

PLANNING COMMITTEE

Thursday 4 October, 2018 at 5.30 pm

In the Council Chamber at the Council House, Walsall

Present:

Councillor Bird (Chair)
Councillor Allen
Councillor P. Bott
Councillor Cooper
Councillor Craddock
Councillor Jones
Councillor Nawaz
Councillor Rattigan
Councillor Samra
Councillor Sarohi
Councillor Singh Sohal
Councillor Underhill
Councillor Ward

2065/18 Apologies:

Apologies for non-attendance were submitted on behalf of Councillors Nazir (Vice Chair), Creaney, S. Fitzpatrick, Harris, Perry and Rochelle

2066/18 Minutes

Resolved

That the minutes of the meeting held on 6 September, 2018, a copy having been previously circulated to each Member of the Committee, be approved and signed as a true record.

2067/18 Declarations of Interest

Councillor Samra declared an interest in agenda item 8 – Development Management Performance Update Report.

2068/18 Deputations and Petitions

There were no deputations introduced or petitions submitted

The Chair advised Committee that plans list item no. 3 – application number 17/0938 – demolition of existing building and erection of two new buildings including restaurant and two shops on the ground floor and six flats on the upper floors at 1 Hope Street, Walsall, WS1 3RG had been deferred at the request of the applicant to provide the applicant with the opportunity to address the recommended reasons for refusal.

2069/18 Local Government (Access to information) Act, 1985 (as amended)

There were no items for consideration in private session.

2070/18 Application to Undertake Pruning Works to 2 Protected Trees at Holy Trinity Churchyard, Coltham Road, Willenhall, WV12 5PT

The report of the Head of Planning, Engineering and Transportation – Development Control was submitted

(see annexed)

Councillor Jones arrived at this juncture of the meeting and therefore did not take part nor vote on this item.

The Presenting Officer advised Members of the background to the report and Councillor Bird **moved** and it was duly **seconded** by Councillor Nawaz:-

That the application to undertake pruning works to two protected lime trees at Holy Trinity Churchyard be part approved to enable the removal of trunk growth to 5m above ground level, and to enable the lifting of the canopies to give 5m clearance above ground level for both trees.

All Members voted unanimously in favour of the recommendations.

Resolved

That the application to undertake pruning works to two protected lime trees at Holy Trinity Churchyard be part approved to enable the removal of trunk growth to 5m above ground level, and to enable the lifting of the canopies to give 5m clearance above ground level for both trees.

Councillor Nawaz left the chamber.

2071/18 Application to Fell 1 x Sycamore Tree at 14 The Pines, Walsall, WS1 3AN

The Presenting Officer advised Committee of the background to the report now submitted

(see annexed).

The Committee then welcomed the first speaker on this item, Mr. Allen, of Braemar Arboriculture Limited, who wished to speak in objection to the officer's recommendation.

Mr. Allen advised Committee that he had carried out an initial inspection of the tree in question in June 2018 following concerns raised by the elderly owner of the property where the tree is located and from her neighbours. He added that his inspection had determined that the upper wand of the tree had almost reached its limits and that one side of the tree had been compromised by two cavities, and the Council therefore had a duty of care to allow the felling of the tree in the interests of public safety.

The Committee then welcomed the second speaker on this application, Councillor Nawaz, who also wished to speak in objection to the officer's recommendation.

Councillor Nawaz reiterated that the property owner had contacted the arboriculture company to carry out an inspection following comments from her neighbours and her own concerns. He advised that findings of the report had concluded there was a future risk and that the Council should take the reported risk seriously to avoid any liability to the occupier and the Council. He concluded that the tree was situated outside of the Conservation area and it would not have a major effect on the facility within the immediate area.

There then followed a period of questioning by Members to the speakers, which included a request for a detailed appraisal on the tree's cavities, whether the tree would recover and whether the current tree damage would progress to felling point.

In response, the first speaker confirmed the tree would slowly compartmentalise and degrade over time and therefore removal would be the sensible option before the damage progressed.

Members considered the report further, which included how the Council had a duty of care since it had been made aware of the potential danger of the damaged tree and concerns regarding the future stability of the tree particularly following extensive recent winds. Councillor Underhill **moved** and it was duly **seconded** by Councillor Bird:-

That Committee approved against officers' recommendation to refuse consent as Members felt should the Council determine not to take action to fell the tree, there would be a risk that the Council would be held liable if the tree subsequently failed and caused harm to people or property. The tree is dangerous to property and life, particularly in light of changing weather conditions; the two professional reports carried out are conflicting and the tree is likely to fail at some point in the future; the tree officer should be consulted about a suitable replacement tree species to be planted in the curtilage of the existing tree. If this is not possible, it should be planted elsewhere in the locality in order to compensate for the loss of the protected tree

The Motion, having been put to the vote was declared **carried**, with all Members voting in favour and none against.

Resolved

That Committee approved against officers' recommendation to refuse consent as Members felt should the Council determine not to take action to fell the tree, there would be a risk that the Council would be held liable if the tree subsequently failed and caused harm to people or property. The tree is dangerous to property and life, particularly in light of changing weather conditions; the two professional reports carried out are conflicting and the tree is likely to fail at some point in the future; the tree officer should be consulted about a suitable replacement tree species to be planted in the curtilage of the existing tree. If this is not possible, it should be planted elsewhere in the locality in order to compensate for the loss of the protected tree

2072/18 Development Management Performance Update Report

Councillor Samra, having earlier declared an interest in this item, left the Chamber and therefore did not take part nor vote on the report.

The report of the Head of Planning, Engineering and Transportation was submitted and the Planning Group Manager advised the Committee of the background to the report and highlighted the salient points therein. In relation to part ii of the report pertaining to the decisions made by the Planning Inspectorate, the Planning Group Manager emphasised the need for Committee to ensure that all decisions are presented in the most robust manner to optimise the Council's ability to defend a potential refusal decision most effectively should an applicant appeal. Alternatively Committee could consider a deferral of an item rather than refusal at that time to ensure adequate reasons can be secured.

(see annexed)

Following deliberations, Members sought additional information on some of the outstanding enforcement cases which included:-

- Case number E13/0103 - Ravenscourt Shopping Precinct – albeit progress had been slow, further documentation had been submitted on 27 September 2018;
- Case number E11/1615 – Stafford Street (Dainty's) – current planning application amended in June and currently under consideration;
- Bradley Lane – the Chair requested an enforcement report be included on the next Committee agenda;
- Case number E14/0057 – Eagle PH – prosecution process with Legal team. The Chair requested an update be provided to the interested Member by the following Monday.

Concern was expressed in relation to time delays and issues on a number of enforcement cases, which Members felt would prevent regeneration and best service within Walsall. The Chair requested a briefing note be provided by Government in relation to the planning process following the recent 'Dover' decision making.

Resolved

That the report be noted

Councillors Samra and Nawaz returned to the Chamber

2073/18 Application List for Permission to Develop

The application list for permission to develop was submitted, together with supplementary papers and information for items already on the plans list.

(see annexed)

The Chair then took the opportunity to explain the order of proceedings for the benefit of the new Committee Members.

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

Before commencement of the plan's list items, a presenting officer advised Committee of the new regulations which came into force on 1 October, 2018 entitled the 'Town and Country Planning (Pre-commencement conditions) Regulations 2018', which determined that in the case of proposed pre-commencement planning condition(s), before issuing a grant of planning permission, the local planning authority must first give ten working days in writing to the applicant regarding any proposed pre-commencement conditions seeking their substantive response. Should any applicants from the evening's planning applications not agree to pre-commencement conditions, the planning applications would be brought back to a future Planning Committee.

2074/18 Plans list Item 1 – application number 11/1411/OL – outline application for residential development of up to 252 dwellings (Access and scale to be considered) on land at former Caparo Works, between the Wyrley and Essington Canal, Miner Street, Green Street and Old Birchills, Walsall Council

The Presenting Officer advised Committee of the background to the report and supplementary paper now submitted

(see annexed)

At this juncture of the meeting, the Chair stated that when the applicant had spoken with him, he had referred the applicant to the respective officer and he had not discussed any aspect of the application.

The Committee then welcomed the first speaker on this application, Mr. Hall, who wished to speak in objection to the officers' recommendations.

Mr Hall informed Committee that he resided in the grade 2 listed Old Birchills Tollhouse and he raised concerns regarding the unstable rear boundary wall and potential damage from chemical leakage such as lead, cyanide and arsenic escaping off the site with the possibility of it entering the adjacent canal.

The Committee then welcomed the second speaker on this application, Mr. Silcocks, who spoke in support of the officers recommendations.

Mr. Silcocks informed Committee he was developer's consultant and he had been proactively involved with officers to enable the regeneration of the contaminated site. He raised concerns regarding any potential S.106 Agreement to secure 10% affordable home ownership due to the previous schemes having been determined as unviable.

There then followed a period of questioning by Members to the speakers, which included queries regarding chemicals and contaminants on the land, reassurance the development would commence immediately following clearance; whether the applicant was seeking grant funding for destabilisation etc, which would add to the viability of the site.

In response, Mr. Silcocks confirmed an environmental assessment would be undertaken prior to the commencement of any development on the land and that it was expected that walls would be made safe around the listed building plus mitigation for longer term soakaways.

There then followed a period of questioning by Members to officers which included whether conditions would be included to monitor contamination and the impact on adjacent housing.

The presenting officer confirmed a condition would be included to provide a construction management plan and Committee was reminded the application was for outline permission only at that stage.

Members considered the application further including concerns regarding a single access, the potential change in viability calculations should the applicant receive funding from another source; that the three ward Councillors be consulted upon on any section 106 contributions to benefit the immediate area.

Councillor Craddock **moved** and it was duly **seconded** by Councillor Jones:-

That planning application number 11/1411/OL be granted permission for the reasons set out in the report and supplementary paper and subject to conditions and a Section 106 Agreement to secure provision for affordable home ownership, highway improvements and urban open space unless no grant assistance is available and to receive a further viability assessment when all costs known. Delegate to the Head of Planning, Engineering and Transportation subject to no new material planning considerations following publicity of amended plans and subject to necessary amendments to conditions to address consultee responses as contained within the report and supplementary paper now submitted.

The Motion, having been put to the vote was declared **carried**, with eleven Members voting in favour and none against.

Resolved

That planning application number 11/1411/OL be granted permission for the reasons set out in the report and supplementary paper and subject to conditions and a Section 106 Agreement to secure provision for affordable home ownership, highway improvements and urban open space unless no grant assistance is available and to receive a further viability assessment when all costs known. Delegate to the Head of Planning, Engineering and Transportation subject to no new material planning considerations following publicity of amended plans and subject to necessary amendments to conditions to address consultee responses as contained within the report and supplementary paper now submitted.

2075/18 **Plans List item 2 - application number 17/1377 – erection of 12 no. three bed houses with associated parking and landscaping at former Lane Arms PH, 169 Wolverhampton Road West, Bentley**

The Presenting Officer advised the Committee of the background to the report and supplementary paper now submitted.

(see annexed)

The Committee then welcomed the first speaker on this application, Mr. Heer, who wished to speak in objection to officers recommendations.

Mr. Heer said the site in question had been derelict for a long period of time, was fire damaged, a well-known area for fly-tipping and an eyesore at a gateway into Walsall. Mr. Heer said he appreciated there would be objections to the loss of protected trees but the applicant had explored various schemes and the application for consideration was the best use of the site and would include a contribution of £15,000 towards planting of new trees.

The Committee then welcomed the second speaker on this application, Councillor Burley, who also wished to speak in objection to officers' recommendations.

Councillor Burley emphasised that housing was a priority nationwide and building homes on the respective site would replace the current vandalised, fly-tipping spot, uplift the area and benefit local shops. Councillor Burley further added that Bentley area was not short on trees and that no representations from surrounding occupiers had been received on the application.

There then followed a period of questioning by Members to the speakers and to officers primarily with regard to the 22m wide dropped kerb access to plots 1 to 4 onto Bentley Road North to which Highways had made objections and to the loss of the protected trees.

In response, Mr. Heer advised that the applicant had explored alternative options but felt the application under consideration was the only workable option. The Highways Officer advised that subsequent to recent changes to the Equalities 'Accessibility Action Plan' (January 2018), local authorities had a duty to take into consideration a number of characteristics for every scheme under consideration, which included kerb sides. He added that the 22m dropped kerb side in front of the four houses may encourage vehicles to park on the pavements in front of the houses thus creating pedestrian safety concerns as well as blocking the visibility splay from the access/egress point to the rear parking court.

Members considered the application further, which included how officers had discussed with the applicant an alternative way of developing the site with the same number of houses which would address both the parking issues and would retain more protected trees and Councillor Underhill **moved** and it was duly **seconded** by Councillor Craddock:-

1. That planning application number 17/1377 be deferred for officers to negotiate a single point of access to the site, subject to conditions, a Section 106 payment for the off-site replacement of trees and a £4,000 contribution towards urban open space; and
2. That following negotiations, the Head of Planning, Engineering and Transportation be delegated authority to determine the matter.

The Motion, having been put to the vote was declared **carried**, with thirteen Members voting in favour and four against.

Resolved

1. That planning application number 17/1377 be deferred for officers to negotiate a single point of access to the site, subject to conditions, a Section 106 payment for the off-site replacement of trees and a £4,000 contribution towards urban open space; and
- 2 That following negotiations, the Head of Planning, Engineering and Transportation be delegated authority to determine the matter.

2076/18 **Plans List item 4 – application number application number 17/0979 – proposed re-development of existing former car park to public house to consist of the erection of 3 no. 5 bedroom dwellings, installation of public greenway route, improvements to existing boundary treatments and landscape works at The Sneyd, 67 Vernon Way, Bloxwich, Walsall, WS3 2LU**

The Presenting Officer advised the Committee of the background to the report and supplementary paper now submitted.

(see annexed)

The Committee then welcomed the only speaker on this application, Mr. Bal, who wished to speak in objection to officers recommendations.

Mr. Bal advised Committee that he was the agent and he reported how the derelict site attracted regular fly-tipping, vandalism, fires and illegal gypsy encampments. He added that development of the current unsafe area would be more attractive to the wider community, the application would retain some landscape features, all homes would have decent sized gardens and that the benefits to the wider public outweighed the loss of the openness of the Green Belt.

There then followed a period of questioning by Members to the speaker, which included whether the applicant had consulted with local residents; level of anti-social behaviour; whether further ecological information been provided and whether the houses would be built upon the existing hard surface of the car park.

In response, Mr. Bal advised that the applicant had met with local residents in relation to the scheme which had subsequently been supported by the residents by means of a signed petition; the site in question was not befitting of a Green Belt designation; the site was not a safe place; a tree report had been undertaken and the applicant would retain a specified maple tree; the houses would be built on the hard surface of the existing overspill car park of the public house.

There then followed a period of questioning by Members to the officers which included whether any objections to the development had been received, what constituted previously developed land and why a petition had not been included within the report.

In response, the presenting officer confirmed that no representations had been received in objection to the proposals and that officers were unaware of any petition in support of the application. She added that the application site was historically an overspill car park to a public house and although it was covered in hard standing, it did not create a greater impact on the openness of the Green Belt whereby the proposed application to construct dwellings would have an impact. The Planning Group Manager reiterated that the site in question had been categorised as previously developed land within the Green Belt and that the aim of the Green Belt policy was to preserve an openness between urban areas to prevent urban sprawl; should there be no Green Belt then a door would be opened allowing all areas to be built upon, as opposed to Walsall's identified brownfield sites.

The Head of Planning, Engineering and Transportation advised Committee he would check whether a petition had been received.

Members considered the application further, which included the overwhelming wish of the public interest to clear and improve the site; the whole site should be categorised as developed by virtue of the ugly hard standing surface; buildings would be a vast improvement to appearance and safety; the Green Belt would not be compromised; not an inappropriate development; no significant harm to the Green Belt nor would the fear of urban sprawl be compromised; it had been previously developed land and the best use of the land was needed; the harm to the Green Belt would be mitigated by the removal of the current eyesore.

The Planning Group Manager reminded Committee that should Members be minded to approve the application against officers recommendations, it must provide very special circumstances to mitigate the development within the Green Belt.

Councillor Samra **moved** and it was duly **seconded** by Councillor Allen:-

That planning application number 17/0979 be deferred to enable officers to work with Councillor Samra and Councillor Allen to negotiate the very special circumstances for a development within the Green Belt

The Motion, having been put to the vote was declared **carried**, with thirteen Members voting in favour and none against.

Resolved

That planning application number 17/0979 be deferred to enable officers to work with Councillor Samra and Councillor Allen to negotiate the very special circumstances for a development within the Green Belt

2077/18 Plans List item 9 – application number application number 18/0699 – first floor side extension, front ground floor extension and front lean to canopy across the front elevation at 145 Walhouse Road, Walsall, WS1 2BE

The Presenting Officer advised the Committee of the background to the report now submitted.

(see annexed)

The Committee then welcomed the only speaker on this application, Councillor Rasab, who wished to speak in objection to officers recommendations.

Councillor Rasab stated the extensions were needed to accommodate the applicant's extended family. He added there had been no objections from Highways, Pollution Control nor any neighbour and he believed a second storey extension would no major impact on the street scene.

There then followed a period of questioning by Members to the speaker and to officers, which included whether there were similar extensions within the immediate area and whether there could be a workable scheme; should take personal circumstances into consideration.

In response, Councillor Rasab confirmed there were similar extensions within view of the application site, and officers stated the extension would need to be reduced and moved back from the footway by at least 2 meters to mitigate the impact of a blank wall facing Calder Avenue and that the personal circumstances of the family are not a material consideration and do not outweigh the harm to the amenity and character of the area.

Members considered the application further and Councillor Nawaz **moved** and it was duly **seconded** by Councillor Sohal Singh:-

That planning application number 18/0699 be deferred for one cycle to enable officers to negotiate a reduced scheme

The Motion, having been put to the vote was declared **carried**, with nine Members voting in favour and none against.

Resolved

That planning application number 18/0699 be deferred for one cycle to enable officers to negotiate a reduced scheme

2078/18

Plans List item 6 – application number application number 18/0963 – variation of condition 2 of planning permission 16/0169 (as carried by permission 17/1698) to increase height of room by 1 metre to 9 metres on land between 35A and 37 Portland Road, Aldridge, Walsall, WS9 8NU

The Presenting Officer advised the Committee of the background to the report now submitted.

(see annexed)

The Committee then welcomed the first speaker on this application, Mr. Basford, who wished to speak in objection to officers recommendations.

Mr. Basford said he had no objections to the initial application but as time had progressed, the positioning of the buildings had changed which would now result in the roof of the one dwelling exceeding the neighbouring house, which he said was contrary to the approval at a previous planning committee.

The Committee then welcomed the second speaker on this application, Mr. Cotton, who wished to speak in support of the officers recommendations.

Mr. Cotton said that following a previous approval for a variation to enlarge the width of one of the dwellings, the pitch of the roof had to increase in size to accommodate the variation.

There were no questions to the speakers nor to officers.

Members considered the application and Councillor Bott **moved** and Councillor Sohal Singh **seconded**:-

That planning application number 18/0963 be granted for the reasons as set out in the report and subject to conditions as contained within the report now submitted.

The Motion, having been put to the vote was declared **carried**, with twelve Members voting in favour and none against.

Resolved

That planning application number 18/0963 be granted for the reasons as set out in the report and subject to conditions as contained within the report now submitted.

2079/18 **Plans List item 8 – application number application number 18/0597 – retention of front, side and rear extensions plus patio extension and alteration of ground levels in garden at 88 Lichfield Road, Sandhills, Walsall, WS9 9 PF**

The Presenting Officer advised the Committee of the background to the report now submitted.

(see annexed)

The Committee then welcomed the first speaker on this application, Mr. Pearson, who spoke in objection to officers recommendations.

Mr. Pearson stated the breach was 20cms too high and that although it breached the 45° code to the neighbouring extension, the extension was not a conservatory. He added that the removal of 1m will not make much impact due to the elevations of the properties and the 20cm breach of the roof is immaterial and that reducing the extension by 1m will have no impact to the amenity of the neighbours.

The Committee then welcomed the second speaker on this application, Mrs Luke, who also wished to speak in objection to officers recommendations.

Mrs Luke informed Committee the property belonged to her parents who had liaised with officers on several occasions. She stated the building would not compromise the neighbouring property and that the extension had been in situ before the neighbours moved in to their property. She added that a 1m² increase had no further impact on the neighbours as only fence panels would be visible.

There then followed a period of questioning by Members to the speakers and officers, which included details pertaining to prior approval and details of the non-compliance of the prior approval.

In response, the first speaker confirmed the original dwelling had a slabs patio area and the owner had presumed a new patio area could be moved down the garden without realising that too would require permission. The presenting officer confirmed the initial consent had not been implemented properly and that the height of the extension had breached prior approval by 0.2m in height, a raised patio area had been added to the end of the extension without planning permission and a singly storey side extension had been erected above permitted development height.

At this point in the meeting, the Chair, Cllr Bird, moved and it was duly seconded by Cllr Allen :-

That Standing Order No. 9(a) of the Council's Constitution be suspended in order for the Committee to conclude the remainder of its business.

The Motion, having been put to the vote was declared **carried**, with all Members voting in favour.

Members considered the application further, which included the fact that the extensions had been constructed before the objectors had brought their property and Councillor Bird **moved** and it was duly **seconded** by Councillor Craddock:-

That planning application number 18/0597 be granted, contrary to officers recommendations, as Members considered the breach of the prior notification minimal and removal of the breach would cause undue stress to the applicant; the property was in-keeping with the local area, and that 1m high screening be added to the boundary.

Resolved

That planning application number 18/0597 be granted, contrary to officers recommendations, as Members considered the breach of the prior notification minimal and removal of the breach would cause undue stress to the applicant; the property was in-keeping with the local area, and that 1m high screening be added to the boundary

2080/18 **Plans list item 3 – application number 17/0938 – demolition of existing building and erection of two new buildings including restaurant and two shops on the ground floor and six flats on the upper floors at 1 Hope Street, Walsall, WS1 3RG**

The Chair had earlier advised that this item be deferred at the request of the applicant for them to overcome the reasons for refusal.

- 2081/18 **Plans list item 5 – application number 18/0398 – change of use from travel agents to hot food takeaway (resubmission of 17/1634) at 83 Milton Street, Walsall, WS1 4LA**

Resolved

That planning application number 18/0398 be granted for the reasons set out in the report and subject to conditions as contained within the report now submitted.

- 2082/18 **Plans List item 7 – application number application number 18/0593 – two storey and single storey rear extension, rear dormer window, conversion of garage to study and new dropped kerb at 19 Greenslade Road, Walsall, WS5 3QH**

Resolved

That planning application number 18/0593 be granted for the reasons set out in the report and subject to amended conditions as contained within the report and supplementary paper now submitted

Termination of meeting

There being no further business, the meeting terminated at 8.40pm

Signed

Date