the occupation of the premises for the use hereby approved. Following the expiry of this period of time, a review of the Plan shall be submitted to, and agreed in writing by, the Local Planning Authority. This will identify any 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 ensure the satisfactory functioning of the development

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding orders, no gates, fences, walls or other means of enclosure, except those included on the approved plans, shall be moved or erected without the prior approval of a planning application relating to that work. The means of enclosure shown on the approved plans shall not be removed or moved without the prior approval of a planning application.

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

24. No ground fires shall be permitted on the development site for the purposes of waste disposal.

*Reason:* To safeguard the amenity of the area.

25. No development shall be commenced until details of entrance barriers (for example a horse step over next to a chicane, which would accommodate

pedestrians, cyclists and horse riders, but act as a deterrent to motorbikes) for the area leading from the canal bridge, and the other end of the bridle path, as shown on drawing number 07-089/02D

*Reason:* In the interests of highway safety.

26. No development shall be commenced until details of a barrier to the south of the main square where the access road meets the top of the pool have been submitted to and approved in writing by the Local Planning Authority.

*Reason:* In the interests of highway safety

27. No development shall be carried out until details of the capacity and location of communal bin and recycling stores for the apartments, hereby approved, have been submitted to and approved in writing by the Local Planning Authority the bins shall be conveniently sited and accessible to Walsall Council refuse operators

*Reason:* In the interests of highway safety.

28. No development shall be commenced until details of the diversion of Bridleway no 1 Darlaston to include the timings of the closure to co-incide with the opening of the new route and details of surfacing materials have been submitted to and approved in writing by the Local Planning Authority. The new route shall be hard surfaced and have a width of 3m which could be segregated for walkers and cyclists.

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

29. All adoptable areas of carriageway that are intended to accommodate two way traffic shall be a minimum of 4.1 metres in width or details of suitable passing places shall be submitted to and approved in writing by the Local Planning Authority these shall be laid out to the satisfaction of the Local Planning Authority before the development is brought into use.

*Reason::* In the interests of highway safety.

29. No development shall be carried out until details of a parking area for fishermen have been submitted to and approved in writing by the Local Planning Authority.

*Reason:* In the interests of highway safety.

30. Water control measures on the site must be approved by British Waterways and all works must be in accordance with the latest edition of the British Waterways code of practise for third party works.

*Reason:* In order to protect the quality of the water in the canal,

31. No development shall be carried out until details of crime prevention measures have been submitted to and approved in writing by the Local Planning Authority. The measures shall include details of the installation of gates to increase security in

strategic places, together with access control measures with self closing facilities and details of access control measures on all apartment blocks e.g. a video intercom. Were gated access is not an option all ground floor windows and doors should be of secure by design specified products. The approved measures shall be implemented before the development hereby permitted has been brought into use.

*Reason:* In the interests of crime prevention.

32. No development shall be carried out until details of external lighting to car parking areas has been submitted to and approved in writing by the Local Authority. Installation of lighting on the site shall accord with the recommendations issued by the Institution of Lighting Engineers for the reduction of light pollution.

*Reason:* To control light pollution, and the safety of users of roads etc around the site.

**Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision**

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies LC1 (d), SPS 2.1, 2.2, GP1, GP2, GP3, 8.8, GP7, 3.16, 3.52, 8.8, 8.9, 8.42, ENV13, ENV17, ENV18, ENV19, ENV21, ENV23, ENV24, ENV32, ENV33, H3, H10, T7, T10 (c), T12 (b) and T13 of Walsall's Unitary Development Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at [www.walsall.gov.uk](http://www.walsall.gov.uk)

**NOTES FOR APPLICANT:**

- A. Severn Trent Water has been consulted on this application and your attention is drawn to the attached reply.
- B. The Environment Agency has been consulted on this application and your attention is drawn to the attached reply and in particular to the Information to the applicant sections of the letter.
- C. British Waterways has been consulted on this application and your attention is drawn to the attached reply.
- D. An element of open space is proposed as part of the development. Further discussion as to who will assume future maintenance responsibility of the pool and the proposed open space will be necessary. For further information please contact Gareth Seedhouse, Greenspace Service Manager 07736 388416 or [Seedhouseg@walsall.gov.uk](mailto:Seedhouseg@walsall.gov.uk)

- E. If your application includes demolition work, it may be necessary for you to also 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  
On 15 Jul 2008

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

**Application Number:** 08/0695/FL

**Application Type:** Full application

**Applicant:** HAMLET NEW HOMES LTD

**Proposal:** Construction of 12x2bed and 2x1  
bed apartments within a 2 1/2 storey block, and  
provision of one way access and 18 parking  
spaces

**Ward:** Pheasey Park Farm

**Recommendation Summary:** Grant Subject to conditions

**Case Officer:** Barbara Toy

**Telephone Number:** 01922 652429

**Agent:** MR GINO LOMBARDO

**Location:** CORNER OF MORETON  
AVENUE & BEACON ROAD, GREAT  
BARR, BIRMINGHAM, B43 7BW

**Expired:** 28/07/2008



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## **Application and Site Details**

The proposals comprise a revised scheme for redevelopment of the site following two similar withdrawn applications for residential development and a refused application for a commercial development of retail with offices above, which is the subject of a current appeal with the Planning Inspectorate.

The proposal would provide a two and half storey high residential development to provide twelve two bed apartments and two one bed apartments. The proposed development would provide a single L-shaped building occupying the front of the site facing Moreton Avenue and the service road adjacent to Beacon Road. The proposed building is designed with a 1930's style and would be of traditional brick and tile construction with a render and glazed, shaped feature on the corner, and dormer windows to the front and rear to provide accommodation within the roof space. Pedestrian access to the building would be provided via two main frontage and rear entrance points. Parking for the development would be provided to the rear of the building (15 spaces including 1 disabled space) and 3 within the service road adjacent to Beacon Road. A one way traffic system is proposed providing access from Moreton Avenue and egress onto the service road adjacent to Beacon Road. The access/egress points are proposed to be gated so that the site can be secured.

The site area is 0.15ha and would provide a development of 93 dwellings per ha.

The site is situated on the corner of Moreton Avenue and Beacon Road and comprises a former petrol filling station, currently being used for an unauthorised hand car wash and valeting centre.

The site is situated within the Queslett Road/Beacon Road local centre.

Immediately to the north and west of the site are two storey residential properties in Beacon Road, Moreton Avenue and Stonehurst Road. To the east on the opposite side of Beacon Road are further residential properties with a public house to the south east on the corner of Beacon Road and Queslett Road. To the south on the opposite corner of Moreton Avenue is the commercial element of the local centre with shops and services with residential above.

Queslett Road (A4041) forms the boundary between Walsall MBC and Birmingham City Council, with a large busy Asda Superstore situated on the opposite side of Queslett Road, within Birmingham.

Beacon Road (B4154) is a busy through route from Queslett Road (A4041) towards Barr Beacon and Aldridge.

A previous planning application for residential redevelopment of the site was withdrawn as the applicants were unable to enter into a S106 Agreement due to land ownership problems, as the owner of the freehold interest cannot be identified. The Council are now involved with the head leaseholders of the site in making an unknown ownership CPO to acquire the freehold interest of the whole site to allow the signing of a S106 Agreement and the development of the site. The legal work on the CPO is ongoing but a Committee resolution to approve the current proposals subject to the signing of the S106 Agreement would assist the proceedings, hence the submission of this application.



### **Relevant Planning History**

Various applications related to the previous Petrol Filling Station use.

05/2481/FL/E3- Residential development for apartments. Application Withdrawn. 11-04-06.

06/0006/FL/E3- Retrospective application for change of use to hand car wash and valeting centre. Refused 12-07-06

06/1289/FL/E12, Erection of block of 12 apartments. Withdrawn 28-09-06. The applicant was unable to sign the S106 as they were unable to secure indemnities because of problems with land ownership.

07/0041/FL/E12- Change of Use to hand car wash and valeting centre. Refused 06-03-07.

07/2738/FL/E12, amended application for change of use to hand car wash and car valeting centre, including erection of protective screen and revised layout. Refused 20-03-08.

Enforcement Notice issued 22<sup>nd</sup> March 2007, appeal submitted on behalf of the applicant and dismissed and enforcement notice upheld 16<sup>th</sup> November 2007.

07/2342/FL/E10, ground floor retail units with first and second floor offices above. Refused 12-12-07.

Reason for refusal:

1) The proposed development fails to provide adequate parking, delivery and servicing facilities contrary to the aims of the development plan. As such the proposal is contrary to Policies, T7, T13 and GP2 of the Walsall Unitary Development Plan March 2005.

Appeal against the refusal submitted 10-03-08, no decision to date.

### **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**

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

Relates to sustainable development, the location of facilities where they are accessible to everyone and minimise the need to travel.

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.

GP7: Community Safety

Proposals are expected to have regard for the objectives to designing out crime.

Policy 3114 good design can discourage crime and increase safety as well as accommodating the access requirements of all sections of the community.

Policy 3.115 the design of buildings and structures together with landscape design have a major role to play in the creation of an environment which is distinctive and creates a sense of place.

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.

H9: Minimum Densities

Indicates that housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites, but significantly higher densities exceeding 50 dwellings per ha will be encouraged close to local centers.

H10: Layout, Design and Dwelling Mix

Requires a high quality living environment to be created, well integrated with surrounding land uses and local character.

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

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.

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 and the Council will require planning applications to be fully supported by details of external layout and landscape proposals.

ENV39: Renewable Energy and Energy Efficiency

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

S8: Housing in Town Centres

Encourages the development of residential accommodation within Town, District and Local Centres, providing the proposals can achieve a satisfactory residential environment.

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

### **Supplementary Planning Document “Designing Walsall” (Feb 2008)**

Aims to achieve high quality development that reflects the borough’s local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

DBW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DBW2 – all new development must contribute to creating places that feel safe.

DBW3 – all new development must be designed to respect and enhance local identity

DBW4- Well defined streets with a continuity of built form are important.

DBW6 – new development should contribute to creating a place that has a clear identity

DBW9 new development must seek to ensure it creates places with attractive environmental quality

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

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

### **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.

### **National Policy**

PPS1: Delivering Sustainable Development, emphasis is given to the need to reject poor design and the need for sustainable development.

PPS 3: Housing, the objective of the revised guidance is to:

- Support further increased housing needed across the country
- Bring additional brownfield land back into use
- Increase the design and environment standards of new homes and neighbourhoods in order to move towards zero carbon development

PPS6: Planning for Town Centres and retail development

PPG13: Transport, promotes sustainable patterns of development, which reduce the need to travel, especially by car.

### **Consultations**

**Transportation** – no objections subject to conditions relating to refuse storage and limit of adoption.

**Pollution Control - Contaminated Land** – site former petrol filling station, no objections subject to an intrusive site investigation being carried out as recommended in the Design and Access statement, in order to identify risk to future occupants or structure on the site. Safeguarding conditions are therefore recommended.

**Scientific Team** – no objections in principle however as residential properties surround the site measures should be put in place to address noise issues arising. Safeguarding condition therefore recommended.

**Environmental Health** – no adverse comments.

**Strategic Planning**- No objections in principle, the site is within a local centre, but residential development on this site would not prejudice the remaining retail and service function of the centre.

**Severn Trent** - No objections subject to condition regarding sustainable drainage.

**Building Control** – notification of demolition work required.

**Conservation officer** – no objections

**Landscape** – no landscape objections subject to condition regarding full landscape and planting details, species, numbers size etc.

**Drainage** – no objections

**Education Walsall** – The level of surplus places in local secondary schools is below 10%, therefore a contribution towards secondary school provision in the area is required.

### **Public Participation Response**

Five objections and one letter of support have been received.

Objections:

- Add to lack of parking available to local community visiting the shops
- No change in circumstances since last refusal on parking grounds
- Would be an eyesore
- Very busy traffic from the main traffic island, which already causes problems for local residents, development may make this worse.
- There has already been accidents with vehicles pulling out of Moreton Avenue, with restricted access.
- Height imposing, shadows to surrounding houses, reducing quality of life.
- Insufficient parking spaces for the number of units
- Traffic in Moreton Avenue already congested from existing shops and doctors surgery, wont cope with extra traffic
- Overlooking of houses and gardens, specially from 2nd floor windows
- Loss of privacy
- Property devaluation
- Difficulties in viewing and printing documents on the internet.

Support:

- Development will help to maintain the character of the area.

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

### **Determining Issues**

- Principle of the use
- Design and Layout
- Impact on Surrounding Occupiers
- Parking and Access
- S106 Contributions

## **Observations**

### **Principle of the use.**

The site is situated on the northern boundary of the Queslett Road/Beacon Road local centre. The area is predominantly characterised to the north, east and west by residential properties with a mixed commercial and residential area to the south. The local centre provides local shops and services (including a doctors surgery) within a busy, well used centre with full occupation of the units currently.

Policy S8 of the UDP, encourages residential development within local centres, providing a satisfactory residential environment can be achieved and the development would have no adverse impact on the vitality and viability of the local centre.

It is considered that the proposed residential development would not prejudice the remaining retail and service function of the local centre and the principle of residential development is therefore considered appropriate in policy terms.

The proposal would provide a density of 93 dwellings per hectare which is well above the 30-50 dwellings per hectare suggested in Policy H9 (a) as suitable for most sites. H9(c) encourages densities exceeding 50 dwellings per hectare within or close to local centres, with good access to a choice of means of transport. The site is situated within a local centre with good local shops and services (including a doctors surgery) and a food superstore within a very short walking distance of the site, and bus services to both Walsall and Birmingham operate in the immediate vicinity. It is therefore considered a sustainable location and redevelopment of the site for residential purposes at the density proposed is considered appropriate.

### **Design and Layout**

The proposed two and a half storey building of redbrick with feature render, would provide an 'L' shaped arrangement around the corner, set back between 2.5m and 5m from back of footway, fronting both Moreton Avenue and Beacon Road, with a shaped rendered corner feature with glazing detail. Dormer windows and velux roof lights would be provided within the roof to both front and rear elevations to the second floor accommodation. Gated vehicle access would be provided to the west of the building off Moreton Avenue and egress to the north of the building onto the access road adjacent Beacon Road, incorporating a one way vehicle route through the site.

Private amenity space would be provided immediately to the rear of the building, separated from the parking area by 1.5m high wall and planting, with direct access from the ground floor apartments. Further semi private amenity space would be provided to the frontage, secured by 1.35m high wrought iron railings and gates. Whilst the rear private space falls short of the 20sqm per apartment (approx half) identified in Appendix E of Designing Walsall, policy S8 recognises that residential development within local centres may not have the same level of residential amenity of those in suburban locations. The level of amenity space in this case is considered acceptable.

Twelve of the 14 apartments would be dual aspect, with habitable room windows to both the front and rear to provide surveillance of both the street and the rear amenity space and parking area to improve security.

### **Impact on surrounding occupiers**

The building would be situated on the frontage of the site, wrapping around the corner and it is considered that the development would have minimal impact from shadowing and overlooking of adjacent residential properties.

The building allows for a window separation of 22.5m to the boundary with the residential garden of 32 Beacon Road and 25m to the residential gardens in Moreton Avenue and Stonehurst Road. The proposed side gables of the building would be closer to the adjacent houses, but would reflect the existing separation distances between properties along the street. The boundaries to the adjacent residential properties already comprise brick walls which will be retained and continue to protect residential amenity, together with additional landscaping screening buffer. The former and current commercial uses of the site are likely to have caused more amenity, noise and disturbance issues than the proposed use for residential purposes. Comings and going to the site by both pedestrians and vehicles are likely to be less than that of the previous use as a petrol filling station or the current use as a car wash, thereby reducing the impact on the surrounding residential occupiers.

Whilst the proposed parking would be situated adjacent to the boundary of the rear gardens of 2 Moreton Avenue and 32 Beacon Road, the existing 2.5m and 1.8m high boundary walls would be retained and additional screen planting provided as an additional buffer to prevent any adverse impact on the residential amenity of the adjoining occupiers.

### **Parking and Access**

15 parking spaces would be provided to the rear of the building (including 1 disabled space) with screen planting along the existing boundary walls to both 2 Moreton Avenue and 32 Beacon Road, to provide a buffer. 3 additional parking spaces would be provided within the service road adjacent to Beacon Road. The site is located within a local centre and is served with good public transport links from Beacon Road. The parking level for the development in this location is therefore considered appropriate.

A plan can be secured by condition that details the limits of adopted highway. As part of the permission an area of land that will form part of the exit road (existing slip road) which is currently highway, will require highway rights to be extinguished, and details of highway land to be taken into the ownership of the developer.

The existing access arrangements onto Beacon Road will require to be permanently closed.

### **S106 Contributions**

#### **Education**

In this case the level of surplus places in local secondary schools is below 10% therefore the Council, governed by its SPD would require a contribution towards secondary school provision in the area.

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, the Council requires a contribution of £18,228.90.

### **Public Open Space**

To comply with Supplementary Planning Document: Urban Open Space, a contribution of

£25,142.00 would be required in this case.

The applicants have indicated that payment of the above contributions would make the scheme unviable. However no financial viability assessment has been submitted therefore we have been unable to seek the advice of the District Valuers Office.

The applicants have however submitted a statement as follows:

*“As you will be aware this site has been the subject of long, protracted and very expensive negotiation with Walsall MBC. The ‘unknown owner’ status of the site means that a Compulsory Purchase Order has been instigated, with the associated legal cost implications and freehold uplift, the full extent of which are both unknown.*

*This site has a long history of neglect, disuse and more latterly non-conforming use.*

*We consider our application will contribute in a large way to regenerating what is an eyesore into a gateway site, not only for Park Farm Estate but also Walsall Borough as a whole.*

*We therefore request that in the exceptional circumstances outlines above, S106 contributions are not levied in this instance.”*

Non-payment of the above S106 contributions towards both Education and Urban Open Space would conflict with Supplementary Planning policy.

The unknown ownership situation does not allow for completion of a S106 Agreement at this time. In these unusual circumstances a ‘Grampian’ type conditions could be imposed to ensure financial contributions are addressed at a time when ownership matters are resolved and there is a greater certainty following site investigations about any abnormal costs which may be encountered.

### **Recommendation: Grant Subject to conditions**

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

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

2. No development shall begin until details of a scheme for the provision of educational and urban open space infrastructure, to meet the needs of the development in accordance with Unitary Development Plan policies GP3, 8.8 & LC1 and Education and Urban Open Space Supplementary Planning Documents, has been submitted to and approved in writing by the LPA. The scheme shall include a timetable for the provision to be made and shall be carried out in accordance with the approved details.

*Reason:* To ensure the appropriate level of infrastructure is secured to serve the needs of the development.

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

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

4. No development shall commence on site 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. 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 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.

5. 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.

6. No development shall take place until the location and details of the access gates and control system to be provided to the vehicle access drive have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed prior to first occupation of the building in accordance with the approved details and retained in working order.

*Reason:* In the interests of securing the site.

7. No development shall commence on site until full details of a landscaping scheme are submitted to and approved by the Local Planning Authority. The scheme shall include paved areas, a detailed planting plan clearly identifying proposed planting areas, areas of turf, location of proposed trees, correct botanical names, sizes at planting and planting densities of all proposed planting, details of how trees would be staked and topsoil specifications. The scheme shall be completed in accordance with the approved details before the development is occupied, unless otherwise agreed in writing with the local planning authority, and retained as such. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

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



8. No development shall be carried out until details of the location and design of secure cycle storage and a refuse/recycling storage facility, which must not obstruct the drive or interfere with the vehicle visibility splay are submitted to and approved in writing by the Local Planning Authority.

*Reason:* In order to secure the satisfactory development of the application site.

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

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

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

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

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

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

12. No development shall be carried out until a plan detailing the limits of adopted highway, which require highway rights to be extinguished, are submitted to and approved in writing by the Local Planning Authority.

*Reason:* In order to define the permission.

13. Prior to first occupation of the development hereby approved the existing vehicle access arrangements on Beacon Road shall be permanently closed and be reinstated to a specification to be approved and agreed in writing by the Local Planning Authority.

*Reason:* In order to ensure satisfactory access arrangements for the development.

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

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

15. No development shall commence on the site until details of boundary treatment to the front elevation to both Moreton Avenue and Beacon Road have been submitted to and approved in writing by the Local Planning Authority and the approved details shall be implemented prior to first occupation of the premises.

*Reason:* In the interests of securing the development and to safeguard the visual amenity of the area..

16. No demolition, engineering, or construction works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours of 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.

*Reason:* To protect the amenity of the surrounding residential occupiers.

17. This permission relates to drawing Nos. 28503/A/101 Rev A, submitted on 6<sup>th</sup> June 2008, and 28502/A/102, 28503/A/103 and 28503/X/10 submitted on 28<sup>th</sup> April 2008 and Design and Access Statement submitted on 28<sup>th</sup> May 2008.

*Reason:* In order to define the permission.

### **Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision**

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies 2.1, 2.2, 3.6, 3.16, GP1, GP2, GP7, 3.114, 3.115, ENV14, ENV32, ENV33, ENV39, H3, H9, H10, S8 and T13 of Walsall's Unitary Development Plan, and Designing Walsall Supplementary Planning Document, and on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at [www.walsall.gov.uk](http://www.walsall.gov.uk)

### **Notes for applicant**

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

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

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
On 15 Jul 2008

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

**Application Number:** 08/0327/FL

**Application Type:** Full application

**Applicant:** Zenith Development Partnership  
Ltd

**Proposal:** Erection of 5 No. 2 bedroom  
houses, 6 No. 2 bedroom apartments and 1 No.  
1 bedroom flat over garage (FOG)

**Ward:** Blakenall

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

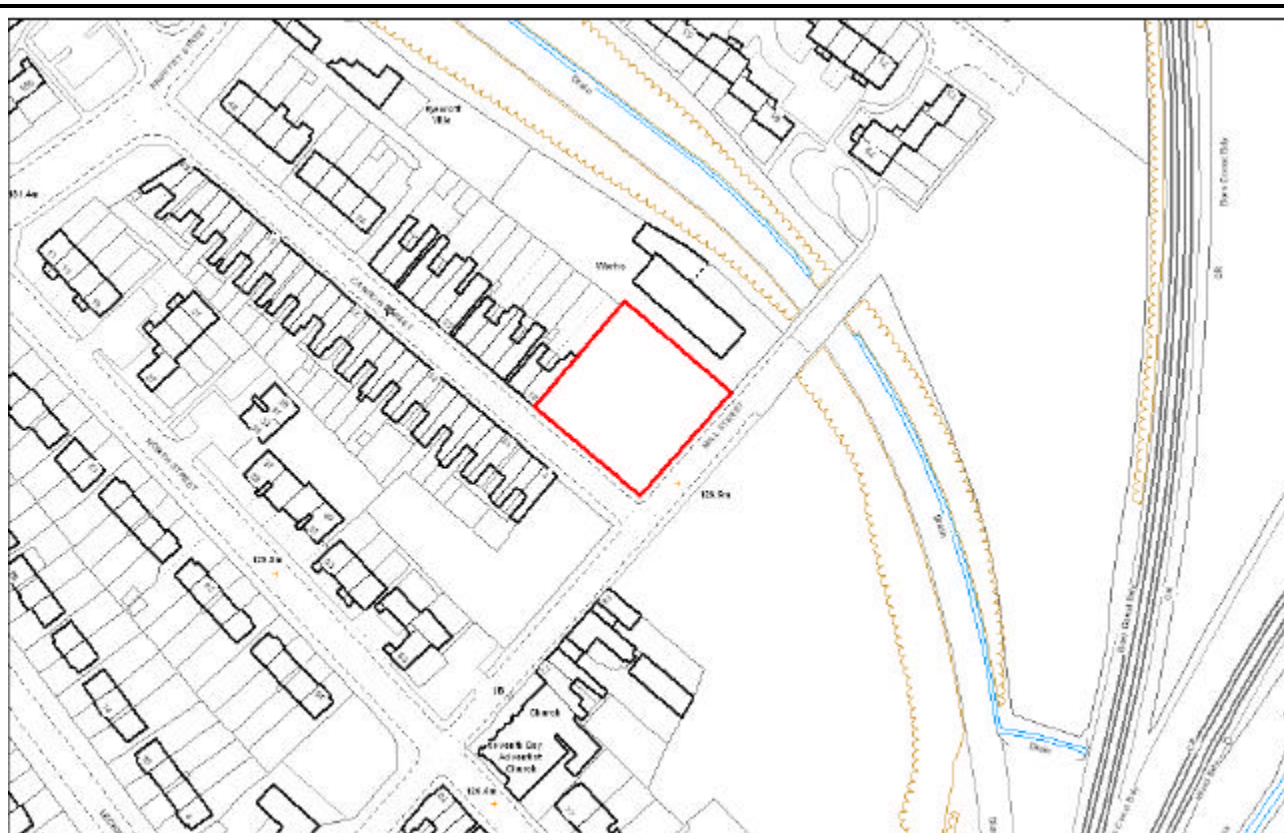
**Case Officer:** Alison Deakin

**Telephone Number:** 01922 652487

**Agent:** BBLB Architects LLP

**Location:** LAND C/O MILL  
STREET, CANNON  
STREET, WALSALL, WS2 8AY

**Expired:** 09/06/2008



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### **Application and Site Details**

The application seeks full planning permission for erection of 12 residential units on land at the corner of Mill Street and Cannon Street, Walsall. Similar proposals were granted under application reference 07/0143/FL/E10 in December 2007. The current application is a revised proposal only in so far as the proposed houses on plots 1-4 are larger (increased from 8.5m to 9.3m in depth) and a slight reduction in the size of the staircase window to the apartments. Internal changes have also been made to plots 11 to bring the bathroom to the front elevation and provide cycle storage for the flats.

The land has been vacant for some time following demolition of a former training centre. The site area is 0.12 hectares and is square shaped having frontages to Mill Street and Cannon Street of 35 metres each. The site slopes gently down towards Mill Street.

The site density is 100 houses per hectare.

The site adjoins residential properties in Cannon Street and an Islamic Community and Learning Centre on Mill Street. The surrounding dwellings in Cannon Street are traditional two-storey terraced properties set at the back of footway. There is an area of open space opposite the site in Mill Street and a pedestrian link to the north east of the site over the disused railway.

The proposed 12 units comprise 5 X 2 bed houses, 6 X 2 bed apartments and 1 X 1 bedroom flat over a garage. Plots 1-4 are proposed two storey terraced houses fronting Cannon Street which have been set back 1.2m from the back of footway with a dwarf wall and railings proposed on the back of footway to define the boundary. These dwellings each have rear gardens approximately 10.5m in length and between 4 and 6m in width. The 6 X 2 bed apartments are included in a three storey building at the front corner of the site. This building then continues in a terrace along Mill Street where the height steps down to a two bed house and the 1 bed flat which is located above a garage and the proposed vehicular access on Mill Street.

Parking is provided in a parking court at the rear of the buildings with 11 spaces and a single garage identified. This is secured by a gate set 6m from the back of footway. Bin storage is provided adjacent the end of the building on Mill Street within a secure area. The architecture of the proposed buildings picks up on that within the vicinity with slate roofs and brick detailing to window heads and string course.

In support of the proposals the applicant advises that the site is within a short walk of good access to public transport which ensures good connections to the main rail and bus stations and facilities in Walsall town centre. There are also a number of community facilities within a short distance of the site.

The applicant states this revised scheme now provides twelve properties for social rent rather than open market properties and this change is only financially viable because it has grant funding from the Housing Corporation of £592,000. They state their application for grant funding and financial appraisal were based on any section 106 contribution being no more than the previously agreed £25,000. They also highlight that there has been a time lapse since their bid to the Housing Corporation was put together last year and build costs are now greater than originally estimated they would be at this stage. They conclude that

any section 106 contributions, let alone an increase on the original figure put the financial viability of the scheme and hence its developability in doubt and this derelict site would remain undeveloped.

The applicant also highlights that this revised application has only been made necessary by the fact that the size of the properties has been slightly increased to meet the required Housing Corporation space standards.

### **Relevant Planning History**

07/0143/FL/E10 - Erection of 5 no. 2 bedroom houses, 6 no. 2 bedroom apartments and 1 no. 1 bedroom flats over garages – Granted subject to conditions and a Section 106 Agreement 18/10/07. Almost identical to that now proposed.

### **Relevant Planning Policy Summary**

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

### **Unitary Development Plan**

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.

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.

ENV39: The Council will encourage proposals for the development of renewable energy resources and for efficient use of energy.

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.

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

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 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. It identifies key urban design principles for consideration, Local Character Guidance, Public Art Guidelines and Numerical Guidelines for Residential Development. The latter identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

### **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.

### **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.

### **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.

PPG13 Transport - Promotes sustainable patterns of development, which reduce the need to travel, especially by car.

Other relevant policy documents include PPS24 Planning and Noise, 'By Design' companion to PPG's, Urban Design Compendium, Safer Places- The Planning System & Crime Prevention.

## **Consultations**

**Transportation** – No objections in principle. Conditions are recommended relating to maintenance of a visibility splay to the vehicular access, installation of a vehicular crossing point and details of cycle parking operation. The parking provision required in accordance with the UDP standards should be 20 spaces. The proposal shows 12 spaces, which provides for 100% parking which although falls below the standard, is considered acceptable given the location of the site.

**Pollution Control (Contaminated Land)** – No objections subject to conditions.

**Housing Strategy** – Supports the proposal as it will deliver a 100% affordable rented scheme including family houses. The development has secured £592K external grant funding from the Housing Corporation which will be withdrawn if the scheme is unable to be delivered.

**Conservation** – No objections. The proposals have no adverse impact on the nearby locally listed building at 78 Mill Street.

**Landscape** – No objections subject to full planting details being provided.

**Development Services Regeneration** – No objections.

**Education Walsall** – No objections in principle. The level of surplus places is below 10% in both primary and secondary schools. A contribution of £29,974.01 is therefore required towards provision of both these sectors in line with policy GP3 and 8.8 of the UDP.

**Environment Agency** – No objections.

**Severn Trent Water** – No objections subject to a condition requiring drainage details.

**Centro** – No objections.

## **Public Participation Response**

**None**

## **Determining Issues**

- Principle of redevelopment for residential
- Layout and Design
- Access and Parking
- Impact on neighbouring amenities
- Education and Urban Open Space provision

## **Observations**

### **Principle of redevelopment for residential**

The site is a previously developed site in an urban area therefore redevelopment for residential purposes would accord with policies GP1 and H3 of the UDP. Its redevelopment would improve the visual appearance of the area and improve surveillance



of the open space opposite. It is also apparent from reviewing historical maps that the site was previously occupied by terraced housing. The principle of redevelopment for residential purposes is therefore acceptable and complies with policies GP1, GP2, ENV14 and H3 of the UDP and has already been established in granting the previous permission 07/0143/FL/E10.

### **Layout and Design**

The proposed buildings have been sited close to the back of footway as this is reflective of surrounding terraced properties yet the marginal set back of 1.2m with suggested brick wall and railings will provide a defensible buffer space for future occupiers. The buildings create a perimeter block that provides active frontages and surveillance of the street and open space opposite which will improve the character and security of the area.

As a result of the revisions to increase the depth of the houses on plots 1-4 the rear garden lengths have been reduced from 12m to 10.5m. Plot 1 having a garden area of 63m<sup>2</sup> and plots 2-4 having garden areas of 42m<sup>2</sup>. The house on plot 11 also has a reduced garden area of 42m<sup>2</sup>. Although below 12m and 68m<sup>2</sup> recommended in the Annex to SPD Designing Walsall, these smaller gardens have no implications upon lack of privacy and do provide a useable amenity space for occupiers. Smaller garden areas were previously accepted on the earlier scheme. The apartments within the corner block also have very limited shared private amenity space but this is conveniently located at the rear of the building and was previously accepted. These units also benefit from having an outlook onto open space which will provide a visual amenity benefit for these residents. Overall, it is considered that the benefits redevelopment of the site gives in regeneration of the surrounding area outweigh these shortfalls.

The design of the buildings reflects the architecture of the surrounding terraced housing in details such as tiled roofs, red facing bricks and brick detailing to window heads and string course. The proposed building heights also reflect those in the surrounding area with an increase to three storeys at the corner to emphasise the junction. The design is considered appropriate and blends in well with surrounding development.

For the above reasons the proposals accord with policies GP2, GP7, ENV32 and H10.

### **Access and Parking**

The proposed vehicular access for the site is on Mill Street and passes beneath the flat on plot 12 leading to a parking court at the rear of the site. The layout provides 11 parking spaces and one car port, 12 spaces in total which equates to 100% parking provision. The Transportation Officer has indicated that this level of parking provision is acceptable given the location of the site close to local transport links and other services. The gates to the vehicular access are set back from the footway so ensuring no hazard to pedestrian safety and appropriate conditions are recommended to maintain visibility to the access. This gated access will provide security to the private amenity and parking areas. A condition requiring a detailed layout showing how the cycle parking will operate is recommended. The proposals therefore accord with policies GP2, GP7, ENV32, H10, T7(e) and T13.

### **Impact on neighbouring amenities**

The redevelopment of the site will secure the currently exposed boundaries of the end dwelling, 10 Cannon Street, and the Islamic Centre to the north east of the site. This will improve security for these properties. The position of the proposed buildings respects the

building lines of the adjacent dwellings on Cannon Street and achieves adequate separation to ensure privacy and daylight are maintained. Although the depth of the houses on plots 1-4 has been increased by 0.8m this will not have any adverse impact upon the outlook or daylight of the adjacent houses. The car parking is located at the rear of the site adjacent to the boundary with access of the Islamic Centre thus maintaining a buffer between the dwellings and private amenity spaces and reducing the likelihood of potential noise and disturbance. The proposed development is therefore considered to have no adverse impact on neighbouring amenities in compliance with policies GP2 and ENV32.

### **Education and Urban Open Space provision**

Under the requirements of policies GP3, 8.8 and Supplementary Planning Document for Education a contribution of £29,974.01 is required towards provision of primary and secondary school education. Likewise, under the requirements of policies GP3, LC1(d) and the Supplementary Planning Document for Urban Open Space a contribution of £15,755.00 is required towards provision of Urban Open Space. The total contributions required are therefore £45,729.01.

When the previous application, 07/0143/FL/E10, was considered the applicants at that time advised that the proposal was an economically precarious project in a Regeneration Area on a site being sold by the Council. In the circumstances they offered a reduced level of contributions (£25,000) that was considered acceptable by the Council.

The current application is a new development proposed by a new applicant and it is therefore considered proper to request a new financial appraisal for the Council to consider as no two developers are likely to have the same the financial constraints.

In response to such a request the applicants have provided supporting information identifying that the scheme now provides twelve properties for social rent rather than open market properties, a change only financially viable because it has grant funding from the Housing Corporation of £592,000 and that their application for grant funding and financial appraisal were based on any section 106 contribution being no more than the previously agreed £25,000.

They also state that time has passed since their bid for Housing Corporation funding was put together last year and build costs are now greater than originally estimated they would be at this stage and any section 106 contribution, let alone an increase on the original figure, puts the financial viability of the scheme and hence its developability in doubt. The applicants point out they have been put to the additional expense and delay of having to make a new planning application to increase slightly the size of the properties to meet the required Housing Corporation space standards and that if, because of increased demands for section 106 funding, they have to reject the Corporation's grant funding, this derelict site would remain undeveloped.

The current application was required as the houses on plots 1-4 have been increased in size and in the circumstances needed further consultation with neighbouring dwellings and further consideration by Committee. The potential impact is discussed earlier in the report.

It is considered that in terms of satisfying the requirement for provision of Education and Urban Open Space for the current proposals, the applicants have a legitimate case to

request reduced contributions of £25,000 in total, on the basis of their financial assessment and this being a 100% grant funded scheme (with only £25k allocated for education). Given the circumstances the recommendation is to accept reduced contributions of £25,000.

**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 & Country Planning Act, 1990.

2. The works hereby approved shall only be carried out in accordance with details contained within the following drawing numbers:

- Location Plan (Drg. No. 2K6:B1139:010) received 26/02/08
- Site Plan and Street Scenes (Drg. No. 2K6:B1139:P40 Rev D) received 26/02/08
- Floor Plans & Elevations Type C & D (Drg. No. 2K6:B1139:05 Rev E) received 26/02/08
- Floor Plans & Elevations Apartments Type B Plots 5-10 (Drg. No. 2K6:B1139:01 Rev E) received 26/02/08
- Floor Plans & Elevations 2 bed house – Type A (Drg. No. 2K6:B1139:01) received 26/02/08
- Context Appraisal (Drg. No. 2K6:B1139:04 Rev A) received 26/02/08
- Land Survey (Drg. No. 480:Dm1480.dxf) received 26/02/08
- Design & Access Statement dated January 2007 received 26/02/08

*Reason:* In order to define the permission and ensure the satisfactory development of the application site.

3. This development shall not be carried out until a schedule of facing materials, including colour, to be used in external walls, roofs and hard surfaces have been approved in writing by the Local Planning Authority.

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

4. No development shall be carried out until full details of existing and proposed levels of the site, accessway and floor levels, in relation to land adjoining the site, 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.

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

5. No development shall be carried out until full details of the proposed boundary treatment of the site (drawn details at scale 1:50), including provision of boundary treatment to the front of plot 11 which shall be no greater than 600mm so as not obstruct visibility to the vehicular access, shall be submitted to and agreed in writing by the Local Planning

Authority. The development shall then be implemented in accordance with the agreed details unless the Local Planning Authority agrees to any variation in writing.

*Reason:* To ensure the satisfactory appearance of the development and maintain highway safety.

6. No development shall be carried out until full details of the design of the vehicle access gates to be mechanically operated shall be submitted to and agreed in writing by the Local Planning Authority. The development shall then be implemented in accordance with the agreed details unless the Local Planning Authority agrees to any variation in writing

*Reason:* To ensure the satisfactory appearance of the development and maintain highway safety.

7. No development shall commence on site until a landscaping scheme (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 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. No development shall be carried out unless and until arrangements have been made for the satisfactory drainage of the site, such arrangements to have been previously approved in writing by the Local Planning Authority.

*Reason:* To ensure that the site can be satisfactorily drained.

10. No demolition, engineering or construction works shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours 0800 to 1800 weekdays and 0900 to 1400 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason:* - To safeguard the amenities of nearby residents.

11. Prior to built development commencing a site investigation and ground contamination survey having regard to current best practice and approved in writing by the Local Planning Authority shall be undertaken. A copy of the findings of the site investigation and ground contamination survey together with an assessment of the hazards arising from any land contamination shall be forwarded to the Local Planning Authority as soon as they become available.

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

12. Prior to built development commencing details of remedial measures to deal with the identified and potential hazards of any land contamination present on the site and a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority and then implemented in accordance with the agreed details and maintained throughout the life of the development.

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

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

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

14. A visibility splay of 2.4 metres X 70 metres shall be provided from a point 0.6 metres from ground level in a south westerly direction, and nothing shall be planted, erected or allowed to grow on the area so formed, which would obstruct the visibility.

*Reason:* In the interests of highway safety.

15. Prior to the first occupation of the site the vehicular crossing point shown on drawing number 2K6:B1139:P40D shall be constructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority and at the applicant's expense.

*Reason:* In the interests of highway safety.

16. Prior to the first occupation of the dwellings hereby approved further details of the provision, siting and design of cycle storage to show its practical use shall be submitted to and approved in writing by the Local Planning Authority and then implemented in accordance with the agreed details unless the Local Planning Authority agrees to any variation.

*Reason:* To ensure satisfactory provision of cycle parking in the interests of sustainable travel.

**Summary of reasons for granting planning permission and proposals in the development plan which are relevant to the decision:**

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP1, GP2, GP7, ENV14, ENV32, H3, H10, T7(e) and T13 of Walsall's Unitary Development Plan (March 2005), and on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report, which can be viewed, subject to availability, in Planning Services.

**Note for applicant:** You are advised to refer to the agreement under Section 106 of the Town & Country Planning Act 1990, which has been completed in conjunction with the development.

***Note for applicant in respect of condition 11***

*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"; Waste Management Paper No. 27 "Landfill Gas"; 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.*

***Note for applicant in respect of condition 12***

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

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
On 15 Jul 2008

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

**Application Number:** 08/0556/FL

**Application Type:** Full application

**Applicant:** Choice Lifestyle Ltd

**Proposal:** Proposed new 24 bed, specialist,  
low secure hospital & 5 bedded support unit, for  
the care and treatment of women only

**Ward:** Willenhall South

**Recommendation Summary:** Grant Subject to conditions

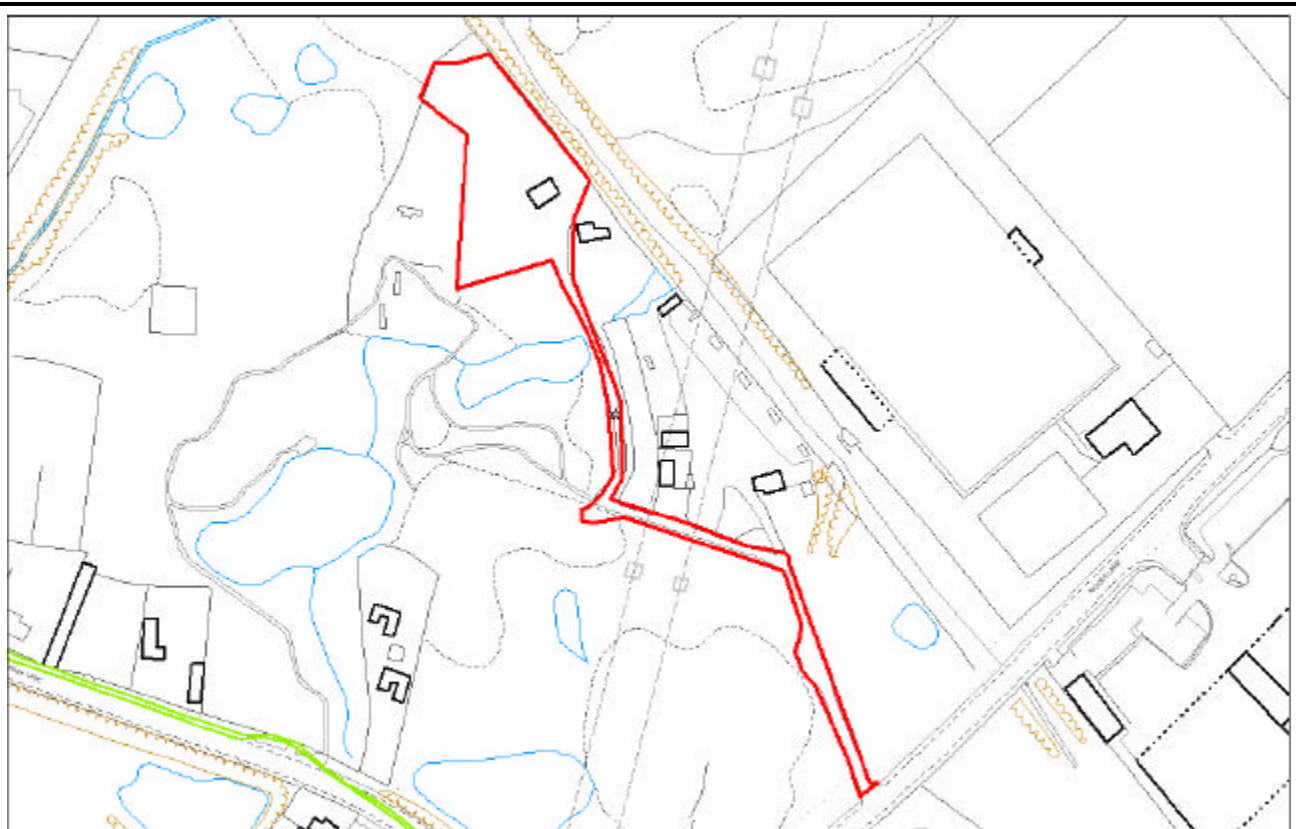
**Case Officer:** Karon Hulse

**Telephone Number:** 01922 652492

**Agent:** A P Architecture Ltd

**Location:** IVYDENE, NOOSE  
LANE, WILLENHALL, WV13 3BJ

**Expired:** 30/07/2008



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## **Application and Site Details**

Planning permission was granted in November, 2006 for a high dependency care unit on this site. That scheme was for a single and two storey, 26 bedroom care unit with associated facilities including access from Noose Lane (a short way north of Watery Lane, using the existing drive). The siting of the building was centrally located within the site.

This application is for an alternative development, and seeks consent for the creation of new specialist low secure hospital & support unit for the care of women only, on the site of Ivydene and an adjacent dwelling known formerly as The Bungalow, Noose Lane, Willenhall. The application is for the provision of secure residential accommodation, including use as a secure hospital, and secure local authority accommodation. The proposals include associated external parking and a garden area.

The current planning application follows and generally adopts the same principles as that previously approved both in form and location within the site. It only seeks to change the use class and make minor alterations to the proposed buildings.

It will provide accommodation for a total of 29 residents together with a variety of lounge and dining facilities throughout the home along with other support facilities over 2 floors, together with amenity and garden area facilities

The hospital (Ivydene site) will provide 24 single en suite bedrooms and a separate 5 bedroom step down/supported housing facility (The Bungalow site) in order to aid rehabilitation and recovery.

The new unit will offer a purpose built facility for women between the ages of 18 and 65 who have a history of adversity, trauma, social and / or economic disadvantage.

The hospital will provide a secure and safe environment. A dedicated secure garden area for use by the residents and families would be provided to the rear of the home. There will be parking and overspill parking areas.

Around the site is a large area of informal open space with pools and streams (a designated Local Nature Reserve, in Council ownership). Associated with the nature reserve are issues of trees, newts and bats.

The site is currently occupied by small bungalows which are surrounded by extensive grounds. The land use in the vicinity of the application site consists of two or three private gypsy caravan sites set on irregular plots, partially within the Nature Reserve.

The existing driveway from Noose Lane is the only access and serves Ivydene and The Bungalow as well as the caravan sites. It is proposed to upgrade the access drive in places i.e. passing bays would be improved, edgings need to be defined and resurfacing where necessary.

## **Relevant Planning History**

Previous applications to redevelop have been approved, and the following are relevant.



BC56256P - Outline : Erection of 6 no. bungalows. Granted November, 2000, followed by BC58212P and 02/2392/FL/W5 (reserved matters and amendments, 2001, 2003).

03/1670/FL/W5 - Proposed demolition of existing bungalow and erection of 20 flats. Granted February, 2004

06/1164/FL/W5 - Proposed high dependency care unit. Granted subject to conditions November, 2006

06/2079/FL/W3 - Change of use to high dependency care unit of The Bungalow, Noose Lane, Willenhall. Grant Subject to Conditions March, 2007.

### **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, 3.6 and 3.7 expect all development to make a contribution to the improvement of the environment.

ENV 14, 17, 18, 19, 20, 21, 22 and 23 relate to the protection of habitat, species and the natural environment.

ENV 32 and 33 relate to good design being a feature of all development

H5 promotes and encourages housing for people with special needs.

H6 relates to nursing homes and homes for the elderly.

T13 sets out car parking standards

LC1 and 8.3 seek the protection, maintenance and enhancement of urban open space.

Designing Walsall Supplementary Planning Document (SPD) is also relevant.

### **Regional Spatial Strategy**

Seeks to promote regeneration and sustainability through the location of uses. It seeks to implement the strategy that all parts of the Region should meet their own needs sustainably. It seeks the creation of high quality, healthy, affordable and sustainable living environments and encourages high quality services to promote identity and social cohesion.

### **National Policy**

PPG 1 makes statements on the need for good design. Para 13 : New buildings and their curtilage have a significant effect on the character and quality of an area. ... The appearance of proposed development and its relationship with its surroundings are therefore material considerations... considerations relate to the design of buildings and to urban design are important.

Para 17 : planning authorities should reject poor designs...may include inappropriate context i.e. out of scale or incompatible with their surroundings.

PPS9 addresses biodiversity and the key passage is probably that which sets the objective *"to conserve, enhance and restore the diversity of England's wildlife and geology by*

*sustaining, and where possible improving, the quality and extent of natural habitat and geological and geomorphological sites; the natural physical processes on which they depend; and the populations of naturally occurring species which they support."*

## **Consultations**

**Transportation** - no objections subject to visibility splays and improvements to the access track.

**Pollution Control (scientific team)** – no objections

**Pollution Control Division (contaminated land team)** – no objections

**Natural Environment** – Insufficient information has been supplied by the applicant in respect of trees and nature conservation matters to assess the impact of this proposed development on the natural environment. It is therefore recommended that this application is refused or a decision deferred until these matters have been resolved.

**Nature conservation.** The development is surrounded by the Waddens Brook and the Banks, Fibbersley Site of Importance for Nature Conservation and the Fibbersley Local Nature Reserve. The site is also within a Wildlife Corridor identified in the adopted UDP. The surrounding land is also the home of an important population of great crested newts which is a European Protected species. The problem with this application is that the survey work supporting this application is out-of-date and site conditions may well have changed significantly since Ivydene was a private house.

**Trees.** The site is bounded by mature trees growing along the boundary with the Local Nature Reserve. No tree survey has been supplied in support of the current application. The tree protection drawing supplied minimises the canopy spread and provides a relatively narrow root protection strip in order to accommodate this visually important tree line. In places the building would be within 5 metres of the tree line. Again no tree survey has been provided to demonstrate that there would be no adverse impact on the trees.

## **Countryside Services**

Our specific comments include:

- What is the proposed nature of the boundary treatment between the development site and Fibbersley Local Nature Reserve?
- A report on the boundary trees was provided in 2006 – a new survey needs to be undertaken and a revised report submitted.
- The proposed tree-planting plan consists almost entirely of non-native species – a higher proportion of locally native species needs to be incorporated.
- The 2007 Great Crested Newt report is based on survey data gathered in 2005. Permission has been granted recently to survey GC Newts this year. An up to date report needs to be provided in relation to the current proposal.
- Similarly, up-to-date Bat surveys and report need to be provided, as well as possibly surveys and reports relating to Water Voles and White-clawed Crayfish.
- The GC Newt licence states that it is “granted solely in respect specified... in connection with the previously approved High Dependency Care Unit”; therefore, presumably a new licence would be required with respect to the current proposal?
- The GC Newt report refers to restoration of ponds 5, 13 and 14, but the supporting documents accompanying the planning application only include detailed plans for

ponds 5 and 13. The report also identifies the need to enhance ponds 4, 5 and 8 in the future, which duplicates one of the above, whilst no timescale for proposed enhancement is given. Furthermore, the timescale relating to mitigation works is out of date e.g. includes reference to works being done in 2007.

- Would the proposal be eligible for a Section 106 agreement, including either an annual sum over a number of years or a one-off lump sum to the Council that would go towards the management of Fibbersley LNR for GC Newts and other wildlife and for greater public benefit?

**Drainage** – no objections

**Highways Agency** – no objections

**English Nature** – no objections

**Tree Officer** – no objections, conditions required regarding protection of trees

**Countryside Services** – no objections but several comments made regarding nature issues

**Wolverhampton Council** – no objections

**British Waterways** – no objections

**Inland waterways** – no objection

**Severn Trent Water Ltd.** - no objections

**National grid** – no objection

**Centro** – no objection

### **Public Participation Responses**

None

### **Determining Issues**

- Principle of the development
- Access drive
- Nature conservation
- Design

### **Observations**

#### **Principle of the development**

This application follows a series of previous approvals for residential developments and a care home.

The details of this application are very similar to the previously approved care home, the footprint is exactly the same and the design / external appearance is similar. It also seeks to change from high dependency care, in a generalised sense, to a hospital type facility specifically for women, reflecting gender specific issues contributing to mental health problems.

Both are in the same Use Class (C2 – residential institution).

The facility will accord with policies of the council and the government, as it will provide accommodation for an identified specific needs group who require specialist accommodation and care.

The proposals are acceptable in this respect.

### **Access drive**

The existing access drive to this site is already used to gain access to other dwellings and a large number of caravans. The Fire Service previously had concerns about its use and sought improvements such as widening the access drive and the provision of turning and pedestrian facilities.

It is not considered necessary to insist that a conventional carriageway with footpaths on both sides with accompanying street lighting (the conclusion agreed on the previous occasions) is provided as it would be out of character with the immediate area and would result in the existing natural environment being disturbed by urban characteristics. Notwithstanding this, it is appropriate to require the access to be made up to an acceptable and suitable standard and this can be secured by way of conditions.

The scheme is satisfactory to Transportation and will allow suitable access for refuse vehicles, parking and turning within the site.

The enhanced access road will improve access for all users, not just the application site.

### **Nature conservation / trees**

Natural Environment and Countryside Services have expressed concern about insufficient information supplied in respect of trees and nature conservation matters so they are unable to assess the impact of this development on the natural environment. They recommend that this application is refused or deferred. They argue that the problem is that the survey work supporting this application is out-of-date and site conditions may have changed significantly since Ivydene was a private house.

This would ordinarily be accepted as an important matter to be resolved before a decision, often leading to a deferral or refusal. However, the history of the site means such a response is not necessarily appropriate.

Building proposals have been approved in 2006 / 2007 which are effectively the same as the current proposal. Those permissions could still be implemented, without any further consideration of the issues of concern (ignoring any statutory obligations for protected species etc).

Nature conservation issues were extensively considered as part of the those applications. While the Council must be sure that it considers the proposals for bats, newts etc. are

adequate before granting any planning permission, the previous approvals demonstrate that this could be done.

The following subheadings outline the nature conservation elements. The similarity of the scheme to the previous approvals means there is much common ground and the previous reports have formed the basis of the present submission.

Wildlife generally - in addition to the requirements of any planning consent, protected species are given additional protection by the Wildlife and Countryside Act. Any acts which result in the deliberate killing, capture or disturbance of such species is illegal even if it has been caused by an action which has the benefit of planning consent.

Bats - the bat report on the previous approval stated that the ruinous state of Ivydene makes this a far from ideal bat roost and with appropriate precautions taken during demolition, bats can be accommodated within the development.

It also stated that the structure of the bordering trees and scrub should be maintained so as not to remove the existing foraging areas or to alter the vegetative structure of the landscape.

Newts - as in the previous approvals, mitigation and habitat creation work is required to create features of value for great crested newts within the development site. This needs to be dovetailed with the landscape scheme.

The applicants have recently been granted consent to carry out a new Great Crested newt survey in order to produce an up to date report.

Trees - The proposed building will be centrally located within the site and will therefore achieve separation distances between 8m (towards the former railway line) and 12m (towards the boundary with the Tree Preservation Order trees). This was considered, in the previous approvals, to be acceptable to maintain and protect both trees covered by the Tree Preservation Order (which are outside the application site) and other trees along the boundaries.

The proposed driveway works could impact on some trees. Construction techniques and methods of working could mitigate such works. However, these have been previously approved, and it continues to be the case that the modest changes to the wider nature area, balanced against the gains to the safety of occupiers, are acceptable.

#### Other Countryside Services questions

- What is the proposed nature of the boundary treatment between the development site and Fibbersley Local Nature Reserve?  
Response  
Unspecified but intended to be dealt with under condition 8.
- The proposed tree-planting plan consists almost entirely of non-native species – a higher proportion of locally native species needs to be incorporated. .  
Response  
Can be dealt with under condition 11.

- The 2007 Great Crested Newt report is based on survey data gathered in 2005. I have recently granted Middlemarch permission to survey GC Newts this year. An up to date report needs to be provided in relation to the current proposal.

Response

Intended to be dealt with under condition 18 .

- The G.C. Newt licence states that it is “granted solely in respect specified... in connection with the previously approved High Dependency Care Unit”; therefore, presumably a new licence would be required with respect to the current proposal?

Response

Agreed, and they are seeking one.

- Up-to-date bat surveys and report need to be provided, as well as possibly surveys and reports relating to Water Voles and White-clawed Crayfish. .

Response

Bats are intended to be dealt with under condition 3.

On water voles and crayfish – they have not previously been mentioned in the context of this site. In addition, Nature Conservation team doubt the relevance of crayfish.

- The GC Newt report refers to restoration of ponds 5, 13 and 14, but the supporting documents accompanying the planning application only include detailed plans for ponds 5 and 13. The report also identifies the need to enhance ponds 4, 5 and 8 in the future, which duplicates one of the above, whilst no timescale for proposed enhancement is given. Furthermore, the timescale relating to mitigation works is out of date e.g. includes reference to works being done in 2007.

Response

Can cover this by condition Countryside Services have been invited to define terms, topics and issues. Supplementary paper will update.

- Would the proposal be eligible for a Section 106 agreement, including either an annual sum over a number of years or a one-off lump sum to the Council that would go towards the management of Fibbersley LNR for GC Newts and other wildlife and for greater public benefit?

Response

Probably not –Local Planning Authority need to be able to demonstrate that there is some effect from the application which requires a contribution. No obvious link or justification exists to require this developer to contribute to managing Council land for public benefit.

Conclusion on nature / trees This application provides an opportunity to sustain and reinforce the quality of the wildlife on this site, by requiring more than just the usual landscaping scheme.

The previous statutory requirement to obtain a licence from Department of Environment, Food and Rural Affairs in respect of newts will again need to be re-imposed on any consent.

As there are no material alterations or changes in terms of its layout, scale and design, this scheme is also considered acceptable in terms of any impacts on nature conservation, subject to updated reports as recommended, and any fine tuning that may result.

## **Design**

The design of the building is similar to that previously approved, and is regarded as acceptable.

## **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 92 of the Town and Country Planning Act 1990.

2. For the duration of the reclamation of the site, and the construction period, the access(es) to the site shall include wheel washing equipment in accordance with details previously agreed in writing by the Local Planning Authority.

*Reason :* To prevent mud being deposited on the public highway.

3. No development shall commence until a revised bat survey has been carried out and the results of that survey submitted to and approved in writing by the Local Planning Authority. Any agreed recommendations and details regarding the demolition of the bungalow known as 'Ivydene' or elsewhere shall be implemented to the satisfaction of the Local Planning Authority. Any demolition works shall be carried out between the end of September and the end of March the following year.

*Reason;* In the interests of the safeguarding of protected species.

4. All felling and pruning work shall be carried out by an arboricultural consultant appropriately trained to detect bat roosts in the course of their work. Before any work is carried out the trees in question shall be inspected by climbing and, if evidence of bats is found, all work shall cease immediately and English Nature/DEFRA consulted.

*Reason;* In the interests of the safeguarding of protected species.

5. No construction, demolition or engineering works (including land reclamation, stabilisation, preparation, remediation or investigation) in connection with the development shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours 0700 to 1800 weekdays, and 0800 to 1300 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with these works shall be started up or operational on the development outside these permitted hours.

*Reason :* To safeguard the amenities of the area and occupiers of adjoining premises

6. 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.

7. Notwithstanding the deposited plans, no hard standing or road shall be commenced until full details of

- ~ the proposed surfacing to all hard standing areas, in particular the car parking bays, showing the means of surface water drainage and method of marking out of parking bays, and
- ~ proposed signs and traffic management scheme for the new access road, have been submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented before any part of the development is first occupied and shall thereafter be retained

*Reason :* To ensure the satisfactory development, functioning and appearance of the development of the site and in the interests of highway safety.

8. 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, boundary treatments and methods to prevent unauthorised access by vehicles onto the adjoining Local Nature Reserve along the improved access road. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

*Reason :* To ensure the satisfactory functioning and appearance of the development and prevent unauthorised vehicular access onto the adjoining Local Nature Reserve.

9. No development shall begin until drainage details have been submitted to and approved in writing by the Local Planning Authority, the details shall include arrangements for the satisfactory drainage of the site, including existing and proposed systems for the site, a detailed sustainable urban drainage scheme for the site, including plans and sections and incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, the approved scheme shall be implemented fully in accordance with the agreed details

*Reason :* In the interests of the amenity of the area and in particular the adjoining Local Nature Reserve and to ensure 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.

10. Prior to any surface water drainage works being commenced, a scheme for the installation of oil interceptors, including the design, construction and capacity details, will be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and thereafter retained in good working order. No roof water shall be allowed to pass through the interceptors.

*Reason :* To prevent pollution of the water environment

11. 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 approved scheme 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. The submitted scheme shall also provide a method statement for all arboricultural aspects of the implementation of the proposed landscape scheme, particularly providing for the long term health of trees and any work near to trees protected by a Tree Preservation Order.



*Reason;* In the interests of the amenity of the area and to ensure the satisfactory appearance of the development

12. No development shall be carried out until full details of existing and proposed levels of the site, accessways 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.

*Reason :* To ensure the satisfactory appearance of the development and to ensure the visual amenity of the area.

13. No development shall be carried out until details of the new access road and manoeuvring areas have been approved in writing by the Local Planning Authority. The plans shall clearly show the proposed levels, particularly in respect of all areas surrounding trees protected or not protected by a Tree Preservation Order, surfacing materials and means of surface water drainage. The approved scheme shall be implemented before this development is brought into use and the areas thereafter be retained and used for no other purpose.

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

14. No development shall take place until details of the location and types of lighting columns along the new access road and courtyard for car parking have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before any dwelling hereby approved is occupied.

*Reason :* In the interest of highway safety and safeguard the amenities of future occupiers of the development and those of existing adjacent and adjoining occupiers

15. No development shall commence until details for the provision of bin and recycling boxes storage areas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented before the development is occupied.

*Reason:* In the interests of highway safety

16. No development shall commence until the following details have been submitted in respect of Fire Service requirements :

- a) details and positions of two fire hydrants (one at the entrance off Noose Lane and one within the development itself);
- b) details of domestic sprinkler system to be installed in the unit and
- c) details of turning facility to allow a fire appliance to access / egress the site in a forward gear.

The approved details shall be implemented before first occupation of any part of the unit and thereafter be retained in good working order.

*Reason :* In order to maintain satisfactory access for Fire Service and other emergency vehicles.

17. The mitigation works as submitted and approved by the Department of Environment, Food and Rural Affairs Licence shall be submitted to the Local Planning Authority prior to

any works commencing on the site or commencement of the construction of the new access road.

*Reason :* To ensure the continued and future protection of habitats and species of important nature conservation value.

18. Prior to any development commencing (and following receipt of any licence granted by the Department of Environment, Food and Rural Affairs - DEFRA) a detailed methodology for monitoring the future newt population over a period of no less than five years from the date of commencement of any development on the site including the locations of the monitoring work to be carried out, survey methods to be used in egg and terrestrial searches, netting and visual and torch counts shall be submitted to by the Local Planning Authority for their information, and in the event that any such details are not part of the DEFRA approval, for the approval of the Local Planning Authority. The approved details shall be implemented and completed as approved.

*Reason :* To ensure the continued and future protection of habitats and species of important nature conservation value.

19. Prior to built development commencing a site investigation, ground contamination survey, assessment of ground gas and details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site shall be submitted to and approved in writing by the Local Planning Authority. The agreed remedial measures shall be implemented to the satisfaction of the Local Planning Authority and in accordance with an agreed timetable. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being commenced.

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

20. The development hereby approved shall be carried out in accordance with the submitted Flood Risk Assessment prepared by Herrington Consulting Ltd, and dated September, 2006.

*Reason :* To protect the development from flooding.

21. Notwithstanding the comments of the tree survey, prior to any development on the site an Arboricultural method statement, which includes measures for the protection of trees from the creation/upgrading of the access road, shall be submitted to the Local Planning Authority for approval in writing. No work is hereby approved, or accepted as being approved, to trees included in a Tree Preservation Order on the site, nor to works to the canopy spread of any trees in a Tree Preservation Order and adjoining the site (where their canopy spread extends within the site). Such works shall also require the express approval of the Local Planning Authority as a separate approval.

*Reason;* For the avoidance of doubt and in the interests of the amenity of the area, to protect trees protected by Tree Preservation Orders.

22. Notwithstanding the provisions of the Town and Country Planning General Development Order 1988, or succeeding Orders, no gates, fences, walls or other means of enclosure which significantly affect the appearance or functioning of the public areas of the development, except those included on the approved plans, will be erected or moved without the prior approval of a planning application relating to that work, unless otherwise agreed in writing by the Local Planning Authority.

*Reason :* To safeguard the amenity of occupants and adjoining occupants, and any environmental implications and to ensure the satisfactory appearance of the development.

23. 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.

24. 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 as shown on the deposited plans, without the prior approval of a planning application.

*Reason :* To ensure the satisfactory functioning of the development and in the interests of highway safety.

**Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision.**

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP2, 3.6, 3.7, ENV 14, 17, 18, 19, 20, 21, 22, 23, 32, 33, H5, H6, T13, LC1 and 8.3 and on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As the application was approved by the Development Control Committee, the report can be viewed on the Council's website at [www.walsall.gov.uk](http://www.walsall.gov.uk)

## **NOTES FOR APPLICANT:**

A) Responsibility and subsequent liability for safe development and secure occupation rests with the developer and/or landowner. Although the Local Planning Authority has used its best endeavours to determine the application on the basis of the information available to it, this does not mean that the land is free from instability or contamination, or other constraints.

In cases where the question of stability or contamination has been a material consideration resolution of these issues does not necessarily imply that the requirements of any other controlling authority would be satisfied, and the granting of planning permission does not give a warranty of support or stability or of freedom from contamination.

B) Your application includes demolition work, it may be necessary for you to also 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.

C) You are advised that although this permission has been granted you must also respect any ownership rights or other legal agreements including rights of way. I would therefore advise you to contact officers of the Councils Leisure and Community Services - Countryside Services and the Property & Development Services.

D) Whilst planning permission has been granted this permission does not absolve you from complying with the relevant law, including obtaining and complying with the terms and conditions of any licences required as described in Part IV B of the *Circular 06/2005*.

E) The ground contamination survey 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"; Waste Management Paper No. 27 "Landfill Gas"; or any relevant successors of such guidance.

F) When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 10 and The Contaminated Land Exposure Assessment (CLEA) model 2002 or any relevant antecedents of such guidance. Assessment should also be made of the potential for contaminants contained in or on the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
On 15 Jul 2008

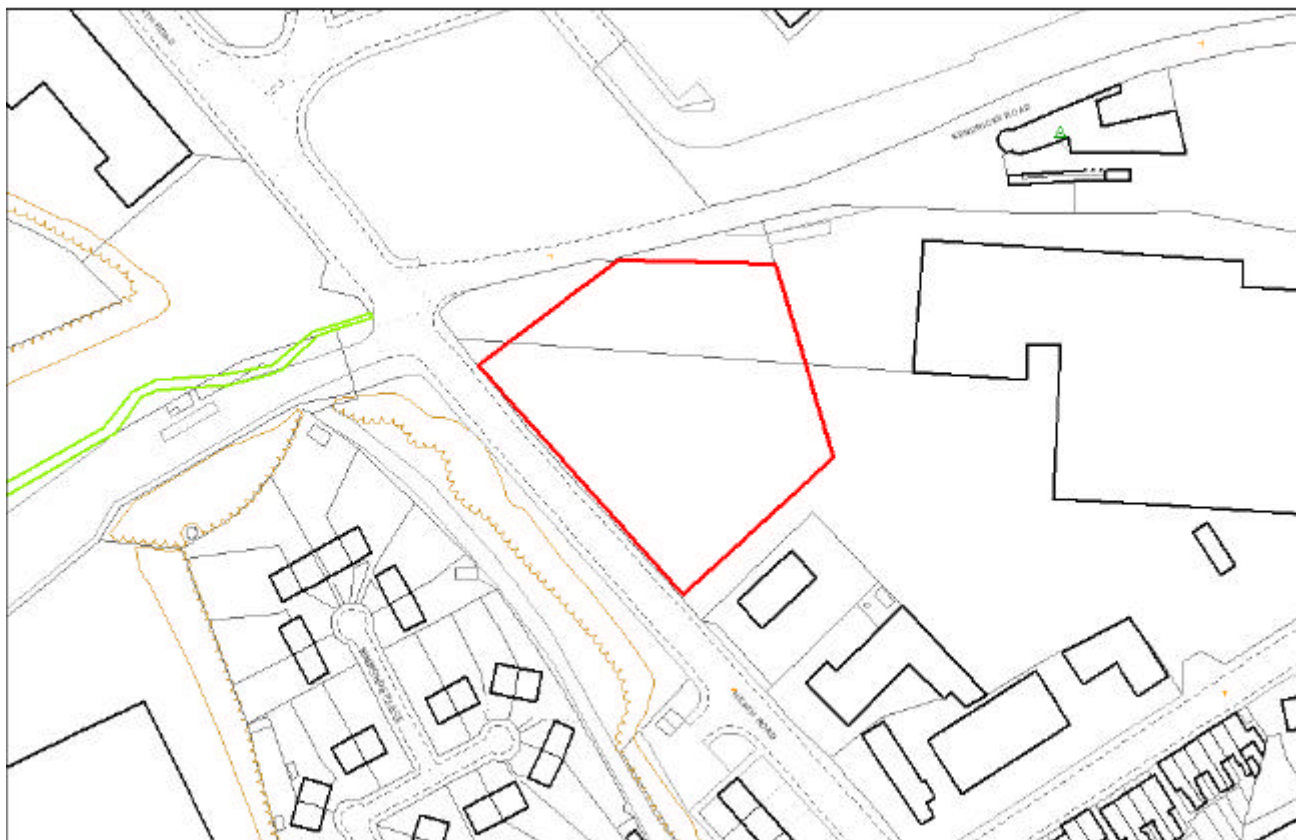
**REASON FOR BRINGING TO COMMITTEE:** Major development

**Application Number:** 08/0206/FL  
**Application Type:** Full application  
**Applicant:** O-Gen Uk Ltd  
**Proposal:** In Building Timber Resource  
Recovery Centre

**Case Officer:** Val Osborn  
**Telephone Number:** 01922 652436  
**Agent:**  
**Location:** JUNCTION OF KENDRICK  
ROAD & HEATH ROAD, DARLASTON,  
WS10 8BW  
**Expired:** 23/05/2008

**Ward:** Bentley & Darlaston North

**Recommendation Summary:** Grant Subject to conditions



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## **Application and Site Details**

The site is the southern corner of the junction of Heath Road and Kendricks Road.

To the east is a large industrial unit for a steel coil stockholder, and a storage facility. To the north and northwest are existing industrial units on Heath Road. To the west is a wooded embankment, beyond which are houses of Simmonds Close.

The proposal would produce electricity from the conversion of timber to charcoal and using the gases produced to generate electricity. A sub-station is proposed on the Heath Road frontage, which would transfer electricity to the national grid. In the longer term, the power produced could supply a district or local area.

The proposed building would be 12.3m in height to ridge, 46m by 54m and with access off Kendricks Road. Lorries would deliver timber via an entrance on the south elevation, facing existing factory buildings on Heath Road, into the enclosed reception area. From this area timber is mechanically sorted by conveyor belt systems, fired in 12 gasifiers to feed the generators and charcoal is recovered. All these processes take place entirely within the building.

Six engines, generating electricity from the heated gases are located at the rear of the building, housed in an acoustic enclosure formed from concrete block walls and a concrete slab roof. Associated cooling equipment is also located at the rear. A flue vent projects above the flat roof engine/plant room but not above the roof line of the main building.

There is a chimney (maximum height of 20m) at the rear of the building to control emissions from the plant. The proposed installation is subject to an Integrated Pollution Prevention and Control permit issued by the Environment Agency (EA).

Approximately 250kg of organic matter per hour could be processed, delivered by approximately eight, 10 tonne lorry loads per day. The proposed facility would store a maximum of 400 tonnes of timber and employ 5 people. Maximum processing capacity is 25000 tonnes per year.

The proposed building is a portal frame type in steel sheet, typical of industrial development in the immediate vicinity. Banding around the building, coloured as a mid green, would break up the massing of all of the elevations. However for the Heath Road frontage the applicant has set aside funding for an art work to relate to the history of the site and which will relieve the large street frontage of the elevation.

The proposed landscaping illustrates some planting on the Heath Road frontage and a larger area around the corner on Kendrick's Road, with tree and shrubs of species to be agreed with the Council, which would obscure and mitigate, in part, views of the building from the public realm and important street frontages.

Seven parking spaces are proposed.

The site is to the north-east of and on the opposite side of the road to houses at the corner of Heath Road and Station Road, numbers 19 to 25 Heath Road. Houses to the west of the site, numbers 12 to 19 Simmonds Place, are elevated some 5m above the level of Heath Road and separated from it by a significant wooded embankment of 23m depth.

This embankment extends along the entire Heath Road frontage between these houses and the application site.

The site is immediately south of land allocated as core employment land, although itself unallocated in the UDP.

### **Relevant Planning History**

04/2492/FL/M1 – change of use to materials reclamation facility, refused for the reasons related to adverse impact on the environment and amenity of nearby residential property, from noise and general nuisance and from the type of wastes proposed to be imported. Additionally, the retention of the existing building is of poor visual quality, and the nature of the proposed use for waste handling are contrary to the aims of

- a) the Council
- b) the North Black Country and South Staffordshire Regeneration Zone
- c) the Walsall Regeneration Company .

### **Relevant Planning Policy Summary**

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

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

Policy 2.2 – development should create, sustain and enhance a high quality built environment and be of a high quality design.

Policy GP 2 expects development to make a positive contribution to the environment and considers (II) the susceptibility to pollution of any kind as an adverse impact which would not be permitted, and VII. Adequacy of access will be taken into account.

3.6 Development should improve the environment.

3.7 The Council will seek to protect people from environmental problems

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

ENV23 seeks to promote the natural environment by landscaping etc, though it is primarily targeted at wildlife corridors and other special areas.

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

Policy 4.5 Employment areas should retain their overall industrial character, but other uses which assist regeneration and which generate employment opportunities may also be accommodated.

Policies 7.1, 7.8 seek to secure an efficient transport network that is safe and secure for all users.

There are also a wide range of policies designed to minimise waste, and recycle materials. WM1 – waste management activities should be contained within buildings and have a comprehensive landscape scheme.

Policy 10.3 – greater emphasis on re-use and recovery with an overall reduction in the reliance on landfill.

Policy 10.5 refers to incineration – energy recovery, and identifies that the application should demonstrate there is no better way of handling the waste.

### **Designing 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;

DBW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DBW3 – all new development must be designed to respect and enhance local identity

DBW6 – new development should contribute to creating a place that has a clear identity

DBW9 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.

### **Regional Spatial Strategy / Core Strategy**

Policy CC1 – mitigate impacts for climate change by reducing the amount of waste to landfill; require all new development to minimise the use of resources including materials;

Policy QE1 – high standards for resource use and management.

Policy QE3 – incorporate sustainable considerations such as use of recycled materials and minimisation of waste.

Policy EN1 – encourage proposals for energy production from waste combustion.

Policy WD3 – consider small scale waste management facilities.

### **National Policy Guidance**

Planning Policy Statement 1; development should be sustainable and seek to maintain and improve the existing environment.

Planning and Climate Change Supplement – to contribute to sustainability, secure highest viable resource and energy efficiency, reduce emissions and encourage innovation in mitigating and adapting climate change. Paragraph 42 advises support for opportunities for decentralised, low carbon energy supply.

Planning Policy Guidance 4 there should be an overall positive approach for proposals which provide investment, jobs and meet wider national objectives.



PPS 23 – the planning system should focus on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than the control of the processes or emissions themselves.

### **Consultations**

**Transportation** – No objections, subject to conditions, as recommended. The current scheme provides 7 parking spaces which corresponds to the number of staff. Additional spaces are therefore required for visitors, which can be accommodated at the site.

**Pollution Control- Scientific Team**-The proposals would be the subject of an Integrated Pollution Prevention and Control ( IPPC ) permit issued by the Environment Agency. As such matters related to air quality and noise that are usually of concern to Pollution Control will come under the remit of the Environment Agency.

**Pollution Control- Land Contamination Team**- No objections, subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues associated with the former foundry. Conditions to address these concerns are recommended.

**Environment Agency** – There are no ground water source protection zones within close proximity of the site. Conditions are recommended in respect of a detailed site investigation for contaminated land, risk assessment and remediation. Other aspects in relation to emissions from the stack are controlled by an IPPC certificate process.

**Conservation, Natural Environment** - The principle of development is not disputed and the landscape proposals for this development are satisfactory. This will introduce trees into an urban part of the borough and have visual benefits. Planting should comprise predominantly native tree and shrub planting and would also fulfil the habitat creation requirements in Policy ENV23 of the council's UDP.

**Police Architectural Liaison Officer** – The locality is a high crime area particularly in relation to commercial burglaries. The premises will be vulnerable when the building is unoccupied and hardening measures such as roller shutters on doors and concertina grills on windows are measures that could be put in place, together with a comprehensive alarm system with a monitored CCTV.

**Fire Service**- Satisfactory access

**Centro** – No objection. The development is immediately adjacent to the proposed 5W's Metro route and borders the intended realignment of the junction of Heath Road and Kendrick's Road. Centro-WMPTA and the developer have been involved in close pre-development collaboration and it has been possible to ensure compatibility of the proposals with each other. Centro is keen for continued dialogue with the developer whilst both projects are developed.

**Network Rail** – no comments.

**Severn Trent Water** – No objection, subject to conditions as recommended.

## **Public Participation Responses**

None.

## **Determining Issues**

Principles

Impact on visual amenity

Noise and pollution

## **Observations**

### **Principles**

UDP Policy JP 7 supports this type of use and the employment that it would bring. Timber is selected for picking stations at recycling plants and would be delivered to this site on the basis that it meets the specified requirements. It is a development that produces energy from an otherwise waste resource and in that context is sustainable.

### **Impact on visual amenity**

The proposed building would be of modern construction as a steel clad portal frame building, which would be similar to recent industrial development for Woodward Food Services and Acerinox to the north.

Surrounding industrial buildings compare in height with the proposed industrial unit. The application site is relatively flat, with levels raised above that of the adjoining roads by between 300mm and 800mm.

The proposed chimney, at a maximum 20m in height would project 8m above the ridge line of the building.

Houses at Simmonds Place overlooking the site, would be more than 96m away from the chimney stack and approximately 5m higher than the site, with a steep and wooded embankment intervening. Views from their rear elevations of the chimney stack would be obstructed when the trees on the embankment are in leaf, and during the winter months the view would be mitigated by the multiplicity of trees and their branches.

It is considered that, on balance, the views of the chimney from nearby houses during the winter months would not be significant so as to materially harm the amenity of the occupiers of houses on Simmonds Place.

The proposed chimney stack would be clearly visible on approach from the north on Heath Road and via Kendricks Road. The landscaping proposed for the corner of Heath Road and Kendricks Road would mitigate these views.

The north elevation of the proposal, with the canopied lorry access for despatch of the recovered charcoal would dominate. The proposed chimney stack would be set centrally at the rear, some 23m within the built structure of the unit. Landscaping of the 5W's Metro line reserved land and the northern edge of the site would be important in mitigating the

overall view of the stack above the building and this has been included in the landscape scheme. Landscaping with tree planting would also be important on the Heath Road frontage and is included in the scheme. Conditions in this respect are recommended.

The applicant has agreed to create an artwork on the gable elevation of the building facing Heath Road. Details of this have yet to be agreed although it is understood that they are disposed towards a free standing art work that relates to the historical context of the site. A Grampian condition is therefore recommended to ensure this is included in the proposal.

## **Noise and Pollution**

The Environment Agency would control and monitor the emissions from the site through an Integrated Pollution Prevention Control (IPPC) authorisation and require processes that use best available techniques.

The submitted emissions study demonstrates that a stack of 16m should be adequate to avoid causing the air quality objectives being exceeded. However the final height is dependent on modelling information considered by the Environment Agency, although it is recognised that a stack at 20m would be an effective maximum height. It is therefore appropriate to consider the stack height as a maximum of 20m.

The submitted noise survey specifically considers impacts for residents of Simmonds Place. The report concludes that predicted night time noise levels would lie within recommended limits and therefore be unlikely to cause complaint at night. During the day time, the noise level is 3 dB above the minimum background noise level and, according to British Standards, which identify this as being in the category of 'marginal significance'. In relation to recommended noise levels outside living rooms and bedrooms, the day time noise levels are higher than the predicted contribution and it is therefore questionable whether the noise from the proposal will have any significant impact on the existing noise climate.

## **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. No development shall commence unless and until a scheme for a work of art at the gable elevation facing Heath Road, has been submitted to and approved in writing by the Local Planning Authority.

*Reason;* To ensure the visual amenity of the area.

3. This development shall not be carried out until a schedule of facing materials to be used in external walls and roofs and details of the design and appearance of the proposed gates, have been approved in writing by the Local Planning Authority.

*Reason:* To ensure the visual amenity of the area.

4. This permission is for the purposes of in building timber resource recovery centre only, as described in the plans and documents of the application hereby approved.

*Reason:* To define the terms of the permission, in view of the level of parking provision.

5. 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 agreed in writing with the Local Planning Authority. The landscaping scheme shall include full details of all boundary treatment 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 submitted scheme shall particularly provide for the planting predominantly native tree and shrub planting, with some planting at extra heavy standard, along the boundaries of the proposed development site and also in the adjacent triangle of land which is being reserved for a possible Metro line. 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.

6. 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.

7. No built development shall commence on site until details of all boundary treatment, including levels, 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 such.

*Reason:* In the interests of securing the development.

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. All material brought onto the site for recovery purposes shall be unloaded and processed within the building. No materials or refuse shall be stored outside of the building, unless approved in writing by the Local Planning Authority.

*Reason;* In order to minimise the visual impact of the proposal and to ensure the site does not cause pollution to surrounding occupiers.

10. No ground fires shall be permitted for the purposes of waste disposal.

*Reason;* In order to ensure the site does not cause pollution to surrounding occupiers.

11. Prior to built development commencing, details as scaled drawings and plans of the proposed sub-station and external finishes to the housing for the transformer step-up equipment shall be submitted to and approved in writing by the Local Planning Authority. The structures shall be erected in accordance with the approved plans and retained as such, unless otherwise approved in writing by the Local Planning Authority.

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

12. Prior to the commencement of built development, details of the proposed external lighting, including design themes and principles for the overall scheme and details of light spill and levels for the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for no light directed at or illuminating any occupied dwelling. The scheme shall be implemented in accordance with the approved scheme and retained as such.

*Reason:* In the interests of the amenity of the area and to safeguard nearby housing from light pollution.

13. No development approved by this permission shall be commenced until a detailed scheme for the investigation and recording of contamination of the site has been submitted to and approved in writing by the Local Planning Authority. No development approved by this permission shall be commenced until a Quantitative Risk Assessment has been undertaken and based on a conceptual understanding of the site conditions to derive Site Specific Remedial Targets for soils/groundwaters. The Quantitative Risk Assessment and Site Specific Remedial Targets shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. Where remediation works are identified in the Quantitative Risk Assessment approved by the Local Planning Authority, a Remediation Method Statement shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. The remediation works shall be implemented in accordance with the approved scheme and a Validation Report shall be provided upon completion.

*Reason;* To prevent the pollution of controlled waters.

14. 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 or 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.

15. Prior to the commencement of built development , a parking and access plan shall be submitted to and approved by the Local Planning Authority showing a revised parking layout, to provide 10 car parking spaces, one space shall be allocated for disabled use. An allocated commercial vehicle waiting area shall also be provided in the scheme. Prior to the development being brought into use, all parking areas shall be consolidated surfaced and drained, and all spaces shall be delineated on the ground and available for use. The disabled space shall be laid out in accordance with national guidance. All spaces thereafter shall be used for the parking of vehicles only.

*Reason ;*In the interests of highway safety.

17. Prior to the commencement of built development, plans and drawings identifying signage for direction of commercial vehicles, staff and visitor parking within the site shall be submitted to and approved in writing by the Local Planning Authority. The signage shall be erected before the development is in use and shall be retained as such.

*Reason ;*In the interests of highway safety.

18. Prior to the commencement of built development, detailed plans and drawings shall be submitted to and approved in writing by the Local Planning Authority identifying cycle storage to be provided which is secure and covered, in close proximity to the entrance to the building, or integral to the building. The cycle storage shall be available for use before the development is completed and occupied and thereafter retained for use.

*Reason;* In order to ensure satisfactory provision for sustainable alternative transport modes.

19. The development shall not be brought into use unless and until the approved accesses have been constructed and completed in accordance with the approved plans and are available for use. No other access shall be made from the site on to the highway, as an adopted or unadopted road.

*Reason;* In the interests of highway safety and the free flow of traffic on Heath Road.

20. Vehicles removing and bringing materials to the site shall be appropriately netted or sheeted so as to prevent the emission of dust and other materials into the environment in transit.

*Reason;* In order to ensure the site does not cause pollution to surrounding occupiers.

### **Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision**

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP2, ENV32, 4.5, WM1 and 7.1 of Walsall's Unitary Development Plan, and policy DBW10 of Designing a better Walsall SPD, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. If the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at [www.walsall.gov.uk](http://www.walsall.gov.uk)

### **Notes for applicant**

1. 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.
2. When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
On 15 Jul 2008

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

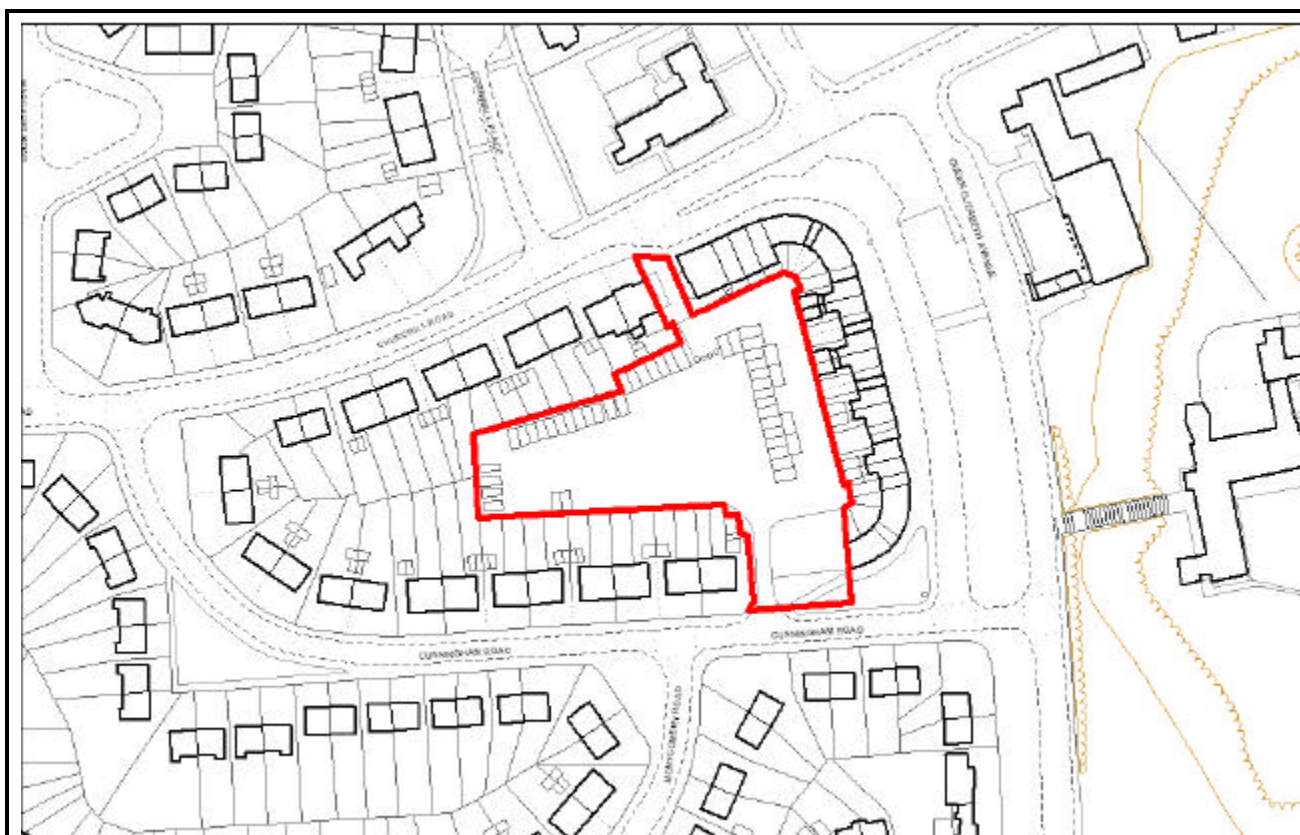
**Application Number:** 08/1001/FL  
**Application Type:** Full application  
**Applicant:** Walsall Housing Group  
**Proposal:** Provision of 12 no. affordable rented dwellings which comprise of 8 no. 2 bed 3 person bungalows and 4 No 2 bed 3 person flats, all category 1 sheltered for elderly together with associated access driveway and external works.

**Case Officer:** Val Osborn  
**Telephone Number:** 01922 652436  
**Agent:** Walker Group Architects  
**Location:** FORMER GARAGE COURTYARD TO THE REAR CUNNINGHAM ROAD, WILLENHALL, WS2 0AY

**Ward:** Bentley & Darlaston North

**Expired:** 19/09/2008

**Recommendation Summary:** Grant Subject to conditions



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## **Application and Site Details**

This application is for full planning permission for the erection of a range of 12 single and two storey residential units for elderly occupiers.

The site is at the rear , ( west ), of three storey shops with maisonette dwellings on top, which front Queen Elizabeth Road and comprise the retail part of Bentley local centre. The site also extends to the rear of two storey flats facing Cunningham Road and Churchill Road and was occupied by a garage courtyard.

Access to the site is from Cunningham Road, with car parking spaces forming the frontage to the flats and the bungalow units. Access to the service road to the rear of the shops is also off the entrance to the site.

The bungalows would be two terraces of three units, facing south and with rear garden and communal/access areas also to the rear.

The proposed 2 storey flats would be at the eastern end of the site, nearest the existing three storey buildings, (8m height to ridge) with a double aspect facing south and north. The gable would face the three storey existing development.

The frontages to the development are courtyards of access road and parking. A landscaped area of communal space is between sets of bin stores and sheds.

The Cunningham Road frontage features a significant group of large trees and a grassed area whereas the site as seen from Churchill Road is a access route between two storey gables and blank walls for the adjacent shop at 180 Churchill Road and the house at 170 Churchill Road.

## **Relevant Planning History**

08/0393/FL – refused for the following reason;

The proposal would appear incongruous in the street scene, out of keeping with the character of the locality and the established pattern of development, by reason of the siting and layout of the proposal, with built form unrelated to existing development. Furthermore, the proposal would be dominated by the access and servicing areas, to the detriment of the enclosure of spaces, natural surveillance and amenity of adjacent occupiers, leaving private areas to existing rear gardens accessible and vulnerable. The provision of new fencing, particularly on boundaries within the public realm of the access road, would not represent a satisfactory improvement either in design or levels of security. As such the proposed development is contrary to policies 2.1, 2.2, GP2, 3.6, 3.16, GP7, 3.114, 3.115, ENV32, H10 and Supplementary Planning Document Designing a Better Walsall, of Walsall Unitary Development Plan, March 2005, and Planning Policy Statements 1 and 3.

**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**

#### **Unitary Development Plan**

GP1...principles of sustainable development

GP2, 3.6 and 3.16 seek to improve the environment and achieve schemes that do not have an unacceptable adverse impact on the environment

GP7 designing out crime

3.7...seeks to protect from noise, pollution and other environmental problems.

ENV14...encourage the development of previously developed land

ENV32 does not permit poorly designed proposals

ENV33...Good landscape design to be integral part of design

H3 - use of previously developed land for housing, flexibility in standards.

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

7.36...ensure adequate levels of off-street parking...particularly in residential areas to avoid environmental and road safety problems

T7 and T13 Car Parking standards

T12...access by Public Transport to Residential Developments...walking distance no more than 400 metres to a bus stop

### **Designing 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 relevant to this proposal;

DBW1 - Sustainability, new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DBW2 - Safe and welcoming places. All new development must contribute towards creating places that feel safe, secure and welcoming for everyone

DBW3 - all new development must be designed to respect and enhance local identity

DBW4- Well defined streets with a continuity of built form are important.

DBW6 – new development should contribute to creating a place that has a clear identity

DBW9 - 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.

### **Annexe E: Numerical Guidelines for Residential Development**

### **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.

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

### **National Policy**

PPS1 promotes sustainability and good design.

PPS 3 (Housing) promotes use of previously developed land for housing... flexibility in the application of standards to achieve development, housing to meet the needs of the whole

community, create sustainable patterns of development, more efficient use of land, promote good design and reduce car dependence.

## **Consultations**

**Transportation-** – No Objection, subject to conditions and notes as in the recommendation. The maximum parking requirement would be 18 spaces and the actual provision is for 12 allocated spaces plus two additional visitor spaces. In view of the occupancy and age of residents, the location of the site close to local amenity and public transport facilities, the level of parking is considered acceptable in highway terms.

**Pollution Control** – No objection. A condition is recommended to ensure works being implemented to remediate any localised ground contamination and ground gas issues associated with the mining and quarrying of coal and lignite, unknown filled ground and garages. Furthermore issues arise however due to the proximity of the surrounding residential development and a condition limiting the hours of work at the site is recommended.

**Education Walsall** - the proposed site would not yield any new children in the area as it is for retired residents as an extra care facility. We will therefore not require any contribution towards local education provision as the development would have no direct effect of school places.

**Fire Service** - satisfactory.

## **Public Participation Responses**

None.

## **Determining Issues**

**Whether the proposal overcomes the previous reasons for refusal in terms of;**  
**Design and character**  
**Layout and security**  
**Impact on neighbours.**

## **Observations**

### **Design and character**

The design of the scheme brings parts of the development towards the street frontage of Cunningham Road, so as to create a presence in the public realm. Development surrounding the site is characteristically set back behind large tree planted frontages and the southern block of flats would therefore complement this aspect of the local character.

The pattern of the development creates a small and enclosed cul de sac which is a characteristic form of development in the locality.

### **Layout and security**

The layout brings a two storey element of the development to overlook the access to the site, with secondary windows also offering surveillance of public realm. The enclosure of the service road to the shops and dwellings by a boundary wall and gates may also improve security.

The siting and layout provides the backs of existing properties to be faced by the backs of proposed bungalows, thereby securing the boundaries for both existing and proposed development.

### **Impact on neighbours**

The layout provides two storey buildings at right –angles to the three storey block fronting Queen Elizabeth Avenue. There are several balconies and roof terraces on the rear that are the only private amenity space for occupiers. The siting of the bungalows and two storey flats, together with the hipped roofs for the development, leaves open views from the balconies for a significant range of views from them, and overlooking of the central courtyard garden over the roofs of the central bungalows.

The reasons for refusal have therefore been addressed and this layout is considered acceptable.

The scheme is registered with West Midlands Police to achieve the Secure by Design Award and will meet Level 3 of the Sustainable Code for Homes, required by Housing Corporation funding.

### **Obligations**

No obligations are required as the scheme is for elderly occupation.

### **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. This development shall not be carried out other than in conformity with the -Design and access statement dated June 2008 and the following plans;

0747-10A Site Location Plan

0747-06D Site Plan

0747-14 Plots 7,8,9,10,11 and 12 Elevations

0747-16 Plots 5 and 6 Elevations

0747-18 Vehicle turning

0747-15 Plots 1,2,3 and 4 Elevations

0747-13 2B3P wide bungalow

0747-11 2B3P slim type bungalow

0747-O5C 2B3P Walk-up flat plans

0747-17 Section thru  
0747-12 2B3P bungalow plots 9 and 10

*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 commence on site until details of the disposal of both surface and foul water drainage, to include a scheme for the provision and implementation of a surface water run-off limitation, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance 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.

5. 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.

*Reason:* In the interests of securing the development.

6. No development shall commence on site until details of the refuse collection systems and related storage for the proposed apartments, together with associated landscaping, 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 such.

*Reason:* In the interests of ensuring security and amenity for the development.

7. No development shall be carried out until a detailed landscaping scheme for the site, (including any necessary phasing of implementation), for the central communal areas, all boundary and surface treatments, design and location for access gates, and all planting, have been submitted to and approved in writing with the Local Planning Authority. 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, and shall be retained as such.

*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 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.

9. 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 the amenity of nearby occupiers

10. The parking and access areas shown on the approved plans shall be fully consolidated, drained and surfaced with tarmac or other material approved in writing with the Local Planning Authority and available for use before the related residential unit is brought into use. The parking and access areas shall be retained and available for such use.

*Reason;* In the interests of amenity and safety.

11. Unless otherwise agreed in writing by the Local Planning Authority, development shall not begin until parking for site operatives has been provided within the application site 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.

12. Prior to built development commencing details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority. Agreed remedial measures shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use.

*Reason;* In the interests of amenity and safety of the future occupiers.

### **Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision**

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP2, ENV 10, ENV 32 and H3 of Walsall Unitary Development Plan 2005, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. If the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at [www.walsall.gov.uk](http://www.walsall.gov.uk)

#### ***Notes for applicant***

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

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

3. Drainage arrangements shall be provided to ensure that the surface water from the private driveway 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.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
On 15 Jul 2008

**REASON FOR BRINGING TO COMMITTEE:** Elected member application

**Application Number:** 08/0488/FL

**Application Type:** Full application

**Applicant:** Melvin Pitt

**Proposal:** Change of use to stationing a canal  
boat restaurant in basin

**Case Officer:** Val Osborn

**Telephone Number:** 01922 652436

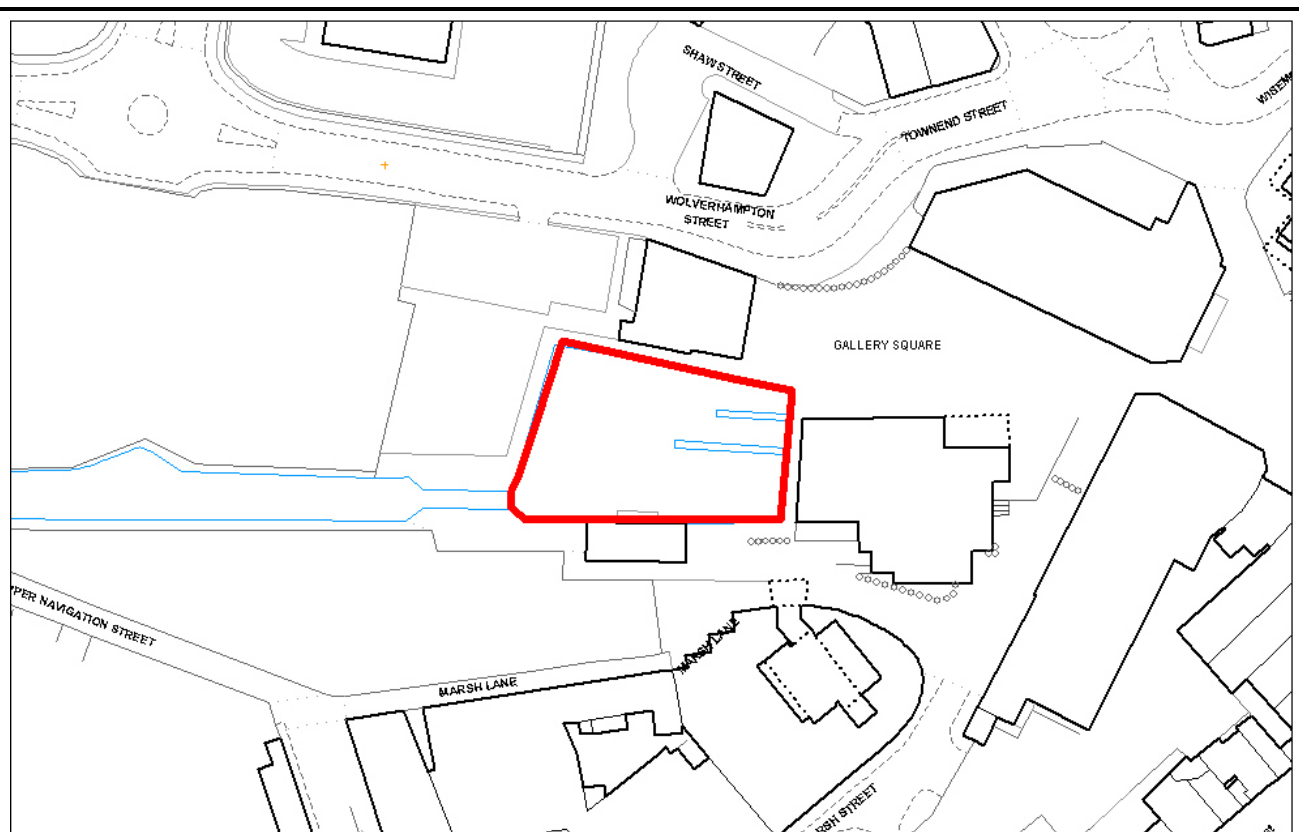
**Agent:**

**Location:** CANAL BASIN,  
Nr.GALLERY SQUARE, WALSALL  
TOWN CENTRE

**Ward:** St. Matthews

**Expired:** 28/05/2008

**Recommendation Summary:** Grant Subject to conditions



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## **Application and Site Details**

This application is for full planning permission for the siting and use of a canal barge at the Wharf Canal Basin as a restaurant.

The applicant estimates the size of the proposed barge to be 72ft by 7ft and would be positioned at a suitable berth within the basin and provide seating for between 30 and 36 covers.

The restaurant menu would comprise pasta, baguettes and panninis which the applicant considers would give minimal odour, with any bacon used being pre-cooked and reheated by microwave. The applicant would remove all refuse generated by the restaurant to an off-site, authorised location.

The applicant has proposed alternative locations for the barge, and would site it within the basin to be agreed with British Waterways.

## **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*)

### **Unitary Development Plan**

#### **Unitary Development Plan**

GP1...principles of sustainable development

GP2, 3.6 and 3.16 seek to improve the environment and achieve schemes that do not have an unacceptable adverse impact on the environment

GP7 designing out crime

3.7...seeks to protect from noise, pollution and other environmental problems.

ENV32 does not permit poorly designed proposals

7.36...ensure adequate levels of off-street parking

T7 and T13 Car Parking standards

S1 defines town centre uses, including food and drink uses.

#### **Designing 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 relevant to this proposal;

DBW1 - Sustainability, new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DBW2 - Safe and welcoming places. All new development must contribute towards creating places that feel safe, secure and welcoming for everyone

DBW3 - all new development must be designed to respect and enhance local identity

DBW9 - new development must seek to ensure it creates places with attractive environmental quality

## **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 sustainability and good design.

## **Consultations**

### **Transportation – No Objection**

**Conservation-** The site is adjacent the Walsall Locks Conservation Area as well as Crown Works and Greatrex House that are locally listed industrial buildings. This is an imaginative proposal as this will bring greater regeneration benefits to the Canal basin and it will be an interactive use within the canal.

**British Waterways** – No objections. Location C would impede navigation. The applicant has entered into British Waterways processes for navigational and trading approval.

**Inland Waterways Association** – Location C is used by visitors as a mooring and is therefore objected to. IWA considers the pontoons at locations A and B are too narrow for safe public access and therefore object on grounds of public health and safety. The only safe places are stern facing the Art Gallery, outside the pub or alongside the wharffingers house.

**Walsall Regeneration Company** – Welcome the proposals as adding to the mix of offer at the Waterfront.

**Urban Design** – It introduces an opportunity to increase the diversity of the town centre and Waterfront and build on the local distinctiveness of the canal basin. It fits comfortably with the wider aspirations to regenerate the Waterfront and Walsall's canalside communities.

### **Pollution Control – No objections**

**Environmental Health** – No objections. The café would have limited hot and cold food preparation which would have a low impact on the nearby residential properties in terms of nuisance. Suitable and sufficient ventilation which may require odour control when appropriate and arrangements to minimise the generation of noise and vibration must be considered. There is always potential for any change of use, particularly hot food of a more pungent nature, which would have a potential odour nuisance.

**Fire Service** – satisfactory for fire service access.

## **Public Participation Responses**

None.

## **Determining Issues**

### **Principle**

#### **Impact on amenity**

### **Observations**

#### **Principle**

The Waterfront area is one of a variety of uses related to the leisure facilities of the town centre. This restaurant use would be a use appropriate to the Town Centre, adding to existing facilities.

The proposal would bring a further food related use to this area, which would increase the diversity of facilities and complement the regeneration of the canalside area.

#### **Impact on amenity**

Gallery One, a block of residential units overlook the canal basin with the Wharf bar in the vicinity of the proposed site. The applicant would prefer a mooring nearest the gallery and The Wharf bar, which would satisfy the concerns of the Inland Waterways Association. This would locate the proposed restaurant furthest away from housing.

It is considered that, with appropriate odour control systems the proposal would not impact on the amenity of local residents.

The applicant wishes to agree a suitable mooring, following the advice and requirements of British Waterways in this respect. As the whole of the basin is identified as the application site, a condition is recommended to secure the precise location of the mooring for the barge.

The applicant has stated that he will be guided by British Waterways Board in the siting of the mooring for the facility. A copy of the comments from Inland Waterways Association has been sent to the applicant for information.

### **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. This development shall not be carried out other than in conformity with the Design and Access statement and e-mails of 27 April 2008 and 27 June 2008. accompanying the application, which particularly defines the type of food to be served.

*Reason:* To define the terms of the permission.

3. No development shall commence until details of the location for the mooring for the barge within the basin has been approved in writing by the Local Planning Authority and the barge shall be retained at that mooring.

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

EHO

**Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision**

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP2, ENV 10 and ENV 32 of Walsall Unitary Development Plan 2005, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. If the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at [www.walsall.gov.uk](http://www.walsall.gov.uk)

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
On 15 Jul 2008

**REASON FOR BRINGING TO COMMITTEE:** Application submitted by a Councillor-  
Significant community interest

**Application Number:** 08/0461/FL

**Application Type:** Full application

**Applicant:** Mr Marco Longhi

**Proposal:** Erection of 2 storey block of 2 no 1  
bedroom flats

**Ward:** Rushall-Shelfield

**Recommendation Summary:** Grant Permission Subject to conditions, unless additional  
information is received which raises mater

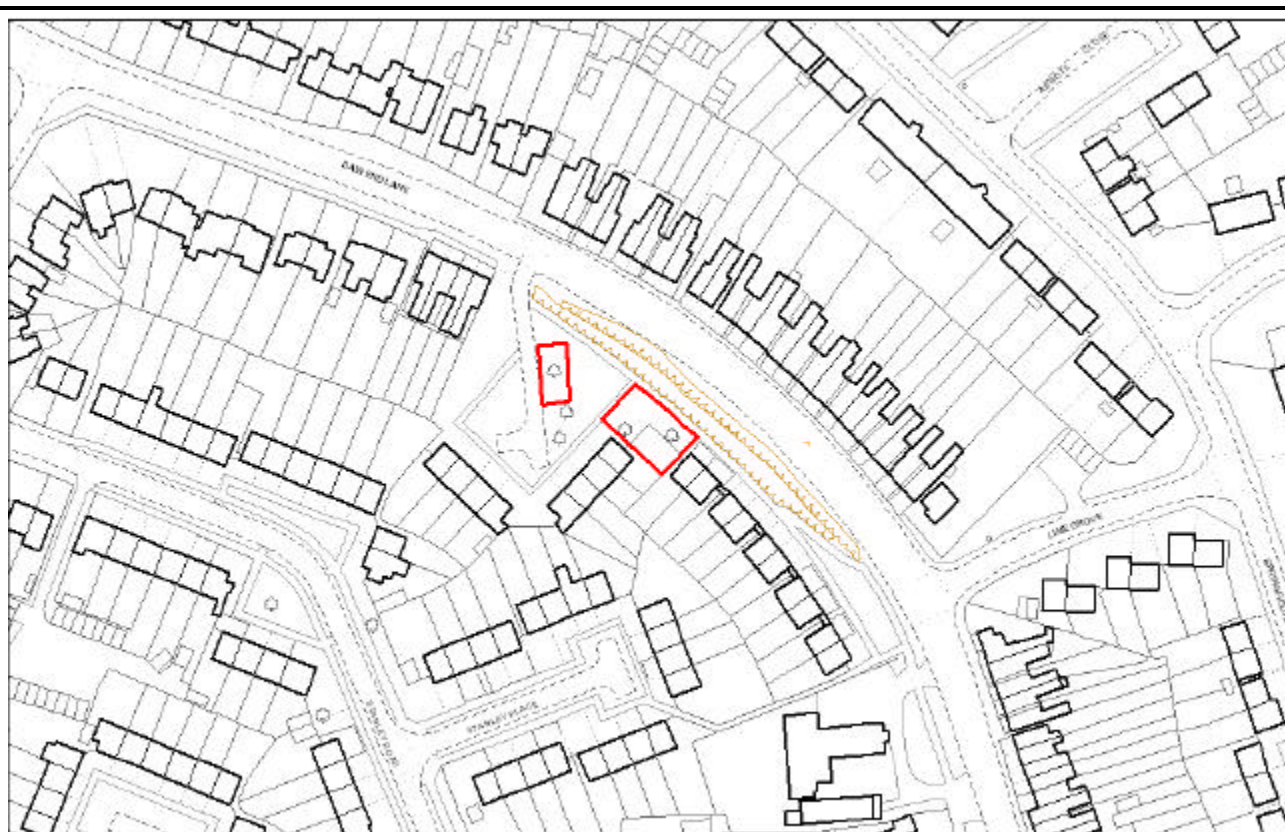
**Case Officer:** Andrew White (E10)

**Telephone Number:** 01922 652429

**Agent:** David Evans Architect

**Location:** 72 DAW END  
LANE, WALSALL, WS4 1JR

**Expired:** 16/06/2008



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prosecution or civil proceedings. Walsall MBC. Licence Number LA 076414.

## **08/0461/FL Land adjacent 72 Daw End Lane**

**Application for the erection of 2 storey block of 2 no. 1 bedroom flats.**

### **Background**

This application has been submitted on behalf of Councillor Longhi.

### **Application and Site Details**

The application site is situated on the southern side of Daw End Lane in an elevated location (approximately 2 to 2.5 metres from the road) behind a mature belt of trees. The area is a predominately residential area with a mix of age, style and designed properties. The site comprises part of the rear garden of 72 Daw End Lane and a small remote area of grass with a lime tree set within the grassed area. There is an existing 1.8metre wall separating the existing garden area from the grassed area. Between Daw End Lane and the application site is an embankment with a belt of mature birch trees and a footpath at the top of the embankment. The footpath serves the adjacent residential properties that front Daw End Lane.

To the east of the application site and facing Daw End Lane, there is a row of 1950's style semi-detached dwellings all elevated above Daw End Lane. To the south of the application site are two blocks of four 1950's style terraced properties set around a grassed area, locally known as the green, which includes parking and an access road from Daw End Lane. The green rises in a southerly direction by some 3 metres from Daw End Lane.

The proposal is for two one bedroom flats within a two storey block of traditional brick and tile design. Each flat provides bedroom, kitchen, living room, bathroom and each flat has pedestrian access to the front of the property. The proposal also includes 57 square metres of shared private amenity for the flats and 45.5 square metres for 72 Daw End Lane. The proposal includes 4 new parking spaces accessed from the main driveway serving the cul-de sac and two new trees adjacent to the car parking spaces.

The site area of 0.0403 ha would provide a density for the proposed development of 49 dwellings per hectare.

### **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)***

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

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

Relates to sustainable development, the location of facilities where they are accessible to everyone and minimise the need to travel.

#### 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.

#### GP7: Community Safety

Proposals are expected to have regard for the objectives to designing out crime.

Policy 3.114 good design can discourage crime and increase safety as well as accommodating the access requirements of all sections of the community.

Policy 3.115 the design of buildings and structures together with landscape design have a major role to play in the creation of an environment which is distinctive and creates a sense of place.

#### 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.

H9: Minimum Densities. Indicates that housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites, but significantly higher densities exceeding 50 dwellings per hectare will be encouraged if close to local centres.

H10: Layout, Design and Dwelling Mix. Requires a high quality living environment to be created, w integrated with surrounding land uses and local character.

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

ENV18: The Council will ensure the protection, positive management and enhancement of trees and hedgerows. Development will not be permitted if it would damage or destroy trees... protected by Tree Preservation Order... unless: - the desirability of the proposed significantly outweighs the ecological or amenity value of trees or hedgerows. 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 and the Council will require planning applications to be fully supported by details of external layout and landscape proposals.

ENV39: Renewable Energy and Energy Efficiency. Encourage proposals for the development of renewable energy sources and for the efficient use of energy.

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

### **Supplementary Planning Document “Designing Walsall” (January 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;

DBW1-Sustainability - new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DBW2 - all new development must contribute to creating places that feel safe.  
DBW3 - all new development must be designed to respect and enhance local identity  
DBW4- Well defined streets with a continuity of built form are important.  
DBW6 - new development should contribute to creating a place that has a clear identity  
DBW7- Development proposals are expected to demonstrate an appropriate range of tenures and housing types to respond to local needs.  
DBW9 - new development must seek to ensure it creates places with attractive environmental quality  
DBW 10 - new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

### **Supplementary Planning Document Conserving Walsall's Natural Environment**

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

### **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.

### **National Policy**

PPS1: Delivering Sustainable Development, emphasis is give to the need to reject poor design and the need for sustainable development.

PPS 3: Housing, the objective of the revised guidance is to:

- Support further increased housing needed across the country
- Bring additional brown field land back into use
- 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.

### **Consultations**

**Transportation** – No objections.

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

**Arboricultural Officer** – Objects to the site layout. The plan sites the property close to a mature lime tree. This tree is an extremely good specimen with a high amenity value; it was planted in a well conceived and ample open space as part of the landscaping design



during the areas original development. The tree is a long lived species and if free from unsympathetic pruning or encroachments into its root zone will out live the neighbouring belt of birch trees and continue to providing a long-term amenity, with potential to become a local land mark.

The proposed species to be planted would be acceptable. Four relatively large trees would encroach on the open space – it might be better in the long term to plant two trees.

**Landscape** – No objections raised to the principle of the landscaping to the parking area, subject to detailed planting design & maintenance.

**Environmental Health** - No objections

**Greenspace Improvement Manager** – has no interest in the site and does not wish to take on any future maintenance once development is complete

### **Public Participation Responses**

Ten letters of objection received in response to the consultation on the following grounds:

- Parking
- Loss of light
- Loss of view
- Overlooking
- Loss of green destroying an amenity that children play on
- Flats occupy part of the green
- Don't want flats in a family neighbourhood
- Disruption and safety issues during construction and storage of materials
- Lighting
- Not being consulted
- The size and nature of the proposal causes visual intrusion by coming closer to our property than 72
- Councillor Longhi is using his position to gain permission purely for profit and not for the community
- Property de-valuation.

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

### **Determining Issues**

- The principle of residential development.
- Impact on trees
- Access and parking arrangements
- The design and layout of the proposals
- Impact on surrounding occupiers
- Other issues

## **Observations**

### **Principle of residential development**

The site is currently occupied by the side garden of an end of terraced style property and a small amount of landscaping, situated in a residential area characterised by two storey dwellings of mixed age and design. Policy H3 of the UDP encourages the provision of additional housing through the re-use of previously developed windfall sites. PPS3 Housing encourages development of brown-field sites for residential purposes.

The site is situated within walking distance (200metres) of Rushall local centre, which benefits from the public transport corridor of Lichfield Road. In addition Daw End Lane itself is also a bus route. The application site is considered a sustainable location and the development of the site for residential purposes is considered appropriate.

The proposal would provide a density of 49 dwellings per hectare which is within the 30-50 dwellings per hectare suggested in Policy H9 (a) as suitable for most sites.

### **Impact on Trees**

The Council's Arboriculturalist has objected to the potential impact on the lime tree and that the proposed building would be within two metres of the crown spread and the footprint will be within half a metre of the root protection zone with a tree that has many years of continued growth. The existing tree is an extremely good specimen and has the prospect of further growth as it reaches maturity. It is considered that the tree would come under increasing pressure from occupants of the proposed property to be significantly pruned or even removed.

The applicants have submitted a revised landscaping scheme that provides compensation for the impact on the lime tree and the loss of any amenity value that it provides. The compensatory planting is for 4 additional trees. This is however not considered acceptable to overcome the objections from the arboricultural officer.

### **Access and Parking Arrangements**

The proposals would provide 4 new parking spaces, set within the green accessed from the driveway that serves the existing dwellings. The Transportation officer considers the parking spaces and vehicle manoeuvring space is acceptable. The provision of 4 spaces for the development would comply with UDP guidance and is considered satisfactory in this sustainable location.

Residents have raised issues with regards to the proposed scheme and parking. These include;

- *Not enough parking in the area.* It is acknowledged there may be a shortfall of parking provision in the vicinity, but the location does benefit from being within a very sustainable location with easy access to alternative means of transport other than the car.
- *Too much parking for two flats.* The Councils UDP policy sets out the requirements for parking provision for all new development and the proposal meets that requirement for the 2 flats and the existing house.
- *Parking interferes with the existing situation.* The parking does not interfere with any defined parking spaces, but it may remove some of the ad hoc parking that has been observed.

- *Parking restricts access for emergency vehicles.* The proposed parking spaces would not interfere with access from emergency vehicles; it is likely to improve access by removing some of the ad hoc parking that occurs currently.
- *Can the proposed parking be shared?* It is not intended to define the proposed parking for the sole use of the development.
- *Problems during construction.* Whilst there is sympathy with residents concerns, issues relating to parking during construction are not a planning consideration and this will be for the developer to ensure manage this sensitively.
- *Residents previously asked to convert the green to parking and turned down.* A number of residents have made reference to the conversion of the green to parking. No planning history regarding this request, other than anecdotal from residents, has been found and therefore it is difficult to comment on any previous requests. Should residents decide to buy the green and submit a planning application in the future for the change of the green to parking it would be dealt with on its individual merit? The application would need to provide details of compensation for the loss of green space and how the proposal would mitigate for the increased surface water run off that would be created.
- *Parking should be closer to the flats.* If the parking is moved closer to the flats, this would remove more of the green and increasing hard standing to the detriment of the local amenity.

### **Design and Layout.**

The proposals would provide a traditional brick and tile two storey detached building of similar design, massing and height as the adjacent houses whilst accommodating two one bedroom flats. It is considered that the design of the proposed building reflects local architectural cues of the immediate vicinity and would comply with UDP policy ENV32 and DW4 of the Designing Walsall SPD.

The building follows the building lines of 66 to 72 Daw End Lane and 92 to 74 Daw End Lane and would remove an unobserved corner that exposed the boundaries of neighbouring properties private amenity. Overall, this would have a net gain for the local safety and security by providing additional surveillance and activity where it is currently lacking.

The proposed flats would benefit from 57 square metres of private secure amenity which exceeds annexe of Designing Walsall SPD. The amenity space for number 72 would be reduced to 45.5 square metres which is below the Council's SPD requirements, but the amenity space is comparable similar properties in the immediate locality and is considered not enough of a short fall in this instance, to warrant refusal of the application.

### **Impact on surrounding occupiers**

It is considered that the proposed building would not have an adverse impact on the amenities of the surrounding residential occupiers.

It is considered the development would have a net gain for the surrounding residential occupiers because they would gain some additional shared parking, landscaping and surveillance of public spaces whilst removing a small amount of remote secluded landscaping.

Residents have raised a number of issues with regards to the proposed development and its potential impact. These include;

- *Loss of light*, raised by a resident to the south of the application site. Given the orientation of the proposal and its location, it is considered to have a minimal impact from loss of light; the existing lime tree is more likely to impact on outlook or loss of light.
- *Loss of view* is not a material consideration.
- *Overlooking*. It is considered the resulting overlooking from the proposed rear facing windows faces the gable wall of number 74 Daw End Lane would have no greater impact on the overlooking of adjacent dwellings than is currently the situation. Overlooking from the front and side of the property towards the public spaces is to be encouraged to provide natural passive surveillance in order to help make places feel safe.
- *Loss of green destroying amenity for children to play on*. Whilst there is a small incursion into the green space to provide 4 parking spaces, this is coupled to the applicant providing additional landscaping to enhance local amenity. This concern also has to be balanced with some residents wanting to remove the green completely to provide additional parking.
- *Don't want flats in a family neighbourhood*. Flats provide an important function in local neighbourhoods by allowing choice in the type of residential accommodation available and by providing more affordable accommodation for first time buyers or those that might not normally afford a dwelling on their own.
- *Disruption/safety and storage of materials during construction*. This is not a material consideration and will be for the developer to ensure the construction team behave responsibly.
- *Lighting*. No additional lighting has been proposed. A safeguarding condition can be imposed to restrict this.
- *Not being consulted*. The Council's requirement is to notify adjacent neighbours directly affected by the proposal as defined in the Planning legislation. The Council has publicised the application more widely than was required to include all residents that bound the green, neighbours and also 7 dwellings on the opposite side of Daw End Lane beyond the belt of birch trees. The resident that raised this is some 115 metres from the site and some 50 metres beyond the furthest property notified.
- *Size and nature of the property causes visual intrusion by coming closer to our property*. The resident who raised this concern is some 55 metres from the development on the opposite side of Daw End Lane. It is considered that during the winter months the resident will gain glimpses of the new building through the birch trees but it is considered in this instance not enough to sustain a refusal.
- *Other issues*. A resident has raised concern that because the applicant is a Councillor, they may use their position to influence the decision. The officers involved have ensured that all dealings with the applicant have been via the agent and all contact has been recorded appropriately. The time taken in bringing the application to committee has ensured all parties adequate time to comment on the application without prejudicing their opportunity to comment and to not feel the application has been rushed to a conclusion.
- *Property devaluation*. This is not a material consideration.

## Conclusion

Whilst it is accepted that the residential scheme is acceptable in principle, there would be an impact on the lime tree and there will be a small incursion into the green for additional

parking. This is a finely balanced case. In conclusion, it is considered that the development would lead to unacceptable impact on the lime tree which could not be mitigated by the benefits of the proposed additional tree planting, landscaping, parking and additional surveillance of public spaces this scheme would bring.

**Recommendation: Grant Permission Subject to conditions, unless additional information is received which raises mater**

**Recommendation. Refuse for the following reason:**

The proposed development would have an unacceptable impact on the mature lime tree which lies in close proximity. The tree is a long lived species and if maintained free from unsympathetic pruning or encroachments, which would be likely to arise as a result of the development, would continue to provide a valuable long term contribution to local amenity. The development is therefore contrary to the aims of policies GP2, 3.6, H.3, H10 ENV 18 & ENV 32 of The Unitary Development Plan & Supplementary Planning Documents Designing Walsall & Conserving Walsall's Natural Environment.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
On 15 Jul 2008

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

**Application Number:** 08/0689/FL

**Application Type:** Full application

**Applicant:** MR & MRS HODSON

**Proposal:** Single-Storey Rear Extension, Rear  
Dormers and Pitched Roof to Front over  
existing porch

**Ward:** Paddock

**Recommendation Summary:** Grant Subject to conditions

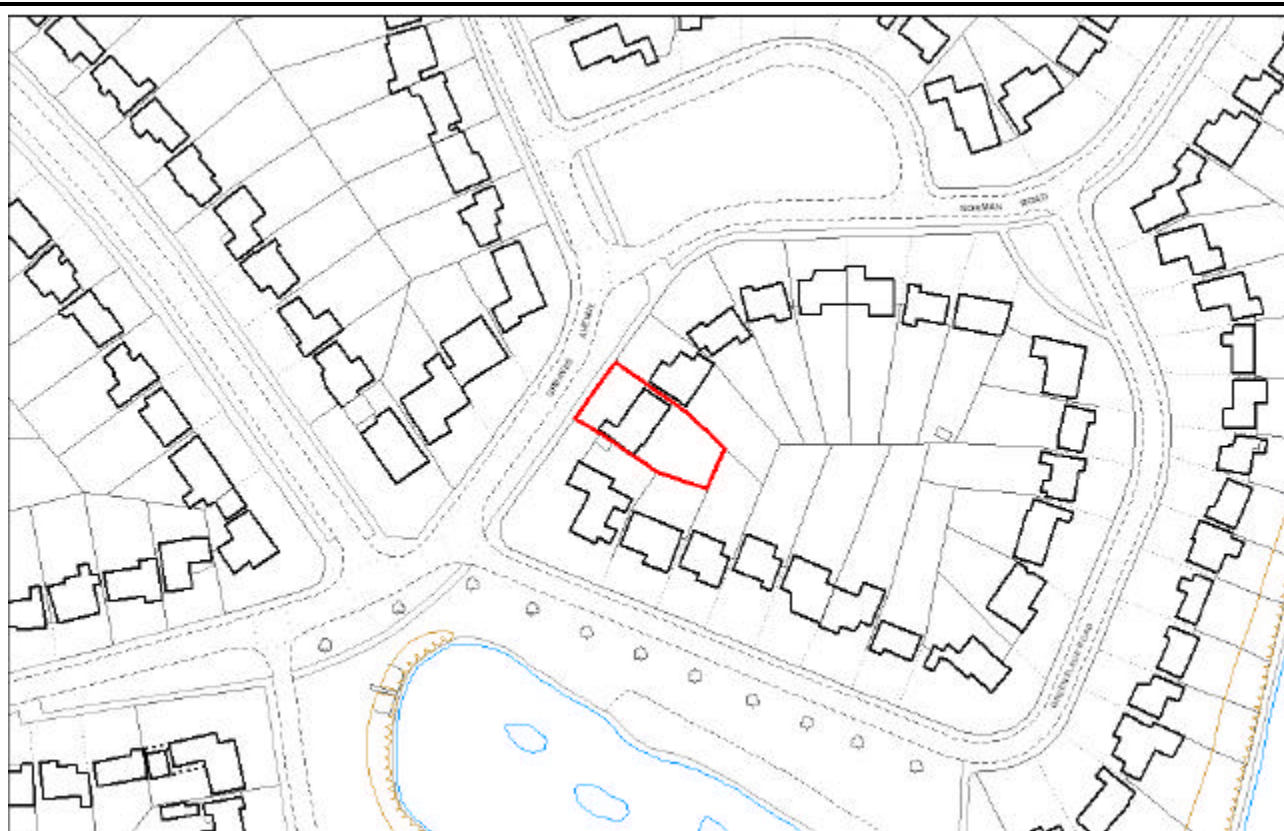
**Case Officer:** Neville Ball (H1)

**Telephone Number:** 01922 652528

**Agent:** MR ROGER PALMER

**Location:** 4 GREAVES  
AVENUE, WALSALL, WS5 3QE

**Expired:** 20/06/2008



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## **Application and Site Details**

This application is for additions to a detached bungalow to enlarge the existing rooms on the ground floor and provide additional rooms in the roof space by adding dormers to the rear. A gable roof is to be added over the existing front porch to match the existing gable over the front bay window. The total number of bedrooms is to be increased from two to five, of which three will be on the ground floor.

The property has a simple gable roof over the main part of the building with a flat roof garage to the side that also projects in front of the rest of the building. The garage lies next to the boundary with the adjoining bungalow number 2 Greaves Avenue. The application originally proposed to continue the gable roof over the garage and add a pitched roof over the front projection, but amended plans have been received that leave the roof of the garage flat, although it is to be converted to a living room. The amended plans also omit the single-storey extension that was originally proposed to the rear of the garage, and reposition this extension to the opposite side of the rear elevation of the property.

2 Greaves Avenue lies on the corner of Greenslade Road. Number 2 is approximately 0.6 metres lower and has windows that face the side of the application property at a separation distance of 8 metres to the nearest point.

The bungalow on the opposite side, number 6 Greaves Avenue, projects 3 metres beyond the existing rear of the application property and is approximately 0.3 metres higher than the property. The rear of the application property faces across the rear gardens of numbers 1, 3 and 5 Greenslade Road.

## **Relevant Planning History**

None

## **Relevant Policies**

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

### **Unitary Development Plan Policies**

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

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

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

H10: Layout, Design and Dwelling Mix.

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

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

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

## **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**

Representations in respect of the original plans were received from the occupiers of 2, 5, 6 and 7 Greaves Avenue, and 1 and 3 Greenslade Road, objecting on the following main grounds:



- Scale of proposal, with the change from two to six bedrooms, is overdevelopment, and is not compatible with the existing dwelling and the character of the wider area;
- Bringing the gable end forward to the boundary and adding the rear extension will result in a domineering effect on number 2, and cause a loss of outlook;
- Increase in parking requirement and use of access on a tight curve would affect highway and pedestrian safety close to a school;
- Loss of privacy, which will be further affected if the large trees in the rear garden of the application property are cut down;
- The applicants are only buying the property as a financial investment, not as a family home;
- Increase in noise and disturbance.

Representations in support of the objections were also received from Councillors Martin and Sanders.

Following notifications of the amended plans, representations have been received from all of the above neighbours, together with the occupier of 2 Norman Road. The representations raise similar concerns to those made in respect of the original plans. The occupier of 2 Greaves Avenue also notes that a very large window is now proposed on the ground floor that will face towards their property, whilst the occupier of 6 Greaves Avenue notes that the drawings fail to show the means of access to the self-contained unit formed from the garage but include an access door between numbers 4 and 7 which could become a source of noise.

The representations may be viewed in full in Planning Services.

### **Determining Issues**

- Design of Extensions and Impact on Character of Area
- Impact on Amenity of Nearby Residents
- Parking.

### **Observations**

#### **Design and Character**

The design of the extensions would be in keeping with the existing building. Based on the amended plans, only the new gable over the front porch would be visible from the street, and this would match the existing gable over the front bay window.

Dormers, both to the front and rear, are a common feature on bungalows in the area. Most of the dwellings nearby, except for those on corners such as number 2, are large detached houses. The bungalows, including number 2, generally occupy larger plots than the application property and already have more bedrooms. The proposed additions will therefore have little impact on the character of the area.

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

The amended plans omit the part of the extension nearest to number 2. Number 2 lies to the south, and the separation distance from the sides of the rear dormer and single-storey rear extension to the rear of number 2 would comply with policy. The boundary fence

would limit the potential for overlooking between the proposed side-facing window and the rear of number 2, but further amended plans have been requested to omit this window.

The amended plans reposition the single-storey extension next to the boundary with number 6 Greaves Avenue, but the extension would be lower than number 6 and would only project 1 metre beyond the rear of this property.

The rear dormer would face across the rear gardens of the houses and bungalows in Greenslade Road, but the rear garden of the application property is an average of 18 metres long and the properties in Greenslade Road, most of which except number 1 have gardens of a greater length, lie at right angles. Number 1 is the nearest and has a garden only 11 metres long but lies at the most acute angle to the rear of number 4. The separation distance and angle therefore means that the impact from increased overlooking would be limited.

As noted by the neighbours, there are currently trees in the rear garden of the application property but the nearest one, which is a willow, is to be removed even in the absence of any extension as it is causing structural damage to the property.

The applicants have confirmed that the self-contained area is to be used as a granny annex for a family member, whilst the window to the side of the rear extension facing number 2 is to be obscure glazed.

The door to be installed between the sides of numbers 4 and 6 does not require planning permission.

### **Parking**

The proposals involve the loss of the existing garage, but the frontage of the application property is over 16 metres wide which would be large enough to accommodate at least three parking spaces in accordance with the Council's parking standards for dwellings with four or more bedrooms.

### **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 extensions 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. This development shall not be occupied until the driveway has first been enlarged to provide a total of at least 3 parking spaces, each hardsurfaced, measuring at least 2.4 x

4.8 metres and with access from the highway. The spaces shall thereafter be retained as such.

Reason: To ensure the satisfactory provision of off-street parking, and in accordance with policies T7 and T13 of Walsall's Unitary Development Plan.

4: 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.

5: This development relates to the amended plans deposited on 3 June 2008. The side-facing window to the proposed living room shown on these plans shall be obscure glazed at all times. The development shall not be occupied until details of this glazing have been submitted to and approved in writing by the local planning authority.

Reason: To define the permission, to safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

6: The separate annex in the position of the existing garage shall only be used as ancillary accommodation to the main dwelling, and shall only be occupied by relatives or employees of the occupiers of the main dwelling.

Reason: There is no separate parking or amenity space for this accommodation, and to comply with policy GP2 of Walsall's Unitary Development Plan.

### **Summary of reasons for granting planning permission and the policies which are relevant to the decision**

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 on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services.