



Planning Committee

Thursday 5 October 2023 at 5.30 pm

Council Chamber, Walsall Council House

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

MEMBERSHIP:

Councillor M. Bird (Chair)
Councillor M. Statham (Vice-Chair)
Councillor B. Bains
Councillor H. Bashir
Councillor P. Bott
Councillor M. Follows
Councillor N. Gandham
Councillor A. Garcha
Councillor A. Harris
Councillor C. Horton
Councillor A. Hussain
Councillor I. Hussain
Councillor K. Hussain
Councillor R. Larden
Councillor R. Martin
Councillor J. Murray
Councillor S. Nasreen
Councillor A. Nawaz
Councillor S. Samra
Councillor V. Waters

QUORUM:

Seven Members

AGENDA

1. Apologies.
2. Declarations of interest.
3. Deputations and petitions.
4. Minutes of the previous meetings
7 September 2023

Copy **enclosed** (pp.5-10)

5. **Local Government (Access to Information) Act 1985 (as amended):**

To agree that, where applicable, the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.

6. Application list for permission to develop:
 - a) Items subject to public speaking;
 - b) Items 'called-in' by members
 - c) Items not subject to 'call-in'

Copy **enclosed** (pp.11-69)

7. Application to remove 1 protected beech tree at 38, Middleton Road, Streetly, B74 3ES.

Copy **enclosed** (pp.70-74)

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The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Specified pecuniary interests

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

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

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

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

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

Planning Committee

Thursday 7 September 2023 at 5.30pm

In the Council Chamber, the Council House, Walsall.

Present:

Councillor M. Bird (Chair)
Councillor M. Statham (Vice-Chair)
Councillor B. Bains
Councillor H. Bashir
Councillor N. Gandham
Councillor A. Garcha
Councillor A. Harris
Councillor A. Hussain
Councillor K. Hussain
Councillor R. Larden
Councillor R. Martin
Councillor J. Murray
Councillor S. Nasreen
Councillor A. Nawaz
Councillor S. Samra
Councillor V. Waters

In attendance:

A. Ives	Head of Planning and Building Control
R. Ark	Principal Environmental Protection Officer
M. Brereton	Group Manager, Planning
K. Gannon	Development Control and Public Rights of Way Manager
S. Hollands	Principal Planning Officer
K. Knight	Senior Transport Planner
A. Sargent	Principal Solicitor
A. Scott	Senior Planning Officer
D. Smith	Senior Legal Executive
A. White	Team Leader Development Manager
N. Gough	Democratic Services Officer
E. Cook	Democratic Services Officer
L. Cook	Assistant Democratic Services Officer

25 Apologies

Apologies for absence were submitted on behalf of Councillor Follows and Councillor I. Hussain

26 Declarations of Interest

There were no declarations of interest received.

27 **Deputations and Petitions**

There were no deputations or petitions submitted.

28 **Minutes of previous meeting**

Resolved

That the minutes of the meeting held on 22 June 2023 and of the special meeting held on 20 July 2023, copies having previously been circulated to each member of the Committee, be approved and signed by the Chair as a correct record.

29 **Local Government (Access to Information) Act 1985 (as amended)**

Exclusion of the Public

There were no items on the agenda to be considered in private session.

30 **Application List for Permission to Develop**

The application list for permission to develop (the plans list) was submitted, together with a supplementary report which provided additional information on items already on the plans list.

(annexed)

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

The Chairman advised the Committee that Plans List Item 3 - Application 21/1797 – Land North of Northfields Way, Clayhanger - had been withdrawn from the agenda and deferred for consideration at a future meeting.

31 **Plans List 1 – 23/0118 Wienerberger Ltd, Sandown Works, 175 Stubbers Green Road, Aldridge, Walsall, WS9 8BL**

The Senior Planning Officer presented the report of the Head of Planning and Building Control and the additional information included in the supplementary paper.

(annexed)

There was one speaker in support of the item, Mr Alistair Hoyle. Mr Hoyle explained that the site would be forced to close within five years due to depleted clay supplies if the existing planning condition (to allow import of clay) was not removed, resulting in sixty-two job losses and a further indirect effect on local employment. Further to

questions from Members, the speaker confirmed that the proposed amendment to conditions would result in two additional HGV journeys per day driving onto the site. Responding to questions, Mr Hoyle confirmed that there were currently seventy-eight journeys per day onto the site, which would increase to eighty journeys.

Members highlighted that there had been brickmakers in the area since the 1800s and sought clarity regarding the impact on the Public Right of Way at the location, and it was confirmed would be unaffected.

It was **moved** by Councillor Bird and **seconded** by Councillor Nawaz and upon being out to the vote it was;

Resolved (Unanimously)

That Planning Committee delegate to the Head of Planning & Building Control to grant planning permission for application 23/0118, subject to conditions and subject to:

- **No new material considerations;**
- **The amendment and finalising of conditions;**
- **No further comments from a statutory consultee raising material planning considerations not previously addressed.**

32 **Plans List 2 – 23/0338 Sites at Temple Bar, Cemetery Road, Villers Street, New Hall Street and Former Ingersoll Rand Architectural Hardware, Moat Street, Willenhall, WV13 1SZ**

The Principal Planning Officer presented the report of the Head of Planning and Building Control and additional information included in the supplementary paper,

(annexed)

The Principal Planning Officer provided an overview of the proposed development, explained the layout of the plots of land and the indicative plans, highlighting that this was an outline application.

Responding to questions, the Group Manager (Planning) explained that all of the sites included in the proposed development had been identified as acceptable for residential development following comprehensive assessments according to planning policy. Officers confirmed that the proposed open space would be connected to the existing open space.

Members expressed satisfaction in receiving proposals for the regeneration and improvement of an area currently plagued by dereliction and presenting an eyesore.

It was **moved** by Councillor Nawaz and **seconded** by Councillor K. Hussain and upon being out to the vote it was;

Resolved (Unanimously)

That Planning Committee delegate to the Head of Planning & Building Control to grant planning permission for application 23/0338, subject to conditions and a Section 111 Agreement to secure a Section 106 Agreement to include affordable housing provision and open space contribution and subject to:

- **The amendment and finalising of conditions;**
- **Addressing concerns regarding flood risk/drainage, ground conditions, heritage, trees, Public Rights of Way, noise and malodour from nearby businesses; and**
- **Subject to no further objections from statutory consultees in response to the amended plans received.**

33 Plans List 4 – 20/0616 Boatmans Rest, 20 High Street, Walsall Wood, Walsall, WS9 9LP

The Senior Planning Officer presented the report of the Head of Planning and Building Control and additional information included in the supplementary paper.

(annexed)

The Chairman confirmed that the Member who had been lobbied and had called in the application was not a Member of the Planning Committee. All Members of the Committee present confirmed that they had not been contacted or lobbied regarding the application in question.

There were two speakers against the application, Mr Jon Eardley and Mr Faulkner, and two speakers in support of the application, Mr Mike Kalam and Mr Gurdeep Sanghera.

Mr Eardley explained that the properties on St John's Close had an average of 2.5 cars per house and the proposed development would not provide adequate parking spaces to cater for the new development. Due to the nearby church, medical centre and the High Street, parking on the street was often chaotic. The proposed development was not in keeping with the area and existing street scene. Mr Faulkner added that a covenant put in place by Walsall Council in 1984 existed, requiring a two-metre high fence or wall at the rear of the Boatman's Rest. St John's Close was now a through-road and the proposed access onto the street was at the narrowest point, posing a potential highways hazard including for service and emergency vehicles, especially when combined with on-street parking.

Mr Sanghera explained that the application had been in the system for three years and claimed he had not been given adequate opportunities to address issues raised. He stated that he would be prepared to pay the Cannock Chase SAC contributions and explained that Highways officers had requested the access be moved to the rear, which had been done accordingly. Mr Sanghera clarified that there were sixteen parking spaces provided. Mr Kalam added that there had been no requests for further amendments received from Highways officers, despite requests for updates being made by the applicant. The size of all flats were policy compliant and the objections regarding the amenity space were a result of the request for the access to be moved. Mr Kalam also claimed that the twenty-four-metre distance to

the neighbouring properties encompassed the width of the road, and suggested that the policy was not correctly applied.

Responding to questions, Mr Sanghera explained that he had owned the Boatman's Rest site and business for eight or nine years and that although it remained open, it was not a successful or sustainable business. Mr Khalam explained that the sizes of all apartments had been clearly provided and that they exceeded the technical housing standards required.

In response to questions Mr Eardley explained that parking was an issue on St John's Close at all times of the day and that the street was also used as a turning place for people accessing the High Street. The existing building was part of the heritage of the area and an important feature of the existing street scene, whilst the proposed development was not in-keeping with the existing street scene. Towards the end of St John's Close, houses had smaller driveways which could only accommodate one vehicle resulting in residents having to park on the road. On-street parking issues were exacerbated by visitors to the nearby medical centre and church parking on St John's Close, especially during events at the church.

Responding to questions, the Development Control and Public Rights of Way Manager confirmed that due to the intensification of use at the site during peak times, Highways officers had determined that it would be beneficial for the residential traffic at the proposed development to leave onto a residential street rather than the strategic highway and had asked for the access to be moved accordingly. According to the UDP the maximum standard required was 1.5 parking spaces per property and the sixteen spaces provided met the needs of the proposed development. As the needs of the site were met, objections from highways could not be raised regarding parking on the local network. Accidents on the High Street were not a material consideration due to the proposed access being at the rear of the site onto St John's Close. The Development Control and Public Rights of Way Manager confirmed that a highways objection remained in place regarding the footpath requirement identified.

The Head of Planning and Building Control clarified that the Cannock Chase SAC was included as a reason for refusal as although the applicant had expressed a willingness to pay the necessary contributions, as the existing recommendation was for refusal, SAC contributions were not actively being sought. They also clarified that covenants could not be considered as material planning considerations.

Debating the application, the Chairman explained that Officers had confirmed they had had contact with the applicant and agent throughout, but that information had not been forthcoming. Members expressed concerns regarding the historic and community value of the existing property as well as the density of the proposed developments. Some Members expressed sympathy with the principle of residential development on the site, notwithstanding the reasons for recommended refusal.

It was **moved** by Councillor Bird and **seconded** by Councillor Murray and upon being out to the vote it was;

Resolved (Unanimously)

That Planning Committee delegate to the Head of Planning and Building Control to refuse planning permission for application 20/0616, for the reasons set out in the officer's report and the supplementary paper.

Termination of meeting

The meeting terminated at 7:02pm

Signed.....

Date.....



Development Management Planning Committee

Report of Head of Planning and Building Control on 05/10/2023

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Item	Planning Application Number	Planning Application Site Address	Planning Application Proposal	Officer Recommendation	Page
1	21/1686	MORRIS CAR AND COMMERCIAL VEHICLE REPAIRS, ROLLINGMILL STREET, WALSALL, WS2 9EG. Ward: Pleck	OUTLINE APPLICATION ALL MATTERS RESERVED FOR THE DEMOLITION OF EXISTING CAR GARAGE AND FRONT BOUNDARY WALL AND ERECTION OF A THREE STOREY BLOCK OF 16 X 1 AND 2 BEDROOM FLATS. CAR PARKING AND ASSOCIATED WORKS. (AFFECTS PROW WAL87).	REFUSE	13-36
2	17/1262	1, FREER STREET & 28 BRIDGE STREET, WALSALL, WS1 1QD Ward: St Matthews	PROPOSED CHANGE OF USE AND EXTERNAL CHANGES TO 1 FREER STREET TO PROVIDE 7 APARTMENTS, DEMOLITION OF EXISTING WAREHOUSE AND ERECTION OF A TWO STOREY BUILDING TO PROVIDE 2 APARTMENTS AND	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING, ENGINEERING & TRANSPORTATION TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND S106 TO SECURE	37-55

			CHANGE OF USE OF FIRST FLOOR OF 28 BRIDGE STREET TO 3 APARTMENTS	CONTRIBUTIONS TOWARDS OPEN SPACE AND WASTE MANAGEMENT STRATEGY.	
3	23/0930	4, CALTHORPE CLOSE, WALSALL, WS5 3LT Ward: Paddock	CHANGE OF USE OF THE EXISTING C3, DWELLING HOUSE TO CLASS C2, A PROVISION OF RESIDENTIAL ACCOMMODATION AND CARE FOR CHILDREN WITH LEARNING DIFFICULTIES	PLANNING COMMITTEE RESOLVE TO DELEGATE TO THE HEAD OF PLANNING & BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO: <ul style="list-style-type: none"> • NO NEW MATERIAL CONSIDERATIONS BEING RECEIVED WITHIN THE CONSULTATION PERIOD. • THE AMENDMENT AND FINALISING OF CONDITIONS. • NO FURTHER COMMENTS FROM A STATUTORY CONSULTEE RAISING MATERIAL PLANNING CONSIDERATIONS NOT PREVIOUSLY ADDRESSED. 	56-69

Planning Committee

Report of Head of Planning and Building Control on 05 October 2023

Plans List Item Number: 1

Reason for bringing to committee

Called in by Councillor Mehmi on the grounds that re- development offers an improvement to the character/amenities of the surrounding area to outweigh any potential harm.

Application Details

Location: MORRIS CAR AND COMMERCIAL VEHICLE REPAIRS, ROLLINGMILL STREET, WALSALL, WS2 9EG.

Proposal: OUTLINE APPLICATION ALL MATTERS RESERVED FOR THE DEMOLITION OF EXISTING CAR GARAGE AND FRONT BOUNDARY WALL AND ERECTION OF A THREE STOREY BLOCK OF 16 X 1 AND 2 BEDROOM FLATS. CAR PARKING AND ASSOCIATED WORKS. (AFFECTS PROW WAL87).

Application Number: 21/1686

Case Officer: Stephanie Hollands

Applicant: Mr Prem Sundaru

Ward: Pleck

Agent: Mr Oswell Dhillwayo

Expired Date: 24-Feb-2022

Application Type: Outline Permission: Major Application

Time Extension Expiry: 13-Oct-2023



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Recommendation

Refuse

Current Status

At the Planning Committee meeting of 9th March 2023 Members resolved to defer the item as follows:

Deferred against officer recommendation to refuse for the following reasons: to enable applicant to address the question of ownership of the whole site, the issue of Certificate D to the LPA and the service of notices, including upon the Highway Authority, and to enable the applicant to consider and address the significant additional issues identified during the meeting as to whether the proposed development can be accommodated on the site.

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

Supplementary Paper as at Planning Committee of 9th March 2023

Trees

No tree survey has been submitted. The Tree Preservation Officer objects as the proposed building is too close to the neighbouring trees, possibly resulting in severe root severance and consequent tree failures. This would be contrary to saved UDP policy ENV18 (Existing Woodlands, Trees and Hedgerows), ENV32 (Design and Development Proposals), GP2 (Environmental Protection), Policies NE7 (Impact assessment) and NE8 (Retained Trees, Woodlands and Hedgerows) of the Conserving Walsall's Natural Environment SPD.

Additional reason for refusal added:

The proposed development by virtue of the proximity to adjacent trees would have an adverse impact on the trees due to potential for root severance and consequent tree failures that would have a detrimental impact on the amenity of the area contrary to saved UDP policy ENV18 (Existing Woodlands, Trees and Hedgerows), ENV32 (Design and Development Proposals), GP2 (Environmental Protection), Policies NE7 (Impact assessment) and NE8 (Retained Trees, Woodlands and Hedgerows) of the Conserving Walsall's Natural Environment SPD.

At the time of writing this update report no tree survey submitted by the applicant or agent to address the above comments and additional reason for refusal.

Other Updates

Public right of way matters

The agent has submitted a stopping up order to the Department of Transport, however it was shown on the plan that it would be outside of the application site and did not have the correct alignment with PROW Wal87. This therefore resulted in an objection being submitted to the Department of Transport from the Public Rights of Way Officer.

Addressing the previously recommended reasons for refusal

The agent has submitted a document which comments on each of the proposed reasons for refusal and has confirmed that no amended plans, additional information or surveys will be submitted with the following comments:

"I had explained the reasoning behind non-submission of revised plans in the document, i.e. explaining that the issue was pertaining to development density. This being only Outline

Planning primarily to get permission for change of use, development density is at this stage a reserved matter to be dealt with at Full Planning stage, unless it's an absolute necessity."

On this basis this document was re-consulted on and the responses from the following are summarised below:

Strategic Planning Policy: Planning Policy Team Response to 'Planning Objections Response' dated 22-08-23.

The current proposal is almost identical to the previous application 21/1032. Planning Policy have responded to the sections of the response note as follows:

Abstract

"The proposal provides different dwelling sizes that provides for a balanced tenure mix". As the application is in outline, there can be no certainty of what the mix of sizes or tenures might be.

Section 2: Planning Land Use

Planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. This site and its surroundings are allocated by the Site Allocation Document for employment uses. The comments in the note do not provide any justification to disregard this.

The term entry-level exception sites is used in the NPPF in relation to housing sites in rural areas on the edges of villages where new development of any type would not otherwise be allowed. It is not applicable to sites in urban areas.

NPPF paragraphs 104 and 110 are about encouraging sustainable use by all types of development, they do not support the provision of housing over the retention of employment land.

There are several vehicle related uses in the area of the application site and most appear to be thriving. There is a high demand for employment land in the area. There is therefore little evidence that the application site could not be used effectively by being retained in an employment use. Furthermore, introducing residential development onto this site would act as a constraint on the surrounding businesses.

Planning Policy note from the plan extracts on page 10 that the applicant now acknowledges the current allocation of the site shown on the policies map that accompanies the SAD rather than the UDP proposals map.

Planning Policy note the claim that the proposal would provide for overlooking of Queen Street Cemetery. However, the development of 16 dwellings would not significantly increase pedestrian use of the link between Caldmore and the Manor Hospital. Residents of the proposal would themselves be at risk as a result of the isolated nature of the site which is acknowledged by the applicant to have a sense of insecurity.

Section 3: Noise Impact

Planning Policy did not refer to noise in our original comments, however, note that nearby businesses have commented that their activities include 24-hour vehicle movements.

The applicant refers to an employment site at Charles Street. This site, formerly Kirkpatricks, was allocated for housing by the Walsall Town Centre Area Action Plan. The business has since ceased trading and now has planning permission for residential. The Charles Street residential development is a very large scheme where it was feasible to design and orientate

the dwellings to minimise the impact of the remaining nearby industry. This is different to the current site, which is a small, isolated site almost completely surrounded by industry.

Section 8: Infrastructure Provision and Affordable Housing

The applicant does not appear to address either BCCS policy HOU2 or HOU3. Draft refusal reason 6 in the planning committee report of 9th March incorrectly included reference to BCCS policy HOU3, however this policy is also correctly referred to under reason 7.

Planning Policy's previous comments noted that the proposed density which equated to 112 dwellings per hectare was only appropriate for sites within town centres.

Under policy HOU3, the applicant states "The proposal massively contributes towards the Black Country Core Strategy target of 11000 and Walsall Council's 3600 gross affordable homes by 2026." The use of the term 'massively' would seem to be an exaggeration given that only 16 homes are proposed. The policy would only require 25% of these, i.e. four, to be affordable. The BCCS does not contain a Walsall-specific affordable housing target. There is no reference to a Walsall target of 3600.

The applicant suggests that UDP policy H4 and the Affordable Housing SPD both support a policy of 25% affordable housing in developments of over 1ha or 25 dwellings. In fact, the reference to a target of 3,600 affordable homes was in paragraph (a) of UDP policy H4 and related to the period 1991-2011. Paragraphs (a) to (f) of UDP policy H4 (paragraph (c) referred to affordable housing on sites of at least 1 hectare or 25 dwellings in size), were replaced by the BCCS when the latter was adopted in 2011.

Part[s] of the affordable housing SPD are out of date, but the summary states clearly that there is a requirement to provide affordable housing on each new development of 15 dwellings or above. The SPD now hangs off BCCS policy HOU3 rather than the UDP.

Local Access Forum: The Public Rights of Way Officer has highlighted the original plans to extinguish WAL87 (Rollingmill Street to the Canal), only referred to what remains of the original route and requested the order be made to cover the entire route since otherwise a dead-end path would result leading to possible antisocial behaviour in the area. The Local Access Forum don't think they would have issues with that since the path is defunct anyway and others nearby remain viable.

Regarding traffic flows and the general issues regarding the positioning of residential properties within a predominantly industrial area and its ability to cope with the impact, e.g. increased traffic influx, noise levels for occupiers, etc, the Local Access Forum await the outcome of the Planning Committee, although they believe a recommendation to increase parking space at the site by 50% was made.

Environmental Protection: Environmental Protection comments remain the same as those submitted in May 2021. The development is unsuitable for the location and Pollution Control do not support the application.

Public Rights of Way:

- In principle Public Rights of Way support the development, subject to a stopping up order being taken forward prior to commencement of the development to permanently close footpath 87 Walsall (Wal 87), which lies within the proposed red planning boundary outline.
- Footpath Wal 87 is obstructed and is not currently available for public use. There is a short, convenient alternative pedestrian route nearby so the impact of the proposed

development, and stopping up order, on the local public rights of way network is considered to be minimal.

- Footpath Wal87 is currently shown incorrectly on land outside of the planning red site boundary outline on planning drawings. This means that it is difficult to identify the impact of the proposed development on the public footpath
- We have checked the planning drawings and public rights of way records. We can confirm that the proposed dwellings, amenity space and car parking area would impinge on the recorded alignment of footpath 87 Walsall. Therefore, the statutory requirements of an order, to enable an approved development to be implemented, may be met, subject to the issuing of a planning approval.
- The applicant has applied separately to the Department for Transport for a stopping up order under Section 247 of the Town and Country Planning Act 1990. Due to the current fundamental error with the alignment of footpath Wal 87 shown on both the draft order and plan, and the planning drawings, the Highways Development Control and Public Rights of Way Team have raised a holding objection to the Department for Transport's consultation.
- Although we have advised the agent on the correct alignment of Footpath Wal87 on a number of occasions and have requested an amendment to both planning drawings and the stopping up order, the required amendments have not been made to date. The order could not be made, or in turn the proposed development implemented, without the requested amendment.

West Midlands Police: Observations and recommendations, no objection.

Ecology Officer: Objection. The council's adopted SPD 'Conserving Walsall's Natural Environment' requires a detailed bat survey to be submitted if certain criteria are met indicating that bats are likely to be present.

This application meets the criteria set out below:

- If any part of application site lies within 50m of parks, golf course, **cemeteries**, agriculture land, river valley or unmanaged open lane.
- If any part of application site lies within 50m of the following habitat or features: **woodland, mature trees**, wetland, disused transport corridors, water courses, **canals and all designated wildlife sites**.

In the Ecology Officer's opinion, due to the close proximity to Walsall Canal and seminatural habitat present within Sister Dora Cemetery, there is a reasonable prospect of finding bats in the building.

Not all developments meeting the above criteria will necessarily have an adverse impact on bats. Some large developments can have little impact on bats while some smaller ones can be hugely damaging. Householder applications which result in building works to places where bats may be roosting can be as damaging as much larger developments. Any proposal which involves development described in the list of criteria could potentially have an adverse impact on bats and therefore a bat survey should be submitted in support of a planning application. In the case of this proposed development the following criterion applies

- Demolition of substantial buildings. This excludes timber sheds and other insignificant, lightweight outbuildings.

In this case the application involves the demolition of the existing buildings.

A bat survey report is therefore required in support of this outline application.

West Midlands Fire Service: Previous comments made on 10th May 2022 still applicable. The WMFS has no further comments to make on this planning application.

Canal and River Trust: Advise that suitably worded conditions and/or a legal agreement are necessary.

Housing Strategy: Policy HOU3 of the Black Country Core Strategy seeks to secure 25% affordable housing on all sites of 15 dwellings or more where this is financially viable. I note that the applicant is proposing 25% of the development as social rented housing. This would be acceptable as long as secured by way of S106 agreement.

Public Health: Given response to initial objection, have no comments about this proposal.

Severn Trent Water: No objections to the proposals subject to the inclusion of a condition. The following objection has also been received from a member of the public (no address provided) with the following comments:

- I have been made aware that there is a planning application submitted for the erection of flats on the site of Morris Car & Commercial on Queen Street, application 21/1686. I was unaware that this application was submitted and under review, regardless, I object in the strongest possible terms if it means the loss of yet another Public Right of Way to the people of Walsall. The plan must not result in the loss of the PRW.

Councillor Ditta has submitted an objection against the application with the following comments:

- I object to the above application on the grounds that the area is allocated as industrial site, Walsall has only a few such sites left. Furthermore, there will be a risk of noise pollution, exposure to strong LED lights for residents should the proposal go through. Furthermore, the applicant has not sustained a stopping order or Certificate D to build onto a public right of way. Residents living there will not eliminate the antisocial behaviour, rather they may become victims to it and it can lead to a negative impact on the industrial businesses operating there.

An objection has also been received from Rt Hon Valerie Vaz MP with the following comments:

- Having read the planning officer's report I note that it gives very clear, and unequivocal grounds for recommending refusal of the application and furthermore, the planning officer's comments state that:
"there are no material planning considerations in support of the proposals".
- I support the planning officer's recommendation to refuse permission and the planning grounds and the harm, of the loss of employment land and also subsequent likely constraint on neighbouring industrial use would outweigh the benefit from any residential development.
- I have visited the site and also spoken to with owners from nearby businesses. This includes a long-established vehicle recovery business that carries out vital work on the national and local road network in the West Midlands 24 hours a day 365 days a year, whose partners include RAC, also based in my constituency of Walsall South. Much employment and huge investment in premises, plant and machinery would be jeopardised by the inappropriate introduction of residential development in this vital industrial zone.
- I note also the planning officer's comments that the application does not even conform to the planning requirements for residential development on a site of this size.

- With such unambiguous grounds for refusal, it is not clear to me why determination of the application was deferred by the planning committee. This is particularly so, given confirmation in the minutes of the meeting that:
'Members discussed therefore whether the application should be refused or deferred to enable to applicant to address the areas of concern. During the discussion, the Head of Planning and Building Control advised that the key issue for consideration was the principle of the development and that together with other reasons set out in the report, it was considered that there was sufficient reason to determine refusal.'
- Whether the public rights of way (footpath 87) have been extinguished or not does not support the application but only adds a further ground for refusal if they have not.
- I understand that there is demand for housing locally, but it seems unusual that a planning application that is so at odds with the Council's agreed planning policies and Site Allocation Document would be called in. Furthermore, when faced with such a scenario, that the planning committee deferred rather than refused the application.

A second letter of objection received Rt Hon Valerie Vaz MP in response to the Planning Objections Response document submitted by the Applicant stating that no evidence has been submitted to support overcoming each of the proposed reasons for refusal.

Any additional comments received will be detailed within the supplementary paper.

Conclusion

The recommendation remains as per original report to refuse as none of the previously proposed reasons for refusal have been satisfactorily addressed with the relevant consultees still objecting or raising concerns.

The additional reason or refusal as outlined in the supplementary paper of 9 March has been added, and an amendment to omit reference to HOU3 in reason 6 has been made in line with the most recent comments received from Planning Policy.

Therefore, reasons for refusal are recommended as follows:

1. This application would result in the loss of an existing employment site allocated for retained local quality industry and there are no benefits of the proposal that would outweigh the harm arising from this loss. The loss of this employment land would result in additional adverse impacts to the Council's existing shortage of employment land supply. This application is therefore contrary to Policy IND3 (Retained Local Quality Industry) of the Site Allocation Document, Black Country Core Strategy (BCCS) Policy EMP3 (Local Quality Employment Areas) and the NPPF paragraph 20.
2. This application fails to evidence how the development would mitigate against noise arising from nearby industrial uses to ensure their continued unhindered operation contrary to Saved UDP Policies GP2 (Environmental Protection), ENV10 (Pollution) and JP7 (Use of Land and Buildings in Other Employment Areas) and has the potential to constrain adjoining and nearby employment uses to the detriment of the aims of IND3 (Retained Local Quality Industry) of the Site Allocation Document, and the NPPF paragraphs 174 and 185.
3. This application fails to demonstrate how the proposed development would provide a satisfactory level of amenity for intended occupiers for the following reasons:
 - i. Proposal fails to assess, and demonstrate, how the development would mitigate against noise arising from nearby industrial uses;

- ii. Proposal fails to provide an assessment, along with any necessary mitigation, of potential ground contamination, hazardous materials and air quality to ensure the safety of occupiers; and
- iii. Proposal fails to demonstrate provision of any usable private outdoor amenity space.
- iv. Proposal fails to demonstrate that an acceptable level of light and outlook could be achieved to ground floor habitable room windows.

The proposal is contrary to NPPF paragraphs 130, 136, 174, 183 to 185, Saved UDP Policy GP2 (Environmental Protection) and Air Quality SPD.

4. The application fails to provide accurate up to date evidence about the possible presence of bats, or the impact on their roosts or habitats within the existing building or around the site. The submission is therefore contrary to saved Policy ENV23 (Nature Conservation and New Development) of Walsall's Unitary Development Plan and Conserving Walsall's Natural Environment SPD.
5. The proposed scale and indicative design of the proposed development would not integrate with the existing built development due to the high density which would be at odds with the surrounding built development along Rollingmill Street. For these reasons the proposal would be contrary to the aims and objectives of the National Planning Framework paragraph 125, The Black Country Core Strategy, policies CSP4 (Place Making), HOU2 (Housing Density, Type and Accessibility) and ENV3 (Design Quality), and Walsall's Saved Unitary Development Plan policies, in particular GP2 (Environmental Protection), and ENV32 (Design and Development Proposals).
6. The proposed development fails to provide the necessary supporting infrastructure for public open space provision. As such the proposal is contrary to policies HOU2 (Housing Density, Type and Accessibility) and saved policies GP3 (Planning Obligations) and LC1 (Urban Open Spaces) of the Walsall Unitary Development Plan, Policies OS1 (Qualifying Development), OS2 (Planning Obligations), OS3 (Scale of Contribution), OS4 (Local Standards for New Homes), OS5 (Use of Contributions), OS6 (Quality and Value), OS7 (Minimum Specifications) and OS8 (Phasing of On-site Provision for Children and Young People) of the Urban Open Space Supplementary Planning Guidance.
7. The proposed development fails to secure the affordable housing provision and is contrary to Saved Policies GP3 (Planning Obligations) and H4 (Affordable Housing) of the Unitary Development Plan, Black Country Core Strategy Policy HOU3 (Delivering Affordable Housing), AH1 (Quality of Affordable Housing), AH2 (Tenure Type and Size), AH3 (Abnormal Development Costs), AH4 (Provision Location) and AH5 of the Affordable Housing Supplementary Planning Document and Paragraph 65 (Delivering a sufficient supply of homes) of the National Planning Policy Framework.
8. The application fails to acknowledge the presence of public footpath 87 Walsall and fails to demonstrate how the development would accommodate this footpath and fails to demonstrate any alternative proposals for this footpath. This proposal is therefore contrary to Saved Policies GP2 (Environmental Protection), T1 (Helping People to Get Around), T8 (Walking) and T9 (Cycling) of the Unitary Development Plan, TRAN4 (Creating Coherent Networks for Cycling and for Walking) of the Black Country Core Strategy and Paragraph 100 of the National Planning Policy Framework (Open space and recreation).
9. The proposed development by virtue of the proximity to adjacent trees would have an adverse impact on the trees due to potential for root severance and consequent tree failures that would have a detrimental impact on the amenity of the area contrary to saved UDP policy ENV18 (Existing Woodlands, Trees and Hedgerows), ENV32 (Design and

Development Proposals), GP2 (Environmental Protection), Policies NE7 (Impact assessment) and NE8 (Retained Trees, Woodlands and Hedgerows) of the Conserving Walsall's Natural Environment SPD.

THE ORIGINAL REPORT FOLLOWS:

Proposal

Outline application all matters reserved for the demolition of existing car garage and front boundary wall and erection of a three-storey block of 16 x 1 and 2 bedroom flats. Car parking and associated works. (Affects PROW Wal87).

The application forms indicate 10 x 1 bed and 6 x 2 bed flats and the indicative plans submitted indicate a two to three storey building with 4 flats on the ground floor, 8 flats on the first floor and 4 flats on the second floor. The building would be an irregular shape and would sit across the southern boundary of this triangular shaped site.

It does not appear that any private shared amenity space would be provided.

The development would utilise one of the existing vehicle access to Morris Motors off Rollingmill Street and the layout indicates 17 off street parking spaces along the western part of the site.

It is proposed that the proposal shall support the Walsall Access to Housing by allocating the development apartments into 60% ownership, 25% social renting and 15% private renting.

A Design and Access Statement has been submitted in support of this application.

Site and Surroundings

The application site is currently occupied by Morris Car and Commercial vehicle repairs. It is occupied by a large single storey brick-built building with profiled sheeting roof and large roller shutter to the front set back from Rollingmill Street by approx. 15 mts. The forecourt area is used as customer car parking and car storage.

The frontage consists of a white painted 1.5m high brick wall with iron railings above and a wrought iron access gate from Rollingmill Street.

To the west of the application site is Queen Street Cemetery and Sister Dora Gardens.

To the east of the site there are two other similar size commercial buildings occupied by Kulaz Motors and MOT testing.

Rollingmill Street rises from east to west with the other two commercial units being on higher level to the application site.

The area is predominantly commercial in character (with the exception of the cemetery and gardens adjacent). Opposite is the Premier Business Park which is core employment land as identified by the Unitary Development Plan.

Relevant Planning History

21/1032 - Outline application including access, appearance, landscaping, layout and scale of the demolition of existing car garage and front boundary wall and erection of a three-storey block of 17x 1- and 2-bedroom flats. Car parking and associated works. (Affects PROW Wal87) – Withdrawn – 07/10/2021.

18/1240 - Change of use from vehicle repairs workshop (B2 General Industry) to vehicle repair workshop and MOT testing station (Sui Generis Use) - Grant subject to conditions – 06/11/2018

P18157 – Erection of factory for chain making. Grant permission subject to conditions 1955

P37072 – Extension to the chain making factory. Grant subject to conditions 1965

BC6582 – Display of motor vehicles from forecourt. Grant subject to conditions 1977

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**

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

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

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

National Planning Policy Guidance

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

Reducing Inequalities

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

- age
- disability

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP3: Planning Obligations
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV23: Nature Conservation and New Development
- ENV26: Industrial Archaeology
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- JP7: Use of Land and Buildings in Other Employment Areas
- JP8: Bad Neighbour Industrial Uses
- LC1: Urban Open Spaces
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- H4: Affordable Housing
- T1: Helping People to Get Around
- T8: Walking
- T9: Cycling
- T7: Car Parking
- T11: Access for Pedestrians, Cyclists and Wheelchair users

- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- DEL2: Managing the Balance Between Employment Land and Housing
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- EMP3: Local Quality Employment Areas
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality

Walsall Site Allocation Document 2019

- RC1: The Regeneration Corridors
- HC2: Development of Other Land for Housing
- IND3: Retained Local Quality Industry
- M1: Safeguarding of Mineral Resources

Supplementary Planning Document

Conserving Walsall's Natural Environment

- Development with the potential to affect species, habitats or earth heritage features
 - NE1 – Impact Assessment
 - NE2 – Protected and Important Species
 - NE3 – Long Term Management of Mitigation and Compensatory Measures
- Survey standards
 - NE4 – Survey Standards
- The natural environment and new development
 - NE5 – Habitat Creation and Enhancement Measures
 - NE6 – Compensatory Provision

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
- Appendix D

Open space, sport and recreation

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

Affordable Housing

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

Air Quality SPD

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

Consultation Replies

Canal and River Trust: Advise that suitably worded conditions and/or a legal agreement are necessary.

Community Safety Team: No comments received.

Drainage: No comments received.

Ecology Officer: No comments received.

Housing Strategy: Policy HOU3 of the Black Country Core Strategy seeks to secure 25% affordable housing on all sites of 15 dwellings or more where this is financially viable. I note that the applicant is proposing 25% of the development as social rented housing. This would be acceptable as long as secured by way of S106 agreement.

Housing Standards: No comments received.

Inland Waterways Association: No comments received.

Local Access Forum/ Ramblers Association: Concerns raised.

Local Highways Authority: Support in principle subject to revisions and conditions.

Public Health: Ask that a % of maisonettes are available at affordable rent or purchase. That opportunities for active travel are made so that this proposed development provides cycle parking with electric charging points is good.

Environmental Protection: The development is unsuitable for the location and Pollution Control do not support the application.

Severn Trent Water: No objections to the proposals subject to the inclusion of a condition.

Public Rights of Way: Objection at this time as the application proposes to build upon a PROW, the applicant will need to confirm their proposals for a stopping up.

Strategic Planning Policy: The application is almost identical to previous application 21/1032 and our comments remain the same. The design and access statement refers to the superseded UDP proposals map rather than the current policies map. The site is allocated for retained local quality industry under SAD policy IND3, not policy IND4. The site is currently occupied by a functioning employment use and lies in the middle of an industrial area. The application should therefore be refused.

Tree Preservation Officer: No comments received.

Waste Management (Clean and Green): No comments received.

West Midlands Police: Observations and recommendations, no objection.

Representations

The application was advertised by way of site and press notices displayed and notification letters sent to 11 surrounding properties. The public consultation time expired 27th May 2022. Two objections have been received with the following comments provided below:

- This is highly commercial area of Walsall, any residential use will have a dramatic impact on businesses in the surrounding area around operating hours, noise, and light pollution, some of these are long standing businesses and this situation is often seen where permission to build properties is given and then businesses or entertainment facilities are forced out due to noise etc. It is not practical to build this type of property in this area.
- Our position with regards the proposed planning application 21/1686 is identical to what was submitted last year for 21/1032, please refer to the comments below. Our position is unchanged which is you cannot put a residential block of flats directly in the middle of an industrial estate; we are a 24-hour police recovery contractor, and the proposed site is opposite to our main salvage yard that is in use all day and night. The proposal will harm the estate with the change of use and also our business directly.

Determining Issues

- Principle of development
- Design, layout and character
- Amenity of neighbours and amenity of future occupiers
- Highways
- Public right of way
- Ground conditions and environment
- Nature conservation
- Planning Obligations
- Urban Open Space Contribution

- Local Finance Considerations

Assessment of the Proposal

Principle of development

The site is allocated in the Walsall Site Allocation Document for retained local quality industry, site reference IN49.4 under policy IND3. Residential development is therefore contrary to this policy and to Black Country Core Strategy (BCCS) Policy EMP3. Evidence published for the Black Country Plan shows that we need a significant increase in employment land and the retention of most existing employment land to support housing growth. This proposal would be contrary to that need and would cause a loss of employment land. In addition, whilst any new use of the site would be required to provide suitable mitigation against possible adverse effects from existing nearby uses under the 'agent of change' principle in NPPF paragraph 187, residential development is likely to constrain the remaining nearby industrial uses.

The Design and Access Statement has misinterpreted the development plan and the SHLAA. The statement includes an extract of the UDP proposals map (which showed no specific allocation for this site) but this has been superseded by the policies map that supports the SAD. It also refers to policy IND4 (which is in the SAD), however this policy relates to specific sites that are identified on the policies map and does not include the current site.

The SHLAA does not form part of the development plan, but in any case, the 'broad locations' it refers to do not include sites that are allocated for another use in the plan.

The Statement also refers to the previous planning permission for the change of use of the site from B2 to motor repairs. The motor trade is listed under BCCS policy EMP3 as an appropriate use for local quality industry areas.

Even if residential development was acceptable on the site, the type of development proposed would be inappropriate. The proposed density would equate to 112 dwellings per hectare. BCCS policy states that developments of 15 dwellings or more should provide a range of house types with reference to the standards in table 8. Table 8 indicates that densities in excess of 60 dwellings per hectare are only appropriate within a strategic centre or town centre.

Residential development would also be required to contribute to affordable housing and off-site open space.

The Applicant has not confirmed whether they would be willing to enter into a S106 agreement to provide these contributions.

Based on the above Strategic Planning Policy recommend that the application should therefore be refused.

Design, layout and character

The character of the area is industrial/commercial. The indicative proposal seeks to erect a two and three storey residential development with a stepped and varied ridgeline due to the land levels within the existing site. The proposed two and three storey development will be out of character with the existing industrial/commercial uses in the area.

The proposed two and three storey development by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area. The indicative plans show the proposed development would sit at the east of the site fronting Rollingmill Street, the proposed two and three storey development would be visually prominent and visually obtrusive in the street

scene, and especially given the gradient of the site and that the site slopes downwards towards the junction with Corporation Street West, Queen Street and Long Street. Furthermore, the elevations are of a poor design.

The proposed layout consists of built development with very little space for amenity and planting within the site. This is uncharacteristic of the surrounding pattern of development as such represents over development of the site.

The indicative plans do not appear to provide any private shared amenity space and limited space on site for this provision.

One of the bin stores and the cycle store have been located abutting the northern boundary of number within the car parking area. Whilst there are no elevation details of these structures, the cycle parking structures is isolated and set away from the proposed flats and the bin locations are on the site frontage to Rollingmill Street. These should be integral features or positioned closer to the flats.

The ground floor habitable room windows of flats 1-4 would be in very close proximity to the boundary treatment required to secure the site adjacent to the Queen Street Cemetery and Sister Dora Gardens. It is considered that these windows would have very limited light and outlook.

The West Midlands Police have no objections to the proposal subject to secure by design. If planning permission was to be granted then the recommendations regarding windows, doors etc would be attached as a note for applicant. The Design and Access Statement refers to community safety designing out crime. The undercroft hidden areas can create vulnerability. Security such as alarms and CCTV are sometimes forgotten and are more easily included during construction. These could be secured by way of conditions if the planning permission was to be granted.

Amenity of neighbours and amenity of future occupiers

Environmental Protection previously submitted comments on planning application 21/1032 for a similar development on the same land. These comments remain relevant and have been copied below but would add that the Applicant will need to supply an Air Quality assessment prior to the application being considered.

Pollution Control has concerns about introducing a permanent sensitive receptor in the middle of what is effectively an industrial/commercial estate location, with the attendant consequences of potentially significant negative impacts both on the development itself and the extant industrial activities and businesses in the area. This amounts to consideration of the '*Agent of Change*' Principle, as the extant industry etc. could be subject to future constraints in the event that owners/occupiers of the residential premises have legitimate claims in respect of nuisance.

The application site is located in an industrial location at a point where there are notable vehicle movements passing the site, including Heavy Goods Vehicles which access the area. No noise impact assessment has been carried out and it is not known whether sufficient mitigation can be engineered into the design to off-set the impacts of traffic/vehicles movements and neighbouring industries. It stands to reason that this can constrain and/or inhibit future expansion from existing industry, as well as deterring other businesses coming to the locality.

Approximately 100 meters from this site is a business, which due to their emissions to air, land and water (including noise) holds a Part A2 Environmental Permit. While the emissions are controlled by limits within the permit, any residential premise in such proximity may require

them to re-evaluate said emissions and the regulator will be required to introduce tighter emission limits.

On balance, it is considered that the general amenity of residents would be poor at best, and if an acceptable internal amenity could be delivered it would necessitate sealed windows and other elements to reduce noise, poor air quality and potential odour impacts.

In conclusion, the development is unsuitable for the location and Environmental Protection do not support the application.

This application fails to demonstrate how the proposed development would mitigate against noise arising from nearby industrial uses in order to provide an acceptable level of amenity to intended occupiers. This application also fails to provide an assessment, along with any necessary mitigation, of potential ground contamination, hazardous materials and air quality to ensure the safety of occupiers.

Neighbouring occupiers have also raised concerns with regards to the impact on the operation of existing businesses introducing residential into an established industrial/commercial area.

Ground conditions and environment

The application site lies within a Coal Development Low Risk Area.

No information regarding ground contamination on the site was supplied in support of the application and Environmental Protection holds no information on ground conditions at this site address other than that obtainable from previous land use data and historic mapping. This shows that the site has historically been occupied by an industrial/commercial use. On this basis it would be necessary for a ground condition survey to be submitted in order to identify any potential ground contamination and mitigation requirements.

Highways

Rollingmill Street is an unclassified road on the periphery of the town centre in a predominantly commercial area. There is an existing uncontrolled pedestrian crossing point on Rollingmill Street approximately 30m to the south of the site. It is believed a Definitive public right way crosses the site. The site is well connected to the footway and canal towpath network and is approximately 1000m from the town centre. It is therefore considered a reasonably sustainable location.

The site is currently served by two commercial vehicle accesses. The proposal looks to utilise the western-most access with modification. The redundant access shall be permanently removed and reinstated back to full kerb height.

17 parking spaces for the 16 flats is provided. Notwithstanding the site is reasonably sustainable, being approximately 1000m from the town centre, there are parking restrictions on both sides of Rollingmill Mill Street so cannot accommodate any over-spill parking, say for visitors of residents with more than one car. Adequate reversing aisle widths are provided on the indicative layout.

The level of on-site parking should therefore be increased to 150%.

The Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2021 paragraph 111.

Therefore, in light of the comments above, the Highway Authority supports, in principle, the residential redevelopment of the site subject to the following:

- The level of parking provision shall be increased in line with T13 parking policy in order to minimise potential over-spill parking onto Rollingmill Street which carries a high percentage of commercial traffic.
- There appears to be level difference between the car park and the building entrance required flights of steps. A ramped access will be required also to ensure the car park is fully accessible.
- Covered, secure cycle shelter provision will be required.
- A suitably sized and accessible Refuse Bin Storage facility will be required.
- A construction traffic management plan (CEMP) will be required.

Public right of way

A definitive public right of way, known as footpath 87 Walsall falls within the red planning boundary outline, within the site's southern boundary. This footpath is obstructed and has not been open to public use for some years but remains present as no stopping up or diversion order has ever been completed despite the path being closed off within the former Morris Cars site.

Public rights of way object to the application on the grounds of insufficient information. At present, the application fails to acknowledge the presence of public footpath 87 Walsall and does not set out details for a stopping up order, or alternative proposals for this footpath.

The indicative proposed planning layout shows that new dwellings, parking areas and amenity space would be built on the line of Public Footpath 87 Walsall. The public rights of way team would support an order to stop up Footpath 87 between Rolling Mill Street and Footpath. Based upon the current proposed layout, the footpath would be built upon and the statutory requirements for an order would therefore be met.

Stopping up of the footpath is the preferred approach, as should the path be re-opened across the site it would remain obstructed elsewhere. Creating a cul-de-sac would allow opportunities for crime and ASB and would compromise safety and security of the proposed development.

A stopping up order must be made under either:

- Section 257 of the Town and Country Planning Act 1980, upon application to the Public Rights of Way Team at Walsall Council. I enclose a copy of our application form for background information;
- Or Section 247 of the Town and Country Planning Act 1990, upon application to the Department for Transport. For further information see <https://www.gov.uk/government/publications/stopping-up-and-diversion-of-highways>

It will however be necessary for the stopping up to be completed prior to commencement of the proposed development and pre-commencement planning conditions are required in respect of this.

Nature Conservation

The application site is in close proximity to Queen Street Cemetery and Sister Dora Gardens which provides an opportunity for bats to be present within the application building. This application has not been supported by a bat survey and has failed to assess, or provide any necessary mitigation for, the potential for bat presence and is contrary to the NPPF, BCCS Policy ENV1, UDP Policy ENV23 and NE1-NE6 of the Natural Environment SPD.

Planning Obligations

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the 3 following statutory tests to make the development acceptable in planning terms:

- necessary to make the development acceptable in planning terms.
- directly related to the development.
- fairly and reasonably related in scale and kind to the development.

These tests are set out in The Community Infrastructure Levy Regulations 2010 (as amended) Regulation 122 and National Planning Policy Framework.

The development triggers the Council's policies regarding contributions towards 25% Affordable Housing. Saved Policy H4 (Affordable Housing) of the Walsall Unitary Development Plan sets out that developers must ensure that affordable housing will be reserved for those that need it and will remain available at low costs of initial and successive tenants.

Policy HOU3 (Delivering Affordable Housing) of the Black Country Core Strategy sets out that local planning authorities will seek to secure 25% of affordable housing on all sites of 15 or more dwellings where it is financially viable. The tenure and type of affordable housing will be determined on a site by site basis based on the best available information regarding housing need. On sites where 25% affordable housing is proven not to be viable, the maximum provision will be sought that will not undermine the viability of the scheme, subject to achieving optimum tenure mix and securing other planning obligations as necessary. Claw back and other flexible arrangements will be sought through planning agreements, wherever possible, to allow for changing market conditions.

The Council's Affordable Housing SPD (April 2008) sets out guidance affordable housing. This includes guidance on the mix of sizes and spatial location within the site.

It is proposed that the proposal shall support the Walsall Access to Housing by allocating the development apartments into 60% ownership, 25% social renting and 15% private renting.

The applicant would be required to enter into a S106 to secure 25% policy compliant affordable homes with affordable rent tenure.

No agreement has been provided by the applicant to the necessary S106 to secure the affordable housing provision, and this will form a refusal reason.

Urban Open Space Contribution

Policy OS1 of the urban open space SPD and policies GP3 and LC1 of the UDP requires all types of residential development to provide a contribution towards public open space for all development with 10 or more units being proposed. In this case, the proposal for 16 flats would require a commuted sum of £ 14,366.00 to be made. The audit of green spaces around the Borough has identified a shortfall in provision for children and young people and the quality of some parks and other spaces. The aim of the contributions is to maintain and improve all parks and gardens and coping with increased pressure on existing provision and creating new open spaces to cope with additional pressure. The proposed development would result in an unacceptable demand on open space provision in the locality in the absence of alternative provision to be secured by a S106 Agreement.

No agreement has been provided by the applicant to the necessary S106 to secure the open space contribution, and this will form a refusal reason.

The proposed development would result in unacceptable demand on limited public open space provision in the locality in the absence of any provision to address these shortfalls. As such the proposal is contrary to policies HOU2 and HOU3 of the Black Country Core Strategy and saved policies GP3 and LC1 of the Walsall Unitary Development Plan, Policies OS1, OS2, OS3, OS4, OS5, OS6, OS7 and OS8 of the Urban Open Space Supplementary Planning Guidance.

Local Finance Considerations

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

This application proposes 16 new homes.

The Government has indicated that, for 2019-20, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2019-20 the total payments, taking account of completions over the last 4 years, are expected to amount to £2,911,601.

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

Conclusions and Reasons for Decision

In weighing the key material considerations and consultee responses against the national and local planning policies and guidance, it is considered the proposal cannot be supported in its current form due the loss of an existing employment site allocated for retained local quality industry and there are no benefits of the proposal that would outweigh the harm arising from this loss. The loss of this employment land would result in additional adverse impacts to the Council's existing shortage of employment land supply. In addition, the proposal fails to evidence how the development would mitigate against noise arising from nearby industrial uses to ensure their continued unhindered operation.

The proposed two and three storey development will be out of character with the existing developments in the area along Rollingmill Street.

The proposed two and three storey development by reasons of its scale, massing and poor design would be inappropriate in its context, fails to integrate into the existing urban form, or add to the overall character and quality of the area. The indicative plans show the proposed development would sit at the east of the site fronting Rollingmill Street, the proposed two and three storey development would be visually prominent and visually obtrusive in the street scene, and especially given the gradient of the site and that the site slopes downwards towards the junction with Corporation Street West, Queen Street and Long Street.

The proposal fails to demonstrate how the proposed development would provide a satisfactory level of amenity for intended occupiers in terms of noise and disturbance, light, outlook and lack of private amenity space.

The proposed development would result in unacceptable demand on limited public open space provision in the locality in the absence of any alternative provision to address these shortfalls. As such the proposal is contrary to policies HOU2 and HOU3 of the Black Country Core Strategy and saved policies GP3 and LC1 of the Walsall Unitary Development Plan,

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

Officers have spoken with the applicant's agent and in this instance are unable to support the proposal.

Recommendation

Refuse

Reasons for Refusal

1. This application would result in the loss of an existing employment site allocated for retained local quality industry and there are no benefits of the proposal that would outweigh the harm arising from this loss. The loss of this employment land would result in additional adverse impacts to the Council's existing shortage of employment land supply. This application is therefore contrary to Policy IND3 (Retained Local Quality Industry) of the Site Allocation Document, Black Country Core Strategy (BCCS) Policy EMP3 (Local Quality Employment Areas) and the NPPF paragraph 20.
2. This application fails to evidence how the development would mitigate against noise arising from nearby industrial uses to ensure their continued unhindered operation contrary to Saved UDP Policies GP2 (Environmental Protection), ENV10 (Pollution) and JP7 (Use of Land and Buildings in Other Employment Areas) and has the potential to constrain adjoining and nearby employment uses to the detriment of the aims of IND3 (Retained Local Quality Industry) of the Site Allocation Document, and the NPPF paragraphs 174 and 185.
3. This application fails to demonstrate how the proposed development would provide a satisfactory level of amenity for intended occupiers for the following reasons:
 - i. Proposal fails to assess, and demonstrate, how the development would mitigate against noise arising from nearby industrial uses;
 - ii. Proposal fails to provide an assessment, along with any necessary mitigation, of potential ground contamination, hazardous materials and air quality to ensure the safety of occupiers; and
 - iii. Proposal fails to demonstrate provision of any usable private outdoor amenity space.
 - iv. Proposal fails to demonstrate that an acceptable level of light and outlook could be achieved to ground floor habitable room windows.

The proposal is contrary to NPPF paragraphs 130, 136, 174, 183 to 185, Saved UDP Policy GP2 (Environmental Protection) and Air Quality SPD.

4. The application fails to provide accurate up to date evidence about the possible presence of bats, or the impact on their roosts or habitats within the existing building or around the site. The submission is therefore contrary to saved Policy ENV23 (Nature Conservation and New Development) of Walsall's Unitary Development Plan and Conserving Walsall's Natural Environment SPD.

5. The proposed scale and indicative design of the proposed development would not integrate with the existing built development due to the high density which would be at odds with the surrounding built development along Rollingmill Street. For these reasons the proposal would be contrary to the aims and objectives of the National Planning Framework paragraph 125, The Black Country Core Strategy, policies CSP4 (Place Making), HOU2 (Housing Density, Type and Accessibility) and ENV3 (Design Quality), and Walsall's Saved Unitary Development Plan policies, in particular GP2 (Environmental Protection), and ENV32 (Design and Development Proposals).
6. The proposed development fails to provide the necessary supporting infrastructure for public open space provision. As such the proposal is contrary to policies HOU2 (Housing Density, Type and Accessibility) and HOU3 (Delivering Affordable Housing) of the Black Country Core Strategy and saved policies GP3 (Planning Obligations) and LC1 (Urban Open Spaces) of the Walsall Unitary Development Plan, Policies OS1 (Qualifying Development), OS2 (Planning Obligations), OS3 (Scale of Contribution), OS4 (Local Standards for New Homes), OS5 (Use of Contributions), OS6 (Quality and Value), OS7 (Minimum Specifications) and OS8 (Phasing of On-site Provision for Children and Young People) of the Urban Open Space Supplementary Planning Guidance.
7. The proposed development fails to secure the affordable housing provision and is contrary to Saved Policies GP3 (Planning Obligations) and H4 (Affordable Housing) of the Unitary Development Plan, Black Country Core Strategy Policy HOU3 (Delivering Affordable Housing), AH1 (Quality of Affordable Housing), AH2 (Tenure Type and Size), AH3 (Abnormal Development Costs), AH4 (Provision Location) and AH5 of the Affordable Housing Supplementary Planning Document and Paragraph 65 (Delivering a sufficient supply of homes) of the National Planning Policy Framework.
8. The application fails to acknowledge the presence of public footpath 87 Walsall and fails to demonstrate how the development would accommodate this footpath and fails to demonstrate any alternative proposals for this footpath. This proposal is therefore contrary to Saved Policies GP2 (Environmental Protection), T1 (Helping People to Get Around), T8 (Walking) and T9 (Cycling) of the Unitary Development Plan, TRAN4 (Creating Coherent Networks for Cycling and for Walking) of the Black Country Core Strategy and Paragraph 100 of the National Planning Policy Framework (Open space and recreation).

Notes for Applicant

West Midlands Police

The applicant may consider the following:

Construction security.

https://www.securedbydesign.com/images/CONSTRUCTION_SITE_SECURITY_GUIDE_A4_8pp.pdf

Suitable lighting will provide some security.

External LED lights with daylight sensors to the external walls, particularly by entrances and lighting to parking areas.

Access control is important.

Restricted to residents and their permitted visitors.

For apartments consider card entry system or similar. With correct management and maintenance this should provide security.

Access control to the building see Secured By Design Homes 2019 page 41, 27.

To allow residents entry, to their floor area and apartment.

Alarm and cctv installers should be approved by NSI, SSAIB or both please see <https://www.nsi.org.uk/> and <https://ssaib.org/>

I would recommend security using the principles of Secured By Design.
The applicant may wish to consider crime prevention and home security advice contained within SBD New Homes.

Please see :

https://www.securedbydesign.com/images/downloads/HOMES_BROCHURE_2019_NEW_version_2.pdf

Dwelling entrance door-sets (SBD Homes 2019 page 29, 21.1-8).

PAS 24: 2016 standard doors for houses and apartments.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

Combined fire resistance with security.(See SBD Brochure page 5, 5).

https://www.securedbydesign.com/images/downloads/DOORSET_BROCHURE_200319.pdf

Cycle stores, approved products. (SBD Homes 2019 page 68, 56).

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 05 October 2023

Plans List Item Number: 2

Reason for bringing to committee

Major application

Application Details

Location: 1, FREER STREET & 28 BRIDGE STREET, WALSALL, WS1 1QD

Proposal: PROPOSED CHANGE OF USE AND EXTERNAL CHANGES TO 1 FREER STREET TO PROVIDE 7 APARTMENTS, DEMOLITION OF EXISTING WAREHOUSE AND ERECTION OF A TWO STOREY BUILDING TO PROVIDE 2 APARTMENTS AND CHANGE OF USE OF FIRST FLOOR OF 28 BRIDGE STREET TO 3 APARTMENTS.

Application Number: 17/1262

Case Officer: Peter Gittins

Applicant: Brian Trubshaw

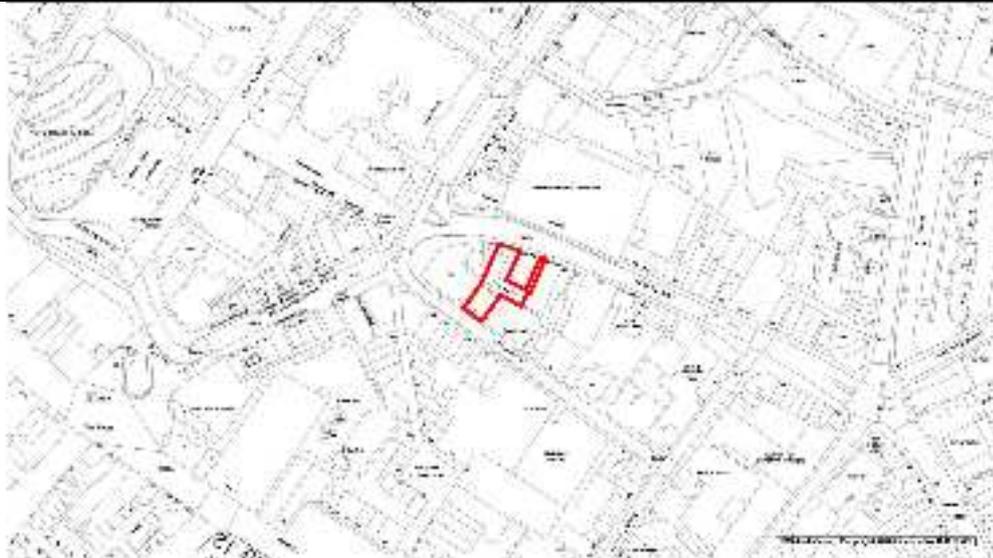
Ward: St Matthews

Agent: PAUL CLIFTON

Expired Date: 31-Dec-2017

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

Time Extension Expiry: 14-Aug-2019



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Recommendation

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and s106 to secure contributions towards open space and waste management strategy.

Current Status

At the Planning Committee meeting of 11 July 2019 Members resolved:

That planning application number 17/1262 be delegated to the Head of Planning, Engineering and Transportation to grant, subject to amended conditions and a Section 106 Agreement to secure contributions towards open space and a waste management strategy to be agreed between Highways and Clean and Green and include a minimum of three Eurobins and subject to conditions as contained within the report and supplementary paper.

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

Supplementary Paper

Highway Authority enquiry: The Highway Authority of the Council has raised questions regarding the waste management strategy and whether it's possible to ensure that waste bins are not stored on the street between collections.

Access Verification: The Council's Waste Management team examined the proposed access to Bridge Street and confirmed that it is wide enough to accommodate a standard euro bin and that there's adequate space for waste collection.

Bin Requirements: The Waste Management team has also considered that the development project will require one waste bin and two recycling bins and identified that there is space available on the footpath where these bins can be placed on collection days.

Door Access Widening: That widening the door access to the sunken garden would be a beneficial improvement and that this enhancement can be addressed through a planning condition.

Overall, it was established the euro bins for this project can be stored away from the road, meaning they will not need to be stored on the street, between collections addressing the Highway Authority's concerns.

Recommendation that: Planning Committee resolve to Delegate to the Head of Planning, Engineering and Transportation to grant, subject to amended conditions and a Section 106 Agreement to secure contributions towards open space and a waste management strategy.

Any Other Updates

The route originally proposed for the euro bins and disposal of waste from the sunken garden via an external passageway to Bridge Street is no longer an option as the neighbouring owner is not willing to agree to this. The applicant now proposes the bins are moved through an internal corridor, via temporary ramps to negotiate the levels differences, and through the main front door and onto Bridge Street.

There have been additional responses within the Council to this new proposal and the following is a breakdown of the key points:

Legal Team's comments

The legal team expresses doubts about the feasibility of using a narrow passageway inside the building for waste collection. They are concerned about drafting a legally enforceable condition or Section 106 obligation that would require the bins to be promptly removed from the pavement after collection. They consider this issue a key to the acceptability of the project. Additionally, they believe it may be contrary to Building Regulations to allow the passage of euro-style bins through the inside of an apartment block. Comments have been requested from Building Control on this matter and will be provided in the supplementary paper.

The legal team believes that the unavailability of the external passageway, which was a key factor in the committee's initial approval of the application, means that the proposed development as described in the application cannot be carried out. They suggest that a redesign of the scheme may be required to store bins in an accessible location, potentially resulting in a reduction in the number of units in the development.

Highway Team's comments

The Highways team proposes an alternative solution. They suggest relocating the internal shop "office" into the retail area of the shop, repurposing the office space as a combined bin and cycle storage area. This would free up more space in the sunken garden and allow for the widening of the corridor and doorway leading to the lobby area. This change would require the bins to be taken out through this route, providing a more straightforward and accessible path.

Since this would require a re-design of the proposed scheme, that has not been provided by the applicant, it is not possible to assess the application on this basis. Furthermore, this solution would lead to additional problems including odours, potential for vermin and associated amenity issues.

Conclusion on the additional comments received.

Overall, it is considered that there is a lack of an acceptable waste management strategy for the proposed development and that any attempt to secure the new internal bin route would not be enforceable by condition or Section 106 obligation. Whilst it is noted that there have been no further comments from the Council's Waste Team or Building Control on the amenity impacts of waste passing through and internal space it is not considered that such impacts would be significant unless the bins remained stored in the internal areas. Whilst the Council Highway Team's suggestion of repurposing the office space as a combined bin and cycle storage area is welcomed as it addresses the practical issues of negotiating the levels differences with bins, it is considered that the internal storage of waste bins could lead to smell, vermin, and amenity issues and that this would not be a satisfactory solution.

Conclusion

The matter of waste management has been extensively discussed by the original committee and it is necessary for the committee to revisit the decision.

On balance it is considered that the recommendation within the original report should be changed to one of refusal. It is therefore recommended that the application be Delegated to the Head of Planning and Building Control to refuse and finalise reasons for refusal based on the fact that:

1. There is a lack of an acceptable waste management strategy for the proposed development such that a situation would be created whereby there would be a lack of control over the management of waste between the proposed units and the street giving rise to the potential for excessive noise odours and associated amenity impacts to future occupiers compromising health and safety of occupiers and contrary to saved policies ENV 10, GP2 of Walsall's Unitary Development Plan
2. No legal agreement has been entered into as part of this application to secure the payment of an open space contribution, which is contrary to Policy GP3 (a) of the Council's Unitary Development Plan and to the Council's adopted supplementary planning document Urban Open Space, April 2006

THE ORIGINAL REPORT FOLLOWS:

Proposal

This application seeks planning permission for the change of use and external changes to 1 Freer Street to provide 7 apartments, demolition of existing warehouse and erection of a two storey building to provide 2 apartments and change of use of first floor of 28 Bridge Street to 3 apartments.

A shared sunken garden is proposed in a courtyard formation within the centre of the site, including an area for bin and cycle storage. This area would be accessible to all of the apartments. An existing shared access from Bridge Street would provide level access to this area.

The external changes to 1 Freer Street are to the rear elevation of the building and consist of the insertion of an eight additional sash style windows (with brick headers and cills) and two doors.

There are no external changes to the front of 28 Bridge Street. To the rear angled windows are proposed.

The new apartment block would be two stories in height with pitched parapet roof. Mock windows are proposed to the elevation facing Freer Street. Habitable room windows face across the courtyard.

The application has been supported by the following information:

Design and Access Statement

- Buildings have been vacant for a number of years and have been difficult to let.
- Layout takes into account the significance of the façade of 1 Freer Street
- Demolition of the dilapidated warehouse gives the opportunity to provide the attractive feature of the courtyards/sunken garden which can be accessed by all the new apartments.
- Cycle storage is provided.
- Town centre car parking is available on a number of sites nearby.
- Public transport is on the doorstep and all amenities are within each reach.

Heritage Statement

- Layout and formation of a courtyard will bring back into use these attractive and important buildings.
- The original windows will be retained in both buildings and signage fascia panels on 1 Freer Street will be removed and the masonry made good.
- No evidence from the Historic Environment Record relating to the warehouse building.
- If approved the scheme would bring back into use these attracting and important buildings.

Noise Assessment

- Given the levels of environmental noise day and night measured at both street facades to achieve the good standard habitable rooms on street facades will require secondary glazed windows.
- Room ventilation would be achieved by alternative means.

Site and Surroundings

The application site is within the Town Centre and is part of Bridge Street Conservation Area.

Freer Street is mainly commercial, with A1 and A2 and A4 uses. 1 Freer Street was last used as a decorators shop. There is an open site next to no. 1 which is used as a private car park. There is a public car park further along Freer Street.

Bridge Street consists of a mix of town centre uses, A1, A2, A3, A4 and A5 with residential to the upper floors of some of the buildings. The ground floor of no. 28 is used as a solicitors. The upper floor was last in use as an office. Within Bridge Street there are a number of late night bars and night clubs.

The adjoining building on the corner of Bridge Street and Freer Street (historically known as the Black Swan) is a vacant public house.

Walsall bus station is 235m walking distance away, the train station 470m walking distance away. Church Hill Open Space is 320m walking distance away.

Relevant Planning History

07/0476/FL/W5 - Proposed change of use to licensed premises as public house, nightclub and restaurant. GSC 23/4/07

10/0472/TE - Application to extend time limit for implementation of 07/0476/FL/W5: Proposed change of use to licensed premises as public house, nightclub and restaurant (A3 and A4 uses). GSC 2/7/10.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**

- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (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. The **characteristics** that are protected by the Equality Act 2010 are:

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

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

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

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon

those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.6 to 3.8 Environmental Improvement
- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously Developed Sites
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- S8: Housing in Town Centres
- T1 - Helping People to Get Around
- 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
- 8.3 Urban Open Space
- LC1: Urban Open Spaces

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres

- CEN3: Growth in the Strategic Centres
- CEN4: Regeneration of Town Centres
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM5: Resource Management and New Development

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing
- EN5: Development in Conservation Areas
- T2: Bus Services
- T3: The Rail Network
- T4: The Highway Network
- T5: Highway Improvements

Walsall Town Centre Area Action Plan 2019

NOTE for case officer: Check Town Centre Area Action Plan Inset of Local Plan Policies Map for any allocations for individual sites

- AAPB1: Office Development
- AAPLV1: Residential Developments
- AAPLV5: Protecting and Enhancing Historic Character and Local Distinctiveness
- AAPLV6: Securing Good Design
- AAPT1: Pedestrian Movement, Access and Linkages
- AAPT2: Cycling
- AAPT3: Public Transport
- AAPT5: Car parking

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
- DW10 Well Designed Sustainable Buildings

Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations

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

Air Quality SPD

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

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

In determining any planning application, special attention shall be paid to the desirability of preserving listed buildings and preserving or enhancing the character or appearance of conservation areas as set out in sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Consultation Replies

Highways – concerns about the practicality of the waste collection arrangements.

Pollution Control – significant acoustic glazing and alternative means of ventilation would be required, a construction management plan would be required and contaminated land investigation.

Police Crime Reduction – no objections.

Housing Standards – some of the bedrooms are on the small side, should be at least 10sqm. One of the bedrooms on the first floor has its means of escape through a kitchen window.

Severn Trent Water – no objections subject to use of recommended drainage condition.

Environmental Health – no comments received.

Clean and Green – no comments received.

Representations

Surrounding occupiers notified by letter, site notice displayed and advertised in local newspaper.

No comments received.

Determining Issues

- Principle of development
- Impact upon the historic environment
- Impact upon the character and appearance of the area
- Residential and neighbouring amenity
- Highway safety
- Planning Obligations.

Assessment of the Proposal

Principle of development

1 Freer Street was last used as a decorators shop (appears to have been vacant since at least September 2014) and the upper floor of 28 Bridge Street as offices. The application seeks permission for these buildings and a new two storey block to be used as residential.

This is a Town Centre location, Saved UDP policy S8 supports housing within the Town Centre providing it supports the centre's retail, commercial and leisure functions including the growth of the evening economy.

The Town Centre Area Action Plan policy AAPLV1 supports residential use through the conversion of existing buildings where it does not jeopardise the commercial function of the centre and accords with policy AAPB1. AAPB1 encourages the use of upper floors for offices.

1 Freer Street would be an A1 use, this has been vacant for some time and is outside of the Primary Shopping Area where there are a number of vacancies. The loss of the retail use would not be prejudicial to the overall retail function of the town. Similarly given the vacancy rate for offices in the town, the loss of the upper floor of 28 Bridge Street would not be detrimental to the overall office provision in the town.

The NPPF recognises that residential development can play an important role in ensuring the vitality of centres, 12 residential units would support the evening economy. The NPPF also states that housing applications should be considered in the context of the presumption in favour of residential development. This is a highly sustainable location.

Weight is given to the vacancy of these buildings and the opportunity to bring them back into use on a comprehensive basis and the benefits active use would have upon the preservation and enhancement of the Conservation Area. On balance, the proposed use would not prejudice the function of the Town Centre.

Impact upon the historic environment

SAD policy EN5 explains developments should preserve or enhance the character and appearance of the Conservation Area.

The NPPF explains that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

The NPPF also guides that LPAs should take account of the desirability of sustaining and enhancing the significance of a heritage asset and putting them into viable uses;

the positive contributions assets can make to sustainable communities including economic vitality and positive contribution to local character.

1 Freer Street is an attractive three storey building that makes a strong contribution to the historic environment. Bringing this building back into use would enhance the character of the area. In heritage terms the proposed rear windows look to match the existing used within the building.

The proposed angled rear windows to 28 Bridge Street would cause no harm.

The existing warehouse building has little heritage or architectural value and its demolition would not harm the Conservation Area. The two storey apartment building within the courtyard would have the same pitched roof parapet design to that used within 1 Freer Street and includes architectural detailing that is similar to those used within the area.

On balance the development would preserve the setting and character of the Conservation Area.

Impact upon the character and appearance of the area

Bringing the building back into use would be positive. From the street there are no physical changes to 1 Freer Street and 28 Bridge Street. The two-storey apartment block is set back 30m from Freer Street and would have a smaller mass than the existing warehouse building. The roof design is the same as no. 1 and would add variety to the street. It is explained that this building would be finished out of bricks and tiles that match those used within 1 Freer Street. Subject to a condition that defines these materials the proposal would integrate into the character of the area.

Residential and neighbouring amenity

Given the constraints of the site and with the proposal endeavouring to protect the historic environment, each apartment is single aspect, with bedroom(s), separate bathroom, kitchen and lounge. Apartments either have an outlook across Freer Street, across Bridge Street or across the shared courtyard. There is a 9m separation distance between the Freer Street and Bridge Street buildings. Angled bay windows are proposed to the rear of the first floor of 28 Bridge Street, with one side obscure glazed and the other clear. This design ensures occupiers are provided reasonable outlook without resulting in significant mutual overlooking whilst protecting the historic environment. The layout ensures surveillance of the shared courtyard which provides security benefits to these shared areas. It is recognised that high density town centre living cannot always achieve the separation distances and outlook of the suburbs. Weight is given to making the most efficient use of the site. Each of these apartments would have sufficient access to natural light and acceptable outlook considering the constraints of the site

Housing Standards raise concerns about the size of some of the bedrooms and means of escape. The 1-bedroom units meet the minimum gross internal floor areas of 39sqm and 2 bedroom units meet the minimum 50sqm as prescribed in the national described space standard document. Means of escape would be a requirement of the Building Regulations and are not material to this application.

A safe and secure environment for the occupiers can be achieved through the use of crime prevention measures, such as door and window standards and access control measures which can be required by condition.

In addition to the shared amenity space the site is within walking distance of Church Hill Open Space and Bath Street public gardens and the amenities of the Town Centre. The internal layouts provide sufficient living space and appropriate level of outlook. The NPPF states that housing applications should be considered in the context of the presumption in favour of residential development. This is a sustainable location and would make effective use of the land, providing sufficient amenity provision for future occupiers while providing 12 further homes.

Bridge Street has a number of late-night bars and clubs, Freer Street also has a bar and the former Black Swan on the corner of Bridge Street and Freer Street, while currently vacant, in planning terms could be brought back into use. Therefore, there is a high level of background noise into the evenings and weekends. A noise survey has been submitted in support of the application that identifies that the proposed units on Bridge Street are subject to significant noise and will require significant acoustic glazing and an alternative means of ventilation to meet British Standards and World Health Organisation guidelines, as the occupiers will not be able to open their windows without being subjected to noise disturbance from pubs, clubs, restaurants/takeaways, and the general night-time social activities in the area.

It is recognised that not being able to open windows would impact upon residential amenity, however alternative means of fresh air through mechanical ventilation can be provided which would ensure an acceptable level of amenity would be provided given the context of the town centre location. In considering the wider planning balance, subject to a condition securing full details of these arrangements and their installation, this would be acceptable.

In addition to these measures Pollution Control recommend acoustic mitigation is used between the ground and first floor of 28 Bridge Street to protect potential residential occupiers from any noise from the commercial activities at ground floor.

Given the existing residential occupiers in the area a demolition and construction management plan would also be necessary to protect residential amenity during works.

Pollution Control also advise that due to the historic use of the land a site investigation report and implementation of any required mitigation measures would be necessary to safeguard future occupiers. A condition that meets the Government's six tests is recommended.

To the rear of the first floor at 36-38 Bridge Street is an existing bedroom window with an outlook of the existing warehouse. The proposed apartment block due to the hipped roof would increase outlook from this window.

Highway safety

The application does not provide any off-street parking. Bin and cycle storage areas are proposed within the courtyard that would have a level access from Bridge Street.

This is a highly sustainable location within walking distance of all Town Centre amenities and within walking distance of both of the bus stations and the train station. There are also public car parks within close proximity. Accordingly, the absence of off-street parking would not give rise to conditions prejudicial to highway safety.

Highways have concerns about the practicality of the bin store with the access being through a narrow passage onto Bridge Street. There are examples of euro bins

already being stored on the pavement of Bridge Street and the restricted access to the internal bin store could encourage further storage on the highway instead. The application details explain that the bins would be collected by a private waste management company. Whilst it is recognised access for bins is contrived due to the built form of this Conservation Area there are no other options to service this development whilst protecting and enhancing the historic environment.

As discussed, the development would be a positive addition to the Town Centre. A Waste Management Statement can be provided that sets out the precise steps, for example that waste will be collected by a private company (as the applicant proposes) and that other than during collection times bins are stored in the bins store. This can be secured through a S106 agreement.

A planning condition that retains the bin and cycle features would be necessary.

Planning obligations

BCCS policy DEL1 and saved UDP policies GP3 and LC1, require, where appropriate, provision and improvements to or provision of urban open space within the proximity of the application site on qualifying developments above the threshold of 10 units. Utilising the Urban Open Space SPD would seek a financial contribution of £13,319.00 from this scheme for improvements to urban open space in the locality, which the applicant has agreed to provide this contribution in full. Clean and Green strategic works have been asked to identify some improvement projects in the locality. This contribution would be secured through a S106 agreement which forms part of the recommendation.

Local Finance Considerations

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

This application proposes 12 new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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

Conclusions and Reasons for Decision

In weighing the key material considerations and consultee responses against the national and local planning policies and guidance, it is considered that the principle of development is consistent with the provisions of the development plan. The proposal would preserve the character and appearance of the Conservation Area and would not have an adverse impact upon the visual amenities of the area. The proposal would not impact up adjoining occupiers and ground conditions and drainage can be address by conditions. The development would not give rise to conditions prejudicial to highway safety. Sufficient residential amenity would be provided for potential occupiers and the amenity of nearby residents would not be affected.

Safeguarding conditions in regard to land contamination, construction management, drainage, acoustic mitigation, matching materials, cycle shelter, bin store, security measures and windows are necessary and meet the six tests. A S106 agreement in regard to open space provision is also required. Taking into account the above factors it is considered that the application should be recommended for approval. The development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP4, HOU1, HOU2, CEN4, TRAN2, TRAN5, ENV2, ENV3 and ENV5 of the Black Country Core Strategy, policies HC2 and EN5 of the Walsall Site Allocation Document; policies AAPB1, AAPLV1, AAPLV5, and AAPLV6 of the Walsall Town Centre Area Action Plan; saved policies 3.6, 3.7, GP2, ENV10, ENV14, ENV32, ENV40, S8, T7, T13 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

Positive and Proactive Working with the Applicant

Officers have worked with the applicant's agent securing amended plans and clarification over the proposal to enable support to be given.

Recommendation

Grant planning permission subject to conditions and a S106 agreement

Conditions and Reasons

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

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

2. This development shall not be carried out other than in conformity with the application form and following plans and documents: -

- Location and site plan received 21/8/18
- Proposed development plan received 21/8/18
- Existing cellar plan received 20/9/17
- Existing ground floor plan received 20/9/17
- Existing first floor plan received 20/9/17
- Existing second floor plan received 20/9/17
- Proposed basement plan received 21/8/18
- Proposed ground floor plan received 21/8/18
- Proposed first floor plan received 21/1/19
- Proposed second received 21/8/18
- Proposed roof plan received 21/8/18
- Existing elevations Freer Street received 21/1/19
- Existing elevations Bridge Street received 20/9/17
- Existing sections received 20/9/17
- Proposed elevations Freer Street received 21/8/18
- Proposed elevations Bridge Street received 21/8/18
- Proposed elevations Bridge Street received 21/8/18

- Environmental Noise Assessment received 11/2/19

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

3a. Prior to the commencement of development a ground contamination survey having regard to current best practice shall be undertaken. (see Note for Applicant CL1).

3b. Prior to the commencement of development a copy of the findings of the ground contamination survey, together with an assessment of identified and/or potential hazards arising from any land contamination shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2).

3c. Prior to the commencement of development a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2).

3d. The remedial measures as set out in the 'Remediation Statement' required by part d) of this condition shall be implemented in accordance with the agreed timetable.

3e. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part a) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part c) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

3f. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3).

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

4a. Prior to the commencement of any works on site, including site preparation, clearance or demolition shall not take place until a Demolition and Construction Management Plan, setting out how the demolition and construction works will be undertaken and giving details of arrangements for the control of noise, vibration, dust and debris (including site drag-out), and construction working hours, shall be submitted for written approval of the Local Planning Authority.

4b. The Construction Management Plan shall be implemented upon commencement of any works and shall be maintained until the site is completed.

Reason: In the interests of residential amenity and in accordance with saved policy ENV10 of the UDP.

5a. Prior to the commencement of development of the two storey apartment block drainage plans for the disposal of foul and surface water flows shall have first been submitted to and approved in writing by the Local Planning Authority.

5b. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

6a. Prior to the commencement of development details of acoustic mitigation and ventilation measures to be implemented to address the issues identified in the Environmental Noise Assessment Report received on 11/2/19 shall have first been submitted for written approval of the Local Planning Authority. This shall include scale drawings of the proposed details at 1:20 scale.

6b. Prior to the first occupation of any part of the development hereby approved, the agreed acoustic mitigation measures shall have been installed and an independent written validation statement shall have been submitted to the Local Planning Authority confirming the installation of the agreed acoustic mitigation measures.

6c. The agreed acoustic mitigation measures shall thereafter be retained for the life of the development hereby approved.

Reason: To mitigate the impacts of noise from commercial premises, to protect the amenity of future occupants and to preserve the setting, appearance and character of the Conservation Area.

7a. Prior to the commencement of development a noise insulation scheme to address noise between the ground floor commercial operations, the next door commercial operations, and the proposed residential premises at the application site for the Bridge Street apartments shall be submitted for written approval of the Local Planning Authority. As a minimum, the apparent weighted sound reduction index, R_w, between the commercial development and the residential units shall not be less than 70dB.

7b. Prior to the first occupation of any part of the development hereby approved, the agreed acoustic mitigation measures shall have been installed and an independent written validation statement shall have been submitted to the Local Planning Authority confirming the installation of the agreed acoustic mitigation measures.

7c. The agreed acoustic mitigation measures shall thereafter be retained for the life of the development hereby approved.

Reason: To mitigate the impacts of noise from commercial premises and to protect the amenity of future occupants.

8. Prior to the development first being brought into use, rear facing apertures to 1 Freer Street shown to be blocked shall be done so with matching bricks and bonding.

Reason: To preserve the setting, appearance and character of the Conservation Area.

9a. Prior to the commencement of development details of the proposed cycle shelter which shall be covered, illuminated and secure, shall be first submitted for written approval of the Local Planning Authority.

9b. The approved details shall be implemented prior to the development hereby approved is first brought into use.

9c. The cycle shelter shall thereafter be retained for the use of the future occupiers and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and to encourage sustainable modes of travel in accordance with UDP policy GP2, T7 and T13 and Black Country Core Strategy TRAN4.

10a. Prior to the development hereby approved first coming into use the bin storage area shall be implemented and be available for use by the future occupiers of the development.

10b. The bin storage area shall thereafter be retained and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and to encourage sustainable modes of travel in accordance with UDP policy GP2, T7 and T13 and Black Country Core Strategy TRAN4.

11. The two storey apartment block hereby approved shall be finished in brick and tiles that match closely to those used within 1 Freer Street at the time of the application.

Reason: To preserve the setting, appearance and character of the Conservation Area.

12. The development shall be constructed to meet the following minimum security measures and thereafter retained as such;

-A minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond standard certification should be used on all door locks

-Where thumb turn locks are to be installed these should be those that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks.

- Communal entry to the apartments shall be fitted with an access control system. This may be a proximity access control system, a door entry phone system and electronic lock release or a combination

- Security anchor for the cycle stands must be certified to Sold Secure Silver standard or LPS 1175 issue 7:2010 SR1 and be securely fixed to the concrete foundation.

Reason: To ensure the safety and security of the development and its occupiers in accordance with BCCS policy ENV3.

13. For the avoidance of doubt none of the existing windows or doors to the front elevation of 1 Freer Street shall be replaced but shall be repaired on a like for like basis as necessary.

Reason: To preserve the setting, appearance and character of the Conservation Area.

Notes for applicant

Pollution Control

CL1 - Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A1:2013 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2 - When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2 'Human health toxicological assessment of contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3 - Validation reports will need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported 'clean cover' materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 05 October 2023

Plans List Item Number: 3

Reason for bringing to committee

Significant Community Interest

Application Details

Location: 4, CALTHORPE CLOSE, WALSALL, WS5 3LT

Proposal: CHANGE OF USE OF THE EXISTING C3, DWELLING HOUSE TO CLASS C2, A PROVISION OF RESIDENTIAL ACCOMMODATION AND CARE FOR CHILDREN WITH LEARNING DIFFICULTIES

Application Number: 23/0930

Case Officer: Fiona Fuller

Applicant: Paul Singh

Ward: Paddock

Agent:

Expired Date: 21-Sep-2023

Application Type: Full Application: Change of Use

Time Extension Expiry: 07-Nov-2023



Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:

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

Proposal

This planning application is for a change of use from a two-storey detached dwelling house (planning use class C3 - dwellinghouses) to a children's care home (planning use class C2 - residential institutions) with interior alterations.

The submitted planning statement proposes no external changes to the property with minor internal refurbishment to bring the property in line with Building Regulations and/or Care Standards.

Ground Floor – Reception Hall with stairs to first floor, 2 reception rooms, a W/C, kitchen, and staff office.

First Floor – 3 bedrooms for children and young people and 1 bedroom for staff and 1 bathroom.

Off-street parking can be provided for on the front driveway for 3-4 cars without causing issues to roadside parking.

The planning statement supports this application. The planning statement asserts that there would be care and support for up to 4 children, ages up to 18 years with emotional behavioural difficulties and/or mild learning difficulties. All staff would receive robust training.

The planning statement advises that they would look to provide a nurturing environment to help and support all the children and young people to overcome their traumatic past and develop skills and coping techniques that will better shape their future. Their aim is to work as a unit; the home, team members, managers, and professionals to assist with future independence so that they can care for and support themselves and that they are emotionally resilient enough to cope with life's unexpected difficulties.

There would be up to 4 staff members present on a rotated basis providing 24-hour care and supervision to a maximum of 3 children or young people. The home will operate the following shift patterns; Early: 7am to 3pm, Late: 2.30pm-10.30pm, Long day: 7am to 10:30pm. Sleep in/Night Wake: 10.30pm to 7.30am (following day), and the Homes Manager is able to operate their 8 hours accordingly, which majority of the time may be office hours from 9am to 5pm.

Site and Surroundings

The application property is a detached property near a roundabout intersection of Woodside Road, Woodside Close and Calthorpe Close.

The application site is located approximately 2 miles from Walsall Town Centre which is located to the north-west. There are regular bus services from Birmingham Road (bus routes 77 (Walsall to Erdington), 77A (Walsall to Erdington) and 51 and X51 (between Walsall and Birmingham, and Birmingham and Cannock).

The area is residential in nature consisting mainly of larger detached two storey of red brick construction with tiled roofs.

Relevant Planning History

None at the application site, however the redevelopment of the adjacent dwelling at No 2 Calthorpe Close was recently granted by the local planning authority.

21/0247	2, CALTHORPE CLOSE, WALSALL, WS5 3LT	Full Application: Minor Use Class C3 (Dwellinghouses)	Proposed New Build Dwelling	Grant Permission Subject to Conditions	30-01-2023
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Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

- NPPF 2 – Achieving sustainable development
- NPPF 4 – Decision Making
- NPPF 8 – Promoting healthy and safe communities
- NPPF 9 – Promoting sustainable transport
- NPPF 12 – Achieving well-designed places

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.

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV14: Development of Derelict and Previously Developed Sites
- ENV32: Design and Development Proposals
- H6: Nursing Homes and Rest Homes for the Elderly
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- DEL1: Infrastructure Provision
- TRAN2: Managing Transport Impacts of New Development
- ENV3: Design Quality

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing
- HC3: Affordable Housing and Housing for People with Special Needs
- T4: The Highway Network

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW7 Diversity
- DW10 Well Designed Sustainable Buildings

Consultation Replies

Housing Standards - If the property will be occupied by 5 or more unrelated people it will require a HMO license unless the property is subject to CQC or OFSTED regulation.

Environmental Protection – No objections and are of the opinion there are no significant industrial/commercial noise impacts, or any concerns regarding air quality or contaminated land that are material planning considerations.

Fire Officer – No adverse comments

Local Highway Authority – The development proposals would require 2no car parking spaces in line with Walsall UDP Policy T13. An existing driveway to the front of the dwelling has parking for 3no. cars. The Highway Authority therefore has no objections.

Public Health – No objection

Police – No objection and recommend the principles of Secured by Design which can be included as an informative.

Strategic Planning Policy – Support, see assessment section principle of development.

Representations

(Local Planning Authority comments in italics and brackets)

Councillor Gurmeet Singh Sohal sent two letters of objection about the proposal on the following grounds.

The proposed change is contrary to local planning policy

Non-compliance with national policy

Inadequate parking and access and will undermine the standard of amenity currently enjoyed and expected by its residents.

One public petition objecting to the proposal has been submitted with 70 from signatories on the following grounds;

- Inappropriate and out of character use contrary to NPPF para 130a. *(Use class C2 is residential in nature and would accommodate the proposed use, refer to principle of development section in the assessment report)*
- Increased local crime rates, risk to safety, anti-social behaviour and property security *(evidence provided of different property in different location which is not considered relevant to this application, the future occupiers would have 24-hour care and support)*
- Unsustainable development contrary to Policy H3 of Walsall's SAD. Insufficient public transport provision. *(refer to principle of development section in the assessment report)*

Objections from 22 residents were received following the notification of the proposal on the following grounds:

- Non-compliance with local and national policy. *(refer to principle of development section in the assessment report)*
- Property deeds state the property should be used as a single dwelling *(Planning Use C2 would likely comply with this requirement however restrictive covenants are not a material planning consideration in this instance)*
- Noise and disturbance *(see assessment section of this report)*
- Increased parking and traffic with staff coming and going *(see assessment section)*
- Overlooking *(see assessment section of the report)*

- Safety and fear of crime and anti-social behaviour (*no evidence has been put forward to substantiate this claim regarding the future occupiers of the property*)
- Unsuitable location and should be elsewhere, out of keeping with the area, lack of amenities for residents (*The proposal is a form of residential use in a residential location*)
- Loss of property financial value (*not a material planning consideration in this instance*)
- Lack of information, site notices not displayed, lack of notification (*There is sufficient information submitted for the Council to process this planning application to change from one type of residential use to another residential use site notices are not a statutory requirement for this location or type of application, statutory consultations have been carried out*)
- Concerns about the type of children to be housed. (*This is not a material planning consideration, and the planning application can only consider the land use planning matters*)
- Anxiety, impact on health and increased stress especially for elderly residents (*not a material planning consideration in this instance*)
- Quiet family community with no other businesses on the cul-de-sac (*the proposed use falls within a residential planning use class*)

Determining Issues

- Principle of Development
- Character of the Area
- Amenity of Neighbours and Amenity of Future Occupiers
- Safety and Security
- Access and Parking

Assessment of the Proposal

Principle of Development

There are no policies in the development plan specifically about children's care homes.

However saved UDP policy H6 refers to nursing homes and rest homes for the elderly but contains advice about parking and the types of property that will be suitable. Paragraph (b) VIII states that large, detached properties are the most obviously suitable for these uses. Paragraph (b) X states that the Council will take account of the accessibility of a property to local amenities and public transport.

SAD policy HC3 states that the Council will encourage the provision of housing for people with special needs, including single people, the elderly, people with disabilities and any other groups who require specialist accommodation, in locations that would be acceptable for general housing. Such housing will be particularly encouraged in and close to centres, provided the sites are not required for centre uses. Specialist housing where care is provided to residents, or where residents are not able to drive, will only be supported in locations that enjoy good public transport access. The proposal is within a sustainable location and provides for specialist accommodation in

a residential setting, as such the proposal would accord strongly with the provisions of policy HC3.

The minister of state for housing and planning made a written statement to Parliament on 23rd May about planning for accommodation for looked after children:

<https://questions-statements.parliament.uk/written-statements/detail/2023-05-23/hcws795>. This states:

“I ...wish to set out the Government’s commitment to support the development of accommodation for looked after children, and its delivery through the planning system.

The planning system should not be a barrier to providing homes for the most vulnerable children in society. When care is the best choice for a child, it is important that the care system provides stable, loving homes close to children’s communities. These need to be the right homes, in the right places with access to good schools and community support. It is not acceptable that some children are living far from where they would call home (without a clear child protection reason for this), separated from the people they know and love.

Today we use this joint statement to remind Local Planning Authorities that, as set out in paragraph 62 of the National Planning Policy Framework, local planning authorities should assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions.

Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country. It is important that prospective applicants talk to local planning authorities about whether their service is needed in that locality, using the location assessment (a regulatory requirement and part of the Ofsted registration process set out in paragraph 15.1 of the Guide to the Children’s Homes Regulations) to demonstrate this.”

Paragraph 130 of the National Planning Policy Framework 2023 states that:

130. Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The proposal accords with paragraph 130 in that it would retain the residential character of the area, would not impact on the built fabric of the area, and would provide for inclusive and accessible housing for vulnerable people.

It is noted that the application includes details of the number of children to be accommodated and the staffing arrangements. The application property is a detached house in Paddock Ward in a sustainable location. The proposed use can be supported on strategic planning policy grounds.

Character of the Area

The character of the area is defined by residential uses, dominated by detached and semi-detached houses. The change of use from residential to another residential use, in a residential area is considered compatible with this character. The internal layout changes would do not harm to the character of the surrounding area. The application property would continue to have the appearance as a dwelling house.

Amenity of Neighbours and Amenity of Future Occupiers

The neighbouring properties are residential. No built changes are proposed to the dwelling therefore there would be no change in the impact in terms of overlooking, daylight sunlight or privacy concerns for surrounding properties. The existing building is a house and would continue to be used for residential living accommodation with the same level of amenity and similar relationship to neighbouring houses as is already the case. The level of noise is anticipated to be no greater than would be expected than any other residential property in the locality.

No evidence has been provided to demonstrate that there would be safety issues as a result of this proposal. There would be staff support and supervision for up to three residents on a 24-hour basis.

Residents have raised concerns, that the type of clientele would be inappropriate. The planning authority wishes to remind members and the public that this is not a material planning consideration. The Local Planning Authority is required to consider land use matters which in this application is for change from one form of residential use to another form of residential use in a residential location. Like with any residential property, the planning legislation does not have control over who may or may not live in that property.

Safety and Security

Whilst the fear of crime is a material consideration in planning decisions, the weight that can be given, is often limited unless there is significant evidence to show that the increased fear of crime would actually occur in relation to this specific proposal.

The Police have no objections to the proposal and recommend the principles of Secured by Design are implemented which can be included as an informative note. An additional condition is proposed that would further ensure that the proposal meets safety and security requirements for residents and surrounding occupiers.

The behaviour of people in the street and safeguarding are all matters outside the scope of the planning legislation to consider.

Access and Parking

The Local Highway Authority comments that the dwelling has parking space for three motor cars on the property frontage. Policies states that a property of this size should have two parking spaces.

The application includes information setting out the way the proposed Care Home will operate. It states that there will be up to 3 residents (up to 18 years old) at the site with 4 staff present during a rotated basis with a shift pattern.

In terms of T13 Parking Policy a three-bedroom 'Residential Home' requires at least 1 parking space. The property has at least 3 spaces available on the property frontage so in context of the policy the requirement is met.

Also, for comparison the extant 4-bedroom dwelling requires 3 parking spaces in policy terms. A condition is proposed to ensure that this level of parking is retained.

Taking into account the modest scale of the proposal, with only 3 children residing there who clearly will not be car owners and up to 4 staff over shifts, it is considered that the vehicle movements, traffic and parking demand associated with the proposal would not be dissimilar to that of a large family home but with vehicle movements mainly concentrated around the shift change over times in the am and pm.

In order to justify an objection of highway grounds the Highway Authority would have to demonstrate that the proposal will have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network. For the reasons above, the development is acceptable in accordance with the NPPF 2023 paragraph 111.

Conclusions and Reasons for Decision

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, it is considered that the proposal would be an acceptable use of this previously developed site within an existing residential area.

There is no significant evidence that the proposal would increase crime and anti-social behaviour in the area or give rise to an unacceptable level of noise and disturbance. The proposal is considered would not result in a significant loss of amenity for adjoining neighbours. The application has sufficient off-street parking to meet policy requirements and the inclusion of a planning condition to restrict occupancy of the care home to a maximum of three residents can be included.

This proposal is therefore considered to be acceptable and in accordance with local and national planning policies and guidance set out in this report.

Taking into account the above factors it is considered that the application should be recommended for approval. The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment.

Positive and Proactive Working with the Applicant

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

Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:

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

Conditions and Reasons

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

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

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

- Planning Statement (Amended) – dated 22/09/2023
- Drawing No. ANS/323/02 (Amended) – Drawing Title: Proposed Plans (includes site plans)– Dated 25/07/23
- Drawing No. ANS/323/02 (Amended) – Drawing Title: Existing Plans (includes site plans)– Dated 25/07/23

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

3a. Prior to occupation of the development hereby permitted a minimum of 3no. off road vehicular parking spaces each measuring a minimum of 2.4m by 4.8m shall be provided on the drive within the curtilage of the application dwelling. The parking spaces shall be consolidated hard surfaced and drained to prevent surface water from the driveway running on to the public highway or into any highway drain.

3b. The off-road vehicular parking spaces shall thereafter be retained for the purposes of parking vehicles and for no other purpose for the lifetime of the development.

Reason: In accordance with the requirements of saved Unitary Development Plan policies GP2, T7, T13 and ENV40 and in the interest of highway safety.

4: The development hereby permitted shall not be carried out otherwise than in accordance with the approved details of a residential care home for up to a maximum of up to three children between the ages up to 18 years and for no other purpose (including any other purpose in Schedule 1, Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification and not to be subdivided or split into flats for the lifetime of the development hereby permitted.

Reason: To control the level of parking demand and vehicle movements at the property in accordance with UDP Policy T7 and T13 and in the interests of highway safety.

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

-All external doors to be PAS24; 2022

-All ground floor windows and over accessible roofs to be PAS24; 2022

-All ground floor windows and over accessible roofs including French doors and patio doors to have not less than one pane of 6.4mm laminated glass.

-Dusk until dawn lights (white light source) to be installed adjacent to each door including either side of garage doors

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

6. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and there shall at no time be any advertisement(s) displayed to the frontage of the property.

Reason: In the interests of maintaining the character of the area.

Notes for Applicant

Police Informative:

- Limited information. Care for children with learning difficulties.
- Apparently kitchen with 3 rooms and garage to ground floor.
- 4 bedrooms to first floor.
- Proposed 3 children
- 1 office and 1 staff bedroom.
- 2 full and 1 part time staff. Over 24 hours?
- Little information on likely residents for this accommodation, children etc.
- No age is referred to. Up to 18 years?
- A new residential care home is required to register with the Care Quality Commission.
- Health and Social Care Act 2008, 2012, 2022 (Regulated Activities) Regulations 2014.

- Some providers must have a registered manager as a condition of their registration.
 - <https://www.cqc.org.uk/>
 - <https://www.cqc.org.uk/guidance-providers/registration/register-new-provider>
- Supported accommodation, regulations housing and support for looked after children and care leavers aged 16 to 17.
- Ofsted to start registering supported accommodation providers from April - GOV.UK (www.gov.uk)

The below information for the applicant should they be successful:

- The applicant to refer to crime prevention and home security advice contained within SBD New Homes.
- Please see : HOMES_GUIDE_2023_web.pdf (securedbydesign.com)
- External LED lights with daylight sensors to external walls, particularly by entrances and parking areas.
- This to provide security for residents entering and leaving. (SBD Homes 2023 page 47, 27.2).
- Advice on alarms and CCTV <https://www.policesecuritysystems.com/>
- Alarm and cctv installers should be approved by NSI, SSAIB or both See <https://www.nsi.org.uk/> and <https://ssaib.org/>
- Dwelling entrance door-sets (SBD Homes 2023 page 36, 23, 1-9).
- PAS 24: 2022 standard doors for houses and apartments. Please see <https://www.securedbydesign.com/guidance/standards-explained>

Public Petition

4 Calthorpe Close - Statement and Position of Objection Continued.

1. Inappropriate Use Contrary to NPPF Policy 130(a)
2. Fear of Crime and anti-social behaviour
3. Unsustainable Development Contrary to Policy HC3 of Walsall's SAD

NAME	ADDRESS	SIGNATURE
Pam Key	27 Calthorpe Close	[REDACTED]
Shirley Atkinson	29 - - -	
Susie Cooper	24 - - -	
Alicia Allen	24 - - -	
Wesley Thomas	22 Calthorpe Close	
Margaret Thomas	22 - - -	
Geoff Morris	16 - - -	
John Morris	16 " "	
Susan Sanders	4 Calthorpe Close	
Jane Smith	14 Calthorpe Close	
Paul P. Lee	3 Calthorpe Close	
Paul P. Lee	3 CALTHORPE CLOSE	
SWAIN PATER	5 CALTHORPE CLOSE	
SWAIN PATER	5 CALTHORPE CLOSE	
KATHERINE ROBERTS	12 CALTHORPE CLOSE	
SIMON ROBERTS	12 CALTHORPE CLOSE	
AMANDA	8 CALTHORPE CLOSE	
MURRAY	5 CALTHORPE CLOSE	
L. SIMS	2 CALTHORPE CLOSE	
MS BURN	2 Calthorpe Close	
BS BURN	2 Calthorpe Close	
KELLY KAINS	2 CALTHORPE CLOSE	
JOYCE WATKINS	1 CALTHORPE CLOSE	

(2)

END OF OFFICERS REPORT



PLANNING COMMITTEE

5th October 2023

REPORT OF THE HEAD OF PLANNING & BUILDING CONTROL

APPLICATION TO REMOVE 1 PROTECTED BEECH TREE AT 38, MIDDLETON ROAD, STREETLY, B74 3ES.

1. **PURPOSE OF REPORT**

Reason for bringing to committee: Called in by Councillor Sarah Jane Cooper.

2. **RECOMMENDATIONS**

Refuse.

3. **PROPOSAL**

T1 – Beech to fell.

4. **SITE AND SURROUNDING**

A large detached property with extensive front garden and slightly smaller rear garden. The area is predominantly residential with properties of differing plot sizes with dwellings of different ages and architectural styles. The area has good tree cover of diverse species and ages ranges.

5. **RELEVANT PLANNING HISTORY**

Application 04/1093/TR/T1 to prune 3 TPO trees (including T1 Beech) given consent for in August 2004, application 17/0550 to fell 1 Pine given consent in April 2017 and application 20/0108 to fell T1 Beech tree refused 17 March 2020.

6. **RELEVANT POLICIES**

National guidance explaining the regulations governing Tree Preservation Orders can be found in the National Planning Policy Framework, Planning Practice Guidance -Tree Preservation Orders and Trees in Conservation Areas (updated 06 March 2014).

Saved UDP: Policy ENV18: Existing woodlands, trees and hedgerows, states:

- (a) 'The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows'.

7. CONSULTATION REPLIES

Not applicable.

8. REPRESENTATIONS

Two representations have been received supporting the application, one from 35, Middleton Road, Streetly, B74 3ES and one from 44, Middleton Road, Streetly, B74 3ES citing the following additional reason for the removal of the Beech:

- A large branch from the Beech tree recently failed and damaged the boundary fence.

9. DETERMINING ISSUES

Whether the proposed removal of the Beech tree will be detrimental to the amenity, aesthetic and landscape value of the locality, and whether there is sufficient justification for the removal of the tree for the reasons given in the application.

10. ASSESSMENT OF THE PROPOSAL

Site Visit: 10/08/2023

Tree: 1 mature Beech tree

The Beech tree, which is the subject of this application, is situated adjacent the south east boundary of 38, Middleton Road, forms part of a linear group of trees along this boundary and is approximately 4.5 metres away from the south corner of the tree owner's house. The Beech tree is protected by TPO title no. 22/2008 and labelled T1 on the application form. The following observations were made during the site visit and inspection of the tree:

T1 – Beech – a mature tree with a height of approximately 25.0 metres and a crown spread of approximately 16.0 metres. The crown overhangs the applicant's house by up to approximately 5.0 metres and extends outside of the applicant's property boundary into the front garden of no. 42, Middleton Road to the south east. There is a vertical wound on the south side of the main stem approximately 1.0m above ground level which has occluded well. There is a large scaffold limb approximately 5.0m above ground level, which extends north east towards the applicant's house. There is evidence of previous pruning works having been undertaken in the lower crown in accordance with previous consents which has been of good quality. The crown of the tree has evidence of minor dead wood throughout, however, all trees of this age and species will generate a certain amount of dead wood as it is part of a trees natural biological process. From a ground inspection, the tree appears to be in good condition with no evidence of any significant faults, decay or indications of pest or disease.

The application to remove the Beech is accompanied by a tree report dated 15 June 2023 by A. L. Smith a fully qualified Chartered Arboriculturist who is acting as the agent for the owner / occupier of 38, Middleton Road, B74 3ES. The tree report refers to an ingress of water due to leaf litter and detritus from the tree falling into the valley guttering between the apexes of the roof and causing blockages at both the tree owner's property and the neighbours. The tree report states that the only way of remedying the issues associated with the tree are to have it removed as

pruning would only be a short-term solution which would have to be repeated on a cyclical basis, which along with the maintenance of the properties because of the tree places an unreasonable burden on the tree owner and neighbour. The tree report further states that the tree is not visible from the road but is only visible to the tree owner and neighbour and that consequently the existence of the Tree Preservation Order(TPO) is not justifiable as a tree protected by a TPO should present a reasonable amount of visual amenity to the wider public.

In response to the representations:

- A large branch (approximately 150mm diameter) was evident on the ground during the site visit; however, it was identified as having originated from another tree and not the Beech tree T1 which is the subject of this application.

11 CONCLUSIONS AND REASONS FOR DECISION

From a ground inspection, the tree appears to be in good condition with no evidence of any significant faults, decay or indications of disease. The tree report references an ingress of water into both the tree owner's property and the neighbours due to leaf litter and detritus falling into and blocking the gutters. However, no evidence has been submitted with the application specifying what damage has occurred to the properties or that the Beech tree is responsible. The removal of leaf litter and other detritus from gutters whilst an inconvenience is considered part of routine property maintenance and would not normally justify the removal of a healthy protected tree. When assessing a tree for possible protection by a Tree Preservation Order, the council uses a system called TEMPO (Tree Evaluation Method for Preservation Orders); this is a quick and easy means of assessing a tree for the suitability of a Tree Preservation Order (TPO) and is used by many Local Authorities. TEMPO is essentially a three-part system – part 1 is the amenity assessment, part 2 the expediency assessment and finally part 3 the decision guide.

- Part 1 - The amenity assessment is in four sections which cover the condition of the tree, its expected safe life expectancy, public visibility and other factors (e.g. historical significance). The tree is scored 0 to 5 against each of these four sections and if it achieves a score of 9 or more then part 2, the expediency assessment is undertaken.
- Part 2 - The expediency assessment awards points on the levels of identified threat to the tree; this includes any known threat, foreseeable threat or perceived threat. As with the amenity assessment, this is also scored 0 to 5.
- Part 3 - The decision guide gives suggested outcomes for the accumulated score with anything scoring 11 or more possibly meriting a TPO.

Using TEMPO the Beech tree scored 12 in the amenity assessment, which would suggest that the TPO is defensible.

12 RECOMMENDATION

Refuse.

13 **CONDITIONS AND REASONS**

Walsall Metropolitan Borough Council, as Local Planning Authority, hereby **refuses consent** for the works as specified in the application:

- To fell Beech T1.

For the following reasons:

- From a ground inspection the Beech tree appears to be in good condition with no significant defects, decay or indications of disease.
- No evidence has been submitted specifying what damage has occurred to the properties due to water ingress or that the Beech tree is responsible.
- It is considered that the tree has demonstrable visible public amenity value and its loss would be detrimental to the visual amenity of the area.
- The shedding of leaves, and dead wood is a natural biological function of the tree and whilst they can be an inconvenience their removal is considered to be part of routine property maintenance.

14 **CONTACT OFFICER**

Andrew Cook – Regeneration Officer Trees. Extension: 4740

Alison Ives,
HEAD OF PLANNING & BUILDING CONTROL

APPLICATION 23/0801

**FAIRGREEN
WAY**

38

T1

**MIDDLETON
ROAD**