

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 27 April 2023

Plans List Item Number: 2

Reason for bringing to committee

Called In by Head of Planning as required committee consideration due to Significant Community Interest and Impacts

Application Details

Location: AAINA WOMENS CENTRE, BATH ROAD, WALSALL, WS1 3BS

Proposal: DEMOLITION OF EXISTING COMMUNITY HUB AND CONSTRUCTION OF NEW 2.5 STOREY (FRONT ELEVATION) AND 3 STOREY (REAR ELEVATION) REPLACEMENT COMMUNITY HUB WITH REAR DORMER WINDOWS AND BALCONIES, COURTYARD PARKING AND COURTYARD GARDEN. PROPOSED BOUNDARY RAILINGS AND ENTRANCE GATES (RESUBMISSION OF PLANNING APPLICATION NO. 21/1789)

Application Number: 23/0146

Case Officer: Helen Smith

Applicant: Aaina Community Hub

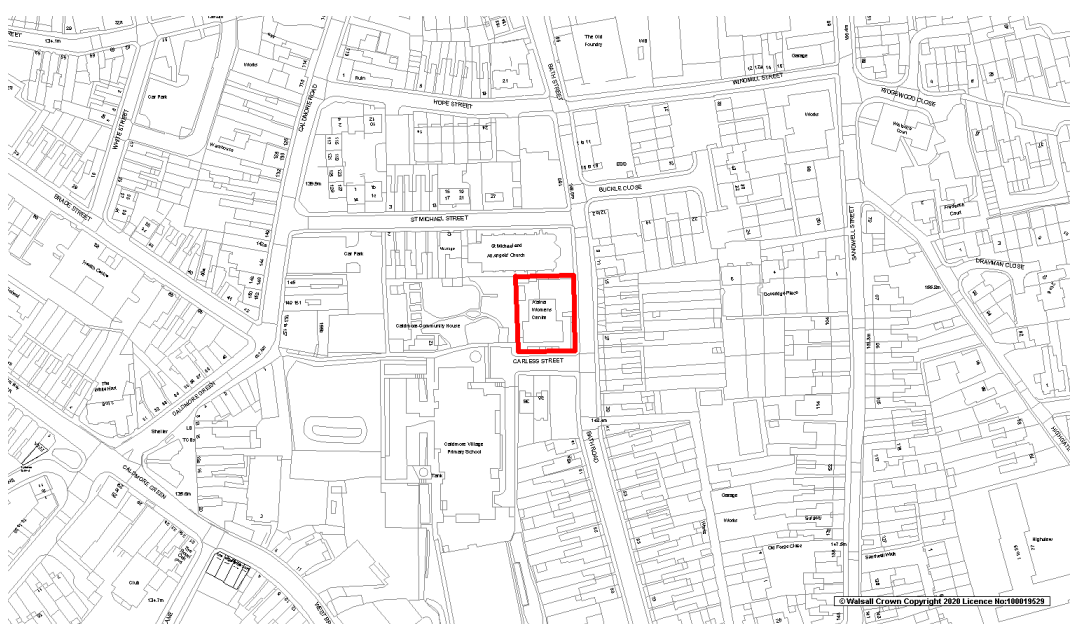
Ward: St Matthews

Agent: Potter Church and Holmes Architects

Expired Date: 02-Apr-2023

Application Type: Full Application: Minor Use Class F2 (Local Community)

Time Extension Expiry:



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Recommendation

Refuse

Proposal

This proposal is a resubmission of an amended planning application following the refusal of a previous planning application (reference no. 21/1789).

The current proposal is for the demolition of existing community hub building and the proposed construction of new 2.5 storey replacement community hub. The building would be 3 storeys high to the rear. The new building would include rear dormer windows and balconies, courtyard parking, courtyard garden, boundary railings and entrance gates. The existing community hub is a two storey flat roof building

The submission states that whilst changes have been made to the design, they have not changed the size of the proposed building as this is required to allow for the delivery of essential services to the local community.

The proposed new building would include a main hall for intergenerational activities, exercise and well-being classes, and rooms for hire for the delivery of services such as consultations, polling station and community events. An ancillary community café would be included to provide catering training and provide hot food for vulnerable adults. Storage facilities, garden/courtyard area, offices/meeting room, plant room and IT suite would be included.

The planning statement comments that the proposed new building would be positioned further back into the application site than the original building to avoid obstructing the view of St Michaels' and All Angels Church. The proposed front elevation would sit 10.2 metres back from Bath Road public footpath.

There are no changes proposed to the height, footprint, or internal layout of the proposed new building. The proposed height of the building is unchanged from the previous proposal. The land slopes down towards the rear of the application site and the proposed heights of the new building are;

- Rear elevation (west) – 11.4 metres high
- Front Elevation (East) – between 8.8 and 10.9 metres

The Planning Statement advises that the rear cavity of the existing building is filled with soil to bring this up to pavement level.

Site elevation drawings have been provided to demonstrate how the proposed new building would sit in the landscape and in relation to adjacent buildings along with a plan showing the footprint of the existing building to be demolished in relation to the footprint of the proposed new building. An analysis of window form in relation to St

Michael's Church has also been provided referring to triplets of large and small windows in both buildings.

To the rear of the proposal there are balconies at first and second floor level along with a rear dormer roof extension which would measure 21.9 metres in width and would extend a maximum of 3.9 metres from the roof plane (excluding dormer roof overhang). Sky lights would be installed in the front roof elevation at ridge height.

The roof would have a gable design with photovoltaic panels added to the rear roof slope. Side facing windows are proposed at ground, first and second floor level.

The proposal includes the provision of 9 off-street car-parking spaces. There are mature trees along the northern boundary of the site which are not subject to Tree Preservation Orders.

The proposed cycle racks and bin stores have been relocated to a less prominent position to the rear of the building below the proposed first floor balcony. Additional tree planting has been shown on the site plan to the front of the property and the proposed front boundary wall has been reduced in height from 500mm to 450mm with railings over. The proposed side facing boundary walls with railings over, at the front of the proposal, have also been reduced in height.

The proposal includes a proposed change of materials to include red brick work, timber cladding and natural slate roof which is a change from the previously proposed standing seam roof and yellow/orange glazed brick inserts. The planning statement refers to the removal of a canopy, which was originally to be from the front gates to the front door of the building on the revised proposal.

The planning statement refers to the incorporation of green energy efficient measures to reduce the cost of heating and lighting and to reduce the carbon footprint.

The planning statement refers to a 3 storey social housing project directly opposite the church which they consider competes visually with St Michael's Church in terms of scale and blocks the front view of the church.

The application is supported by the following documents;

- Asbestos Survey
- Coal Mining Report
- Design and Access Statement
- Heritage Statement
- Drainage and Water Report by Severn Trent
- Environmental Report by Landmark
- Letter of support from IQRA Supplementary School and Youth Provision
- Non Residential Mining Report
- Phase 1 Contaminated Land Assessment
- Planning Statement
- Topographic Survey
- Traffic Statement

The Heritage Statement outlines the alterations to the proposed scheme since the refusal of the previous application as:

- Alterations to the proposed railings;
- Replacement of double doors with lower gates;
- Removal of the covered walkway;
- Removal of yellow accent panels;
- Planting between the car parking area and the church wall;
- Slate roof

Site and Surroundings

The application site is a rectangular parcel of land on the western side of Bath Road and the northern side of Carless Street.

The application site is an existing brick built community centre on Bath Road and the building is of flat roofed construction circa 1970's. The site is situated on a parcel of land adjacent to St Michael's and All Angels Church, a Grade II Listed Building fronting Bath Road and St Michaels Road.

The application site is located on the edge of the Highgate Conservation Area and Caldmore Green Conservation Area is situated approximately 100 metres to the west of the site. There are a number of locally listed buildings in the immediate area including no's. 27a and 39 Bath Road. Caldmore Green Conservation Area is listed on the Heritage at Risk Register as "very bad" and "no significant change".

The site is 120 metres from the edge of Caldmore Local Centre. Caldmore Road sits at a lower level than Bath Road.

In addition to the above neighbouring 39 Bath Road and 27a Bath Road are locally listed buildings.

Caldmore Community House is separated from the site by a distance of 40.6 metres.

The application site slopes down in a westerly direction by approximately 2.7 metres. To the south of the application site is Carless Street, a cul-de-sac.

The existing building has an adjacent car park and to the rear of the application site is a community garden. To the south west of the site, off Carless Street cul-de-sac, is Caldmore Village Primary School.

Relevant Planning History

21/1789 - Demolition of existing community hub and construction of new 2.5 storey replacement community hub with rear dormer windows and balconies, courtyard parking and courtyard garden. Proposed boundary walls, railing, and gates – refused permission on 10/8/22 on the following grounds;

1. The proposed development competes with the Grade II Listed Church St Michael's, and would obscure views of this designated heritage asset from Bath Street. The proposed development is not considered sympathetic to the character and appearance of the locality and fails to preserve or enhance the character and appearance of the Highgate Conservation Area. This proposal results in less than substantial harm to designated heritage assets; the public benefit of the redevelopment of the site would not outweigh the harm arising in particular due to the size, height and scale of the development and its impact on the existing heritage assets. Furthermore the application fails to demonstrate that the proposal would comprise the most optimum viable use which would cause the least harm to the significance of the heritage assets contrary to Saved Policies GP2 Environmental Protection and ENV27 Buildings of Historic or Architectural Interest of Walsall's saved Unitary Development Plan, Policies ENV2 Historic Character and Local Distinctiveness and ENV3 Design Quality of the Black Country Core Strategy, DW3 Character and DW9 High Quality Public Realm of the Designing Walsall SPD and paragraphs 195 and 202 of the National Planning Policy Framework 2021.
2. The proposed development would be detrimental to the character and appearance of the locality when weighing up the merits of the scheme in relation to the provision of a community facility the proposal cannot be supported on visual impact grounds as the proposal fails to provide sufficient benefit that would overcome the impact on the character and appearance of the area and is therefore contrary to Saved Unitary Development Plan Policies GP2 Environmental Protection and ENV32 Design and Development Proposals, Black Country Core Strategy Policies CSP4 Place Making, and ENV3 Design Quality, DW1 Sustainability, DW2 Safe and welcoming places DW3 Character of the Designing Walsall SPD and Chapter 12 paragraph 130 of the NPPF 2021.

This previous planning application is the subject of an appeal to the Planning Inspectorate reference no. APP/V4630/W/23/3316356. This was confirmed by PINS on 09/02/23 but has yet to be determined.

07/0848/FL - Residential flat to be converted to a community centre – GSC 20/06/2007

Relevant Legislation, Policies and Guidance

Legislative Context

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

16(2) In considering whether to grant listed building consent for any works the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

66 (1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

72 (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Case Law

E Northants DC v Secretary of State for Communities and Local Government [2014] EWC A Civ 137) confirms that the duties imposed under the Act indicate that where harm to a listed building or conservation area or its setting is identified this a matter to which great weight and importance should be attached in the planning balance.

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions**, the NPPF (para 55) says:

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

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

National Planning Policy Guidance

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

Reducing Inequalities

The Equality Act 2010 (the '2010 Act') sets out 9 protected characteristics which should be taken into account in all decision making. Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV25: Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV28: The 'Local List' of Buildings of Historic or Architectural Interest
- ENV29: Conservation Areas
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- LC8: Local Community Facilities

Black Country Core Strategy

- CSP4: Place Making
- HOU5: Education and Health Care Facilities
- CEN7: Controlling Out-of-Centre Development
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

EN5: Development in Conservation Areas

T4: The Highway Network

Supplementary Planning Document

Designing Walsall

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

Planning Practice Guidance

- Design: Process and Tools
- Historic Environment
- Use of Planning Conditions

National Guidance

- National Design Guide

Other Policy/Guidance

- National Design Guide
- Historic England Good Practice Advice Note1: Conservation Area Designation, Appraisal and Designation.
- Historic England Good Practice Advice Note 2: Managing Significance in Decision-Taking in the Historic Environment.
- Historic England Good Practice Advice Note 3: The Setting of Heritage Assets.
- Historic England Advice Note 12: Statements of Heritage Significance: Analysing

Significance in Heritage Assets.

- Black Country Historic Landscape Characterisation (2009)
- Highgate Conservation Area Appraisal and Management Plan.
- Caldmore Green Conservation Area Appraisal and Management Plan.

- Historic Environment – Guidance, Gov. UK, updated 23/7/19

Consultation Replies

Archaeology – No archaeological implications

Coal Authority – No objections subject to the inclusion of the Coal Authority's standing advice if the application is approved.

Conservation Officer – Objects

Designing Out Crime Officer – No objections and recommend the principles of Secured by Design which can be included as an informative note

Environmental Protection – No objections subject to the inclusion of planning conditions in respect of asbestos removal, implementation of a Demolition and Construction Management Plan and to ensure that any imported soils are safe for intended use, if approved.

Fire Officer – No objections subject to compliance with Approved Document B, Volume 2, Dwellings, 2019 Edition incorporating 2020 and 2022 amendments - for use in England. An informative can be included for the applicant.

Historic England – No specific comments but confirm that the views of the Council's specialist Conservation Officer are sought.

Local Highway Authority – No objection subject to the inclusion of planning conditions in respect of hard-surfacing of the parking area, retention of parking spaces, cycle racks, construction methodology statement required and an informative note to keep the highway free from mud etc. if this proposal is approved.

Severn Trent Water – No objections subject to the inclusion of a drainage condition for the disposal of foul and surface water flows and an informative that there may be a public sewer located within the application site if the proposal is approved.

Representations

(Local Planning Authority comments are in brackets and italics)

Objections have been received from 4 residents on the following grounds;

- Loss of natural light
- Privacy
- Outlook restricted
- Parking
- Increased noise and disturbance
- Increased traffic

- Increased visitors to the site
- Air quality
- Alternative site should be considered *(the Local Planning Authority is required to assess the planning application as submitted)*
- Extend the community garden into this site *(the Local Planning Authority is required to assess the planning application as submitted)*
- Trees already removed *(there are no protected trees within the site however trees within Conservation Areas are protected)*
- Disruption during construction works *(there would be some disruption during construction however the potential impacts can be managed by a Construction Environmental Management Plan, if approved)*
- Working people cannot view the plans *(the plans are available to view online and if there are difficulties in accessing the internet an alternative provision can be provided on request)*
- Glare from solar panels *(a planning condition can be included requiring anti-glare surfaces on solar panels if approved)*
- Danger to children using the school from increased traffic
- Loss of views *(there is no right to a view in this instance)*
- Impact on historic church

Representations supporting the proposal have been received from 8 residents/centre users on the following grounds:

- Valuable community service
- Caters for the needs of women and children
- Teaches vocational skills
- Current building is too small, old, and difficult to heat
- Outdated toilets
- Kitchen too small
- Well used community asset

Determining Issues

Whether the application has addressed the reasons for refusal of the previous application or raises any new issues in respect of;

- Principle of Development
- Previous Refusal Reason 1 – Impact on Heritage Assets
- Previous Refusal Reason 2 – Design and Visual Impact
- Amenity of Neighbours
- Asbestos
- Ground Conditions and Environment
- Trees
- Parking and Access

Assessment of the Proposal

Principle of Development

This matter was considered by the previous planning application and Planning Policy indicated that while this is a proposed out of centre use, they advised that they would support an F2 use in this location, out-of-centre, given that this does not represent a centre use in the most up-to-date national guidance.

The facility is considered represents a much needed and valued community use that is widely supported in local strategy, offering expanded benefits for the social welfare, health and cohesion of the surrounding community that is has already long served in situ. The justifications previously provided in support of this proposal in planning policy terms was considered to be acceptable in principle.

Refusal Reason 1 – Impact on Heritage Assets

1. The proposed development competes with the Grade II Listed Church St Michael's, and would obscure views of this designated heritage asset from Bath Street. The proposed development is not considered sympathetic to the character and appearance of the locality and fails to preserve or enhance the character and appearance of the Highgate Conservation Area. This proposal results in less than substantial harm to designated heritage assets; the public benefit of the redevelopment of the site would not outweigh the harm arising in particular due to the size, height and scale of the development and its impact on the existing heritage assets. Furthermore the application fails to demonstrate that the proposal would comprise the most optimum viable use which would cause the least harm to the significance of the heritage assets contrary to Saved Policies GP2 Environmental Protection and ENV27 Buildings of Historic or Architectural Interest of Walsall's saved Unitary Development Plan, Policies ENV2 Historic Character and Local Distinctiveness and ENV3 Design Quality of the Black Country Core Strategy, DW3 Character and DW9 High Quality Public Realm of the Designing Walsall SPD and paragraphs 195 and 202 of the National Planning Policy Framework 2021.

The amended planning proposal has made minor changes to the initial proposal however the scale, mass, footprint, positioning and height of the proposed new building is unchanged.

Consequently, the proposed development is considered would compete detrimentally with the neighbouring Grade II St Michael's and All Angels Church and would detrimentally obscure long views of this designated heritage asset when looking northwards along Bath Road.

The proposed built form and design of the part 2.5 and 3 storeys high development is considered unsympathetic and would cause lasting visual harm to the historic character of the neighbouring listed church, two designated Conservation Areas, one of which is recorded on the Heritage at Risk Register and the immediate locality.

The Council's Conservation Officer has been re-consulted on the revised proposal and has maintained their objection on heritage grounds.

The Conservation Officer has advised that the proposed building has a large expanse roof that would overhang the building and with the fortress type boundary, albeit reduced in height, along the frontage of the site, the proposal would dominate views of the church from Bath Road. The submitted Heritage Statement states a flat roof building is out of character with the surrounding buildings and whilst this is considered the case, it is also considered that the existing building could have been deliberately designed to retain views of the church along Bath Road.

The proposed building is shown to be set back approximately 4.4m and 1m from the position of the original staggered building line. However, the existing building is irregular in shape and staggered in height part two storey, part single storey. The existing two storey element extends 9m in length across the frontage and then steps in by 4.4m to then extend 10m in length. The proposed building now extends 23m in length across the site, closer to the boundary with Carless Avenue at a height of 11m, which would be visually prominent in the street scene. The proposed building competes with the listed church due to its height. Historically, buildings surrounding the church would have been two storey and whilst some three storey development has been allowed opposite the church, these are on the opposite side of the road and seen in content of the continued development along the eastern side of Bath Street.

The Heritage Statement states 'The OS map of 1885 shows substantial buildings tight to the back of pavement line on the site of the current community hub, with a wooded gardens behind. The substantial building on the corner ("presumably a house" – See Heritage Statement) would have obscured the long views of the Church, built at that time, from Bath Street to the south, and therefore the church was never designed with such long views as being important elements in its visibility in the urban context of Bath Road'. There is no evidence to suggest that any building sitting tight along Bath Road at the junction of Oxford Street (as it was known then) would have obscured long views of the church. The dwelling most likely would have been two stories high, with rear two storey and single storey wing, following on from the established pattern of development.

Furthermore, there is a gap between the development at the junction of Oxford Street and Bath Road and the built development to the west of that, where views of the church would have been visible. St Michael's and all Angels Church has a high level of significance emanating from its Grade II listed status. The key issue is to safeguard the significance of the listed church to ensure any new development is subservient to the church and to avoid harm to the setting of the listed church.

Previously, the Conservation Officer stated that the proposed building blocked views of the church, other than the chancel and apse when looking north from Bath Road. This remains the case.

The Heritage Statement states, 'the eaves of the new community hub remain subservient to the eaves of both the chancel and nave of the church'. The church is the most prominent building on the western side of Bath Road. The submitted scheme, blocks even more of the views of the church from Bath Road and especially more so

with the proposed boundary wall and railings, albeit the boundary having been slightly reduced in height.

The proposed rear elevation of the building would be seen from the access road adjacent number 2 St. Michael Street, leading to the car park and rear of the commercial properties along Caldmore Road and from Caldmore Road itself. Caldmore Road sits at a lower level than Bath Road. The proposed three storey development together with the large expanse roof including the continuous flat roof dormer and numerous solar panels are considered would not only dominate the skyline but would be seen as a visually prominent and visually detrimental development that would harm the significance and setting of the Listed church. Whilst, this harm would be less than substantial it is considered that the scale of harm would be weighed as medium to high. Furthermore, the proposed development would tower above existing two storey development, especially given the site is set at a higher level than 12 Carless Street.

The eaves of the proposed building still appear to be higher than the church, and the pitch of the roof sits in line with the church. The proposed building due to its height and width is prominent and dwarfs the church impacting upon its setting and harming the significance of the listed church. While this harm would be less than substantial the scale of harm would be weighed as medium to high.

The site is on the edge of Highgate Conservation Area. The design and height of the proposed development with its large expanse roof together with the proposed boundary treatment is considered would not enhance or preserve the character or appearance of Highgate Conservation Area. Furthermore, the proposed development, due to its height and design, is considered would be harmful to the setting of Highgate Conservation Area. Whilst this harm would be less than substantial the scale of harm would be weighed as medium to high.

The Caldmore Green Conservation Area is located to the west of the site, beyond the residential properties fronting Bath Road; the proposal would have less than substantial harm to the significance of the heritage asset and the scale of harm would be weighed as low.

The design of the proposed building is considered to have been designed as one large box with a large pitch roof housing one large flat roof dormer. The Heritage Statement states, 'the new ridge height would be below the eaves height of the church'. The submitted visuals do not show the roof height to be lower than eaves height of the church.

The solid to void relationship on the front elevation is considered to be unbalanced. The window design and proportions do not relate or reflect the existing character of the street scene and the smaller square windows look out of keeping with the design appearing to be 'swallowed up' by the solid form of the built development on the right-hand side and fail to add any meaningful design or character to the building.

The left-hand windows at first floor leaves a larger gap between the first floor and the roof. The drawing submitted seems to illustrate that the proposed centre is subservient to the church, when in fact the submitted visual show the opposite.

The proposed development, due to its design including an overhanging roof and unbalanced solid to void proportions, height, scale, mass, represents poor design that fails to integrate with the existing pattern of development. The proposal fails to respect, preserve, and enhance the local historic and architectural character of the area and the local townscape quality. Furthermore, the proposed development due to its large bulky design would be visually prominent within the street scene.

Soft landscaping and trees along Bath Street, in particular St Michael's Church are visually prominent due to the low boundary walls and railings. Existing properties along Bath Road have low level boundary walls with hedges behind. The boundary to the listed church consists of a low wall with railings on top that allow views into the church grounds and the church. The proposed landscaping is shown behind the proposed boundary wall, meaning it would be hidden by the boundary wall. No planting details have been provided. Planting is proposed adjacent the boundary wall, where sunlight would be limited. The introduction of a fortress like boundary treatment of a wall with railings on top is not characteristic of the street scene and does not promote high quality development that visually enhances the street scene. The proposed boundary treatment would visually detract from the character and appearance of the street scene.

The cycle stands have been positioned to the rear of the site along with the bin store, which is positioned adjacent to Carless Street. There are no details showing the refuse area. Any cycle facilities would need to be designed into the scheme as an integrated feature for safety and security reasons to design out crime.

The proposed revised materials include red brick and a slate roof, which would be acceptable subject to exact colour matches being agreed by planning condition, if the proposed development were to be supported. However, the timber cladding either side of the proposed front door is not characteristic to any design or architectural features along Bath Road and would be seen as out of character in the street scene.

The previous refusal reason refers to the proposal failing to demonstrate that this would comprise the most optimum viable use of the site, which would cause the least harm to the significance of the heritage assets. The optimum viable use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes.

The Case Officer is of the opinion that the requirement to consider the optimum viable use relates specifically to heritage assets rather than to a neighbouring development, such as the proposed new community hub being considered, which is not, in itself, a heritage asset. The NPPF (2021) however, requires that any harm to designated heritage assets is weighed against the public benefits of the proposal and this has been commented upon in the section titled Refusal Reason 2.

Consequently, it is considered that the amended proposal would harm the setting and significance of the listed church. The proposed development would not be sympathetic to the setting of a listed building and fails to improve the character and quality of the historic area and represents poor design. It is considered that the proposal fails to enhance and preserve the character and appearance of Highgate conservation area, the proposal is contrary to paragraphs 134, 202 and 206 of the NPPF, Saved Policies GP2, ENV29 and ENV32 of the UDP, policies ENV2 and ENV3 of the BCCS, Policy EN5 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.

In view of the above concerns it is considered that the revised proposal fails to address the first refusal reason.

Refusal Reason 2 – Design and Visual Impact

2. The proposed development would be detrimental to the character and appearance of the locality when weighing up the merits of the scheme in relation to the provision of a community facility the proposal cannot be supported on visual impact grounds as the proposal fails to provide sufficient benefit that would overcome the impact on the character and appearance of the area and is therefore contrary to Saved Unitary Development Plan Policies GP2 Environmental Protection and ENV32 Design and Development Proposals, Black Country Core Strategy Policies CSP4 Place Making, and ENV3 Design Quality, DW1 Sustainability, DW2 Safe and welcoming places DW3 Character of the Designing Walsall SPD and Chapter 12 paragraph 130 of the NPPF 2021.

The proposal has changed little from the initial proposal in terms of its built form, position, height and scale and the concerns of a detrimental visual impact from this proposed development remain as outlined in the previous comments given under Refusal Reason 1 above.

The amended planning proposal has made minor changes to the initial proposal however the scale, mass, footprint, positioning and height of the proposed new building is unchanged.

Consequently, the proposed development is considered would compete detrimentally with the neighbouring Grade II St Michael's and All Angels Church and would detrimentally obscure long views of this designated heritage asset when looking northwards along Bath Road.

The proposed built form and design of the part 2.5 and 3 storeys high development is considered unsympathetic and would cause lasting visual harm to the historic character of the neighbouring listed church, two designated Conservation Areas, one of which is recorded on the Heritage at Risk Register and the immediate locality.

The NPPF (2021) however, requires that any harm to designated heritage assets is weighed against the public benefits of the proposal. In this instance it is recognised that the proposed development of the Aaina Community Hub would provide an improvement

to the existing facilities and services provided which would result in a public benefit for the users of the centre. However in this instance, it is considered that the proposed public benefits would not outweigh the harm, arising in particular from the proposed size, height and scale of the development in relation to its detrimental impact, on the existing Grade II listed St. Michael's and All Angels Church and the neighbouring Conservation Areas.

Case law confirms that the duties imposed under the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, indicate that where harm to a listed building or conservation area or its setting is identified, this a matter to which great weight and importance should be attached in the planning balance. The case law referred to is *Northants DC v Secretary of State for Communities and Local Government* [2014] EWC A Civ 137). In this instance it is considered that the harm to the listed building and its setting and the harm to the Conservation Areas is unacceptable in this instance.

The proposed development is considered would not to be sympathetic to the setting of a listed building and fails to improve the visual character and quality of the historic area and represents poor design. The proposal cannot be supported on visual impact grounds as the proposal fails to provide sufficient benefit that would overcome the impact on the character and appearance of the area.

The proposal is considered fails to enhance and preserve the character and appearance of Highgate conservation area, the proposal is contrary to paragraphs 134, 202 and 206 of the NPPF, Saved Policies GP2, ENV29 and ENV32 of the UDP, policies ENV2 and ENV3 of the BCCS, Policy EN5 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.

Consequently, it is considered that the second refusal reason has not been satisfactorily addressed. The previous refusal reasons have been amended from the previous proposal to include more detailed reasons to clarify and assist with the understanding of the Local Planning Authorities concerns regarding this proposed development.

Amenity of Neighbours

The proposed development would sit 4.5 metres further back into the site than the existing building and there would be a separation distance of 24.6 metres between front habitable room windows in house no's 17 to 25 Bath Road. This distance would be slightly less for 27 Bath Road to 23.5 metres; however, this would exceed the Council's minimum recommended separation distance of 13 metres referred to in Appendix D of Designing Walsall, between habitable room windows and walls in excess of 3 metres high. This distance would limit the impacts of this proposal on neighbours existing natural light, privacy, and outlook.

36 and 35 Carless Street are dwelling houses and face north towards the application site. The proposed development would sit closer to these neighbouring houses than the existing building however as there would be a separation distance of 21.4 metres between habitable room windows and the side elevation of the building, along with the

northerly orientation of the development, it is considered that the impacts on amenity, natural light and outlook would be limited.

Caldmore Community Garden sits to the rear and west of the proposed new development. Proposed balconies would overlook this area and provide natural surveillance. As the site is in close proximity to Carless Street and the balconies could result in potential overlooking of house no's 35 and 36, screens could be provided to obscure the views from the balconies, which could be controlled by planning condition.

Concerns regarding noise and disturbance have been raised by neighbours however it is considered that whilst there would be some disruption for residents during construction works, if approved, this would be for a limited time-scale and the works could be managed by a Construction Environmental Management Plan.

Noise and disturbance from the proposed rear balconies as people would potentially be sitting and congregating in these outdoor areas is likely to result in some level of noise however this would already arise from the established community use, community garden, the adjacent school and church use such that a refusal on these grounds is considered inappropriate.

The amended proposal is considered to have not raised any new issues in respect of impacts on the amenity of neighbours.

Air Quality

Environmental Protection Officers have raised no concerns in respect of air quality.

Asbestos

Environmental Protection have advised that the asbestos survey has identified asbestos within several different locations of the existing building and prior to any demolition this will require removal by an appropriately licensed business.

Environmental Protection recommend that the applicant obtains written confirmation from the Asbestos Removal Company to confirm all asbestos has been removed prior to the demolition commencing if this proposal receives planning approval. This can be included as a planning condition and an informative note for the applicant if the planning application is approved.

Ground Conditions and Environment

The applicant has undertaken Desktop/Phase 1 contaminated land investigation. Based on the information obtained, Environmental Protection agrees with the Consultants that the land should not be significantly contaminated for the intended use. However, they have advised that care needs to be undertaken (a watching brief) in case any unexpected contamination is encountered.

Environmental Protection also advise that care is needed in the management of any made ground that is encountered during the demolition/construction works. Based on their previous experience with made ground, this often contains contaminants, which depending upon the final use may exceed recommended health exposure concentrations (usually if the land is to be used for residential purposes e.g. growing vegetables within gardens).

Consequently, the applicant will need to ensure that any topsoil and subsoil that is imported onto the site is of a quality that will not present a hazard to users of the garden areas, i.e. is not significantly contaminated for intended use. Records confirming that the imported material is not contaminated should be obtained from the supplier and filed for inspection if required by third parties.

In addition, Environmental Protection advise that the applicant needs to agree a Demolition Management Plan and Construction Environmental Management Plan to control local environmental impacts (noise, dust, debris, site drag-out) in writing with the Local Planning Authority. These can be combined documents or individual ones, depending upon whether the same contractor or management company is to be used. Planning conditions to address these concerns can be included if planning permission is granted.

Trees

Two trees have been removed from the site fronting Carless Street which is unfortunate as they provided good visual amenity for the surrounding area however these were not protected trees. A landscaping scheme would have been provided for by condition to ensure that the development provides good landscape quality if the proposal were recommended for approval.

Parking and Access

The Local Highway Authority (LHA) has commented that access to the car park is existing onto Bath Road which is a one-way northbound route, and it is considered that adequate visibility would be retained by the proposal being considered.

Cycle stands are provided to the rear of the building beneath the rear balcony for cover. Their implementation and retention can be conditioned.

The LHA comments that the proposal would provide 9 off-street parking spaces. In terms of T13 parking policy, which is based upon 1 space per 22sqm gross floor area, the development requires a maximum of 23 spaces, inclusive of two disabled bays. Taking into account the extant building requires 19 spaces, inclusive of two disabled bays, the difference is effectively a requirement for 4 additional spaces. The LHA advise that the submitted transport information states 'that new building will not require additional parking as 90% of service users reside in the locality and access the Hub by

foot, use public transport or cycle. Car parking spaces are primarily used by the Aaina Hub staff that commute to work. Around 5 to 6 car parking spaces are required at any one time on a daily basis. Additional car parking spaces are available to accommodate partner organisations visiting the site for meetings or external agencies facilitating sessions for service users'. On this basis the LHA consider that the level of parking provision is therefore considered acceptable.

Planning conditions in respect of hard-surfacing, sustainable drainage, retention of parking spaces and the provision of a Construction Environmental Management Plan are recommended along with an informative note to keep the highway free from mud and debris during construction, if approved.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the proposed new development would fail to respect, preserve and enhance the local historic character of the area and would fail to integrate with the existing pattern of development, failing to provide high quality development that would improve and enhance the character and quality of the historic area. The proposal represents poor design.

The proposed development would be harmful to the significance and setting of St Michael's and All Angels church. Whilst, this harm would be less than substantial the scale of harm would be weighed as medium to high. The proposed development does not enhance or preserve the character, appearance or setting of Highgate Conservation Area.

Furthermore, when weighing the planning balance between public benefits of the and the design and visual impacts of the proposed development case law states that the duties imposed under the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 indicate that where harm to a listed building or conservation area or its setting is identified then this a matter to which great weight and importance should be attached in the planning balance. It is considered in this instance that the harm to heritage assets is considered to outweigh the public benefits offered by this proposal and the proposal is recommended for refusal.

The proposal is considered to be contrary to paragraphs 134, 202 and 206 of the NPPF, Saved Policies GP2, ENV29 and ENV32 of the UDP, policies ENV2 and ENV3 of the BCCS, Policy EN5 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

The Local Planning Authorities concerns were included in the previous refusal decision notice and the amended proposal has been assessed as presented.

Recommendation

Refuse permission

Reasons for Refusal

1. The proposed three storey development due to its design, including its large expansive overhanging roof of 23m in length, solar panels, large flat roof dormer, unbalanced solid to void proportions, height, scale, mass and layout would be visually prominent and would visually detract from the character and appearance of the street scene. It would fail to respect, preserve and enhance the local historic character of the area and would fail to integrate with the existing pattern of development, failing to provide high quality development that would improve and enhance the character and quality of the historic area. The proposal represents poor design. The proposed boundary would be visually prominent and visually detrimental in the street scene. The proposal is contrary to paragraphs 134 and 206 of the NPPF, Saved Policies GP2, ENV29 and ENV32 of the UDP, policies ENV2 and ENV3 of the BCCS, Policy EN5 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.

2. The eaves of the proposed development would be higher than the church; the proposed development would compete with the Grade II Listed church, St Michael's and All Angels. The proposed development would dominate views of the church and block views of the church from Bath Road. The proposed development would be harmful to the significance and setting of St Michael's and All Angels church. Whilst, this harm would be less than substantial the scale of harm would be weighed as medium to high. The proposed development does not enhance or preserve the character, appearance or setting of Highgate Conservation Area. The proposal is contrary to paragraphs 134, 202 and 206 of the NPPF, Saved Policies GP2, ENV27, ENV29 and ENV32 of the UDP, policies ENV2 and ENV3 of the BCCS, Policy EN5 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.

3. The proposed three storey development together with its large expanse roof including the continuous flat roof dormer and numerous solar panels would dominate the skyline and would be visually prominent and visually detrimental when viewed from the access road adjacent number 2 St Michael Street and from Caldmore Road. The proposed development would be harmful to setting of St Michael's and All Angels church. The proposed development does not enhance or preserve the character, appearance or setting of Highgate Conservation Area. The proposal is contrary to paragraphs 134, 202 and 206 of the NPPF, Saved Policies GP2, ENV27, ENV29 and ENV32 of the UDP, policies ENV2 and ENV3 of the BCCS, Policy EN5 of the SAD, and Policies DW1 to DW10 of Designing Walsall SPD.

4. No details of the bin store or planting scheme have been submitted to fully assess the proposal in line with Policies GP2 and ENV32 of the UDP, policies ENV2 and ENV3 of the BCCS, and Policy DW3 of Designing Walsall SPD.

END OF OFFICERS REPORT