



Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 6th August 2015

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| 11 | 143 | 15/0654/FL | 817 SUTTON ROAD,WALSALL, | SINGLE STOREY REAR EXTENSION | Grant Permission Subject to Conditions |

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| 12 | 149 | 15/0644/FL | 31 FOLEY ROAD EAST,WALSALL, B74 3HP | SINGLE STOREY REAR AND SIDE EXTENSION | Delegate to the Head of Planning and Building Control to Grant Permission Subject to Conditions provided that no new material considerations are raised by 12 th August 2015 |

Planning Committee

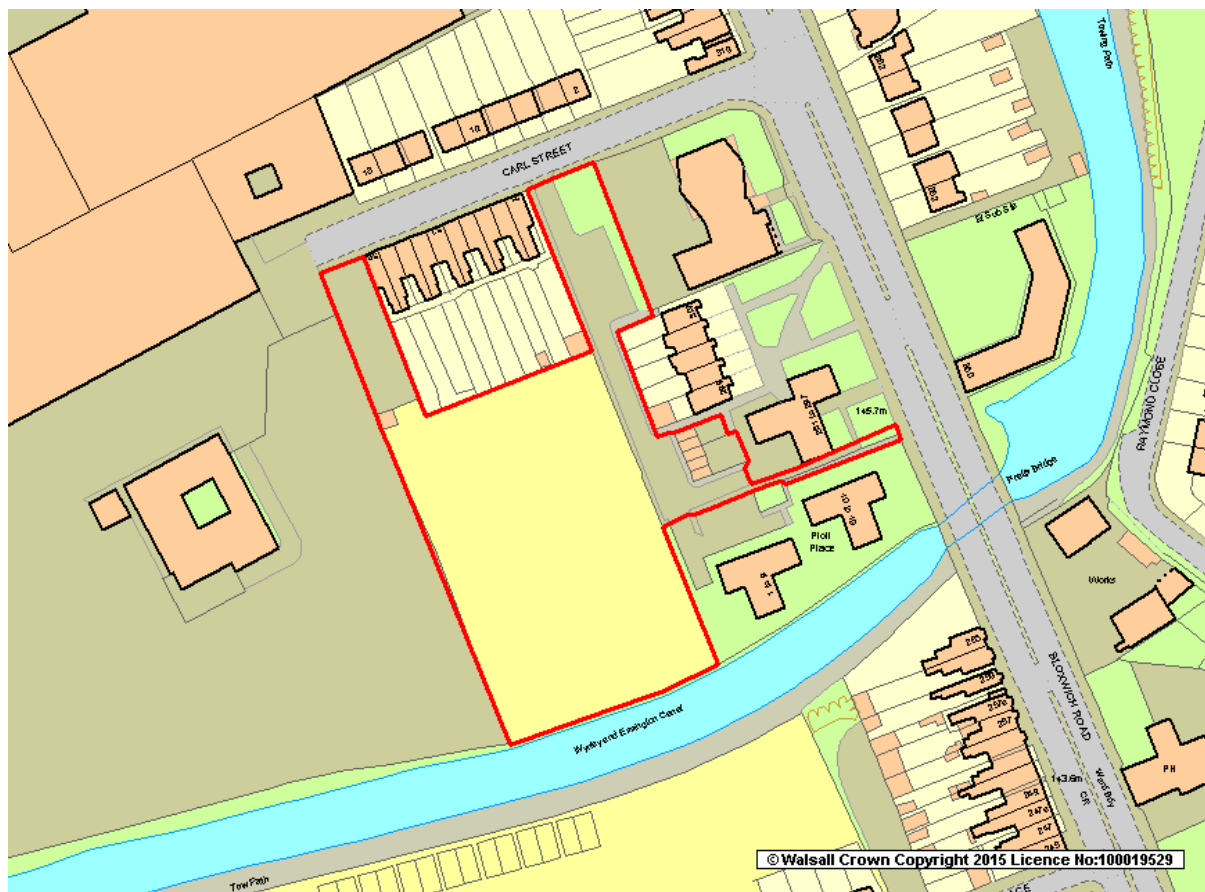
Report of Head of Planning and Building Control on 06-Aug-2015

Plans List Item Number: 1.**Reason for bringing to committee: Major application**

Application Details

Location: LAND IN CARL STREET, BLOXWICH, WALSALL**Proposal:** ERECTION OF 66 NO. 1 AND 2 BEDROOM APARTMENTS WITH ASSOCIATED LANDSCAPING AND PARKING.**Application Number:** 15/0458/FL**Applicant:** Walsall Housing Group**Agent:** BM3 Architecture Ltd**Application Type:** Full Application**Case Officer:** Alison Ives**Ward:** Birchills Leamore**Expired Date:** 10-Jul-2015**Time Extension Expiry:**

Recommendation Summary: Grant permission subject to conditions and subject to a S106 Agreement to secure provision for urban open space unless the District Valuation Officer confirms the scheme is not viable with the full contributions.



Officers Report

Application and Site Details

The proposal is for the erection of 66 apartments at the site in Carl Street, Bloxwich. The apartments are a mixture of one and two bedroom units for affordable rent for the over 55's known as wellbeing units. The scheme is to be developed by Walsall Housing Group (WHG) in partnership with Kier Living.

The site is at the rear of a row of two storey terraced properties in Carl Street, bordered by a National Express bus depot, Wyrley and Essington Canal and existing three storey flats and two storey housing fronting Bloxwich Road. There are no buildings on site but there is an existing boundary wall around the perimeter. There is a dense hedge along the boundary of the bus depot site which screens the staff car parking area. The former Council Depot in Norfolk Place is currently being developed for new housing and lies on the opposite side of the canal.

The proposed apartment building is part three/four storeys high and is "u" shaped with a central landscaped courtyard. It is positioned so that the main elevations face the canal, Carl Street and the proposed parking areas. Ground floor apartments have patios and terraces and upper floor apartments have balconies. There are some communal areas including kitchen, meeting rooms and wellbeing space.

The elevations are intended to be mainly red multi brick with the third floor clad in grey panels. There are protruding glass balconies with metal frames and obscure glass. External windows and doors are grey uPVC and comply with Secure by Design. The roof is a single ply roof membrane.

There are 63 car parking spaces which equates to 95% parking provision including 6 disabled spaces. There is space for emergency and refuse vehicles to access the site and a buggy store and bike store proposed for use by occupiers.

The site is 0.61 hectares which equates to a density of 108 dwellings per hectare.

The Planning Statement and Design & Access Statement – Describes the site context, considers relevant planning policy and describes the proposals explaining its design and access including the proposed use, layout, scale, materials, and landscaping.

The Site Investigation Report – Identifies site investigations carried out, physical ground conditions and environmental assessment. It concludes that there are no significant contamination or gas issues affecting the site. More extensive remediation works are recommended for a residential redevelopment.

The Phase I & II Site Appraisal – Identifies results of a desk study and ground investigation, human health risk assessments for ground gas and soils, controlled waters and construction materials risk assessments. It recommends remediation and validation. A 600mm soil capping layer is required to soft landscaped areas, pvc water pipes, drill and grout treatment of unrecorded shallow mine workings and foundation recommendations for piling or vibro replacement. The site is not suitable for soakaway drainage.

Addendum to support the Flood Risk Assessment – The site is within Flood Zone 1. The report identifies existing and proposed drainage which includes potential rainwater harvesting for individual properties, porous surfaces flowing to attenuation tanks and the existing combined sewer at a maximum discharge rate (22.6 litres/second providing 20% betterment).

Supporting Transport Statement - Identifies baseline conditions, site accessibility, the proposed development and road safety issues. It describes the proposed one-way system with separate entrance/exit onto on Carl Street, highlights the accessibility of the site and that trip generation will not have a material impact on the operation of the surrounding network. The car parking is sufficient and road safety assessment specifies no inherent road safety issues. It concludes there are no highways/transport related issues that would have a material impact on the surrounding road network.

The Noise Assessment – Identifies that noise measurements were taken at two locations on the site and notes noise, particularly road traffic, was consistent across the whole site and although audible was not at significant levels. The ambient noise was less than 50dB so not significant. Glazing specifications are recommended and a floating floor within the building.

The Preliminary Ecological Assessment – This identifies statutory and non-statutory sites within 1km radius and a desk study of records of protected species. A walkover survey has also been conducted. Recommendations are made in respect to compliance with wildlife legislation including the SSSI, SLINC, habitat loss and enhancement, trees, protected watercourse, wildlife corridors, mammals, birds and Japanese Knotweed.

The Arboricultural Survey – Identifies that none of the trees on site are protected by a Tree Preservation Order. There is only one Elder on site recorded as unsuitable for long term retention. There are a number of early mature and mature trees on land neighbouring the site which are mainly in a fair condition. Most significant trees are the cypress hedgerow to the west of the site and a group of willow on the canal bank.

The Financial Viability Assessment – Identifies that the site is to be developed by WHG and Kier Living. WHG is a charitable organisation and the proposal is for 100% affordable dwellings. The viability appraisal incorporates scheme expenditure, rental income and funding to assess deliverability against key financial benchmarks. The basis of the report includes rents set at 80% of market rent (affordable), land acquisition costs, abnormal costs, debt servicing, WHG subsidy and external grant funding from the Homes & Community Agency (HCA). The report concludes that even with grant funding from the HCA the scheme requires internal subsidy from WHG to make it viable and the scheme cannot afford to pay any S106 contributions.

Relevant Planning History

11/1537/FL – Erection of 18 flats and 12 houses with associated parking, landscaping, access and associated works – Granted subject to conditions and a S106 Agreement 08/10/12. The S106 was to secure affordable housing and a contribution towards urban open space.

07/2263/RM/W5 - Reserved matters - erection of 31no new properties comprising of 18no apartments and 13no housing – Approved RM subject to conditions 09/01/08.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- Find ways to enhance and improve places in which people live their lives
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- Encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials
- Are visually attractive as a result of good architecture and appropriate landscaping

Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 103 when determining planning applications local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a Flood Risk Assessment.

Paragraph 110 aims to minimise pollution and other adverse effects on the local and natural environment.

Paragraph 111 encourages effective use of land by re-using land that has been previously developed (brownfield land) provided it is not of high environmental value.

Paragraph 118 states planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats...and the loss of aged or veteran trees...unless the benefits of the development clearly outweigh the loss.

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

Paragraph 123 aims to mitigate and minimise adverse impacts on health and quality of life from noise.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

The Development Plan

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

The Black Country Core Strategy (BCCS) (2011)

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

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

mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The Vision consists of three major directions of change and underpins the approach to the whole strategy;

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The Spatial Objectives include

6. A high quality environment enhancing the unique biodiversity and geodiversity of the Black Country and making the most of its assets whilst valuing its local character and industrial legacy.

The above are supported by the following policies:

CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

DEL1: Development proposals will only be permitted if all necessary infrastructure improvements, mitigation measures and sustainable design requirements are provided.

DEL2: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

HOU2: Advises on housing density, type and accessibility and the need to achieve high quality design and minimise amenity impacts. All developments should aim to achieve a minimum net density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness as defined

HOU3: Seeks to secure 25% affordable housing on all sites of 15 dwellings or more where this is financially viable.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

TRAN4: Seeks to create an environment that encourages sustainable travel that requires new developments to link to existing walking and cycling networks.

TRAN5: Identifies priorities for traffic management including maximum parking standards and promoting measures to reduce the need to travel and facilitate a shift towards using sustainable modes of transport such as walking, cycling, public transport etc.

ENV1: Seeks to safeguard nature conservation.

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character. Development proposals will be required to preserve and where appropriate enhance aspects of the historic environment together with their settings.

ENV3: Refers to design quality requirements.

ENV5: Seeks to minimise the probability and consequences of flood risk.

ENV7: All residential developments of 10 units or more must incorporate generation of energy from renewable sources sufficient to offset at least 10% of the energy demand of the development.

Walsall's Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

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

The relevant policies are:

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

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

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

ENV14: Encourages reclamation and development of derelict and previously developed land where possible in accordance with other policies.

ENV18: Seeks to protect, manage and enhance existing woodlands, trees and hedgerows.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV24: Seeks to retain and enhance wildlife corridors.

ENV32: Proposals should take in to account the surrounding context including consideration of the effect on the local character of the area, vehicular and pedestrian patterns and visual relationship to surrounding areas.

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

ENV40: The quality of all water resources will be protected.

JP5: Seeks to protect core employment areas for employment uses.

H3: Encourages provision of housing through re-use of previously developed sites provided a satisfactory residential environment can be achieved, the site is not required to be retained for employment, there is good accessibility and residential development does not constrain the development of adjacent sites .

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

T1: All development should conform to the accessibility standards set out in policies T10-T13.

T4: Classifies the highway network and specifies that residential streets and minor roads are those where traffic volumes and speeds should be quite low. Sometimes traffic calming measures will be required.

T5: Seeks to implement selective improvements to highway infrastructure and states highway improvement schemes should be designed to minimise any adverse impact on the environment or the amenity of residents.

T7 – All development should satisfy the car parking standards set out in Policy T13.

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T13: Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

Flats with communal provision 1.5 spaces per flat

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

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

DW2: Safe & Welcoming Places - all new development must contribute to creating places that feel safe.

DW3: Character - all new development must be designed to respect and enhance local identity

DW4: Continuity - Well defined streets with a continuity of built form are important.

DW5: Ease of Movement – connections to existing routes

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

DW7: Diversity – contribute to creating living places that offer a mix of activities to the widest range of possible uses

DW8: Adaptability – contribute to creating flexible and adaptable places that can easily change over time.

DW9: High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality.

DW 10: Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

Appendix D identifies privacy and aspect distances between dwellings, garden/amenity dimensions and design considerations. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Conserving Walsall's Natural Environment SPD

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

It is considered in this case that the relevant provisions of SPD Conserving Walsall's Natural Environment are consistent with the NPPF.

Supplementary Planning Document for Affordable Housing

Guides delivery of affordable housing to appropriate locations in the Borough and provides for balanced, mixed communities.

Supplementary Planning Document Urban Open Space

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.

Consultations

Transportation – No objections. There are 63 parking spaces for 66 “wellbeing” apartments for residents aged 55 years and over which equates to 95% parking. Taking into account the over 55 age group that will be residing at the development are likely to have lower car ownership levels, the site is in a relatively sustainable location with good public transport links to Walsall and local centres and information submitted in the TS shows that similar developments elsewhere in the country operate at a level of about 50% parking provision, the level of parking is on balance considered acceptable.

The development is served by a private access road under the control of WHG. It is proposed to operate the access arrangements as a one-way system. As the private access roads are generally wide enough to accommodate to two-way traffic movements, this would be an operation decision for the applicant and not a Highway Authority requirement.

Canal & River Trust – No objections in principle. Details of methods of construction and design of the boundary wall along the canal bank and foundations of the apartment building are required to ensure they do not adversely affect the canal structure. The boundary wall may be reduced further in height as this is the off-side of the canal and is less accessible other than by boat. Recommendations in the ecological assessment, management of landscaping and drainage details should be secured by conditions. Notes for applicant are recommended regarding notifications of works, rights of support and discharge of water to the canal.

District Valuation Officer – Comments to be reported at committee.

Ecology – The layout allows little space for landscaping or enhancement of the wildlife corridor but makes the best of restricted opportunities. Conditions are recommended to secure measures to protect local mammal and bird populations, and secure details of lighting in order to maintain a dark corridor along the canal to protect wildlife. A note for applicant regarding eradication of Japanese Knotweed is also recommended. The canal edge should be protected from development by retention of the boundary wall and maintenance of landscaped areas. Revised planting is also recommended to be secured by a landscaping condition that will enhance the wildlife corridor.

Environment Agency – No objections subject to a condition to secure remediation for any unforeseen contamination that may be discovered during further site earthworks.

Environmental Health – No objections.

Housing Strategy – Supports the proposals. The scheme will be 100% affordable units which should be secured on any permission. If this cannot be secured then as the proposal triggers the need for 16.5 affordable homes it is recommended that a commuted sum payment is secured. This would be £500k (16.5 X £30K).

Landscape – No objections. A revised landscaping scheme is recommended to be secured by condition.

Police – No objections. The developer is recommended to achieve Secure by Design specifications. Specifications for windows, doors, locks, fencing, gates and lighting are also recommended to enhance security. This is a high vehicle crime area and the parking layout does not appear to be well observed by the occupiers and gates are recommended.

Pollution Control – No objections. Conditions are recommended to secure mitigation for the effects of ground contamination and noise. Conditions are also recommended to prevent or minimise environmental impact during the course of building works.

Severn Trent Water – No objections subject to the imposition of a condition to secure drainage details.

The Coal Authority – No objection subject to the imposition of a condition to secure a scheme of remedial works and implementation of remedial works to address shallow mine workings on site.

Public Participation Response

Five letters of objection have been received. Councillor Jones has also been contacted by residents. The objections are summarised as follows:

- Conflict over the vehicle access at the rear of Bloxwich Road properties
- Insufficient vehicles access
- Increased parking congestion
- Inadequate parking
- Encourages increased parking on the green in front of Bloxwich Road
- Overlooking

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

Determining Issues

- Principle of residential development
- Layout and Design
- Relationship to surrounding properties
- Access and parking
- Provision for Affordable Housing and Urban Open Space
- Local Finance Considerations

Observations

Principle of development

Residential redevelopment of this previously developed site in a sustainable urban location is in accordance with the NPPF and BCCS and local development plan policies.

There is an extant permission for residential development of the site so although the UDP identifies the site as core employment area subject to policy JP5 the principle of residential redevelopment has already been established.

Despite being a high density more typical of a strategic or town centre the proposal is in a highly sustainable location. Also the proposal is for a communal flatted development and these types of development are typically higher density. The proposal will help to meet housing needs for an aging population. The previous scheme approved under application 11/1537/FL included four storey apartment buildings adjacent to the canal similar to the current proposals.

On the basis of the above the principle of the development is acceptable.

Layout and Design

The proposed building is accessed from the existing road at the side of 21 Carl Street and is set behind the terraced houses 21-39 Carl Street facing the rear of the houses, flats in Pioli Place and the canal. The position of the building is 46m away from the rear of the terraced housing in Carl Street, 24m away from the house at 299 Bloxwich Road and 16m away from the three storey flats 1-9 Pioli Place. These distances are considered adequate to maintain privacy and outlook for existing and future occupiers.

There are car parking areas in front of the building, along the access and in front of Pioli Place. The main entrance of the building is accessed off the car parking area. These are all visible within the street and well observed in terms of security.

The building has two wings up to 43.5m long joined by a longer section 54m long. The depth of each part of the building is 14.3m with a central corridor and apartments on each side of the corridor. The proposed building is a larger scale than other buildings in the vicinity but is typical of an apartment building and there is adequate space and separation around the building to be appropriate in this context. It is also worth noting that the terraced housing at 21-39 Carl Street is also over 40m in length. There was also a previous permission granted for four storey apartment blocks on the site of a similar scale.

The proposed building is 6m away from the boundary with the canal and it is proposed to retain the existing wall along this boundary but to adjust the height and include railings on top so there is a 900mm high wall with 1200mm blunt top railings on top. The Canal & River Trust request consideration is given to reducing the height further as the site is on the off-side of the canal and only accessible by boat. Officers consider that the proposed height will maintain some privacy for occupiers and a sense of improved security so no further changes are recommended. Conditions and a note to applicant to secure details requested by the Canal & River Trust are recommended.

The parts of the building nearest to the National Express (bus depot) site are the end of the building wings which include stairwells and secondary lounge windows only. This will limit the potential impact of noise or poor outlook for occupiers of the proposed building.

The proposed density is 108 dwellings per hectare (dph). Although this is higher than the adjacent terraced housing which is 62.5 dph it is slightly below the existing flats

at Pioli Place which has a density of 111 dph. In the circumstances, as explained earlier in this report the density is considered acceptable given the location and form of apartments proposed.

The Coal Authority and pollution control require remediation works to ensure the shallow coal workings and potential contamination on site are satisfactorily dealt with. Conditions are recommended to address these issues. The Police have recommended security measures and are concerned that the parking is not secure or overlooked. Officer's disagree as the parking is near to the proposed entrance and main activities at the front of the building and are well observed. The area cannot be gated as the car parking is for shared use of the new development and existing flats and potentially overspill parking from existing residents in Carl Street.

The building has a central courtyard which is secure and well observed and offers an adequate shared amenity space for future occupiers. Despite some overshadowing from the building and the adjacent boundary hedge, each of the apartments has the opportunity to use the shared amenity space or has its own private garden or balcony so there is alternative amenity space available. There are also communal facilities within the building that offer amenity benefits for residents.

The Ecology and Landscape officers have requested amendments to the landscaping and conditions are recommended to secure this and future maintenance of the landscaped areas to enhance the benefit for wildlife. As the scheme is a Wellbeing facility this is easier to achieve as the building will be managed by WHG.

The design of the building is a combination of three and four storeys with a flat roof and overall height of 13m. The drawings indicate a red brick with obscure glass balustrades, coloured cladding panels to the top floor, grey upvc windows and doors and metal frames and Brise Soleil to the upper floor canopies. This modern design is considered acceptable and has a warehouse appearance which is typical of a canal frontage. It is also not dissimilar to the previously approved apartment block on the site. The details of materials will be secured by conditions.

The layout and design is considered acceptable.

Relationship to surrounding properties

The proposed apartment building is 46m away from the rear of the terraced houses 21-39 Carl Street, 24m away from the house at 299 Bloxwich Road and 16m away from the three storey flats 1-9 Pioli Place. These distances are adequate to ensure that there is no significant overlooking from the proposed apartment building. The distances to Carl Street and Bloxwich Road properties meet the Council's guideline of 24m. The shorter 16m distance between the building and the flats 1-9 Pioli Place is a facing elevation to a gable with high level narrow windows only. In the circumstances the relationship is considered to be acceptable and will not create significant overlooking for any surrounding properties despite neighbours concerns. There is 24.6m between the two wings of the building which is sufficient distance to maintain privacy between occupiers in the apartments themselves.

The shared amenity space is within an enclosed courtyard so use of this area by residents will not have any significant impact on the amenity of adjacent neighbours.

The existing hedge along the boundary of the bus depot car parking area will screen this use from future residents of the wellbeing apartments.

The scale and height of the building is larger than the surrounding properties but given the distance between dwellings this is considered not to cause significant harm to the outlook of existing occupiers.

On the basis of the above comments the proposed development does not have a significant impact on the amenities of surrounding occupiers.

Access and parking

The proposal is to utilise the existing access at the side of 21 Carl Street as entry to the site with parking bays alongside as available currently and then leading to a main parking area in front of the proposed building and egress adjacent 39 Carl Street where some additional parking is available. Further parking is also available at the rear of flats 281-297 Bloxwich Road where additional spaces are to be created. As WHG manage other flats on Bloxwich Road it is proposed to allow shared parking areas.

Residents are concerned that the proposed access will create conflict over vehicle access to the rear of properties on Bloxwich Road which have garages facing the access. The layout retains access to the rear of these properties as currently available. Despite introducing additional parking there is space for vehicles to manoeuvre. In the circumstances vehicle access for existing and proposed properties is acceptable.

There are 63 parking spaces proposed including 6 disabled spaces which equates to 95% provision for the apartments. There is also a cycle store and buggy store incorporated at the front of the building for use by occupiers and staff. Residents are concerned that there is inadequate parking available and this will lead to parking congestion and more illegal parking on grassed areas on Bloxwich Road for example.

Policy T10 of the UDP identifies that residential parking standards are neither minimum nor maximum and that certain site specific and locational circumstances will justify a reduction or increase as necessary. Supporting text goes on to identify that for particular housing schemes occupied by a greater proportion of non-car users such as schemes for affordable housing or elderly persons accommodation a lower level of parking provision may be appropriate. This proposal is a Wellbeing scheme for over 55's to be managed by WHG as affordable housing. In the circumstances the lower car parking provision is considered acceptable in accordance with the policy. This location is also considered to be sustainable as it is close to main bus routes near to Walsall town centre and a wheelchair (buggy) store and cycle parking is available as alternative means of travel. The Transportation officer accepts the level of parking is appropriate for this type of development but recommends a condition to ensure the development is occupied by over 55's and to ensure parking is also available so as not to deprive existing residents on Bloxwich Road of parking. On this basis the level of parking provision is considered acceptable despite residents concerns.

The access and parking arrangements are considered acceptable and will not have a severe impact on the surrounding highway network.

Provision for Affordable Housing and Urban Open Space

Under the terms of policies DEL1 and HOU3 of the BCCS and SPD Affordable Housing the proposal triggers the need for provision of affordable housing. Provision of 25% would equate to the need for 16 units. The application is made by Walsall Housing Group (WHG) and all 66 units will be social rented to be provided by WHG a Registered Provider. Although the proposed affordable housing provision at 100% is well above the policy requirement for 25% provision there is an identified need for this type of accommodation for the over 55's and the Housing Strategy officer is fully supportive of the level of provision proposed. The affordable housing provision is recommended to be secured by condition.

Under the terms of policies DEL1 of the BCCS and policies GP3 and LC1 of the UDP and SPD: Urban Open Space the proposal triggers the requirement for a contribution towards provision of urban open space. Based on the policy requirements this equates to a contribution of £69,399.00 normally secured by a S106 Agreement. The developer is proposing nil.

The developer has provided a Financial Viability Assessment which is being reviewed by the District Valuation Officer. If the District Valuation Officer finds that the scheme is viable with full policy compliant requirements for urban open space then it is recommended that this is secured by a S106 Agreement. In the event that the District Valuation Officer confirms the scheme is not viable with full policy compliant requirements then it is recommended that the proposal is granted subject to a condition to secure the affordable housing only.

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 66 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

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

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant and their agent and discussed the process for determining this application. In response to this advice relevant supporting information and additional revised plans have been submitted. In light of the submitted details officers are able to support the scheme.

Recommendation

Grant permission subject to conditions and subject to a S106 Agreement to secure provision for urban open space unless the District Valuation Officer confirms the scheme is not viable with the full contributions.

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

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

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

- Location Plan (D00 Rev B) received 30/03/15
- Layout Plan (D02 Rev I) received 08/07/15
- Ground Floor Plan Option 1 (D100 Rev C) received 30/03/15
- First & Second Floor Plan (D101 Rev C) received 30/03/15
- Third Floor Plan (D102 Rev C) received 30/03/15
- Apartment Layouts (D103 Rev B) received 30/03/15
- Elevations (D200 Rev A) received 30/03/15
- Elevations (D201 Rev B) received 30/03/15
- Elevations (D202 Rev B) received 30/03/15
- Street Scene Canal View (D300 Rev A) received 08/07/15
- Boundary Layouts (D301 Rev B) received 30/03/15
- Boundary Details (D302 Rev B) received 08/07/15
- Landscape Plan (D900) received 30/03/15
- Entrance View (D901) received 30/03/15
- Courtyard View (D902) received 30/03/15
- Canal View (D903) received 30/03/15
- Levels Strategy (B14267-D02 Rev P2) received 30/03/15
- Drainage Strategy (B14267-D02Rev P2) received 30/03/15
- Topographical & Utility Survey (20564) received 30/03/15
- Planning Statement and Design & Access Statement prepared by BM3 Architecture received 23/06/15
- Addendum to support the Flood Risk Assessment prepared by Stewart & Harris (March 2015 Revision 0) received 30/03/15
- Noise Assessment prepared by Sanctuary Acoustics (document 001) received 30/03/15
- Preliminary Ecological Assessment prepared by Middlemarch Environmental (RT-MME-119150) received 30/03/15
- Pre-Development Arboricultural Survey prepared by Middlemarch Environmental (RT-MME-118859) received 30/03/15
- Phase I & II Site Appraisal prepared by Patrick Parsons (B14267) received 01/04/15
- Site Investigation Report prepared by Ironside Farrar (6528PF/MC) received 01/04/15
- Supporting Transport Statement prepared by SAJ Transport Consultants (JN1001) received 01/04/15

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

3. In order to address potential impact from land contamination the following matters shall be addressed:

- i. Prior to built development commencing a “Remediation Statement” setting out details of remedial measures to deal with the potential hazards of the land contamination present on the site, identified in the report: Phase I & II Site Appraisal – Carl Street, Bloxwich (ref B41267 prepared by Patrick Parsons March 2015, and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority.
- ii. The remedial measures as set out in the “Remediation Statement” required by part i) of this condition shall be implemented in accordance with the agreed timetable.
- iii. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified in the Remediation Statement required by part i) of this condition is encountered development shall cease until the “Remediation Statement” required by part ii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- iv. 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 CL1)

Reason: To ensure safe development of the site and to protect human health and the environment and protect Controlled Waters at all times, notably the adjacent canal and underlying Secondary A aquifer.

4. a. Prior to the commencement of the development a scheme of remedial works to address the coal mining legacy and treat areas of shallow mine workings shall be submitted to the local planning authority for approval in writing.
- b. The development shall be completed fully in accordance with the approved scheme of remedial works.

Reason: To ensure the safety and stability of the proposed development which must be addressed before any works commence on site.

5. a. Prior to the commencement of the development measures for controlling noise, dust, flying debris and drag out from engineering and construction activities at the site shall be submitted to and approved in writing by the local planning authority.
- b. All agreed measures shall be fully implemented and maintained throughout the duration of demolition operations and construction activities at the site.

Reason: To protect local amenity from the outset of development at the site.

6. a. Prior to the commencement of the development drainage details for the disposal of both surface water and foul sewage shall be submitted to and approved in writing by the Local Planning Authority. The details shall include measures for incorporation of sustainable drainage techniques (SuDS).

b. The development shall be completed with the approved details and retained as such.

Reason: To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution. As drainage is below ground infrastructure it needs to be addressed prior to commencement of the development.

7. a. Prior to the commencement of any built development above damp proof level on any structure suitable noise mitigation measures to protect internal areas of the proposed development as outlined in the report from Sanctuary Acoustics (reference: Noise Assessment conducted as part of a planning proposal – Document 001, dated February 2015) shall be agreed in writing by the local planning authority.

b. The development shall not be occupied until a validation report confirming noise mitigation measures have been fully implemented has been submitted to and approved in writing by the local planning authority.

Reason: To protect the residential amenities of future occupiers.

8. a. Prior to the commencement of any built development above damp proof level on any structure full details of all external facing materials shall be submitted to and agreed in writing by the local planning authority.

b. The development shall be implemented in accordance with the agreed facing materials.

Reason: To ensure the materials throughout the development harmonise with those in the surrounding vicinity.

9. Prior to the commencement of any built development above damp proof full details of boundary treatments shall be submitted to and approved by the local planning authority and maintained in accordance with the agreed details thereafter.

Reason: To ensure the satisfactory appearance of the development.

10. a. Prior to the commencement of any built development above damp proof level, and notwithstanding the details shown on the submitted landscaping plan 52676 D900 an amended detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted on a plan to an appropriate scale and shall include where applicable, details of:
 - i. Ground preparation measures to be adopted

- ii. Topsoil specification – if existing soils are to be used, details of its retention, improvement, cultivation or safe storage for re-use should be specified
- iii. Revised plant spacings for planting proposed and amendments to plant species
- iv. Details of proposed turf/seeded areas
- v. Tree planting and staking details which should be shown as standard details

b. The scheme shall be completed fully in accordance with the approved details before the development is occupied and retained as such.

c. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which die, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

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

11. Site clearance and constructions shall take place in accordance with the following requirements:

- i. To avoid the risk to nesting birds, site clearance should be undertaken outside the bird nesting season. The bird nesting season extends between mid February and September inclusive but is weather dependant and nesting may take place outside this period. If this is not possible no site clearance works should be undertaken until the site has been surveyed for nesting birds by a qualified and experienced ecologist. If nesting birds are discovered, clearance works should be delayed until the young have fledged. (Please note that feral pigeons are protected and destruction of nests could only take place on the grounds of public health or public safety.)
- ii. To avoid adverse impacts on mammals, site clearance should be undertaken carefully and in a sensitive manner in the expectation that mammal species may be present. If mammals are discovered, they should be removed carefully to suitable habitat under the supervision of a qualified and experienced ecologist.
- iii. To avoid the risk to mammals of becoming trapped, any excavations left open overnight shall be either covered or fitted with ramps to ensure mammals can escape safely. Any open pipework with a diameter greater than 100mm shall be covered at the end of the working day to prevent animals entering and becoming trapped.

Reason: To conserve local animal and bird populations.

12. a. No external lighting scheme shall be installed other than in accordance with the following requirements: -

- i. There shall be no direct illumination of the canal frontage.
- ii. Any lighting installed shall be low wattage down lights to provide security and safety lighting which will be set no higher than 1.8m high
- iii. Any security lighting shall use PIR to ensure they turn off automatically once movement has ceased

b. All external lighting shall be carried out in accordance with part (a) of this condition.

Reason: To ensure the canal corridor remains as dark as possible in the interests of ensuring its operation as a wildlife corridor and to protect the amenities of surrounding occupiers.

13. a. Prior to the first occupation of any dwelling unit on the development, all access ways, parking and vehicle manoeuvring areas shall be fully consolidated, hard surfaced and suitably drained so that surface water does not discharge onto the public highway. The parking bays for the flats shall be clearly demarcated on the ground.

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

Reason: To ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2, T7 and T13.

14. The segregated pedestrian route from the main building entrance to Carl Street shall have tactile pedestrian dropped kerb provision where it crosses the internal access road and also across the entrance to the access road itself at Carl Street.

Reason: To ensure the main pedestrian route from the highway to the building is fully accessible and meets DfT Inclusive Mobility guidance.

15. The proposed parking spaces shall be made available to the residents of 281 to 307 (odds) Bloxwich Road and shall not be exclusively for the residents of the proposed apartment block.

Reason: To ensure that adequate parking provision is retained and is available to existing residents in the nearby vicinity in order to minimise the potential of indiscriminate parking within the site or on the public highway.

16. a. The developer shall make appropriate provision for affordable housing on the site, as indicated in the application submission and on drawing 52676/D02 Revision I, or any alternative provision as may be agreed in writing by the local planning authority in accordance with policies HOU3 of the Black Country Core Strategy and policy GP3 of Walsall Unitary Development Plan.

b. The agreed affordable housing provision shall be maintained throughout the life of the development.

Reason: To ensure adequate provision for affordable housing in accordance with policies HOU3 of the BCCS and policy GP3 of the UDP and Supplementary Planning Document: Affordable Housing.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the apartments hereby approved shall only be occupied by persons of 55 years of age and over.

Reason: To ensure the reduced level of parking provision is adequate for the satisfactory functioning of the development.

18. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08.00 to 18.00 Mondays to Fridays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Reason: To protect the amenities of surrounding occupiers.

Notes for Applicant

Note for Applicant – Contaminated Land

CL1: 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.

Note for applicant – Canal & River Trust

The applicant/developer is advised to contact the Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that the works comply with the Trust’s “Code of Practice for Works affecting Canal & River Trust”.

The Canal & River Trust offer no right of support to the adjacent property. The land owner should take appropriate steps to ensure that their works do not adversely affect the canal infrastructure at this location.

The applicant/developer is advised that if surface water is to be discharged to the canal, consent from Canal & River Trust is required for such a discharge. Please contact the Canal & River Trust Utilities Team on 0303 040 4040 for further advice.

Note for applicant – Japanese Knotweed

A programme and methodology for permanent eradication of Japanese Knotweed is required. The eradication of this plant shall proceed only in accordance with the programme and methodology.

Planning Committee

Report of Head of Planning and Building Control on 06-Aug-2015

Plans List Item Number: 2.**Reason for bringing to committee:** Significant Community Interest

Application Details

Location: UNIVERSITY OF WOLVERHAMPTON, WALSALL CAMPUS, GORWAY ROAD, WALSALL, WS1 3BD**Proposal:** CONSTRUCTION OF NEW ACCESS OFF THE BROADWAY TOGETHER WITH NEW CAR PARK AND ASSOCIATED LANDSCAPING, PLUS CLOSURE OF ACCESS FROM MAGDALENE ROAD.**Application Number:** 15/0165/FL**Applicant:** University of Wolverhampton**Agent:** Delta Planning**Application Type:** Full Application**Case Officer:** Karon Hulse**Ward:** St Matthews**Expired Date:** 04-May-2015**Time Extension Expiry:****Recommendation Summary:** Delegate to the Head of Planning and Building Control to grant permission subject to conditions and subject to the section 106 agreement to secure upgrade to existing sports facilities being signed.

Officers Report

Application and Site Details

This application seeks consent for the creation of a new access/egress onto Broadway and a new 225 space car park to replace the temporary approval of the overspill car park at the University of Wolverhampton's Walsall Campus.

The temporary permission for the overspill car park expires 17th September, 2015 (20 months from the date of planning permission on 20th January, 2014).

The car park was originally created in October 2009 as a temporary facility at a time when the University was carrying out the new building project known as the Performing Arts Hub, which involved the temporary loss of most of the main campus car park, resulting in significant local concern regarding on street parking around the campus.

The overspill car park is located close to the southern boundary of the campus by The Broadway and extends to approximately 0.55 hectares occupying part of a full size football pitch. The overspill car park provides 235 spaces created by overlaying the grass with a green heavy duty grass protection mesh.

Along the main driving areas some compacted stone has been laid which provides traction for vehicles. A timber stable demarcation fence has been erected along the sides of the parking area and two steel swing gates erected at the entrance and exit near the Magdalene Road entrance to the University.

The performing arts development has been completed and the main internal 160 space car park adjacent to it is fully open. The overall parking provision at Walsall Campus excluding the temporary overspill car park is 681 spaces at various locations around the site. These include 160 spaces in the main car park accessed from Magdalene Road, 160 at Gorway Road Conference Centre, 103 at the School of Health (WP Building) and 82 at Delves Road by the Rugby Club plus others.

The provision of a new permanent car park of 225 space capacity will increase the overall permanent parking provision at the Walsall campus to 906 and create a new access/egress to replace that which currently utilises Magdalene Road and the Broadway Park Housing estate.

A new traffic light controlled junction will be created on the Broadway approximately 50m west of the Magdalene Road junction. The new access will be two way and controlled via barrier access similar to the existing access. It will run north from Broadway to join the existing internal campus road. The existing access from Magdalene Road will be gated off and retained for emergency service vehicle use only. No pedestrian or vehicular traffic will be able to access or egress the campus via the entrance onto Magdalene Road.

The new car park will be constructed with a mixed permeable hard standing surface, properly consolidated and marked out.

The application also includes new landscaping treatment around the access road and car park, including replacement tree planting and raised embankments to mitigate for the proposed loss of existing trees along the Broadway frontage.

Lighting for the car park and road lighting scheme will be LED, with low night-time light pollution. The lighting will be photo-cell controlled for 'On' and time-clock controlled for 'Off'

The University of Wolverhampton has over the past 10 years undertaken major improvements and developments at its Walsall campus. These include a new judo hall which was utilised as a training facility during the London Olympics, new halls of residence, new teaching block, new running and all weather pitch and a state of the art Performing Arts Hub. The new developments have so far reinvented the campus as a 21st century venue for adult education.

The application is accompanied by the following documents:

Campus Car Park Management Plan - The University operates a Car Park Management Regime a review of this is to be undertaken every two years. The review process will assess the extent to which car parking is being utilised on the campus and how it may be affecting nearby residential roads. Car usage will be reviewed in line with the campus travel plan targets.

Planning Statement

The planning statement concludes that there is significant policy support at national and local levels for the university and in particular for its huge contribution to the local economy and social well-being of the area. Whilst there are some policy conflicts arising from the proposal in relation to the loss of playing fields and loss of openness of the Broadway frontage, there are other material considerations sufficient to justify a departure from policy.

Transport Assessment

A number of access options have been analysed and the preferred option has been identified and judged as the most appropriate with the determining factor being deliverability rather than cost.

Options which have been explored and considered are:

Option 1 (forming a new access from Broadway opposite Delves Green Road by converting the existing T-Junction into crossroads with associated signalisation) is not considered deliverable due to 3rd party land take issues.

Option 2 involves creation of a dedicated access to the site from Broadway, approximately 50 metres to the west of the Magdalene Road/ Broadway junction. The provision would include a "Ghost Island" Right-Turn Priority Junction.

Option 3 (Preferred option and subject of this application), involves the creation of a signalised dedicated access to the site from Broadway, approximately 50m west of the Magdalene Road/ Broadway Junction. The provision of a right-turn lane from Broadway and internal dedication left and right turn lanes from the University onto Broadway. The preferred option will achieve:

- A more convenient and appropriate (dedicated) access from the frontage of the University. As part of the proposed system, the existing access on Magdalene Road would be closed, except for emergency service vehicle purposes only.
- An alleviation pressure on Magdalene Road currently caused by increased traffic levels on a residential road accessing the University campus, use of the

road for overspill parking and the valid concerns raised by the local community associated with these problems.

- The provision of a direct access into formalised parking on-site to eliminate the reliance on the local road network as a place to keep vehicles during the day

A Stage 1 Road Safety Audit has been conducted.

Arboricultural Assessment

It concludes that the tree cover on site is restricted to the site's boundaries, with the larger more mature specimens situated to the south west. To facilitate the proposals, it will be necessary to remove fourteen individual trees from the eastern boundary of the site due to the alignment of the new junction and public footpath. These trees are all specimens of crack willow that are considered to be of a low arboricultural and landscape value. The retained trees will continue to contribute to the sites to the sites amenity and ecological resources.

Travel Plan

The travel plan has been updated year to take account of the changing environment. It sets out the purpose, intentions and commitments of the university in reducing the use of the motor vehicle and introduces the use of sustainable modes of travel amongst staff and students.

This is broken down as follows:

- Has clear objectives and targets for increasing the use of sustainable modes of travel to the Walsall campus amongst staff and students.
- Sets out the measures that will be implemented to encourage and facilitate the use of more sustainable modes of travel.
- Addresses key concerns regarding congestion and parking on the surrounding streets.
- Will be shared with staff, students and the wider Walsall Campus community.
- Will be reviewed on a regular basis to see if we are meeting our targets

Landscape Design Statement

It is envisaged that over time the shrub and tree planting proposed for the new car park and access road will develop to screen and soften the car park area and assimilate it into the campus landscape. The tree and shrub planting proposed on the frontage to Broadway will screen the car park and maintain the green aspect to the main road.

Relevant Planning History

There has been a wide number of planning applications on the site. The most relevant being:

03/0918/RM/W5 - New Access Road. Grant Subject to Conditions 4th July, 2003

03/0918/RM/W5 - Reserved Matters: Design Details for Proposed Access Road (From Broadway Park). Granted 4th July, 2003

05/0710/RM/W5 - Reserved Matters – Football Pitches. Grant Subject to Conditions

09/1101/FL- Erection of new Performing Arts Hub. Granted 3rd February, 2010

13/1326/FL - Temporary use of land for overspill car park. Granted 20th November, 2013

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- find ways to enhance and improve places in which people live their lives
- contribute to conserving and enhancing the natural environment and reducing pollution.
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- encourage the effective use of land by reusing land that has previously been developed
- With regard to Playing Fields, NPPF states that unless they are proven to be surplus, playing fields should not be built on unless the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality, or where the development is for alternative sports and recreational provision, the needs for which clearly outweighs the loss.

Key provisions of the NPPF relevant in this case:

1. Delivering sustainable development

19 Planning should encourage sustainable growth.

4. Promoting sustainable transport

32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Assessment and account should be taken of the opportunities for sustainable transport modes

34 Developments that generate significant movement are located where the need to travel will be minimised.

35. Developments should be located and designed where practical to: have access to high quality public transport.

39 If setting parking standards, LPA's should take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

7. Requiring good design

56 Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

58 Developments should function well and add to the overall quality of the area. Establish a strong sense of place using streetscapes and buildings to

create attractive and comfortable places to live, work and visit. Optimise the potential of the site to accommodate development. Respond to local character and history, and reflect the identity of local surroundings and materials. Create safe and accessible environments that are visually attractive as a result of good architecture.

64 Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

8. Promoting healthy communities

70 Decisions should ensure that established services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.

74 requires that it must be demonstrated that the open space is surplus to requirements before it can be built on. Walsall's playing pitch strategy (PPS, 2011) identifies a surplus of senior football pitches across the borough, consequently the loss of one senior pitch as a result of the development is considered acceptable. Furthermore, the PPG 17 open space study identifies a substantial surplus of formal outdoor sports land within the neighbourhood partnership area.

On **planning conditions** the NPPF says:

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

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

The Development Plan

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

Local

The Black Country Core Strategy (BCCS) (2011)

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have

discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

In the BCCS the University of Wolverhampton is directly referenced under Policy CSP1, stating the need for the expansion of the University under cultural and community service improvements.

BCCS Policy HOU5 'Education and Health Care Facilities' also states that the existing network of education and health care facilities will be protected and enhanced. The text accompanying HOU5 states that:

"The Higher and further education institutions and research facilities play a major role in the Black Country economy and have a key role to help deliver economic and social transformation. Retaining graduates within and attracting them to the Black Country is also key to securing a knowledge-based economy. The Higher and Further education sector is a major driver of economic, social and cultural regeneration and ongoing investment in the existing network of this sector is supported".

Policy ENV6 of the BCCS relates to sports fields and states that development that would reduce the overall value of the open space, sport and recreation network in the Black Country will be resisted. It further notes a requirement to make more efficient use of urban land by creating more multifunctional open spaces, and significantly expanding community use of open space, sport and recreation facilities provided at places of education.

Other relevant key policies are:

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

CPS4: The hierarchy of centres will provide a focus and concentration for essential local services and activities. The design of spaces and buildings will be influenced by their context and seek to enhance the unique attributes the area offers.

DEL1: All new development should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

CEN1: The Strategic Centre of Walsall will provide the main focus for....cultural activities.

CEN7: Proposals for out-of-centre development will have to demonstrate that development cannot be provided in-centre or at edge-of-centre locations. Any proposal will only be considered if the requirements of CEN6 are satisfied.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Planning permission will not be granted for development likely to have significant transport implications.

TRAN4: Cycle parking should be provided at all new development.

TRAN5: Sets out the requirement for development to focus on moving away from the reliance on the private car.

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

ENV5(d) requires that on all sites requiring a FRA, surface water flows should be at Greenfield rates. Although the FRA indicates the car park will be constructed with permeable materials, there is 0.1Ha of impermeable surface being created for the access road, consequently the proposal is not strictly in accordance with this policy requirement.

ENV6 relates to open space and states that *'development that would reduce the value of the open space, sport and recreation network will be resisted'*. However, development that will increase the overall value of the network will be encouraged. The planning statement, in relation to football pitches, states that the university proposes to contribute £120k towards upgrading existing pitches on campus or at an alternative higher education institution in Walsall. I question why this spend has to be restricted to just institutional land, given that the section 106 could be worded to ensure the money is spent on improving / creating pitches on perhaps more accessible council owned open space. Nevertheless, the PPS identifies quality issues and a shortage of junior pitches across the borough, therefore such a contribution has the potential to address existing deficiencies and increase the quality of Walsall's sports pitch provision.

It is considered in this case that the relevant provisions of the BCCS are consistent with the NPPF

Walsall's Unitary Development Plan (UDP)

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

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

The relevant policies are:

GP1: The Sustainable Location of Development

GP2: Environmental Protection...principles of sustainable development...following considerations taken into account : visual appearance, pollution, problems of land stability etc., overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property and accessibility by a choice of means of transport.

3.6, 3.7 Development and redevelopment schemes will improve and protect people from unacceptable noise, pollution and other environmental problems.

3.16...Design and Development. Development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

ENV32: (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal

ENV33: Landscape Design

8.7...Education, Health and Community Facilities... enhancement of existing, and provision of new, facilities for education will be encouraged...emphasis placed on locations accessible to all by choice of means of transport.

LC1 (b) in terms of the relocation of the pitch acting as compensatory provision and any further compensatory provision deemed necessary.

LC6 specifically relates to sports pitches and requires:

- *A carefully quantified and documented assessment of current and future needs has demonstrated that there is an excess of sports provision and the site is not of good quality or importance to the development of sport; or*
- *At least equal compensatory provision will be made in respect of quality, quantity, suitability of location, and subject to equivalent or better management arrangements prior to the commencement of development*

LC10 is very important to any developments on the site and therefore it has been outlined it in full:

Wolverhampton University, Walsall Campus, Broadway, Walsall.

(a) The Council will encourage the continued use and development of the Walsall Campus of the University (as indicated on the Proposals Map) as an important centre of Higher Education in the Borough.

(b) Any proposals for additional development must be considered as part of an overall Master Plan for the campus prepared in full consultation with the local community and agreed by the Council. In particular, proposals will only be acceptable if:-

I. The uses proposed are of an educational, community, or leisure nature directly related to the use of the remainder of the Campus, and are not uses which should be located in an established centre under policies in Chapter 5 of this Plan.

II. The green and open aspect of the Campus as viewed from surrounding areas including Broadway, Delves Road and Highgate Drive is maintained by retaining existing substantial green corridors along frontages and by the sensitive siting of buildings within an attractive parkland setting. This necessitates retaining the designation of adjacent areas of Protected Urban Open Space off Highgate Drive.

III. All buildings and structures are of a high standard of design.

IV. There are satisfactory arrangements for vehicular, cycle and pedestrian access to the campus that are sensitive to the amenities of the surrounding residential areas. A Transport Assessment and Green Travel Plan will be required.

V. Adequate provision is made for parking within the University Campus for staff, students and visitors to the University so as to minimise parking in surrounding residential roads.

8.43...Walsall Campus is recognised as being an important facility for higher education in the Borough and the Black Country.

8.44...The prominence of the campus also justifies particular attention being given to the quality of design.

T7 and T13: All development should satisfy the car parking standards set out in Policy T13, and be well designed.

T8: To help existing pedestrians and encourage greater use of walking as a healthy and sustainable form of travel the Council will provide good pedestrian links within a development. All pedestrian links must be safe, direct and convenient and well lit.

T9: Cycling The Council will assess the suitability of cycle-related improvements.

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

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

Designing Walsall SPD

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;
DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;
DW3 – Character -design to respect and enhance local identity;
DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;
DW10 – new development should make a positive contribution to creating a sustainable environment.

It is considered in this case that the relevant provisions of SPD Designing Walsall are consistent with the NPPF.

Other Legislation

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations)

These have been considered by Officers through a screening opinion assessment and the development is not considered significant or in a sensitive area that would call for an Environmental Statement.

Equalities Act 2010 - Section 149 of the Equality Act 2010 provides that local authorities must, in exercising their functions, have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

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

Consultations

Sport England – no objections subject to a unilateral agreement requiring compensation by way of an upgrade to the university's all weather pitch to a 3G surface or alternatively improvements to be made to some of the natural pitches

Transportation – no objections subject to conditions covering access arrangements

Pollution Control (Scientific Team/Contaminated Land) – no objections

Trees – no objections to loss and replacement tree planting (concerns over loss of urban open space)

Ecology – no objections

Police ALO – no objections subject to the car park meeting ParkMark principles to create a safe, secure and user friendly car parking environment.

Environmental health – no comments

Landscape – Objects to the loss of green space

Fire Service – No objections

Severn Trent Water – No objections subject to drainage condition

Public Participation Responses

The following is a précis of the “representations” received to date.

OBJECTIONS

Original consultation – 7 letters of objection, 15 photocopied letters of objection and a 67 signature petition.

Re-consultation – 7 letters of objection, 53 photocopied letters of objection and 450 signature petition covering the following grounds of objection;

Traffic Related

- create more traffic, noise, pollution on Broadway
- more congested
- Already access to the campus from Delves Road.
- large amount of traffic from the campus onto the ring road
- Never large build ups of traffic waiting to use the existing lights
- Inconvenience all road users by adding another hold up
- Access difficult to houses in between the lights
- Access will have a detrimental impact on residential homes opposite
- Concern the safety of residents will be compromised as residents struggle to access the Broadway and assess traffic from 3 directions before leaving their driveways.
- Existing access onto Magdalene Road allows smooth flow of traffic without jeopardising safety
- Formation of an island in the middle of the Broadway facilitating entry and exit to the car park will result in significant narrowing of the road. This is expected to worsen the congestion.
- no justification made for a second signalised junction
- Perfectly adequate existing junction
- Unnecessary additional burden on a principal arterial route

Amenity

- Loss of privacy and security
- No privacy in front living room and front bedrooms.
- occupants of cars will have views inside my house
- sense of security will be lost and result in increased apprehension and anxiety
- being watched all the time
- fear of crime
- responsibilities of the council under the Human Rights Act in particular Protocol 1, Article 1 ...a person has the right to peaceful enjoyment of all their possessions which includes the home and other land
- Article 8 ... substantive right to respect for their private and family life
- Increase light pollution from oncoming headlights from cars waiting at traffic lights.

- Bright lights and glare can cause migraines, bright lights from waiting at traffic lights may increase these symptoms.
- new access result in loss of trees and impact on nature and birdlife
- Fail to safeguard the environment for future use.
- Proposal goes against Walsall Green Space Strategy
- The estate specifically made provision for access to the university via Magdalene Road. Those homeowners acquired their properties with this knowledge.

The photocopied letters objected on following grounds:

- New car park and access could potentially become a hub for antisocial behaviour
- Infringe on privacy of residents living on Broadway
- Effect on values of houses on Broadway
- Another set of lights will contribute to
 - a) increased noise and pollution and
 - b) problems accessing egressing properties on Broadway

Both petitions with 67 and 450 signatures were on the grounds of

- headlights glaring into properties on Broadway when leaving the new car park
- hub for antisocial behaviour
- privacy of residents on Broadway
- adverse effect of property values
- increased noise and pollution
- problems for access to and from properties on Broadway.

SUPPORT

4 letters in support on the following grounds:

- Support the gate closure on Magdalene Close,
- previously experienced traffic and abuse from students
- dumping ground for their waste,
- estate used as a race course for accessing the university,
- parking troubles getting off drives
- Closing Magdalene Road access will stop students parking on the estate

Determining Issues

- Policy/principle/loss of playing field
- Highway safety/car parking
- Outlook from Broadway/Trees/Landscaping
- Residential amenity
- Comments on objections
- Conclusion

Observations

Policy/Principle/Loss of Playing Field

Prior to the use as a temporary car park the application site was used as a full size football pitch by the university and the community. In 2009 this part of the playing field was used to provide a temporary overflow parking for the campus. At that time due to the temporary nature and there being no engineering operations taking place, the University utilised their permitted development rights, set out within the national

legislation which did not require a separate planning permission from this Council for a short period of time. The temporary overspill car park extended beyond what could be considered as permitted development and a planning application was submitted. Whilst the use of the site as a temporary car park has helped to reduce the number of complaints regarding indiscriminate parking around the university, an alternative and more permanent solution to the parking issues at the University is required to be brought forward.

The University has explored three options to this, concluding that the proposals subject of this application is their best option which will have less impact on the surrounding residents and environment. On balance, it is considered that the football pitch can be demonstrated as surplus to requirements, in respect of its use for outdoor sport, and as a senior football pitch. Having done so, it is critical to satisfy both national and local policy requirements. It was previously considered that in planning policy terms, removal of the car park and reinstatement of a sports pitch would benefit more by the provision of junior/mini pitches rather than a full senior pitch. This was supported by Sport England, however, since the previous consideration Sport England have reconsidered their position and now support the loss of the sports pitch provided compensation is secured. Sport England have advised that compensation should be by way of an upgrade to the university's all weather pitch to a 3G surface or alternatively improvements to be made to some of the natural pitches.

The University have agreed to enter into a unilateral agreement requiring works outside this planning application site in order to secure satisfactory compensation for the loss of the sports pitch and the loss of green space, this is currently being drawn up but include the following to secure appropriate compensation:

1 a) Prior to the commencement of planning permission (15/0165/FL) for the construction of new access off The Broadway together with new car park and associated landscaping the university will submit an application for the upgrading of football facilities to an artificial grass pitch constructed using longer pile artificial grass with a rubber crumb infill or dressing within the pile to influence friction and impact characteristics (known as a 3G football pitch) as defined in Sport England's 'Artificial Surface for Outdoor Sport' updated guidance for 2012 on the Walsall Campus or another higher education site within the District of Walsall; and

b) Within six months of the submission of the Sports Pitch Application above submit a Funding Application to the Football Association,.

c) Within 18 months of the Sports Pitch permission being granted or receipt of the FA Funding, whichever is the later, carry out and complete the upgrade to a 3G Pitch

2 a) In the event that either:

- i) the Sports Pitch Permission is not granted; or*
- ii) the FA Funding has not been received*

within one years of the date of the Sports Pitch application, the University shall, within two years of the date of the Sports Pitch application, undertake and complete works to upgrade the existing sport pitches in accordance with an agreed specification and contribution sum.

b) In the event that the contribution sum is not fully expended in the works to upgrade the existing pitches the unexpended or uncommitted part of the Contribution Sum shall be paid to the Council as a financial contribution against a receipt given by the Council for its use in the upgrading of existing sports facilities in the District of Walsall.

The Council and Sport England would prefer to see the delivery of an upgrade of the existing all weather pitch to 3G standard, however in the event that this not occur then there is a mechanism within the legal agreement to ensure that the University carries out other upgrades to their existing grass sports pitches upto an agreed sum of £120,000.00. Sport England has confirmed that this is acceptable and will ensure and secure satisfactory compensation for the permanent loss of the existing football pitch.

Highway Safety/Car Parking

The NPPF places great importance on providing sustainable development and making fullest possible use of public transport, walking and cycling. The site is in a quiet predominantly residential area.

The development looks to create a new access to the University off Broadway and create a permanent 225 space overspill car park together with the closure of the existing vehicle and pedestrian access to the University from Magdalene Road. The applicant has undertaken a full Transport Assessment that explored a number of options and concluded that the proposed new signal junction and access road is the best option over the existing situation and the for the long term.

The proposed permanent car park and access directly replaces the existing temporary overspill car park and access arrangements and therefore the proposal does not look to introduce additional traffic flows onto Broadway but moves the existing traffic flows from Magdalene Road to the new signal junction and access road further along Broadway. This will benefit the Magdalene Road (Broadway Park) residents as there will be no access to either pedestrians or vehicles through the estate and therefore they are less likely to use the estate to park on as it would involve a lengthy walking along Broadway.

Furthermore, the new signal junction will be linked to existing Magdalene Road signal junction to minimise the impact on traffic flows on Broadway. One issue which has been raised through consultation is the impact the new access will have on residents directly affected by the new junction on Broadway. The applicant has satisfactorily demonstrated, by auto tracking, that house no. 39 and 41 Broadway can access/egress both properties safely and from both directions along Broadway. As such vehicular access to the residential properties on the Broadway, close to the new junction, will not be significantly affected.

The University has a Campus Travel Plan which is frequently reviewed and has had success in reducing car borne trips. The University Inter-Campus Shuttle Bus has been successful in providing a free bus service for staff and students between the Walsall, Wolverhampton and Telford Campuses accounting for 9,000 journeys per week.

The Police ALO has requested that the new development is to ParkMark standards and principles which provides guidance for safer car parks, best practice guidance to designers, owners and operators on the design and incorporation of physical security

features that will establish and maintain a safe and non-threatening parking environment

Outlook from Broadway/Trees/Landscaping

The car park will be set back from Broadway and it is proposed to retain a broad and substantial green corridor between the car park and Broadway. In terms of the appearance of the application site area from Broadway, at times when the car park is not in use there will be little visual impact. Whereas when it is in use there will be some views of cars when they are parked, however these will be intermittent due to the existing trees and the proposed planting including additional trees and bunding which will also be landscaped with extensive ground cover will add further to screening of the car park and new entrance.

The existing mature trees along the frontage with Broadway either side of the proposed new access road entrance will be retained as much as possible. The existing temporary car park has been in place since 2009, it is not anticipated that by simply replacing it with a more permanent car park that views of it will be substantially change. In deed the proposals include landscaping along the Broadway frontage which will decrease views of vehicles parked. The tree officer and landscape officer have reservations regarding the outlook of the campus from Broadway and consider the replacement of the temporary car park which currently consists of grass and pavers, with a more engineered solution will be less eco-friendly and detrimental to the openness of this area. However, it is unlikely that the surfacing will be visible from Broadway and therefore impact on the openness above that which already exists and particularly when it will be sited behind a one metre high bund with new tree planting and landscaping.

Whilst any replacement landscaping and trees will take time to become established, the bund along Broadway and the one along the new access drive and the rear of properties on Magdalene Road will in the interim offer more screening of the car park area than currently.

The following additional information is considered necessary:

- continuation of the hedge planting as well as the proposed tree planting along this edge of the car park as a minimum
- use of hornbeam hedge as opposed to escallonia
- proposed species rich grassland
- a management plan showing cutting and removal of arisings.
- Incorporation of the area of trees and grass to the rear of Magdalene Road into the general landscaping of the site.
- Method statement for the construction and erection of the weldmesh panels to rear of Magdalene Road
- Some planting information has been provided, I believe the proposed planting will grow in its position. One slight concern is that Choisya, Cistus and Hebe can be slightly tender in hard winters and maybe their inclusion should be in limited numbers.

All of the above can be secured by way of a landscape condition.

Residential amenity

One of the core principles of the NPPF requires good standards of amenity for all existing and future occupants. Since the implementation of the temporary car park

complaints about indiscriminate parking and general parking problems around the University have diminished considerably, clearly this indicates that the use of the temporary car park has improved the situation for those residents around the campus.

Furthermore, the University through its Travel Plan and Car Parking Management Plan has also attempted to address the worst issues. The University has stated that parking demand remains higher than supply at peak times and the University consider that the removal of the overspill car park would re-introduce significant issues of on-street parking resulting in detrimental impact to residential amenity. This application is seen as a permanent solution to the above concerns and will create a safe, secure and user friendly car parking environment through the implementation of ParkMark principles.

There has been considerable representation to the application from nearby residents mostly objecting to the proposals but with some residents from Broadway Park estate and Gorway Road in support of the scheme. It is accepted that the new junction, whilst improving the existing situation for Broadway Park residents, will change traffic movements in front of those residents on Broadway. Residents opposite the junction are particularly concerned about headlights shining into their properties. However, amendments to the position of the stop line on the new access road will result in vehicles being stationary 33m back from Broadway, a total of 46 metres from the stop line to the front elevation of properties on Broadway. Furthermore, the gradient of the access road is set at a minimum of 3% at the stop line. With an assumption of the vehicle headlight height of 1m (which is maximum for any vehicle) and the inclination of the light beam at an angle of 3°, it is observed that the drop in headlight envelop hits the ground at a distance of 20m which will be well short of Broadway and residential properties opposite. There is limited risk of stationary head light glare, additionally the access road to the campus has a very small amount of traffic in the evenings.

On balance, in this instance, it is considered that the use of the new access is unlikely to have a detrimental impact on resident's amenity on the basis that there is an existing car park and traffic flows will not be directly affected sufficient to sustain a reason for refusal.

Comments on objections

Mostly the objections relate to either the impact of the installation of a new traffic light controlled junction and safety issues or the amenity of those residents opposite the proposed junction from vehicles using the new access road.

All matter relating to the new junction have been addressed above its operation will be in tandem with the existing traffic light controlled junction. There are no objections from the councils highway engineers.

Traffic Related

- create more traffic, noise, pollution on Broadway - *traffic flows onto Broadway will not be increased*
- more congested - *the new traffic light junction will be connected to the existing junction and be controlled in tandem, there should be no additional traffic congestion*
- Already access to the campus from Delves Road – *the existing access has given rise to issues of indiscriminate parking on Broadway Park estate. This*

option provides a new single point of access to the campus from its main frontage.

- large amount of traffic from the campus onto the ring road – *see above comment*
- Never large build ups of traffic waiting to use the existing lights – *should be no change*
- Inconvenience all road users by adding another hold up – *should be no change as both junctions will work together*
- Access difficult to houses in between the lights – *it has been satisfactorily demonstrated that all houses near to the new junction will be able to access/egress safely.*
- Access will have a detrimental impact on residential homes opposite – *see above*
- Concern the safety of residents will be compromised as residents struggle to access the Broadway and assess traffic from 3 directions before leaving their driveways – *a Stage 1 Road Safety Audit has been carried out and no items have been raised.*
- Existing access onto Magdalene Road allows smooth flow of traffic without jeopardising safety – *this will continue to operate for the Broadway Park Estate but also in tandem with the new junction*
- Formation of an island in the middle of the Broadway facilitating entry and exit to the car park will result in significant narrowing of the road. This is expected to worsen the congestion – *addressed above.*
- no justification made for a second signalised junction – *see above comment*
- Perfectly adequate existing junction – *as above comment*
- Unnecessary additional burden on a principal arterial route – *no additional traffic increase onto the highway network*

Amenity

- *All issues of amenity and privacy have been addressed however to reiterate traffic egressing the campus site when stationary at the lights will be some 45 metres away from those houses opposite, at that distance it is unlikely there will be any impact in terms of overlooking, privacy or lights shining into the houses.*
- sense of security will be lost and result in increased apprehension and anxiety being watched all the time - *The provision of a new entrance should not give rise to any issues of security it does not impact or affect the curtilages of those properties*
- fear of crime – *the police ALO has no objections but seeks the car park to be designed to standards which will reduce any potential crime*
- responsibilities of the Council under the Human Rights Act in particular Protocol 1, Article 1 ...a person has the right to peaceful enjoyment of all their possessions which includes the home and other land
- Article 8 ... substantive right to respect for their private and family life - The council is well aware of the rights set out within the Human Rights Act and the First Protocol. The rights under both Article 8 and Article 1 of the First Protocol are not absolute. The case of Huang v SS 2007 UKHL made clear that the overarching approach to be adopted is the need to balance the interests of society with those of individuals and groups. As such, the courts will require real evidence of interference with human rights where it is alleged. In the determination of planning applications the Local Planning Authority will

take human rights into account in the assessment of the merits of the planning application.

- Increase light pollution from oncoming headlights from cars waiting at traffic lights – *this has been addressed fully in the main body of this report*
- Bright lights and glare can cause migraines; bright lights from waiting at traffic lights may increase these symptoms. – *the distance away from the houses has been increased so that there will be no glare from headlights of vehicles leaving the campus*
- new access result in loss of trees and impact on nature and birdlife – *this has been addressed in the main body of the report*
- Fail to safeguard the environment for future use - *the application proposes substantial landscaping which should secure the appearance of the university from Broadway and enhance the existing green space*
- Proposal goes against Walsall Green Space Strategy – *the loss of the sports pitch is addressed above in the main report*
- The estate specifically made provision for access to the University via Magdalene Road. Those homeowners acquired their properties with this knowledge – *notwithstanding this comment the application is also about a new access/egress for the campus which will promote it more along the Broadway corridor.*

Conclusions

Whilst there are some policy conflicts arising from the proposal in relation to the loss of a playing pitch, in this instance there are other material considerations sufficient to justify a departure from the policy and securing compensation for the loss of the pitch allows for a more permanent solution to address parking issues in and around the campus. The new access will also emphasise its position along this major arterial route within and around Walsall. The proposed and required additional landscaping will be sufficient to safeguard the visual amenity of residents and preserve the views of the campus from Broadway.

In order to secure the appropriate compensation for the loss of the sports pitch it will be necessary for the applicant to enter into a section 106 agreement, this is currently being considered and as such the application is recommended to be delegated to the head of Planning and Building Control to grant permission subject to conditions and subject to the section 106 agreement to secure upgrade to existing sports facilities being signed.

Positive and proactive working with the applicant

Officers have liaised with the applicant's agent during the application process to seek the fullest possible information is available at the earliest opportunity to fully consider the proposal.

Recommendation

Delegate to the Head of Planning and Building Control to grant permission subject to conditions and subject to the section 106 agreement to secure upgrade to existing sports facilities being signed.

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

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

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

PLANS

- Amended Landscape Concept Plan (1520/15-02C) received 10/4/15
- Landscape Cross-Sections (1520/14-03C) received 10/4/15
- Existing Survey Plan (Q30117-0000-SK-006 REV1) received 30/1/15
- General Arrangement Plan Car Park and Access (Q30117-0000-SK-001 REV5) received 10/4/15
- Location Plan (Q30117-0000-SK-010) received 30/1/15
- House 39 and 41 Driveway Swept Path Analysis (Q30117-0000-SK-011) received 10/4/15
- Tree Removal and Protection Plan (1520-15-01 Rev A) received 30/1/15
- Vehicle Swept Path Analysis Plan (Q30117-0000-SK-009 REV1) received 30/1/15
- Street Lighting and Car Park lighting (Q30117-1300-SK-001) – received 30/1/15
- Topographical and Drainage Survey Sheet 1 of 3 (R-S10150/201) received 30/1/15
- Topographical and Drainage Survey Sheet 2 of 3 (R-S10150/202) received 30/1/15
- Topographical and Drainage Survey Sheet 3 of 3 (R-S10150/203) received 30/1/15

DOCUMENTS

- Flood Risk Assessment - Appendix A received 30/1/15
- Flood Risk Assessment received 30/1/15
- Planning Statement received 30/1/15
- Transport Assessment - Appendix F
- Transport Assessment received 30/1/15
- Travel Plan received 30/1/15
- Arboricultural Report received 30/1/15
- Car Park Management Plan received 30/1/15
- Landscape Design Statement received 30/1/15
- Access Options Assessment – April 2015 received 10/4/15
- Road Safety Audit received 10/4/15

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

3. a. The development hereby permitted shall not begin until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall take account of the proposed location of new tree and shrub planting to ensure a satisfactory juxtaposition.
- b. The scheme shall be implemented and retained in accordance with the

approved details before the development is first brought into use.

Reason: Necessary to ensure that surface water from the site is disposed of in a safe and appropriate manner in order to protect the integrity of the waterway structure and water quality and to safeguard the proposed replacement trees and preserve and enhance the visual amenities of the locality in accordance with policies ENV18 of the Walsall UDP 2005 and NE9 of the Walsall SPD (Conserving Walsall's Natural Heritage) and ENV5 Flood Risk, Sustainable Drainage Systems and Urban Heat Island of the adopted Black Country Joint Core Strategy and paragraph 120 of the National Planning Policy Framework relating to land instability

4. a. Prior to the commencement of the development,
 - i) Full engineering details of the new signalised junction works within the existing highway and adoptable highway works shall be submitted to the Local Planning Authority for technical approval in writing, in consultation with the Highway Authority and UTC Urban Traffic Control.
 - ii) A review of the existing traffic signage on the approaches to the new University access shall be undertaken and full details of any modifications required shall be submitted to the Local Planning Authority for technical approval in writing, in consultation with the Highway Authority.

Note to the Applicant: The proposed signal junction arrangements to be submitted for final technical approval will require modification to include closely associated signal heads to enable the future provision of a right turn indicative green arrow, double secondary heads and a left filter arrow on the access road.

- b. Prior to the new junction first coming into operation, the highway infrastructure works and signage detailed under Condition 1 (a) (i) and (ii) above shall be fully implemented in accordance with the approved details and to the satisfaction of the Local Highway Authority.

Reason: To ensure the satisfactory completion and operation of the new junction, in accordance with UDP Policy GP2 and in the interests of highway safety.

5. a. Prior to the overspill car park and access road thereto first coming into use, these areas shall be fully consolidated, hard surfaced and drained, to ensure surface water from these areas does not discharge onto the public highway or into any highway drain and the parking bays clearly demarcated on the ground.
- b. These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development in accordance with UDP Policy GP2, T7 and T13.

6. a. Prior to the approved car park and new access/egress is first brought into use all approved boundary treatments shall be fully implemented in accordance with the approved plans.

b. The boundaries shall thereafter be retained.

Reason: To ensure the satisfactory completion and operation of the development in accordance with UDP Policy GP2, T7 and T13.

7. a. Prior to the approved car park and new access/egress first being brought into use details of the proposed barrier system shall be submitted to and approved in writing by the Local Planning Authority

b. The approved details shall be fully implemented prior to the use of the new access and car park first being brought into use by students or members of staff.

Reason: To ensure the satisfactory completion and operation of the development in accordance with UDP Policy GP2, T7 and T13.

8. a. Prior to the new car park or new access/egress onto Broadway is first brought into use by students or members of staff full details of all proposed tree planting, and the proposed times of planting shall have been submitted to and approved in writing by the Local Planning Authority

b. All tree planting shall be implemented within 12 months of the completion of the development.

c. Within a period of 5 years from the completion of the development, no tree, existing or proposed, shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars the local planning authority. Any topping or lopping shall be carried out in accordance with British Standard 3998:2010 (Tree Work) and in accordance with any supplied arboricultural method statement. If any tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species and planted within the first available planting season.

Reason: In order to safeguard and enhance the visual amenities of the locality in accordance with Policy ENV18 of the Walsall UDP 2005 and policies NE5 and NE9 of Walsall Council SPD, Conserving Walsall's Natural Environment

9. a. Prior to the commencement of development details shall be submitted to the Local Planning Authority in conjunction with the Highway Authority, setting out where the location of parking for site operatives and visitors to the development site has been provided within the application site.

b. The approved details shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during the development process.

Reason: To prevent indiscriminate parking in the interest of highway safety.

10. a. Prior to any works commencing on the site, protective fencing and ground protection such as geomembrane or scaffold boards shall be installed around all retained trees in accordance with the details shown on Drawing 1520-15-

01 Rev A (Tree Retention, Removal and Protection).

b. Following installation of the tree protection measures and prior to the commencement of works on site notification shall be given in writing to the Councils arboricultural officer (Cameron Gibson, 01922 654741) to allow a full inspection of the protection measures.

c. The protection measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition nor shall any fires be started, no tipping, refuelling, disposal of solvents or cement mixing carried out and ground levels within those areas shall not be altered, nor shall any excavation or vehicular access be made.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Policy ENV18 of the Walsall UDP 2005.

11. a. The development hereby permitted shall not begin until a scheme showing details of a CCTV system including a facility for digital recording on site shall be submitted to and approved in writing by the Local Planning Authority.

b. The scheme as approved shall be implemented before the use begins. All equipment installed as part of the scheme shall thereafter be retained and operated and maintained in full working order.

Reason: To safeguard the amenities of occupiers nearby.

12. a. Prior to commencement of the new access/egress and car park, details shall be submitted to and approved in writing by the Local Planning Authority of how the car park will meet Secure by Design and in particular ParkMark principles.

b. The scheme as approved shall be implemented before the use begins.

Reason: To safeguard the amenities of occupiers nearby.

13. Following completion of the new access off Broadway and the overspill car park first coming into use, the operation and management of the University Campus as a whole shall thereafter be implemented in accordance with the approved 'Car Park Management Plan' RQ30117T002-A submitted by Pell Frischmann as part of this application.

Reason: To ensure the satisfactory operation and management of car parking on the campus as a whole in order to minimise the potential of on-street parking on the surrounding highways, in the interests of highway safety and free flow of traffic on the public highway.

14. Following the new junction on Broadway and the permanent car park first coming into use, all vehicular and pedestrian access to the university campus from Magdalene Road shall permanently cease, with the exception of emergency service vehicles.

Reason: To remove pedestrian and vehicular traffic associated with the

university campus from Magdalene Road, in the interests of the free flow of traffic on the public highway and highway safety.

15. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08.00 to 18.00; and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. (* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

Reason: To safeguard the amenities of nearby residents

Notes for Applicant

Secure by Design

West Midlands Police: The Police Architectural Liaison Officer has been consulted on the application and the principles of PARKMARK are to be followed in order to create a safe, secure and user friendly car parking environment. Further details can be found at <http://www.britishparking.co.uk/Guidelines-and-resources>.

S38/S278 Works

No works on the public highway shall be commenced until all engineering details have been approved by the Highway Authority and an agreement under Section 38/278 of the Highways Act, 1980 entered into. All costs are to be met by the applicant and it should be noted that any non standard materials, landscaping, highway drainage or structures etc will require a commuted sum for future maintenance. Note for applicant regarding Mud on Highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

Drainage over the public highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning areas do not discharge onto the public highway. No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway or vice versa.



Planning Committee

Report of Head of Planning and Building Control on 06-Aug-2015

Plans List Item Number: 3.

Reason for bringing to committee: Major application

Application Details

Location: FORMER IMI JAMES BRIDGE COPPERWORKS, RESERVOIR PLACE, WALSALL

Proposal: CAPPING LAYER TO SITE SURFACE AND ERECTION OF BOUNDARY FENCING.

Application Number: 15/0429/FL

Applicant: Homes and communities Agency

Agent: TEP

Application Type: Full Application

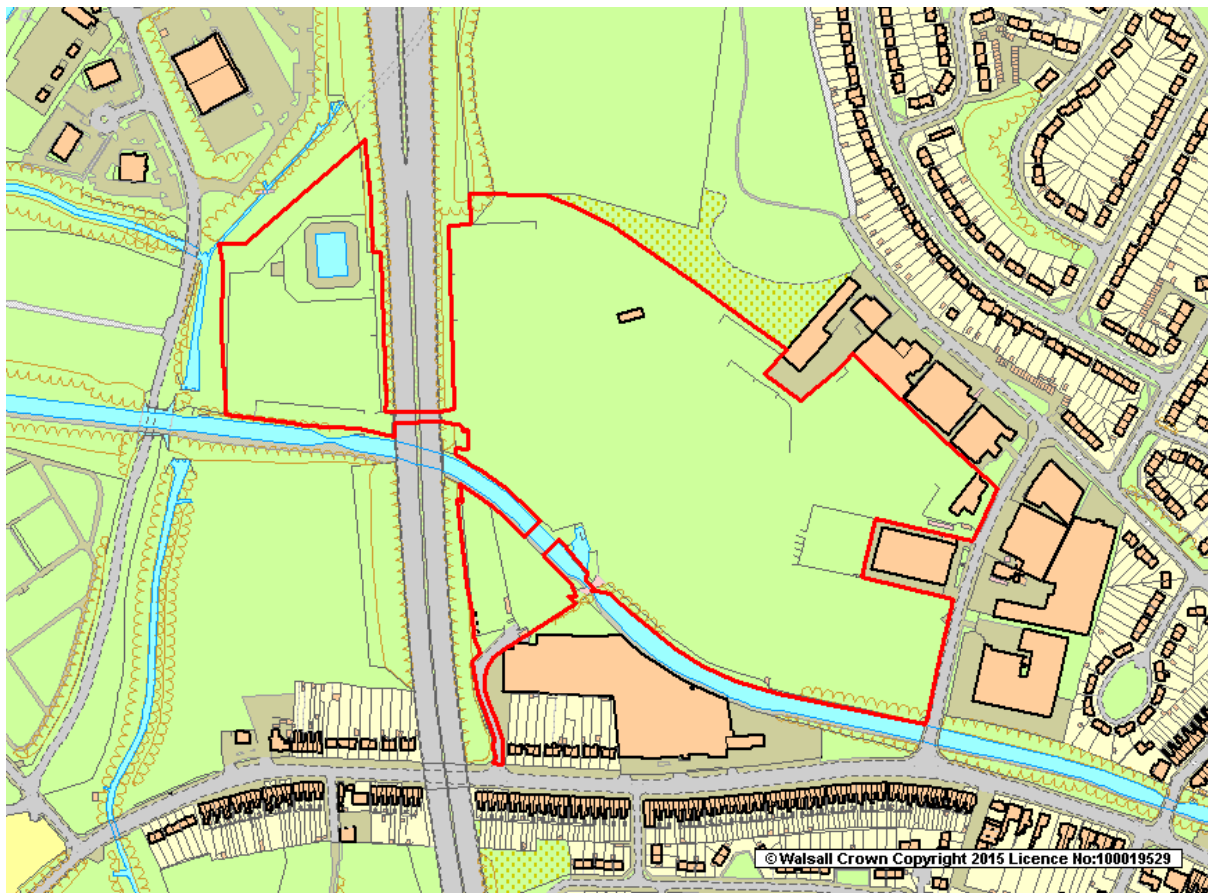
Recommendation Summary: Grant Permission Subject to Conditions

Case Officer: Katie Parsons

Ward: Pleck

Expired Date: 16-Jul-2015

Time Extension Expiry: 31-Aug-2015



Officers Report

Application and Site Details

The site is located north of Darlaston Road and west of Reservoir Place and partly straddles the M6 motorway, linked by a bridge below the motorway. The primary vehicular access is via Reservoir Place, with a secondary access from Darlaston Road which links to the main part of the site via a bridge over the Walsall Canal. Surrounding the site there is an area of open space to the north (formerly a tip) with a school beyond, industrial and commercial uses to the east and south, and residential uses further east and south of the site. The part of the site on the west side of the M6 is bounded on all sides by waterways, with industrial and commercial uses beyond. The Walsall Canal, River Tame and the Sneyd Brook are all in close proximity to the site, as is the listed James Bridge Aqueduct, although it is thought that areas of flood risk fall just outside the site boundaries. The Canal Corridor is also a Site of Local Importance to Nature.

The site was most recently used as a copper works and has a total area of approximately 12.6 hectares. The site is vacant and cleared of buildings, although some areas of hard standing remain. Some parts of the site are exposed made ground and underlying soils and in some of these areas some trees and other vegetation has grown. Due to the previous uses of the site, the land is known to be contaminated. The site is also located within the Coal Authority Development High Risk Area and one of its previous uses was as a colliery so numerous untreated coal shafts are known to be present.

The application proposes management works to repair areas of damaged perimeter fencing and surfacing to secure the site whilst it is vacant, to prevent unauthorised access to and digging on the site. There are longer term aspirations for redevelopment of the site but the current application is concerned with fencing and surface repair only. It is anticipated that the works will be carried out over a four week period.

The application has been supported by a Planning, Design and Access Statement; plans showing the proposed ground and fencing works; a Site Investigation and Factual Report; a Mining Risk Assessment Report; an Arboricultural Impact Assessment; an Ecological Assessment Report; a Construction Environmental Management Plan; a Flood Risk Assessment and Surface Water Drainage Strategy; Maintenance Plan.

The proposal has been screened under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) and was determined not to be EIA development.

Relevant Planning History

14/1902/SCRE - Screening Opinion as to whether an environmental statement is required for surfacing works and capping barrier and erection of palisade fencing – Environmental Statement not required.

Relevant Planning Policy Summary

Planning law requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material consideration in planning decisions and sets out that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

National Planning Policy Framework 2012 (NPPF) and associated guidance

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*".

It is based on 12 **core planning principles**. Those particularly relevant in this case are:

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and characters of different areas
- Contribute to conserving and enhancing the natural environment

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

On **planning conditions** the NPPF says:

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

The Black Country Core Strategy (BCCS)

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

The Vision consists of three major directions of change and underpins the approach to the whole strategy:

1. Sustainable Communities - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

2. Environmental Transformation - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

3. Economic Prosperity Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

The above are supported by the following key policies, as relevant to this application:

CSP3: Environmental Infrastructure
CSP4: Place Making
CSP5: Transport Strategy
TRAN2: Managing Transport Impacts of New Development
ENV1: Nature Conservation
ENV2: Historic Character and Local Distinctiveness
ENV3: Design Quality
ENV4: Canals
ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
ENV8: Air Quality
WM1: Sustainable Waste and Resource Management

These Policies are considered to be consistent with the NPPF.

Walsall's Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

The key 'Saved' Policies relevant to this proposal are:

GP2: Environmental Protection
ENV10: Pollution
ENV14: Development of Derelict and Previously-Developed Sites
ENV18: Existing Woodlands, Trees and Hedgerows
ENV23: Nature Conservation and New Development
ENV32: Design and Development Proposals
ENV40: Conservation, Protection and Use of Water Resources
JP4.2: James Bridge (Former IMI Works)(site E30)
T4: The Highway Network

These 'Saved' Policies are considered to be consistent with the NPPF.

Supplementary Planning Documents

http://cms.walsall.gov.uk/index/environment/planning/planning_policy/local_development_framework/ldf_supplementary_planning_documents.htm

Where relevant BCCS and UDP policies are consistent with the NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The SPDs relevant to this application are:

- Designing Walsall
- Conserving Walsall's Natural Environment

Consultations

Archaeology – No objections.

Area Partnership – No comments received.

Canal and River Trust – Welcome the recommendations outlined in the Construction Environment Management Plan to protect the Walsall Canal. During the works at the site, the works, handling, storage and disposal of chemicals, fuel, and waste generated by the works should be carried out in accordance with relevant legislation and regulatory requirements. Potential contamination of the waterway and ground water from wind blow, seepage or spillage at the site should be avoided.

Centro – No comments received.

Coal Authority – The application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The applicant has obtained appropriate and up-to-date coal mining information for the proposed development site and has used this information to inform the Mining Risk Assessment Report which accompanies this planning application. The Mining Risk Assessment Report correctly identifies that the application site has been subject to past coal mining activity. The Coal Authority records indicate that within, or within 20m of the planning boundary there are 133 mine entries and that the site has been subject to historic recorded underground mining at shallow depth. The site is also likely to have been subject to historic unrecorded underground mining at shallow depth. The Mining Risk Assessment Report has been informed by an appropriate range of sources of information; including a Site Investigation Factual Report (2011, prepared by Wardell Armstrong), a Coal Mining Report, BGS geological mapping, and historic OS mapping. Based on this review of existing sources of geological and mining information the Mining Risk Assessment Report clearly identifies the risks posed by mine entries and shallow workings but makes a distinction between the level of risk posed for this construction phase (i.e. to make the site safe, including the erecting of fencing and placement of a capping layer) and for works thereafter. Accordingly, and whilst Section 6 of the Report confirms that the only way to mitigate all known risks would be to undertake a comprehensive programme of mine shaft and mine works investigation and treatment, the Report confirms that the mine entries pose a potential risk to health and safety for this phase of the development. Appropriate recommendations are therefore included for the 'Works Phase' to mitigate the risks posed by the mine entries.

Community Safety Team – No objections. Would prefer a higher fence adjacent to the open space to the north.

Drainage Engineers – No objections.

Environment Agency – There will be no specific risks to Controlled Waters from these works. Also, due to possible Controlled Waste implications resulting from alternative 'making good' solutions considered, it has been agreed to go for capping of the affected/exposed areas on site, rather than digging up and/or treating them. As such, no objections to these proposed site works for now and keenly await the wider site redevelopment.

Environmental Health – No objections.

Health and Safety Executive – No objections.

Highway Authority – No objections. Works should be carried out in accordance with the submitted Construction Environmental Management Plan.

Highways England – Some aspects of the proposal may have a significant temporary impact on the local environment and Strategic Road Network (eg dust, dirt) therefore conditions should be used to manage these and keep them to a minimum.

Inland Waterways – No objections.

Local Access Forum – No objections.

Natural and Built Environment Team – No ecological objections subject to a condition securing the recommendations of the ecology report. Development would have little impact on trees but it would be preferable to retain some of the trees proposed for removal. Conditions recommended to protect retained trees.

Natural England – No objection in relation to statutory nature conservation sites. Other matters are either for the LPA to assess or subject to Standing Advice.

Pollution Control – The general arrangements and proposed working methods set out in the submitted documents are considered appropriate to prevent, mitigate or otherwise manage potential adverse environmental impact from the proposed works. Conditions should be used to secure this.

Public Rights of Way Officer - No objections but note to applicant regarding unrecorded rights of way recommend.

SRF Darlaston -No comments received.

Structures and Geotechnics - The site is located outside the zone of consideration for limestone mine working and therefore not affected by the limestone issue. However, the site appears to be within the area where shallow coal mining may have taken place in the past hence a Coal Authority report is recommended.

West Midlands Police Crime Prevention Design Advisor - No objections but recommend that the palisade fencing be concreted into the ground at least 18" to prevent the base being bent back and climbed under.

Wildlife Trust – No comments.

Public Participation Responses

One local resident commented on the application as follows:

- Concern regarding increased traffic and noise during works – should be limited to normal hours of work (*Officer comment – the submitted Construction Environmental Management Plan addresses these concerns*)

- Concern that the line of trees that act as a visual and sound barrier along and inside the IMI boundary and along the canal would be removed (*Officer comment – only one group of five trees adjacent to the existing buildings to the east would be removed*)

Determining Issues

- Fencing-related considerations
- Surface works-related considerations

Observations

Fencing-related considerations

The existing perimeter fencing is damaged and vandalised in places, allowing access to the site, therefore it is proposed to increase security at the site boundaries. This would take place in five parts of the site – the northern boundary, the south-eastern boundary, the canal bank, west of the motorway and to the motorway boundary and underbridge.

Some areas of chain link fence would be removed and replaced with new 2.1m high steel palisade fencing with additional horizontal steel rails to strengthen them to increase resistance to pales being forced off the fence, whilst areas of existing palisade fencing would either be replaced, repaired or upgraded to the same specification. An existing gate to the motorway underpass would be replaced with a new lockable palisade fence to prevent unauthorised access to the part of the site on the west side of the M6. 600mm pits would need to be excavated to allow the new fence posts to be concreted into the ground and the arisings would be placed below the proposed capping layer as part of the surfacing works. This element of the works would be carried out in accordance with the submitted Construction Environmental Management Plan to manage the risks of contamination from the land.

No tree works or removals would be required as a result of the fencing works, although any support posts being installed near tree roots would have to be hand dug and lined to avoid harm to trees. Some areas of vegetation would be removed. For the amount of fencing proposed, five lorry movements are estimated which would not have a significant impact on the highway network.

The proposed fencing is considered to be acceptable given the existing appearance of the site and the necessity to secure the site whilst it is derelict and vacant. Whilst palisade fencing of this height and design would not be an appropriate long term solution for the site once it is redeveloped, it is considered to be acceptable under the circumstances as it would not have a greater detrimental impact on the character of the local area than the existing fencing and would be a short term security measure until the site is redeveloped. None of the fencing is in a location which would give rise to concerns about impacts on occupiers of other premises.

Surface works-related considerations

Some parts of the site are not covered by hard standing and there is evidence of unauthorised excavations. Surface water is also percolating and pooling in these areas. Any trespassers to the site are therefore risking exposure to contaminants.

To prevent this, a physical barrier known as a 'capping layer' is proposed. This would be applied to seven locations of the main site, with areas ranging from 30 - 4900 square metres. The areas of the site to be capped would be cleared of vegetation and tree roots where these exist. Recycled aggregates would be brought onto the site and compounded over the identified areas by a vibrating roller to create a 250mm barrier layer. There are small quantities of recycled aggregate present on the site which would also be used, including arisings from the pits dug for the new fence posts. Any visible fragments of asbestos-containing materials or slag materials would be removed as part of the works. Measures to control contamination are contained within the submitted Construction Environmental Management Plan.

It is estimated that 2000 cubic meters of material would need to be imported to the site. This would be brought to the site in 8-wheeler road lorries, each with a load estimated at 10 cubic metres. As such a total of 200 vehicle movements are likely and these are proposed via the existing Reservoir Place vehicular access. Vehicles leaving the site will be asked to turn right to avoid a residential area north of the site on the highway network. Over a four week period this is not considered to be a significant amount of traffic – in the region of one per hour for ten hours each day. Some dust is likely to be generated by the vehicles and the surfacing works and would need to be managed through dust suppression measures.

One group of trees in the eastern part of the site would need to be removed to allow the capping layer to be constructed. The tree survey sets out that they are category C self-set trees immediately adjacent to a building outside the site boundary, therefore the long-term vitality of retaining these trees is likely to be compromised. They are also not considered likely to support bat roosts. The Council's Ecologists preference for retaining some of these trees has been balanced against the need to redevelop this site and the necessary steps to remediate the land before redevelopment can occur. Due to the nature of the contamination on the site it is considered unlikely that remediation could take place without almost total site clearance. Whilst redevelopment is not proposed as part of this application, the benefits provided by this application and the future redevelopment of the site are considered to outweigh the harm caused by the loss of the trees and vegetation. Conditions are recommended to protect retained trees.

The ecological assessment that accompanied the application sets out that the existing site has moderate ecological value and is linked to some statutory and non-statutory sites in the local areas in terms of its ecological value. It is noted that the report was written in January 2014 and refers to the planned redevelopment of the site rather than being specific to the works proposed by this application. However due to the small scale and nature of the current proposals, it is not considered that significant ecological impacts would result provided that nesting birds are safeguarded. A condition to secure this is recommended.

In terms of visual impact, the proposed works would be in keeping with the current appearance of the site, which is acceptable given the purpose and context of this application.

The permeable nature of construction of the capping layer means that some infiltration will still take place, therefore flood risk on the site and elsewhere would not be increased and impacts on water quality would remain as existing. Due to the size of the site, the application was accompanied by a Flood Risk Assessment confirming this.

Due to the mining legacy of the site, a Coal Mining Risk Assessment Report has been submitted setting out proposed mitigation measures to reduce risks to acceptable levels whilst works take place. The Coal Authority is satisfied that the mitigation proposed are appropriate to ensure the safe operation of the site and has no objection subject to imposition of a condition to ensure compliance with the submitted details.

Some short-term disturbance could occur whilst works are carried out through noise, vibration, dust and hours of work. The application is supported by a Construction Environmental Management Plan and a condition is recommended to ensure works are carried out only in accordance with this document.

Conclusions

On balance, the application is considered to be acceptable subject to the recommended conditions.

Positive and Proactive working with the applicant

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long that they safeguard the natural and built environment, highway network and the amenity of citizens.

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including any representations that may have been received, and following submission of negotiated amendments to the application, subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Recommendation

Grant subject to conditions.

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

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following approved plans and details:

G3010.Pcment.IMI.001C 'Site Location Plan'
 G3010.Pcment.IMI.002 'Site Block Plan'
 312684-101 'Site Surface to be Repaired with Recycled Aggregate Layer'
 D3010.Pcment.IMI.001 Proposed 2.1m High Palisade Fence Detail With
 Additional Security Measures for SP Fencing
 D3010.Pcment.IMI.002 ' Proposed Additional Security Measures to Existing
 2.1m High Palisade Fence'
 D3010.Pcment.IMI.003A 'Site Plan – Palisade Fencing'
 D3010.Pcment.IMI.004 'Detailed Areas – Palisade Fencing'
 D3010.Pcment.IMI.007 'Vehicular Palisade Gate Detail 2.1m High'

REASON: to define the permission and ensure the development is carried out as approved.

3. Works shall be undertaken and managed only in accordance with the measures set out in the submitted 'Construction Environmental Management Plan – Works to Repair and Upgrade Fencing and Surfaces' by RSK dated June 2015, or any subsequent version of this document which has first been submitted to and approved in writing by the Local Planning Authority.

REASON: To protect human health, local amenity and the environment and in the interests of highway safety. To allow flexibility for an updated document to be submitted should the details need to be amended once a contractor has been appointed.

4. Works shall be undertaken only in accordance with the mitigation measures relevant to the 'Works Phase' set out on pages 36 and 37 of the submitted Mining Risk Assessment Report (March 2015, prepared by RSK), or any subsequent version of this document which has first been submitted to and approved in writing by the Local Planning Authority.

REASON: The site lies within the Coal Authority defined Development High Risk Area and there is a potential risk to the development from past mining activity. To allow flexibility for an updated document to be submitted should the details need to be amended once a contractor has been appointed.

5. Site clearance of vegetation should be undertaken outside the bird nesting season. The bird nesting season extends between mid February and September inclusive but is weather dependant and nesting may take place outside this period. If site clearance unavoidably takes place within the nesting season, the areas to be cleared shall be checked by a qualified and experienced ecologist immediately prior to works commencing. If nesting birds are discovered then the nest and its surrounds within 5 metres must be left undisturbed until the young have fledged and the nest abandoned.

REASON: to conserve local bird populations.

6. The erection of palisade fencing in proximity to tree groups G3 and G9 (as defined in Arboricultural Impact Assessment by TEP dated March 2015) shall take place only in accordance with the following requirements:
 - a) All fence holes shall be dug by hand and shall not exceed 300mm in diameter.
 - b) Fence holes shall be lined to prevent contact between concrete and soil.
 - c) If any tree root greater than 25mm in diameter is encountered during excavation, the root shall not be severed and work shall follow the advice of a suitably qualified and experienced arboriculturalist.

- REASON: to protect significant trees in and adjacent to the application site.
7. During site preparation and building operations, no storage of materials, equipment or waste, nor passage of vehicles, nor lighting of fires shall take place beneath the canopy of any tree to be retained.
- REASON: to protect significant trees in and adjacent to the application site.
8. No digging of trenches or changes in ground levels, other than those shown on the approved plans, shall be undertaken within the canopy of any tree to be retained on the site.
- REASON: to protect significant trees in and adjacent to the application site.

Notes for Applicant

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at:
<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service at www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 01623 646 333. Further information is available on The Coal Authority website www.gov.uk/government/organisations/the-coal-authority

There is localised ground contamination that may present Health and Safety implications for persons undertaking ground works. This information should be brought to the attention of the builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking engineering/construction work at the development site.

Public rights of way may be in existence which are not shown on the definitive map and statement. In accordance with section 31 of the Highways Act 1980, where a route has been enjoyed by the public without interruption for a period of 20 years a claim can be made under section 53 of the Wildlife and Countryside Act 1981 and this may have to be dealt with using stopping up or diversion order prior to development should a claim be received. Installation of fencing can sometimes trigger a claim of this nature.

The applicant/developer is advised to contact the Canal and River Trust Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that the works comply with the Trust's "Code of Practice for Works affecting Canal & River Trust". The Canal and River Trust offer no right of support to the adjacent property. The land owner should take appropriate steps to ensure that their works do not adversely affect the canal infrastructure at this location. The applicant/developer is advised that Canal & River Trust' consent will be required for any encroachment onto their land by the fencing works. Please contact the Canal and River Trust Estates Team on 0303 040 4040 for further advice.

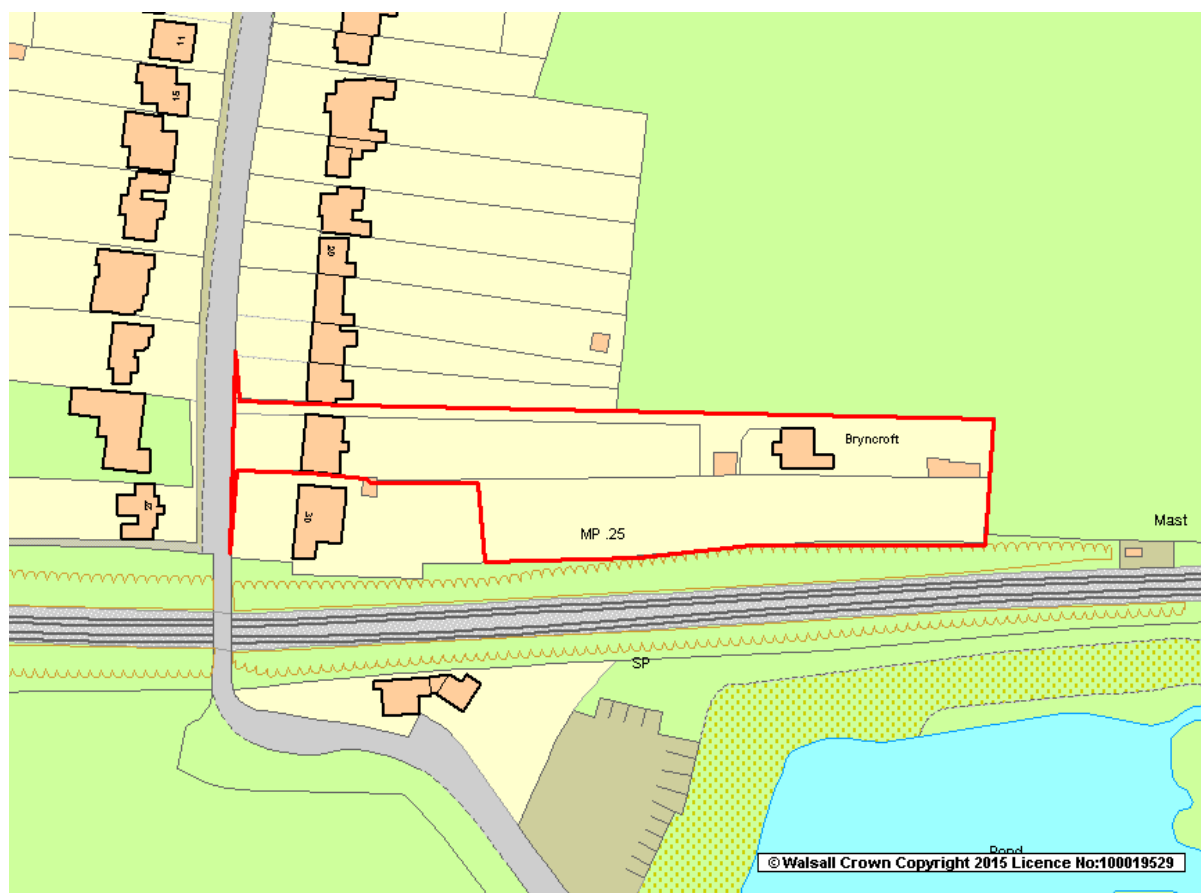
Planning Committee

Report of Head of Planning and Building Control on 06-Aug-2015

Plans List Item Number: 4.**Reason for bringing to committee:** Significant Community Interest

Application Details

Location: 28,28A AND REAR OF 30 BRANTON HILL LANE,WALSALL,WS9 0NR
Proposal: DEMOLITION OF 2 EXISTING BUNGALOWS AND ERECTION OF 7 X 5 BED DETACHED HOUSES (RESUBMISSION OF PLANNING APPLICATION 14/0412/FL).

Application Number: 14/1553/FL**Case Officer:** Barbara Toy**Applicant:** Firstpost Homes Limited**Ward:** Aldridge Central And South**Agent:** CT Planning Limited**Expired Date:** 19-Dec-2014**Application Type:** Full Application**Time Extension Expiry:** 11-Jun-2015**Recommendation Summary:** Refuse

Officers Report

Status

11th June 2015 Planning committee resolved:

That approval of planning application number 14/1553/FL be delegated to Officers to negotiate a revised scheme. If discussions do not result in an acceptable revised scheme, the matter to be referred back to Committee.

In response to planning committee's resolution a revised scheme has been submitted which shows minor amendments to plots 4, 5, 6 and 7.

Plot 4 - the ridge height on the gable roof has been lowered by 0.6m

Plots 5, 6 and 7 - the roof design has been amended from a gable to a hip and the ridge lowered by 0.6m

The submission includes a revised street scene drawing showing the existing hedging and trees along the northern boundary of the site with the Green Belt.

Public Participation Responses

11 further letters of objection have been submitted following re-consultation on the amended plans and 1 letter of support.

In addition to the previous comments detailed within the original report the following further objections have been raised:

- Previous comments still apply
- Lowering of the roofs on 4 of the houses by 60cms makes no difference
- The number of the properties needs to be reduced not just the height
- Reduction in the height of the houses will not alleviate any of the problems previously raised
- Disappointed that having to object for a third time to an outrageous development
- Residents concerns not answered or considered by officers or members of the committee
- Proximity of new house to existing hedging
- The new road will not be maintained by the Highway Authority
- The pavement in Branton Hill Lane needs resurfacing and levelling
- Suggestions that the application has not been dealt with in a proper manner.

1 letter of support has been received from a property linked to the application site, in addition to the previous comments detailed within the original report the following additional support have been raised:

- It was agreed at the Planning committee meeting that the site is suitable building land, but amendments needed.
- The ridge heights have been reduced

Observations

Plots 4, 5, 6 and 7 would extend beyond the existing rear gardens of properties in Branton Hill Lane and would be visible to views across the open fields to the north of the site and dominating the views from Little Aston Road. It is considered that the height, bulk and massing of these houses would be unacceptable, out of character and would have an adverse impact on the openness and character of the Green Belt.

The revised scheme shows a lowering of the ridge line of each of these four plots by 0.6m and an amendment to the roof design of plots 5, 6 and 7 from a gable roof to a hipped roof on the main houses and double garages on plots 6 and 7.

It is considered that the proposed amendments are insufficient to overcome the previous objections to the development. The amendments would make little difference to the overall appearance, height, bulk and massing of the development and the proposals would continue to have an adverse impact on the openness and character of the Green Belt. It is considered that the development would remain at odds with the established pattern, layout and general character of the area.

Recommendation

The recommendation remains the same as the main report (below), that planning consent be refused, with the following amended reasons for refusal:

1. The development would provide an unacceptable redevelopment of garden land and would create an unacceptable backland development that would be at odds with the established pattern, layout and general character of the area which is defined by street frontage properties. The proposed layout fails to respond to local character, reinforce local distinctiveness or reinforce the existing urban structure. The development would create a linear form of large two storey houses that would extend beyond the existing built form, the scale bulk and massing of the development would have an adverse impact on the character, openness and views across the adjacent Green Belt. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies CPS4, HOU2, ENV2, ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6 and ENV32 of the Walsall Unitary Development Plan and the design principle: homes, policies DW3, DW4, DW6 and Appendix D of Supplementary Planning Document: Designing Walsall.
2. The proposals fail to demonstrate that the future occupiers of the development would not be unacceptably affected by noise and vibration from the adjacent railway line or noise from the nearby quarry. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework paragraphs 109, 120 and 123, and saved policies GP2 and ENV10 of the Walsall Unitary Development Plan.

START OF ORIGINAL REPORT

Application and Site Details

The site is situated on the eastern side of Branton Hill Lane, at the southern end of this no through road. The site comprises an existing bungalow and garden at No 28, 28A a bungalow and garden set to the rear of No 28 and the rear garden of the bungalow at No 30. A number of trees within the boundary of No 28 are protected by Tree Preservation Order 6:1991.

Branton Hill Lane is a no through residential road comprising predominantly detached two storey houses and bungalows with some semi detached properties also.

Nos 24 and 26 Branton Hill Lane to the north of the site are a pair of semi detached houses, to the west on the opposite side of the road are detached two storey houses.

A railway line (Sutton Park Line) is set within a cutting and lies to the south of No 30 with a bridge over at the end of the Lane allowing access to Branton Hill Quarry situated on the opposite side of the railway line. The land to the east and north east of the site is open Green Belt Land.

This is a revised application following a previous refusal in July 2014. The application still proposes the demolition of No 28 and 28A and redevelopment of the site to provide 7 x 5 bed detached two houses within a private no through road. Plot 1 would be situated fronting Branton Hill Lane with a driveway on the frontage and a detached double garage set to the rear off the new access drive. The access road would be situated between No 30 and plot 1. The remaining 6 plots would be situated to the south of the access drive facing north and backing onto the railway line. Plots 2 – 5 would have detached double garages to the side/rear with plots 6 and 7 each having an integral double garage.

Each of the houses would have front two storey gable features, bay windows, brick detailing and chimneys and would be constructed from facing brickwork and pitched tiled roofs. Each of the gardens would exceed 68sqm and each property would have at least 4 off street parking spaces.

The amendments to the scheme following the previous refusal include:

- Plots 5, 6 and 7 moved 1m to the east
- Plots 2, 3 and 4 moved 1m to the west
- Creation of turning head between plots 4 and 5, forward of the two double garages and driveways
- Double garage to the rear of plot 1 moved 1.0m to the west
- Minimum width of the private access road increased from 3.6m to 3.7m, a speed bump added close to the entrance of the private drive
- Visibility splay provided at the junction of the private drive and Branton Hill Lane
- Retention of protected Sycamore tree in the rear garden of plot 1.

The site has an area of 0.5 hectares and 7 dwellings would result in a density of 14 dwellings per hectare.

The following documents have been submitted in support of the proposals:

Design and Access Statement

This discusses the land use, amount/density of development, proposed layout, scale, external appearance, access, landscaping and bats.

Planning Statement

This discusses the application site and surroundings, history and planning policy. It also discusses the planning considerations of the case: the principle of the development, the character and appearance of the area, living conditions, access and trees.

Addendum Planning Statement

This discusses the issues raised in the case officers delegated report on the previous submission and discusses each of the four reasons for refusal on the previous application.

Statement By David Tucker Associates re Reason for Refusal 3

This considers the comments expressed by Transportation on the previous scheme and discusses the amendments made in this revised scheme in order to comply.

Arboricultural Assessment

This makes an assessment of 4 individual trees and a group of 7 silver birch trees within the site, 3 of the individual trees middle aged, 1 young and the silver birch group mature. In terms of condition all the individual trees are categorised as B and the group of silver birch as B/C. The report identifies that no work is required to any the trees at this time. In terms of retention, 2 of the individual trees were identified as category B (should be considered for retention) and the rest category C trees that should not impose a constraint on development.

Bats and Bird Survey

Building inspection and surveys of the site were undertaken. This concludes that there was no evidence of bats using the buildings as a place of shelter and birds have not nested in the properties, but there will be a loss of nesting opportunities with the felling of any trees, but the retention of trees around the boundary would retain nesting places for local birds. Bat mitigation measures are recommended as well as a method of working in terms of demolition.

Schedule of Backland Planning Permissions Granted by Walsall Council

This refers to 7 sites within Walsall where residential development on backland sites have been approved since Oct 2011.

Relevant Planning History

14/0412/FL, demolition of 2 existing bungalows and erection of 7 x 5 bed detached houses, refused 16-07-14.

Reasons for refusal:

1. The development would provide an unacceptable redevelopment of garden land and would create an unacceptable backland development that would be at odds with the established pattern, layout and general character of the area which is defined by street frontage properties. The proposed layout fails to respond to local character, reinforce local distinctiveness or reinforce the existing urban structure. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies CPS4, HOU2, ENV2, ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6 and ENV32 of the Walsall Unitary Development Plan and the design principle: homes, policies DW3, DW4, DW6 and Appendix D of Supplementary Planning Document: Designing Walsall.
2. The proposals fail to demonstrate that the future occupiers of the development would not be unacceptably affected by noise and vibration from the adjacent railway line or noise from the nearby quarry. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework paragraphs 109, 120 and 123, and saved policies GP2 and ENV10 of the Walsall Unitary Development Plan.
3. The proposals fail to provide minimum visibility requirements at the access point onto Branton Hill Lane and the proposed layout fails to provide an adequate road width, service strip or turning facility to the detriment of the safe and satisfactory

operation of the development and satisfactory servicing of the site, contrary to UDP policy GP2, Department of Transport Guidance: Manual for Streets (2007) guidance and detrimental to highway safety.

4. The proposed development and layout is likely to result in unacceptable loss or damage to trees within and immediately adjacent to the site, some of which are protected under Tree Preservation Order 6 of 1991, which would be detrimental to the overall amenity, aesthetic and landscape character of the area. The replacement trees proposed along the southern boundary would be unacceptable in terms of their deciduous nature and proximity to the adjacent railway line. As such the proposals are contrary to the aims and objectives of the National Planning Policy Framework, policy ENV3 of the Black Country Core Strategy, saved policies GP2, ENV18, ENV32 of Walsall Unitary Development and policies NE7 and NE8 of Supplementary Planning Document Conserving Walsall's Natural Environment.

28 Branton Hill Lane

BC31118P, erection of 1 x 4 bed house, granted subject to conditions 14-11-90

BC32005P, outline for a detached bungalow, refused 05-03-91. Subsequent appeal dismissed 01-08-91.

BC33824P, 1 x 4 bed dwelling with integral garage granted subject to conditions 09-10-91.

BC36166P, extension to house granted subject to conditions 17-07-92.

07/0058/TR/T1, fell 1 sycamore and 1 birch tree, part approve part refuse 27-02-07.

30 Branton Hill Lane

BC18452P, outline for the erection of 5 x 4 bed detached houses and new access road, refused 13-01-87.

Reasons for refusal:

1. The development proposed if approved would be likely to adversely affect the enjoyment of the adjacent dwellings by reason of:
 - a) Increased noise
 - b) Loss of light
 - c) Loss of privacy
 - d) The size and proximity of the proposed dwellings
2. The development proposed constitutes an over development of the site, out of keeping with the character and size of the house plots in the area.
3. The number of dwellings proposed is in excess of the number normally permitted by the Local Planning Authority to share a private drive having regard to the need to ensure the satisfactory functioning of the development.
4. The increase in traffic which would arise from the development would be unacceptable due to the number of vehicles using Branton Hill Lane, the narrow width of the Lane and the position of the proposed access immediately adjacent to a narrow bridge.

05/0258/FL/H7, retention of wall, piers, railings and gates, refused 06-04-05.
Subsequent appeal allowed 22-11-05.

28A Branton Hill Lane

BC60743P, single storey rear extension, granted subject to conditions 27-03-00

BC63567P, single storey front extension, granted subject to conditions 02-07-01.

Appeal Decision – 87 Whetstone Lane

13/0192/FL, Demolition of 87 Whetstone Lane and Erection of 4 no. dwellings at the rear, refused 09-08-13. Appeal Ref APP/V4630/A/13/2206499 – Dismissed 29-01-14.

Relevant Planning Policy Summary

National Planning Policy

National Planning Policy Framework (NPPF)

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

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

- Seek to secure high quality design and good standards of amenity for all existing and future occupants.
- Take account of the different roles and character of different areas.
- Proactively drive and support sustainable economic development to deliver the homes that the country needs.
- Contributing to conserving and enhancing the natural environment.
- Encourage effective use of land by using land that has previously been developed (brownfield land), provided that it is not of high environmental value.

Key provisions of the NPPF relevant in this case:

4: Promoting Sustainable Transport

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

35. Developments should be located to create safe and secure layouts.

39. If setting parking standards for residential LPA's should also take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

6: Delivering a Wide Choice of High Quality Homes

49. Housing applications should be considered in the context of the presumption in favour of sustainable development.

53. LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

58. Decisions should aim to ensure that developments:

- Will function well and add to the overall quality of an area

- Establish a strong sense of place
- Optimise the potential of the site to accommodate development
- Respond to local character and history and reflect the identity of local surroundings and materials
- Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion
- Are visually attractive as a result of good architecture and appropriate landscaping

60. It is proper to seek to promote or reinforce local distinctiveness.

61. Decisions should address the integration of new development into the natural, built and historic environment.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

11. Conserving and enhancing the natural environment

109. The planning system should contribute to and enhance the natural and local environment by, protecting and enhancing valued landscapes.

111. Planning decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided it is not of high environmental value.

118. Local planning authorities should aim to conserve and enhance biodiversity by...incorporate biodiversity in and around developments.

120. To prevent unacceptable risks of pollution and land instability new development should be appropriate for its location.

123. Planning decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts

Annex 2: Glossary

Previously Developed Land

This excludes ...'land in built-up areas such as private residential gardens'

On **planning conditions** the NPPF says:

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

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

The Development Plan

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

Local

The Black Country Core Strategy (BCCS)

The key planning policies include:

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided.

CPS4: The design of spaces and buildings will be influenced by their context and seek to enhance the unique attributes the area offers.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. All developments will aim to achieve a minimum net density of 35 dph except where higher densities would prejudice historic character and local distinctiveness as defined in Policy ENV2.

ENV1: Nature Conservation. Development will safeguard nature conservation by ensuring species which are legally protected, in decline, are rare in the Black Country will not be harmed by development.

ENV2: Historic Character and Local Distinctiveness

States that development proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness. Proposal should aim to sustain and reinforce locally distinctive elements: e) Areas of extensive lower density suburban development of the mid 20th century,

ENV3: Design Quality

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

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Planning permission will not be granted for development likely to have significant transport implications.

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

Walsall's Unitary Development Plan (UDP) (2005)

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

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

XII. The effect on woodland or individual trees on or near the site.

3.6 Development and redevelopment schemes should as far as possible, help to improve the environment of the Borough.

ENV18: Existing Woodlands, Trees and Hedgerows. The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows. Development will not be permitted if it would damage or destroy trees or woodlands protected by Tree Preservation Order,

ENV23: Nature Conservation and New Development

(a) The layout of all new development must take account of:-

I. The potential for enhancement of the natural environment through habitat creation or the exposure of geological formations.

II. The nature conservation opportunities provided by buildings by designing in features which provide roosting/ nesting places for bats.

(b) The Council will require the layout of all new development to take full account of existing features of value for wildlife or geology. Where loss or damage of existing features is unavoidable, the Council will require mitigation measures to which adequately compensate for the features lost.

ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. This policy will be applied to all development but will be particularly significant in the following locations:

VI. Areas with a special character arising from the homogeneity of existing development in the neighbourhood.

(b) When assessing the quality of design the Council will use the following criteria:

I. The appearance of the proposed development

II. The height, proportion, scale and mass of proposed buildings/structures.

IV. The integration and co-ordination of buildings and external space.

VI. The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

VII. The effect on the local character of the area.

ENV33: Landscape Design

Good landscape design is an integral part of urban design

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

T10: Accessibility Standards – General

(b) Standards will apply to all development proposals with the exception of:

i small residential developments within existing residential areas including infill plots

7.51: Easy walking/cycling distance will depend on local circumstances but the maximum will normally be regarded as 1000m.

T13: Parking Provision

4 bedroom houses and above, 3 spaces per unit

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

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with the NPPF policy. The relevant SPD's are;

Designing Walsall (Feb 2008)

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies.

Design Principle – Homes: Plot sizes and built density will relate to their local context. Exploitation of large building plots in residential areas for inappropriate infill will not be permitted. Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity. Minimum guidelines are contained in Appendix D, however greater distances maybe applicable where it is in the interests of protecting the character of an area.

The following are the relevant policies;

DW3 – Character – new development to be informed by the surrounding character and to respond in a positive way to it be reflecting local urban design characteristics, such as street patterns, building scale, topography and culture.

DW4 – Continuity – New development proposals must give consideration to common building lines and how the development will give definition to streets and spaces to reinforce the existing urban structure and give significance to important streets and spaces.

DW6 – Legibility – New development must maximise its potential to enhance local distinctiveness by making positive visual connections with its surrounding environment.

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

DW10 – Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

Appendix D: Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. The requirement to design longer rear gardens to reflect an area's character is applicable and the guidelines should not mean to be the maximum achievable distances.

Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing.

Conserving Walsall's Natural Environment SPD (April 2008) - advises on the information requirements and survey standards for protected species to accompany planning applications.

NE7 - Planning applications which are not supported by an adequate arboricultural impact assessment are likely to be refused.

NE8 - All planning applications proposing the retention of trees, woodlands or hedgerows within a development site should demonstrate that the trees to be retained will survive without causing significant nuisance beyond the development phase. Adequate space should be retained for the trees to develop in the future without causing severe shading or requiring damaging containment pruning.

Tree Preservation Orders, a Guide to the Law and Good Practice

Para 5.11 says that the proximity of trees to buildings is an important consideration. It states that incoming occupiers of properties will want to be in harmony with their

surroundings without casting excessive shade or otherwise interfering with their prospects of reasonably enjoying their property. It also says that unreasonable inconvenience to occupiers leads inevitably for consents to fall.

CABE: By Design

Objectives of Urban Design – Character: To promote character in townscape and landscape by responding to and reinforcing locally distinctive patterns of development, landscape and culture.

Tree Preservation Orders, a Guide to the Law and Good Practice

Para 5.11 says that the proximity of trees to buildings is an important consideration. It states that incoming occupiers of properties will want to be in harmony with their surroundings without casting excessive shade or otherwise interfering with their prospects of reasonably enjoying their property. It also says that unreasonable inconvenience to occupiers leads inevitably for consents to fall.

Manual for Streets 2007

This provides guidance on the design of residential streets and how these can be enhanced and also advises on how street design can help create better places.

In this case the following paragraphs are relevant:

6.7: Emergency Vehicles

7.2: Street Dimensions

7.5: Stopping Sight Distance

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Consultations

Highways – No objections subject to conditions to ensure that a 3-axle refuse vehicle can access and exit the site safely, to ensure suitable surfacing and drainage of access drive, driveways and parking areas and creation of appropriate bellmouth. The revised scheme addresses the previous highway objections regarding servicing, visibility and road width.

Tree Officer – No objections subject to condition to ensure replacement tree planting. Whilst the submitted layout plan indicates the retention of the protected Sycamore tree in the rear garden of plot 1, the submitted addendum planning statement suggests that the tree is to be removed. The tree report gives it a retention category of C and it is considered that the retention of this tree would not be possible due to the proximity to the proposed double garage to be retained long term. After re assessment of the trees on the site it is considered that the trees to be removed are of a low arboricultural value and there is sufficient space within the site to accommodate replacement tree planting.

Network Rail – The new trees along the southern boundary with the railway are unacceptable as they proposed deciduous trees which may shed leaves onto the track.

New boundary fencing to the railway would be required together with conditions to require details re disposal of surface and foul water, details of ground levels, earth works and excavations and noise mitigation measures.

Network Rail would also require a risk assessment and method statement for works on site to ensure no affect on the safety, operation or integrity of the railway.

Natural Environment – no objection subject to conditions re bats. (Comments made on the previous application with no change in circumstances)

Fire Officer – No objections subject to suitable water supplies for fire fighting being provided in accordance with National Guidance Document on the Provision for Fire Fighting.

Environmental Health – No objections

Pollution Control - No objections subject to conditions requiring noise and vibration survey and agreement of mitigation measures relating to the railway and quarry prior to any demolition or work on site, control of noise, dust and debris during demolition and restricted hours of working on site. A further condition to ensure that ground gas ingress protection measures to be installed.

Severn Trent Water – no objection subject to a condition requiring drainage plans.

Public Participation Responses

2 letters of support received from properties linked to the application site (No 30 and No 28)

Support:

- Prestigious houses that will enhance the neighbourhood
- No detrimental effect on the character of the surroundings
- Garden of No 30 far bigger than others in the lane, the development would reduce the size, more in keeping with others in the area, but retaining enough space.
- Brownfield site, Government encourages development maintaining the surrounding Green Belt
- Increase value of existing dwellings in the lane and bring desired residents to the area.
- Bespoke houses which wouldn't overcrowd the site.

16 objections have been received from residents in Branton Hill Lane.

Objections:

- Comments on previous application stand
- What has changed since previous refusal?
- Impact on birds, bats and wildlife from loss of habitat, some protected trees have already been lost.
- The trees should remain even if they only have another 10 years
- Should protect the environment not build on it.
- Impact on sewage system, the system is old and already over stretched and creates ongoing problems, 7 new houses will exacerbate this together with new large care home in close proximity.
- Create a precedent for further back garden (garden grabbing) development which would be out of character with the road
- Adverse impact on the surrounding Green Belt
- Out of character, existing houses have good front gardens and large rear gardens, style of the houses out of character, more suited to a modern housing estate.
- The character and appearance will change beyond recognition, now an area of backland development.

- One bungalow set back (28a) does not form the character of the area.
- The current bungalow (28a) cannot be seen, replacing with a greater number of substantial houses, this is not like for like as submission suggests, would have an immense visual impact.
- Erroneous to suggest that the development can take place without causing harm to the natural, built and historic environment.
- Back gardens not classified as brownfield site
- Even if the Council has no policy to resist inappropriate development this does not prevent then resisting inappropriate development of residential gardens
- Loss of privacy and overlooking of rear elevation and gardens of adjoining properties
- Loss of outlook
- Increased noise
- Loss of light (particularly to No 26)
- Light pollution to adjoining gardens
- Proximity of plot 1 to No 26, loss of privacy and amenity
- Over development of the site, too many properties for the size of the site
- Housing plot sizes and gardens out of character with the rest of Branton Hill Lane
- Houses too large for the site and will do nothing for the housing shortage.
- Back gardens are for children to play in, to grow vegetables, trees and flowers and not for building houses.
- The private access drive is too narrow with no footpath, not fit for purpose and a danger to residents, no lighting, no turning head etc.
- The layout fails to take into account access for larger vehicles, no turning facilities for refuse or emergency vehicles, vehicles would be unable to enter and leave the site in forward gear, large vehicle already reverse into Branton Hill Lane.
- More houses would compound existing problems in Branton Hill Road in terms of traffic and parking.
- Likely parking within the access drive would restrict access and lead to parking and traffic issues in Branton Hill Lane.
- Only in last 12 months improvements in the road when the quarry stopped operating, additional housing would compound existing problems, particularly if quarry opens again and re-uses Branton Hill Lane for access rather than new access onto Chester Road.
- Only a footpath on one side of Branton Hill Lane, creating accessibility issues
- If new access drive is to be lit this would cause adverse impact on surrounding properties
- Visibility splay incorporates land outside the control of the applicant, the existing wall and gates at No 30 are inside the visibility splay.
- If 24 & 26 extend up to the highway on the frontage (as 28 & 30) the visibility would be dangerous.
- Some of the houses would exceed the recommended distance to the main road
- Adverse impact on the new house due to the proximity to the railway line and the quarry. Impact on home insurance, possible subsidence
- Possible reopening of Aldridge Railway station, would increase the number of trains to passenger as well as freight, noise and vibration impacts from the railway not considered

- Ground investigation and stability surveys required, is there subsidence from the quarry?
- Already enough new houses and apartments in Aldridge
- Lead to a decline of the area
- Concerns re the capacity of the gas main for the new houses
- Local schools already over subscribed
- Proximity of houses to telecom mast, risk to health
- Disruption during construction
- Two previous refusals for housing at the site
- Similar scheme in Whetstone Lane recently refused
- Majority of Branton Hill Lane residents oppose the development
- Lack of consideration for neighbours
- Property devaluation
- Financial gain for the applicant only

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

Determining issues

Whether the proposals overcome the previous reasons for refusal in terms of:

- Impact on the character and appearance of the area
- Impact from the adjacent railway and quarry.
- Highway implications
- Impact on trees

Observations

Impact on the character and appearance of the area

The site is situated in a predominantly residential area in a sustainable location within walking distance of a regular bus service on Little Aston Road and Aldridge district centre. Whilst the site includes two residential properties (to be demolished) the majority of the site is residential garden land and Annex 2: Glossary of the NPPF provides a definition of previously developed land which excludes 'land in built-up areas such as private residential gardens'. The site is not therefore considered to be previously developed land and the NPPF (para 53) encourages local planning authorities to resist the inappropriate development of residential gardens.

Whilst the principle of some residential development on the site may be considered acceptable to replace the existing units (28 and 28A) the complete redevelopment of all the garden land is considered inappropriate and would conflict with the NPPF.

The NPPF says that decisions should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new development into the built environment. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character. Policies CPS4, HOU2, ENV2, ENV3 of the BCCS; GP2, 3,6 and ENV32 of the UDP and Supplementary Planning Document Designing Walsall, require development to be informed/influenced by their context and reinforce locally distinctive elements. Plot sizes and built density will relate to their local context.

The area is characterised by detached houses of differing styles and ages but all (bar 28A) having street frontages with front gardens/driveways and large private rear gardens. The proposals would create a backland development with a private access, with only plot 1 having a street frontage, which is considered to be unacceptable. Plots 2 – 7 would not be visible from Branton Hill Lane. As such the proposals would be at odds with the established pattern, layout and general character of the area which is defined by street frontage properties.

Whilst the proposals would have a density of 14 dwellings per hectare which would accord with the surrounding properties in Branton Hill Lane which average between 10 and 17 dwellings per hectare, the proposed plot sizes would vary from the surroundings. The plots within the development would vary between approx 493sqm and 600sqm, the properties on the western side of the road have an average plot size of approx 731sqm, the eastern side of the road approx 809sqm and the site of 28, 28A and 30 has an average plot size of approx 1989sqm. The proposed plots (average 552sqm) would be significantly smaller than the average within the street and would be out of character with the pattern of development within the street.

The ratio of building footprint to plot size within the street averages between 7% and 17% with relatively small areas of hardstanding on the frontages. The proposals would provide an approx average of 35% ratio of building footprint to plot size (doubling that within the remainder of the street) together with large areas of hardstanding (large driveways to set back garages), which is considered to be significantly out of character with the pattern of development within the street.

Whilst the site sits just outside of the Green Belt, the open field immediately to the north and east of the site is Green Belt Land. It is considered that the proposals would have an adverse impact on the openness and character of the area. In particular Plots 4, 5, 6 and 7 would sit beyond the rear garden boundaries of the remainder of the eastern side of Branton Hill Lane and would be highly visible, dominating the views from Little Aston Road across the open field, particularly during Autumn and Winter months when the hedging and trees along the street/field boundary have lost their leaves. Only the upper section and roof of the existing bungalow, part of the conservatory and detached garage (28A) are visible from Little Aston Road and do not dominate the views across the field. The provision of 4 large detached 5 bed houses to replace this modest bungalow would significantly increase the bulk and massing of the built form in this location and it is considered that the 4 houses would appear very prominent and dominate the views, creating a linear form of development where there is currently only a single bungalow and detached garage.

The existing bungalow and garage provide a footprint of approx 291sqm and the hipped roof of the bungalow has a maximum height of approx 6m. Plots 4, 5, 6 and 7 would have a footprint of approx 780sqm and each house would have a maximum gable roof height of 8.6m, providing a significant increase in height, bulk and massing of built form interrupting the open nature of the immediate vicinity.

This revised scheme has made only minor 'tweaks' to the design and layout of the development over that of the previous refused scheme and as such the proposals fail to overcome the first reason for refusal on the previous scheme relating to the character and appearance of the area.

A Schedule of Backland Development planning consents granted in Walsall has been submitted in defence of backland development and referring to the determination of applications in a consistent manner. Each of the sites is assessed below:

| Site | Description | Comments |
|--|--|--|
| 1 Wallington Close 11/1222/OL | Demolition of 1 property and erection of 6 bungalows | A comprehensive development surrounded by residential properties with no detrimental impact on the character, openness or visual amenity of the area |
| Rear of 219 Lichfield Road 11/1009/FL | 8 detached houses | 8 houses added to an existing development of 18 houses, a comprehensive development surrounded by residential properties where the cul de sac is to be adopted highway. |
| Land off Cormorant Close 12/0710/FL | 2 dormer bungalows and 2 semi-detached houses | Further 4 units added to an existing development of 8 properties, a comprehensive development surrounded by residential properties where the cul de sac is to be adopted highway |
| *Rear of 49-55 Stafford Road 12/1372/FL | 8 detached houses | Further 8 units added to existing 1980's development of 5 units, a comprehensive development in a residential area. Whilst public open space is situated immediately to the west, the development does not unacceptably impact on the character, openness or visual amenity of the area. |
| Rear of 160 Thornhill Road 12/1670/FL | 2 dwellings | 2 units added to the end of an existing established cul de sac Millcroft Road (adopted highway). A comprehensive development surrounded by other residential properties. |
| Rear of 57 Stafford Road 13/0248/FL | Single detached house | An additional unit added to the existing development as * above |

| | | |
|---|-------------|--|
| Rear of 87 Whetstone Lane 14/0609/FL | 3 dwellings | This was a resubmission following a previous refusal and a dismissed appeal. The scheme was reduced from 4 to 3 units with improved orientation, separation distances and gardens and was considered acceptable. The site is surrounded by residential properties and the development does not unacceptably impact on the character, openness or visual amenity of the area. |
|---|-------------|--|

Whilst each planning application is assessed on its own merits and circumstances, the above cases are not comparable with the application site and accordingly limited weight is given to this evidence. The application site is surrounded by Green Belt land to the north and east and it is considered that the development proposed would have an adverse impact on the character, openness and visual amenity of the area.

Impact from the adjacent railway and quarry.

Plots 2 – 7 would be situated less than 20m from the Sutton Park railway line, which currently carries freight trains but may in the future (if funding allows) be reopened as a passenger line. Bliss Sand and Gravel quarry and recycling facility is situated to the south beyond the railway line, whilst it is operational at the current time, it is understood that activities may re-commence and this should be taken into consideration in the determination of this application.

Despite the second reason for refusal on the previous application relating to the failure to demonstrate that the future occupiers of the proposed dwellings would not be adversely affected by noise and vibration from the adjacent railway line or noise from the nearby quarry and recycling facility, this submission fails to provide any evidence in the form of noise or vibration surveys to overcome this reason for refusal

Pollution Control have advised that noise and vibration surveys relating to both the railway line and the quarry would need to be undertaken and any mitigation measures agreed prior to any demolition or construction on site.

It is therefore considered that the second reason for refusal on the previous application still stands.

Highway implications

The revised scheme appears to overcome the previous objections raised by the Highway Authority in relating to servicing, visibility and road width.

The revised layout submitted includes a 2m x 28m visibility splay at the junction of the proposed private drive and Branton Hill Lane. The site is located close to the end of Branton Hill Lane which is a cul de sac and narrows at the railway bridge to the south of the access where traffic speeds will be low and the volume of traffic will be relatively light. The quarry is currently not operating but could be reactivated using Branton Hill Lane but these vehicles are likely to be slow moving as they turn and

pass over the railway bridge or be slowing down on the approach to the bridge. A new quarry access road off Chester Road has been approved for any future use of the site. On balance the Highway Authority considers the visibility at the site access is now acceptable and in line with DfT Manual for Streets2 guidance.

The revised layout also now includes a turning facility within the site between Plots 4 and 5 to allow visitors, delivery vehicles and a refuse wagon to turn which is now considered satisfactory subject to Autotrack analysis confirmation.

The width of the access drive has also been widened to predominantly 4.5m widening to 5.5m in places. There is a short section adjacent Plot 1 which narrows from 3.7m to about 3.0m which is the minimum acceptable width to allow an occasional larger delivery vehicle (Manual for Streets1 para 6.18) and is now considered satisfactory.

The proposals would provide 4 off street parking spaces for each house, double garage and two driveway spaces which would exceed the requirements of UDP Policy T13 which requires 3 spaces per dwelling. It is considered that this higher level of parking for each property would discourage indiscriminate parking on the main access drive and keep it free for moving traffic and is considered appropriate in this case.

The Highway Authority consider that the highway implications of the development would not be severe in line with paragraph 32 of the NPPF.

It is considered that the revised scheme overcomes the previous objections from Highway Authority and overcomes the third reason for refusal on the previous application.

Impact on trees

Tree Preservation Order 6:1991 provides protection to an individual sycamore tree (T1) and a group of 7 birch and 3 sycamore trees (G1). Whilst consent has been granted previously for the felling of some trees within the group the remainder of the trees remain protected.

The remaining 7 protected Birch trees (G1) are shown for removal on the proposed site layout plan in order to accommodate the proposed layout. The submitted tree report identifies the 7 Birch trees as retention category 'C' as defined in BS 5837: 2012 which means that they are of low quality and with a life expectancy of less than 10 years. A re-assessment of this group of 7 Birch trees has been undertaken by the Council's Tree Officer who is in agreement with the contents of the tree report and considers that these trees should not be a constraint to the development of the site subject to replacement planting elsewhere within the site.

The protected Sycamore tree (T1) is shown as retained on the proposed site layout plan, within the rear garden of plot 1, adjacent to the proposed double garage. The submitted tree report gives it a retention category of C. The addendum planning statement submitted however suggests that this Sycamore is to be removed providing a conflict in the information submitted. The Council's Tree Officer is however of the opinion that retention of this Sycamore tree would not be possible. It is considered that it is unlikely that the trees could be adequately protected throughout any construction phase and given its proximity to the proposed double garage, soak away and foul drainage it is unlikely to be retained in the long term.

It is considered following a re-assessment of the trees on site that the trees are of low arboricultural value and reason for refusal 4 on the previous application is no longer applicable. There is sufficient space within the site to accommodate replacement tree planting. No objections are raised to the removal of the protected trees on the site subject to a condition to ensure replacement tree planting.

Whilst the proposed layout identifies some replacement trees along the southern boundary with the railway, Network Rail have advised that the proposed trees would be unacceptable due to possible root growth towards the railway and shedding leaves causing a danger/risk to the operation of the railway, an alternative location of replacement planting would be required.

Positive and Proactive Working with the Applicant

Officers have met with the applicant's agent to identify the outstanding issues and likely recommendation of refusal on the application and discussed alternative proposals for the site. The applicant has however requested that the application be determined in its present form.

Recommendation

Refuse planning consent

Reasons for Refusal

1. The development would provide an unacceptable redevelopment of garden land and would create an unacceptable backland development that would be at odds with the established pattern, layout and general character of the area which is defined by street frontage properties. The proposed layout fails to respond to local character, reinforce local distinctiveness or reinforce the existing urban structure. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies CPS4, HOU2, ENV2, ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6 and ENV32 of the Walsall Unitary Development Plan and the design principle: homes, policies DW3, DW4, DW6 and Appendix D of Supplementary Planning Document: Designing Walsall.

2. The proposals fail to demonstrate that the future occupiers of the development would not be unacceptably affected by noise and vibration from the adjacent railway line or noise from the nearby quarry. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework paragraphs 109, 120 and 123, and saved policies GP2 and ENV10 of the Walsall Unitary Development Plan.

END OF ORIGINAL REPORT

Recommendation: Refuse

Revised Reasons for Refusal

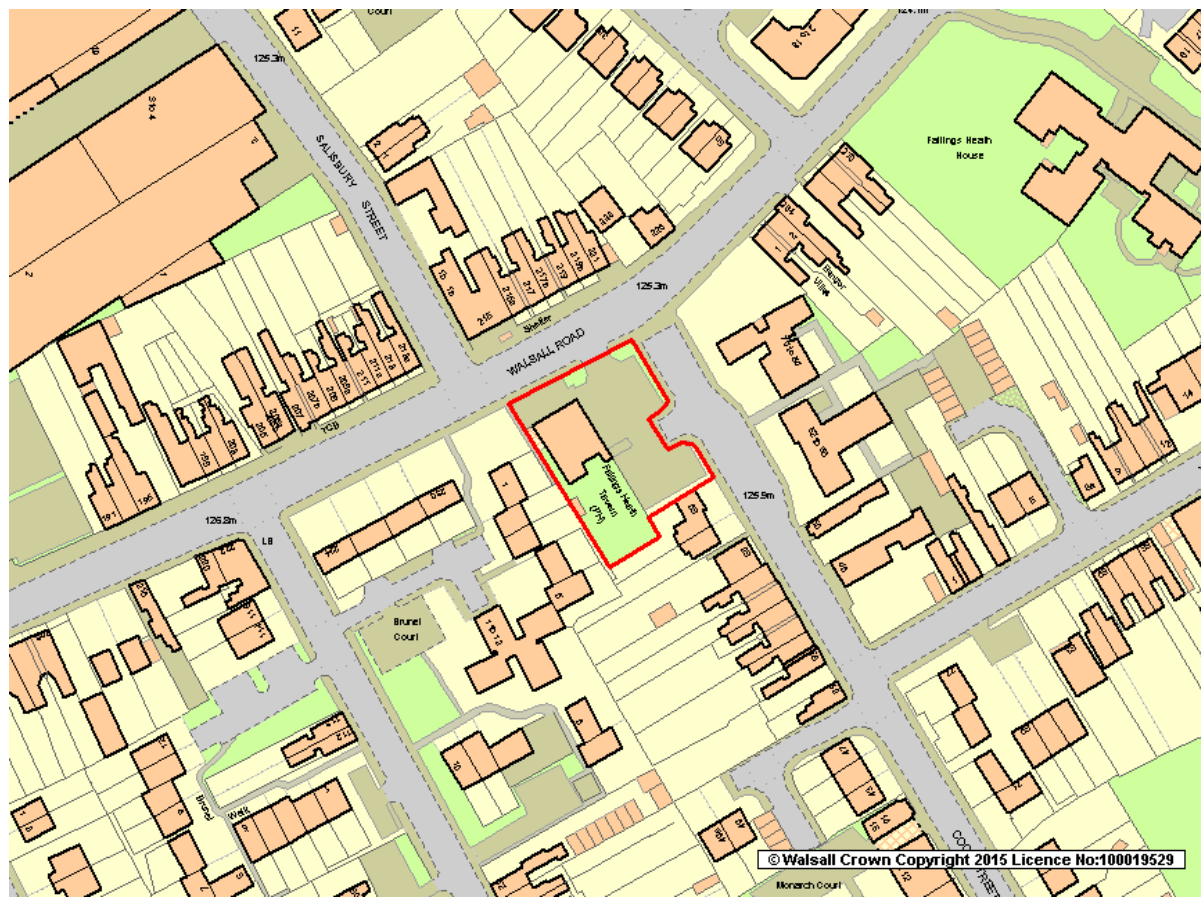
1. The development would provide an unacceptable redevelopment of garden land and would create an unacceptable backland development that would be at odds with the established pattern, layout and general character of the area which is defined by street frontage properties. The proposed layout fails to respond to local character, reinforce local distinctiveness or reinforce the existing urban structure. The development would create a linear form of large two storey houses that would extend beyond the existing built form, the scale bulk and massing of the development would have an adverse impact on the character, openness and views across the adjacent Green Belt. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies CPS4, HOU2, ENV2, ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6 and ENV32 of the Walsall Unitary Development Plan and the design principle: homes, policies DW3, DW4, DW6 and Appendix D of Supplementary Planning Document: Designing Walsall.
2. The proposals fail to demonstrate that the future occupiers of the development would not be unacceptably affected by noise and vibration from the adjacent railway line or noise from the nearby quarry. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework paragraphs 109, 120 and 123, and saved policies GP2 and ENV10 of the Walsall Unitary Development Plan.

Planning Committee

Report of Head of Planning and Building Control on 06-Aug-2015

Plans List Item Number: 5.**Reason for bringing to committee:** Significant Community Interest

Application Details

Location: 248 WALSALL ROAD, WALSALL, WS10 9SN**Proposal:** CHANGE OF USE OF PUBLIC HOUSE/RESTAURANT TO 15 NO. BEDSITS (HMO)**Application Number:** 15/0736/FL**Applicant:** Not Known**Agent:** Not Known**Application Type:** Full Application**Case Officer:** Karon Hulse**Ward:** Bentley And Darlaston North**Expired Date:** 09-Jul-2015**Time Extension Expiry:****Recommendation Summary:** Grant Permission Subject to Conditions

Officers Report

Application and Site Details

This application seeks consent to convert an existing detached restaurant with car parking to the side and rear amenity area to a House in Multiple Occupation (HMO). The building will involve internal alterations to create 15 bedrooms with en-suite facilities with minor works to create 6 new window openings on the ground floor.

The area has a mixed character of both residential and commercial properties.

The site is situated on the southern side of Walsall Road, Darlaston and comprises a two storey premises formerly used as a public house which was converted into a restaurant in 2005

There is residential and hot food take away opposite with residential to the rear and west side.

The plans indicate ten parking spaces to the side of the building however it is more than capable of accommodating at least an additional 5 spaces.

The accommodation would comprise:

| | |
|--------------|---|
| Ground floor | 10 x bedrooms each with an en-suite shower room and small kitchenette area |
| First Floor | 5 x bedrooms each with an en-suite shower room and a small kitchenette area |

There are no communal facilities within the building but there will be a large external amenity area at the rear (former beer garden).

A Planning Statement has been submitted in support of the proposals which discusses the history of the site, the layout and policy.

The site is less than one kilometre from Darlaston town centre where all the usual facilities of a town centre are available including shops, community facilities and medical centres. The site is on a district distributor road which has regular bus services running into an out of both Walsall town centre to the east and Darlaston town centre to the west.

Relevant Planning History

06/0101/FL/W5 - Single storey rear extension to existing public house converted to restaurant and public house - granted permission subject to conditions 10/03/06

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF) www.gov.uk

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic,

social and environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

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

- Proactively drive and support sustainable economic development to deliver homes
- Actively manage patterns of growth to make fullest possible use of public transport, walking and cycling
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants.
- Take account of the different roles and character of different areas
- Encourage an effective use of land by reusing that that has been previously developed
- Promote mixed use developments

Key provisions of the NPPF relevant in this case:

- ***NPPF 2 - Ensuring the vitality of town centres***
- ***NPPF 4 - Promoting sustainable transport***
- ***NPPF 6 - Delivering a wide choice of high quality homes***
- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

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

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

Local Policy

Black Country Core Strategy

- CSP1: The Growth Network
- CSP5: Transport Strategy
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV3: Design Quality
- CEN7: There is a clear presumption in favour of focusing development in centres.

Unitary Development Plan - http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

- GP2: Environmental Protection
- GP5: Equal Opportunities
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV29: Conservation Areas

- ENV32: Design and Development Proposals
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- H5: Housing for People with Special Needs
- H7: Hostels and Houses in Multiple Occupation
- T7: Car Parking
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Annexe D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Consultations

Transportation –No objections

Housing Standards and Improvements – No objections

Severn Trent Water – No objections subject to drainage scheme

Police ALO – no formal objection however advises of the following:

This development is situated on the Bentley and Darlaston North Neighbourhood Police Team area. This area has suffered 1082 reported crimes, of which 117 were burglaries and 217 vehicle related.

I have great concerns about this type of development and the increasing number of applications being approved, as have my colleagues who work on the Neighbourhood Beat Team areas as they can create a huge drain on already stretched Police resources.

I have viewed a number of similar schemes within the Walsall area. One such development in Darlaston has 14 flats and is similar to this application. That 14 flat site in Darlaston has generated 85 Police incidents in a 12 month period. I fear a similar ratio will be generated if this development is approved.

I am also concerned that many of the incidents / crimes evident at similar developments are generated by the tenants themselves from within the building itself, by-passing most the security measures in place.

It is advised that any planning permission is subject to conditions requiring vetting procedure and Secure by Design standards.

Public Participation Responses

Objections on the following grounds:

- increase anti social behaviour and community tensions
- noise all times of day/night
- traffic issues
- reduce the number from 15 to 7 or convert into family flats.
- Close to primary school and mosques where young children can be at risk.
- homeless hostel
- traffic hazard with cars parked everywhere.
- The hostel for the homeless will increase the traffic issues on Walsall Road and create noise pollution
- how will further escalation of anti social behaviour be managed
- Litter
- Homeless need a facility near Walsall town centre not in a residential area.

Determining Issues

- Crime and disorder/Secure By Design
- Principle of the use
- Design and Layout
- Amenities of the surrounding occupiers

Observations

Principle of the use

The site is situated within one kilometre of Darlaston Town Centre and is considered a sustainable location that can easily be accessed by public transport with access to shops and services that are available in the town centre. The provision of a car park that can easily accommodate 15 parking spaces is unusual for this type of establishment and is considered a bonus.

The proposals are reusing an existing building where the existing business is in rapid decline and will no doubt close in the near future which will result in an unoccupied building which could be subject to vandalism and antisocial behaviour. The NPPF and UDP policy H3 encourages the provision of residential accommodation through the conversion of existing buildings in sustainable locations. UDP Policy S8 encourages the provision of residential accommodation within town, district and local centres where a satisfactory level of residential amenity can be achieved and the use would not adversely impact on other town centre uses. Further, UDP policy H7 encourages the provision of Houses in Multiple Occupation (HMO) where there would be no harm to the amenity of the occupants of neighbouring properties or the occupiers of the accommodation or no harm to the character and appearance of the building or the area.

Crime and disorder/Secure by Design

The Police architectural liaison officer (ALO) has advised the site is within the Bentley and Darlaston North Neighbourhood Police Team area which has suffered 1082 reported crimes, in the last 12 months of which 117 were burglaries and 217 vehicle related.

The Police ALO has concerns regarding the proposed use and whilst not making a formal objection to the proposed change of use advises that the development should at the very least meet the specifications of Secure by Design standards should the application be approved.

The measures required by Secure by Design conditions may assist in securing the site, however, many of the issues which have been raised at similar establishments are usually generated by the tenants themselves. This is not a matter that can be dealt with directly or wholly by the planning system. The planning system can however, assist by ensuring that Secure by Design measures are required through safeguarding conditions to ensure the building is secured and monitored at all times.

It is also important that a system of strict vetting procedures is in place to assess the suitability of each and every tenant. In this instance it is in the interests of the applicants to have detailed tenant's contracts of behaviour which ultimately have consequences for breaches of conduct and behaviour and a robust system to deal with such breaches resulting in possible eviction. This is outside the scope of the planning system and would be a matter dealt with by Housing Standards who work with landlords and in some cases may be subject to licensing or the individual management of the business by the landlord.

Design and Layout

All housing developments must comply with national housing standards such as the decent Homes Standard and must be free from category 1 hazards when assessed in accordance with the Housing Health and Safety Rating System (HHSRS) (sections 1 and 2 of the Housing Act 2004). The Council's Housing Services also apply specific standards to premises defined as Houses in Multiple Occupation (HMO's). The standards may relate to matters such as, minimum room size, and occupancy levels, numbers of kitchens and bathrooms and fire precautions. Further requirements may also be imposed where premises are subject to Mandatory HMO Licensing.

All rooms will have en-suite facilities and a small kitchenette providing for their own cooking facilities.

The proposals provide a large garden area (formerly the pub beer garden) and car parking for 15 vehicles. It is also considered to be in a sustainable location within one kilometre of Darlaston town centre good bus services along Walsall Road.

It is likely that car ownership of the expected clientele will be low and as the parking provision is acceptable.

The current proposals include minor alterations to the external appearance by way of three ground floor windows at the rear and three ground floor windows at the side overlooking the car park. This will not have any detrimental impact on the visual appearance of the building within the street scene. It is considered that the proposed use would not have any adverse impact on the amenities of the adjacent premises or occupiers as this is a stand alone building within its own surroundings it will not impact on neighbouring occupiers or an adverse impact on the character of the area.

Amenities of the Surrounding occupiers

It is considered that the proposals would have no adverse impact on the amenities of the surroundings residential occupiers, the nearest sharing its boundaries to the west

and south of the application site, provided the establishment is operated under the terms of its licence or managed appropriately by its landlord, this is a matter which is dealt with separately by other legislation and not planning. Likewise, it is considered that the surrounding uses would not impact on the amenities of the future residential occupiers.

Nearby residents have expressed concerns for their safety should this change of use go ahead but these concerns are based on the stated behaviour of perceived occupiers of the property. There are no grounds to attribute poor behaviour to future occupiers of the building particularly if it is operated and managed satisfactorily by the landlord or within the terms and conditions of any licence.

Comments on objections

- increase anti social behaviour and community tensions
- noise all times of day/night
- traffic issues
- reduce the number from 15 to 7 or convert into family flats.
- Close to primary school and mosques where young children can be at risk.
- homeless hostel
- traffic hazard with cars parked everywhere.
- The hostel for the homeless will increase the traffic issues on Walsall Road and create noise pollution
- how will further escalation of anti social behaviour be managed
- Litter
- Homeless need a facility near Walsall town centre not in a residential area.

Mostly the issues relate to fear from the occupiers of the premises, this should not become an issue providing future tenants are carefully vetted which will restrict any antisocial behaviour occurring. Statements involving risks to children etc. are unfounded.

As such and on balance it is considered that subject to conditions the proposals in planning terms can be adequately controlled.

Positive and proactive working with the applicant

Officers have liaised with the applicant's agent during the application process to seek the fullest possible information is available at the earliest opportunity to fully consider the proposal.

Recommendation - Grant Permission Subject to Conditions

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

Reason; Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. The development hereby approved shall be built in accordance with the following plans:

- Location Plan received 15th May, 2015
- Existing Ground Floor and site plan (01) received 15th May, 2015
- Existing First Floor plan (02) received 15th May, 2015
- Existing Rear Elevation (03) received 15th May, 2015
- Existing Side Elevation to Cook Street (04) received 15th May, 2015
- Proposed Rear Elevation (08a) received 15th May, 2015
- Proposed Side Elevation to Cook Street (07) received 15th May, 2015
- Proposed Ground Floor and site plan (5b) received 22nd June, 2015
- Proposed First Floor (6a) received 15th May, 2015
- Design and access statement received 15th May, 2015

Reason: To define the permission.

3. a. Prior to first occupation of the development, details of proposed refuse and waste recycling facilities have been submitted and approved in writing by the Local Planning Authority.

b. The agreed details shall be fully implemented within three months of the date of the submitted details are agreed in writing and shall be retained and maintained at all times.

Reason: To ensure the satisfactory functioning of the development and ensure the visual amenity of the area.

4. a. Prior to first occupation of the development, details shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the development will meet Secure By Design specification.

b. The agreed details shall be fully implemented within three months of the date of the submitted details being agreed in writing and shall be retained and maintained at all times.

NB. Please refer to "Note For Applicant" for further information.

Reason: To provide appropriate levels of security and safety, in order to protect future occupiers and to gain and record evidence of any breaches of tenants contract or other crime related incidents.

5. a. Prior to first occupation details identifying mitigation measures, acoustic glazing and acoustic ventilation to be installed into habitable rooms shall be submitted to and approved in writing by the Local Planning Authority. The acoustic glazing shall achieve a minimum sound reduction of Rw 38 dB when glazing is closed, together with acoustic ventilation that achieves a minimum sound reduction of Rw 38 dB when in the open position. The development shall be or can be taken that will ensure compliance with the requirements of BS8233:2014 'Guidance on sound insulation and noise reduction for buildings' compliant.

b. Approved details shall be fully installed prior to any room being first occupied and thereafter retained in good working order.

Reason: To ensure the satisfactory functioning of the development and

protect the amenity of occupiers of the proposed residential units.

6. The disposal of surface water and foul sewage shall be to the main drainage system only.

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

Notes for Applicant

Secure by Design

Secure By Design - further information on Secure by Design specifications please go to http://www.securedbydesign.com/pdfs/SBD_New_Homes_2010.pdf or contact West Midlands Police (Police Architectural Liaison Officer) on 0845 113 5000.

The developer should be aware of the following Secure By Design specifications which will significantly increase the security of the building (doors and windows) and should be taken into account when demonstrating compliance with condition 4a and 4b.

1. A strict vetting procedure should be in place to assess the suitability of each and every tenant, a detailed tenants contract of behaviour should be signed by each tenant outlining consequences for breaches of conduct, behaviour etc. A robust system to deal with such breaches should be in place resulting in possible eviction. This should be viewed and approved.
2. All ground floor windows should have an area of defensible space in front of them, this can be in the form of low level shrubbery or gravel.
3. All doors within this development should be a minimum of PAS 24 2012 rated door sets.
4. All communal entry doors should have access control measures in place, with self-closing and locking mechanisms. There should be a video intercom linked to every flat, so that residents can see who they are letting into the premises.
5. Access control measures should be in place on each door giving access to the floor above i.e. from the stair well areas on ground and first floor. This would limit the access around the building for unauthorised persons, this could be in the form of finger print locking mechanism, key code, fob, or swipe card. At present once a person has entered the building via the entrance door they have unlimited access throughout the building.
6. All doors leading off the stairways should be self-closing / locking.
7. All external doorways should be well light.
8. A CCTV system should be installed covering entrance and exit points, car park, car park access, hallways and stairways. The system should be fit for purpose

e.g. Gather and record evidential standard images day and night. This would help protect residents and gain evidence of breaches of Tenant contracts.

9. With the high number of vehicle related offences in this area, especially Theft From Motor Vehicle, I would strongly request that entry / exit to the car park areas are gated with access control measures in place.

10. Parking bays should not be identifiable to the flats by numbers, as it enables offenders to establish which properties are unoccupied. Another system of identification should be used or none corresponding numbers.

Nb. Any lighting of the car park area should be to British Standards.

Noise Assessment

Noise Assessment - Noise surveys may need to adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation point, and may also need to take account of changes in noise levels on account of height above ground floor level to account for noise exposure at sensitive receptor points. Additionally, a noise survey may have to take into consideration changes in noise climate between normal weekdays, and weekends, effects of holiday periods, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys may be required to corroborate a single noise survey.

Submitted noise measurement data should include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of performance verification checks, recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum. Sound level measuring instrumentation shall conform to either: 'Type 1' of either British Standard BS 5969: 1981 'Specification for sound level meters', and/or BS EN 60651: 1994 'Specification for sound level meters', and/or BS 6698: 1986 'Specification for integrating-averaging sound level meters', and/or BS EN 60804: 1994/2001 'Specification for integrating-averaging sound level meters' and/or 'Class 1' of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications' (or any superseding standards as applicable).

Instrumentation shall have been verified either in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' or BS EN 61672: 2003 'Electroacoustics - Sound Level Meters - Part 3: Periodic Tests' within a preceding 2 year period of measurements being conducted, or else verified with a multifunction acoustics calibrator that has been UKAS certified within a preceding 2 year period.

In regard to specifying suitable noise mitigation measures to protect internal and/or external residential areas, reference can be made to guidance and criteria contained in British Standard BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings' and World Health Organisation Guidelines for Community Noise 2000.

Noise Policy Statement England (NPSE) - The NPSE sets out the long term Government noise policy which includes a Noise Policy Vision to 'promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development'. Noise Policy Aims are

threefold. Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:

- i) avoid significant adverse impacts on health and quality of life;
- ii) mitigate and minimise adverse impacts on health and quality of life; and
- iii) where possible, contribute to the improvement of health and quality of life.

West Midlands Noise Action Plan (WM NAP) - The Noise Action Plan (NAP) for the West Midlands is designed to address the management of noise issues and effects under the terms of the Environmental Noise (England) regulations 2006 as amended, thus covering noise from major roads, railways, airports and industrial sources.

Roads that are subject to the Action Plan have been strategically noise mapped. Through this process Important Areas to be investigated for potential action have been identified using the road noise prediction method of CRTN. Important Areas with respect to road traffic noise in the West Midlands are where the 1% of the population that are affected by the highest noise levels from roads subject to noise mapping is located. This approach is taken as populations at such locations are likely to be at the greatest risk of experiencing a significant adverse impact to health and quality of life due to traffic noise; in addition to this, locations have also been identified within this as First Priority Locations on account of excessively high noise levels for priority investigation in the context of noise action planning.

(<http://archive.defra.gov.uk/environment/quality/noise/environment/documents/actionplan/firstpriority/major-sources-tile-74.pdf> link to noise action plan that includes part of the Walsall area.)

Planning Committee

Report of Head of Planning and Building Control on 06-Aug-2015

Plans List Item Number: 6.**Reason for bringing to committee:** Departure from the Development Plan

Application Details

Location: CROMWELL COMMERCIAL SERVICES,CHESTER ROAD,WALSALL,WS9 9HJ**Proposal:** REPLACEMENT WORKSHOPS AND OFFICES.**Application Number:** 15/0641/FL**Case Officer:** Barbara Toy**Applicant:** B Sansom Transport Company**Ward:** Aldridge North And Walsall Wood**Agent:** NH Planning**Expired Date:** 12-Jul-2015**Application Type:** Full Application**Time Extension Expiry:** 14-Aug-2015**Recommendation Summary:** Grant Permission Subject to Conditions

Officers Report

Application and Site Details

The site is situated on the western side of Chester Road (A452 part of the Strategic Highway Network), just to the north of the junction with Birch Lane, and comprises a transport service yard with ancillary office accommodation, set within the Green Belt. Immediately to the north, west and south of the site is open Green Belt land to the east on the opposite side of Chester Road is a petrol filling station and restaurant. Residential properties lie to the south east on the opposite side of Chester Road.

The existing workshop/office building has a poor appearance, is situated in a central position on the site and has a footprint of 360sqm the remainder of the site comprises hardstanding for parking of commercial vehicles. The site benefits from a gated vehicle access towards the southern end of the site with wall and palisade fencing to the front boundary to Chester Road. The remaining boundaries to the open land comprise palisade fencing with some hedging and trees.

This application proposes the demolition of the existing workshop/office building and construction of two new garage/office buildings set towards the rear of the site with 12 car parking spaces set between and parking for commercial vehicles set towards the frontage of the site.

Each of the new buildings would measure 30m x 16.5m (footprint 495sqm) with a maximum pitched roof height of 8.4m, a steel framed structure externally clad in steel profile sheeting with 5 full height roller shutter doors to the frontage and office accommodation in each building. The buildings would be set away from the rear boundary of the site by 4m to allow sufficient space for a landscaping scheme to include trees.

Relevant Planning History

BA14703, outline for the demolition of existing derelict bungalow and erection of additional garage and workshop with administrative offices, granted subject to conditions 15-10-80.

BC09348P, reserved matters to BA14703 for the erection of new transport service garage, granted subject to conditions 13-12-83.

14/1196/CLD, certificate of lawful development for confirmation that the development approved under PA BC09348P was implemented within 5 years of the decision on the outline consent BA14703. Certificate Granted 08-10-14.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- Proactively drive and support sustainable economic development to deliver the homes, businesses and industrial units, infrastructure and thriving local places the country needs.
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- contribute to conserving and enhancing the natural environment and reducing pollution.
- encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

- 3. Supporting a prosperous rural economy
- 7. Requiring good design
- 9. Protecting Green Belt land
- 11. Conserving and Enhancing the Natural Environment

On **planning conditions** the NPPF says:

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

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

The Development Plan

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

The Black Country Core Strategy (BCCS)

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

- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- EMP1: Providing for Economic Growth
- TRAN2: Managing Transport Impacts of New Development

These Policies are considered to be consistent with the NPPF.

Walsall's Unitary Development Plan (UDP)

- GP2: Environmental Protection
- 3.3, 3.6, 3.7: Inappropriate development within the Green Belt will not be allowed unless justified by very special circumstances.

ENV1: The Boundary of the Green Belt
ENV2: Control of Development in the Green Belt
ENV3: Detailed Evaluation of Proposals within the Green Belt
ENV32: Design and Development Proposals
ENV33: Landscape Design
T7: Car Parking
T13: Parking Provision

These 'Saved' Policies are considered to be consistent with the NPPF.

Supplementary Planning Documents (SPD)

Where relevant BCCS and UDP policies are consistent with the NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The SPDs relevant to this application are:

- Designing Walsall
- Conserving Walsall's Natural Environment

Consultations

Transportation - No objections subject to condition to ensure that all vehicle hard standing and parking areas shall be fully consolidated, hard surfaced, parking bays demarcated and thereafter retained and used for no other purpose.

Pollution Control – Some concerns relating to the potential for contamination arising from the demolition of the existing building and the previous use of the site. Due to the age and structure of the existing building it is likely that asbestos or asbestos containing materials are included in the fabric, which will need to be managed correctly. Additionally the type and duration of the activities at the site may have resulted in localised contamination that needs to be considered by those undertaking ground works. Safeguarding conditions recommended regarding the demolition and requirement for a validation report.

Landscape Officer – No objection in principal but verbal request that a minimum 4.0m wide strip be provided between the edge of the buildings and the boundary of the site for landscaping.

Public Participation Responses

None

Determining Issues

- The Principle of the Development
- Design and Layout and Impact on the Green Belt
- Impact on the Amenities of the Surrounding Occupiers
- Access and Parking

Observations

The Principle of the Development

The site lies within the West Midlands Green Belt as identified in Walsall's adopted Unitary Development Plan (UDP) and consists of previously developed land which has operated on a commercial basis as a transport yard with commercial vehicle sales and repairs for over 40 years. On this basis it is considered that the site falls within the definition of previously developed land provided in Annex 2 of the NPPF. The principle of an additional workshop building on the site has previously been established when planning application BC09348P was granted subject to conditions

on 13th December 1983, reserved matters to BA14703 for the erection of a new transport service garage. The original outline consent (BA14703) granted consent for the demolition of existing derelict bungalow and erection of additional garage and workshop with administrative offices, granted subject to conditions 15th October 1980.

Whilst the garage building itself was never built the derelict bungalow was demolished and the new vehicle access to the site that formed one of the conditions was implemented. A certificate of lawful development was issued last year following the submission of evidence from the applicant, which confirmed that the previous application was implemented within the required 5 year period. This means that the approved building could now still be implemented.

The new buildings would be considered as inappropriate development within the Green Belt in terms of UDP policy ENV3 as the site is not a major development site. However para 89 of the NPPF provides exceptions to inappropriate development. This allows the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces.

The existing building on site has a footprint of 360sqm and the building previously approved had a footprint of 637sqm, providing a total of 997sqm, with the remainder of the site as hardstanding for vehicle parking. The proposals would remove the existing building and provide two new buildings with a footprint of 990sqm (2 x 495sqm), very similar to the fall back position. The new workshops would be of a similar height and massing to the existing and the approved building. The buildings would continue the same existing use and would not be materially larger than the existing building and approved building combined.

In this instance whilst the proposals would be regarded as inappropriate development in terms of UDP policy, the proposal is regarded as appropriate development in terms of the NPPF and as such the issue of very special circumstances does not need to be discussed.

Design and Layout and Impact on the Green Belt

The proposals would provide two buildings in the rear corners of the site and provide a more formalised layout to the site with staff and customer car parking set between the two buildings and appropriate manoeuvring space identified for both cars and the commercial vehicles on site. This would be an improvement over the current situation where parking around the site is on an adhoc basis and there is no formal car parking facilities.

The proposals also include a commitment from the applicant to provide additional screen landscaping to the side boundaries to complement the existing and new planting to the rear boundary to reduce the impact of the buildings on views across the Green Belt. In response to the comments from the landscape officer, the applicants have agreed to submit revised plans repositioning the buildings sufficiently far away from the boundary to secure the provision of an adequate landscaping buffer to the edge of the site.

The buildings would be steel framed with steel profile sheeting and coloured green and would be of a similar size and design to other agricultural buildings often seen within the Green Belt.

Whilst both buildings would be situated closer to the rear boundary than the existing building (by approx 12m) but a similar position to the building previously approved, the overall appearance of the site would be significantly improved and the proposals include the provision of screen planting to the rear elevation. It is considered that the proposals would have no greater impact on the appearance, openness or character of the Green Belt.

Impact on the Amenities of the Surrounding Occupiers

The use of the site would remain as existing and the new buildings would be positioned further from the road frontage, the immediate neighbours are commercial premises situated on the opposite side of the main Chester Road. It is considered that the proposals would have no adverse impact on the amenities of the surrounding occupiers.

Access and Parking

The existing vehicle access approved under the previous consent has been fully implemented and in use since the mid 1980's and would continue to serve the site. The proposals include designated car parking spaces, commercial vehicle parking and vehicle manoeuvring areas which would be an improvement over the existing adhoc situation within the site. The proposals would rationalise the current on-site parking arrangements and operation by providing improved staff and visitor parking as well as better arrangements for commercial vehicle sales and parking areas. Conditions are recommended to ensure that the designated areas are used for their purpose only.

Positive and Proactive working with the applicant

During the course of the application the applicant has provided additional information and plans on request from the case officer.

Recommendation

Grant permission subject to conditions

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

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

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

Drawing No. 01 - Block and Location Plan

Drawing No. 02 - Existing Floor Plans; Existing Elevations

Drawing No. 03 - Existing Elevations

Drawing No. 04 - Proposed Floor Plan

Drawing No. 05 - Proposed Elevations

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

3. a. Prior to first occupation of the either of the two new buildings hereby approved a detailed landscaping scheme for the side and rear boundaries to the open fields, to include tree planting, shall be submitted to and approved in writing by the Local Planning Authority.

b. The scheme shall be completed in accordance with the approved details before the development is first occupied. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs of plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree. Shrub or plant of the same or greater size and same species as that originally required to be planted.

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

4. a. Prior to the erection of the new buildings on site a colour for the treatment of the steel profile sheeting to be used shall be agreed in writing with the Local Planning Authority.

b. The agreed colour shall be used in the construction and thereafter retained.

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

5. a. Prior to the development first coming into use, all vehicle hard standing and parking areas shall be fully consolidated, hard surfaced and drained and the parking bays clearly demarcated on the ground.

5b These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with UDP policy GP2, T7 and T13.

6. Prior to any work commencing on site a working plan shall be submitted to and agreed in writing with the Local Planning Authority to control dust/debris from the demolition and construction works, and material drag out onto the local highway and footpath.

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

7. Prior to demolition of existing buildings a site survey to identify any potentially hazardous materials shall be carried out and a Method Statement produced detailing actions and time scale to be taken to prevent localised contamination. These details shall be submitted to and agreed with the Local Planning Authority prior to commencement of demolition.

Note: The site survey must pay particular attention to the presence of asbestos or other materials containing asbestos and provide details of how any identified material is to be dealt with.

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

8. Following demolition and removal of the buildings a validation report shall be provided to the Local Planning Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials and the building.

Note: The validation report must confirm that hazardous materials have been removed successfully and if necessary include soil or other testing results to confirm that the site has not been contaminated.

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

Notes for Applicant

Ground Contamination:

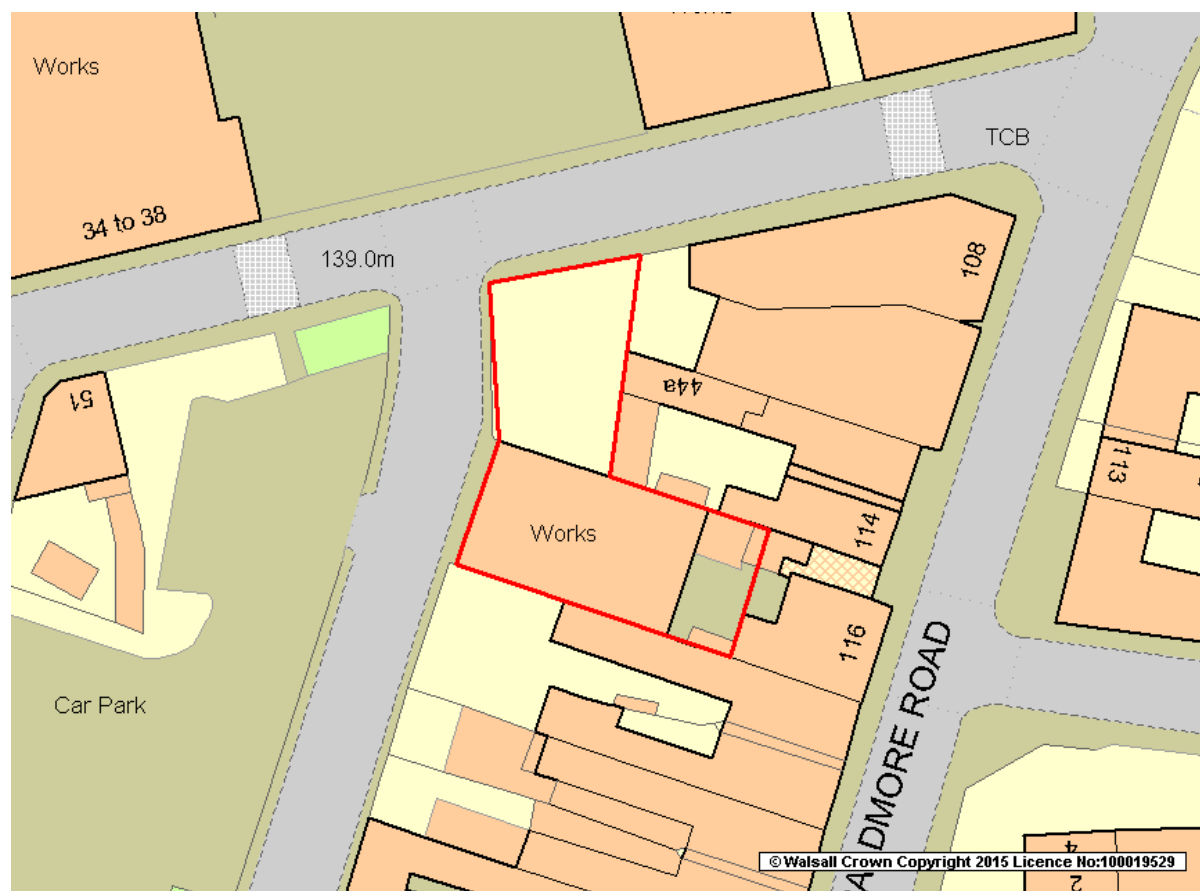
The area of this proposed development has a long history of use for the maintenance, service and repair of motor vehicles that may have resulted in localised ground contamination that could present Health and Safety implications for persons undertaking ground works. No specific detail of ground conditions in the area is available other than that obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking construction work at the site of the proposed development.

Planning Committee

Report of Head of Planning and Building Control on 06-Aug-2015

Plans List Item Number: 7.**Reason for bringing to committee:** Internal Consultee Objection

Application Details

Location: REAR OF 116, CALDMORE ROAD, WALSALL**Proposal:** PROPOSED CHANGE OF USE WITH ALTERATIONS OF FIRST FLOOR WAREHOUSE/STORAGE AREA TO 3 NO. RESIDENTIAL UNITS.**Application Number:** 15/0272/FL**Case Officer:** Karon Hulse**Applicant:** Mr Mohamed Iftikhar**Ward:** St Matthews**Agent:** Graham Durrant Design**Expired Date:** 20-Apr-2015**Application Type:** Full Application**Time Extension Expiry:****Recommendation Summary:** Grant Permission Subject to Conditions

Officers Report

Application and Site Details

This is a further re-submission of two previously refused applications in July 2013 and July 2012. This application proposes the change of use of the first floor vacant warehouse/store to 2 x 2 bed flats and one x one bed flat, again with external access from an existing staircase in the yard area. The previous refusals were both for five flats.

The site is situated on the western side of Caldmore Road and includes a restaurant and hot food takeaway at ground floor on the frontage with a store, kitchen, food preparation area and office to the rear for an outside catering company. The first floor comprises two residential flats above the restaurant on the frontage and a vacant warehouse/store (metal sheet clad) to the rear. Vehicle access to the site is via a gated yard area off Mount Street.

The site is situated within the Caldmore local centre, with a mix of residential, retail and hot food uses to the frontage of Caldmore Road. 112 and 114 are residential properties, 118 is a restaurant and 120 is a hairdressers. Residential properties lie on the opposite side of Caldmore Road. To the rear off Mount Street is a Council public car park and a taxi office to the rear of one of the other properties in Caldmore Road.

The proposed alterations will include the creation of a first floor open landing for access to the flats, the installation of five first floor windows overlooking Mount Street, one window overlooking the service yard, and three velux windows in the roof (which were not proposed as part of the previous application). The applicants have also confirmed that the ground floor is only used as a lounge extension to the existing ground floor restaurant at no.116 Caldmore Road and that there is no cooking.

There are five parking spaces within the yard that serve the ground floor use. The existing access gates would be amended to include a pedestrian gate.

The Design & Access Statement – explains the proposal and the provision of 29m² of an open access area in front of the access doors. Explains amenity areas exist within Caldmore Green and Palfrey Park.

Noise Exposure Assessment – Has been previously submitted in response to the previous reason for refusal. Proposes the use of double glazing, acoustic trickle ventilation, replacement dense plasterboard, mineral wool fill between joist voids and chipboard decking.

Relevant Planning History

BC39214P, change of use to Indian restaurant and takeaway, granted subject to conditions 06-10-93

BC48072P, internal alterations to create 2 additional self contained flats, granted subject to conditions, 02-06-97

BC48278P, change of use to nursing home (C2) refused 23-05-97

02/0223/FL/W4, (Rear of 116) change of use to private hire taxi base for two vehicles, refused 08-05-02

04/0805/FL/W5, change of use to food preparation area including alterations to the building granted subject to conditions 08-06-04.

12/0512/FL, Proposed change of use with alterations to first floor warehouse/storage area to create 5 residential units. Refused 19/6/12.

13/0601/FL - Resubmission of 12/0512/FL for proposed change of use with alterations to first floor warehouse/storage area to create 5 residential units. Refused 4th July, 2013 for reasons of loss of privacy, unacceptable outlook for the occupiers of flat 1 due to the proximity of the existing odour extraction flue, fails to demonstrate that a satisfactory level of amenity can be provided for future occupiers and future occupiers put at unacceptable risk from being affected by levels of noise, disturbance or odour from the existing ground floor restaurant and takeaway and surrounding commercial, late night uses/activities.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- find ways to enhance and improve places in which people live their lives
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas
- encourage the effective use of land by reusing land that has previously been developed

Key provisions of the NPPF relevant in this case:

1. Delivering sustainable development

19 Planning should encourage sustainable growth.

23 Recognises that residential development can play an important role in ensuring vitality of centres

4. Promoting sustainable transport

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

6. Delivering a wide choice of high quality homes

49 Housing applications should be considered in the context of the presumption in favour of sustainable development.

50 Seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

7. Requiring good design

58 Developments should function well and add to the overall quality of the area.

Establish a strong sense of place using streetscapes and buildings to create attractive and comfortable places to live, work and visit. Optimise the potential of the site to accommodate development. Respond to local character and history, and reflect the identity of local surroundings and materials. Create safe and accessible environments that are visually attractive as a result of good architecture.

61 Securing high quality design goes beyond aesthetic considerations. Decisions should address the connections between people and places and the integration of the new development into the built environment,

64 Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

11. Conserving and enhancing the natural environment

109. The planning system should prevent new and existing development from contributing or being put at unacceptable risk from, or being adversely affected by unacceptable levels of...air...or noise pollution.

On **planning conditions** the NPPF says:

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

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

The Development Plan

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

The Black Country Core Strategy (BCCS)

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

with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The relevant policies are:

The Vision consists of three major directions of change and underpins the approach to the whole strategy which includes the delivery of Sustainable Communities, Environmental Transformation and Economic Prosperity which are supported by the following policies:

The relevant key policies are:

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided.

CPS4: The design of spaces and buildings will be influenced by their context and seek to enhance the unique attributes the area offers.

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts.

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

ENV3: Provision of a high quality network of streets, buildings and spaces

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Planning permission will not be granted for development likely to have significant transport implications.

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

Walsall's Unitary Development Plan (UDP)

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

The relevant policies are:

- GP2: Environmental Protection
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- S5: The Local Centres
- S8: Housing in Town Centres

- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- H5: Housing for People with Special Needs
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

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

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

Designing Walsall SPD

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;
 DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;
 DW3 – Character -design to respect and enhance local identity;
 DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;
 DW10 – new development should make a positive contribution to creating a sustainable environment.

Appendix D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

It is considered in this case that the relevant provisions of SPD Designing Walsall are consistent with the NPPF.

Consultations

Transportation – no objections

Pollution Control – the application does not demonstrate that environmental impacts in regard to noise and malodour can be satisfactorily managed and/or mitigated. It is necessary to ensure that any future residential development will not be adversely affected by odours. Addressing odour from surrounding food businesses may require the applicant to enter into agreements to adapt or improve ventilation equipment at the premises of others. It may be possible to impose a condition requiring the applicant to undertake a survey to establish if odour will adversely affect the residential units if however if it is found to do so securing a practical solution may not be possible. This is not a matter that can be secured through the planning system and is controlled by other legislation that is enforced by pollution control and environmental health.

Environmental Health – objects for the same reasons as above.

Fire Officer – no objection.

Housing Standards - no objection.

Public Participation Responses

None

Determining Issues

- Do the amendments satisfactorily address the reasons for refusal and concerns regarding outlook, noise and odours.
- Principle of residential development, access and parking and Local finance considerations

Observations

Do the amendments satisfactorily address the reasons for refusal and concerns regarding outlook, noise and odours?

The reason for refusal can be broken down into two parts:

1. Loss of privacy and mutual overlooking between the first floor flat at 116 Caldmore Road and the application site due to the close proximity of facing habitable room windows and unacceptable outlook for the occupiers of flat 1 due to the proximity of the existing odour extraction flue

The amendments to the scheme have reduced the number of proposed flats from five to three. This allows for internal orientations to the flats and in particular the position of windows/velux roof windows. The poor outlook from what was previously flat 1, which had windows directly looking towards the rear of the first floor flat above no 116 Caldmore Road, have been removed. This flat (now number 3) has windows looking over the open landing area and velux roof light windows within the roof space looking south towards the rear of no. 118. As such the privacy and overlooking of both the existing flat at number 116 will be maintained and the amenities of future residents will also be protected.

2. Fails to demonstrate that a satisfactory level of amenity can be provided for future occupiers and that future occupiers would not be put at unacceptable risk from being adversely affected by unacceptable levels of noise, disturbance or odour from the existing ground floor restaurant and takeaway and surrounding commercial, late night uses/activities.

The size of the flats was previously considered acceptable and since the previous refusal the size of the flats has been increased therefore a further improvement. Each flat now has both windows and roof lights which will ensure light and ventilation is available to all rooms including kitchen and living rooms with all bedrooms also having windows.

The agent has stated that since making the original application the ground floor catering use and adjoining restaurant/hot food takeaway have ceased to operate and any equipment and extraction flue have been removed. As such there will be no issues of odour or noise emanating from the ground floor use. The layout of the three flats results in all windows looking out over the Mount Road side or over the rear

public car park with no views to the rear of no. 116. It is proposed to install a high level of thermal and sound insulation which will provide acceptable noise mitigation measures.

The applicant has stated that the ground floor use has ceased this does not preclude it reopening at a later date. That said any future use may require new extraction fume equipment which could require planning permission in which case suitable measures could be placed to ensure a satisfactory environment is achieved.

Based on the information provided by the applicant Pollution Control Officers are not convinced that the issues have been addressed and are of the opinion that the application should be refused as there is a potential that neighbouring businesses may impact upon future residents, particularly as most of the businesses do not have DEFRA compliant or high efficient odour abatement technologies

It is necessary to ensure that any future residential development will not be adversely affected by odours. Addressing odour from surrounding food businesses to adapt or improve ventilation equipment at the premises of others is outside of the planning application redline. The Council would not be able to impose a condition requiring the applicant to undertake a survey to establish if odour will adversely affect the residential units and secure a practical solution to resolve any impact. This is not a matter that can be secured through the planning system and is controlled by other legislation that is enforced by pollution control and environmental health.

A previous noise survey was undertaken to support the application to re-develop this site, Noise Exposure Assessment, Report 7783-NEA-01, submitted with Planning Application 13/0601/FL. The current application demonstrates that the development will achieve the standards required by Pollution Control but no specific information has been submitted on intended mitigation measures.

It is recognised that the previous commercial activity on the ground floor is no longer operating, however Pollution Control Officers are of the opinion that a function room, associated with a restaurant will generate significant noise impacts e.g. loud music, social noises, external smoking areas etc. Additionally, noise impacts from neighbouring businesses (extraction systems, cars using the car park, and also car usage associated with the nearby taxi business) have not been considered within the application.

As with any occupier who seeks to live within the town/district/local centre areas, they will be aware that this environment will be within a higher level of background noise which is not the same as a suburban location. In the circumstances it is considered the level of noise would not be so significant as to warrant the refusal of the application on this ground alone, the imposition of conditions can ensure a satisfactory residential environment for future occupiers.

Principle of residential development, Access and Parking and Local finance considerations

Principle - The site is situated in a local centre where mixed use development is encouraged. A number of premises within the immediate area already comprise a mix of commercial/retail with flats above and solely residential units. The principle of the provision of residential accommodation in this sustainable location is considered appropriate and would comply with the principles of the NPPF, BCCS and UDP, subject to its design, parking and noise impacts being acceptable.

Access and Parking - The proposals show 3 parking spaces for the proposed flats as well as a delivery space and parking space for the ground floor uses within the yard area, which is considered appropriate in this sustainable location within a local centre with a public car park adjacent.

Pedestrian access to the flats would be via an existing external staircase within the yard areas, which may result in conflict between pedestrians and manoeuvring vehicles as no clear definition between vehicles and pedestrians has been demonstrated.

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.

The application proposes 3 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

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

Conclusion

The site is situated in a local centre where mixed use development is encouraged. The principle of residential accommodation in this sustainable location within the Caldmore Local Centre is considered appropriate. Whilst there is limited on site parking it is adjacent to a public car park. The NPPF states the development should only be refused on transport grounds where the residual cumulative impacts of development are severe. On balance, despite proposing limited off-street parking, the impact on the local highway network would not be sufficient to warrant refusal of permission.

Any occupier who seeks to live within the town/district/local centre areas will be aware of the environment which is not the same as a suburban location. Whilst Pollution control officers have concerns relating to the impact of existing businesses on the amenity of future residents it is considered that the installation of appropriate noise mitigation measures will ensure the level of noise is not significant as to warrant refusal of the application on this ground alone.

On balance it is considered the development will comply with the principles of the NPPF, BCCS and UDP.

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information and revised plans have been submitted to enable full support to be given to the scheme.

Recommendation - Grant Permissions Subject to Conditions

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

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

2. This development shall not be carried out other than in conformity with the following plan: -
 - Site Location Block/Layout Plan (012/6/1C) received 12th May, 2015
 - Plans and elevations as existing (012/6/2C) received 12th May, 2015
 - Plans and elevations as proposed (012/6/3B) received 12th May, 2015
 - Design and access statement received 23rd February, 2015

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

3. a. Prior to any built development commencing details of a scheme of acoustic insulation designed to safeguard the amenity of the proposed residential units shall be submitted to and agreed in writing by the Local Planning Authority.
- b. The agreed acoustic insulation scheme shall be installed and its effectiveness tested to demonstrate compliance with the requirements BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings for internal noise levels of habitable rooms has been achieved'. A report detailing the testing of the acoustic insulation scheme and the results obtained shall be submitted to and approved in writing by the Local Planning Authority prior to the occupancy of any residential unit.
- c. The approved acoustic insulation scheme shall thereafter be retained while any residential unit is occupied.

NB. Please see informative note on Noise Surveys & Designing Mitigation. It is anticipated that a scheme to address music will require a sound reduction index of at least Rw80dB (airborne) and must consider the frequency spectrum of the sound.

Reason: To protect the amenity of occupiers of the proposed residential units.

4. a. The approved development shall not begin until details of proposed refuse for both the commercial and residential elements have been submitted to and approved in writing by the Local Planning Authority.

b. The approved details and measures shall be fully implemented before the commercial element is first brought into use and thereafter retained.

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

5. a. The approved development shall not begin until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority.

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

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

6. a. Prior to the development commencing course full details shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the development will meet Secure By Design specification.

b. The approved details shall be fully implemented prior to first occupation of any house and thereafter retained

NB. Please refer to "Note For Applicant" for further information.

Reason: To ensure the safety of future occupants.

7. No materials, goods or refuse shall be stored or deposited in the open on any part of the site other than refuse which shall be within a refuse container as agreed by condition 4a.

Reason: In the interests of the amenities of neighbouring residents.

Notes for Applicant

Noise Policy Statement England

Noise Policy Statement England (NPSE)

The NPSE sets out the long term Government noise policy which includes a Noise Policy Vision to 'promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development'. Noise Policy Aims are threefold. Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:

- i) avoid significant adverse impacts on health and quality of life;
- ii) mitigate and minimise adverse impacts on health and quality of life; and
- iii) where possible, contribute to the improvement of health and quality of life.

Guidance on the Control of Odour and Noise

Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems. Defra 2005

Problems associated with nuisance odour and noise emissions from commercial kitchen exhausts are very common, particularly in urban areas where housing may be adjacent to or even immediately above catering premises. These premises might include pubs, clubs, restaurants and takeaways that may be open until the early hours of the morning.

Responsibility for the enforcement of statutory controls available to Local Authorities is shared between a number of regulatory functions;

- An authority's Building Control Officer would usually handle building Regulation requirements relating to the structural safety of installations such as high exhaust flues;
- Planning issues relating to new premises, and to the acceptability and positioning of new ventilation systems that involve the provision of a large flue, are likely to require planning consent, the application for which would be submitted to the Local Planning Authority (or the Planning Service in the Department of the Environment in Northern Ireland);
- Environmental Health Officers providing advice on the odour and noise control aspects of any planning application to the Planning Officers; and
- Environmental Health Officers/Technical Officers would deal with any complaints of statutory nuisance arising from the smell or noise of a kitchen extraction system.

Many kitchen extraction systems are well designed, well maintained and seldom cause nuisance problems. Others can provide a significant and recurring source of nuisance. Currently, there is little advice available to the enforcing officers on what measures may constitute best practicable means for abating the nuisance. Apart from the statutory nuisance aspects, kitchen exhaust system design may also:

- influence the work place environment where temperature and fume control is important; or
- have fire safety and hygiene implications where systems are poorly maintained.

Status of this guidance

This guidance document, prepared by Netcen - an operating division of AEA Technology - is sought by Defra, and through it the Devolved Administrations of the Scottish Executive, the National Assembly for Wales, and the Department of the Environment in Northern Ireland, to provide clear guidance to the regulation process. Although this guidance is not statutory, it provides information on best practice techniques for the minimisation of odour and noise nuisance from kitchen exhaust systems.

Noise Surveys & Designing Mitigation

Noise surveys may need to adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation points, and may also need to consider changes in noise levels on account of relative heights above ground floor level to account for noise exposure at sensitive receptor points.

Additionally, a noise survey may have to take into consideration changes in noise climate between normal weekdays, and weekends, effects of holiday periods, and

require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys may be required to corroborate a single noise survey.

Submitted noise measurement data should include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators etc.) inclusive of performance verification checks, recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum.

Sound level measuring instrumentation shall conform to either: 'Type 1' of either: British Standard BS 5969: 1981 'Specification for sound level meters', and/or BS EN 60651: 1994 'Specification for sound level meters', and/or BS 6698: 1986 'Specification for integrating-averaging sound level meters', and/or BS EN 60804: 1994/2001 'Specification for integrating-averaging sound level meters'; and/or 'Class 1' of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications' (or any superseding standards as applicable).

Instrumentation shall have been verified either in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' or BS EN 61672: 2003 'Electroacoustics - Sound Level Meters - Part 3: Periodic Tests' within a preceding 2 year period of measurements being conducted, or else verified with a multifunction acoustics calibrator that has been UKAS certified within a preceding 2 year period.

In regard to specifying suitable noise mitigation measures to protect internal and/or external residential areas, reference can be made to guidance and criteria contained in British Standard BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings', British Standard BS 4142:2014 'Methods for rating and assessing industrial and commercial sound', and World Health Organisation Guidelines for Community Noise 2000. The following may have general relevance:

7.7.2.a). Internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq 8 hours, of 30 dB together with a maximum instantaneous level# of 45 dB LAFmax, between the hours 23.00 to 07.00; # Not to be exceeded for more than 10 instances.

7.7.2.b). Internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq 16 hours, of 35 dB between the hours 07.00 to 23.00.

Secure by Design

West Midlands Police: The Police Architectural Liaison Officer has been consulted on the application and has made the following comments:

1. The developer should be aware of Secure By Design specifications which will significantly increase the security of the building (doors and windows). Information can be found at http://www.securedbydesign.com/pdfs/SBD_New_Homes_2010.pdf
2. All door sets both external and internal should comply to PAS 24 standards.
3. All ground floor and accessible windows should comply to BS7950 or WCL4 standards. This should improve the standard of security to the more vulnerable ground floor windows.

4. All ground floor, accessible windows and doors should contain at least one pane of 6.8mm laminated glass, this includes French and Patio doors.

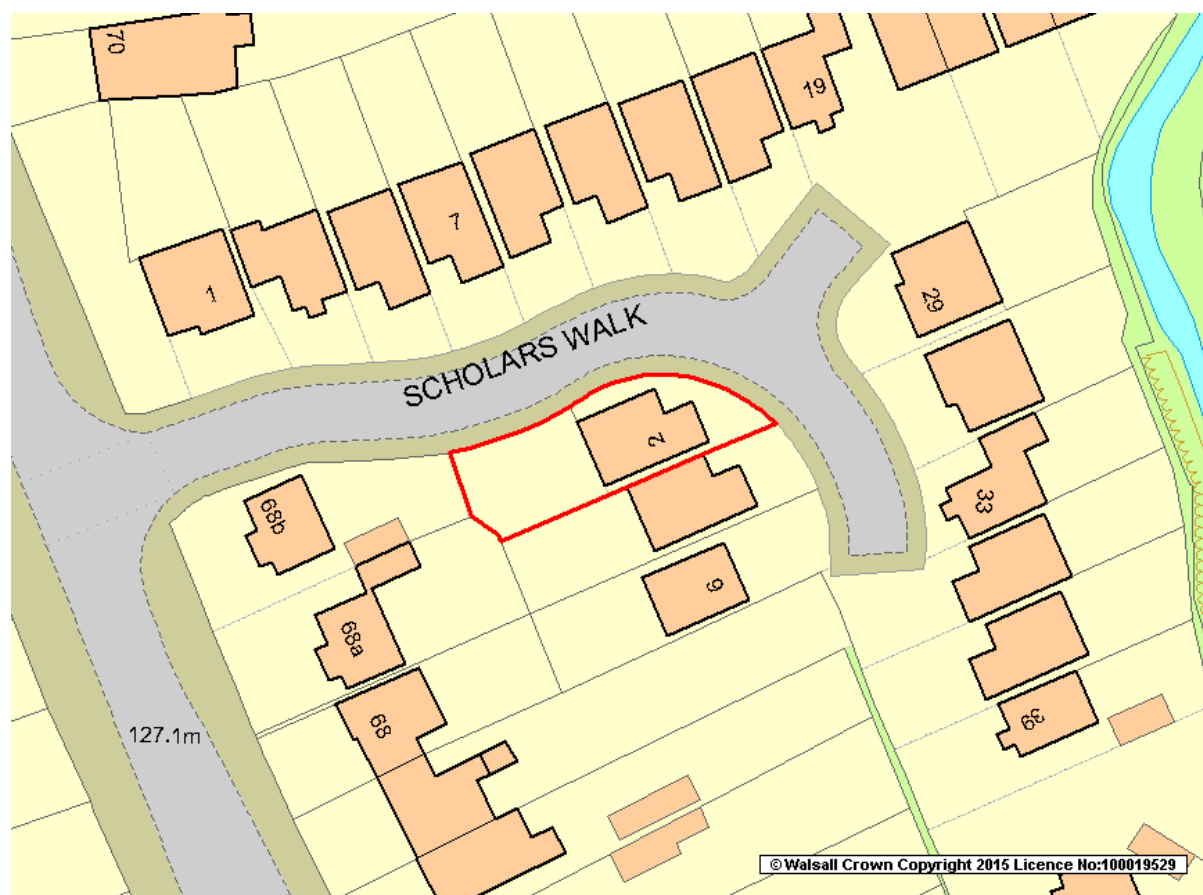
Planning Committee

Report of Head of Planning and Building Control on 06-Aug-2015

Plans List Item Number: 8.

Reason for bringing to committee: Called in by Councillor L Rattigan and contrary to policy.

Application Details

Location: 2 SCHOLARS WALK, WALSALL, WS4 1SW**Proposal:** SINGLE STOREY REAR EXTENSION AND GARAGE CONVERSION.**Application Number:** 15/0081/FL**Case Officer:** Paul Hinton**Applicant:** Mr Z Hussain**Ward:** Rushall-Shelfield**Agent:** Mr Lee Mitchell**Expired Date:** 06-Apr-2015**Application Type:** Full Application**Time Extension Expiry:** 08-May-2015**Recommendation Summary:** Refuse Permission

Officers Report

Current Status

At its meeting on 9th July Committee deferred the application to negotiate amendments (it was previously deferred from the 30th April Committee). Further discussions have taken place with the applicant's agent who has again explained the personal need for the wet room due to the disabled occupier and adds that the design is passed on the applicant being able to walk in a circular motion around the property to aid rehabilitation and the proposal is to help a disabled child with basic living needs.

No amendments to the proposal have been provided. The application continues to propose a rear extension and garage conversion while retaining one off-street parking space.

The recommendation of refusal therefore still remains as set out at the end of this report.

Application and Site Details

Scholars Walk is a cul de sac located off the eastern side of Pelsall Lane and serves 25 dwellings. Number 22 Scholars Walk is a three bedroom detached house located on the western side of Scholars Walk. The property is located at the corner of Scholars Walk and has a front driveway, garage and a front garden that extends to the side of the house fronting Scholars Walk. The front and side of the house are open with a 1.8m high wall from the rear elevation of the property forming the side boundary of the rear garden along Scholars Walk. This boundary wall forms a continuous side boundary to 66b Pelsall Lane, the property at the rear of the site. Behind the boundary wall are conifers.

The rear garden boundary of the application site with number 66b Pelsall Lane is a 1.8m high close board fence. A row of conifer trees are planted in front of the fence within the rear garden of the application site.

The boundary treatment with number 4 Scholars Walk is a close board round top fence that is approximately 1.8m high at the highest point.

To the rear of the application site is number 66b Pelsall Lane, a detached house with a rear conservatory. To the southern side of the application site is number 4 Scholars Walk, a detached house that is positioned approximately 1.8m further back from the rear elevation of number 2. The ground floor of this neighbouring property has a habitable room.

The application proposes:

- The erection of a single storey rear extension that would extend out 4m from the original rear elevation of the house and would extend the whole width of the house at 6.5m. The roof would be 2.5m to the eaves and 3.8m high.
- The rear extension would provide a rehab room with sleeping for a disabled occupant and an extension to the existing lounge.
- The conversion of the garage to provide a shower room and retaining a small storage area and retention of the garage door. In the shower room a side facing top opening obscure glazed window is proposed.

The agent explains that the extension would be for a rehab room with sleeping for a disabled occupant. It is confirmed that the room would not be advertised as a fourth bedroom should the applicants move from the house, noting that the medical condition of the applicant requiring the room means the disabled occupant would never own a car. The requirement for a ground floor shower room is crucial; the options of a stair lift and through floor lift have been dismissed by occupational therapy on medical grounds. There is currently no suitable ground floor WC arrangement at the property and would mean the applicant still having to use the stairs. As the applicant grows older he shall need his own independence and private space and this cannot be made possible without having a shower arrangement on the ground floor. Looking to redesign and situate the shower room internally in the Dining Room is not an option, as the purpose of this extension is to aid and help rehabilitate the applicant and enable him to walk around the property.

The parking guidance would require 2 parking spaces on the property. This is something that cannot be achieved due to the limited space on the corner of the property. The agent notes however that the property is situated in a cul de sac, so in their view on-street parking does not create any traffic issues and the property is within a sustainable location with good bus services links and close to the local centre. Therefore it could be considerable that having a car is not at this location is feasible due to the close by amenities. The home owner does only have one car and therefore shall not be parking on the highway. With the long term aim to stay at this property once (hopefully) the adaptation works are carried out, this shall not increase the parking situation at the property.

A letter from the Paediatric Physiotherapist at Walsall Healthcare NHS Trust has been received in support of the application confirming the physical impairment of the occupier of the proposed extension.

Relevant Planning History

BC57281P – Rushall Primary School, Pelsall Lane. Proposed development of 25 houses, new access road to Pelsall Lane and associated landscaping works. GSC March 1999.

Planning condition 2 restricts development within classes A, D and E.

Planning condition 3 restricts any side facing doors or windows.

Planning condition 7 restricts other vehicular access other than those shown on the approved plans

Condition 12 prevents any means of enclosure

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

- Seek to secure high quality design and good standards of amenity for all existing and future occupants

Key provisions of the NPPF relevant in this case:

4: Promoting sustainable transport

32. Decisions should take account of whether:

- Safe and suitable access to the site can be achieved for all people
- Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

35. Developments should be located and designed where practical to:

- Create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones.
- Consider the needs of people with disabilities by all modes of transport.

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people

60. It is, proper to seek to promote or reinforce local distinctiveness

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

On **conditions** the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

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

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

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

The Development Plan

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

The Development Plan

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

The Black Country Core Strategy (BCCS) (2011)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework

"decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with

the saved policies of Walsall's UDP) the NPPF advises that "... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).*" To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The key planning policies include

TRAN1 – Priorities for the development of the transport network

All new developments will address the transport network and provide adequate access for all modes.

TRAN2: Managing Transport Impacts of New Development

Planning permission will not be granted for development proposals that are likely to have significant transport implications unless applications are accompanied by proposals to provide an acceptable level of accessibility and safety by all modes of transport.

ENV3: Design Quality

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits.

CSP4 – Place making

The design of spaces and buildings will be influenced by their context and seek to enhance the unique attributes the area offers in terms of its local character and heritage whilst responding to current day needs, changes in society and cultural diversity.

CPS5 - Transport Strategy

The transport strategy for the Black Country is intended to...improve road safety

Walsall's Unitary Development Plan (UDP) (2005)

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

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

The relevant policies are:

Policies GP2, 3.6, 3.7 seek to make a positive contribution to the quality of the environment, whilst protecting people and not permitting development which would

have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

3.113, 3.114, 3.115, ENV32 & 3.116: new development should be considered in relation to its setting and should create high quality of built and landscape design, well integrated with surrounding land uses and local character. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

ENV14 encourages the development of previously developed land.

T4 – residential street are minor roads

T7- All development should satisfy the car parking standards set out in Policy

T13. This will involve providing an adequate level of car parking to meet operational needs whilst not exceeding any maximum parking standards that are specified.

T13: Parking Provision

3 bedroom houses and above, 3 spaces per unit

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

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with the NPPF policy. The relevant SPD's are;

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

Policy DW3 refers to character.

Annexe D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, setbacks to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

It is considered in this case that the relevant provisions of Designing Walsall are consistent with the NPPF.

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Consultations

Transportation – objects on the grounds of failing to provide sufficient suitable parking to meet the operational needs of the development.

Pollution Control Contaminated Land Team – no objection

Arboricultural Officer – no objection.

Ecology – no objection

Public Participation Responses

A letter from number 2 Scholars Walk has been received stating no objection.

On the eve of the previous committee an amended drawing showing only one parking space was received, previously this proposed two spaces (one which overhung the pavement). Due to the amendment re-consultation has taken place with neighbours; the period for comments does not expire until after the publication of this report. Any comments will be reported at the meeting.

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

Determining Issues

- Principle of development
- Design of extension and character of area
- Impact upon existing occupiers
- Impact upon the amenities of surrounding occupiers
- Trees
- Parking and Access

Observations

Principle of development

Planning permission is required for the proposed extension, as on the original planning permission BC57281P for the whole estate, permitted development rights for extensions, porches and outbuildings have been removed due to the relatively small size of the rear and front gardens. Whilst the proposal would normally be permitted development, as permitted development rights have been removed, the scheme would have to be considered under current planning policy.

Annexe D of Designing Walsall SPD requires a rear garden length of 12m and a total amenity area of 68 square metres. The retained rear garden length, 8.5m would fall short, but a retained area of 80sqm would provide sufficient amenity space for future occupiers.

The proposal seeks to install a small non-habitable window in the side elevation facing number 4; planning condition 3 of the original permission restricts any side

facing doors or windows. If permission were to be approved, a condition could be used to secure obscure glazing and top opening only. This additional window would not result in a loss of amenity.

Design of extension and character of area

The design of the single storey extension is considered to be acceptable and would not detract from the character or setting of the existing house or area subject to the use of matching materials which are proposed and can be secured by condition.

Impact upon existing occupiers

The amended drawings provide sufficient amenity space for existing/future occupiers.

Impact upon the amenities of surrounding occupiers

Number 4 Scholars Walk is positioned approximately 1.8m further back from the rear elevation of number 2. The rear of this neighbouring property has windows at both ground and first floor. The nearest window on the ground floor is a habitable room window. The proposed extension at number 2 would extend out 4.0m from the original rear elevation of the property, so in total number 2 would sit further forward by 5.8m from the rear elevation of number 4.

The depth of the proposed extension in close proximity to number 4 would have an overbearing impact on the rear habitable room window and rear garden of number 4 Scholars Walk resulting in loss of light and outlook. Consideration though is given to the presence of the existing shed in the garden of number 2. This structure lies adjacent to the boundary fence with number 4. It is approximately 2.4m from the rear of the house and extends 1.8m into the garden resulting in the rear wall of the shed being some 4.0m from the rear of number 2, a similar distance to the proposed extension.

Although the eaves of the shed and the ridge of its roof are lower than the extension, it is positioned hard to the boundary and not set back. The extension is 0.85m away from the fence line and as a result its impact is slightly diminished. In assessing the scheme, consideration is also given to the fact that number 2 is located immediately to the north of its neighbour. This means that any impact from overshadowing will be negligible.

Having taken these points into account, it is considered that the difference between the harm arising from the existing shed and the proposed extension is limited and whilst the extension will preclude a some light entering the neighbouring property from the existing gap between the shed and the applicants house, this is restricted and accordingly can only be offered limited weight. If the scheme were found to be acceptable, it is considered neighbouring privacy can be secured through the use of a condition to prevent the installation of windows in the side elevation.

To the rear of the site is number 66b Pelsall Lane, the boundary treatment between the two properties is a 1.8m high close board fence and conifer trees within the application site. This property has a rear conservatory. The separation distance between the existing conservatory at the rear of this house and the proposed extension at number 2 would be 18.6m. If planning permission was to be granted a planning condition could be used ensuring the boundary fence between the two properties is retained and maintained to protect the privacy of both occupiers.

Trees

The Arboricultural Officer had no objection to the loss of two conifer trees that form the hedge along the boundary with Scholars Walk that would have been required to be removed as part of the rear parking space. This no longer forms part of the proposal.

Parking and Access

The application proposes an additional room for the purposes of sleeping and the removal of the parking space within the garage. Medical grounds have been put forward explaining that one of the occupiers will be unable to have access to his own vehicle and that the room would not be advertised as a fourth bedroom should the applicants move from the house. On these special circumstances it is considered that for policy T13 a personal condition could be used to define the room to the applicant and family and as part of any other occupation in the future any permission here would not be for a fourth bedroom.

Therefore in considering a three bedroom property, the parking policy T13 requires two off-street parking spaces. While the agent explains the current garage is not large enough to be used for a parking space its dimensions on plan are larger than the standard 2.4m by 4.8m parking space and therefore is a valid space. The proposal would result in only one off-street parking space which is contrary to policy and is considered to not meet the needs of the development. As a consequence there would be an increased reliance for on-street parking which would be to the detriment of the free flow of the highway.

Positive and proactive working with the applicant

Officers have liaised with the applicant's agent during the application process advising of the above concerns and recommending internal arrangements that would retain the availability of the garage. Due to the personal needs of the family the drawings are unable to be amended.

Recommendation - Refuse planning permission:

1. The proposal fails to provide adequate off-street parking provision to meet the operational needs of the house; as a consequence the development is likely to lead to increased reliance for on-street parking to the detriment of highway safety. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework, TRAN1 and TRAN2 of the Black Country Core Strategy and saved policies, GP2, 3.6, ENV32, T7 and T13 of the Walsall Unitary Development Plan.
2. The proposed second parking space in mitigation for the loss of the garage is not of a sufficient size to meet the operational needs of the development; as a consequence the development is likely to lead to increased reliance for on-street parking. The proposed parking layout is likely to result in constrained vehicle movements and conflict to the detriment of highway safety. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework, TRAN1 and TRAN2 of the Black Country Core Strategy and saved policies, GP2, 3.6, ENV32, T7 and T13 of the Walsall Unitary Development Plan.



Planning Committee

Report of Head of Planning and Building Control on 06-Aug-2015

Plans List Item Number: 9.

Reason for bringing to committee: Significant community Interest

Application Details

Location: 28 BLUEBELL ROAD, WALSALL, WS9 9EU

Proposal: PROPOSED GARAGE CONVERSION AND SINGLE STOREY REAR EXTENSION.

Application Number: 15/0794/FL

Applicant: Mr Harjit Samra

Agent: Mr Manjit Singh

Application Type: Full Application

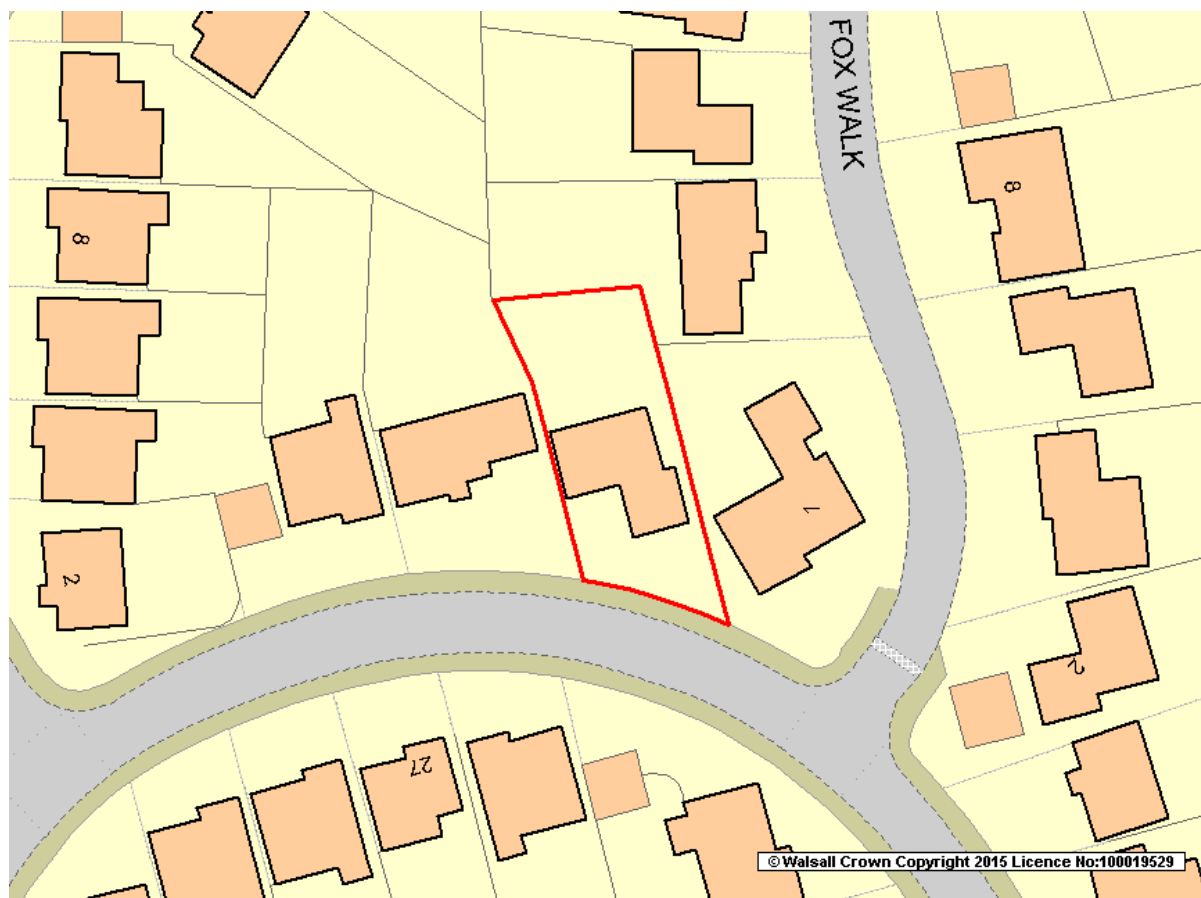
Case Officer: Barbara Toy

Ward: Aldridge North And Walsall Wood

Expired Date: 15-Sep-2015

Time Extension Expiry:

Recommendation Summary: Grant Permission



Officers Report

Application and Site Details

The site is situated on the northern side of Bluebell Road just to the west of the junction with Fox Walk and comprises a modern detached two storey house with double detached garage projecting to the frontage, front driveway parking and a front porch.

No 30 immediately to the west is a detached house with single storey side detached garage, No 1 Fox Walk to the east is a detached bungalow on the corner of Bluebell Road and Fox Walk with a double detached garage to the side. The properties sit within a bend in the road and are stepped No 3 Fox Walk bounds the property to the rear and comprises a two storey detached house with single storey double garage to the side. Both 1 and 3 Fox Walk sit at a higher level than the application property. The property sits within a modern residential estate of detached houses and bungalows.

This is a retrospective application for a single storey rear extension to the property to provide a kitchen/breakfast room. The plans have been amended since submission to accurately reflect what has been built on site. Whilst the shell of the extension is in place the works are incomplete, the extension has not been fitted out inside, work has stopped pending the outcome of this application.

The extension as built measures 10.5m wide with a 3.8m projection and 3.5m maximum height to the mono pitched roof. The extension projects beyond the eastern elevation of the house by 0.85m.

The applicants have also converted the existing double garage that projects to the frontage to a bedroom with ensuite, with the removal of the garage door from the frontage and replacement with a flat window. These works however benefit from permitted development and do not require planning consent, despite being included in the original application description.

Relevant Planning History

BB16759P Outline application for the reclamation of Quarry workings to form landscape park and nature reserve, housing development with associated open space and construction of access roads, granted subject to conditions and S106 Agreement 30-09-86

Condition 11 – removal of permitted development rights for any extensions.

BC17772P, reserved matters application for the erection of 104 dwellings, granted subject to conditions 21-10-86.

BC20191P, revised layout and substitution of house types plots 51 – 70 and extension to plot 70, granted subject to conditions 22-09-87.

BC28010P, resiting of access, granted subject to conditions 12-12-89

BC50397P, retrospective application for the addition of a porch, granted 21-08-97.

Relevant Planning Policy Summary

National Planning Policy

National Planning Policy Framework (NPPF)

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

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

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

Key provisions of the NPPF relevant in this case:

- **NPPF 7 - Requiring good design**

On **planning conditions** the NPPF says:

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

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

Local Policy

Black Country Core Strategy

- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- Policy DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall SPD are consistent with the NPPF.

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Consultations

None

Public Participation Responses

Four objections received from three surrounding properties.

Objections:

- Garage conversion creates a loss of 2 parking spaces
- Potentially more cars with less parking results in on street parking on a bend in the road, inconvenience to neighbours, potential for accidents and safety issues for pedestrians and vehicles
- Frontage all paved, loss of landscaping, out of character.
- Poor brick choice for front elevation and rear extension
- Front elevation of the garage now at odds with the rest of the estate
- Kitchen extension not built as submitted drawings, it extends beyond the side elevation of the house
- Rear extension creates an overwhelming mass of miss matched construction
- Consultation futile as extension already completed.

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

Determining issues

- Design and layout of the extension
- Impact on the surrounding occupiers
- Parking provision

Observations

Design and layout of the extension

The extension extends the full width of the house with an additional 0.85m to the side with a mono pitched roof and has been constructed from brickwork that is similar in colour and texture to the main house and considered appropriate. The roof tiles have the same profile as that used on the main house but appear a brighter colour as the existing ones have weathered, it is considered that in time the new roof tiles will appear as the main house.

The extension projects 3.8m from the rear of the house, but extends beyond the side elevation, and therefore does not have the benefit of permitted development. An entry of approx 1.4m would be retained to the side of the extension, slightly wider than that existing to the side of the forward garage.

The size and design of the extension is considered appropriate for the house.

Impact on the surrounding occupiers

The extension complies with the 45 degree code in relation to both 30 Bluebell Road and 1 Fox Walk (either side) and it is considered that the extension has no adverse impact on the amenities of these occupiers. The rear elevation of 3 Fox Walk sits to the rear at a right angle to the property, it is considered that the separation distance

and acute angle to the extension would prevent any adverse impact on the amenities of the occupiers.

Parking provision

Whilst the conversion of the double garage to a bedroom benefits from permitted development and does not form part of this application the applicant has demonstrated that at least 3 off street parking spaces can still be provided within the front driveway in compliance with policy T13 of the UDP.

Whilst the objectors have commented on the extent of parking on street, Bluebell Road is a residential street with no parking restrictions

Recommendation

Grant Planning Permission



Planning Committee

Report of Head of Planning and Building Control on 06-Aug-2015

Plans List Item Number: 10.

Reason for bringing to committee: Significant Community Interest

Application Details

Location: 5 & 6, DOVERIDGE PLACE, WALSALL, WS1 3EF

Proposal: ERECTION OF A PAIR OF SEMI-DETACHED DWELLINGS (6 BEDROOM)

Application Number: 15/0903/FULL

Case Officer: Karon Hulse

Applicant: Mr & Mrs G & J Benning

Ward: St Matthews

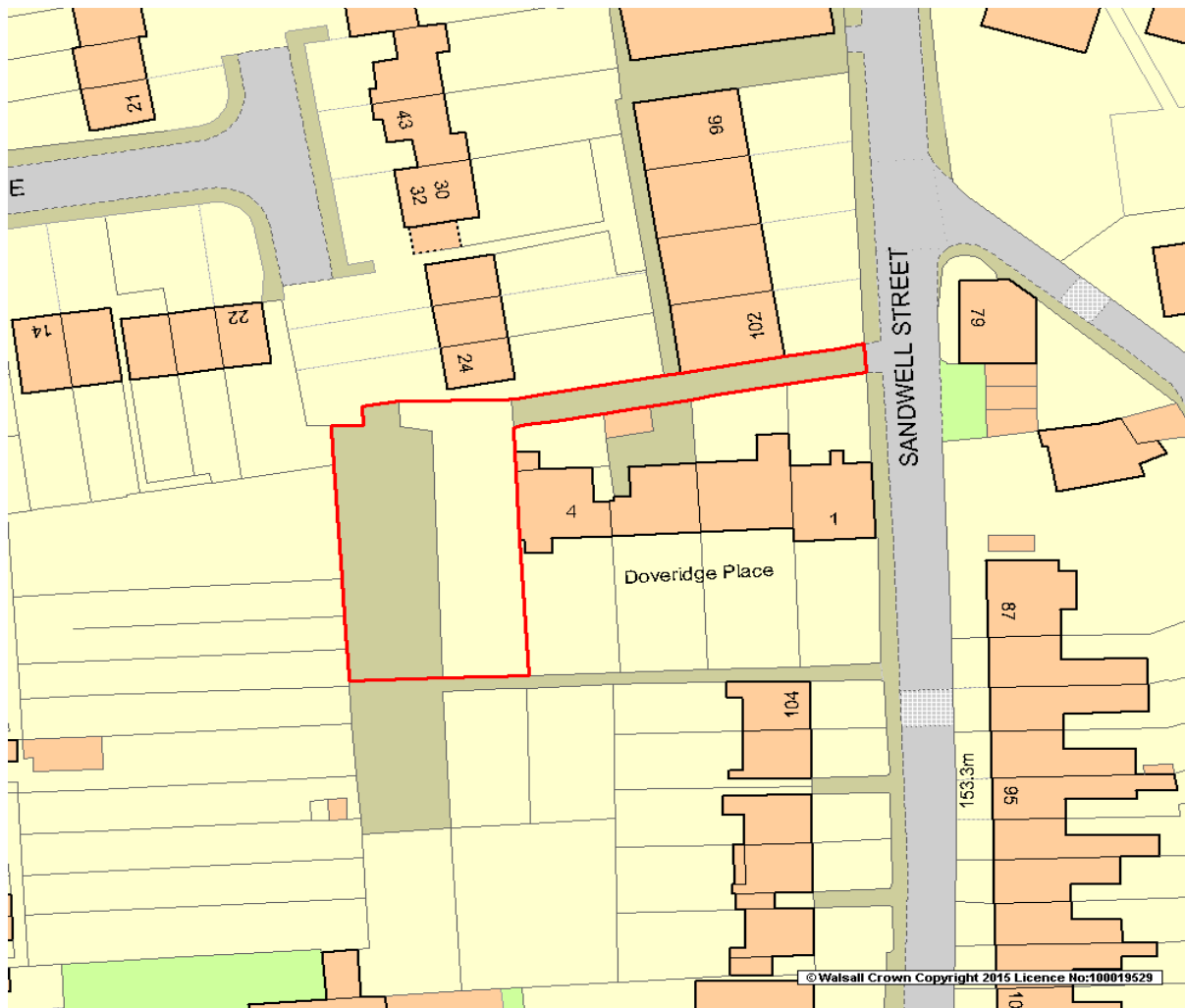
Agent: GT Designz Ltd

Expired Date: 31-Aug-2015

Application Type: Full Application

Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Officers Report

Application and Site Details

This application is a resubmission following a recent refusal for the erection of two six bedroom houses which replaces two properties which were demolished some years ago. The proposed dwellings would be constructed at the end of a terrace of four properties, one having been subdivided into two flats.

This application has been submitted to address the previous reasons for refusal which related to the appearance of bi-folding doors on the Conservation Area and the close proximity of the proposed development to the side elevation of the existing listed building compromising maintenance of the listed building.

The bi-folding doors have been replaced with more traditional looking patio doors and the passageway between the two properties has been increased to 0.9 metres.

The existing row (listed buildings) of terraced properties is three storey in height on the southern elevation (front) and two storey to the rear. The proposed pair of houses will have asymmetric rooflines with the front being three storeys and the rear being two storeys, the roof at the rear also extends out over two centralised rear wings giving a lower eaves height over these two sections which replicates the design of no. 1 Doveridge Place.

These dwellings are served by an unmade rear access drive and by a pedestrian access only at the front. The application dwellings would also be served in this way. Each would have three parking spaces at the rear. The ownership of the rear access is unknown. The site has become very overgrown with some self-set trees which would need to be removed from the site. There is no Tree Preservation Order on any part of the site

The terrace of dwellings is formed by houses which differ slightly in style. The design of the proposed houses is closest to that of no.1 Doveridge Place. With the exception of this element the design is the same as previously approved with the proposed window profiles being similar to those which exist in the adjacent listed building block.

The proposed houses, in common with the remainder of the terrace, would have no rear gardens, only a yard. The front gardens provide the amenity space for the existing and proposed dwellings.

Nos. 1-4 Doveridge Place are Grade II Listed Buildings. The site is within Highgate Conservation Area and Highgate Conservation Area Article 4(2) Direction Area 1991. The purpose of the latter is to protect the visual amenity of the area through the restriction of permitted development rights.

The houses will be detached from the existing terrace and therefore does not require listed building consent.

Relevant Planning History

04/2061/FL/W3 - Reconstruction of two terraced six bedroom houses. Granted 2nd August, 2005

04/2058/LB/W3 - Listed Building Consent for the above. Granted 2nd August, 2005

05/1254/TR/T3 - Fell one ash, 2 willow and 13 sycamore. No proposal for a Tree Preservation Order – 19th July, 2005

09/1466/TR - Fell one sycamore and prune 2 sycamores. No proposals for a Tree Preservation Order – 18th December, 2009

10/0918/TE – Extension of time to implement previous permission (04/2061/FL). Granted 25th February, 2011

15/0369/FL - Erection of a pair of semi-detached dwellings (6 bedroom). Refused 15th June, 2015 for the following reasons:

1. The proposal is out of character with the adjacent listed buildings by reason of the proposed Bi-folding doors in the front elevation of the proposed dwellings being an incongruous feature within the street scene of the Highgate Conservation Area and Highgate Conservation Area Article 4(2) Direction Area 1991.

2. The close proximity of the proposed development to the side elevation of the existing listed building will compromise the amenity of the owner of the listed building in terms of the owner's ability to maintain that building and as such the proposed development would have a detrimental impact on this heritage asset contrary to the aims of the NPPF (section 12), BCCS Policy ENV2, UDP Policy GP2, ENV29, ENV31 and ENV32 and security.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

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

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

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

Key provisions of the NPPF relevant in this case:

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

6. Delivering a wide choice of high quality homes

49. Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the

supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

53. Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

7. Requiring good design

56. The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

- Planning policies and decisions should aim to ensure that developments:
- 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;
- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion;
- and are visually attractive as a result of good architecture and appropriate landscaping.

63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment:

- Protecting and enhancing valued landscapes

12. Conserving and enhancing the historic environment

129. LPS's should identify and assess the particular significance of any heritage asset that may be affected by a proposals.

131. In determining planning applications, local planning authorities should take account of:

the desirability of new development making a positive contribution to

local character and distinctiveness.

132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

On balance it is considered that the proposal does not constitute substantial harm as set out in Para 132 and 133 as the structure will be largely retained and conserved instead the decision the balance of the decision will sit against Para 134 which states 134 that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use'.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

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

The Development Plan

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

Local

Nos. 1-4 Doveridge Place are Grade II Listed Buildings. The site is within Highgate Conservation Area and Highgate Conservation Area Article 4(2) Direction Area 1991. The purpose of the latter is to protect the visual amenity of the area through the restriction of permitted development rights.

The Black Country Core Strategy (BCCS) (2011)

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... *due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with

the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

The key policies are:

ENV2: Historic Character and Local Distinctiveness - States that development proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness. Development proposals will be required to preserve and, where appropriate, enhance local character and those aspects of the historic environment together with their settings which are recognised as being of special historic, archaeological, architectural, landscape or townscape quality.

ENV3: Design Quality - Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits Key planning policy references include saved policy ENV2

Walsall's Unitary Development Plan (UDP)

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

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

The relevant policies are:

2.2, 2.6, 3.7, & GP2 requires development to make a positive contribution to the urban environment seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided, to strengthen and diversify the economy of the Borough and promote economic revitalisation.

ENV17, ENV18, 3.64: encourages new planting as part of landscape design and seeks to protect existing vegetation.

ENV27 requires the special architectural and historic value of listed buildings to be retained.

ENV23: Proposals must take account of opportunities for nature conservation.

ENV29 requires development to protect or enhance the appearance of conservation areas.

ENV31: Continued Protection of the Historic Built Environment

Policy ENV32 requires development to take account of its context

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

H3 encourages the provision of housing on previously developed sites.

H10 requires development to create a high quality living environment.

Residential Development Standards were adopted on 25.4.05 . These require, amongst other matters, 12 metres minimum length of private garden.

T13 sets out car parking standards. 3 parking spaces would be required for each dwelling.

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPD's are:

Supplementary Planning Document “Designing Walsall” (February 2008) Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process.

It identifies eight key urban design principles for consideration including sustainability- environmental, social as well economic, safe and welcoming places, character, continuity, ease of movement, legibility, diversity and adaptability.

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;
DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;
DW3 – Character -design to respect and enhance local identity;
DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;
DW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Conserving Walsall’s Natural Environment SPD – advises on the information requirements and survey standards for protected species to accompany planning applications.

Development with the potential to affect trees, woodlands and hedgerows: NE7, NE8, NE9 and NE10

Consultations

Transportation – no objections

Pollution Control – no objections subject to conditions regarding noise during construction and engineering works

Regeneration Services (Conservation) – no comments

Regeneration Services (Landscaping) – no comments received but previously no objections

Regeneration Services (Trees) – no comments

Regeneration Services (Ecology) – no objections subject to conditions.

Severn Trent Water – no comments received but previously no objections subject to drainage condition

Fire – no comments received but previously no objections

Public Participation Responses

Representations have again been received which raise the same or similar objections as previously. The objections to this application are as follows:

- current access road is dangerous
- further 6 cars will place all pedestrians and road users of Sandwell Street at further risk, as well as the current residents.
- more sense for access to be gained through Buckle Close.
- The right of way at the rear of Doveridge Place has many problems
- it is not tarmaced,
- it is narrow and the exit on to Sandwell St is blind.
- Vehicles having to reverse out are particularly at risk of hitting pedestrians
- The Council does not have details of where the lateral drains and sewers run which may collapse under the extra use.
- ambulances and fire engines - will they be able to reach our houses should the plans be passed?
- who will be responsible for any damage to it or the pipework for our amenities?
- Lateral Drains and Sewers - The previous owner of No. 4 thought the drains from her property went straight to Bath Street. As Walsall Council does not have a plan of these drains to Doveridge Place houses, how will they be found and who will be responsible should they be damaged?
- Can't cut or prune trees in our gardens but several quite large mature ones will be felled to build 2 houses
- Giant Hog Weed
- is 0.9 metres sufficient space to erect scaffolding

Determining Issues

- Does the amended planning application overcome the previous reasons for refusal?
- Previous considerations: material changes since previous consent, conservation/design, natural environment (landscape, trees and habitat), highway safety/parking, amenity and conditions
- Local Finance Considerations

Observations

Does the amended planning application overcome the previous reasons for refusal?

The first reason for refusal stated:

1. *Out of character with the adjacent listed buildings by reason of the proposed Bi-folding doors in the front elevation of the proposed dwellings being an incongruous feature within the street scene*

The proposals have been amended and the modern bi folding doors replaced with a more traditional timber patio doors incorporating casement windows. It is considered that the design will reflect the character of the adjacent listed buildings, the conservation area and the immediate area and is therefore acceptable.

The second reason for refusal stated;

2. *The close proximity of the proposed development to the side elevation of the existing listed building compromise the amenity of the owner of the listed*

building in terms of the owner's ability to maintain that building and as such would have an impact on this heritage asset

The plans have been amended and now provide a 0.9 metres wide pedestrian access in-between the side of the proposed house and that of no. 4, this is considered sufficient in order to facilitate maintenance and is the width that would be usually provided on new development.

Previous considerations: material changes since previous consent, conservation/design, natural environment (landscape, trees and habitat), highway safety/parking, amenity and conditions

Material changes since previous consent - The principle of the development, density, urban design, conservation matters, car parking and access were all previously considered subject to safeguarding conditions to restrict and control the site. The proposal as previously approved development (04/2061/FL/W3 and subsequent time extension reference 10/0918/TE) was considered acceptable, appropriate and in accordance with policies of the Unitary Development Plan. The recent refusal was also considered acceptable by officers in so far as the principle, scale, siting and overall design was the same as that previously approved.

Conservation/Design - In terms of conservation the proposed development was considered acceptable.

In terms of design planning committee concluded that the introduction of modern bi folding doors would be an incongruous feature not befitting of the existing listed buildings. This feature has been removed and replaced with patio doors which have a more traditional appearance.

Natural Environment (Landscape, Trees and Habitat) - The scheme provides a landscape setting for the development that will retain key trees. It was concluded that subject the imposition of conditions will satisfactorily secure the sites development whilst protecting its natural environment.

Amenity - Maintenance of the side elevation of no 4 was an issue which was considered sufficient to refuse the previous application. The gap between the proposed and the existing has been increased thereby allowing for maintenance subject to neighbours agreeing. The amenity of neighbours will therefore not be compromised through amenity issues.

Conditions - Proposed conditions have been altered to reflect recent case law and changes in policy whilst the essential requirements remain the same.

Objections - The objections received to this application raise no additional new to those which were previously reported to the committee and as such and on the basis that the amendments satisfactorily address the previous reasons for refusal this application is on balance again considered acceptable.

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 2 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

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

Positive and Proactive working with the applicant

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information and revised plans have been submitted to enable full support to be given to the scheme.

Recommendation - Grant Permission Subject to Conditions

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

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

2. This development shall not be carried out other than in conformity with the following plans and documents: -
 - Location Plan received 22/6/15
 - Existing Block Plan (GT D5/6DP – 01A) received 22/6/15
 - Proposed Block Plan (GT D5/6DP – 02A) received 22/6/15
 - Proposed Front Elevations (GT D5/6DP – 04A) received 22/6/15
 - Proposed Rear and Side Elevations (GT D5/6DP – 05A) received 22/6/15
 - Proposed Layouts (GT D5/6DP – 03A) received 22/6/15
 - Proposed Site Layout (GT D5/6DP – 06A) received 24/7/15
 - Proposed Roof Layout (GT D5/6DP – 07A) received 22/6/15
 - Tree Survey Plan (TSP-1) received 22/6/15
 - Design & Access Statement received 22/6/15
 - Phase 1 Bat Survey received 22/6/15

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

3. a. The development hereby permitted shall not begin until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority.
- b. The scheme shall be implemented and retained in accordance with the approved details before the development is first brought into use.

Reason: The development of this site is dependant upon the installation of a satisfactory drainage scheme as such it is considered important and necessary to require this information prior to commencement to ensure that the development is provided with a satisfactory means of drainage. In addition it is necessary to ensure and reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with UDP policy ENV40.

4. a. No development shall commence until full details of all materials plus details of the external (curtilage) boundary treatments of the site have been submitted to and approved in writing by the Local Planning Authority.
- b. The approved details shall be fully implemented prior to first occupation.

Reason: It is considered important to establish the details of the materials prior to any commencement in order to ensure the development enhances and conserves the adjacent listed buildings and conservation area and to ensure the satisfactory appearance of the development.

5. a. Prior to the development first being occupied full details of hard and soft landscaping works shall be submitted and approved in writing by the local planning authority to include the following:
 - correct botanical names
 - numbers/planting densities for each block of planting proposed
 - size supplied of all proposed shrubs at time of planting
 - details of proposed turf/seeded areas
 - topsoil and mulching depths and specifications
 - details of landscaping establishment/maintenance proposals to be undertaken during the standard maintenance period
 - details of future management of the landscape scheme
 - ground preparation measures to be adopted
 - existing and proposed levels
 - Management plan

b. The approved landscaping shall be implemented within 12 months of the completion of the development.

c. All planting shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any trees, shrubs or plants which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to safeguard and enhance the visual amenities of the locality in accordance with Policy ENV18 of the Walsall UDP 2005 and policies NE5

and NE9 of Walsall Council SPD, Conserving Walsall's Natural Environment.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no extensions shall be carried out to any of dwelling.

Reason: To ensure the satisfactory appearance of the development.

7. No dwelling shall be occupied until the drive to that dwelling has been hard-surfaced in accordance with the approved plans, or such other material as may be agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory functioning of the development.

8. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08.00 to 18.00 Monday to Fridays and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

9. No dwelling shall be occupied until a domestic sprinkler system has been installed in that dwelling.

Reason: In the interests of the safety of the occupiers of these dwellings.

Notes for Applicant

Bats

Although the application does not require a formal bat survey, there is still a risk that bats may be using your house for roosting. It is therefore important that you are satisfied that there are no bats using the buildings affected by the development before work is carried out. Any damage, destruction or disturbance to bats roosts is a criminal offence. Care should be taken during building works. Stripping ridge and roof tiles should be carried out carefully by hand. If any bats or evidence of bats are discovered work should stop and advice should be sought from Natural England.

They can be contacted on Tel: 0845 6014523 or e-mail:

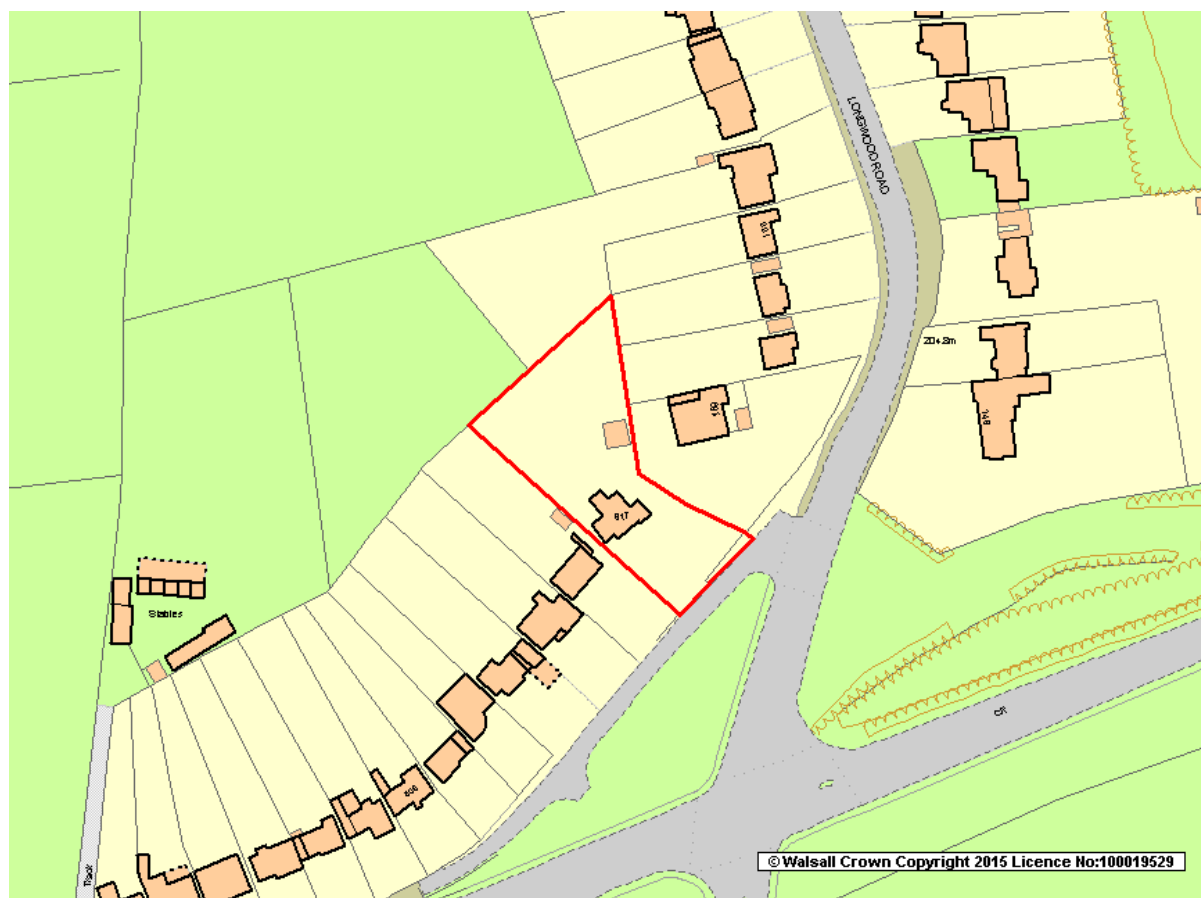
wildlife@naturalengland.org.uk

Planning Committee

Report of Head of Planning and Building Control on 06-Aug-2015

Plans List Item Number: 11.**Reason for bringing to committee:** Contrary to policy

Application Details

Location: 817 SUTTON ROAD, WALSALL, WS9 0QJ**Proposal:** SINGLE STOREY REAR EXTENSION**Application Number:** 15/0654/FL**Applicant:** Mr Richard Ward**Agent:** Mr Anthony Spruce**Application Type:** Full Application**Case Officer:** Jenny Townsend**Ward:****Expired Date:** 25-Jun-2015**Time Extension Expiry:****Recommendation Summary:** Grant Permission Subject to Conditions

Officers Report

This application is for a single storey side and rear extension to a detached house that would enlarge the existing kitchen.

The house is in the Green Belt and has added extensions and a conservatory at the rear which has increased the original 80m² footprint by 31m².

The house is set back from Sutton Road behind a wide verge and access road which runs along the frontages of the houses numbers 817 to 805. The application house is lower in level than the road and the trees and hedges to the front boundary mostly screen the house and the fields beyond from view. The house sits lower in level than number 189 Longwood Road, the dwelling to the north as the ground slopes down in level from east to west and also from north to south this adds to the restricted view between the properties to the Green Belt land beyond.

The proposed extension would lie alongside and in line with the existing two storey part of the house. The side section would be 2.7 metres wide and 7.3 metres long with the rear part 2.7 metres long and 2.4 metres wide. A hipped roof between 2.7 and 3.8 metres high is proposed over the extension that slopes back towards the two storey part of the house.

Two secondary windows are proposed in the side elevation facing across the driveway towards the boundary with number 189 with folding doors across almost the whole of the rear elevation of the extension.

Number 815 is to the south and forward from the rear of the application house. There is a detached garage adjacent the boundary which projects approximately 5 metres beyond the rear of number 817.

Number 189 Longwood Road lies at an angle to the application house and is set in approximately 10 metres from the boundary between them which comprises of a tall hedge that screens the two secondary windows in the side of 189 from view from the rear garden of the application house and visa versa.

The rear garden backs onto open fields.

Relevant Policies

http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf

National Planning Policy Framework (NPPF) www.gov.uk

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

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

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings

- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

Key provisions of the NPPF relevant in this case:

- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

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

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

Local Policy

Black Country Core Strategy

- ENV3: Design Quality

Unitary Development Plan

- GP2: Environmental Protection
- ENV2: Control of Development in the Green Belt
- ENV32: Design and Development Proposals

Supplementary Planning Document

Designing Walsall

- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall SPD are consistent with the NPPF.

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Relevant Planning History

07/2220/FL/H4 Two storey side and rear extension. Refused 16/11/07.

Consultation Replies

None.

Representations

None.

Determining Issues

- Impact on Green Belt
- Amenity of Nearby Residents

Observations

Impact on the Green Belt

National and local policy states that provided it does not result in disproportionate additions over and above the size of the original building, the extension or alteration of an existing dwelling is not inappropriate development in the Green Belt. The proposed extension would increase the footprint of the house by 27m² and when added to the existing additions that have been made to the house, this would result in a 70% increase in relation to the original footprint.

Whilst it is acknowledged that this would be disproportionate in relation to the size of the original house and that this addition would be at the limit of what would be able to be supported in this context, having regard to the 'character and openness' of the Green Belt, the proposed extension is single storey only and lies against the outline of the existing house not projecting beyond the two storey side part of the house at either the side or the rear. The lower level position of the house and distance that it is set back from the road, together with the existing screening from the trees and tall hedges which narrows down the view between the application house and number 189 Longwood Road (which is higher in ground level than number 817) to the Green Belt to the rear is considered would not be significantly different to the existing situation.

From the rear the extension would be seen against the existing house and in this context it is considered that on balance that the proposal would not result in additional harm to the openness of the Green Belt.

The extension would not project beyond the existing rear wall of the house closest to number 815 Sutton Road and would have no impact on the amenity of the occupiers of this house.

Number 819 is higher in level with secondary windows in the side elevation that are screened from the garden of the application house by the tall hedge on the boundary between them. The side windows proposed in the extension would also be secondary windows to the enlarged kitchen with the main folding doors on the rear. As the windows are secondary ones to the rooms, together with the separation between the houses together and the screening it is considered that the proposal would have little impact on the privacy of the occupiers of either of the houses.

Positive and Proactive working with the applicant

Approve

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

Recommendation - Grant Subject to Conditions

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

Reason: Pursuant to the requirements of Section 91 of the Town and Country

Planning Act, 1990, as amended.

2. This development shall not be carried out other than in conformity with the following approved plans: -

Location, block, roof, existing and proposed elevations and floor layout plans drawing 1687 deposited 1 May 2015;

Existing and proposed photographic montage deposited 3 July 2015.

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

3. The walls and roof of the extension shall comprise facing materials that match those which are used in the existing building as it exists at the date of this permission, and shall be retained as such after completion of the extension.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

Notes for Applicant

Standing advice

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at:
www.groundstability.com



Planning Committee

Report of Head of Planning and Building Control on 06-Aug-2015

Plans List Item Number: 12.

Reason for bringing to committee: Called in by Councillor Hughes

Application Details

Location: 31 FOLEY ROAD EAST, WALSALL, B74 3HP

Proposal: SINGLE STOREY REAR AND SIDE EXTENSION.

Application Number: 15/0644/FL

Case Officer: Helen Smith

Applicant: Mr Christopher Dyche

Ward: Streetly

Agent: Upson & Co. Ltd

Expired Date: 25-Jun-2015

Application Type: Full Application

Time Extension Expiry: 14-Aug-2015

Recommendation Summary: Delegate to the Head of Planning and Building Control to Grant Permission Subject to Conditions provided that no new material considerations are raised by 12th August 2015



Officers Report

Status

This application was deferred by the 9/7/15 Planning Committee for amendments to the design of the home office roof in order that this proposal would not be visible from the street scene. Amended plans have been received which address these concerns and neighbours are currently being re-notified on the proposed change which expires after the committee date. As such it is recommended that the application is delegated to the Head of Planning and Building Control to grant permission subject to conditions and there being no new material considerations being raised by 12 August 2015.

The remainder of the report is unchanged with the exception of Planning Condition no. 2 which includes details of the amended plan.

Application and Site Details

This is a detached house within a row of similar houses set back 16 metres from Foley Road East with the exception of a pair of adjacent semi-detached houses, no's 27 and 29, which are positioned 13 metres forward of the application house.

This proposal is for a single storey rear and side extension to enlarge an existing kitchen and provide a new dining room and home office. This extension would replace an existing rear sun room.

The new extension would extend 6 metres from the existing two storey rear elevation of no. 31 and would be set in 1.2 metres from the side garden boundary with the neighbouring chalet bungalow, no. 33. The extension would then reduce in depth to 3.5 metres at the side and to the rear of an existing garage at no. 31 and would be next to the side garden boundary with house no. 29.

The extension flat roof would be 3.1 metres high and include two 0.4 metres high lantern lights. An existing roof light would be re-positioned the proposed home office. There is an existing part brick green house near to the shared garden boundary with no. 29.

This application seeks consent for a reduced scheme following two previous planning applications (reference no's 14/1036/FL & 14/1722/FL). The 16/10/14 and 8/1/15 Planning Committees approved these proposals for two storey and single storey rear extensions, removal of existing side dormer, new rear dormer and a new roof subject to conditions respectively.

The rear elevations of the application house and adjoining properties face south. No. 33 has rear facing habitable room windows and a single storey extension near to the side boundary with no. 31 with a rear non-habitable room window (*neighbour has previously advised this is to become a habitable room at a later date*). There is a separation distance of 1.2 metres between no. 33, which has two obscurely glazed side facing windows, and the shared side boundary with no. 31. The obscure glazed side window towards the rear of no. 33 serves a bedroom.

No. 29 has ground floor, side facing, non-habitable room windows in a rear extension facing the rear garden boundary and a bathroom window above at first floor. No. 31

has a rear conservatory near to the shared boundary with no. 31 and first floor rear facing bedroom window.

The length of the remaining rear garden at no. 31 would be 42 metres and there is mature planting along neighbouring shared garden boundaries.

Relevant Planning History

14/1722/FL - Proposed two storey and single storey rear extensions, removal of existing side dormer, new roof and new rear dormer (amendment to planning permission 14/1036/FL to alter roofline at ridge height and amend the design of the home office roof) - granted subject to conditions 9/1/15.

14/1036/FL - Resubmission of planning application 14/0558/FL for proposed two storey and single storey rear extensions, removal of existing side dormer, new roof and new rear dormer - granted permission subject to conditions 17/10/14

14/0558/FL - Proposed two storey and single storey rear extensions plus removal of existing side dormer roof extension and new rear dormer - refused permission 11/6/14

BC62537P - Loft conversion with side and rear dormers - granted subject to conditions 23/11/01

BC01545P - Erection of garage and bedroom extension - granted subject to condition 22/10/81

Planning Policy

National Planning Policy Framework (NPPF)

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

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

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants

Key provisions of the NPPF relevant in this case:

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

63. Great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.
64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

On **planning conditions** the NPPF says:

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

On **decision-taking** the NPPF sets out the view that pre-application engagement is encouraged and

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

The Development Plan

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

The Black Country Core Strategy (BCCS) (2011)

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).*"

To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The relevant policies are:

ENV2 and ENV3 states that all development should aim to protect and promote nature conservation, the special qualities, design quality and local distinctiveness of the Black Country.

Walsall's Unitary Development Plan (UDP)

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

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
 - The appearance of the proposed development.
 - The height, proportion, scale, and mass of proposed buildings / structures.
 - The materials proposed for buildings, external spaces and means of enclosure.
 - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

| | |
|----------------------------|-------------------|
| 1, 2 and 3 bedroom houses | 2 spaces per unit |
| 4 bedroom houses and above | 3 spaces per unit |

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

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The relevant SPDs are:

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging

character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix D (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- 13m separation between habitable windows and blank walls exceeding 3m in height.
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from www.walsall.gov.uk).

The Streetly Area of Special Townscape Character was approved by Cabinet on 03/09/03 with supplementary planning guidance to stimulate good quality, modern design solutions. These guidelines are not intended to rigidly dictate future development, but can be used as a 'toolkit' to stimulate good quality, modern design solutions. They certainly should not be used as a 'set of rules', to be ticked off in an attempt to ensure that a planning application gains approval. Just as when this area of townscape was first developed, the social implications of new housing design must be addressed. For this to be responsive, it must take cues from these special surroundings.

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall SPD are consistent with the NPPF. **Policies are available to view online:** http://cms.walsall.gov.uk/planning_policy

Consultation Replies

None

Public Participation Responses

Objections have been received from residents at no's 29 and 33 Foley Road East as detailed below;

- drawings do not show the full impact of the extension (*the submitted plans are considered sufficient to assess the current proposal with certainty and are considered to be acceptable*)
- if this proposal is an interim solution there are likely to be two periods of disruption, presumably over two consecutive summers (*there is no evidence to suggest that this would be the case*)
- If these plans are a final solution they don't address the main positive comment by the earlier planning committee that the third floor dormer would be removed but instead would add a further eyesore (*the existing dormer is a lawful development and the current proposal being considered is a single storey side and rear extension. Each planning application is assessed on its own merits*)

- The lantern roofs would take the 3 metres height to a total of 3.7 metres and general UK Planning Policy is that the height of a new flat roof extension to a detached property should be 3 metres in height at the eaves and no more than 4 metres deep. This extension would be 6 metres deep and 3.7 metres high and within 1.2 metres of a boundary, the allowed doubling of these measurements until 2016 does not apply due to the objections raised (*this proposal is a planning application which will be assessed in relation to national and local planning policies and guidance rather than Permitted Development Legislation. This legislation enables most householders to extend their houses within specific limits without the need to submit a planning application to the Local Planning Authority or by using the Neighbour Consultation Scheme for Prior Approval proposals until 2019*)
- The impact on no. 29 rear garden would be worse as the new extension would be on the boundary and almost 1 metre higher than the existing garage eaves creating a greater sense of enclosure and being hemmed in. This outlook is unacceptable and affects the enjoyment of no. 29 in a major way
- the missing front elevation drawing would reveal a flat roof protrusion above the garage roofline of 1 metre which would be visible from the road creating an adverse impact on the road and contravening UDP Policy GP2 which addresses visual appearance and the effect on daylight and sunlight received by a property
- this is the 17 amendment submitted without any work being done in the last 12 months (*it doesn't matter how many amendments to a planning application are received as it is the final plans that are used for determination*)

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents

Observations

Design of Extension and Character of Area

The proposed development is to the rear of the application house and is considered would integrate with the existing house.

A neighbour has commented that an area of flat roofing would be just visible from the street behind the pitched roof of the existing garage. This area of flat roofing is considered would be a minor addition, set back 6.6 metres from the front elevation and 21 metres from the highway, and the impact on the character of the existing street scene would be limited and insufficient to sustain a refusal reason. Furthermore this minor roof addition is considered would not have a detrimental impact on the Streetly Area of Special Townscape Character because of its small scale.

Amenity of Nearby Residents

The proposed single storey extension lies to the south of the application house. The rear elevations of neighbouring properties no's 29 and 33 face south and it is considered that this southerly orientation would result in this proposal having a limited additional impact on neighbours' existing light.

The length of the proposed extension would meet the Council's 45 degree guidance in relation to rear habitable room windows in no. 33 *(including the existing non-habitable room window in the extension to the rear of no. 33)*.

The application house is set back into the site and positioned 8.8 metres further back than the existing conservatory to no. 29.

The existing application house (no. 31) breaches the Council's 45 degree guidance and predates this guidance. Whilst the proposed home office extension would extend 3.5 metres near to the shared boundary with no. 29 it is considered that the 3.1 metres high flat roof and the rear south facing orientation of these properties would limit the impact of this proposal on the living conditions of the occupier of no. 29.

The proposed reduction in scale of the extension compared with the approved extensions is considered would have a lesser impact on neighbours' amenity and existing light than the previously approved two storey proposals and is considered to be acceptable. Whilst the occupiers of no. 29 would see 2.4 metres more brickwork along the side boundary with no. 31, it is considered the proposed extensions would not be significantly worse than the existing situation.

As this proposal would not affect the main roof, safeguarding conditions are not required for protected species. It would not be the Council's custom and practice to include an hours of work condition for a single storey house extension.

The proposal is considered accords the relevant Council policy and guidance. There are no objections from significant consultees and no significant community interest has been expressed, which could be considered to be contrary to the recommendation.

Positive and Proactive working with the applicant

Officers considered the submitted proposal to be acceptable and no further changes have been requested.

Recommendation - Delegate to the Head of Planning and Building Control to Grant Permission Subject to Conditions provided that no new material considerations are raised by 12th August 2015

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

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

2. This development shall not be carried out other than in conformity with the following approved plans: -

- Location Plan, deposited 30/04/15
- Block Plan, deposited 30/04/15
- Amended Existing and Proposed Plans and Elevations, drawing no. 1015/01B, deposited 27/07/15.

Reason: To ensure that the development undertaken under this permission

shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3. The walls and roof of the extension shall comprise facing materials that match in colour, texture and size those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.