



## Contents Sheet

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**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 04-Feb-2016

**Plans List Item Number: 1.**

**Reason for bringing to committee: Major application**

**Location:** 41 LEIGHSWOOD ROAD, WALSALL, WS9 8AL

**Proposal:** DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF A THREE STOREY BUILDING FOR RETIREMENT LIVING HOUSING (35 FLATS AND ANCILLARY ACCOMMODATION) WITH LANDSCAPING AND CAR PARKING.

**Application Number:** 15/1268

**Case Officer:** Alison Ives

**Applicant:** McCarthy & Stone Retirement Lifestyles L

**Ward:** Aldridge Central And South

**Agent:** Miss Lisa Matthewson

**Expired Date:** 06-Dec-2015

**Application Type:** Full Application (Major)

**Time Extension Expiry:** 08-Jan-2016

**Recommendation Summary:** Grant permission subject to conditions (including any amendments or additional conditions deemed appropriate by officers), subject to a Section 106 Agreement to secure provision for affordable housing, urban open space and a pedestrian crossing on Leighswood Road.



## **Application and Site Details**

The proposal is for demolition of all buildings on site and erection of a three storey development of 35 Retirement Living Apartments comprising 20 one bed units and 15 two bed units.

The site is the former Millington York printing works premises on Leighswood Road which was a mixed employment use comprising Class B1 offices and light industrial, Class B2 general industrial and Class B8 storage and distribution. Millington & York also had a retail counter selling their range of office equipment and printing services to the trade and public. There is presently a three storey building on the site frontage, a large industrial building on the rear eastern boundary and single storey buildings along the north-western boundary. There are two access points onto Leighswood Road and there is parking at the front of the site and parking and manoeuvring space around each of the buildings.

The site is close to Aldridge District Centre. Aldridge Community Centre and open space are opposite the site, First Vets Veterinary Practice is at 39 Leighswood Road, a dwelling and marine aquatics business is located at 43 Leighswood Road. The vets have a private right of access over the application site to parking at the rear of their premises. Apart from this there are predominantly large detached houses on this side of Leighswood Road set within spacious plots. There are some terraced dwellings further to the west beyond the junction with Middlemore Lane and detached houses at the rear in Edward Avenue.

The proposed building is positioned broadly in line with the adjacent properties and has three wings creating a central courtyard. There is parking in front of the building for 18 vehicles with 8 further car parking spaces in the courtyard and a shared garden at the rear. A new substation is proposed at the front of the site which has its own gated access. A single access to the development is retained on the eastern side adjacent to the vets. A new low brick wall with piers and railings is proposed along Leighswood Road.

The proposed apartments are served by a central corridor and there are two staircases and a lift included. Communal facilities include the lobby and foyer, a resident's lounge, buggy charge area, refuse store, guest suite, storage/library and a garden room. The design is traditional brick, render and tiled roof and there are projecting gables, some balconies and dormer windows.

The plans have been amended to reduce the height and massing of the rear wing (plot 36) adjacent to the garden boundary of 37 Leighswood Road. On the second floor plots 34 and 35 have been amended from 2 bed units to 1 bed units and plot 36 has been reconfigured to remove overlooking windows and the height reduced from 11m to 9m creating the flat in the roof space with a dormer facing away from the adjoining garden.

The site area is 0.35 hectares giving a density of 100 dwellings per hectare.

The Design & Access Statement - Gives an assessment of the surrounding context and site history and a design analysis, it describes the design and accessibility and sustainability.

The Planning Statement - Explains about McCarthy & Stone the developer, the nature and need for retirement living, explains the proposed development, planning policy considerations, addresses trees, design and conservation, planning obligations and amenity space.

The Transport Statement – Identifies the existing transport conditions and implications of the proposed development. It concludes that the site is well connected and accessible to a range of shops and services, the access point is existing and parking levels are considered adequate for this type of development. There would be 8 less vehicle trips compared to the existing use. There would not be a significant impact on the local highway network.

The Drainage Assessment – Assesses the existing foul and surface water drainage and recommends a survey of the foul and surface water network. Soakaway drainage is not suitable given the findings of the contamination survey. The site is in Flood Zone 1 and is at low risk from flooding.

The Ecological Appraisal - The findings demonstrate there was no evidence of roosting bats but identifies a number of suitable roosting features. The buildings provide low bat roosting potential. The trees and ornamental planting provide suitable habitat for nesting birds so clearance works are recommended outside the bird nesting season. There is very limited habitat for reptiles. Overall the habitats on site are low to negligible ecological value but retention or replacement of existing planting is recommended.

The Site Investigation Report – Assesses the ground conditions and geology of the site, assesses potential contamination and ground gases and recommends foundations. It assesses soakaway drainage and materials for waste disposal.

The Statement of Community Involvement – Identifies pre-application consultation consultations carried out by the developer including contacting statutory bodies, one-to-one stakeholder meetings, a public exhibition, media relations, exhibition and website, post and phone line. It reviews and responds comments.

### **Relevant Planning History**

07/1172/OL/E11 – Outline: Residential development by the erection of 15 x 2 bedroom apartments with 7 x 4 bedroom houses, 1 x 3 bedroom house and 1 x 2 bedroom house, together with closure of existing accesses and creation of new access – Refused 05/10/07.

08/0197/FL - Residential Development by the erection of 14 retirement apartments, 6 private apartments and 4 detached houses with conservatories attached to Plots 16 and 17 with ancillary open space together with repositioning of access – Refused 21/05/08. Two reasons for refusal relating to (1) scale and massing of the building overbearing and over-dominant to neighbouring properties and (2) unacceptable demand on limited educational capacity, affordable housing, public art and public open space provision in the locality.

## **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 32 states all developments should have safe and suitable access to the site for all people.

Paragraph 34 advises decision should ensure developments that generate significant movement are located where the need to travel will be minimised and use of sustainable transport can be maximised.

Paragraph 50 aims to deliver a wide choice of high quality homes and advises local planning authorities to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community such as older people and people with disabilities amongst others.

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 70 states to deliver services the community needs and advises planning policies and decisions should ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

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](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

3. Model sustainable communities on redundant employment land in the Regeneration Corridors that make the best use of existing opportunities and are well integrated with surrounding areas.

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.

9. Sufficient waste recycling and waste management facilities in locations which are the most accessible and have the least environmental impact.

The above are supported by the following policies:

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

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

CSP4: A high quality of design of the built and natural environment is required.

EMP3: Provides for local quality employment land.

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](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.

ENV32: Proposals should take in to account the surrounding context particularly within or adjacent to the Green Belt 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.

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 .

H5: Promotes housing for people with special needs including groups requiring specialist accommodation.

JP7: Seeks to protect the use of land and buildings in other employment areas for employment uses.

JP8: Bad neighbour industries will be given careful consideration and should be capable of providing satisfactory screening and landscaping and must be subject to stringent operational control to minimise disturbance.

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 unit

## **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.

### **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. The gates are set back sufficiently 6 metres from the kerb, and the parking layout is acceptable. An area for secure cycle storage for staff, visitors and residents is required. As the development is a retirement living development whereby a higher percentage of residents are likely to use sustainable travel modes such as public transport, the Highway Authority will require the development to provide a controlled pedestrian crossing point on Leighswood Road, details of which are to be agreed with the Highway Authority.

**Coal Authority** – The site is in a Development Low Risk Area so there is no requirement for a coal mining risk assessment.

**District Valuation Officer** – The gross development value is £7,343,371 exclusive of any incentives. This takes into account an income stream of £15,925 per annum from service charges. The assessment also takes into account construction costs, abnormal development costs (demolition and road/site works), sales and marketing costs, professional fees, finance costs, developers profit (18.50% = £1,302,400) and land acquisition fees. The residual land value is £577,935. On this basis the proposed development is considered to be viable taking into account the site value.

The District Valuation officer has taken into account the need for provision of an urban open space contribution of £57,650 and off-site affordable housing commuted sum of £262,500.

The applicant has valued the site at £650,000 based on a residential scheme of 10 dwellings referred to in their financial assessment but for which no detailed layout has been provided or appraised. For benchmarking purposes the District Valuation officer has assessed the site value based on the existing buildings and provision of accommodation as £455,000.

**Ecology** – No objections. A general ecological and bat survey has been provided but no evidence of bats was found. Conditions are recommended to protect nesting birds.

**Housing Strategy** – The policy requirement is for 25% affordable housing. As this is a block of flats, the affordable housing contribution would be sought as an off-site contribution in the form of a commuted sum. This would equate to approximately £262,500, based on  $35 \times 0.25 \times £30,000$ .

**Landscape** – No objections. If planting strips are less than 1m wide they are unlikely to survive so should be replaced by hard landscaping such as gravel. Some rationalisation of the different planting elements at the rear is suggested. A condition to secure landscaping is recommended.

**Natural England** – The site is 10km from the Cannock Chase Special Area of Conservation (SAC) so the Council should have regard to any potential impacts the proposals may have on the SAC. The proposal in combination with other developments is likely to increase the number of visitors to the SAC which could have a significant effect on the features for which the SAC was designated such. For example wear and tear and dog fouling along paths, which alter the important heath land vegetation of the SAC. Before any permission is granted measures should be secured to avoid the likelihood of significant effect or an appropriate assessment of the effects of the development with regard to the conservation objectives of the SAC carried out. Natural England also direct comments to advice regarding protected species, local sites and SSSI risk zones.

**Pollution Control** – No objections. Conditions are recommended to require further contaminated land investigation, agree measures for remediating contamination, undertake noise mitigation measures, and agree measures for controlling impacts during the demolition and construction.

**Severn Trent Water** – No objections subject to provision of drainage details. A condition to secure this is recommended.

**Tree Officer**- No objections. The application results in tree loss but the trees are mainly of low arboricultural value or have a limited life expectancy due to their poor condition. There is scope within the proposed layout for replacement tree planting in mitigation for the loss of these trees. One significant tree on site is to be retained on the frontage; the application has provided details for both this tree and one off site to ensure their adequate protection throughout any construction phase.

### **Public Participation Response**

Seven letters of objection have been received. Two letters of support have been received. These are summarised as follows:

#### **Objections**

- Overdevelopment by excessive height and scale
- The scheme is different to that which the applicant's consulted neighbours on initially which is misleading
- The existing and proposed buildings are significantly different in scale, height and massing
- Overlooking adjacent houses and gardens
- Loss of privacy
- Privacy and aspect distances are not respected
- Adverse impact on outlook due to dominance of the building
- Excessive three storey height
- Increased roof ridge level
- The surrounding character is two storey housing so the proposal is out of keeping
- Roof heights are not comparable to existing properties
- Overshadowing due to the height of the proposed building
- Shading from overhanging trees on the boundary
- Potential damage to boundary wall
- Boundary treatments need replacing
- Increased lighting from the site throughout the day and night
- A crossing facility should be considered as Leighswood Road is a busy road
- The adjacent property have a right of vehicular access over the site which will be blocked

#### **Support**

- Excellent proposals to cater for Aldridge's ever growing elderly population
- Close to existing shops and services
- The property has been unoccupied for a long time
- The scheme will free up larger houses in the area for families

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
- Impact on Cannock Chase
- 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.

The proposal for Retirement Living apartments is welcomed as it provides for people with special needs requiring specialist accommodation in accordance with UDP policy H5.

Although the proposal results in the loss of the employment use the premises have been unoccupied for employment purposes for a number of years and it is considered that the redevelopment of the site for residential purposes is more compatible with the surrounding area which is primarily residential in character.

The letters in support also acknowledge that the premises have been unoccupied for a long time, will cater for Aldridge's elderly population freeing up larger homes and that the site is in a sustainable location.

The principle of residential development for Retirement Living apartments is acceptable in principle.

### **Layout and Design**

The proposed layout positions the front of the building broadly in line with the adjacent properties at 39 and 43 Leighswood Road respecting the building line. This part of the building is three storeys high, just over 26m wide and 19m deep with three projecting gables at the front. There is a side wing along the northern boundary with 43 Leighswood Road which replaces existing single storey buildings along this boundary. The side wing is 24m long and 11.5m wide with a corridor along the boundary and restricted accommodation at second floor thus reducing in height and restricting the windows along the elevation facing 43 Leighswood Road. The rear wing is again three storeys high and is 41m wide and between 10m and 20m wide. The building is between 15m and 21m away from the rear boundary of the site and there is a communal garden at the rear of the building.

Due to the size, scale and height of the building, neighbours have objected to this considering it to be over-development of the site by an over-dominant building that is out of keeping with the area. Nevertheless the existing commercial buildings on the site are also significant height, for example the offices at the front of the site are also three storeys high. The spread of the footprint of the proposed building also seeks to largely replicate the existing buildings on the site. The building is set back over 18m from Leighswood Road so despite its height and massing it is considered not to be over-dominant in the street scene. It is higher than surrounding dwellings which are two storeys high but is considered not to be overbearing and is in fact further away from the boundaries of the properties on Leighswood Road than the existing buildings.

The layout of the site allows adequate space to incorporate landscaping and parking at the front of the site, further landscaping and parking in the central courtyard and a significant communal garden at the rear of the building. These offer visual improvements from the presently unused derelict buildings.

One resident claims the scheme is different to that which neighbours were consulted on. This refers to the pre-application consultations carried out by the developer. The local planning authority has publicised the current and amended plans as required and the recommendation is based on the plans submitted as part of the application.

The layout shows a low brick wall and railings to enclose the front of the site with an automatic access gate set back from the access on the southern boundary adjacent to 39 Leighswood Road (the vets). An existing tree is to be retained along the frontage. There is also a new electricity substation located at the front of the site on the northern boundary next to 43 Leighswood Road. This has its own access gates and the structure is set back 5m from the highway frontage and will be partly screened by the front boundary wall/landscaping/parking and the neighbour's brick boundary wall so is not obvious within the street.

The communal garden areas in the courtyard and at the rear of the building provide over 900m<sup>2</sup> of shared amenity space allowing at least 26m<sup>2</sup> per occupier which exceeds the Council recommendations of 20m<sup>2</sup> per flat. These areas are convenient and useable spaces and provide an attractive setting for the proposed building.

Conditions are recommended to address asbestos and potential contamination issues and secure acoustic mitigation from road traffic noise on Leighswood Road to protect future occupiers.

The layout and design of the proposals are considered to be acceptable.

### **Relationship to surrounding properties**

The position of the proposed building is located so as not to affect the outlook from the front elevations of the adjacent properties at 39 and 43 Leighswood Road and complies with 45 degree code guidelines in this respect. The rear wing of the building is between 26m and 31m from the rear facing elevations of the nearest housing in Edward Avenue. The houses in Edward Avenue are at a higher ground level so given the difference in levels and the distance separation the proposed three storey building will not appear overbearing or cause significant harm to these adjoining neighbours from overlooking, overshadowing, loss of daylight or loss of privacy. There are also evergreen trees along the rear garden boundaries of the majority of these houses that will screen the view.

There have been objections relating to potential overshadowing from trees on the boundary. There are some poplar trees at the rear which are to be replaced with new planting and they will be chosen as a compatible species as the developer would also not want trees to overshadow the building to such an extent as to cause overshadowing. A landscaping scheme is to be secured by condition to address this. The tree officer has raised no objections to the proposals.

The northern side wing runs along the boundary with 43 Leighswood Road. There is a large outbuilding along this boundary within the garden of number 43 that masks a large proportion of the view of the proposed building. There is also a high brick wall along the boundary which the drawings indicate is to be retained. There are main habitable room windows in the side elevation at the rear of number 43 that face the proposed building with a separation distance of 9.5m. Given that the windows already face the high boundary wall the proposed building will not cause significant harm to the outlook. There are two secondary living room windows and two kitchen windows on each floor of the proposed building facing number 43 plus landing windows. It is recommended that these are conditioned to be obscurely glazed to prevent potential overlooking.

Some residents are concerned about damage to boundary walls but as the proposed building is set away from the boundaries it is less likely to be an issue. Damage to private property is also a civil law matter and not a material planning consideration. There are also concerns about potential for increased lighting on the site throughout the day and night. Inevitably some areas will need to be lit throughout the day and night for safety and security but these should be designed to prevent light overspill onto neighbouring gardens. Lighting details are recommended to be secured by condition.

The vets practice at 39 Leighswood Road has a private right of access over the site to the rear of their building. This allows for staff and veterinary ambulances to park at the rear of the building. This is a private civil matter but the applicant considers there is sufficient space to accommodate the displaced parking at the front of the vets premises without encouraging on-street parking.

An adjacent resident at 37 Leighswood Road has a garden that borders the site and is concerned about the overbearing character of the building and potential for overshadowing and overlooking. The plans have been amended to reduce the height of the building in this position and to remove potentially overlooking windows from this boundary. Any remaining windows in the side elevation will be conditioned to be obscurely glazed. This is considered to address the concerns. The proposed building is set off the boundary unlike the existing industrial building and is at least 15m away from the rear elevation of the house at number 37 and is towards the rear third of the plot.

A construction management plan and other conditions to restrict construction hours are recommended to further protect residential amenity.

The layout of the site and design of the proposed building respects privacy and aspect distances to existing dwellings surrounding the site and meet the Council recommended guidelines for assessing this relationship. It is considered that the proposals will not cause significant harm to the amenities of surrounding occupiers.

### **Access and parking**

The proposal utilises the existing access on the southern boundary of the site adjacent to the vets. It allows for vehicles to pull off the highway while the automatic gates open and is wide enough for two vehicles. There are 18 parking spaces at the front of the site and a further 8 spaces in the courtyard in the centre of the site. This gives a total of 26 parking spaces and the layout and manoeuvring space is

acceptable. It is recommended that an area for secure cycle storage is secured by condition. There is adequate space within the site to accommodate this.

The Transportation officer has requested the developer provides a controlled pedestrian crossing point on Leighswood Road given that the development is a retirement living development whereby a higher percentage of residents are likely to use sustainable travel modes such as public transport. Objectors also consider a crossing facility should be provided. It is recommended that a crossing facility is secured by a S106 Agreement.

As explained earlier in the report, the vets at 39 Leighswood Road have a private right of access over the site to the rear of their premises. This would be unavailable with the current layout. There is scope to maintain this access but the developer has not indicated that they intend to do so. Whilst this is a civil law matter the developer has highlighted that *“the license allows the adjoining property access to a rear garage and for parking up to four vehicles.”* It is important to understand whether there is sufficient scope to accommodate the veterinary ambulance and staff parking for up to four vehicles that would be displaced at the front of the vet’s premises without relying on parking on the highway. The developer has confirmed that there is parking for customers at the front of the vets and only one vehicle was permitted to park at the rear. The applicant also confirms they have been in touch with the

agent/legal representative for the vets who confirms no objection to the loss of the parking space which could be lost at any time irrespective of the current planning application.

On this basis the access and parking arrangements are considered to be acceptable.

### **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 9 units. The Housing Strategy officer advises that an affordable housing contribution of £262,500 would be sought towards off-site provision (based on  $35 \times 0.25 \times £30,000$ ) rather than on-site provision. This should be secured by a S106 Agreement.

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 £57,650 which should be secured by a S106 Agreement.

The developer has offered nil provision for either of the S106 requirements but has submitted a viability assessment which has been reviewed by the District Valuation Officer. The District Valuation Officer confirms that the gross development value is £7,343,371 allowing for a developers profit of 18.50%. The residual land value is £577,935 and on this basis the proposed development is considered to be viable taking into account the site value.

The District Valuation officer has taken into account the need for provision of an urban open space contribution of £57,650 and off-site affordable housing commuted sum of £262,500. The developer has valued the site at £650,000 based on a residential scheme of 10 dwellings referred to in their financial assessment but for which no detailed layout has been provided or appraised. The District Valuation officer has assessed the site value based on the existing buildings and provision of accommodation as £455,000.

Based on the advice from the District Valuation Officer that the scheme has a residual land value of £577,935 and is viable then it is recommended that the requirements for urban open space and affordable housing are secured through a S106 Agreement.

### **Impact on Cannock Chase**

The comments of Natural England are noted and where large scale residential development is proposed in proximity of the Chase, consideration needs to be given to the impact any new residents may have on the Special Area of Conservation (SAC).

Whilst residential development would normally be a source of increased walking, cycling and recreation on the Chase, it is considered that the demand generated from this development will be less intense generally than normal open market housing and accordingly the impact will not be sufficient to generate a level of harm substantive enough to sustain a reason for refusal of the application or a specific requirement within a S106.

### **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 35 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 (including any amendments or additional conditions deemed appropriate by officers), subject to a Section 106 Agreement to secure provision for affordable housing, urban open space and a pedestrian crossing on Leighswood Road.

## **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 & Context Plan (MI-2169-1-03-AC-001) received 21/08/15
- Site Layout (MI-2169-1-03-AC-005) received 21/08/15
- Floor Plans & Roof Plan (MI-2169-1-030AC-006 Rev A) received 22/12/15
- Elevations – Sheet 1 (MI-2169-1-03-AC-003 Rev A) received 22/12/15
- Elevations – Sheet 2 (MI-2169-1-03-AC-004 Rev A) received 22/12/15
- Verified Visual Montages (MI-2169-1-03-AC-002) received 21/08/15
- Proposed Drainage Scheme (36763/001 Rev B) received 21/08/15
- Landscape Plan (716/001/Rev A) received 21/08/15
- Topographical Survey (PP/3067/M&S/Aldridge/2015/FI) received 21/08/15
- Tree Protection Plan (8826/02 Rev B) received 21/08/15
- Design & Access Statement prepared by The Planning Bureau Limited (dated 18/08/15) received 21/08/15
- Planning Statement prepared by The Planning Bureau (August 2015) received 21/08/15
- Transport Statement prepared by Paul Basham Associates (050.0029/TSA/1) received 21/08/15
- Drainage Assessment prepared by Alan Wood & Partners (36763) received 21/08/15
- Ecological Appraisal prepared by Ramm Sanderson (RSE-257-01-V2) received 21/08/15
- Site Investigation Report prepared by Crossfield Consulting (CCL02691.BY13) received 21/08/15
- Statement of Community Involvement prepared by Remarkable Engagement (August 2015) received 21/08/15

*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. No demolition, engineering, and construction works, shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be fully adhered to throughout the demolition and construction period.

*Reason:* To mitigate noise, dust and debris impacts upon neighbouring residents.

4. No demolition shall commence until an asbestos survey has been undertaken and any asbestos identified removed and disposed in accordance with national regulations and guidance.

*Reason:* to protect the health of nearby residents and employees working at the site.

5(i) Following demolition of the existing buildings and prior to built development commencing an additional site investigation, ground contamination survey, having regard to current best practice shall be undertaken to address that part of the site currently inaccessible due to the presence of buildings. (see Note for Applicant CL1)

5(ii) Prior to built development commencing a copy of the findings of the site additional investigation, together with an assessment of identified and/or potential hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority (see Note for Applicant CL2)

5(iii) Prior to built development commencing a "Remediation Statement" setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority (see Note for Applicant CL2)

5(iv) The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.

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

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

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

6. Prior to the first occupation of the development the applicant shall submit details of acoustic mitigation measures to deal with noise from road traffic along Leighswood Road for the written approval of the local planning authority. The agreed mitigation measures shall be fully implemented prior to occupancy.

*Reason:* In the interests of the amenity of future occupants.

7. Prior to the first occupation of the development the applicant shall submit details of acoustic boundary for the written approval of the local planning authority. The details shall demonstrate boundary treatment to ensure that neighbouring residential dwellings are not impacted by vehicle noise using drives and hard standing areas on the application site. The agreed acoustic mitigation measures shall be fully implemented prior to occupancy.

*Reason:* In the interests of neighbouring residential amenities.

8. Prior to the first occupation of the development the applicant shall submit details of acoustic mitigation measures for any external plant and machinery for the written approval of the local planning authority. Any agreed mitigation measures shall be fully implemented prior to the machinery coming into use.

*Reason:* In the interests of neighbouring residential amenities.

9a. 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.

9b. 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. Drainage is below ground infrastructure that needs to be resolved before construction of any new dwellings is commenced.

10. The tree protection measures as detailed on the Tree Protection plan drawing no. 8826/02 Rev. B shall be fully implemented and the tree protection fencing shall be erected prior to the commencement of any works on site and shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2012 Trees in relation to design, demolition and construction - Recommendations.

*Reason:* To safeguard the retained trees on and adjacent to the site.

11. 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 site clearance unavoidably takes place within the nesting season the site 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. Please note that feral pigeons are protected and destruction of nests could only take place on the grounds of public health or public safety.

*Reason:* To conserve local wildlife populations.

12a. Prior to the any part of the development being brought into use a detailed landscaping scheme for the development 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 full details of:

- Planting of additional native tree planting around the boundaries comprising one or more of the following tree species: oak (*Quercus robur*), silver birch (*Betula pendula*), rowan (*Sorbus aucuparia*) and whitebeam (*Sorbus aria*) shall be incorporated. Smaller scale native and ornamental planting to encourage invertebrates shall also be used and the planting scheme shall incorporate variation in structure, form and include species providing fruit, seed and nesting sites for birds.
- Preparation of land for planting.
- Existing and proposed levels.
- Specification and depths of topsoil/ subsoil/ growing medium and any mulches. Including specification of imported soils to the specification set out in BS3882-2015 'Specification for Topsoil'.
- Density of planting/ sowing.
- Specifications for all planting to include: full details of sizes/ container volumes/ seed mixes/ provenance/ botanical and English names and methods of planting.
- Additional enhancements shall include a scheme for the installation of bird and bat boxes and hedgehog boxes. Bat boxes shall be incorporated into the fabric of the proposed buildings and bird boxes shall be placed either on new buildings or on retained trees within the site boundaries and hedgehog boxes within the ornamental planting and compost piles.
- Details of landscape establishment and maintenance.
- Hard landscaping.

12b. The approved landscaping shall be implemented within 12 months of any part of the development being brought into use.

12c. All planting shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any trees, shrubs, plants or seeded area 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. Seeded areas shall be reseeded with an identical seed mix to that previously used or equivalent approved in writing by the LPA.

*Reason:* In order to safeguard the visual amenity of the area and enhance the nature conservation value of the site.

13a. 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.

13b. 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.

14. Prior to the installation of any external lighting at the premises full details shall be submitted to and approved in writing by the local planning authority and thereafter maintained in accordance with the agreed details.

*Reason:* To protect the amenities of surrounding occupiers.

15. 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.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

16. Before the development is brought into use, all windows in the side elevations of the building hereby approved facing boundaries with 37, 39 and 43 Leighswood Road and the secondary living room windows in plots 7 and 23 shall be obscurely glazed to at least Pilkington privacy level 4 and top opening only (at least 1.7 metres above the floor level of the room) and once installed retained as such thereafter.

*Reason:* To safeguard the amenities of the occupiers of the application house and to comply with policy GP2 of Walsall's Unitary Development Plan.

17. 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 otherwise only take place between the hours of 08.00 to 18.00 weekdays 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 – Contaminated Land**

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

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

**CL3:** Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any post remediation ground gas testing, shall 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.

**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 04-Feb-2016

**Plans List Item Number: 2.**

**Reason for bringing to committee: Major Application**

**Location:** LAND BETWEEN PARK LANE/WOOD LANE, WS10 9RS

**Proposal:** DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF 42 DWELLINGS WITH NEW VEHICULAR ACCESS, LANDSCAPING AND OTHER ASSOCIATED WORKS.

**Application Number:** 15/1744

**Applicant:** Westleigh Partnership

**Agent:** Pegasus Group

**Application Type:** Full Application (Major)

**Case Officer:** Karon Hulse

**Ward:** Bentley And Darlaston North

**Expired Date:** 23-Feb-2016

**Time Extension Expiry:**

**Recommendation Summary:** Grant permission subject to conditions and subject to a S106 Agreement to secure provision for urban open space and affordable housing.



## **Application and Site Details**

The application site consists of land between Park Lane and Wood Street, Darlaston and is 0.78 hectares in area, located 1.5 miles North of Wednesbury town centre, and occupies the site of a former scrap and salvage yard, part of it is currently used as a car storage depot.

The proposal seeks to demolish and clear the application site and to develop it for a mix of housing consisting of 42 residential dwellings comprising:

- 12 x 1 bed, 2 person flats,
- 18 x 2 bed, 4 person houses
- 7 x 3 bed, 5 person houses
- 5 x 4 bed, 7 person houses.

All with associated car parking and landscaping

The proposed flats will be provided with communal private space

The site can be accessed from both Park Lane and Wood St, and is approximately 1 mile away from junction 9 of the M6. The existing primary vehicular access is from Park Lane. The site has good public transport links, with bus services to Wednesbury and Willenhall running along Park Lane.

It currently contains a number of Victorian buildings in varying stages of disrepair. The existing buildings are formed of housing, warehouses, factories, and a former chapel. Most of the buildings are situated toward the south west (rear) of the site, and also forming frontages to Park Lane and Wood Street respectively.

Surrounding the application site there are residential and commercial properties. The immediate context is formed of predominantly residential properties arranged in 2 storey, semi-detached and terraced formations dating from the 1900's, 1950's, and 1990's. There are commercial units situated on the opposite side of Park Lane to the East of the application site. Beyond the southern and western boundary of the application site lies open space that is designated as a public playing-field.

The application site is enclosed with a number of boundary treatments, and peripheral building walls which are all industrial in character. A large metal sheet fence separates the application site from the playing-fields beyond, this southern boundary forms a partial retaining feature due to level changes from the application site to the land surrounding

A new single vehicular and pedestrian access will be created into the site from off Park Lane running from east to west with proposed houses to the south backing onto the open space.

The parking provision for housing ranges from 1.5 to 3 spaces per dwelling, depending on size. In total 67 parking spaces are provided on the site, which includes the provision of 5 visitor car parking spaces.

The proposed development comprises 2 storey dwellings which are predominantly semi-detached. The density will be 54 dwellings per hectare (DPH). The existing housing stock in this area currently ranges between 35 dph and 66 dph.

The following documents have been submitted as part of the planning application:

The Planning Statement - This Planning Statement establishes that the site is a previously developed site, located within a sustainable location, close to a range of services and facilities with sustainable transport modes available in the vicinity. There are no unacceptable physical or environmental constraints that prevent the site being developed. The proposed physical form of development respects the context of the site. The development proposal will regenerate an unsightly run down site, improving the vitality and appearance of the area and significantly enhancing the amenity of existing residents living within the immediate area of the site.

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.

Walkover Survey and Desk Study Report, dated November 2014 and prepared by Sub Surface Midlands Ltd. This report has been informed by an appropriate range of sources of information including; historic maps, geological maps and a Coal Mining Report and clearly indicates that the application site is likely to be contaminated due to past historical uses.

Noise report (prepared by BWB Consulting Ltd, 26 November 2015) - The noise report which accompanies the application provides an assessment of the existing noise environment and demonstrates that an acceptable noise environment can be achieved for residents of the proposed development.

Drainage Strategy Report - this outlines how the site will be drained by discharging surface water runoff generated by the development into the existing connection to the public surface water sewer on Park Lane and the type of SUDS features to be installed.

Tree survey - concludes that there are no trees within the site worthy of retention or protection

Ecology report - This report identifies that there are no constraints to the proposed development from plant species, including invasive alien plants, foraging bats breeding or sheltering, great crested newts, nesting birds, reptiles or badgers and that there are no statutory or non-statutory nature conservation sites that would be affected by the development of this site.

### **Relevant Planning History**

None relevant

## **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](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](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.

### **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 subject to conditions in respect of the access junction from Park Lane

**Ecology** – no objections subject to conditions regarding protected species.

**Environmental Health** – no objections

**Housing Strategy** – no objections subject to affordable being secured through a Section 106 Agreement

**Landscape** – no objections

**Pollution Control** – no objections subject to conditions

**Severn Trent Water** – no objections

**The Coal Authority** – no objections subject to conditions

**Clean and Green Services** – The new residential development would increase pressure on existing green space. A S106 contribution should be sought from the developer for open space improvements in accordance with the Urban Open Space SPD. These improvements may include pedestrian access improvements, boundary improvements, habitat creation, wildflower meadows, mown areas for informal recreation, bins & benches, improved lighting, signage and notice boards for entrance points.

**Police ALO** – no objections subject to Secure By Design specifications to increase the security of the building (doors, windows, fences etc).

### **Public Participation Responses**

None

### **Determining Issues**

- **Principle of residential development**
- **Character and appearance within the surrounding area**
- **Layout and Design**
- **Landscape/Ecology**
- **Environmental Aspects**
- **Access and parking**
- **Provision for Affordable Housing and Urban Open Space**
- **Local Finance Considerations**

### **Observations**

#### **Principle of development**

This application seeks consent for the redevelopment of this land for residential. The NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed and that Local planning authorities may make an allowance for windfall sites in their five-year supply, in this instance the principle of redevelopment for residential is acceptable subject to all other matters being satisfactory.

Whilst there are sufficient sites that already have planning permission in Walsall to meet the housing land requirement in the BCCS until at least 2021 – (6 year supply from now). The supply requirement is contained in policy HOU1 of the BCCS: this sets a minimum figure for the amount of housing land that needs to be provided rather than a maximum.

Policy CSP2 of the BCCS sets out the Council's policy towards development in areas outside the Growth Network such as this. It states that such areas will provide, amongst other matters, "a mix of good quality residential areas" and "a constant supply of small-scale development opportunities". This therefore provides support for the application.

## **Character and appearance within the surrounding area**

The NPPF says that developments 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.

The design, appearance and finishes of the proposed houses will reflect the character of existing housing within the immediate area. The proposed houses on Park Lane will reinforce local distinctiveness whilst reflecting and promoting the existing street scene and emerging character. 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 existing mix of styles and ages of housing along Park Lane and Wood Street. The proposed housing on Wood Street will remove existing bad neighbour uses and infill areas which are currently occupied by vacant and boarded up housing / commercial / industrial properties. The type of housing will infill, reflect and compliment the existing housing and enhance the street scene along Wood Street.

## **Layout and design**

The proposed density is 54 dwellings per hectare (dph) which reflects the existing housing stock in this area which currently ranges between 35 dph and 66 dph.

Whilst some of the proposed rear gardens are marginally below the required designing Walsall SPD (12 metres) this does not result in overlooking or impact on either future or existing occupiers around the site. The rear facing properties onto the open space will provide natural surveillance of that area thereby enhancing its use as an open amenity space.

The proposed houses that have rear gardens facing onto the open space to the south range between 10.5 mts and 11.5 mts., again whilst this is below the required garden length of 12 metres the width of the gardens results in the majority being in excess of 68 sq. mts. In addition the gardens will not overlook any existing residential properties.

Front elevations to the houses include stone cills to the windows adding interest and quality to their appearance.

The apartments are spacious providing between 45 and 54 sq mts of floor space per one bed 2 person flat. The amenity area for the apartments is acceptable it ranges between 20 sq mts per flat up to 35 sq mts per flat and includes separate bin storage areas.

The layout and design is considered acceptable.

## **Landscape / ecology**

The proposed landscaping scheme is acceptable and provides sufficient detail to enhance the proposed residential development scheme.

An ecological report indicates that there will be few ecological constraints. The ecologist's recommendations should be reflected in the design of the development. These recommendations can be secured through planning conditions.

The submitted ecological survey recommends compensation for possible habitats lost.

These could be enhanced through the use of native trees and shrubs in soft landscaping, and/or of non-native species of trees and shrubs which are known to be attractive to wildlife for example through having flowers for insects and/or berries for birds. These can be included within the landscape scheme and can be secured by way of an appropriate planning condition.

It is recommended that nesting birds are protected during site clearance works. This is no more than the law requires but can be addressed through a planning condition.

It also proposes that nesting features should be included within the development which are suitable for declining urban birds, such as starling, house sparrow, swift and house martin, again this can be secured through a planning condition.

With regards to roosting and foraging bats it is recommended that a Schwegler bat box should be fixed to one of the Sycamore trees on the southern side of the site entrance from Park Lane. This will provide temporary roosting for bats while the site is demolished and a site to put bats if they are found during the demolition of the buildings. An appropriate planning condition will secure this.

A number of recommendations are made to avoid bat mortality during demolition and site clearance. This mitigation strategy can be secured through a planning condition.

## **Environmental Aspects**

### *Coal Authority*

The application includes a technical report regarding ground conditions which the Coal Authority reviewed. The development of this site is a Material Consideration as it falls within a defined Development High Risk Area.

The planning application is further supported by a "Walkover Survey and Desk Study Report". The Coal Authority have concluded that as there is a moderate risk to the development from past coal mining activity it is recommended that intrusive site investigations are carried out on site in order to establish the exact situation in respect of coal mining legacy issues. In the event that shallow mine workings are encountered, The Coal Authority considers that due consideration should also be afforded to the potential risk posed by mine gas to the proposed development. The findings of the intrusive site investigations should inform any remedial measures which may be required. It is considered that all of the above can be satisfactorily achieved by the imposition of suitable planning conditions.

### *Contaminated land and ground gas*

The site survey and walkabout submitted with the application (*'Technical Report – Walkover survey and desk study at land at Park Lane, Wednesbury', Report Ref: M3086, dated November 2014, by Sub Surface Midlands Limited*) clearly indicates that the application site is likely to be contaminated due to past historical uses. Based on the photos in the report, it would appear that some substances are still present and could potentially further lead to contamination of the land. No information has been submitted regarding whether asbestos is present within buildings or accumulations on the site. In order for the development to progress this application a contaminated land ground investigation will be required, this should be carried out once all buildings have been demolished and the site cleared.

In clearing the site it is recommended that all hazardous materials (including asbestos) are segregated and removed off the site by licensed contractors in accordance with the relevant codes of practice and legislation. Once all these materials have been removed then consideration should be made to demolishing buildings. However prior to any demolition taking place a "demolition method statement" will need to be submitted and agreed in writing, which identifies what the demolition activities will entail, risks and associated controls from demolition activity, and how the contractor will control noise/dust/debris from the demolition. A condition requiring this can satisfactorily ensure this is controlled.

In conclusion, upon gaining access to all areas of the site a contaminated land and ground gas survey is required to be undertaken, alternatively a partial investigation can be undertaken on accessible areas and an additional investigation undertaken once full access becomes available. Planning conditions have been recommended regarding contaminated land, ground gas investigation and remediation.

### *Engineering and Construction Phase*

Information has been submitted regarding Site Management and Welfare that includes measures to address noise, dust and debris drag-out from the site. Other details include wheel-washing facilities and road-sweeping. This is considered acceptable and should be implemented throughout any demolition, site clearance or construction phases.

**Noise** - The applicant has included a noise report with their application (*Park Lane, Darlaston Noise Assessment, [Revision 3], by BWB Consulting Ltd, 26 November 2015*). It is recommended that an acoustic survey of the maximum noise levels events affecting proposed residential dwellings on Park Lane is undertaken this will influence any proposed mitigation measures which may be considered necessary in order to protect future residential amenity.

### **Access and parking**

The development proposes 42 dwellings in total comprising 12 x flats, 25 x 2/3 bed dwellings and 5 x 4 bed dwellings.

The development proposes 67 parking spaces across the development which equates to a level of 160%. The applicant has submitted a Parking Statement to justify the proposed level of parking based upon the development being 100% affordable, the residents of which generally have lower car ownership levels and census data showing in that particular Ward average car ownership is 0.9 cars per household.

The Highway Authority accepts this analysis and considers it consistent with UDP parking policy.

The proposed access road is to be adoptable with a new access onto Park Lane including alterations to the existing road markings to form a Right Turn Lane.

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**

*Affordable Housing* - 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 10 units. The application is made by Walsall Housing Group (WHG) and all units will be “affordable rent” 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 and the Housing Strategy officer is fully supportive of the level of provision proposed. The affordable housing provision is recommended to be secured as part of the Section 106 Agreement.

*Urban Open Space* - 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 £61,677.00 to be secured as part of the Section 106 Agreement. The Section 106 Agreement will define where and what this money is to be utilised for in order to be CIL compliant.

It is recommended that the proposal is granted subject to securing the affordable housing element and urban open space contributions.

### **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 42 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 and affordable housing.

### **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: -

#### *Plans*

- Site Location Plan (52924/D00) submitted 25/11/15
- Proposed site layout (52924/D01- REV G) submitted 25/11/15
- Engineering Layout submitted 25/11/15
- Site Arrangement Plan submitted 25/11/15
- Street Scenes Section A & B - (52924/D21- Rev A) submitted 25/11/15
- Street Scenes Section C, D & E - (52924/D22 - Rev B) submitted 25/11/15
- 2 Bed House Type With Elevations (52924/D11) submitted 25/11/15
- 3 Bed House Type With Elevations (52924/D12) submitted 25/11/15
- 4 Bed House Type With Elevations (52924/D14) submitted 25/11/15
- Flat Type F Floor Plans and Elevations (52924/D10 REV B) submitted 25/11/15
- Flat Type G Floor Plans and Elevations (52924/D15 REV C) submitted 25/11/15
- Landscape Proposal - Plots 1 to 10 (15.1215.001 REV A) submitted 25/11/15
- Landscape Proposal - Plots 11 to 18 (15.1215.002 REV A) submitted 25/11/15

- Landscape Proposal - Plots 19 to 26, 37 to 42 (15.1215.003 REV A) submitted 25/11/15
- Landscape Proposal - Plots 28 to 35 (15.1215.004 REV A) submitted 25/11/15
- S.278 Works Park Lane submitted 25/11/15
- S.278 Works Wood Street submitted 25/11/15
- Topographical Survey Sheet 1 of 2 (16494cv-01) submitted 25/11/15
- Topographical Survey Sheet 2 of 2 (16494cv-02) submitted 25/11/15
- Tree Protection Plan (15.1215.005) submitted 25/11/15
- Tree Survey Plan 1 submitted 25/11/15
- Construction Management Plan submitted 25/11/15

#### *Reports*

- Technical Report – Walkover survey and desk study at land at Park Lane, Wednesbury, Report Ref: M3086, dated November 2014, by Sub Surface Midlands Limited submitted 25/11/15
- Design and Access Statement submitted 25/11/15
- Drainage and flood strategy submitted 25/11/15
- Ecology Report submitted 25/11/15
- Parking Strategy submitted 25/11/15
- Planning Statement submitted 25/11/15
- Interim Noise Statement submitted 25/11/15
- Tree survey submitted 25/11/15

*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).

3a. Bat survey work has found a relatively low risk that bats may be present in the buildings within the site (as identified in the ecological report by Tim Smith dated 2 November 2015) and the following precaution shall be taken when implementing the planning permission:

- i) Contractors undertaking demolition works shall be made aware that bats may be present and undertake demolition works in accordance with the precautions set out in Tim Smith's ecological report.

If no bats or evidence of bats are found during these operations, the approved works can continue.

3b. If bats or evidence of bats are found during these operations:

- i) bats should not be handled or touched and the vicinity of the roost shall be immediately reinstated.
- ii) no further destructive works shall be carried out to the building until the need for natural England licence has been established.

- iii) within one week of finding bats or evidence of bats, a written report by the supervising ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation
- iv) work on the building shall only continue in accordance with the approved mitigation measures and on the approved timetable and/or in accordance with the terms of any Natural England licence issued

*Reason:* To conserve local bat populations.

4a. Prior to the commencement of site clearance a Schwegler bat box shall be fixed to one of the sycamore trees on the southern side of the site entrance from Park Lane or any other location approved in writing by the LPA and subsequently retained with access openings maintained free of obstructions at all times.

4b. A scheme for the provision of bat boxes shall be submitted to and approved in writing by the LPA prior to any part of the development being brought into use. The approved scheme shall also be installed before any part of the development is brought into use and retained thereafter with access openings maintained free of obstructions at all times.

*Reason:* To conserve local bat populations.

5a. Prior to any built development above damp proof a scheme for the provision of nesting features suitable for starling, house sparrow, swift and house martin shall be submitted to and approved in writing by the Local Planning Authority of the development being brought into use.

5b. The approved scheme shall be installed before any part of the development is first occupied and shall thereafter be retained with access openings maintained free of obstructions at all times.

*Reason:* To conserve local bird populations

6a. 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

6b. The approved boundary treatment shall be fully implemented prior to first occupation of any part of the development and maintained in accordance with the agreed details thereafter.

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

7a. Prior to commencement of any development on site details of parking and turning facilities for site operatives within the application site shall be submitted to and approved in writing by the Local Planning Authority.

7b. The approved details shall be fully implemented and retained during the construction period.

*Reason:* In order to discourage indiscriminate on street parking by site operatives on adjacent highways.

8a. Prior to the construction of the development above damp proof course details of proposed measures to achieve a high quality sustainable design shall have been submitted to and agreed in writing by the Local Planning Authority. Examples may include the following measures: -

- i. Measures to reduce energy consumption and carbon dioxide emissions (e.g. building insulation, energy display devices, drying space, energy labelled white goods, low and zero carbon technologies, cycle storage, home office)
- ii. Measures to reduce water consumption (e.g. recycling surface water or grey water)
- iii. Responsible sourcing of materials
- iv. Reduction of surface water run-off (e.g. surface water management and management of flood risk)
- v. Household recycling, construction waste management and composting facilities
- vi. Means of reducing pollution and emissions
- vii. Health and wellbeing measures (e.g. daylighting, sound insulation, private space, Lifetime Homes)
- viii. Management opportunities (e.g. home user guide and considerate constructors scheme)
- ix. Ecological enhancements

8b. The development shall be carried out in accordance with the approved measures referred to in Condition 8a, and the dwellings shall not be occupied before the approved measures have been fully installed and made available for use by the occupiers of the dwellings.

*Reason:* In order to secure the sustainable means of construction to Level 3 or above of the Code for Sustainable Homes in accordance with policy ENV3 of the Black Country Core Strategy and policies ENV39 and ENV40 of Walsall's Unitary Development Plan.

9a. Prior to the construction of the development above damp proof 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.

9b. 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.

10a. Prior to the first occupation of any new dwelling on the development, all vehicle hard standing, parking areas and access ways serving that dwelling shall be fully consolidated, hard surfaced, drained so that surface water run-off from these areas does not discharge onto the adoptable or existing highway or any highway drain and brought into use.

10b. The approved details shall be fully implemented and 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.

11a. Prior to the first occupation of any dwelling on the development, all adoptable highway works and works within the existing public highway shall receive technical approval in writing from the Local Planning Authority

11b. The works shall be fully implemented in accordance with the approved details and to the satisfaction of the Highway Authority.

*Reason:* To ensure the satisfactory completion and operation of the public highway and in the interests of highway safety.

12a. The development shall be undertaken in accordance with the measures and controls detailed on the submitted 'Site Management and Welfare provision' document and 'Site Arrangement Plan' dated 26/10/15

12b. The approved measures shall be fully implemented and retained throughout the period of construction.

*Reason:* In order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety.

13a. Prior to the first occupation of any flat on the development, full details of a secure, covered cycle shelter for the use of residents of the flats, shall be submitted to and approved in writing by the Local Planning Authority.

13b. The approved facilities shall be fully implemented in accordance with the approved details and shall thereafter be retained and used for no other purpose.

*Reason:* To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

14a. Prior to the commencement of any built development above damp proof level, and notwithstanding the details shown on the submitted landscaping plans an amended detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the use of native trees and shrubs in the soft landscaping and the use of non-native species of trees and shrubs which are known to be attractive to wildlife (for example through having flowers for insects and/or berries for birds).

14b. The scheme shall be completed fully in accordance with the approved details before the development is occupied and retained as such.

14c. 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.

15a. Upon the site being cleared of all materials and buildings, full details of how foul and storm water will be disposed of from site shall be submitted to and approved in writing by the Local Planning Authority.

15b. The scheme shall be implemented and retained 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.

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

I. Upon the site being cleared of all materials and buildings a contaminated land and ground gas investigation shall be undertaken, as advised within **‘Technical Report – Walkover survey and desk study at land at Park Lane, Wednesbury’, Report Ref: M3086, dated November 2014, by Sub Surface Midlands Limited**, having regard to current best practice (see Note for Applicant CL1).

II. Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2).

III. Prior to built development commencing a “Remediation Statement” setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

IV. The remedial measures as set out in the “Remediation Statement” required by part iii) of this condition shall be implemented in accordance with the agreed timetable.

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

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

VII. The applicant shall provide written confirmation that all imported clean cover materials are not contaminated and are suitable for their intended use.

17. The 2.4m x 43m visibility splay at the new road junction, shown on BM3 drawing no. D01 Revision AB, shall at all times be kept free of any structures or planting exceeding 600mm in height above carriageway level.

*Reason:* In the interest of highway safety.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no additional side facing windows or doors other than those approved by this permission, and no enlargements, additions or other alterations, as defined by Classes A to D of Part 1 of Schedule 2 of the Order, shall be constructed.

*Reason:* To ensure the Local Planning Authority has control over the development in the interests of retaining sufficient levels of amenity and parking provision for occupiers of houses hereby approved and in accordance with UDP Policy GP2, T7 and T13.

19. The materials used shall be those indicated on the approved plans.

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

20. No external lighting scheme in the vicinity of these approved roost features shall be installed other than in accordance with the requirements set out below. Namely:

- There shall be no direct illumination of the new bat roosts installed.
- Any lighting installed shall be low wattage down lights to provide security and safety lighting which will be set no higher than head height.
- Any security lighting shall use PIRs to ensure they turn off automatically once movement has ceased.
- All external lighting shall be carried out in accordance with the above requirements unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To provide temporary roosting for bats while the site is demolished and to conserve local bat populations thereafter.

21. 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; 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.

22. No ground fires shall be permitted on the demolition site.

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

23. The submitted Construction Management Plan outlining arrangements for the control of noise, dust and debris, site drag-out etc shall remain in place until all demolition, engineering, and construction activities have been completed.

#### **Note to applicant (contaminated land)**

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

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

**CL3** Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials (**‘topsoil verification’ certificate**), 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 to applicant (BS8233 2014 Guidance on sound insulation and noise reduction for buildings)**

BS 8233:2014 recommends various noise levels are achieved within habitable rooms between 30 dB(A) (23.00-07.00) for bedrooms, and 35 dB(A) (07.00-23.00) for living rooms and bedrooms. BS 8233:2014 adopts guideline noise values recommended by World Health Organisation for external amenity areas such as gardens and patios, desirable that the external noise does not exceed 50 dB LAeq,T with an upper guideline value of 55 dB LAeq,T. Noise levels within bedrooms shall not regularly exceed 45dB LAFMax criterion within bedrooms.

Given the size of the development it is recommended that a planning condition is included within any permission requiring for the applicant to agree a Construction Methodology Statement to control noise, dust and debris during the construction phase, including hours of work.

### **Notes for applicant regarding 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](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 contain a pane of laminated glass which complies to BS EN 356:2000 class P1A. This will improve the standard of security to the more vulnerable ground floor windows.
4. All external door sets should be to PAS 24 2012 standards. If a europrofile cylinder lock is to be utilised this doors testing and certification should incorporate a TS-007 3star cylinder lock.

5. Most properties are attacked from the rear, therefore perimeter security needs to be effective in order to protect the most vulnerable area of any property. With this in mind perimeter and boundary fencing should be at least 2.1m in height, the fencing should also be erected so that the smooth face is always facing outwards so that the frame cannot be used as a climbing aide. 2.1m fencing can include 300mm trellis topping i.e. 1.8m fence plus 300mm anti climb trellis topping.

*NB/ Where panel and concrete post style fencing is to be used there needs to be a fixing between panel / slats around the posts which should create a secure mechanical bond. This should provide a chain linking effect where each panel and post acts in concert with the next to resist attack by pushing, pulling and lifting. Fixings should be made of galvanized steel or stainless steel with a design life to match the timber components.*

6. All gates should be 2.1m in height and be key lockable from both sides. They should be positioned as close to the front building line as possible.

*Where garden access is at the rear of the property, the alleyway leading to the rear, between two properties needs to be protected by a 2.1m gate (Key lockable from both sides with a mortise type lock) eg. Between plots 3/4, 5/6, 7/8, 21/22, 23/24, 25/26 etc.*

7. Rear access alleyways such as the side of plots 3, 28 and 31 should be avoided at all costs due to the increased vulnerability they create. If unavoidable they need to be secured by a key lockable 2.1m gate (Key lockable from both sides with a mortise type lock). The gate needs to be positioned as close to the front building line as possible, to remove and recess. All gates and fencing along both sides of the rear access alleyway should be 2.1m in height.

8. Due to the increase in metal theft consideration should be used to minimising the use of lead in the design, by using lead substitute or alternative products.

9. All properties should be fitted with a suitable intruder alarm utilising dual technology sensor or above and alarm sirens front and back of building.

### **Notes for applicant regarding Demolition**

If your application includes demolition work, it may be necessary for you to also notify Building Control Services of your intention to demolish (Section 80 of the Building Act 1984). This should be done as soon as possible but not less than 6 weeks before commencement of the demolition work. Helpline number 01922 652408

### **Note for Applicant regarding 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.

### **Note for Applicant regarding 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.

### **Note for applicant regarding nesting birds**

To avoid the risk to nesting birds, site clearance and dismantling works 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.)



**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 04-Feb-2016

**Plans List Item Number: 3.**

**Reason for bringing to committee: Major application**

**Location:** 100 & 101, UNION STREET, WILLENHALL, WV13 1PA

**Proposal:** CONVERSION TO CREATE 11NO. APARTMENTS WITH A DOUBLE STOREY REAR EXTENSION (AFFECTING THE SETTING OF A PUBLIC RIGHT OF WAY WILL78).

**Application Number:** 15/1450

**Applicant:** Mr Adam Smith

**Agent:** J Mason Associates Ltd

**Application Type:** Full Application (Major)

**Case Officer:** Alison Ives

**Ward:** Willenhall South

**Expired Date:** 31-Dec-2015

**Time Extension Expiry:** 11-Feb-2016

**Recommendation Summary:** Grant permission subject to conditions and subject to a S106 Agreement to secure provision towards urban open space subject to resolving the Coal Authority objection.



## **Application and Site Details**

The proposal is for conversion and extension of the existing pair of buildings to form 11 one-bedroom apartments. An extension is proposed at the rear of the buildings. There are proposed to be five apartments on each of the ground and first floors plus one apartment in the loft area.

The buildings are Locally Listed and were formerly the Manse to the adjacent Grade II Listed Building Trinity Methodist Church. This is in the centre of Willenhall within Willenhall Conservation Area. The buildings are currently vacant and in a dilapidated state. Trinity Methodist Church is immediately adjacent; there is a job centre in Malt House Lane at the rear and public car park opposite in Union Street. Morrison's Supermarket lies to the east and the main shopping area lies broadly to the west of the site. Union Street is on-way at this point and there is no on street parking. The site has no available on-site or on street parking. Malt House Lane at the rear is a public right of way.

The proposals maintain the existing front elevations which are to be restored and utilises the existing front and side doorways to access ground floor flats 1-3. The proposed rear extension is 6.7m x 11.1m with a pitched roof 10.5m in overall height. The elevations of the proposed extension are designed to match the original building and there is a central access corridor at the rear. Proposed flats 4 and 5 in the ground floor of the extension have their own access, first floor flat 6 is served from an existing staircase at the rear of the building and the central corridor of the proposed rear extension will serve first floor flats 7-10 and the loft flat 11.

The proposal includes provision of cycle storage at the rear of the building and bin storage at the side of the building. There is also a shared amenity space approximately 108m<sup>2</sup> providing just below 10m<sup>2</sup> per flat.

The Heritage & Design & Access Statement – describes the site and surroundings, appraises the heritage site, explains design principles and concept, design elements and access provision. In summary it considers the proposal will bring vitality to the town and provide for town centre housing.

The Contaminated Desk Study Report – Identifies that there is a low likelihood or unlikely risk of contamination being present on the site, medium to mild probability of severity or consequences of contamination and moderate/low land quality risks posed at the site.

The Coal Authority Mining Report - Identifies there may be coal mining deposits close to the surface and the site is not in the likely zone of influence for underground coal workings.

The Preliminary Coal Mining Risk Assessment – Presents a desk based review of available information on coal mining issues relevant to the site. It notes that shallow coal is present within 30m of the surface. It concludes that there is a moderate to high risk of surface expression of collapse. It is recommended that probe drilling at strategic locations within the site is carried out to a minimum of 40m below ground level.

## **Relevant Planning History**

13/1022/FL – Demolition and replacement of fire damaged boiler room with a smaller structure – Granted subject to conditions 13/09/13.

13/1023/LB - Demolition of fire damaged boiler room and replacement with a smaller structure – Grant Listed Building Consent 13/09/13.

## **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 17 seeks to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.

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

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 109 encourages protection and enhancement of valued landscapes and geological conservation and remediation and mitigation of despoiled, degraded, derelict, contaminated and unstable land where appropriate.

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

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.

Paragraph 126 - Local planning authorities should have a positive strategy for the conservation and enjoyment of the historic environment.

Paragraph 131 seeks to sustain and enhance the significance of heritage assets putting them to viable uses and to ensure new development makes a positive contribution to local character and distinctiveness.

Paragraph 132 requires consideration of the impact of a proposed development on the significance of a designated heritage asset. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

Paragraph 133 where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or certain criteria applies.

Paragraph 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.

Paragraph 137 states new development in Conservation Areas should enhance their significance and preserve elements of their setting that make a positive contribution.

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](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

3. Model sustainable communities on redundant employment land in the Regeneration Corridors that make the best use of existing opportunities and are well integrated with surrounding areas.

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.

9. Sufficient waste recycling and waste management facilities in locations which are the most accessible and have the least environmental impact.

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: 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.

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.

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

### **Walsall's Unitary Development Plan (UDP)**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](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. Where previous uses have affected the stability of the site the application must be accompanied by a site investigation report.

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

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

ENV27: Refers to buildings of historic or archaeological interest.

ENV29: Development should preserve or enhance the character and appearance of a Conservation Area

ENV31: Seeks continued protection of the Historic Built Environment.

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.

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.

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 shared parking – 1.5 spaces per flat.

WH1: Encourages housing outside the primary shopping area.

WH3: Seeks to provide for environmental enhancement particularly in the conservation area and investment, maintenance and improvement of properties.

## **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**

Policy DW1 Sustainability

Policy DW2 Safe and Welcoming Places

Policy DW3 Character

Policy DW4 Continuity  
Policy DW5 Ease of Movement  
Policy DW6 Legibility  
Policy DW7 Diversity  
Policy DW8 Adaptability  
Policy DW9 High Quality Public Realm  
Policy DW9(a) Planning Obligations and Qualifying development  
Policy DW10 Well Designed Sustainable Buildings

## **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.

## **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**

**Coal Authority** – Objects in the absence of a Coal Mining Risk Assessment as the site is in a defined Development High Risk area. A Coal Mining Risk Assessment to assess the risks to any proposed new development on the site due to the presence of coal close to the surface that may have been subject to historic unrecorded mining is required. This will assess whether or not past mining activity poses any risk to the proposals and whether any mitigation to address issues of land instability is required.

**Community Safety Officer** – No objections. As this proposal is within a non residential area, next to an abandoned church, where both buildings have been targeted for vandalism and fly-tipping and are not easily overlooked, there is a need to ensure the security of the site but there are no details of boundary treatments shown.

**Conservation** – No objections subject to conditions to secure details of windows, stone surround and facade repair/refurbishment, joinery details, slate roof, rainwater goods, bricks and boundary treatments.

The site contains a late 19<sup>th</sup> Century two storey building and a small single bay brick building attached to the western wall. Both buildings are the former manse and caretaker's cottage to the listed Trinity Methodist Church and both buildings are locally listed. The condition of the building is poor, having suffered a fire which has destroyed many of the original internal features and is at risk of further damage to the historic fabric. Due to this poor condition there is an immediate need to refurbish the building with a use to avoid the loss of further historic fabric.

The surrounding street scene has a number of good examples of Victorian and Edwardian buildings, with the locally listed Public house and Church of the New Testament in close proximity opposite the road and the listed Trinity Methodist Church to the east.

A new rear extension is proposed to the rear of the manse building. The extension is wider than the existing manse building which does detract from the appearance of the rear of the building but would cause 'less than substantial harm' to the locally listed building, to the setting of the adjacent listed building, and to the conservation area. This assessment is due to the works affecting the rear of the building and with the fire destroying much of the internal fabric, with almost total loss of stairwells, evidence of modifications to the internal layout occurring in the 70's so that the original internal layout is heavily modified and in some parts unrecoverable.

Any harm to a designated heritage asset does need to be given great weight in the balancing exercise of determining sustainable development. When considering developments of less than substantial harm in relation to a designated heritage asset, a balancing exercise should be undertaken as to the public benefit the works would have as well as the need to generate a new use of a building. The building is locally listed and therefore of local interest. The extension to the rear would not be highly visible and some mitigation is provided by the maintaining of detailing and materials which are in keeping with the existing building. Although the proportions would be better if in line with the existing building, on balance the reuse of the building which includes refurbishments, and maintenance of the building, as well as providing housing need are positive factors of the development which would outweigh harm caused by the addition of the extension.

**Environmental Health** – No objections.

**Historic England** – No objections.

**Landscape** – No objections subject to securing landscaping details. A condition is recommended. The proposed grass verge along the road frontage is unsuitable in this location as it will be difficult to maintain and is out of keeping with the retention of a Victorian building. Either a new brick wall with ideally a stone/brick coping (to match existing building) and/or vertical bar fencing with finials to the front would be preferred or a more contemporary alternative may be acceptable. The remainder of the frontage could be either low shrubs, a hedge or suitable paving with specimen shrubs. The recommended condition seeks to secure this.

**Police** – This is one of the highest crime areas on Walsall Local Policing Team so Secure by Design specifications are recommended. A note for applicant is recommended to address this.

**Pollution Control** – No objections.

**Public Rights of Way** – No objections. A Definitive Public Footpath recorded as Footpath 78 Willenhall and known locally as Malthouse Lane, runs alongside the northern boundary of the site. The site boundary with the footpath comprises a mix of old brick/ breeze block walls and a low metal guard rail/gate section between two walls. There may be private pedestrian or vehicle rights in existence to the site

through the metal guard rail section, although records of this are not held by public rights of way.

The Heritage Design and Access Statement confirms that all pedestrian access to the development would be from Union Street and that 1.8m high closed board fence would be provided around the perimeter, essentially closing off any existing pedestrian or vehicle access from the adjoining public right of way. Closing the access will avoid any conflict between pedestrian and vehicle movements and it would help to keep the site secure. There would however, be a requirement to ensure that the existing and proposed site boundary does not form a hazard or obstruction to path users and offers an appropriate level of security and privacy to residents.

The proposals should ensure that there is no encroachment on the public footpath.

**Strategic Planning Policy** - No objections. The investment in the district centre is welcomed. The scheme does not involve the loss of any centre uses and whilst a comprehensive approach with Development Opportunity WH4II (the indoor market site) would have been welcomed there is insufficient reason to object to the current proposals.

**Transportation** – No objections subject to a condition to secure cycle storage provision. The site presently has no parking and none is proposed. UDP policy T13 requires 11 flats to have 19 spaces including 2 disabled parking spaces. UDP policy H3 states that when considering appropriate building conversions to dwellings the Council will look at the standards for parking and amenity space flexibly. Also the site is located within Willenhall Town Centre which is a relatively sustainable location with good public transport links and easy access to community facilities and general town centre car parks. Additionally there are parking restrictions on the immediate roads surrounding the site to control any indiscriminate parking.

### **Public Participation Response**

None received.

### **Determining Issues**

- Principle of residential development
- Layout and design
- Impact on the Designated Heritage Assets and character and amenity of the Conservation Area
- Relationship to surrounding properties
- Access and parking
- Local Finance Considerations
- Provision for Urban Open Space

## **Observations**

### **Principle of residential development**

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

The buildings were originally the Manse and caretakers cottage for the adjacent Listed Church so are already classed as residential properties.

The re-use for flats will make more effective use of the buildings and will cater for smaller households. It will also bring the building back into positive use and improve the appearance of the locally listed building.

The principle of conversion for 11 flats is considered acceptable.

### **Layout and Design**

The proposal retains the original locally listed buildings with a large extension to the rear. The refurbishment of the original buildings is welcomed and the design of the extension, although large, does respect the character and appearance of the original buildings.

The layout provides adequately sized self-contained flats and allows for cycle and bin storage provision and a small shared amenity area for occupiers. The site is within Willenhall centre so there will be alternative amenity benefits for future occupiers besides the shared space. It is close to local shops and services and public transport.

A condition is recommended to prevent conversion of the flats to HMO's in order to prevent the fear of crime, particularly given the Police comments that this is a high crime area.

The developer has provided a Coal Mining Risk Assessment which is being reviewed by the Coal Authority in order to address their objection. Comments will be updated at committee.

It is recommended that details of boundary treatments and landscaping are secured by condition to address matters raised by the community safety officer, landscape officer and public rights of way officer. Similarly details of drainage are to be secured by condition.

The layout and design of the proposals are considered acceptable.

## **Impact on the Designated Heritage Assets and character and amenity of the Conservation Area**

The proposed conversion and extension will improve the appearance of these derelict buildings which are Designate Heritage Assets in so far as they are locally listed buildings within Willenhall Conservation Area and affect the setting of the adjacent listed building.

There will be no material change to the front elevation of the buildings facing Union Street and whilst the proposed rear extension is wider than the existing buildings it causes less than substantial harm to the locally listed building, to the setting of the adjacent listed building, and to the conservation area. There is little of the original interior left in the building due to fire damage. The extension is visible from Malt House Lane but as the detailing and materials are in keeping with the original buildings it has less than substantial harm on the character or amenity of the conservation area.

The conservation officer is satisfied that the proposals will have less than substantial harm in relation to a designated heritage asset, and the public benefit the works would have in terms of generating a new use for the building weigh in favour of the proposals.

The proposals accord with UDP policy WH3 which encourages owners to invest, maintain and improve their properties.

For these reasons the proposals are considered acceptable and have no significant impact on the Designated Heritage Assets including the locally listed building, conservation area and listed building.

### **Relationship to surrounding properties**

The site is in a mixed commercial area of Willenhall and there are no residential properties in the immediately adjacent buildings.

The proposed extension draws closer to Malt House Lane and the job centre than the existing building but as these are offices and not residential properties the proposals do not cause any significant harm to the outlook from the job centre.

The incorporation of a residential use does not prejudice the use of any of the adjacent properties.

The relationship to the surrounding properties is considered to be acceptable.

### **Access and parking**

There is no parking provision for the proposed flats but the site is in Willenhall centre where there is access to alternative means of travel. The proposal is also for one bedroom flats which are not expected to be occupied by families and so the nil parking provision is acceptable. There are also public car parks opposite and elsewhere in the centre. Cycle parking provision on site gives the opportunity for residents to use this alternative means of travel.

The Transportation officer has no objections to the proposals or lack of parking. UDP policy H3 allows the parking standards to be applied flexibly where buildings are being converted, particularly as the site is in Willenhall centre with good public transport links and easy access to community facilities and general town centre car parks. Parking restrictions on the immediate roads surrounding the site will control any indiscriminate parking.

The proposal does not have any significant impact on the Definitive Public Footpath in Malt House Lane subject to securing details of the boundary treatment and ensuring that the right of way is not obstructed or encroached upon. Details of boundaries are to be secured by condition.

The means of access to the building is acceptable and the lack of on-site parking is acceptable in this instance.

### **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 11 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.

### **Provision for Affordable Housing and Urban Open Space**

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 £7,623.00. The developer has advised that they will enter into a S106 Agreement to secure this provision.

## **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 plans and relevant supporting information has 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 towards urban open space and subject to resolving the Coal Authority objection.

### **Conditions**

1. The development must be begun no 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: -

- Existing Plans & Elevations (1838/01A) received 21/10/15
- Proposed Plans & Elevations (1838/02A) received 21/10/15
- Heritage & Design & Access Statement prepared received 29/09/15
- Contaminated Land Desk Study Report prepared by envirep.co.uk (64313R1) received 17/11/15
- Coal Authority Mining Report received 21/10/15
- Preliminary Coal Mining Risk Assessment prepared by Geosmart Information received (64513R1) received 07/01/16

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

3a. Prior to 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.

3b. 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.

4a. Prior to the commencement of development full details of the following matters shall be submitted to and approved in writing by the local planning authority:

- i. A window schedule detailing the condition of each window and the expected repair or replacement of each window,
- ii. Details as to the repair/ refurbishment of the front bay windows
- iii. Details as to the repair/refurbishment of the stone surround of the eastern facade

- iv. All joinery including doors and windows to be of timber construction and painted white with breathable paint which allows water vapour to penetrate
- v. New slate roof (samples of which need to be approved)
- vi. Details of rainwater goods (to be metal on the existing building)
- vii. Samples of brick to be used on the extension

4b. The development shall be implemented and maintained in accordance with the agreed details.

*Reason:* To ensure the materials throughout the development harmonise with those in the surrounding vicinity and the original building.

5a. Prior to the first occupation of the development, a 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:

- Provision and details of boundary treatments
- Details of all hard surface materials

If soft landscaping is proposed then the following details should be provided:

- Use of imported topsoil to agreed British Standard, unless detailed soil analysis is provided to prove suitability of existing site soils.
- Topsoil depths – shrub/hedgerow planting areas should be at least 450mm : grass seeded /turfed areas should be at least 150mm.
- Details of any proposed tree/plant species, number of plants/shrubs, size at time of planting, density, ground surface treatment, tree support and tree pit details including mulching. full details of sizes/ container volumes/ seed mixes/ plant numbers botanical and English names and methods of planting.
- details of proposed turf / seeded areas

5b. The approved landscaping shall be implemented within 12 months of any part of the development being brought into use.

5c. All planting shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any trees, shrubs, plants or seeded area 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. Seeded areas shall be reseeded with an identical seed mix to that previous used or equivalent approved in writing by the LPA.

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

6a. Prior to the development first coming into use, full details of the proposed cycle shelter for the use residents, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and the facility shall be fully implemented in accordance with the approved details.

6b. The cycle shelter facility shall thereafter be retained and used for no other purpose.

*Reason:* To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

7. Notwithstanding the details of boundary treatments required under condition 5 of this permission full details of proposed boundary treatments shall be submitted to and agreed in writing with the local planning authority, including the boundaries adjacent to public rights of way adjoining/ within the site boundary and the relationship of proposed boundary treatments with the public footpaths and the existing site boundary wall/ metal railing. A structural survey is required to confirm the stability of any existing boundary walls to be retained and the fixings of any new walls and fences to be attached to this.

*Reason:* In the interests of highway safety.

8. Notwithstanding the details of landscaping required under condition 5 of this permission details of any proposed trees and landscaping alongside the public footpath shall be submitted to and agreed in writing with the local planning authority to ensure no encroachment from overhanging branches or tree roots and implementation of any necessary measures to mitigate this.

*Reason:* In the interests of highway safety

9. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015, or succeeding orders, no change of use within the provisions of Schedule 2, Part 3, Class L shall take place to change the flats hereby approved from Class C3 (dwellinghouses) to Class C4 (houses in multi occupation without first applying for planning permission.

*Reason:* To prevent the fear of crime.

### **Note for applicant – Public Right of Way**

1. In accordance with the Highways Act 1980, all fences and walls alongside the adjoining public footpath must be included within the routine site maintenance regime for perpetuity, checked regularly and repaired or replaced as necessary at the earliest opportunity. Any trees or landscaping must be regularly cut back to avoid encroachment or obstruction onto the adjoining public footpaths.

2. In accordance with the Highways Act 1980, Lawful and Unlawful Interference with the Highway, prior to commencement of any work adjacent to or within the adjoining public footpath the applicant must provide details of the proposed work to Highways, Walsall Council and apply for any necessary permits including a scaffold permit and/or temporary prohibition of traffic order. Upon completion, the applicant must reinstate the public right of way to its present condition. No excavations, scaffolding, hoarding, movement and storage of materials, or other obstructions associated with

the proposed development are to be present within, over or under the adjoining public right of way without prior agreement of the highways authority.

### **Note for applicant - Police**

The developer is advised that Secure By Design specifications will significantly increase the security of the building (doors and windows). Information can be found at [http://www.securedbydesign.com/pdfs/SBD\\_New\\_Homes\\_2014.pdf](http://www.securedbydesign.com/pdfs/SBD_New_Homes_2014.pdf)

1. Ground floor and Accessible windows (windows that can be accessed via flat roof or other means) must meet PAS 24 2012 P1A standards with at least one pane of laminated glass to a minimum thickness of 6.4mm or glass successfully tested to BS EN 356:2000 resistant to manual attack P1A.

2. All ground floor windows need to have an area of defensible space across them. This should be in the form of a densely planted area 1m deep and covering the length of the ground floor window.

3. ALL doors (External and internal) should meet PAS 24 2012 standards. NB/ Main entry and exit doors should have a self-closing / locking mechanism in place. Where thumb turn locks are to be utilised consideration should be given to the 'By Pass' method of entry, a simple and effective method used by offenders to gain entry to thumb turn cylinders. Any thumb turn cylinder used should be designed so that it cannot be 'by passed'. All doors need to be fitted with letter box internal protectors, this will help reduce the risk of the thumb turn lock being manipulated from the outside.

4. There should be a vandal resistant access control system in place on publicly accessible entrance doors. The system should be linked to a vandal resistant intercom system linked to each flat, which provides clear two-way audio.

5. In its current location the bikes store can be readily seen and identified and there is unrestricted access to the cycle storage area. These will not be used by residents as they expose their pedal cycles to crime and the elements. Any proposed relocation would only be acceptable if the storage provided was in the form of a secure building, such as the TPR Enviro friendly storage sheds which is a secure by design approved product with high security properties such as metal door, multi point high security locking mechanism, structure made from recycled plastic but as hard as concrete.

6. All external doorways and parking areas should be well light to appropriate British Standards.

7. Unauthorised persons should not be able to gain access around the rear and side of the building. In order to prevent this and to help secure the vulnerable rear of the premises a 2.1m fence should be erected. Where panel and concrete post style fencing is to be used there needs to be a fixing between panel / slats around the posts which should create a secure mechanical bond. This should provide a chain linking effect where each panel and post acts in concert with the next to resist attack by pushing, pulling and lifting. Fixings should be made of galvanized steel or stainless steel with a design life to match the timber components.

8. The side gate should also be 2.1m in height and be key lockable from both sides with a mortise type lock.

**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 04-Feb-2016

**Plans List Item Number: 4.**

**Reason for bringing to committee: Major application**

**Location:** LAND ADJACENT TO WILLENHALL LAWN CEMETERY, BENTLEY LANE, WALSALL, WV12 4AE

**Proposal:** EXTENSION TO EXISTING CEMETERY, RE-ROUTING OF PUBLIC RIGHTS OF WAY (WILL 35,36,37), LANDSCAPING AND SUSTAINABLE DRAINAGE.

**Application Number:** 15/0744/FL

**Case Officer:** Paul Hinton

**Applicant:** Walsall Council

**Ward:** Short Heath

**Agent:** Mr Jag Raan

**Expired Date:** 25-Aug-2015

**Application Type:** Regulation 3 Consent

**Time Extension Expiry:**

**Recommendation Summary:** Grant Permission Subject to Conditions



## **Application and Site Details**

This application seeks planning permission for an extension of Willenhall Lawn Cemetery and the re-routing of public rights of way (Will 35,36,37) The extension would increase the site area by 1ha and would be served by the existing vehicle access from Bentley Lane and continuation of the access road through the existing site with a 6m surfaced access road and a turning circle at the end. A new pedestrian access would be provided from Bentley Lane close to the turning circle, to the south of the turning circle a spoil storage area is proposed. With the exception of the new pedestrian access a 5m tree belt to the boundary with Bentley Lane would be retained and enhanced. New tree and hedge planting is proposed around the spoil storage area. The site would be secured by 1.8m high metal railings to the Bentley Lane boundary which would match the existing cemetery boundary, with the remaining boundaries being 2.2m high weldmesh fencing. Land levels will be altered to create a graded surface varying between plus or minus 0.5m. A 1m deep attenuation basin is proposed to the north.

The existing public rights of way running north to south along the boundary of the cemetery would be closed, with the PROW running from east-to-west re-routed further to the south.

This is an undeveloped irregular shaped site bounded by Bentley Lane to the north, a pick-up and drop-off car park for the Willenhall School Sports College to the east, with the school building to the south and the existing Willenhall Lawn Cemetery to the west. Old Hall Special School is further to the east. The site is dominated in the eastern, central and south-western areas by dense tree groups. Three grassed clearings are located in the north-east corner, north-western area and southern area of the larger site with desire line footpaths. A tarmac footpath bisects the site in a diagonal from the southeast corner to midpoint on the northern boundary linking the school entrance with Bentley Lane. Although well used, this path does not form part of an adopted Public Right of Way. The site slopes down from south-west (149.86m AOD) to north-east (148.22m AOD).

The following documents have been submitted with the application:

### *Design and access statement*

- Existing cemetery was first developed in 1966, extended in the 1990s and now has limited space available for future burials and with the current rate of burials will be at capacity in five years.
- Recent survey showed that 70% of visitors live within 2 miles of the cemetery and 44% came on a weekly basis.
- Existing public rights of way will be subject to a stopping up/diversion order, a new 3m wide alternative footpath is proposed with the lifting of the crowns of the trees to also improve the route.
- In addition to retaining most of the boundary trees additional planting will be incorporated.
- Additional parking will be on road and will allow for passing traffic.
- There will be extensive tree planting included as part of the proposed development to compensate for the removal of the trees.

- South-eastern corner will be used for the storage of spoil, using grasscrete blocks and bounded by a low shrub fence.
- Boundary fencing will be retained where possible and new fencing will be closed matched with the existing style and colour.
- The public footpaths which runs through the site will be redirected and improved with a 3m wide tarmac surface.
- Proposed landscaping is based on a low maintenance landscape scheme with a mix of ornamental and native planting, using mainly grass and trees.
- The extension will provide additional burial space for a further 15 years.

#### *Ecological Assessment*

- No features that would justify designation as a wildlife site on botanical grounds.
- No evidence of protected species.
- Site clearance must take place outside the breeding bird season (mid February to September inclusive).
- Site is visually attractive and has ecological structural diversity which would take many years to replicate.
- Recommended that attractive paths are maintained through the sites.
- Recommend that as much as possible of the existing vegetation is retained and a landscape different to that of the ecologically sterile existing lawn cemetery is created.

#### *Geo-Environmental Investigation*

- Recommends:
  - Stabilisation of the shallow mine workings by grid drilling and grouting beneath the proposed extension site.
  - Further review of records to determine the specification used to stabilise the existing capped shafts.
  - Probing to locate the three further mine shafts.
  - Review of specific design requirements if structures are proposed.

#### *Tree report*

- Groups of trees could be picked out of the existing tree stock on the site and retained as landscape features.
- Most of the trees are young enough to cope with altered exposure if the area of some of the tree groups need reducing.
- The northern shelterbelt will provide continuity with the existing cemetery but may limited design proposals.
- Overall it is not thought that any single tree should impose a constraint on the site development, the proposal will provide multiple locations for more suitable new planting and landscaping.

#### *Transport Statement*

- Parking at the site is sufficient and no additional parking is expected to be required for the proposed extension.
- The site has good public access, bus stops are located within a short distance of the cemetery and the area is served by a number of routes. Pedestrian and cyclist access to the site is good.

- Average daily trips have been estimated, it can be concluded that the proposed development is unlikely to have any significant affect on the surrounding highway network.

#### *Surface Water Drainage Strategy*

- Site not suitable for infiltration, it is proposed that surface water from the new roadways will discharge to the public surface water sewer.
- Source control features in the form of filter drains
- Use of filter drains and swales in lieu of pipelines wherever possible with a design storm of a 1 in 30 years return period.
- Overland flows from burial areas will be directed to swales/drainage channels and filter drains taken to the discharge location via storage features designed to accommodate 1 in 100 year return period storm events with 30% allowance for climate change.

#### *Flood Risk Assessment*

- Outside of flood risk zone, does not lie within a groundwater protection zone.
- Most risk of flooding is from the on-site drainage system
- Ground conditions are unlikely to permit the use of infiltration as a method of drainage.
- Surface water discharge from the site should be limited to equivalent greenfield rate of runoff.
- Design should allow for excess runoff from an exceptionally intense local rainstorm to be confined for the duration of the storm within the site.

#### *Further supporting statement*

- The catchment area for the cemetery extension is mainly areas to the west of the M6 corridor, including Bentley, Darlaston, Moxley, Willenhall, Short Heath, New Invention and parts of Bloxwich.
- Average coffin burial rate is 120 graves per year.
- If the cemetery is not extended the Council will only be able to offer full coffin burials at North Walsall or Streetly cemeteries. The only other local burial provision for residents from the above areas will be Bushbury Cemetery in Wolverhampton and Fallings Heath Cemetery in Wednesbury. Potentially Walsall residents would have to pay a considerably larger sum to a neighbouring authority to bury a loved one.

The application was originally presented as an extension covering most of the undeveloped land between the cemetery and the school including new vehicle access, re-routing the public rights of way and upgrading public rights of ways leading up to the site. The proposal has been amended during the application process following discussions with officers and re-consultation has been undertaken.

#### **Relevant Planning History**

BD16217P – Change of use to cemetery on 7 acres of land. Granted subject to conditions 28/7/1986.

#### **LAND AT CALDERFIELDS FARM, ALDRIDGE ROAD (TO REAR OF LONGWOOD COTTAGES), WALSHALL**

12/1572/FL - Change of use of land to form cemetery with associated parking, paths, access roads, landscaping, nature conservation area and reception building following demolition of existing buildings.

Appeal dismissed (21/7/14) on the principle grounds of proposed change of use comprises inappropriate development where no very special circumstances exist.

Timmins and Anor v Gedling Borough Council (Court of appeal) 2015

Establishes that a material change of use of land within the Green Belt to a cemetery would be inappropriate development.

## **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:

1. Delivering sustainable development

19 Planning should encourage sustainable growth.

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.

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.

8: Promoting healthy communities

70 Decisions should aim to achieve...safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life, containing clear and legible pedestrian routes. Ensure that established facilities and services are able to modernise in a way that is sustainable

9: Protecting Green Belt land

79 Green Belt policy is to prevent urban sprawl by keeping land permanently open.

80 The Green Belt serves five purposes:

- Check the unrestricted sprawl of large built up areas
- Prevent neighbouring towns merging into one another
- Assist in safeguarding the countryside from encroachment
- Preserve the setting and special character of historic towns
- To assist urban regeneration, by encouraging the recycling of derelict and other urban land

81 Once Green Belts have been defined, local planning authorities should plan positively to enhance the beneficial use of the Green Belt.

87 Inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.

88 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

89 Construction of new buildings are inappropriate development in Green Belt, with the exception of...provision of appropriate facilities for...cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

10. Meeting the challenge of climate change, flooding and coastal change

103 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 site-specific flood risk assessment.

11. Conserving and enhancing the natural environment

109. The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity...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.

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.

123. Planning decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts

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](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.

This checklist has been published on the BCCS and Council websites. Cabinet on 24<sup>th</sup> July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

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. Green Belt boundaries will be maintained and protected from inappropriate development.  
CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

CPS4: 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 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.

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.

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.

ENV5: Flood Risk

The Black Country Authorities will seek to minimize the probability and consequences of flood risk by adopting a strong risk-based approach

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.

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](http://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:

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.

VII. The adequacy of the access, and parking.

VIII. The effect on the environment of the countryside and Green Belt

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

XIV. The effect on open spaces and outdoor recreation facilities, including footpaths.

XV. Implications for water resources

3.3 Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

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

3.7 Seek to protect people from unacceptable noise, pollution and other environmental problems.

ENV2 d) Any engineering or other operation, or the making of any material change in the use of land, is inappropriate development in the Green Belt if it conflict with the openness and purposes of the Green Belt.

ENV4.

e) Where development is consistent in principle with the purposes of the Green Belt the Council will require that its siting, design, form, scale and appearance is compatible with the character of the surrounding area.

ENV3: Identifies more detailed considerations for proposals in the Green Belt, including detailed layout, quality of new landscape schemes.

vii. The cumulative physical effect of proposals in any one area.

ENV7: The Countryside Character approach to landscape assessment, conservation and enhancement is recognised and supported.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution caused by installations or activities that are a source of any form of pollution.

ENV17: Planting will be promoted as part of landscape design around new developments or redevelopment schemes as a condition of the planning permission.

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: Proposals must take account of opportunities for nature conservation.

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:

III. On a visually prominent site

IV. Adjacent to transport corridors.

IX. Within Green Belt

(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.

III. The materials proposed.

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

V. Community safety and security.

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.

VIII. The proposed vehicular and pedestrian circulation patterns.

ENV33: Good landscape design is an integral part of urban design. Development within the Green Belt should be supported by full details of landscape proposals.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

T4: On District Distributors street parking and direct frontage access will be strictly regulated.

#### **T7: Car Parking**

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

T8: Encourages greater use of walking as a healthy and sustainable form of travel. Seek to safeguard, improve and rationalise the statutory public footpath and bridleway network. Any changes to statutory rights of way should aim to make access to the countryside easier.

T9: Cycle routes should provide a functional, direct link within and between different communities, centres and other destinations.

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

T11b) Developments which generate significant numbers of personal trips should have direct, safe and attractive access for pedestrians, cyclists and wheelchair users. C) Where pedestrian and cycle links are considered to be sub-standard, measures must be taken to improve them.

T13: Seeks an appropriate level of car parking for each development. There is no specific standard for cemetery development.

LC1: The Council will seek to retain and enhance existing urban open spaces and redress any deficiencies in the provision or accessibility of these. Proposals for development which would result in the loss of, or otherwise adversely affect, urban open spaces will not be permitted.

LC11: Site proposed for the future extension of the cemetery at Bentley Lane.

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.

DW3 – all new development must be designed to respect and enhance local identity

DW6 – new development should contribute to creating a place that has a clear 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.

#### **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 Designing Walsall Supplementary Planning Document are consistent with the NPPF.

### **Consultations**

**Planning Policy** – site is allocated within the UDP as policy LC11. The applicant should provide some evidence in relation to need and the selection of the site over alternatives.

**Transportation** – no objection.

**Public Rights of Way** – no objection subject to the use of recommended conditions in regard to final footpath design and requirement of stopping up and diversion order.

**Pollution Control** – no objection. Note for applicant.

**Flood Risk Planning & SuDs Officer** – no objection subject to use of recommended conditions in regard to drainage details.

**Environmental Health** – no objection.

**Natural Environment (Ecology and Landscape)** – no objection, but landscape scheme requires further attention.

**Natural Environment (Trees)** – no objection in principle, concern about the current layout.

**Severn Trent Water** – no objection.

**Coal Authority** – no objection subject to the use of a condition requiring site investigation.

**Police Crime Reduction Officer** – no objection.

**Fire Services** – no objection subject to provision of suitable water supplies.

### **Public Participation Responses**

Site notice displayed, press notice issued and surrounding occupiers notified by letter.

In regard to the original submission of a larger proposal, six letters were received objecting to the planning application on the following grounds:

- Taking last piece of Rough Wood.
- Not much space left for wildlife.
- There are fields across the road that could be dug up.
- Existing parking problems from the school.
- More concerned with dead than the living.
- Did not buy house to have view of cemetery.

- Bats are roosting in the wooded area.
- Small mammals will have to relocate to direction of houses.
- Loss of property values (not a material consideration).
- New alleyway will create a long corridor or anti-social behaviour, drugs and litter.
- Wayside Gardens and Tree Tops Drive are cul-de-sacs and are not wide enough to take the extra traffic.
- Central gated pathway will cause extra car parking problems in Wayside Gardens
- Pathways will bring an increase in anti-social behaviour.
- Will affect the mature hedge screening at the end of both Wayside Gardens and Treetops Drive.
- Paths will put more school children at risk from the drug problem that currently exists.
- One attending a funeral would not want children coming out of school through the cemetery.
- Told last time extending the cemetery would not go any further.
- Plans on line were not the same at the Council offices.
- Will Council compensate loss of property value (not a material consideration).

A petition with 354 signatures has been received objecting to the application.

One letter was received not objecting to the application.

Following amended drawings and re-consultation, two letters from the same property were received objecting to the application on the following grounds:

- To turn home into a through road would be unfair
- Object to through road

Two letters were received stating no objection to the amended plans, with one commending the planning team for extra work and time spent on the project to bring it to a successful conclusion.

### **Determining Issues**

- The principle of cemetery development in the Green Belt
- Impact on the character and appearance of the area
- Impact upon residential amenity
- Impact on flooding/surface water drainage
- Impact upon ground conditions
- Impact on ecology and landscaping
- Impact on trees
- Access and Parking

## **Observations**

### **The principle of cemetery development in the Green Belt**

UDP policy ENV2 states the material change in the use of land is inappropriate development if it conflicts with the openness and purposes of the Green Belt. The area of the cemetery shown on the proposed plans are both in the West Midlands Green Belt and within the area defined on the UDP proposal map qualified by policy LC11 which proposes this area of land for the future extension of the cemetery.

Paragraph 11 of the NPPF states that the framework does not change the statutory status of the development plan as the starting point for decision making. Paragraph 81 indicates that, once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use. While the NPPF (as confirmed through the Gedling case) considers a change of use to a cemetery as inappropriate development in the Green Belt, since 2005 the UDP under policy LC11 has specifically allocated (and in regard of NPPF paragraph 81 defined) this part of the Green Belt for a future extension to the cemetery. Therefore the principle of the extending the cemetery within in this part of the Green Belt has been considered to be acceptable through the plan making process.

Notwithstanding this policy designation, it is reasonable through this application and in the interests of sustainable development to explore why the development of this Green Belt site is being progressed over any other potential cemetery sites in the borough.

- The applicant explains that of the eight cemeteries run by the Council within the borough, only three have capacity for new burial plots. North Walsall in Bloxwich at current rates has capacity for another 75-100 years, at Streetly this is 20 years and within the boundary of the existing site, another 5 years. While none of the cemeteries are exclusive to people living in the borough or living within a particular area of the borough, it is natural that families predominately seek for burials close to the neighbourhood they live in. While the borough has a longer term capacity at North Walsall and Streetly, in the absence of Willenhall being extended, beyond the next five years residents from Bentley, Darlaston, Moxley and Willenhall would need to make the journey to these other sites. In a worst case scenario this would be a travel distance of approximately 9.3km, and which for those travelling by sustainable means may include a couple of bus rides. It is acknowledged that the demographics lend towards visitors paying their respects being more elderly and any additional travel barriers may preclude the attendance and upkeep of graves. The alternative would be for Walsall residents to seek cemeteries outside of the borough and who in some cases charge a higher burial rate for non-residents. The applicant explains that being in use since 1966 means that many residents have strong connections to the cemetery. The planned extension will ensure that these already strong affiliations are reinforced as it will permit further family burials within the same area for generations to come. If an alternative site were used the connections would fracture as family members could not be buried within the same burial ground as their loved ones.

The cemetery has been in Bentley Lane since 1966 and has expanded in that time. It includes a permanent site office, vehicle access, car park and associated infrastructure. The site is well served by public transport and is within a residential area. A natural extension, as planned since the UDP adoption in 2005 would be a sustainable and cost effective way of continuing the local community service for a further 15 years. The alternative of developing a new cemetery within this neighbourhood would not be sustainable and could conflict with regeneration aspirations at other sites within the neighbourhood.

UDP policy LC11 was not revoked as part of the Black Country Core Strategy (which revoked some other UDP policies) and as part of the emerging work and evidence base on the preparation for the Site Allocations Document it is not proposed to remove LC11 allocation from the development plan documents. While limited weight can be given to the SAD, the current local policy position and the needs assessment explained above provide sufficient weight that the allocation for an extension on this part of the Green Belt is still relevant and not out-of-date. As the development plan is the starting point for decision making and UDP policy LC11 proposes this area of land for the future extension of the cemetery, the principle of an extension to the cemetery is acceptable.

One resident comments that the proposal would take the last piece of Rough Wood, the amended plans now retain open space between the schools and the cemetery. Another comments that there are more concerns with the dead than the living. It is prudent for the Council to consider the future needs of residents and their families while protecting residential amenity which this report considers. Comments have also been made about being told previously that the extension would not go any further, as explained the land has been allocated for an extension since 2005.

### **Impact on the character and appearance of the area**

Where development is acceptable in principle, UDP policy ENV3 requires detailed evaluation of proposals within the Green Belt. Openness is an essential characteristic of the Green Belt, with openness being considered to mean the absence of buildings or development. The site has a rural character and appearance being an open site with tree planting and while located between the edge of the existing cemetery and Old Hall Special School it is seen as part of the wider countryside. The proposal does not include any buildings; the site would be bound by 1.8-2.2m high metal fences, which like that used around the existing cemetery provides views through the site. The extension would include one central access road from the existing cemetery. Other built form would be headstones and associated infrastructure such as waste bins and water taps. Around the perimeter of the site a number of trees would be retained with opportunities for additional planting that would provide screening.

In comparison with the existing open space it is recognised that the proposal would be relatively innocuous in its effect upon the openness, but there would be by virtue of the associated paraphernalia associated with the day-to-day use of the cemetery it would nonetheless have some effect on the openness. Weight is given that in allocating an extension as part of the UDP adoption (policy LC11) it would have been recognised at the time that these ancillary features would be necessary. The design ensures continuity of the character derived from the existing extension and in main would retain wide open vistas across the site. It is considered that the character and

appearance of the development is acceptable and in accordance with the development plan and NPPF.

### **Impact upon residential amenity**

The edge of the extension would be 75m from the nearest houses along Wayside Gardens with a buffer of trees and hedges between screening any views. There are no new buildings and by their very nature, it is considered a cemetery would not give rise to unacceptable noise and disturbance.

One resident comments that they did not buy their house to have view of cemetery. It is common planning principles that nobody has a right of a view, but of outlook. The proposed extension would not bring the boundary of the cemetery any closer than existing and would therefore not result in a loss of outlook.

Comment has also been passed that plans on line were not the same at the Council offices. All plans submitted for formal consideration have been available on the website.

### **Impact on flooding/surface water drainage**

Both a Flood Risk Assessment and Surface Water Drainage Strategy have been provided in support of the development of this undeveloped site. The FRA states that the ground conditions are unlikely to permit the use of infiltration as a method of drainage and surface water discharge from the site should be limited to equivalent greenfield rate of runoff. The SWDS proposes surface water from the new roadways to be discharged to the public surface water drains, with filter drains and swales to assist attenuation and filtering of water. Flood Risk Planning & SuDs Officer raises no objection subject to securing detailed drainage designs which can be secured by condition.

### **Impact upon ground conditions**

The Coal Authority define the area as a Development High Risk; 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. A Geo-Environmental Investigation Report has been submitted. The Coal Authority records indicate that the site has been subject to historic underground coal mining at shallow depth and is also likely to have been subject to historic unrecorded underground coal mining at shallow depth. Records indicate the presence of seven mine entries (shafts) within, or with 20m of the planning boundary. The report confirms that drilling and grouting will be required to consolidate the shallow workings identified and that further clarity will need to be determined from probe drilling. As per the recommendations of the report the Coal Authority do not object to the proposal subject to the use of conditions requiring site investigation and where necessary remedial works prior to the commencement of development.

Pollution Control raise no objection to the application. A note for applicant is recommended in regard to health and safety of workers due to made ground in the locality.

### **Impact on ecology and landscaping**

An Ecological Assessment has been submitted with the application noting that there are no features that would justify designation as a wildlife site on botanical grounds and no evidence of protected species. It recommends site clearance outside the breeding bird season (mid February to September inclusive), maintain attractive paths through the sites and retain as much as possible of the existing vegetation.

The Council's Natural Environment Team have considered the proposal and note that the site has a developing nature conservation interest which has partly regenerated naturally and partly through tree planting. It is not designated for nature conservation and is not within a wildlife corridor. They note that while this development is not desirable in nature conservation terms, the proposed design will retain a proportion of the existing vegetation and result in the creation of new habitats.

The visual relationship between the cemetery area and the adjacent land is broadly satisfactory; cemetery users will see a more natural landscape beyond the semi-transparent weldmesh fencing. The proposed path is sufficiently far away from most of the proposed burial areas to not detract from the privacy of the cemetery extension. The proposal would require the clearance of a number of trees which in the early stages would appear as a stark transition between the retained wooded areas outside of the extended area and the cleared site. It is recommended that some trees are retained within the cemetery extension during the early years of its establishment which could then be removed when those areas are required for burials. The drawings do not demonstrate sufficient screening to the soil storage areas.

The proposed landscape plan does not provide full details but shows sufficient areas where compensatory planting can be accommodated to provide sufficient landscaping to the proposed extension in the interests of both visual amenity and offering ecological value while ensuring appropriate burial space is provided. Full landscape details, including phasing and maintenance arrangements can be secured by condition.

Natural Environment officers comment that the proposed path had a dog leg which may result in desire lines and the path could be designed to consider natural lines. The route of the path has been designed to minimise travel distance to Bentley Lane and also to ensure sufficient surveillance is provided for users.

One resident has commented that any works would make small mammals relocate to the direction of houses. There is a considerable distance between the site and houses, with areas of natural habitat for mammals within the retained open space between.

### **Impact on trees**

A tree report has been provided noting trees could be picked out of the existing tree stock on the site and retained as landscape features. Most of the trees are young enough to cope with altered exposure if the area of some of the tree groups need reducing.

The Council's Arboriculturalist comments that the plans show there will be very little in the way of tree retention along the Bentley Lane frontage and some of the details on the drawing do not match with what is on site. The extent of the proposed use does not leave much space for replanting along the Bentley Lane frontage and consideration should be given to retaining more of the existing trees while allowing for more replanting.

The officer considers that the proposed route of the PROW may also result in the loss of a considerable number of trees. There is an acute junction in the middle of the site which may not be desirable from a safety point of view and may result in the removal of more trees to open up the visibility aspects.

None of the trees are protected and the tree report categories most trees individually as either low quality or of no value. Collectively they have an amenity value and while compensatory planting can be provided the extent of this is balanced against burial space. Weight is given to the pockets of trees outside of the proposed extension area that, with the exception of the footpath would be retained. It is considered that compensatory planting can be secured by condition that would retain amenity value to the site.

The loss of trees to accommodate the revised PROW is regrettable, but this route has been chosen to minimise the travel distance and to ensure sufficient surveillance of the route. Alternative longer routes to avoid trees might increase travel distance and bring the route closer to boundary fences which reduces surveillance and may prohibit the success of the required stopping up order.

One resident comments that the development will affect the mature hedge screening at the end of both Wayside Gardens and Treetops Drive. This area is no longer part of the planning application.

### **Access and Parking**

Running immediately along the boundary fence to the east of the cemetery is a PROW recorded as Footpath 35,36, and 37 Willenhall which links the residential properties of Treetops Drive and Wayside Gardens to the south to Bentley Lane in the north. This PROW forks and has a further 'L' shaped section travelling from near to the southern application boundary in an eastern direction across the open space and then in a northern direction and onto Bentley Lane. An additional tarmac safer route to school crosses the site from Bentley Lane close to the bus stop to near to the entrance gate of Willenhall E-Act Academy. Within the site there are also desire line paths that have been formed. With the exception of a tarmac safer route to school path, the paths are unconsolidated, uneven and can become enclosed by vegetation or waterlogged at certain times of the year.

The proposed extension and boundary fences would necessitate the closure of the north to south route and re-alignment of the footpath running across the middle of the open space. The other non-statutory paths would be removed and the tarmac path from the school reduced by half and access continued along the relocated rights of way. At the point of realignment the new footpath would have a shale surface with timber edges. For users of the north to south footpath it would increase the travel distance by 150m to reach the original access points. For the users of the east to west footpath the travel distance would reduce by 20m to reach the original

access points. While it is recognised that travel distance would be increased the experience for users of the public footpath would be improved. The uneven, unconsolidated and overgrown footpaths would be replaced with a level consolidated surface where in addition immediate vegetation 1m either side will be cleared to increase surveillance of the path. A 'K' gate is also proposed to provide a barrier for any potential motorcycles getting access towards the residential areas to the south.

The Public Rights of Way Officer has considered the application and raises no objection. Conditions are recommended in regard to the final alignment and specification. A separate application under Section 257 of the Town and Country Planning Act 1990 will be required and any grant of planning permission does not permit any diversions or stopping up orders.

Residents raise concerns about the pathway creating a long corridor of anti-social behaviour and will put more school children at risk from the drug problem that currently exists. The Council had a duty to maintain access ways defined as PROW. The existing paths are enclosed by landscaping, uneven and of unconsolidated surfaces. They have a lack of surveillance and would discourage use. The proposed path would increase its attraction for use, increase surveillance due to its width and due to the shale surface also provide a noisier surface so users become aware of other users. The path would improve links to the school and Bentley Lane and overall improve the experience of use.

A Transport Statement has been provided noting that parking at the site is sufficient and no additional parking is expected to be required for the proposed extension. The site has good public access, bus stops are located within a short distance of the cemetery and the area is served by a number of routes. Pedestrian and cyclist access to the site is good. Average daily trips have been estimated, it can be concluded that the proposed development is unlikely to have any significant affect on the surrounding highway network.

Transportation raise no objection. An additional access from Bentley Lane is proposed in close proximity to the bus stop which would assist reducing walking distance for visitors coming by bus or from the west side of the site.

A number of neighbours raised concerns about Wayside Gardens and Treetops Drive being cul-de-sacs and not wide enough to take the extra traffic, with a through road being unfair and that the central gated pathway will cause extra car parking problems. The proposed access to the cemetery would be from Bentley Lane. Earlier proposals sought to improve the PROW leading from Wayside Gardens and Treetops Drive and include a path through the cemetery. These are no longer part of the proposal.

### **Positive and proactive working with the applicant**

Officers have been working with the applicant to address concerns with the original submission which have resulted in a re-design of the scheme to which full support can be given.

**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 application form and following plans and documents: -

- Location plan received 3/11/15
- Site survey received 14/5/15
- Proposed layout received 6/11/15
- Proposed landscaping received 6/11/15
- Proposed and existing rights of way received 3/11/15
- Proposed drainage layout received 6/11/15
- Existing contours received 6/11/15
- Proposed contours received 6/11/15
- Proposed longitudinal and cross sections (1 of 3) received 6/11/15
- Proposed longitudinal and cross sections (2 of 3) received 6/11/15
- Proposed longitudinal and cross sections (3 of 3) received 6/11/15
- Proposed general arrangements 6/11/15
- Design and access statement received 14/5/15
- Ecological Assessment received 14/5/15
- Geo-Environmental Investigation received 14/5/15
- Tree report received 14/5/15
- Transport Statement received 14/5/15
- Surface Water Drainage Strategy received 3/11/15
- Flood Risk Assessment received 14/5/15

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

3a) No development shall commence until an intrusive site investigation confirming the mining conditions and any remediation measures required to ensure the safety and stability of the proposed development have been submitted to and approved in writing by the Local Planning Authority.

3b) The development shall be undertaken in accordance with any approved remediation measures.

*Reason:* To ensure the safety and stability of the development.

4a) No development shall commence until details for a surface water drainage scheme, based on sustainable principles and the principles embodied with the *Opus Surface Water Drainage Strategy, dated March 2014, reference: J-B0596.00 R3.1 and Drwg No. HM683/05-01 Rev B - 'Drainage Layout'* has been submitted to for written approval by the Local Planning Authority. The scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of two treatment trains to help improve water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-

site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features.

4b) The scheme shall be fully implemented in accordance with the approved details and thereafter maintained.

*Reason:* To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site.

**INFORMATIVE:** Detailed design details shall include including cross-sections and capacity of the proposed balancing pond, swales & filter drains.

5a) No development shall commence until details identifying on-site pluvial flood flow pathways and a scheme to sympathetically route overland flows though the site to avoid burial areas has been submitted to and approved in writing by the Local Planning Authority.

5b) The approved scheme shall be fully implemented in accordance with *section 6.11 of the Opus Surface Water Drainage Strategy, dated March 2014, reference: J-B0596.00 R3.1 and approved drawing HM683/05-01 Rev B.*

*Reason:* To mitigate against overland flow and to steer flows to an appropriate area within the site.

6a) No development shall commence until full details of the final footpath alignment and specification have been submitted to and approved in writing by the Local Planning Authority. Details are to include path width, construction, drainage, signs/waymarker posts, verges and proposed landscaping within them.

6b) The development shall be completed in accordance with the approved details.

*Reason:* To ensure the satisfactory access provision for the relocated public right of way.

7a) Prior to the commencement of development full details of hard and soft landscaping works, including replacement tree planting and a timetable for planting shall have first been submitted to and approved in writing by the Local Planning Authority. These details shall include:

- correct botanical names
- numbers/planting densities for each block of planting proposed
- size supplied of all proposed tree and shrubs at time of planting
- details of proposed turf/seeded areas
- topsoil and mulching depths and specifications
- staking details for proposed trees
- details of landscape establishment / maintenance proposals to be undertaken during the standard conditioned maintenance period
- details of the phased clearance of trees required to be removed to ensure maximum tree cover until particular areas are required for burial space.
- ground preparation measures to be adopted.
- existing and proposed levels.

7b) The approved scheme shall be implemented in accordance with the approved timetable of works, retained for 5 years and managed in accordance with the approved management details. Any trees or plants, which die, are removed, or become seriously damaged or diseased, shall be replaced as soon as practicable with others of similar size and species.

*Reason:* To ensure the satisfactory appearance of the development and protect wildlife.

8) All site clearance shall take place outside the bird nesting season (the bird nesting season is March to September inclusive). Where this is unavoidable a breeding birds survey shall be undertaken by a suitably qualified and experienced ecologist prior to any works commencing. If breeding birds are discovered site clearance and other operations should be delayed until young birds have fledged. All wild birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 and subsequent amending legislation. It is an offence to damage or destroy a nest of a wild bird. If nesting birds are discovered clearance works should be delayed and advice sought from the ecologist or Natural England.

(Please note that feral pigeons are protected and destruction of nests could only take place on the grounds of public health or public safety.)

*Reason:* To protect local bird populations.

9) The weldmesh fence hereby approved shall be finish in a moss green colour.

*Reason:* In the interests of visual amenity.

## NOTES FOR APPLICANT

### *Coal Authority*

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for a Coal Authority Permit and further guidance can be obtained from The Coal Authority's website at:

<http://coal.decc.gov.uk/en/coal/cms/services/permits/permits.aspx>

Building over or within the influencing distance of a mine entry (shaft or adit) can be dangerous and has the potential for significant risks to both the development and the occupiers if not undertaken appropriately. The Coal Authority would draw your attention to our adopted policy regarding new development and mine entries:

<http://coal.decc.gov.uk/assets/coal/whatwedo/4265-policy-for-building-over-or-within-the-influencing.pdf>

### *Highways*

The grant of planning permission does not give authority to divert or stop up a footpath or bridleway. The diversion or stopping up of footpaths and bridleways is a separate process which must be carried out before the paths are affected by the development. An application must be made for a stopping up and diversion order under Section 257 of the Town and Country Planning Act 1990. New footpaths must be in place and existing paths are to remain undisturbed/ unaffected by the development until the order is completed.

In accordance with the Highways Act 1980, Lawful and Unlawful Interference with the Highway, prior to commencement of any work the applicant must provide details of the proposed work to Highways, Walsall Council and apply for any necessary permits including a scaffold permit and/or temporary prohibition of traffic order. Upon completion, the applicant must reinstate the public right of way to its present condition. No excavations, scaffolding, hoarding, movement and storage of materials, or other obstructions associated with the proposed development are to be present within, over or under the adjoining public right of way without prior agreement of the highways authority.

### *Pollution Control*

The report identifies that there is organic matter in made ground on the proposed development site and that it is located within 250m of a site (described as land north of Bentley Lane), both of which could be sources of elevated levels of ground gas. Therefore, in addition to any builder or contractor undertaking the development, this information should also be brought to the attention of the employer of any employees involved with activities associated with digging graves on the proposed development; in order that they can implement any Health and Safety at Work precautions they feel appropriate when undertaking work at the site.

**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 04-Feb-2016

**Plans List Item Number: 5.**

**Reason for bringing to committee: Significant community interest.**

**Location:** FOXHILLS FARM, BEACON ROAD, ALDRIDGE, WS9 0QP

**Proposal:** REDEVELOPMENT OF EXISTING RIDING STABLES AND RIDING SCHOOL BY THE WAY OF AN ERECTION OF 4 NO. DWELLING HOUSES WITH ASSOCIATED WORKS INCLUDING THE ALTERATION OF EXISTING SITE ACCESS, FOLLOWING DEMOLITION OF EXISTING BUILDINGS ON SITE.

**Application Number:** 14/1552/FL

**Case Officer:** Katie Parsons

**Applicant:** Kingscliffe Property Company

**Ward:** Pheasey Park Farm

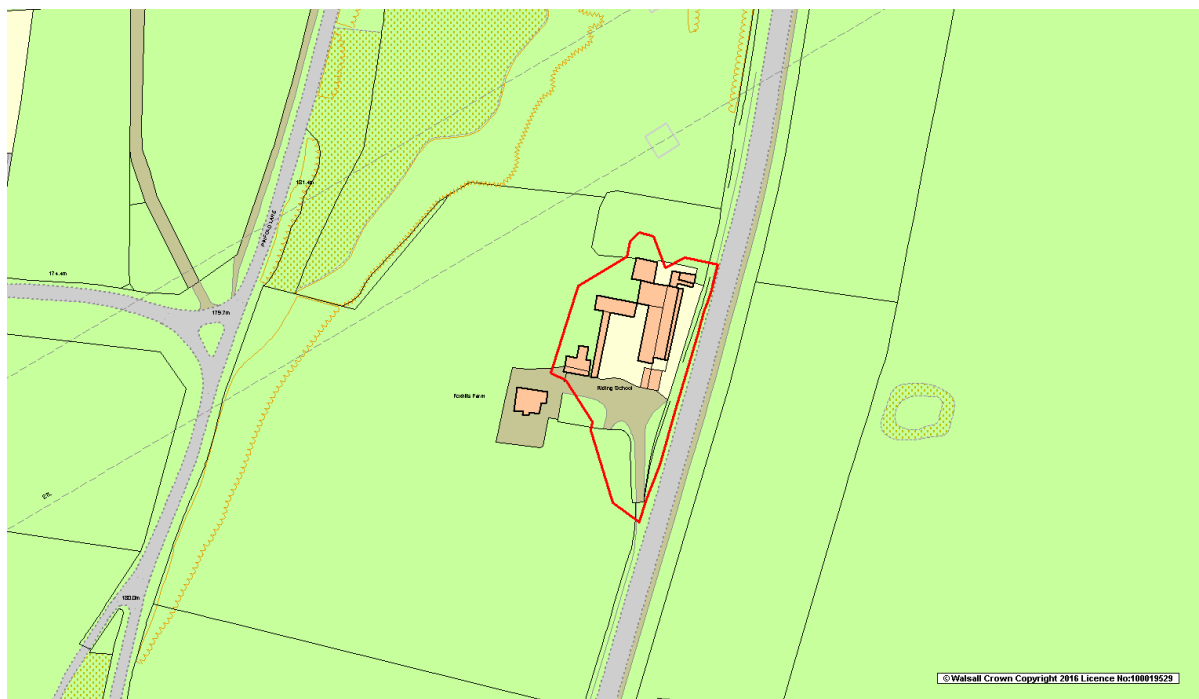
**Agent:** CT Planning

**Expired Date:** 09-Dec-2014

**Application Type:** Full Application

**Time Extension Expiry:** 31-Jan-2016

**Recommendation Summary:** Grant Permission Subject to Conditions



## Status

Following the publishing of the 7/1/16 planning committee, consultee responses were received regarding the amended planning application just before planning committee. The report was subsequently withdrawn from planning committee to allow officers time to assess the comments and to liaise with the applicant. The report has now been updated to take account of any new comments received in the intervening time between the publishing of the report for January's committee and the drafting of this report. The recommendation of the report has been amended to grant subject conditions.

## Application and Site Details

The application site contains a riding school and livery business, located on the western side of Beacon Road. It is accessed via an existing access serving the business and also a farmhouse. Existing buildings are predominantly single storey timber construction with a large ménage. The site covers approximately 0.5 hectares and rises to the north and north-west. Immediately to the north of the site is a National Grid overhead power line and pylons. The site is within the Great Barr Conservation Area and within the Green Belt. The site is within a wildlife corridor running along the Barr Beacon Ridge and adjacent to the Beacon Quarry Site of Importance for Nature Conservation and Local Nature Reserve.

The proposal is to demolish all existing buildings within the red line and redevelop the site for four detached bungalows, with associated external works including alterations to the existing access. The existing access road would be altered and extended to run parallel to Beacon Road. The four four-bedroom single storey bungalows would have detached garages as well as on-plot parking, in a staggered line leading off the access road. The existing two-storey farmhouse is outside the red line and would remain as existing, sharing access with the development. The materials would be brown, grey/brown and red/brown clay plain roof tiles and red/brown facing brickwork, stained timber boarding and white sand cement render. The applicant has agreed to the removal of the ménage as part of the proposal, with it become part of the landscaping proposals. The ménage is outside the redline plan, although it is within land controlled by the applicant.

The application has been supported by: site survey, proposed plans and elevations, 3D visualisations and sections, tree survey, landscape plan and report, ecological assessment and bat report, design and access statement, planning and heritage statement, transport statement. The plans illustrate the existing structures footprint and volume in comparison to the proposed footprint and volume;

- Existing footprint of the structures to be demolished is 649.84 square metres
- Proposed footprint of the four bungalows and garages is 558.32 square metres.
- The existing volume of the structures to be demolished is 1863.65 cubic metres
- The proposed volume of the four bungalows, chimneys and garages is 1859.34 cubic metres

The application is below the thresholds for screening under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) and does not require an Environmental Statement.

## Relevant Planning History

None.

## 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:

- Be genuinely plan-led
- Proactively drive and support sustainable economic development
- 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, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside
- Support the transition to a low-carbon future in a changing climate
- Contribute to conserving and enhancing the natural environment and reducing pollution
- Encourage the effective reuse of land
- Conserve heritage assets
- Actively manage patterns of growth

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](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:

CSP2: Development Outside the Growth Network

CSP3: Environmental Infrastructure

CSP4: Place Making

CSP5: Transport Strategy

HOU1: Delivering Sustainable Housing Growth

HOU2: Housing Density, Type and Accessibility

TRAN2: Managing Transport Impacts of New Development

TRAN5: Influencing the Demand for Travel and Travel Choices

ENV1: Nature Conservation

ENV2: Historic Character and Local Distinctiveness

ENV3: Design Quality

ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island

ENV6: Open Space, Sport and Recreation

ENV7: Renewable Energy

ENV8: Air Quality

WM1: Sustainable Waste and Resource Management

WM5: Resource Management and New Development

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

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

GP2: Environmental Protection  
GP5: Equal Opportunities  
GP6: Disabled People  
ENV1: The Boundary of the Green Belt  
ENV2: Control of Development in the Green Belt  
ENV3: Detailed Evaluation of Proposals within the Green Belt  
ENV5: Stabling and Riding of Horses and Ponies  
ENV10: Pollution  
ENV13: Development Near Power Lines, Substations and Transformers  
ENV14: Development of Derelict and Previously-Developed Sites  
ENV17: New Planting  
ENV18: Existing Woodlands, Trees and Hedgerows  
ENV23: Nature Conservation and New Development  
ENV24: Wildlife Corridors  
ENV29: Conservation Areas  
ENV32: Design and Development Proposals  
ENV33: Landscape Design  
ENV40: Conservation, Protection and Use of Water Resources  
H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings  
T1: Helping People to Get Around  
T4: The Highway Network  
T7: Car Parking  
T8: Walking  
T9: Cycling  
T10: Accessibility Standards – General  
T11: Access for Pedestrians, Cyclists and Wheelchair Users  
T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)  
T13: Parking Provision for Cars, Cycles and Taxis

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](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

### **Emerging Policy**

Whilst not adopted, the Site Allocations Document is currently being prepared and a draft document has been consulted upon. However as this is at an early stage of preparation, the weight that can be attached to this is limited.

## Consultations

**Conservation Officer** – No objections regarding the amended scheme, which has been repositioned to fit within the ridge, removes the balconies from the roof, reduction in height and simpler form and design, subject to conditions regarding materials; bricks to match the existing farm house and samples of roof tiles to be submitted and agreed. The proposed design of the scheme is inoffensive in detail, and is positioned so that it does not dominate the area or take focus off the Farmhouse, which will still stand proud and be the main focus of buildings within the site... the proposed scheme is compliant with Policy ENV29 and ENV32 of the Walsall UDP, and ENV2 of the Black Country Core Strategy.

**Highway Authority** – No objection to the revised site layout and access arrangements, subject to safeguarding conditions for; engineering details of the access, surfacing and drainage of the access and driveways, visibility splays and construction method statement.

**National Grid** – No objections.

**Natural and Built Environment Team (Ecology)** – Objection.

Still concern that there is no blue line on the application documents so any landscape proposals outside the red line of the planning application would be unenforceable.

The breaking out of the ménage and the future landscape of this feature should be fully incorporated into any permission.

Since it is to be the Local Planning Authority's decision to secure the further information required through planning condition, I have provided some draft conditions.

It will also be necessary to ensure that the recommendations in the Ecolocation ecological report dated 31/7/14 are enshrined in the permission.

It is standard practice to include root protection zones within planning application documents, however, I have incorporated a requirement for further information. Further standard tree conditions will be required from the tree officers.

**Natural and Built Environment Team (Landscape)** –Comments on amended plans have been provided by the Council's ecologist. I do not intend to comment further.

**Natural and Built Environment Team (Trees)** – No objection to the revised layout subject to root protection area fenced during construction, secured by condition, for the oak tree and the hedgerow fronting Beacon Road.

**Pollution Control** – No objections.

**Severn Trent Water** – No objection subject to a condition to secure drainage details.

**Strategic Planning Policy** – The impact on openness is not simply a question of comparing the floor area and volume of buildings, or even their heights. It is also affected by the extent to which buildings are spread over the site (buildings with small individual footprints but which are scattered over a large area could have more impact on openness compared with larger buildings that are confined to a compact area). In the case of residential development, the potential for large areas of the site to contain domestic paraphernalia such as parking, garden sheds, play equipment etc. should also be taken into account.

This site lies on a prominent hillside and there are significant levels differences within the site. The location of development relative to the levels within the site will therefore affect the impact on openness.

The difference in footprint and volume between the existing and proposed buildings is insignificant compared with these other factors. However, on the understanding that the proposed bungalows are to lie in a hollow on the site, the proposal would therefore appear to have less impact on openness than the existing development. Western Power – No comments received at the time of writing. Any comments on the amended plans and any recommended conditions will be reported at Planning Committee.

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

**West Midlands Police Crime Prevention Design Advisor** – No objection and recommend the application meets Secure By Design Specifications.

### **Public Participation Responses**

Approximately 40 letters of objection have been received from local residents, including Walsall Friends of the Earth and Staffordshire Campaign to Protect Rural England, raising the following issues:

- Loss of a green lung
- Harm to conservation area and Green Belt
- Urbanising development
- Harm to Barr Beacon local nature reserve
- Loss of openness in the countryside
- Light pollution
- Loss of leisure/community/educational facility
- Loss of jobs/impact on local businesses
- Loss of grazing land for horses
- Other sites are more suitable for housing
- Impact on character and appearance of area
- Sets a precedent for other countryside land to be built on
- Harm to horses through relocating them (*Not a material consideration to the determination of this planning application*)
- Inconvenience/cost to horse owners (*Not a material consideration to the determination of this planning application*)
- Harm to wildlife
- Close proximity of electricity pylon to new homes
- Extra traffic on an already busy road

- Poor pedestrian and cycle access to the site
- No community benefit from the proposal
- Contrary to Green Belt purposes
- Inappropriate development in the Green Belt with no 'very special circumstances'
- Buildings are too tall/large
- Buildings are too close to Barr Beacon Road
- Too many housing developments in local area
- Very few similar facilities in the local area
- Homes for four families should not be allowed to the detriment of all the staff and users of the stables
- Additional housing not required as Walsall has a five year housing land supply
- Inject cash into renovating pre-existing properties and buildings
- Shame it comes down to money
- Greedy property developers eating up the land

Valerie Vaz MP has also objected on behalf of her constituents for the following reasons:

- Loss of rural tourism and leisure development
- Housing need cannot justify housing development in the Green Belt
- The development would have a greater impact on the openness of the Green belt than the existing buildings due to hedge removal and height of the houses
- Agricultural land should be protected
- The development would undermine the functions of the Green Belt
- Previously developed land should be prioritised over Greenfield sites

Valerie Vaz MP has provided a further objection on behalf of her constituents for the following reasons:

- Loss of rural tourism and leisure, include supporting provision and expansion
- Very special circumstances will not exist unless potential harm to the Green Belt by inappropriateness is clearly outweighed by other considerations
- Unmet housing need is unlikely to outweigh harm to the green belt... to constitute very special circumstances... proposed development cannot be justified by housing need
- The construction of new buildings as inappropriate in green belt. The exception is where a development would not have a greater impact on the openness of the green belt and the purpose of including it
- The construction of 2 storey buildings where there were previously single storey will substantially reduce the openness of the green belt, exacerbated by the topography of the site.
- A strong green belt to promote urban renaissance within the urban area and provide easy access to the countryside

- The site is currently agricultural land and the BCCS indicates this should be protected. There is a lack of agricultural land locally and the site is easily accessible to urban residents. Allowing development on the green belt would undermine these crucial functions of green belt policy.

*(Whilst the MP's comments are noted, for clarity, the proposed development has been amended to single storey bungalows, from two storey houses and the land is not agricultural land)*

An online petition has also been signed by over 300 people, stating; *"Cancel plans to build houses on Foxhills Farm Riding School. Foxhills Farm Riding Centre is a huge part of the local community. Foxhills brings happiness to hundreds of children every year, some children that are severely disabled get to spend time around the animals in a safe environment. Foxhills has been a riding school for 40+ years and is the centre of the community. It being [brings?] activities for children to do in the holidays as well as being one of the closest riding school outside north Birmingham offering country life to inner city children. It employs 6 full time staff and without Foxhills and having houses in its place will be a huge loss the wide area. Save Foxhills from the property giants".*

456 signatures and comments received with the following question; *Why was the 2014 planning rejected as the Council classed the land as greenbelt land and now its been changed without informing residents to brownfield. The stables that are on the proposed site are not brick they are wooden so they are classed as temporary buildings. Please can you let us know why this was changed, friends of the earth were under the same impression.*

Any further material considerations raised by residents will be reported in the Supplementary Papers.

## **Determining Issues**

- Suitability of proposed land use
- Natural and built environment
- Residential amenity
- Highways and transport matters
- Local Finance Considerations

## **Observations**

### **Suitability of proposed land use**

NPPF paragraphs 87, 88, 89 and 90 should be read together and consequently, development in the green belt is inappropriate and only permissible in very special circumstances unless it is within the list of exceptions set out in paragraphs 89 and 90. Paragraph 89 bullet point 6 confirms *'...partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development'*. The NPPF glossary continues by defining previously developed land as *'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that*

*the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; ... land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time*'. The site is currently in equestrian use and has buildings on it, and is considered to be previously developed land as defined by the NPPF glossary. The current use is not an agricultural use, consequently the land is not protected as agricultural land. It is not necessary for the applicant to demonstrate 'very special circumstances' or demonstrate that there is not any sequentially preferable land available for development if they are able to meet this policy test that it is previously developed land, and the proposed development has no greater impact on openness and the purpose of including land within the Green Belt than the existing development. Some of the objection comments have stated that this would 'set a precedent' although, this form of redevelopment is an approach allowed by national planning policy. The Council's development plan policy ENV2 does not fully reflect the NPPF exceptions so in this case, the Council would defer to the NPPF tests.

Considering the impact of openness in the green belt, the amended proposal is for 4 bungalows in a similar position to the existing buildings envelope, with a single storey form of a similar height to the existing structures. The footprint area of the bungalows is 91.52 square metres less than the structures to be demolished and the volume of the bungalows 4.32 cubic metres less than the structures to be demolished which provides an overall net gain regarding the impact on the openness of the green belt. The bungalows are further forward in the plot than previously proposed, similar to the existing buildings, with the ridge in the ground forming a rear boundary to the development. There would be no significant further incursion into the Green Belt or the countryside than the existing built form on the site. It is considered that the development would have no greater impact on the openness of the Green Belt or the purposes of including land within the green belt than the existing development, even taking into account the gardens, parking (the existing use already has parking on site and it is expected the bungalows would attract less vehicles than the livery/stables), boundary fences and the usual paraphernalia that comes with dwellings. The removal of permitted development for extensions and garden structures would further reduce any additional impact on the openness of the green belt. The proposal is considered acceptable in principle in this instance. It is also noted the proposal would contribute to the five-year housing-land supply as a small windfall site. Whilst Walsall is already able to demonstrate a five-year housing land supply, this is not a reason to refuse permission for windfall sites.

Whilst the Development Plan and the NPPF also encourage outdoor recreation uses in the Green Belt, such as the existing riding school, there is no objection to the loss of the existing use as there is no demonstrable shortfall in provision and the existing use is not considered to support the day-to-day needs of the community. It is recognised from the objections received that it provides leisure and education opportunities to some members of the community. There is no policy requirement for a replacement use to be of community value. Some of the objection comments refer to loss of open space but as the site is already developed it does not constitute a loss of open space. The six existing jobs at the site would be lost and the horses would need to be relocated. This is not an overriding reason to refuse the application

and it is noted that the lease for the riding school could be terminated at any time by the landowner, notwithstanding this planning application.

### **Natural and built environment**

As discussed above, the impacts of the development on the Green Belt are considered to be acceptable in this instance for the proposed development, as the similarities between the existing and proposed quantum and location of development. It is also considered that the impact of the proposal on the Conservation Area would be acceptable. Objections have referred to potential light pollution from the development. It is considered unlikely that four bungalows would require greater lighting levels than the existing business use.

They would have a more urbanised appearance than the existing stables but the design, appearance and layout of the bungalows are considered to be appropriate to the character and appearance of the local area. The proposed materials would reflect the retained red/brown farmhouse. Whilst the bungalows would not be 50m away from the electricity pylons, they are outside the minimum separation distance required for safety purposes. A condition requiring the development to meet Secure By Design specifications is recommended, together with an informative, to ensure adequate residential amenity for future occupiers.

The proposal would retain much of the existing vegetation, including the extensive hedge along the site frontage, and also proposes additional planting. No protected species were found on the site. Conditions would be required to secure the recommendations of the ecological report. The development should include landscaping and habitat creation, which is also be secured by the landscaping condition. Hedgerow and tree protection measures would also be required and secured by condition. It is noted that some of the objection comments refer to adverse impacts on the Barr Beacon Local Nature Reserve. The Council's Ecologist has not raised this as a concern.

Whilst the Council's ecologist has objected to the amended scheme concerned that there isn't a detailed landscaping scheme and the enforceability of the landscaping condition, the ecologist has asked for a landscaping scheme of local native species, a five year landscaping management plan to help establish the landscaping scheme and bat mitigation conditions to be imposed should the planning application be approved. The planning application redline, is relatively tightly drawn around the proposed development. The applicant has provided a blue line plan to demonstrate that what additional land is within their control. This overcomes some of the ecologists main concerns and demonstrates that the landscaping planning condition, would be enforceable. The ménage, the Ecolocation ecology report and the tree protection measures have been incorporated into the proposed conditions as requested by the Council's Ecologist. It is considered that in this instance, the confirmation from the applicant of the additional land in their control and that the ménage would be broken out, that the imposition of the landscaping, landscaping management plan and bat mitigation conditions overcome the Ecologists concerns.

The Council's Arboriculturist has not objected to the amended scheme requiring a condition to protect the root protection area of the oak tree and the frontage hedgerow.

### **Residential amenity**

The nearest residential property would be the retained farmhouse to the southwest of the site. The next nearest properties are over 200m away. The farmhouse would retain the existing shared access with the development and has its own on-plot parking. It is considered that no significantly adverse impacts would occur from the proposal in terms of overlooking, overbearing, overshadowing or loss of light.

### **Highways and transport matters**

The Highway Authority has confirmed they have no objections to the proposed amended four-bungalow scheme, replacing the existing riding stables. The number of vehicle trips to the new bungalows is likely to be less than to the riding stables use. The traffic impact of the development of four bungalows is likely to be limited. A 2.4m x 120m visibility splay can be achieved at the revised access point, which more than meets current highway design standards. Three parking spaces per dwelling is proposed which meets the Council's development plan policy UDP T13 parking policy requirements. The Highway Authority considers the redevelopment of the riding school and stables for four bungalows will not have severe transportation implications in accordance with NPPF paragraph 32, subject to safeguarding conditions.

### **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 4 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.

### **Conclusions**

The proposed redevelopment of the existing stables and riding school to four bungalows, within the Great Barr Conservation area and the green belt is considered, in this instance to be acceptable, as set out in the observations of this report and subject to suitable to the proposed safeguarding 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 community and planning application consultee representations that may have been received, and negotiating amendments with the applicant before 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:

1218-10a site/location plan

1218-12f dec 15 site plan received 18/1/15

4090.88 Location plan: Scale 1:5000 @ A4: January 2016 received 21/1/16

1218-40a plot 1 elevations dec 15 received 15/12/15

1218-41a plot 1 plans and external visualisation dec 15 received 15/12/15

1218-43a plot 2 elevations dec 15 received 15/12/15

1218-44a plot 2 plans and external visualisation dec 15 received 15/12/15

1218-46a plot 3 elevations dec 15 received 15/12/15

1218-47a plot 3 plans and external visualisation dec 15 received 15/12/15

1218-49a plot 4 elevations dec 15 received 15/12/15

1218-50a plot 4 plans and external visualisation dec 15 received 15/12/15

Transport Appraisal, David Tucker Associates received 15/12/15

Landscape Strategy, DJOGS Landscape Architect and Ecology Services received 15/12/15

Visual of proposed master-plan DJOGS Landscape Architect and Ecology Services received 15/12/15

Landscape Strategy (addendum) DJOGS Landscape Architect and Ecology Services received 19/1/16

Midland tree Surgeons Pre-Development Tree Survey received 13/10/14

Figure 2- Protective fencing for RPA received 18/1/16

Ecolocation Ecological Appraisal and Initial Bat Assessment received 13/10/14

Design and Access statement received 13/10/14

Planning and Heritage Statement Revised October 2014 received 17/10/14

*REASON:* To define the permission

3A. Notwithstanding the details provided, no development shall take place until a schedule and details of all materials to be used in the external surfaces of the development, including colour, texture and scale have been submitted to and approved in writing by the Local Planning Authority.

3B. The development shall be fully implemented and constructed with the approved materials only and retained thereafter.

*REASON:* To ensure a satisfactory appearance of the development in relation to the character of the area, the Conservation Area and the Green Belt.

4A. Notwithstanding the details provided, no development or site clearance shall commence until full details of landscaping are submitted to the Local Planning Authority and approved in writing. Landscaping should comprise mainly species and habitats native to the immediate neighbourhood. Full details shall be provided of:

- Preparation of land for planting.
- Tree protection details to BS5837:2012- Trees in Relation to Design, Demolition and Construction – Recommendations standards including root protection zones and measures to avoid damage to existing trees and hedgerows (including those outside the planning application redline on land identified on the blue line plan titled 'Foxhills Farm, Beacon Road, Aldridge. Walsall. WS9 0QP. 4090.88 Location Plan: Scale 1:5000@A4: January 2016).
- Specification and depths of topsoil/ subsoil/ growing medium and any mulches to demonstrate that the planting proposed will grow in the locations shown.
- Locations of all planting.
- Density/ numbers of all planting/ sowing.
- Specifications for all planting to include: full details of sizes/ container volumes/ seed mixes/ plant numbers/ provenance/ botanical and English names and methods of planting.
- Locations and full specifications of all hard landscaping/ lighting and drainage, including paving and fencing. (Drainage must be carried out to sustainable urban drainage systems principles.)
- Any phasing.

4B. The landscape scheme shall be implemented fully in accordance with the approved scheme before any part of the development is brought into use and retained thereafter in accordance with the landscape management plan.

*Reason:* To provide an attractive and functional setting for the proposed development and contribute to the ecological diversity of the wider site providing green infrastructure for a range of species of animals and plants within the wildlife corridor.

5A. Prior to the commencement of the development, full engineering details of the proposed alterations to the access arrangements on Beacon Road, including sections through the vehicular access showing gradients between Beacon Road and the access road, construction specifications, demarcation along the highway boundary, removal and reinstatement of the existing redundant access back to a verge, shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

5B. Prior to the first occupation of any dwelling on the development, the highway infrastructure works detailed in part A of this condition above shall be fully implemented in accordance with the approved details and to the satisfaction of the Local Highway Authority and remain thereafter.

*Reason:* To ensure the satisfactory completion and operation of the access and in the interests of highway safety.

6A. Prior to the commencement of the development, a construction methodology statement shall be submitted to and approved by the Local Planning Authority in conjunction with the Highway Authority detailing where the parking and turning facilities for site operatives and construction deliveries will be located and including full details of the wheel cleansing arrangements to prevent mud from being deposited on the highway during the period of construction.

6B. The approved details shall be fully implemented and shall be retained during construction period in accordance with the approved construction methodology.

*Reason:* In order to minimise potential disruption to the free flow of traffic on Beacon Road and in the interests of highway safety during the period of construction.

7A. Notwithstanding the details provided and before any part of the development is brought into use a 5 year management plan shall be submitted to the Local Planning Authority and approved in writing that includes the land outside the planning application outline and defined by the planning application blue line titled 'Foxhills Farm, Beacon Road, Aldridge. Walsall. WS9 0QP. 4090.88 Location Plan: Scale 1:5000 @ A4: January 2016'. The management plan shall be carried out to an accepted methodology and provide full details of:

- How the ecological planting will be maintained through the establishment period and managed thereafter.
- How any ornamental landscape schemes will be maintained through the establishment period and managed thereafter.
- Provision for the replacement of any plant which dies, becomes diseased or damaged.
- Details of routine maintenance such as pruning/ litter picking/ cutting/ watering in dry period/ weeding.
- Full details of all management operations will be set out together with a timetable for each operation.
- Monitoring and reviewing the effects of management and incorporating any remedial works required to implement the approved landscape scheme.

7B. The landscape scheme shall be managed for no less than a period of 5 years in accordance with the approved management plan.

*Reason:* to ensure the establishment of the approved landscaping scheme to create an attractive and functional setting for the proposed development and contribute to the ecological diversity of the wider site providing green infrastructure for a range of species of animals and plants within the wildlife corridor.

8A. No development shall take place until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority.

8B. The development shall not be brought into use until the approved scheme has been implemented in accordance with the approved details.

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

9A. Prior to the development first coming into use, all access ways, parking and vehicle manoeuvring areas shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain. The access road shall be constructed to a specification capable of accommodating a 26 tonne refuse wagon, full details of which shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

9B. The approved details shall be fully implemented and 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.

10A. Bat survey work has found a relatively low risk that bats may be present in the buildings within the site (as identified in the bat report by Ecolocation dated 31 July 2014) and the following precaution shall be taken when implementing the planning permission:

1. Contractors undertaking demolition works shall be made aware that bats may be present and undertake demolition works in the expectation that bats may be found.
2. Contractors undertaking demolition works work carefully with hand tools when demolishing parts of the buildings where there is a risk that bats may be found.

If no bats or evidence of bats are found during these operations, the approved works can continue.

10B. If bats or evidence of bats are found during these operations:

1. bats should not be handled or touched and the vicinity of the roost shall be immediately reinstated.
2. no further destructive works shall be carried out to the building until the need for Natural England licence has been established.
3. within one week of finding bats or evidence of bats, a written report by the supervising ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation

4. work on the building shall only continue in accordance with the approved mitigation measures and on the approved timetable and/or in accordance with the terms of any Natural England licence issued

*Reason:* To conserve local bat populations.

11. Tree protection measures as detailed in British Standard 5837:2012 and as indicated on drawing no. 2199TP, shall be fully implemented around the oak tree and hedgerow root protection area prior to the commencement of any works on site and shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times.

*Reason:* To safeguard the tree/hedgerows to be retained on the site.

12. The detailed design of the development shall fully meet Secure By Design specifications - see informative.

*REASON:* To ensure the development is safe and secure in accordance with Secured By Design standards.

13. The 2.4m x 120m visibility splay at the new access point shown drawing no. David Tucker drawing no. 14322-04 dated May 2015, shall at all times be kept free of any structures or planting between 600mm and 2000mm in height above carriageway level.

*Reason:* In the interests of highway safety.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders;

-no additional side facing windows or doors other than those approved by this permission,

-no conversion of the garages to preclude the use of parking a motor vehicle within

-no enlargements, additions or other alterations, as defined by Classes A to E of Part 1 of Schedule 2 of the Order, shall be constructed.

*Reason:* To ensure the Local Planning Authority has control over the development in the interests of retaining sufficient levels of amenity and parking provision for occupiers of bungalows hereby approved, and to consider the impact on the openness of the green belt and consider the harm to the conservation area, in accordance with UDP Policy GP2, ENV2, ENV3, ENV29, T7 and T13.

## **NOTES TO APPLICANT**

### **Ecology notes**

To avoid the risk to nesting birds, site clearance and dismantling works 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.)

### **Secure by Design (Police Notes)**

Secure By Design specifications 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](http://www.securedbydesign.com/pdfs/SBD_New_Homes_2010.pdf)

All external door sets should comply to PAS 24 2012 standards.

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.

All ground floor, accessible windows and doors should contain at least one pane of 6.8mm laminated glass, this includes French and Patio doors.

All ground floor front windows should have an area of defensible space across their width. This should be made up of densely planted shrubs, selected to be suitable for the environment they are to be planted in. This will provide a buffer area between the windows and other public or private space, making it more difficult for offenders to access such windows. Where plants / shrubs are to be used in front of windows or around parking spaces the plants should be such that they grow to no more than 1m in height when mature. Plants and shrubs should also suit the environment they are to be located in terms of soil and light.

Perimeter and Boundary fencing should be at least 2.1m in height. The fencing should also be erected so that the smooth face is always facing outwards so that the frame cannot be used as a climbing aide. 2.1m fencing can include 300mm trellis topping in order to offer protection of the vulnerable rear of the properties. Where panel and concrete post style fencing is to be used there needs to be a fixing between panel / slats around the posts which should create a secure mechanical bond. This should provide a chain linking effect where each panel and post acts in concert with the next to resist attack by pushing, pulling and lifting. Fixings should be made of galvanized steel or stainless steel with a design life to match the timber components.

All side gates should be as close to the building line as possible to improve natural surveillance by removing or limiting the depth and number of recesses.

Due to the national increase in metal thefts where possible lead substitute products should be used.

Each dwelling should be fitted with a suitable intruder alarm.

Garage doors must be certificated to one of the following standards - Loss Prevention Certification Board standard LPS1175 security rating 1 or WCL 2 BR 1.

### **Highway Authority Notes**

1. 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.
2. The applicant will be expected to enter into either an agreement under S278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for all works within the existing public highway.

24/11/14

14-1552-FL

Royster Paul

**From:** Councillor Adrian Andrew [REDACTED]  
**Sent:** 21 November 2014 17:54  
**To:** Planning Services (PlanningServices@walsall.gov.uk)  
**Subject:** 100 new people signed: Cancel plans to build houses on foxhills farm riding school  
**Categories:** Attachments, SF

100 People Recently Add Their Names To % {Petition Creator} 'S Petition "% {Petition Title}" That Means More Than 500 People Have Signed On

There are now 300 signatures on this petition. Read reasons why people are signing, and respond to [REDACTED] by clicking here:

<http://www.change.org/p/kingscliff-property-cancel-plans-to-build-houses-on-foxhills-farm-riding-school/responses/new?response=b2f02ae98274>

Dear Walsall Council,

Cancel plans to build houses on foxhills farm riding school Foxhills farm riding centre is a huge part of the local community. Foxhills brings happiness to hundreds of children every year, some children that are severely disabled get to spend time around the animals in a safe environment. Foxhills has been a riding school for 40+ years and is the centre of the community. It being activities for children to do in the holidays as well as being one of the closest riding school outside north Birmingham offering country life to inner city children. It employs 6 full time staff and without Foxhills and having houses in its place will be a huge loss the wide area. Save foxhills from the property giants

Sincerely,

- 300. [REDACTED] Walsall, United Kingdom
- 299. [REDACTED] Sutton Coldfield, United Kingdom
- 298. [REDACTED] Lichfield, United Kingdom
- 297. [REDACTED] Hunnington, United Kingdom
- 296. [REDACTED] Birmingham, United Kingdom
- 295. [REDACTED] Northamptonshire, United Kingdom
- 294. [REDACTED] Cannock, United Kingdom
- 293. [REDACTED] Birmingham, United Kingdom
- 292. [REDACTED] Birmingham, United Kingdom
- 291. [REDACTED] Sutton Coldfield, United Kingdom
- 290. [REDACTED] Bromsgrove, United Kingdom
- 289. [REDACTED] Birmingham, United Kingdom
- 288. [REDACTED] Birmingham, United Kingdom
- 287. [REDACTED] Birmingham, United Kingdom
- 285. [REDACTED] weston super mare, United Kingdom
- 284. [REDACTED] Birmingham, United Kingdom
- 283. [REDACTED] walsall, United Kingdom
- 282. [REDACTED] Nuneaton, United Kingdom
- 281. [REDACTED] Newtownabbey, United Kingdom
- 280. [REDACTED] Tamworth, United Kingdom
- 279. [REDACTED] Preston, United Kingdom
- 278. [REDACTED] Walsall, United Kingdom
- 277. [REDACTED] LONDON, United Kingdom
- 276. [REDACTED] London, United Kingdom
- 274. [REDACTED] West Bromwich, United Kingdom

REGENERATION  
24 NOV 2014  
RECEIVED

	Postal Code	Country	Signed On	Comment
[REDACTED]	Sutton Coldfield	ENG	B742dl	United Kingdom
[REDACTED]				16 I have grown up in the area especially on the land in which they plan to build on. I feel it is essential to the that we keep this land kept how it is.
[REDACTED]	Birmingham	ENG	B44 Onf	United Kingdom 07/01/2016 I think every scrap of land that we actually have left needs to be built on. Plus I was proposed to on the beacon as it really does have amazing views... Views that are hard to come by
[REDACTED]	Willenhall	ENG	wv12 5ha	United Kingdom 07/01/2016 I seeing houses built on every bit of green land
[REDACTED]	Birmingham	ENG	B23 6ND	United Kingdom 2016 We need to protect our green space for future
[REDACTED]	Birmingham	ENG	B43 7PT	United Kingdom 016 "I feel the green belt land should be protected. If this application is allowed, it opens the flood gates for others as as been set "
[REDACTED]	birmingham	ENG	b42 1qh	United Kingdom 016 "Once they build one house before we know it there will be 50 built, our green spaces need to be preserved both for the our future generations."
[REDACTED]	Walsall	ENG	WS90 PB	United Kingdom 016 I oppose building on green belt especially affecting and their natural habitats
[REDACTED]	Birmingham	ENG	B437DH	United Kingdom 2016 "4 homes then 5,6,7,....."
[REDACTED]	Birmingham	ENG	B43 7dj	United Kingdom 2016 "I think it is important green belt land and the lives there is protected, once it has gone it's gone."
[REDACTED]	Walsall	ENG	WS9 ODL	United Kingdom 016 "It's green belt and should be protected. Kids will have no where to play the rate things are going, especially when new uch stupid small gardens. "
[REDACTED]	Staffordshire	ENG	ws12 Oru	United Kingdom 016 It is a beautiful area with not enough greenery if
[REDACTED]	Birmingham	ENG	b437ug	United Kingdom 07/01/2016 We ountry side
[REDACTED]	Saint Helier	Jersey		07/01/2016 "This ld remain green, I grew up on beacon, and once you allow this, the Watergate will open. Also, thinking about the wildlife, should be protected."
[REDACTED]	Smethwick	ENG	B67 5BH	United Kingdom /2016 "I believe that countryside should be for all. 4 ows, I presume these would be for the wealthy"
[REDACTED]	Birmingham	ENG	B74 2ds	United Kingdom 16 Keep it green kids
[REDACTED]	birmingham	ENG	b44 8rh	United Kingdom 16 "We need our green spaces for all our wellbeing, and
[REDACTED]	Birmingham	ENG	B43 7JH	United Kingdom 16 "There is no need for these bungalows. Leave the Beacon Road as it is, a ribbon of countryside amongst the urban
[REDACTED]	Birmingham	ENG	B44 9qa	United Kingdom



**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 04-Feb-2016

**Plans List Item Number: 6.**

**Reason for bringing to committee: Called-in by Councillor Worrall on grounds of Impact on Amenity of Neighbours**

**Location:** RUSHALL PARK, ROWLEY PLACE, WALSALL

**Proposal:** PROPOSED SKATE PARK

**Application Number:** 15/0257/FL

**Applicant:** Clean and Green Services

**Agent:** Not Known

**Application Type:** Full Application

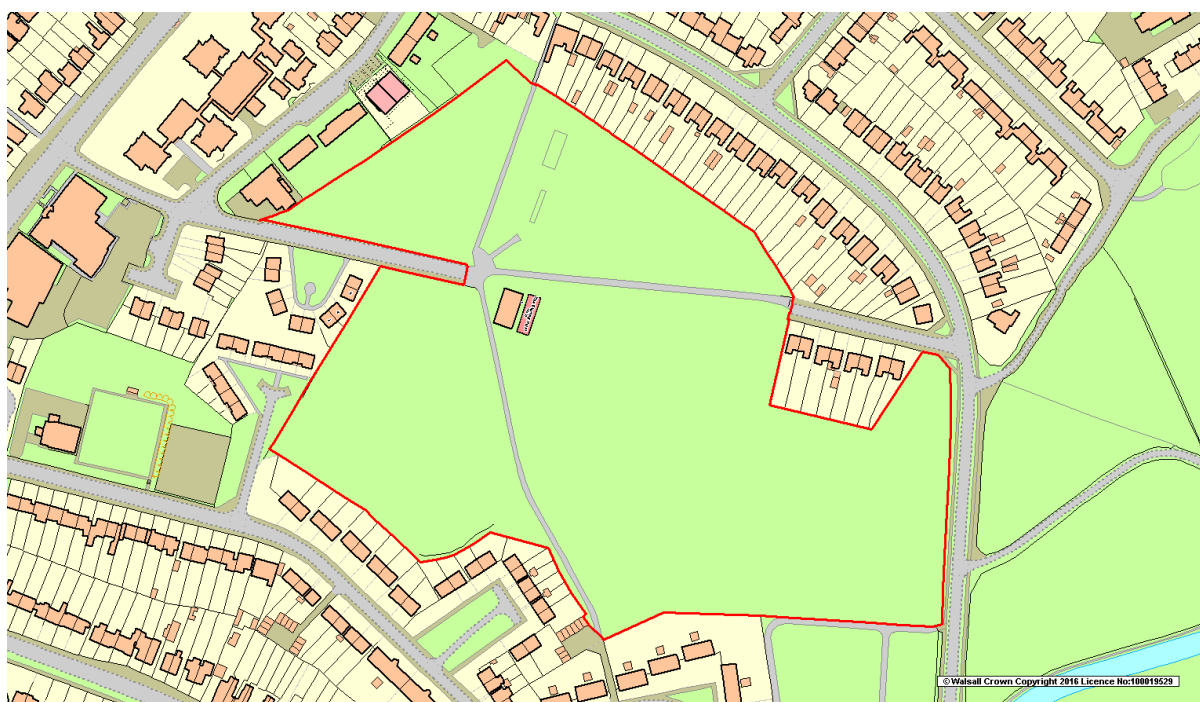
**Recommendation Summary:** Grant Permission Subject to Conditions

**Case Officer:** Paul Hinton

**Ward:** Rushall-Shelfield

**Expired Date:** 28-May-2015

**Time Extension Expiry:** 11-Feb-2016



## **Current status**

At its meeting on 1<sup>st</sup> October 2015 Planning Committee resolved to grant planning permission subject to conditions as contained in the report and supplementary paper for the proposed skate park and subject to further consultation and detailed mitigation measures.

Members will recall a proposed 2m high soil bund to the north of the site to protect amenity to the rear of properties along Winterley Lane. Discussion of the item included the protection of residential properties to the south of the site within Rowley Place where Pollution Control officers consider mitigation measures were required.

In response the application has been amended to include a 1.2m high 30m long curved soil bund to the south of the proposed skate park in addition to the curved soil bund to the north which has also been amended to now be 1.2m high and 65m long. The applicant also explains the skate facility is designed as a sunken bowl structure, the bowl is a transition based facility and does not feature any street elements (grind rails), the bunds are significantly longer than originally proposed to deal with any potential noise concerns.

Re-consultation has been undertaken and the report updated accordingly.

## **Application and Site Details**

This application seeks planning permission for the installation of a concrete skate park at Rushall Playing Fields. The skate park would be sunk into the ground by 1.8m, with most of the edging 0.2m above ground level. Two ramps above ground level are proposed ranging between 0.4m and 1.1m in height. The skate park is an irregular rectangle shape that would have a maximum ramp height of 2.7m, with a width of 22.2m and length of 22.4m

Rushall Playing Fields is bounded by residential properties along Winterley Lane, New Street, Springfields, Rowley Place and The Longcroft. The park has an area of 6ha and has a public right of way through the middle of the site and other paths across the park. The park is open grass with tree planting to some of the perimeter and a boulevard of trees across the middle of the park. There is a children's play area and outdoor gym to the northern part of the park with football pitches within the southern part. The skate park is proposed to the northern part of the park, 30m from the rear gardens of houses along Winterley Lane.

The following information has been submitted in support of the application:

### ***Background information***

- The project is a partnership between various Walsall Council services (Green Spaces, Clean and Green, Area Partnerships, IYPSS, ASB Team) and the Friends of Rushall Playing Fields and Rushall Development Group
- Consultation was carried out in 2013 and agreed improvement plan for the Park was drawn up. It proposes to address the Parks core infrastructure, for example - new footpaths, improving the entrances to Rowley Place, Longcroft and Friary Crescent, provide new and improved car parking arrangements, extra litter bins

and benches and new notice boards. New tree and a meadow land will be planted to improve the landscape and general wellbeing of the environment. In

- addition the playing fields will be developed as a high quality community green space hub with a range of facilities and features including addressing youth provisions within the Playing Fields to incorporate a skate park, multi use games area, outdoor gym equipment and to improve the existing play area.
- The proposals are in line with Council and partner adopted Green Space Strategy, Playing Pitch Strategy, Play Strategy, Access Standards, Area Partnership Plans and the national quality award standards for Green Spaces
- The overall Improvement Plan has been drawn together with and approved by the following partners / organisations:-
  - Local residents and users via consultation workshops
  - Area Partnership
  - Ward Members
  - Rushall Development Group
  - Manor Farm Community Association
  - Local Police and ASB Team
  - Walsall Council IYPSS

#### *Noise report*

- At residential facade the source levels are lower than the background levels, this gives an assessment of “low adverse impact” on the resident.
- At residential garden the level will be below the 50dB guidance
- The assessments of the proposed operation of the skate park both in terms of the maximum and average noise levels indicate there will not be a significant and demonstrable adverse impact in terms of noise that outweigh the benefits.
- It would be recommended that consideration is given to the following mitigation measures which may further reduce the resultant noise levels at the residential properties:
  - o The assessment is based on the skate park only being between 07:00 and 23:00 and therefore it would be recommended that no additional lighting is provided at the park to deter the use of the park outside these hours.
  - o Consideration should be given to install a 2.0m high solid timber fence along the northern boundary of the skate park with a small return on each site.

#### **Relevant Planning History**

None

#### **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.
- take account and support local strategies to improve health

**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 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.

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.

8: Promoting healthy communities

70. Decisions should...plan positively for the provision of sports venues.

74. Existing sports land should not be built on unless...the loss resulting from the proposed development would be replaced by equivalent or better provision.

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...noise pollution.

120. The effects of pollution on health, environment or amenity should be taken into account.

121. Decisions should ensure that the site is suitable for its new use taking account of ground conditions.

123. Planning decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts

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](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.

This checklist has been published on the BCCS and Council websites. Cabinet on 24<sup>th</sup> July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

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.

CPS4: 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 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.

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.

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.

ENV6: Development that would increase the overall value of the open space, sport and recreation network will be encouraged, especially in areas of deficiency. Each Local Authority will set out in Local Development Documents policies to make more efficient use of urban land by creating more multifunctional open spaces, increasing access to open space, sport and recreation facilities, including people with disabilities.

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](http://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:

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.

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

3.7 Seek to protect people from unacceptable noise, pollution and other environmental problems.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution caused by installations or activities that are a source of any form of pollution.

ENV32: Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.

T7: Car Parking

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

8.7 encourages the enhancement of existing and provision of new facilities for education, health and other community needs. Particular emphasis will be placed on locations which are accessible to all sections of the community.

LC1: Seek to retain and enhance existing urban open spaces

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.

DW3 – all new development must be designed 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 Designing Walsall Supplementary Planning Document are consistent with the NPPF.

### **Consultations**

**Sport England** – no objection.

**Transportation** – no objection.

**Pollution Control** – no objection.

**Natural Environment (Ecology)** – no objection.

**Natural Environment (Landscape)** – no objection.

**Police** – no objection.

**Anti Social Behaviour** - no objection.

**Environmental Health** – no objection.

## **Public Participation Responses**

Site notices displayed and surrounding occupiers notified by letter.

### **Original consultation**

Two letters have been received raising an objection to the application on the following grounds:

- Loss of privacy
- Nuisance
- Increase in anti-social behaviour
- Inappropriate due to close proximity of elderly residents

### **Following re-consultation in regard to the bund to the north**

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

- Green Belt area, construction would spoil the natural environment
- Loss of privacy
- Will attract people of a less desirable nature
- Existing nuisance from youths will be elevated
- Skate park will lose the parents, babies and young people that use the park as they will be intimidated by the youths
- Will encourage more problems with motorcycles going through the park on an evening
- Why not put it in Barns Lane where there is a park that is not used.
- Waste of money, previous skate park was dismantled, existing exercise units not used
- No closure at night will encourage unwanted activity
- Kids already have swings and slides
- Would create noise
- Would be close to the OAP homes
- Would add to additional litter problems
- Add to existing parking issues.
- 2m high bund would create blind spots to any anti-social activity
- May provide a secluded plan for the gathering of undesirable groups
- Wants to view the Risk Assessment for safety of the Skate Park open and unlit during the hours of darkness.
- Vandalism will increase
- Refers to Retford skate park where it is restricted until 9pm
- Reference to a press article about Clarbrough's skate park which was shut and dismantled after three years due to noise and notes an environmental report said skate parks should be 240m from homes.

Further consultation in regard to the proposed bund to the south has been undertaken and the period for comments expires after the publication of the report (3/2/16). Any further comments received will be reported at the committee meeting.

## **Determining Issues**

- Principle of development
- Impact on the character and appearance of the area
- Impact upon residential amenity
- Highway safety

## **Observations**

### **Principle of development**

The proposed skate park would provide a facility that conforms with the site's allocation of Urban Open Space. Sport England comment that the area for the skate park could be laid out as a playing pitch, however Skateboarding and BMXing are recognised sports. Therefore the development is for an outdoor sports facility of sufficient benefit to sport to outweigh the potential loss of a future playing pitch. Weight is also given to the existing playing pitches to the south of the site. The site is not part of the Green Belt as raised by a resident.

Concern has been raised that proposed users would intimidate other users of the park. The location of the skate park is separate from other facilities at this public park. The proposal seeks to provide a further facility within the public park to increase the diversity of facilities available for the benefit of the community.

An alternative location at Barns Lane has been suggested. While there are a number of other parks within the Borough, the Council's Clean and Green team propose this site as they consider it the optimum location to best serve members of the public.

Some residents consider there are existing facilities within the park; some are not used as it is and the proposal would be a waste of money. The designers for the scheme explain that there are no other skate parks of this design within the Black Country and nationally skate boarding is increasing as a sport with no other below ground installations within the Borough. Due to this unique design, the proposal would provide a facility not currently available within Walsall.

The proposal would increase the opportunity for outdoor sport in a sustainable location to the benefit of social inclusion. The principle of development is acceptable.

### **Impact on the character and appearance of the area**

The site is characterised by existing sports provision and skate parks are features of other parks in the Borough, for example the Arboretum and King George's playing field in Bloxwich.

The skate park would be sunk into the ground with only 1.1m exposed above the existing ground level. The park has other playing equipment and this proposal would not adversely impact upon the appearance of the area. Longer views of the skate park will be partly screened by the proposed soil bund to the north and south. This bund would have a low angle, grassed and would become a landscape feature across the wider flat park.

On the basis of the above comments it is considered that the proposal would not impact significantly upon the character of the area.

### **Impact upon residential amenity**

The skate park would be 30m from the rear garden of the nearest house along Winterley Lane and 48m from the rear of the house. To the south, the proposal would be 100m from properties along Rowley Place. The application has been supported by a Noise Survey which concludes that at residential facade there would be a low adverse impact on residents. At residential garden the level will be below

the 50dB guidance. The report comments that “the operation of the skate park both in terms of the maximum and average noise levels indicate there will not be a significant and demonstrable adverse impact in terms of noise that *outweigh* (officer emphasis) the benefits”. This statement would suggest some harm and the report also recommends consideration is given to the skate park only being between 07:00 and 23:00 and the installation of a 2.0m high solid timber fence along the northern boundary.

The applicant has confirmed there is no lighting and no intention to provide lighting which would limit the use of the site to daylight hours only. The use of a standalone fence to assist blocking noise is considered not to be a practicable option in an open park which could end up being a target for vandalism and has the potential to become a maintenance liability.

In response the applicant proposes two 1.2m high soil bunds, to the north and east of the sunken structure. The bunds would be 2m from the edge of the skate park, 26m from the rear garden fences of the houses along Winterley Lane and 40m away from the rear of the houses. There would be a separation distance of 80m from the garden of the nearest house along Rowley Place and 85m from the rear of the house between the soil bund to the south. The combination of the separation distance, the intervening boundary fences the gradient and grass finish means that the bunds would not have a significant impact upon residential amenity.

The 1.2m high bund has the potential to be sat or stood upon. This height difference would be lower than a row of first floor windows to houses and the separation here exceeds the 24m guideline of Designing Walsall SPD between existing houses and this public park. Accordingly it is considered the proposal would not result in a significant loss of privacy.

Pollution Control have considered the bunds as a noise mitigation measure, noting the design utilises a pre-cast concrete bowl, that there will be an absence of ‘street furniture’ features that create additional noise and engineered earth bunding to the north, east and south of the skate park to afford acoustic shielding. Providing the skate park is built in accordance with these criteria, no objections are raised.

One neighbour had drawn the attention to a skate park elsewhere in the country that had to be removed due to noise problems. The proposal here unlike the case referred to is dug into the ground and includes noise mitigation measures.

Therefore on balance it is considered that the proposal would not give rise to a significant loss of residential amenity through noise and disturbance.

Concern has been raised about the potential for encouraging anti-social behaviour. The park is permanently open with a public footpath and other pathways running through the park. Rowley Place is used for parking by visitors to the park and is in direct view of the proposal. Within the park are two sets of play equipment and playing pitches, therefore a high amount of comings and goings would be reasonably expected to occur. In addition the first floor rear windows of houses in Winterley Lane overlook this area. For these reasons the skate park would not be significantly hidden away from view during the day so as to attract crime or anti-social behaviour. In addition the proposal does not include any form of shelter. The bunds do not

encompass the whole of the site and at 1.2m in height retain surveillance and the perception of surveillance for users of both the park and the skate park.

Comment has been passed that the proposal would encourage more problems with motorcycles going through the park on an evening. The proposal is designed for skateboards and scooters, not motorbikes. Therefore it is considered there would be no greater attraction for attempts to access the site by motorbikes.

Neighbours consider the proposal would add to existing litter problems. The park is served by a number of litter bins with one in close proximity to the proposal. A case has been cited where a skate park is restricted until 9pm. This is an existing public park with public footpath running through the middle of the site and low boundaries to some part of the park. Therefore it is not possible to lock the park at night. As no illumination is provided, similar to the situations of play equipment at most parks, once the sun has set darkness is likely to preclude the use of outdoor equipment. One neighbour has asked to view the Risk Assessment for safety of the Skate Park open and unlit during the hours of darkness. Clean and Green confirm a risk assessment will be undertaken and advisory signage explaining users use it at their own risk and that it is not to be used at night.

As regards the perceptions of crime or anti-social behaviour, it is appreciated that being able to see activities helps people feel comfortable whereas secluded or hard to see areas make people cautious and hesitant. Over time the location would also become familiar to people using the park on a regular basis and any increased perceptions of crime and anti-social behaviour would be unlikely to be significant. It is considered that the development would not result in actual or perceived opportunities for crime or anti-social behaviour.

### **Highway safety**

Concern has been raised about adding to existing parking issues. The site is in close proximity to Rushall Local Centre which includes a number of bus stops and bus routes, there is space along Rowley Place to park on street which is where a number of people using the park will park their vehicles and in addition the skate park would be promoted for use by young people who may not have access to vehicles. On balance it is considered the proposal would not give rise to conditions prejudicial to highway safety. Transportation officers raise no objection to the application.

### **Positive and proactive working with the applicant**

Officers have worked with the applicant and his agent securing the necessary information to enable support to be given to the proposal.

### **RECOMMENDATION: Grant planning 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 application form and following plans and documents:

- Location plan received 2/4/15
- Site plan received 18/2/15
- Layout and bund plan received 19/1/16
- Sections received 3/3/15
- Environmental Noise Impact Assessment received 16/9/15

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

3) The materials uses shall be those as state on the application form and approved plans.

*Reason:* In the interests of visual and residential amenity.

4a) The development hereby permitted shall not be brought into use until the soil bunds shown on the approved drawing have been installed. The bunds shall be grassed within the first available planting season.

4b) These noise mitigation measures shall thereafter be retained.

*Reason:* To safeguard the amenity of nearby residential occupiers.

5) For the avoidance of doubt the approval does not include any street elements, including grind rails or associated additional skating structures other than the concrete structure. No street elements shall be added to the skate park in the future.

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

6a) No external means of lighting the development hereby approved shall be used unless details have been first submitted for written approval by the Local Planning Authority.

6b) The lighting shall be installed and operated in accordance with the approved details.

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

7) At no time shall the skate park be used for organised competitions, trials or events.

*Reason:* To protect the amenity of nearby residential occupiers and in the interests of highway safety.

**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 04-Feb-2016

**Plans List Item Number: 7.**

**Reason for bringing to committee: Called in by Cllr Coughlan**

**Location:** GRAVESTOCK AND OWEN LTD, 33, MARKET PLACE, WILLENHALL, WV13 2AA

**Proposal:** CHANGE OF USE FROM OFFICES TO 8 APARTMENTS AND ASSOCIATED PARKING AND CYCLE SHELTER TO THE REAR.

**Application Number:** 15/1014/FULL

**Case Officer:** Devinder Matharu

**Applicant:** Arshad Mahmood

**Ward:** Willenhall South

**Agent:** Archi-tecture Design Studio Ltd

**Expired Date:** 28-Sep-2015

**Application Type:** Full Application

**Time Extension Expiry:** 09-Feb-2016

**Recommendation Summary:** Grant Permission Subject to Conditions



## **Application and Site Details**

Number 33 Market Place is located on the eastern side of Market Place in Willenhall District Centre.

The building is a grade II listed Georgian house within Willenhall Conservation Area. The building is mid 18<sup>th</sup> Century three storeys high constructed in Flemish bond brick with some painted stone dressings, a slate roof and sash windows with stone cills. The building has four bays. The building is set back from Market Place approximately 15m with a forecourt. The forecourt is located within the Willenhall primary shopping area.

The forecourt is sandwiched between two buildings either side, to the north, the Bell Inn – 32 Market Place a two storey grade II listed building that has windows in the side elevation at first floor overlooking the forecourt of 33. To the south of the forecourt is 34, also a two storey grade II listed building that has windows in the side elevation at first and second floor overlooking the forecourt of 33. The side elevations of these adjacent properties form the boundary with the forecourt.

The front boundary of the forecourt to Market Place is a dwarf brick wall with railings. There is a pedestrian access to Market Place from the forecourt. The forecourt is set at a higher level than Market Place and has 2 steps up from Market Place into the forecourt.

Towards the rear of the building is a car park. There is rear access to the building from the car park.

The building was previously utilised as an office and is now vacant. The keystone on the front elevation is missing.

The application proposes the change of use from offices to 8 apartments and associated parking and cycle shelter and bin store to the rear.

The ground floor would accommodate an office and two flats with the first and second floors accommodating three flats. The bathrooms would be partitioned by glass panels with a section of the glass partitions being frosted to provide privacy.

The proposal would also include:

- An amenity area of 165 square metres to the front of the site and a new access gate to Market Place.
- 11 car parking spaces to the rear of the site with a low level remote gated access and a rear amenity area of 321 square metres. The rear amenity area would be separated from the parking area by a low picket fence.
- A cycle store and bin store at the rear of the site
- CCTV cameras

Details of the glass panels and trunking have been provided.

The agent has provided the following additional information:

- Ground floor and first floor existing internal partitions and doors to be removed in accordance with drawing number 2015-048-007

- Installation of glazed partitions with frameless glazed doors of all bathrooms in accordance with drawing number 2015-048-004
- Installation of stud partitions with 2no. layer 12.5mm plaster board with skim and paint finished to match existing interior colours in accordance with drawing number 2015-048-004. Skirting board to match existing profile and painted white to match existing.
- Installation of 1no. FD30 door with fire related frame and architraves to match the existing first floor in accordance with drawing number 2015-048-004.
- 4no. doors on ground floor, first and second to be blocked on the single side with 5x2 stud partitions with 2no.12.5mm layer fire lined plaster board with skim and finish. Doors to be retained on external sides and locked shut.
- Installation of 3no. Soil vent pipes for all water discharge. SVP's to be taken to basement level and connected to existing pipe work discharge. Existing pipe work discharge will be inspected to ensure capacities are at an acceptable level.
- Proposed drainage for sinks, toilets and showers are shown on drawing number 2015-048-004 marked with dotted grey lines to show run directions.
- Drawing number 2015-048-004 shows smoke detectors, heat detectors and emergency lighting positions.
- Any interior cracks on perimeter walls/interior decorations are to be filled and painted to match the existing colour scheme.
- Installation of 8no boilers
- All doors and frames marked on drawing number 2015-048-004 to be painted with intumescent paint in white to give a 30 minute fire resistance.
- Soft latches to be installed to all ground floor flats
- The secondary glazing to WC windows will be film coated a frosted sheet to provide obscurity.
- All secondary glazing windows are to be retained. Confirm secondary glazing to provide thermal and acoustic performance.
- All existing glazing to be retained.
- The frame for the glazing will be steel.
- The keystone to the left of the entrance will be re-attached with lime mortar mix. The right keystone is to be replaced like for like and fixed with lime mortar mix.
- During the construction/refurbishment stage, the contractor is to erect scaffolding around the existing chimney to inspect the condition and assess the most appropriate procedure for remedial works whether stripping down the chimney brick by brick and reinstating it to its former stage or by providing supports below the chimney base and re-flash the chimney and ensure the building is water tight. The works will be undertaken by the contractor who will be qualified to carry out the works. The works to the chimney will be undertaken in lime mortar and pointing.
- The glass partitions will be glazed with the top parts being clear to allow light.

### **Relevant Planning History**

BC40445P/C –LBC-front fencing GLBC 1994.

BC5046 – LBC –modernisation to interior, renew front door and frame – GLBC 1976.

BC14895C – LBC- demolition of stables – GLBC 1980.

14/1022/FL - Change of use from offices to 12 studio bedsits with shared kitchen facilities.(Affects the public footpath Will 76). Refused 23 September 2014 for the following reasons:

1)The proposed high density single aspect bedsit development fails to provide an acceptable living environment and level of amenity for potential occupiers due to the small size of the units together with the units being single aspect in the absence of any on site outdoor amenity space. Furthermore,

- the front bedsits would not provide any noise relief for potential occupiers from the general noise and disturbance from the main thoroughfare in the centre.
- the rear bedsits being located in close proximity to the proposed car parking area and being exposed to general noise and disturbance of vehicles coming and going at all times of the day and night.
- the proposal does not provide adequate surveillance over the front and rear of the site from the apartments and the front of the site would be unsecure with direct access from Market Place.

2)The proposed development does not meet the minimum standards in terms of parking space dimensions, and reversing aisle width.

14/1023/LB- Listed Building Consent for change of use from offices to 12 studio bedsits with shared kitchen facilities. (Affects the public footpath Will 76). Refused 23 September 2014 for the following reasons:

1.The drawings accompanying this Listed Building Consent are inaccurate and fail to illustrate a sound survey of the building. The inaccuracies prejudice the conservation of internal features and fabric of the building as they do not allow for the works proposed to be implemented in the format illustrated. The application does not demonstrate the ability to undertake the works as proposed and therefore the degree of harm that would ensue would be greater than that suggested on the plans. The proposal fails to accord with Section 16 of the Town and Country (Listed Buildings and Conservation areas) act 1990.

2.The proposed arrangement of services and utilities within the building are unnecessarily harmful to historic fabric, including the routing of plumbing through chimney breasts and the complete loss of plaster work and joinery to facilitate new WC's. The proposal fails to accord with Section 16 of the Town and Country (Listed Buildings and Conservation areas) act 1990.

### **Relevant Planning Policy Summary**

#### **National Planning Policy Framework (NPPF) [www.gov.uk](http://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:

- 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:

1. Building a strong, Competitive economy

- 18. committed to securing economic growth in order to create jobs.
- 19. support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth.

2. Ensuring the vitality of town centres

- 23. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should:
  - recognise town centres as the heart of their communities and pursue policies to support their viability and vitality; define a network and hierarchy of centres that is resilient to anticipated future economic changes;
  - define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations;
  - promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;
  - allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres. It is important that needs for retail, leisure, office and other main town centre uses are met in full and are not compromised by limited site availability. Local planning authorities should

4. Promoting sustainable transport.

- 29. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.
- 32. opportunities for sustainable transport modes should be taken up depending on nature and location of site and safe and suitable access to the site can be achieved for all people.

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.
- 57. 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 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.

## 12 Conserving and enhancing the historic environment

Paragraph 131. In determining planning applications, local planning authorities should take account of

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional.

Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

Paragraph 133 Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

Paragraph 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 **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**

CSP4: Place Making

HOU2: Housing Density, Type and Accessibility

States that the density and type of new housing provided on each site will be informed by, amongst other factors, the need to achieve high quality design and minimise amenity impacts, taking into account the characteristics in the area where the proposal is located. All developments will aim to achieve a minimum net density of 35 dph except where higher densities would prejudice historic character and local distinctiveness.

CEN1: The Importance of the Black Country Centres for the Regeneration Strategy  
Crucial they maintain and enhance their offer in order to underpin economic growth and sustainability deliver a vital and viable network of centres to meet the current and future needs of the residents.

CEN2: Hierarchy of Centres

To maximise regeneration to protect the identified centres and the appropriate distribution of investment, a hierarchy of centres, consisting of three levels has been identified.

CEN5: District and Local Centres

Development should not undermine the viability and viability of the local centre.

TRAN1: Priorities for the Development of the Transport Network

Improving sustainable transport facilities.

ENV2: Historic Character and Local Distinctiveness

proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness.

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

## **Unitary Development Plan**

Policies GP2, 3.6, 3.7 seeks 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.

Encourage the development of previously land.

ENV17: New Planting

Planting will be promoted in district centres

ENV27 and 3.97: Buildings of Historic or Architectural Interest

Alteration, extension or any other form of development involving a listed building or its setting will only be permitted where it can be clearly demonstrated by the applicant that the internal and/or external appearance, character and value of the building, its curtilage and the contribution the building makes to the surrounding area in which it is situated are not adversely affected by the proposals. This would include the permanent removal of any part or feature that contributes to its special architectural or historic interest, whether or not specifically mentioned in its listing description. The submission of full details of any changes that materially affect the special architectural or historic interest of a listed building and/or its curtilage will be required as part of any Listed Building Consent (LBC) application.

(b) The change of use of a listed building will only be permitted if there will be no detrimental impact on the character and appearance of the building and/or its setting.

ENV29 and 3.104: Conservation Areas

The Council will determine whether a development preserves or enhances the character and appearance of a Conservation Area in terms of:-

I. The degree of loss or alteration to property which makes a positive contribution to the character of the area.

II. The impact of any new buildings on the special townscape and landscape features within the area.

III. The scale, massing, siting, layout, design or choice of materials used in any new building or structure.

IV. The nature of its use and the anticipated levels of traffic, parking and other activity that will result.

The Council will not permit development within Conservation Areas that incrementally erodes those special features which the Council wishes to preserve and enhance. The Council has a duty to preserve or enhance the character and appearance of conservation areas. Designation alone does not ensure that the most is made of the individual features

ENV33: Landscape Design

Good landscape design is an integral part of urban design

S1: Definition of Town Centre Uses

Lists appropriate town centre uses

## S2: The Hierarchy of Centres

The district centres are smaller than Walsall Town Centre and serve more localised roles. However, they do provide substantial retail, service and other facilities and could be considered as town centres in their own right.

Their main role is to meet the needs of their districts for convenience goods, local services and community facilities, although they all have some importance for comparison shopping. The District Centres could also potentially have role in accommodating facilities of Borough-wide importance which cannot be located in Walsall Town Centre.

## S4: The Town and District Centres: General Principles

Development must not be at the expense of the vitality and viability of the centre as a whole, or that of other centres within the Borough. Within the primary shopping area in the core of each centre. At ground floor level frontages within these areas, the Council will seek to ensure that the retail function is not prejudiced. Non-retail uses will, however, be permitted provided that these will:-

I. Contribute to the vitality of the frontage by attracting additional trade and/or increasing the range of facilities on offer.

II. Not detract from the retail function by creating 'dead frontage', or otherwise deterring shoppers, to an unacceptable extent or in an unacceptable location. In particular, non-retail uses are unlikely to be acceptable on both sides of the entrance to a shopping centre.

III. Be open during shopping hours and incorporate a shop front and window display to maintain and enhance the interest and liveliness of the street scene.

## S8: Housing in Town Centres

Investment in housing development within and close to Town, District and Local Centres will be encouraged, both on new sites and through the conversion of existing buildings, including upper floors. However, any such proposals must:-

I. Be able to achieve a satisfactory residential environment, taking account of the considerations set out in Policy ENV10 although it will be recognised that the particular benefits of living in a centre could mean the acceptable level of residential amenity may not be the same as that expected in suburban locations.

## H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings

Encourages the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

## T4 - The Highway Network

District distributors are important routes connecting the main residential and employment areas of the Borough. Street parking and direct frontage access will be strictly regulated.

## T7 - Car Parking

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

## T13: Parking Provision for Cars, Cycles and Taxis

### T13: Parking Provision

2 bedroom houses and above, 2 spaces per unit

## WH1: Primary Shopping Area

The primary shopping area is identified on the Inset Map. New developments, at an appropriate scale, for shopping and services will be directed towards this area, to sustain the health and vitality of the centre. Outside the primary shopping area the Council will encourage investment in service, leisure, community or other town centre uses and also housing.

## WH10: Parking

Parking provision in the centre should be in accordance with the principles in Policy T7 in Chapter 7.

### **Supplementary Planning Document**

#### **Designing Walsall (2013)**

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

The following are the relevant policies;

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;

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

### **Other relevant legislation**

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

- **Section 16(2) Decision on application:** In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- **Section 72(1) General duty as respects conservation areas in exercise of planning functions:** In the exercise, with respect to any buildings or other land in a conservation area, of any [F1]functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

#### **Conservation Principles Policies and Guidance for the Sustainable Management of the Historic Environment: English Heritage (2008)**

#### **Consultations**

**Transportation** –No objection subject to a planning condition relating to parking and cycle shelter.

**Pollution Control Contaminated Land Team** – No objection

**Severn Trent Water** – No objection subject to a drainage condition

**Environmental Health** – No objection

**Building Conservation Officer** – No objection

**Housing Standards** – No objection

## **Public Participation Responses**

Councillor Coughlan has objected to the proposal on the grounds that the building should stay as a commercial building, it is right in the centre of the commercial area of the town it is also a conservation area.

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

### **Determining Issues**

Whether the proposal overcomes the previous reasons for refusal in respect of:

- High density single aspect flats and level of amenity
- Noise and disturbance
- Surveillance
- Meeting minimum parking and manoeuvring standards

Other issues

- Principle of development
- Design and layout
- Impact upon the Willenhall Common Conservation Area
- Impact upon surrounding residential and commercial occupiers
- Landscaping
- Access and parking

### **Observations**

#### **High density single aspect flats and level of amenity**

The number of flats has been reduced from 12 to 8 under the current scheme. The scheme now provides 165 square metres of amenity space to the front and 321 square metres of amenity space rear of the site. The reduction in the number of units and the inclusion of amenity space within the scheme would provide approximately 61 square metres of amenity space per flat.

The proposal overcomes the previous reason for refusal.

#### **Noise and disturbance**

The building has existing secondary glazing and the agent has confirmed that this will remain and provides thermal and acoustic performance. This glazing will provide a degree of protection from the noise outside. The building is set back from Market Place by approximately 15m and would provide an amenity area to the front. Whilst the occupiers may experience some noise and disturbance, policy S8 of the UDP recognises that those residents who reside in town centre locations have a lower level of amenity compared to those who reside in suburban locations. Environmental Health recognise anybody choosing to live in the centre of a town, adjacent to a market will be aware of the multiple sources of noise involved in the erection, running and dismantling of the market stalls and associated noise such as mechanical street cleaners and as such have no objection to the proposal.

A planning condition would be attached to ensure the existing secondary glazing is retained to protect potential occupiers from noise and disturbance from Market Place and the rear car park.

The proposed rear parking area is set away from the main habitable room windows of the flats separated from the flats by the amenity space. This would protect the amenity of the ground floor occupiers of the proposed flats from the noise and disturbance associated with the comings and goings of vehicles.

The front ground floor flats would have planters in front of them to prevent other residents getting close to the ground floor windows, protecting the amenity of the ground floor occupiers at the front of the site.

The proposal overcomes the previous reason for refusal.

### **Surveillance**

The scheme proposes CCTV to the rear of the site to provide additional surveillance and security. The rear and front access points to the building would be secured by pedestrian and vehicular gates. The flats would overlook the front and rear of the site providing surveillance. It is very unlikely that all occupiers of the flats would be out at the same time and surveillance from the flats of the front and rear of the site will be provided.

The proposal overcomes the previous reason for refusal.

### **Meeting minimum parking and manoeuvring standards**

Transportation have no objection to the proposal as the proposed parking spaces are acceptable and there is adequate manoeuvrability on site for vehicles.

The proposal overcomes the previous reason for refusal.

### **Principle of development**

Councillor Coughlan has objected to the proposal on the grounds that the commercial building is right in the centre of the commercial area of the town it is also a conservation area.

Policy ENV14 of the UDP seeks to support the reuse of previously developed sites and policy H3 of the UDP supports windfall sites coming forward. The building is currently vacant. In principle the re-use of the building for residential purposes is considered acceptable.

The site is within Willenhall District Centre which is a sustainable location with easy access to amenities and public transport. Policy S8 and WH1 of the UDP support housing in town centres provided a satisfactory level of amenity can be achieved; it also recognises that the benefits of living in a centre could mean the level of amenity may not be the same as that expected in suburban areas. In principle the proposal for housing at the site is supported subject to other detailed criteria being met below.

The front forecourt of the site is within the primary shopping area, which falls under policy S4 of the UDP, the proposal would not unduly impact upon the primary shopping frontage.

Policy ENV27 supports other form of development involving a listed building where it can be demonstrated by the applicant that the internal and external appearance and character and the value of the building, its curtilage and the contribution the building makes to the surrounding area in which it is situated is not adversely affected. This application is accompanied with a Listed Building Application, reference number 15/1015/LBAE and the impact the proposal has on the listed building will be assessed under that application.

### **Design and layout**

The proposal would not alter the external appearance of the listed building; the missing keystone on the front elevation will be reinstated retaining the historic character and setting of the listed building.

The agent has stated that a contractor will be appointed to inspect the condition of the chimney and to assess the most appropriate procedure for remedial works, whether this be stripping down the chimney brick by brick and reinstating it to its former stage or by providing supports below the chimney base and re-flash the chimney and ensure the building is water tight. The extent of these works cannot be considered at this stage until the exact state of the chimney is established and this would need to be considered separately under a separate Listed Building application.

The layout of the flats will include internal works to seal off the three existing doorways that are served from the main hallway/lobby area from inside the three flats to the front of the site on each floor. The agent has stated the inside of the doors will be sealed with plasterboard and skimmed. The Building Conservation Officer has no objection to this and a planning condition will be attached to ensure the works are carried out in accordance with the details as set out on the submitted plans.

The works will also include the creation of new openings within the first and third floor flats to the front of the site to create access to the kitchen and bathrooms to these flats. Details of the proposed works to create these openings will be sought by condition to ensure the proposed works are sympathetic to the historic fabric and character of the Listed Building and the proposed works are not harmful to the Listed Building.

The flats will include internal glazed partitions and would enable the large front room proportions to still be read. The plans show that part of the glazing would be obscured and the upper section near the ceiling to be clear to allow light through. The frames are left as finished stainless steel which is considered appropriate and will enable the new to be distinguished from the old. There is minimal framing which allows the glass to appear lightweight and not overbearing. A planning condition will be attached to ensure only the submitted glazed partitions are installed.

The proposal will include the installation of a pedestrian gate on the front of the site fronting Market Place to secure the front courtyard and a rear vehicular gate to the parking area fronting Upper Lichfield Street. The proposal will also include a low level picket fence to separate the rear parking and amenity area, details of this fence can also be sought by condition in the visual amenities of the Conservation Area.

In the rear of the site cycle shelter and a bin store will be positioned away from the Listed Building. Details of these can be sought by condition.

The front forecourt will be overlooked from the two adjoining commercial premises. Whilst this is not ideal, the area to the front of the site would provide amenity space for residents to utilise. Most town centre locations have no on site amenity provision and this arrangement is unusual but welcomed to provide some outdoor space for potential occupiers.

A condition is recommended to prevent the C3 dwellings from being converted to C4 houses in multi-occupation to safeguard the amenities of the area.

The overall design and layout of the proposed flats are considered acceptable.

### **Impact upon the Willenhall Conservation Area**

The proposal to reinstate the missing keystone on the front elevation of the Listed Building will enhance the character and appearance of the existing building within the Conservation Area.

A film to windows that serve the bathrooms on the front and rear elevation to provide privacy for the potential occupiers will be applied. This film would not unduly harm the character or appearance of the conservation area.

Details of the proposed pedestrian gate and the repair to the wall fronting Market Place will be sought by condition to ensure the proposed gate and repair works are sympathetic to the setting of the Listed Building and Conservation Area.

Box planters will be placed within the front forecourt of site fronting Market Place. Details of the type of planters can be sought by condition to ensure they are sympathetic to the setting of the Conservation Area.

Overall, the conversion of the vacant building in flats would not unduly harm the character or appearance of the conservation area to warrant refusal of the scheme.

The Building Conservation Officer has no objection to the proposal.

### **Impact upon amenities of surrounding commercial and neighbouring occupiers**

The conversion of the proposed building into bedsits would not unduly impact upon the amenities of the neighbouring commercial premises. The re-use of the vacant building will secure the building and also provide security for neighbouring commercial premises during the evening when commercial premises are closed for business.

The proposed conversion of the vacant office building into residential development would not unduly impact upon the amenities of the neighbouring residential occupiers above the Bell Inn to the north of the site.

## **Landscape**

Planting to the front and rear amenity areas will be provided in planted boxes. Details of the type of plants to be planted in these planters and the maintenance of the plants will be secured by condition.

## **Access and parking**

Transportation have no objection to the proposal as the proposal provides 11 parking spaces which is considered acceptable for a district centre location. The site is in a sustainable location with public transport facilities to and from Willenhall to Walsall are available.

## **Positive and proactive working with the applicant**

The agent has provided details sought as part of the application which are acceptable with the Building Conservation Area. Further details are required which can be sought by condition. The re-use of the office building as residential is supported by policy. The proposal overcomes the previous reasons for refusal.

## **Recommendation Granted 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 shall be completed in accordance with the following approved plans only:

- 2015-048-001A entitled 'site plan' submitted 8<sup>th</sup> January 2016.
- 2015-048-004 entitled 'proposed plans' submitted on 14<sup>th</sup> December 2016
- 2015-048-007 entitled 'proposed internal demolition' submitted 14<sup>th</sup> December 2016
- 2015-048-005 entitled 'proposed elevations' submitted on 15<sup>th</sup> June 2015.
- 2015-048-009 entitled 'proposed glazed partition elevations' submitted 12<sup>th</sup> January 2016
- 2015-048-008 entitled 'proposed glazed partition details' submitted 12<sup>th</sup> January 2016
- 2015-048-010 entitled 'proposed glazed partition details' submitted 12<sup>th</sup> January 2016
- 2015-048-011 entitled 'proposed trunking details' submitted 12<sup>th</sup> January 2016.
- Photographic information submitted 14<sup>th</sup> December 2015

*Reason:* To define the permission

3a. Notwithstanding the position of the 6no security cameras as shown on drawing number 2015-048-001a entitled 'site plan' submitted on 8<sup>th</sup> January 2016 and prior to the commencement of this permission, a revised plan showing the position of 4no security cameras on the rear of the listed building including details of the security cameras and the method of how these security cameras will be attached to the historic fabric of the listed building shall be submitted to and approved in writing by the Local Planning Authority.

3b. Only the approved 4no security cameras in the approved locations shall be attached in accordance with the approved method for attaching the 4no. security cameras to the historic fabric of the Listed Building, prior to the occupation of any of the proposed flats hereby approved and retained and maintained at all times.

*Reason:* In the visual amenities of the Conservation area and setting of the listed building.

4a. Prior to the commencement of this permission, the following details shall be submitted to and approved in writing by the Local Planning Authority.

- The design of the proposed pedestrian gate to the front of the site fronting Market Place including elevations and the external finish
- The design of the proposed rear vehicular gate fronting Upper Lichfield Street including elevations and the external finish
- The repair works and masonry colour finish to the front wall fronting Market Place.

4b. Only the approved design and external finish of the pedestrian gate fronting Market Place and the vehicular gate fronting Cheapside shall be installed, and only the approved repair works and masonry colour finish of the wall fronting Market Place shall be undertaken, prior to the occupation of any of the flats hereby approved.

4c. The gates shall be retained and maintained at all times.

4d. The wall fronting Market Place shall be retained and maintained at all times.

*Reason:* In the visual amenities of the Conservation area.

5a. Prior to the commencement of this permission, details of the picket fence to the rear of the site to separate the rear parking and amenity area as shown on drawing number 2015-048-001a entitled 'site plan' submitted on 8<sup>th</sup> January 2016 shall be submitted to and approved in writing by the Local Planning Authority.

5b. Only the approved picket fence shall be erected prior to the occupation of any of the proposed flats hereby approved and retained and maintained at all times.

*Reason:* In the visual amenities of the Conservation area.

6a. Prior to the commencement of this permission, details of the proposed cycle shelter facility to the rear of the site as shown on drawing number 2015-048-001a entitled 'site plan' submitted on 8<sup>th</sup> January 2016 shall be submitted to and approved in writing by the Local Planning Authority.

6b. Only the approved cycle shelter facility shall be installed and thereafter retained and used for no other purpose.

*Reason:* In the visual amenities of the area and to encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4

7a. Prior to the commencement of this permission, details of the proposed bin store to the rear of the site as shown on drawing number 2015-048-001a entitled 'site plan' submitted on 8<sup>th</sup> January 2016 shall be submitted to and approved in writing by the Local Planning Authority.

7b. Only the approved bin store shall be installed and thereafter retained and used for no other purpose.

Reason: In the visual amenities of the area.

8a. Prior to the commencement of this permission, details of the box planters to be installed within the site at the front and rear as shown on 2015-048-001A entitled 'site plan' submitted 8<sup>th</sup> January 2016 including the material they will be constructed out of and the colour finish shall be submitted to and approved in writing by the Local Planning Authority.

8b. Only the approved box planter shall be installed within the front and rear of the site and retained and maintained at all times.

Reason: In the visual amenities of the area.

9a. Prior to the commencement of this permission, details of and the type of shrubs / plants to be planted within the box planters including Full botanical plant species details shall be submitted to and approved in writing by the Local Planning Authority.

9b. Only the approved plants shall be planted within the box planters and placed within the site as shown on drawing number 2015-048-001A submitted on 14<sup>th</sup> December 2016, prior to the occupation of any of the proposed flats hereby approved.

9c. The planters shall be managed for at least 5 years from the completion of the scheme.

9d. Any shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a shrub or plant of the same or greater size and the same species as that originally required to be planted within the first available planting season following the removal of any dead, diseased or damaged shrub or plant.

*Reason:* In the visual amenities of the Conservation area.

10a. Prior to the commencement of this permission, drainage details for the disposal of surface water and foul sewage shall be submitted to and approved in writing by the Local Planning Authority.

10b. 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 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.

12. Prior to the development first coming into use, the parking spaces shown on the approved drawing no. 2015-048-001A submitted on 8<sup>th</sup> January 2016 shall be clearly demarcated on the ground and thereafter retained and used for no other purpose.

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

13. The secondary internal glazing shall be retained at all times.

Reason: To protect the amenity of the occupiers of the flats from noise from Market Place.

14. The internal works to seal the doorway to create kitchen and bathrooms for the front flats on each level shall be undertaken in accordance with the details as stated on plan number 2015-048-004 entitled 'proposed plans' submitted on 14<sup>th</sup> December 2016.

Reason: To protect the historic fabric of the listed building.

15. The internal glazed panels as shown on plan number 2015-048-004 entitled 'proposed plans' submitted on 14<sup>th</sup> December 2016 shall be undertaken in accordance with the following drawing numbers:

- 2015-048-009 entitled 'proposed glazed partition elevations' submitted 12<sup>th</sup> January 2016
- 2015-048-008 entitled 'proposed glazed partition details' submitted 12<sup>th</sup> January 2016
- 2015-048-010 entitled 'proposed glazed partition details' submitted 12<sup>th</sup> January 2016

Reason: To protect the historic fabric of the listed building.

16. The trunking of the services shall be undertaken in accordance with plan number 2015-048-011 entitled 'proposed trunking details' submitted 12<sup>th</sup> January 2016.

Reason: To protect the historic fabric of the listed building.

17. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015, or succeeding orders, no change of use within the provisions of Schedule 2, Part 3, Class L shall take place to change the flats hereby approved from Class C3 (dwellinghouses) to Class C4 (houses in multi occupation).

Reason: To safeguard the amenities of the occupiers of adjoining premises and to allow the LPA to retain control of the site.

18. At no time shall any gates at the pedestrian access off Market Place or at the car park access off Upper Lichfield Street open outwards across the public highway.

Reason: In the interests of highway safety.

19.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. (\* *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 potential occupiers.



**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 04-Feb-2016

**Plans List Item Number: 8.**

**Reason for bringing to committee: Called in by Cllr Coughlan**

**Location:** 33, MARKET PLACE, WILLENHALL, WV13 2AA

**Proposal:** LISTED BUILDING CONSENT::CHANGE OF USE FROM OFFICES TO 8 APARTMENTS, REINSTATE KEYSTONE FEATURE ON THE FRONT ELEVATION, INTERNAL GLAZED PARTITIONS, FILM TO BATHROOM WINDOWS, INTERNAL ALTERATIONS TO CREATE A NEW DOORWAY, SEAL DOORWAYS, INSTALLATION OF SMOKE DETECTORS, INSTALLATION OF SECURITY CAMERAS, INSTALLATION OF PEDESTRIAN AND VEHICULAR GATES, BOX PLANTERS, CYCLE SHELTER AND BIN STORE TO THE REAR AND ASSOCIATED PARKING.

**Application Number:** 15/1015/LBAE

**Applicant:** arshad mahmood

**Agent:** Archi-ecture Design Studio Ltd

**Application Type:** Listed Building Consent  
Alter/Extend

**Case Officer:** Devinder Matharu

**Ward:** Willenhall South

**Expired Date:** 09-Aug-2015

**Time Extension Expiry:** 09-Feb-2016

**Recommendation Summary:** Grant Listed Building Consent



## **Application and Site Details**

Number 33 Market Place is located on the eastern side of Market Place in Willenhall District Centre.

The building is a grade II listed Georgian house within Willenhall Conservation Area. The building is mid 18<sup>th</sup> Century three storeys high constructed in Flemish bond brick with some painted stone dressings and slate roof. The windows are sash with stone cills and the building has four bays. The first floor lintels have chamfered false voussoirs (wedged shaped stone) and fluted keystones. The timber doorcase in third bay has pediment consoles. There is a gutter cornice and coped gables with chimneys. The interior has open well stair with open string, turned balusters and ramped handrail. The internal doors are oak with six raised and fielded panels.

The building is set back from Market Place approximately 15m with a forecourt. The forecourt is located within the Willenhall primary shopping area.

The forecourt is sandwiched between two buildings either side, to the north, the Bell Inn – 32 Market Place a two storey grade II listed building that has windows in the side elevation at first floor overlooking the forecourt of 33. To the south of the forecourt is 34, also a two storey grade II listed building that has windows in the side elevation at first and second floor overlooking the forecourt of 33. The side elevations of these adjacent properties form the boundary with the forecourt.

The front boundary of the forecourt to Market Place is a dwarf brick wall with railings. There is a pedestrian access to Market Place from the forecourt. The forecourt is set at a higher level than Market Place and has 2 steps up from Market Place into the forecourt.

Towards the rear of the building is a car park. There is rear access to the building from the car park.

The building was previously utilised as an office and is now vacant. The keystone on the front elevation is missing.

The application proposes the change of use from offices to 8 apartments, reinstate keystone feature on the front elevation, internal glazed partitions, film to bathroom windows, internal alterations to create a new doorway, seal doorways, installation of smoke detectors, installation of CCTV, installation of pedestrian and vehicular gates, box planters, cycle shelter and bin store to the rear and associated parking.

The ground floor would accommodate an office and two flats with the first and second floors accommodating three flats. The bathrooms would be partitioned by glass panels with a section of the glass partitions being frosted to provide privacy.

The proposal would also include:

- An amenity area of 165 square metres to the front of the site and a new access gate to Market Place.
- 11 car parking spaces to the rear of the site with a low level remote gated access and a rear amenity area of 321 square metres. The rear amenity area would be separated from the parking area by a low picket fence.

- A cycle store and bin store at the rear of the site
- CCTV cameras

Details of the glass panels and trunking have been provided.

The agent has provided the following additional information:

- Ground floor and first floor existing internal partitions and doors to be removed in accordance with drawing number 2015-048-007
- Installation of glazed partitions with frameless glazed doors of all bathrooms in accordance with drawing number 2015-048-004
- Installation of stud partitions with 2no. layer 12.5mm plaster board with skim and paint finished to match existing interior colours in accordance with drawing number 2015-048-004. Skirting board to match existing profile and painted white to match existing.
- Installation of 1no. FD30 door with fire related frame and architraves to match the existing first floor in accordance with drawing number 2015-048-004.
- 4no. doors on ground floor, first and second to be blocked on the single side with 5x2 stud partitions with 2no. 12.5mm layer fire lined plaster board with skim and finish. Doors to be retained on external sides and locked shut.
- Installation of 3no. Soil vent pipes for all water discharge. SVP's to be taken to basement level and connected to existing pipe work discharge. Existing pipe work discharge will be inspected to ensure capacities are at an acceptable level.
- Proposed drainage for sinks, toilets and showers are shown on drawing number 2015-048-004 marked with dotted grey lines to show run directions.
- Drawing number 2015-048-004 shows smoke detectors, heat detectors and emergency lighting positions.
- Any interior cracks on perimeter walls/interior decorations are to be filled and painted to match the existing colour scheme.
- Installation of 8no boilers
- All doors and frames marked on drawing number 2015-048-004 to be painted with intumescent paint in white to give a 30 minute fire resistance.
- Soft latches to be installed to all ground floor flats
- The secondary glazing to WC windows will be film coated a frosted sheet to provide obscurity.
- All secondary glazing windows are to be retained. Confirm secondary glazing to provide thermal and acoustic performance.
- All existing glazing to be retained.
- The frame for the glazing will be steel.
- The keystone to the left of the entrance will be re-attached with lime mortar mix. The right keystone is to be replaced like for like and fixed with lime mortar mix.
- During the construction/refurbishment stage, the contractor is to erect scaffolding around the existing chimney to inspect the condition and assess the most appropriate procedure for remedial works whether stripping down the chimney brick by brick and reinstating it to its former stage or by providing supports below the chimney base and re-flash the chimney and ensure the building is water tight. The works will be undertaken by the contractor who will be qualified to carry out the works. The works to the chimney will be undertaken in lime mortar and pointing.
- The glass partitions will be glazed with the top parts being clear to allow light.

### **Relevant Planning History**

BC40445P/C –LBC-front fencing GLBC 1994.

BC5046 – LBC –modernisation to interior, renew front door and frame – GLBC 1976.

BC14895C – LBC- demolition of stables – GLBC 1980.

14/1022/FL - Change of use from offices to 12 studio bedsits with shared kitchen facilities.( Affects the public footpath Will 76). Refused 23 September 2014 for the following reasons:

1)The proposed high density single aspect bedsit development fails to provide an acceptable living environment and level of amenity for potential occupiers due to the small size of the units together with the units being single aspect in the absence of any on site outdoor amenity space. Furthermore,

- the front bedsits would not provide any noise relief for potential occupiers from the general noise and disturbance from the main thoroughfare in the centre.
- the rear bedsits being located in close proximity to the proposed car parking area and being exposed to general noise and disturbance of vehicles coming and going at all times of the day and night.
- the proposal does not provide adequate surveillance over the front and rear of the site from the apartments and the front of the site would be unsecure with direct access from Market Place.

2)The proposed development does not meet the minimum standards in terms of parking space dimensions, and reversing aisle width.

14/1023/LB- Listed Building Consent for change of use from offices to 12 studio bedsits with shared kitchen facilities. ( Affects the public footpath Will 76). Refused 23 September 2014 for the following reasons:

1.The drawings accompanying this Listed Building Consent are inaccurate and fail to illustrate a sound survey of the building. The inaccuracies prejudice the conservation of internal features and fabric of the building as they do not allow for the works proposed to be implemented in the format illustrated. The application does not demonstrate the ability to undertake the works as proposed and therefore the degree of harm that would ensue would be greater than that suggested on the plans. The proposal fails to accord with Section 16 of the Town and Country (Listed Buildings and Conservation areas) act 1990.

2.The proposed arrangement of services and utilities within the building are unnecessarily harmful to historic fabric, including the routing of plumbing through chimney breasts and the complete loss of plaster work and joinery to facilitate new WC's. The proposal fails to accord with Section 16 of the Town and Country (Listed Buildings and Conservation areas) act 1990.

### **Relevant Planning Policy Summary**

**National Planning Policy Framework (NPPF)** [www.gov.uk](http://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:

- 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:

1. Building a strong, Competitive economy

18. committed to securing economic growth in order to create jobs.

19. support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth.

2. Ensuring the vitality of town centres

23. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should:

- recognise town centres as the heart of their communities and pursue policies to support their viability and vitality; define a network and hierarchy of centres that is resilient to anticipated future economic changes;

- define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations;

- promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;

- allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres. It is important that needs for retail, leisure, office and other main town centre uses are met in full and are not compromised by limited site availability. Local planning authorities should

4. Promoting sustainable transport.

29. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.

32. opportunities for sustainable transport modes should be taken up depending on nature and location of site and safe and suitable access to the site can be achieved for all people.

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.

57. 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 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.

## 12 Conserving and enhancing the historic environment

Paragraph 131. In determining planning applications, local planning authorities should take account of

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional.

Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

Paragraph 133 Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and

- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

Paragraph 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.  
PPS5 Planning for the Historic Environment: Historic Environment Planning Practice Guide

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**

CSP4: Place Making

HOU2: Housing Density, Type and Accessibility

States that the density and type of new housing provided on each site will be informed by, amongst other factors, the need to achieve high quality design and minimise amenity impacts, taking into account the characteristics in the area where the proposal is located. All developments will aim to achieve a minimum net density of 35 dph except where higher densities would prejudice historic character and local distinctiveness.

CEN1: The Importance of the Black Country Centres for the Regeneration Strategy  
Crucial they maintain and enhance their offer in order to underpin economic growth and sustainability deliver a vital and viable network of centres to meet the current and future needs of the residents.

CEN2: Hierarchy of Centres

To maximise regeneration to protect the identified centres and the appropriate distribution of investment, a hierarchy of centres, consisting of three levels has been identified.

CEN5: District and Local Centres

Development should not undermine the viability and viability of the local centre.

TRAN1: Priorities for the Development of the Transport Network

Improving sustainable transport facilities.

ENV2: Historic Character and Local Distinctiveness

proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness.

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

### **Unitary Development Plan**

Policies GP2, 3.6, 3.7 seeks 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.

Encourage the development of previously land.

ENV17: New Planting

Planting will be promoted in district centres

ENV27 and 3.97: Buildings of Historic or Architectural Interest

Alteration, extension or any other form of development involving a listed building or its setting will only be permitted where it can be clearly demonstrated by the applicant that the internal and/or external appearance, character and value of the building, its curtilage and the contribution the building makes to the surrounding area in which it is situated are not adversely affected by the proposals. This would include the permanent removal of any part or feature that contributes to its special architectural or historic interest, whether or not specifically mentioned in its listing description. The submission of full details of any changes that materially affect the special architectural or historic interest of a listed building and/or its curtilage will be required as part of any Listed Building Consent (LBC) application.

(b) The change of use of a listed building will only be permitted if there will be no detrimental impact on the character and appearance of the building and/or its setting.

ENV29 and 3.104: Conservation Areas

The Council will determine whether a development preserves or enhances the character and appearance of a Conservation Area in terms of:-

I. The degree of loss or alteration to property which makes a positive contribution to the character of the area.

II. The impact of any new buildings on the special townscape and landscape features within the area.

III. The scale, massing, siting, layout, design or choice of materials used in any new building or structure.

IV. The nature of its use and the anticipated levels of traffic, parking and other activity that will result.

The Council will not permit development within Conservation Areas that incrementally erodes those special features which the Council wishes to preserve and enhance. The Council has a duty to preserve or enhance the character and appearance of conservation areas. Designation alone does not ensure that the most is made of the individual features

ENV33: Landscape Design

Good landscape design is an integral part of urban design

#### S1: Definition of Town Centre Uses

Lists appropriate town centre uses

#### S2: The Hierarchy of Centres

The district centres are smaller than Walsall Town Centre and serve more localised roles. However, they do provide substantial retail, service and other facilities and could be considered as town centres in their own right.

Their main role is to meet the needs of their districts for convenience goods, local services and community facilities, although they all have some importance for comparison shopping. The District Centres could also potentially have role in accommodating facilities of Borough-wide importance which cannot be located in Walsall Town Centre.

#### S4: The Town and District Centres: General Principles

Development must not be at the expense of the vitality and viability of the centre as a whole, or that of other centres within the Borough. Within the primary shopping area in the core of each centre. At ground floor level frontages within these areas, the Council will seek to ensure that the retail function is not prejudiced. Non-retail uses will, however, be permitted provided that these will:-

I. Contribute to the vitality of the frontage by attracting additional trade and/or increasing the range of facilities on offer.

II. Not detract from the retail function by creating 'dead frontage', or otherwise deterring shoppers, to an unacceptable extent or in an unacceptable location. In particular, non-retail uses are unlikely to be acceptable on both sides of the entrance to a shopping centre.

III. Be open during shopping hours and incorporate a shop front and window display to maintain and enhance the interest and liveliness of the street scene.

#### S8: Housing in Town Centres

Investment in housing development within and close to Town, District and Local Centres will be encouraged, both on new sites and through the conversion of existing buildings, including upper floors. However, any such proposals must:-

I. Be able to achieve a satisfactory residential environment, taking account of the considerations set out in Policy ENV10 although it will be recognised that the particular benefits of living in a centre could mean the acceptable level of residential amenity may not be the same as that expected in suburban locations.

#### H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings

encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

#### T4 - The Highway Network

District distributors are important routes connecting the main residential and employment areas of the Borough. Street parking and direct frontage access will be strictly regulated.

#### T7 - Car Parking

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

#### T13: Parking Provision for Cars, Cycles and Taxis

##### T13: Parking Provision

2 bedroom houses and above, 2 spaces per unit

#### WH1: Primary Shopping Area

The primary shopping area is identified on the Inset Map. New developments, at an appropriate scale, for shopping and services will be directed towards this area, to sustain the health and vitality of the centre. Outside the primary shopping area the Council will encourage investment in service, leisure, community or other town centre uses and also housing.

#### WH10: Parking

Parking provision in the centre should be in accordance with the principles in Policy T7 in Chapter 7.

### **Supplementary Planning Document**

#### **Designing Walsall (2013)**

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

The following are the relevant policies;

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;

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

#### **Other relevant legislation**

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

- **Section 16(2) Decision on application:** In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- **Section 72(1) General duty as respects conservation areas in exercise of planning functions:** In the exercise, with respect to any buildings or other land in a conservation area, of any [F1]functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

#### **Conservation Principles Policies and Guidance for the Sustainable Management of the Historic Environment: English Heritage (2008)**

#### **Consultations**

**Environmental Health** – No objection

**Building Conservation Officer** – No objection

#### **Public Participation Responses**

Councillor Coughlan has objected to the proposal on the grounds that the building should stay as a commercial building, its right in the centre of the commercial area of the town it is also a conservation area.

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

## **Determining Issues**

Whether the proposal overcomes the previous reasons for refusal in respect of:

- Drawings failing to illustrate a sound survey of the building
- Arrangement of services harmful to the historic fabric

Other issues

- reinstate keystone feature on the front elevation
- Internal glazed partitions
- Film to bathroom windows
- internal alterations to create a new doorway
- seal doorways
- installation of smoke detectors
- installation of CCTV
- pedestrian and vehicular gates
- cycle shelter and bin store to the rear
- associated parking
- secondary glazing
- chimney
- principle of development

## **Observations**

### **Drawings failing to illustrate a sound survey of the building**

The drawings submitted under the current application are acceptable and the Building Conservation Officer has no objection to the details in the plans submitted.

The proposal overcomes this previous reason for refusal.

### **Arrangement of services harmful to the historic fabric**

The floor plans indicate that the trunking of the services internally is located in discreet locations and should be suitable. Cross section plans showing the trunking have been submitted; however details have not been submitted on the colour. It would therefore be appropriate that the colour matches the colour of the existing walls.

The proposal overcomes the previous reason for refusal.

### **Reinstate keystone feature on the front elevation**

The proposal would not alter the external appearance of the listed building; the missing keystone on the front elevation will be reinstated retaining the historic character and setting of the listed building. A planning condition to ensure the keystone is replaced with lime and mortar is recommended.

### **Internal glazed partitions**

The glazed partitions would enable the large front room proportions to still be read and plans show that part of the glazing would be obscured and the upper section near the ceiling to be clear to allow light through. The frames are left as finished stainless steel which is considered appropriate and will enable the new to be distinguished from the old. There is minimal framing which allows the glass to appear lightweight and not overbearing.

A planning condition is recommended to ensure only the submitted glazed partitions are installed.

### **Film to bathroom windows**

A film to windows that serve the bathrooms on the front and rear elevation to provide privacy for the potential occupiers will be applied. To ensure the film would be acceptable and would not harm the setting or character of the listed building details will be sought by condition.

### **Internal alterations to create new doorways**

The works will also include the creation of new openings within the first and third floor flats to the front of the site to create access to the kitchen and bathrooms to these flats. Details of the proposed works to create these openings will be sought by condition to ensure the proposed works are sympathetic to the historic fabric and character of the Listed Building.

### **Seal doorways**

The layout of the flats will include internal works to seal off the three existing doorways that are served from the main hallway/lobby area from inside the three flats to the front of the site on each floor. The agent has stated the inside of the doors will be sealed with plasterboard and skimmed. The Building Conservation Officer has no objection to this and a planning condition is recommended to ensure the works are carried out in accordance with the details as set out on the submitted plans to safeguard the historic fabric and setting of the Listed Building.

### **Installation of smoke detectors**

The Building Conservation Officer has no objection to the installation of smoke detectors.

### **Installation of CCTV**

The submitted plans show 6no. security cameras to be attached to the rear of the listed building. It is considered that 6no. security cameras are excessive and 4no. would be sufficient. Details of the cameras and how they will be attached to the historic fabric of the Listed Building will be sought by condition to ensure the cameras are attached without causing damage to the historic fabric.

### **Pedestrian and vehicular gates**

The proposal will include the installation of a pedestrian gate on the front of the site fronting Market Place to secure the front courtyard and a rear vehicular gate to the parking area fronting Upper Lichfield Street.

The proposal will also include a low level picket fence to separate the rear parking and amenity area. The fence will be positioned away from the rear of the listed building.

Details of these can be sought by condition to ensure the gates and fencing is sympathetic to the character and setting of the Listed Building and Conservation Area.

The wall fronting Market Place needs to be repaired to prevent further decay and potential loss of the wall. Details of the repair to this wall will also be sought by condition to ensure the setting of the Listed Building and Conservation Area are safeguarded and the works are sympathetic to the setting of the Listed Building and Conservation Area.

### **Cycle shelter and bin store to the rear**

In the rear of the site a cycle shelter and a bin store will be positioned away from the Listed Building. Details of these can be sought by condition to ensure the design of the cycle shelter and bin store do not detract from the character and setting of the Listed Building.

### **Box planters**

Box planters will be placed within the front forecourt of site fronting Market Place. Details of the type of planters can be sought by condition to ensure they are sympathetic to the setting of the Listed Building and Conservation Area.

### **Associated parking**

The area to the rear of the building is already hard standing. The proposed demarcation of the parking area would not harm the setting of the listed building.

### **Secondary glazing**

The building has existing secondary glazing and the agent has confirmed that this will remain and provides thermal and acoustic performance. A condition is recommended to ensure the secondary glazing remains.

### **Chimney**

The agent has stated that a contractor will be appointed to inspect the condition of the chimney and to assess the most appropriate procedure for remedial works, whether this be stripping down the chimney brick by brick and reinstating it to its former stage or by providing supports below the chimney base and re-flash the chimney and ensure the building is water tight. The extent of these works cannot be considered at this stage until the exact state of the chimney is established and this would need to be considered separately under a Listed Building application.

### **Principle of development**

Councillor Coughlan has objected to the proposal on the grounds that the commercial building is right in the centre of the commercial area of the town it is also a conservation area.

Policy ENV27 of the UDP supports the change of use of a listed building will only be permitted if there will be no detrimental impact on the character and appearance of the building or its setting. In this case, the Building Conservation Officer has no objection to the proposal.

Although the works would still result in 'substantial harm' to the listed building by its nature of subdivision, much of the harm is mitigated through appropriate detailing and mitigation to preserve the significance of the building.

### **Positive and proactive working with the applicant**

The agent has provided details sought as part of the application which are acceptable with the Building Conservation Area. Further details are required which can be sought by condition. The proposal overcomes the previous reasons for refusal.

## **Recommendation Grant Listed Building Consent**

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 shall be completed in accordance with the following approved plans only:

- 2015-048-001A entitled 'site plan' submitted 8<sup>th</sup> January 2016.
- 2015-048-004 entitled 'proposed plans' submitted on 14<sup>th</sup> December 2016
- 2015-048-007 entitled 'proposed internal demolition' submitted 14<sup>th</sup> December 2016
- 2015-048-005 entitled 'proposed elevations' submitted on 15<sup>th</sup> June 2015.
- 2015-048-009 entitled 'proposed glazed partition elevations' submitted 12<sup>th</sup> January 2016
- 2015-048-008 entitled 'proposed glazed partition details' submitted 12<sup>th</sup> January 2016
- 2015-048-010 entitled 'proposed glazed partition details' submitted 12<sup>th</sup> January 2016
- 2015-048-011 entitled 'proposed trunking details' submitted 12<sup>th</sup> January 2016.
- Photographic information submitted 14<sup>th</sup> December 2015

*Reason:* To define the permission

3a a. Prior to the commencement of this permission, details of the film to be applied to the inside of the Listed Building windows serving the bathrooms shall be submitted to and approved in writing by the Local Planning Authority.

3b. Only the approved film shall be applied to the inside of the Listed Building windows that serve the bathrooms, prior to the occupation of any of the proposed flats hereby approved and retained and maintained at all times.

*Reason:* To ensure that the works are sympathetic to the conservation of historic fabric and character of this Grade II listed building and the Willenhall Conservation Area and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

4a. Prior to the commencement of this permission, a methodology for the implementation of structural works to create new door access to the ground and third floor front flats to create an access to the kitchen and bathrooms as shown on drawing number 2015-048-004 entitled 'proposed plans' submitted on 14<sup>th</sup> December 2015 shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt this shall include the method of support to retained historic fabric, method of opening up of historic fabric, method of removal of historic fabric and method of insertion of new structural elements.

4b. The method statement approved shall be used during the implementation of the works undertaken.

*Reason:* To ensure that the works are sympathetic to the conservation of historic fabric and character of this Grade II listed building and the Willenhall Conservation Area and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

5a. Notwithstanding the position of the 6no security cameras as shown on drawing number 2015-048-001a entitled 'site plan' submitted on 8<sup>th</sup> January 2016 and Prior to the commencement of this permission, a revised plan showing the position of 4no security cameras on the rear of the listed building including details of the security cameras and the method of how these security cameras will be attached to the historic fabric of the listed building shall be submitted to and approved in writing by the Local Planning Authority.

5b. Only the approved 4no security cameras in the approved locations shall be attached in accordance with the approved method for attaching the 4no. security cameras to the historic fabric of the Listed Building, prior to the occupation of any of the proposed flats hereby approved and retained and maintained at all times.

*Reason:* To ensure that the works are sympathetic to the conservation of historic fabric and character of this Grade II listed building and the Willenhall Conservation Area and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

6a. Prior to the commencement of this permission, the following details shall be submitted to and approved in writing by the Local Planning Authority.

- The design of the proposed pedestrian gate to the front of the site fronting Market Place including elevations and the external finish
- The design of the proposed rear vehicular gate fronting Upper Lichfield Street including elevations and the external finish
- The repair works and masonry colour finish to the front wall fronting Market Place.

6b. Only the approved design and external finish of the pedestrian gate fronting Market Place and the vehicular gate fronting Cheapside shall be installed, and only the approved repair works and masonry colour finish of the wall fronting Market Place shall be undertaken, prior to the occupation of any of the flats hereby approved.

6c. The gates shall be retained and maintained at all times.

6d. The wall fronting Market Place shall be retained and maintained at all times.

*Reason:* To ensure that the works are sympathetic to the conservation of historic fabric and character of this Grade II listed building and the Willenhall Conservation Area and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

7a. Prior to the commencement of this permission, details of the picket fence to the rear of the site as shown on drawing number 2015-048-001a entitled 'site plan' submitted on 8<sup>th</sup> January 2016 to separate the rear parking and amenity area shall be submitted to and approved in writing by the Local Planning Authority.

7b. Only the approved picket fence shall be erected prior to the occupation of any of the proposed flats hereby approved and retained and maintained at all times.

*Reason:* To ensure that the works are sympathetic to the conservation of historic fabric and character of this Grade II listed building and the Willenhall Conservation Area and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

8a. Prior to the commencement of this permission, details of the proposed cycle shelter facility to the rear of the site as shown on drawing number 2015-048-001a entitled 'site plan' submitted on 8<sup>th</sup> January 2016 shall be submitted to and approved in writing by the Local Planning Authority.

8b. Only the approved cycle shelter facility shall be installed and thereafter retained and used for no other purpose.

*Reason:* To ensure that the works are sympathetic to the conservation of historic fabric and character of this Grade II listed building and the Willenhall Conservation Area and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

9a. Prior to the commencement of this permission, details of the proposed bin store to the rear of the site as shown on drawing number 2015-048-001a entitled 'site plan' submitted on 8<sup>th</sup> January 2016 shall be submitted to and approved in writing by the Local Planning Authority.

9b. Only the approved bin store shall be installed and thereafter retained and used for no other purpose.

*Reason:* To ensure that the works are sympathetic to the conservation of historic fabric and character of this Grade II listed building and the Willenhall Conservation Area and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

10a. Prior to the commencement of this permission, details of the box planters to be installed within the site at the front and rear as shown on drawing number 2015-048-001a entitled 'site plan' submitted on 8<sup>th</sup> January 2016 including the material they will be constructed out of and the colour finish shall be submitted to and approved in writing by the Local Planning Authority.

10b. Only the approved box planter shall be installed within the front and rear of the site and retained and maintained at all times.

*Reason:* To ensure that the works are sympathetic to the conservation of historic fabric and character of this Grade II listed building and the Willenhall Conservation Area and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

11.The reinstatement of the keystone on the front elevation and all pointing, re-pointing and mortar beds shall be undertaken using NHL2 lime mortar at a ratio of 1 part lime to three parts sand.

*Reason:* To ensure that the works are sympathetic to the conservation of historic fabric and character of this Grade II listed building and the Willenhall Conservation Area and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

12.The method of pointing and bedding of new and existing masonry (in lime mortar as specified in condition 16) shall be as follows:

- All raking out of old mortar shall be by hand (not power tools);
- All new pointing shall be given a flush finish (not weather struck); and
- All pointing shall be pat finished and not smoothed by tooling.

All pointing shall be undertaken in accordance with this methodology and between the months of April to October.

*Reason:* To ensure that the works are sympathetic to the conservation of historic fabric and character of this Grade II listed building and the Willenhall Conservation Area and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

13.All new trunking of utilities are to be painted to match the existing colour of the walls.

*Reason:* To ensure that the works are sympathetic to the conservation of historic fabric and character of this Grade II listed building and the Willenhall Conservation Area and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

14.The secondary internal glazing shall be retained at all times.

*Reason:* To safeguard the historic fabric of the listed building.

15. The internal works to seal the doorway to create kitchen and bathrooms for the front flats on each level shall be undertaken in accordance with the details as stated on plan number 2015-048-004 entitled 'proposed plans' submitted on 14<sup>th</sup> December 2016.

*Reason:* To ensure that the works are sympathetic to the conservation of historic fabric and character of this Grade II listed building and the Willenhall Conservation Area and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

16. The internal glazed panels as shown on plan number 2015-048-004 entitled 'proposed plans' submitted on 14<sup>th</sup> December 2016 shall be undertaken in accordance with the following drawing numbers:

- 2015-048-009 entitled 'proposed glazed partition elevations' submitted 12<sup>th</sup> January 2016
- 2015-048-008 entitled 'proposed glazed partition details' submitted 12<sup>th</sup> January 2016
- 2015-048-010 entitled 'proposed glazed partition details' submitted 12<sup>th</sup> January 2016

Reason: To ensure that the works are sympathetic to the conservation of historic fabric and character of this Grade II listed building and the Willenhall Conservation Area and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

17. The trunking of the services shall be undertaken in accordance with plan number 2015-048-011 entitled 'proposed trunking details' submitted 12<sup>th</sup> January 2016.

Reason: To ensure that the works are sympathetic to the conservation of historic fabric and character of this Grade II listed building and the Willenhall Conservation Area and accords fully with Section 16, 66 and 72 of the Town and country Planning (Listed Building and Conservation Areas) Act 1990.

**Note to applicant**

Once an inspection of the structural integrity of the chimney has been undertaken, the applicant/agent shall contact the Local Planning Authority to seek further advice on submitting a separate listed building application for any works to the chimney.

**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 04-Feb-2016

**Plans List Item Number: 9.**

**Reason for bringing to committee: Significant community interest**

**Location:** THE POETS CORNER, , 51, KEATS ROAD, WILLENHALL, WV12 5HY

**Proposal:** RESUBMISSION OF 14/0679/FL FOR FIRST FLOOR EXTENSION FOR 2 FLATS AND ALTERATIONS TO EXISTING FLAT

**Application Number:** 15/1041/FULL

**Case Officer:** Paul Hinton

**Applicant:** Mr H Kang

**Ward:** Willenhall North

**Agent:**

**Expired Date:** 27-Aug-2015

**Application Type:** Full Application

**Time Extension Expiry:** 11-Feb-2016

**Recommendation Summary:** Grant Permission Subject to Conditions



## **Application and Site Details**

This application follows a previously withdrawn application and seeks planning permission for a first floor extension above the more recently constructed single storey flat roof bar extension to the front of this public house. The extension would accommodate two no. one bedroom self-contained flats accessible by an enclosed staircase with doorway from the front. The accommodation would include a lounge/kitchen, bedroom and en-suite. Lounge windows would be to the front of the building with bedroom windows to the side. The window serving the bathroom for the existing accommodation to the public house would be blocked up as part of the proposals with an additional window and internal alterations to the side facing bedroom. Beneath the enclosed staircase a secure bin store is proposed.

The extension would have a pitched roof, 8.1m in height, with eaves height 6.1m. It would increase the width of the front projection to 11.4m and have the length (8.5m) of the bar extension and would be built with matching roof tiles and a rendered finish to match the existing building. There are twenty-four existing parking spaces to the front and side of the building, with two proposed to be allocated for occupiers of the proposed flats.

The entrance to the public house is to the side of the building, with a separate building at the rear used as a hot food takeaway. The public house is within the middle of a residential area surrounded by open grassed areas to both sides and the rear. There are bus shelters in close proximity along Keats Road and Shelley Road, with a small parade of shops along Shelley Road.

The application drawings have been amended from original submission to those explained above following officer's advice.

### *Noise Impact Assessment*

- Glazing configuration that includes trickles vents is necessary to meet noise levels given in BS8233.
- Party floor should be constructed matching or exceeding the specifications given in the report.

## **Relevant Planning History**

BC56294P – Fish and chip takeaway. Allowed on appeal 14/2/2001. Condition 5 controls opening hours – 09.00-23.00 Mondays to Saturdays, 09.00-22.30 Sundays and public holidays.

13/0109/FL - Ground floor extension. Granted subject to conditions 20/3/14.

14/0679/FL - Proposed first floor extension for two flats with external staircase. Withdrawn 10/10/15.

14/1210/FL – Retrospective: front boundary wall and pillars. Granted subject to conditions 13/10/14.

## **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 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:

1. Delivering sustainable development

19 Planning should encourage sustainable growth.

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.

55. Avoid new isolated homes in the countryside unless there are special circumstances.

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.
8. Promoting healthy communities
69. Decisions should promote safe and accessible environments.
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...noise pollution.
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.
123. Planning decisions should aim to:
- Avoid noise from giving rise to significant adverse impacts

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](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.

This checklist has been published on the BCCS and Council websites. Cabinet on 24<sup>th</sup> July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

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.

2b: Encourages sustainable management of material resources through minimising waste, ensuring all members of the community have the best access to housing, previously development land is prioritised over greenfield sites and encourages a comprehensive approach to development.

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

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

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.

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.

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](http://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:

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.

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

3.7 Seek to protect people from unacceptable noise, pollution and other environmental problems.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution caused by installations or activities that are a source of any form of pollution.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV32: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime through design, layout, landscaping and boundary treatments is encouraged.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

H3: Windfall Sites and Conversion of Existing Buildings

(a) The Council will encourage the provision of additional housing through the re-use of brownfield windfall sites, provided that:-

- I. A satisfactory residential environment can be achieved, taking into account the considerations set out in Policy ENV10.
- II. There is no overriding need for the land or buildings to be retained for employment or any other use.
- III. The proposal would have good accessibility by a choice of means of transport and be well related to schools, shops and other social and community facilities.
- IV. Residential development would not unacceptably constrain the development of any adjacent site for its allocated or identified use.
- V. The proposal is acceptable in terms of other policies of the Plan.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13. This will involve providing an adequate level of parking to meet operational needs while not exceeding any maximum parking standards that are specified.

T8: Encourages greater use of walking as a healthy and sustainable form of travel.

T9: New developments should meet the accessibility standards for cyclists. The design of cycling infrastructure should be safe and secure for all users.

T10 (a): Refers to accessibility standards. The standards for disabled car parking are minimal ones. The standards for residential car parking should be seen as neither maximum nor minimum but the typical requirement. Certain site specific and locational circumstances will justify a reduction.

T12: Residential development should be within 400m walking distance to a bus stop which has a service frequency of at least 1 bus every 30mins during the day (12.00 and 19.00), 1 bus every hour on Sundays between 12.00 and 19.00.

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.

10% of all parking spaces should be reserved for disabled people.

Flats with Communal Parking                      1.5 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.

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

DW3 – all new development must be designed to respect and enhance local identity

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

DW6 – new development should contribute to creating a place that has a clear 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.

Annexe 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 68m<sup>2</sup> for housing, 20m<sup>2</sup> for flats.

## **Consultations**

**Transportation** – no objection subject to use of recommended condition in regard to demarcating and retaining the proposed flat parking spaces and provision of a covered secure cycle shelter.

**Pollution Control** – no objection subject to the use of recommended conditions.

**Housing Standards** – no objection.

**Severn Trent Water** – no objection subject to use of recommended condition in regard to drainage.

**Coal Authority** – no objection. Site in a high risk area, note for applicant recommended.

## **Public Participation Responses**

Surround occupiers notified by letter.

Following the first round of public consultation, 5 letters have been received objecting to the application on the following grounds:

- Existing noise problems, flats would make that worse
- Unsightly addition
- Don't know who would live there
- Rubbish behind the fence of the pub (not a material planning consideration).
- Before any further work is carried out the site should be tidied up (not a material planning consideration).
- Loss of property values (not a material planning consideration).
- Existing unauthorised gym (subject to current enforcement investigation).
- Not enough parking
- Will only be let out to people already drinking at the premises.

Re-consultation was undertaken following receipt of amended plans, two further letters have been received from original objectors raising the following additional objections:

- Flats would be directly over the bar so any residents would have disturbance to the early hours of the morning.
- Existing trouble at the pub, police attend regularly (not a material planning consideration).
- Pub should be knocked down and housing built (not a material planning consideration).

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

## **Determining Issues**

- Principle of residential development
- Impact on the character and appearance of the surrounding area
- Impact upon residential amenity
- Access and Parking
- Local finance considerations

## **Observations**

### **Principle of residential development**

The NPPF says that housing applications should be considered in the context of the presumption in favour of sustainable development. This is a sustainable location within an existing residential area with open space, local shops and bus stops all within walking distance. The application seeks to extend an existing building to provide two additional means of accommodation. The principle of additional housing in this location is therefore acceptable, subject to impact upon the character of the area, residential amenity and parking.

### **Impact on the character and appearance of the surrounding area**

The NPPF says that developments 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.

The flat roof bar extension is within an area dominated by pitched roofs. The design approach would add a dual pitched roof with matching ridge and eaves height to assist with integration. Window proportions are similar to the existing building and windows are also proposed to the side elevations to avoid the dominance of blank elevations and provide additional surveillance of the car park, street and open space to the side. The use of matching render and tiles would ensure the extension is sympathetic to the existing building and would not appear as a discordant feature in the streetscene.

On balance it is considered the proposal would not have an adverse impact upon the visual amenities of the area.

### **Impact upon residential amenity**

The proposed bedroom windows would be 31m from the houses across Keats Road. This separation distance is in accordance with policy and would not result in a loss of privacy, light or outlook. To the east the proposed lounge and bedroom windows and additional bedroom window to the existing flat would be 65m from the nearest houses along Browning Close and across the open space. To the west there would be a 45m separation distance. According the proposal would have no further loss of amenity to neighbouring properties.

An additional bedroom window is proposed to one of the bedrooms within the existing flat to ensure that sufficient outlook is retained to that room.

The proposed residential development would be above the bar of a public house and within close proximity to a hot food takeaway. A noise impact assessment has been undertaken which concludes that a satisfactory noise environment can be secured by use of specific glazing to windows and sound insulation measures between the floors.

Pollution Control comment that the assessment has identified that to ensure noise from the ground floor activity and the car park is mitigated, acoustic flooring and acoustic glazing (including ventilation) will be required. Pollution Control agrees with the findings of the report in that the glazing and the flooring specified by the acoustic consultant will provide a significant noise reduction. Pollution Control recommend a condition requiring the applicant to install the measures as outlined in the report and for the applicant to provide a written validation report (including photos and specs) of measures installed.

It is also noted that it will be clear to potential occupiers of the flats that they would be above a public house and therefore there would by its very nature be a less than tranquil environment, but one that would not be subject to significant noise and disturbance by the use of the mitigation measures proposed and which can be secured by condition. While neighbours raise concern about existing noisy activities at the public house, this is not something that can be addressed as part of this planning application and could be subject to investigation under other statutory powers. The additional activities created by two no. 1 bedroom flats above the existing public house and given the separation distance it is considered the activities would be such that it would not be reasonable to refuse the application on these grounds.

There are no private amenity areas provided as part of the application. Designing Walsall recommends 20m<sup>2</sup> per flat. The NPPF explains that housing applications should be considered in the context of the presumption in favour of sustainable development. This is a sustainable location with local amenities within walking distance. Due to the existing flat roof the application poses an opportunity to make more efficient use of the land. These are one bedroom flats that are dual aspect, therefore offering alternative outlooks and maximising energy efficiency. In addition there is open space immediately next to the site which offers opportunity for outdoor leisure. Any potential harm to future occupiers by not having direct access to private amenity space is heavily outweighed by the benefit of providing new housing in a sustainable location and by making a more efficient use of the site.

Concern has been raised about potential occupiers. There is no evidence to suggest that two one bedroom flats would give rise to anti-social behaviour. Planning policy is about a choice of housing to provide social inclusion; the proposal would seek to achieve this. In the interests of community safety it is recommended that audio access control measures to the flats is secured by condition.

### **Access and parking**

UDP policy T13 requires 1.5 car parking spaces per unit (communal) or two spaces per unit (allocated). The development proposes two allocated parking spaces which is two spaces below the parking policy requirement. The parking required for the public house in policy terms is 20 spaces inclusive of 2 disabled spaces (based upon a GFA of about 390 sqm) and there are 22 spaces available to the public house excluding the parking allocated for the proposed flats and that for the existing hot food takeaway. On balance the shortfall in parking policy terms of two spaces could be taken up by the extra pub parking spaces currently available. It is considered, on balance that the development is unlikely to have severe transportation implications and is acceptable. Weight it also given to the close proximity of bus stops along Keats Road and Shelley Road.

To assist with sustainable means of travel a condition is recommended to require the provision of secure cycle storage. The Transportation officer raises no objection to the application. On balance it is considered the proposal would not give rise to conditions prejudicial to highway safety.

### **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 two new flats.

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 delivery of homes in previous years the total amount awarded this year was £2,583,252 (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 might 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 liaised with the applicant during the application process resulting amended drawings 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 (as amended).

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

- Location plan received 3/7/15
- Block plan received 3/7/15
- Existing layout plan received 3/7/15
- Existing elevations received 20/1/16
- Proposed layout plan received 11/12/15
- Proposed elevations received 11/12/15
- Noise Impact Assessment received 22/9/15

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

3a. Prior to the commencement of development details for the disposal of surface water and foul sewage shall have been submitted to and approved in writing by the Local Planning Authority.

3b. The scheme shall be fully implemented in accordance with the approved details before the development is first brought into use.

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

4. The development shall comprise facing materials that match, in size, colour and texture as 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.

5a. No development shall commence until details of materials to be used and the method of installation of acoustic mitigation measures as recommended in the acoustic report "Event Noise Impact Assessment Report", by Dr HS Sagoo, Ref 146/Rep 1/Rev 0/Sep 2015 have first been submitted for written approval by the Local Planning Authority.

5b. The approved details shall be installed prior to the first occupation of either flat and written validation that the mitigation measures have been installed shall be provided for written approval of the Local Planning Authority prior to first occupation.

Note to applicant: It is recommended that any written verification is supported with photographic evidence and also, if appropriate, a Building Control Certificate from the appropriate Building Control Officer.

*Reason:* To protect the residential amenity of future occupiers and to protect the ongoing operations of the Public House.

6a. Prior to the development first coming into use details for a covered, secure cycle shelter/storage area for the use of residents of the flats shall be submitted for written approval by the Local Planning Authority.

6b. The facility shall be implemented in accordance with the approved details and thereafter retained.

*Reason:* To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

7. Prior to the development first coming into use, the allocated car parking spaces for the two flats shown on the approved drawing shall be clearly demarcated on the ground, including demarcating as parking for flats. The spaces 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 and to minimise the potential of on-street parking to the detriment of the free flow of traffic on the public highway and in the interests of highway safety.

8. All communal entry doors should have audio access control measures linked to each flat.

*Reason:* In the interests of community safety.

9. 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; 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 the occupiers of adjoining premises

### **Note for applicant**

#### **Severn Trent Water**

There is a public sewer located within the application site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

### Coal Authority

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:

[www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://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 a Coal Authority Permit. 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 a Coal Authority Permit 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: [www.groundstability.com](http://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 0345 762 6848.

Further information is available on The Coal Authority website

[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 04-Feb-2016

**Plans List Item Number: 10.**

**Reason for bringing to committee: Call in by Councillor Martin**

**Location:** 54, GLOUCESTER ROAD, WALSALL, WS5 3PN

**Proposal:** PART GROUND AND FIRST FLOOR FRONT EXTENSIONS OVER EXISTING GARAGE AND KITCHEN WITH NEW FRONT BAY WINDOW (RESUBMISSION OF 15/1211).

**Application Number:** 15/1650

**Applicant:** Mr Sandip Patel

**Agent:** Paul Clifton Associates

**Application Type:** Full Application

**Recommendation Summary:** Grant Permission Subject to Conditions

**Case Officer:** Helen Smith

**Ward:** Paddock

**Expired Date:** 06-Jan-2016

**Time Extension Expiry:**



Councillor Martin has called this application before planning committee because she considers the design of the proposed development would mirror no. 55 Gloucester Road and the application needs to be aired before planning committee.

### **Status**

This application was to be presented to the January Planning Committee. The planning application was withdrawn from the committee agenda following receipt of revised drawings which aimed to address resolution to refuse. The revised plans required assessment and re-notification of neighbours which has been undertaken. The report has been updated to take account of the revised plans including the recommendation which is now approve subject to conditions, including; time limit to start the extension, approval of the plans, the materials to match the roof and walls as it is today, the retention of 3 car parking spaces 2.4 metres x 4.8 metres on the frontage.

### **Application and Site Details**

This revised planning application is a re-submission following the refusal of an earlier planning application (15/1211) in October 2015 which proposed the addition of three gable features to the front elevation of the application house.

The application house (number 54) is a 1960's detached dwelling which has a plain, simple utilitarian design which is also reflected in the neighbouring houses either side of number 54. Number 54 has an existing single storey front extension.

Gloucester Road is a residential street consisting of various design houses, grouped in similar style houses along this part of the street, including the application house. Number 55 Gloucester Road forms a grouping of three similar design houses. Number 55 differs from the design of the no's 52 to 56 Gloucester Road grouping of houses.

The current proposal would add a stepped, part first floor and part two storey extension across the front elevation of the application house which would be between 2.7 and 3.2 metres deep. The proposal would introduce a larger, dominant gable feature alongside a smaller and subordinate second gable feature.

Three first floor front facing windows of matching height and a ground floor bay window extending a further 0.7 metres forward are proposed.

Two additional side facing first floor windows would be installed in this property opposite the side boundaries with no's 52 and 56 Gloucester Road. These windows would serve a study and bathroom.

The proposal includes the addition of a replacement front porch which would be 1.1 metres deep and 3.4 metres high with a gable roof, creating an overall front projection of 4.3 metres

The front elevations of the application house and no's 52 and 56 Gloucester Road face north.

No. 52 Gloucester Road is forward of no. 54 by 1.5 metres and has a garage extension with a balcony above serving a first floor habitable room adjacent to the application house.

No. 56 Gloucester Road is forward of no. 54 by 0.9 metres and has a garage extension with a habitable room window above near to the application house.

There would be a habitable room window to window separation distance across the highway from the proposed extension and no. 61 Gloucester Road of 28 metres.

There is sufficient space on the existing frontage to accommodate three off-street parking spaces.

## **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)**

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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
- 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](http://www.walsall.gov.uk)).

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](http://cms.walsall.gov.uk/planning_policy)

### **Relevant Planning History**

15/1211 - Part ground and first floor front extension over existing garage and kitchen - refused permission on 8/10/15 on the following grounds;

1. *The introduction of three first floor competing gable features to the front elevation provides a cramped design which is considered would unbalance the host dwelling by adding disproportionate additions across the full width of the existing house. The combination of these additions, along with the oversized new front porch, is considered would detract from the character and simple design of the existing property and would have a detrimental impact on the character of the area and street scene.*

11/0346/FL - Conservatory to rear - GSC 27/5/11

08/1806/FL - First floor rear extension over existing ground floor extension - GSC 06/01/09

BC47227P - Rear bay extension - GSC 16/08/96

### **Consultation Replies**

None

### **Representations**

None

### **Determining Issues**

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

- Design of proposal and Impact on Character of Area and whether the previous Reasons for Refusal have been overcome

- Amenity of Nearby Residents
- Parking.

## **Observations**

### **Design of Extension and Character of Area**

The current revised proposal has a different design to the previous planning application and will be assessed on its current merits and whether the previous reasons for refusal have been overcome.

Similar house designs are grouped together along this section of Gloucester Road with house no's 52 to 56 having a simple utilitarian design whilst on the opposite side of the road house no's 51 to 55 have a front gable features with white cladding. This grouping of different house types is a characteristic of Gloucester Road and whilst a number of houses have been extended it is considered that in most parts the original design of the host houses have been respected.

The proposed dual gable feature with a larger dominant gable and a smaller subordinate gable are considered would reflect the gable roof design of the existing house and no. 58 Gloucester Road which has a single, front, gable extension.

The first floor windows and ground floor bay window have been re-aligned and re-sized to reflect the existing house window proportions and is now considered provides a more cohesive design fronting the public realm.

Overall, the first floor extension is considered to be proportionate and balanced reflecting the existing house, no longer detracting from the plain and simple character of the existing house.

The revised porch design is considered would now integrate with the proposed first floor extension and is considered to be acceptable.

Consequently it is considered that the amended proposal overcomes the previous refusal reasons and would not harm the character of the street scene.

### **Amenity of Nearby Residents**

The proposed extensions would lie to the north of the application house and be within the shadow of the existing dwelling house.

The first floor front habitable room windows in no's 55 and 56 Gloucester Road face north. It is considered that the orientation of this proposal in relation to these neighbouring houses would have a limited impact on neighbours' existing light and amenity.

The proposal would meet the Council's 45 degree guidance, as referred to in Appendix D of Designing Walsall Supplementary Planning Document, in relation to front facing habitable room windows in no's 52 and 56 Gloucester Road.

There would be a habitable room window to window separation distance across the highway from the proposed extension and no. 61 Gloucester Road of 28 metres which would exceed the Council's minimum recommended separation distance of 24 metres, referred to in Appendix D, by 4 metres.

The additional side facing windows opposite the boundaries with no's 52 and 56 Gloucester Road would be conditioned to be obscurely glazed and with any opening parts 1.7 metres above the floor of the room they serve should this proposal receive planning permission.

### **Parking**

There is sufficient space on the frontage of the application house to accommodate three 2.4 metre x 4.8 metre off-road parking spaces to meet the requirements of UDP Policy T13. Should the planning application be approved a condition would be imposed to retain the three car parking spaces on the frontage.

### **Positive and Proactive Working with the Applicant**

Officers have spoken with the applicant's agent and in response to concerns raised, amended plans have been submitted which 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, as amended.

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

- Existing Plans, drawing no. 1577.1, deposited 12/11/15
- Existing Elevations, drawing no. 1577.2, deposited 12/11/15
- Proposed Ground Floor Plan, drawing no. 1577.3C, deposited 05/01/16
- Proposed First Floor Plan, drawing no. 1577.4C, deposited 05/01/16
- Proposed Elevations, drawing no. 1577.5C, deposited 05/01/16
- Site Plans and Roof Plan, drawing no. 1577.6C, deposited 05/01/16

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 extensions 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 additional side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

5: The proposed first floor side bathroom and study room windows facing no's 56 and 52 Gloucester Road respectively will be obscurely glazed to Pilkington's Level 4 privacy standard, or equivalent, and non-opening unless the parts of the windows which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and retained as such at all times.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

6: There shall be no alterations to the driveway that would prevent the use of the existing hard-surfaced area for the provision of three parking spaces each measuring at least 2.4 x 4.8 metres and with access from the highway.

Reason: To ensure the satisfactory provision of off-street parking, and in accordance with policies T7 and T13 of Walsall's Unitary Development Plan.



**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 04-Feb-2016

**Plans List Item Number: 11.**

**Reason for bringing to committee: Call in by Councillor Martin**

**Location:** 117, SUTTON ROAD, WALSALL, WS5 3AG

**Proposal:** RETROSPECTIVE: RETENTION OF DOUBLE STOREY SIDE AND SINGLE STOREY REAR EXTENSION WITH LOFT CONVERSION.

**Application Number:** 15/1547

**Case Officer:** Helen Smith

**Applicant:** Mr A Ali

**Ward:** Paddock

**Agent:** Mr Anthony Spruce

**Expired Date:** 20-Dec-2015

**Application Type:** Full Application

**Time Extension Expiry:**

**Recommendation Summary:** Refuse



Councillor Martin has called this application before planning committee because she considers that the proposal would, in these circumstances, be better decided by planning committee in order to give fairness to all.

### **Application and Site Details**

This is a retrospective application to retain a two storey extension which has not been built in accordance with the approved planning permission (12/0484/FL). Following a complaint, Planning Enforcement Officers visited the application site confirming to the applicant that the extension did not conform to their planning approval and that it was required to be amended to meet the 2012 permission. The applicants submitted a retrospective planning application to retain what has been built rather than re-build to match the approved plans.

The application house is a semi-detached house with a two storey front gable feature which is reflected in the design of the adjoining semi, number 119 Sutton Road. The application house is in line with the houses to each side. The street has a spacious character and benefits from mixed design houses.

The first floor side elevation of the two storey side extension has been built 0.5 metres from the shared side boundary with number 115 Sutton Road which is 0.4 metres wider than the original planning permission. The width of the extension has been increased to 3 metres from the approved 2.6 metres.

This extension is flush with the first floor front and rear elevations of the application house and has a hipped roof design as high as the existing ridge height.

The single storey rear extension is part-built and extends 3.5 metres rearwards in line with an existing single storey rear extension and would have, based on the submitted drawing, a 3.6 metres high pitched roof. The proposed rear dormer would be 0.3 metres below the ridge, 1 metre above the roof eaves and would extend 2.2 metres from the roof slope, based on the submitted drawings. This is partly built and a smaller window opening has been installed than as shown on the previous approved plans.

Number 115 Sutton Road has previously been extended to the side at first floor up to the side boundary with the application house. The front elevation of no. 115 is approximately 1.2 metres forward of the two storey front elevation of the application house. Number 115 has front habitable room windows near to the shared side boundary with the application house along with an obscurely glazed window to the rear. Number 115 has an approximately 0.4 metres lower ground level at the rear than the application house.

Number 119 Sutton Road is in line with the two storey front and rear elevations of the application house and has a conservatory to the rear positioned next to the existing rear extension at the application house.

The rear two storey elevations of the application house faces habitable room windows in the rear elevation of number's 104 and 106 The Crescent with a minimum separation distance of approximately 32 metres. The rear garden of no. 117 is 13.6 metres long with a ground level approximately 0.5 metres lower than the level of the house and mature planting along the rear boundary.

## **Relevant Policies**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)  
**National Planning Policy Framework (NPPF)** [www.gov.uk](http://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:

- 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:

### 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.

### 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

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](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 advised 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 weight they 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.

This checklist has been published on the BCCS and Council websites. Cabinet on the 24 July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy policies should be given full weight in planning decisions.

The relevant policies are:

ENV1, ENV2 and ENV3 states that all development should aim to protect and promote nature, the special qualities, design quality and local distinctiveness of the Black Country.

## Walsall's Unitary Development Plan (UDP)

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](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: 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.

ENV23: Nature Conservation and New Development.

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

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:-
- On a visually prominent site.
- (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 integration and co-ordination of buildings and external space.
  - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
  - The effect on the local character of the area.

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
- 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](http://www.walsall.gov.uk)).
- Garden dimensions: 12m in length or a minimum area of 68 sq m for houses and 20 sq. m of useable space per dwelling where communal provision is provided.
- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character.

#### **Conserving Walsall's Natural Environment**

Provides guidance on development which may adversely affect trees, important species and habitats.

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

### **Relevant Planning Policy**

**12/0484/FL** - Two storey side and single storey rear extension and loft conversion (repeating the 07/0863/FL/H5 application) - granted permission subject to conditions on 20/07/12

**07/0863/FL/H5** – First floor side extension. The front and rear elevations were to be flush with the front and rear elevations of the existing house with a 0.8 metre wide gap to the side at first floor. Granted permission subject to conditions in August 2007.

**05/2025/FL/H1** – Double storey side extension – refused permission on the grounds of terracing and errors on the drawings. The front of the proposed first floor was to be set back 1 metre from the existing first floor, but the side was to lie along the boundary with no. 115. Refused December 2005

**05/0951/FL/H2** – Double storey side and front extension – refused permission on the grounds of terracing. This proposal matched that of no. 115, with a gable projecting to the front. Refused permission June 2005

**BC62995P** – Single storey rear extension – granted permission subject to conditions March 2001

**BC49793P** – Proposed new side garage and kitchen to replace existing – granted permission subject to conditions July 1997

### **Consultation Replies**

None

### **Representations**

Representations have been received from three neighbours one of which states that they wish to withdraw their objections. The remaining two neighbours have objected on the following grounds;

- dormer looks into their property, harms privacy of neighbours to the rear and looks larger than on the scale plans
- dark grey roof tiles do not fit in with the surrounding area and has devalued their property (*the value of properties is not a material planning consideration in this instance*)
- how can this have happened as there are planning laws to cover this? (*the applicant has the option to submit a new planning application for consideration under current planning legislation and anything constructed without the benefit of planning permission is at the owners own risk*)
- this is a disappointing development both in timing, retrospective and management of the project from both building contractors and the council (*the matter was investigated by the Council's Planning Enforcement Officers following a complaint. The applicant has the option to submit a new planning application for consideration under current planning legislation*)
- contractors working through the summer were noisy and intrusive while they were working and this has all the possibility of extending into next years' warmer months when weekends might be blighted again (*there is always some disruption during any extension works but these impacts are usually for a limited period when the development is for relatively minor house alterations*)

- if it must go ahead in its present form tell them to get on with it
- the tarpaulin on the roof is unsightly and noisy in the wind (*there was no tarpaulin in place at the time of the case officers site visit as roof tiles were being installed*)
- why has a retrospective application been accepted by Walsall Council (*the applicant has the option to submit a new planning application for consideration under current planning legislation*)

## **Determining Issues**

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Protected Species
- Parking

## **Observations**

### **Design of Extension and Character of Area**

The 2012 planning assessment considered that proposed two storey side extension with a hipped roof reflected the design of the existing house and the adjoining semi, number 119. In addition the retention of a first floor 0.9 metre wide gap to the side boundary, combined with the position of the extension set back 1.2 metres from the front elevation of number 115 was considered to be sufficient to avoid a terracing effect.

The street scene was considered previously and it was noted that most of the houses along this part of Sutton Road had first floor gaps which helps to maintain the spacious character of this area. The examples of extensions which have been built up to the boundaries pre-date current terracing guidance as referred to in Appendix D of the Council's Designing Walsall SPD.

Consequently, it is considered that the reduction in the first floor side gap from 0.9 metres to 0.4 metres, when combined with the lack of a 1 metre first floor set back to the front has resulted in a terracing effect between number's 115 and 117 Sutton Road. The previous extension to the side of number 115 pre-dates current terracing guidance referred to in Appendix D of the Council's Designing Walsall SPD. This guidance provides a tool when assessing future planning applications to avoid the harmful impacts of terracing on streets where this was not the original character of the area.

This failure to respect the 0.9 metres wide set in from the side boundary, at first floor, when combined with the lack of a 1 metre first floor set back to the front is considered to have harmed the appearance of the host dwelling by resulting in a cramped and terraced appearance between number's 117 and 115 Sutton Road and as a result is considered has a poor visual relationship with the neighbouring houses and a detrimental impact on the street scene.

### **Amenity of Nearby Residents**

The side extension is not be visible by residents from within number's 115 and 119 Sutton Road as this extension would be flush with the existing front and rear elevations and the neighbouring houses are in line with the application house.

The front elevations of the application house and neighbouring properties face south and it is considered that this orientation results in the extension having little impact on neighbours' existing light available to front habitable room windows. Rear habitable room windows in number's 115 and 119 Sutton Road face north and whilst there would be some reduction in light to rear gardens as a result of the side extension. It is considered, that in this instance, insufficient to maintain a refusal reason.

The proposed rear extension extends in line with the existing extension at the application house which screens this proposal from the conservatory at number 119 Sutton Road. The northerly orientation of the rear extension is within the shadow of the existing house which limits any additional impact on the daylight available to rear habitable room windows in number 115 Sutton Road.

The proposal meets the Council's 45 degree guidance, as referred to in Appendix D of the Council's Designing Walsall SPD, in relation to habitable room windows in number's 115 and 119 Sutton Road.

The habitable room window to window separation distance of 32 metres between the rear dormer window and number's 102 and 104 The Crescent, exceeds the minimum recommended separation distance of 24 metres, as referred to in Appendix D of the Council's Designing Walsall SPD by 8 metres.

The new roof tiles are rosemary tiles which match in size and texture with the original roof tiles. They have a darker and less red colour to the tiles on the neighbouring properties. It is considered that these new tiles blend into the existing street scene and do not harm the character of the area.

The new window in the approved roof dormer is smaller than the one shown on the original approved plans and it may be that this minor change gives the dormer a larger visual appearance.

### **Protected Species**

The Council's Ecologist previously commented in 2012 that the application site meets the criterion for requiring a bat survey and bats will probably be present in the neighbourhood. The house is isolated from the Arboretum to the north and the wider landscape by wide roads which form a barrier to bat movement. Bats may be present but there did not appear to be a high risk.

This decision not to require a bat survey in support of this proposal was finely balanced due to the number of mature trees along Sutton Road and the proposed alterations are extensive. No bat survey was considered to be required but the inclusion of a note for the applicant was included in the subsequent approval and if this proposal is granted permission the note would be included again to conserve local bat populations.

### **Parking**

The provision of three parking spaces is required to serve this development as detailed in the Council's UDP Policy T13. The garage would be too short to accommodate a parking space of 2.4 x 4.8 metres but the existing hard-surfaced frontage has sufficient space to accommodate the required spaces.

### **Positive and Proactive Working with the Applicant**

The Planning Enforcement Officer advised the applicant that to continue to build would be at their own risk and that they should alter the first floor side extension in order that the development matched the approved plans granted permission in 2012. The applicant has subsequently submitted a planning application for the development, as built, for consideration. This proposal is contrary to the Council's adopted current policies and guidance and, in this instance, officers are unable to recommend an approval for this proposal.

### **Recommendation    Refuse**

1. This failure to respect the 0.9 metres wide set in from the side boundary, at first floor, when combined with the lack of a 1 metre first floor set back to the front, is considered to have harmed the appearance of the host dwelling by resulting in a cramped and terraced appearance between numbers 117 and 115 Sutton Road and as a result is considered has a poor visual relationship with the neighbouring houses and a detrimental impact on the street scene. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; The Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, ENV32 plus Appendix D of Designing Walsall SPD.

:

**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 04-Feb-2016

**Plans List Item Number: 12.**

**Reason for bringing to committee: Called in by Councillor C Bott**

**Location:** 2, YORK CRESCENT, DARLASTON, WEDNESBURY, WS10 9JJ

**Proposal:** DOUBLE STOREY SIDE EXTENSION

**Application Number:** 15/1090/FULL

**Applicant:** Mrs Sunita Jassal

**Agent:**

**Application Type:** Full Application

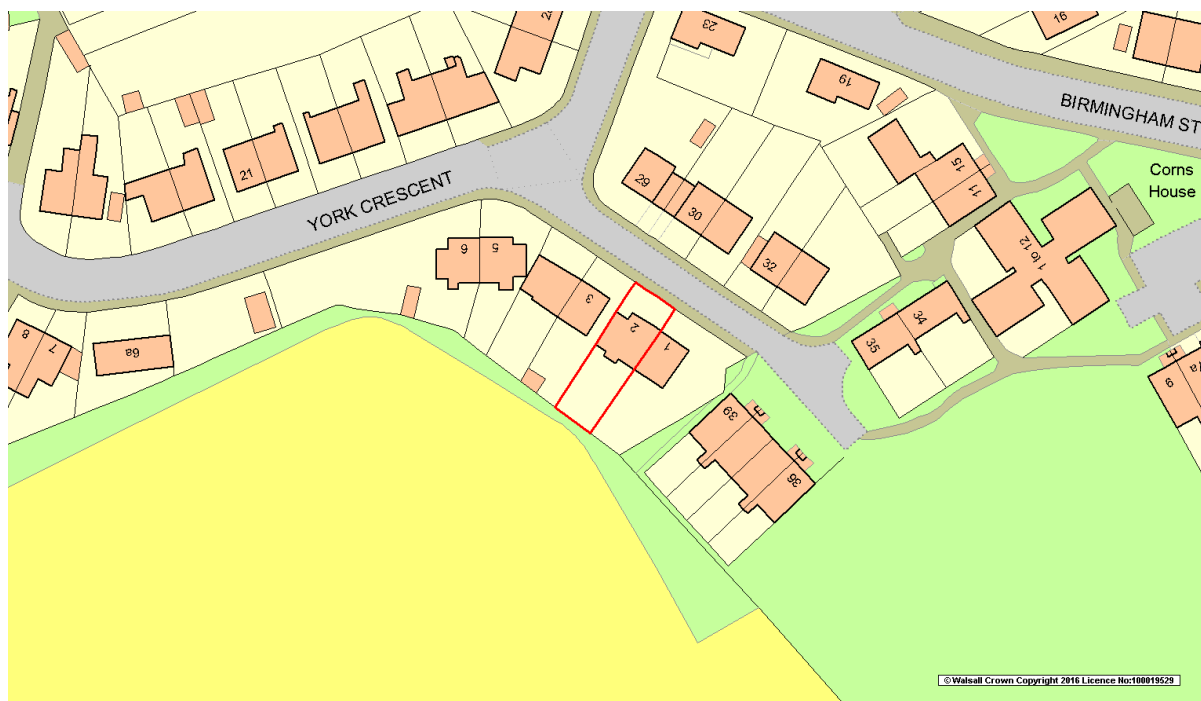
**Recommendation Summary:** Refuse

**Case Officer:** Helen Smith

**Ward:** Darlaston South

**Expired Date:** 27-Sep-2015

**Time Extension Expiry:**



Councillor Bott has called this application before planning committee because she supports the application due to significant community interest

### **Application and Site Details**

The street has a residential character with a mix of 1930's detached and semi-detached houses of similar design plus first floor gaps, between house no's 1 to 4 and 29 to 33, of a similar double garage width. There are four more recently built terraced houses located at the end of the cul de sac, opposite the turning head.

The application house is a semi-detached property with a garage to the side which is adjacent to a similar garage serving no. 3 York Crescent.

This proposal would provide a study, shower room and enlarged kitchen at ground floor with an enlargement of an existing bedroom and bathroom at first floor plus a new 4<sup>th</sup> bedroom.

The side extension would be 2.1 metres wide and would be built up to the shared side boundary with no. 3. The front elevation of the extension would be in line with the existing application house and would have a hipped roof. The extension ridge line would be 0.25 metres lower than the existing ridge height.

To the rear, the proposed extension would extend 1.8 metres with a width of 4.3 metres adjacent to the rear boundary with no. 3. There would be a separation distance of 3.2 metres between the proposed rear extension and the side garden boundary with no.1 York Crescent. Amended plans have been received which have amended the rear extension roof to show a hipped design.

The application house is in line with the houses to each side and the rear elevations of these properties face south-west. The adjoining semi, no. 1, has ground and first floor habitable room windows near to the shared rear boundary with no. 2.

No. 3 has a L-shaped single storey extension to the rear of their garage and the rear elevation has a rear facing habitable room window. There are non-habitable room windows in the side and rear elevation of no. 3 at first floor near to no. 2.

The former Servis factory site is located to the rear of the application plot which has a lower ground level, with a retaining boundary wall, than this part of York Crescent. There is a new planning application currently being assessed for this site which includes a new house which would have a separation distance of 24 metres between the new house and the existing rear elevation of the application house.

There is currently provision for one off-street parking space.

### **Relevant Policies**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)  
**National Planning Policy Framework (NPPF)** [www.gov.uk](http://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:

- 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

**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.

### **The Black Country Core Strategy (BCCS) (2011)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](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 advised 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 weight they 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.

This checklist has been published on the BCCS and Council websites. Cabinet on the 24 July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy policies should be given full weight in planning decisions.

The relevant policies are:

CSP4: Place Making

ENV1, ENV2 and ENV3 states that all development should aim to protect and promote the natural environment, special qualities, design quality and local distinctiveness of the Black Country.

### **Walsall's Unitary Development Plan (UDP)**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](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: 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.

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.

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 SPD**

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
- 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](http://www.walsall.gov.uk)).

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall and Conserving Walsall's Natural Environment SPDs are consistent with the NPPF.

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

### **Relevant Planning History**

None for the application house

15/0191/OL Outline planning permission for the erection of up to 170 dwellings with all matters reserved except for the means of the access from Darlaston Road for the former Servis and Alucast Site to the rear of the application plot, Granted subject to conditions 30/04/15.

15/1834 Reserved matters application for the proposed residential development has been received, currently being assessed includes details of the new houses to the rear of the application plot.

### **Consultation Replies**

**Transportation** –Objects to the proposal as the development fails to provide sufficient on-site parking to meet its needs

**Natural Environment Team, Ecology** – No ecological objections

**Pollution Control** – No objections subject to the inclusion of an informative note for the applicants if the proposal is approved because of the former use of the land which may have resulted in localised ground contamination

### **Representations**

None

### **Determining Issues**

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

### **Observations**

#### **Design of Extension and Character of Area**

The application house is located within a grouping of similar semi-detached houses, no's 1 to 4 and 29 to 33 York Crescent, of a similar design and with similar double garage width gaps between houses at first floor. These gaps are considered to be a characteristic of this part of the street.

The design of the two storey side extension would, by closing the gap to the boundary with the adjoining house no. 3 York Crescent and with no first floor set back to the front, create a terracing effect should a similar extension be built to the side of no. 3. The current proposal is considered would harm the appearance of the

host dwelling and would be to the detriment of the character of the area. This proposal would be contrary to the terracing guidance referred to in Appendix D of the Council's Designing Walsall Supplementary Planning.

### **Amenity of Nearby Residents**

There would be some loss of sunlight to the rear of no. 3 York Crescent in the morning, although it is considered that it would not be to a degree that would result in harm to the living conditions of the occupiers of this property. The first floor side facing window in no. 3 serves a non-habitable room. Planning guidance affords less protection for non-habitable room windows than habitable room windows.

It is considered that the 3.2 metres separation distance and northerly orientation of the proposal in relation to the adjoining semi, no. 1 York Crescent would result in this extension having a limited impact on neighbours' existing amenity and light.

The proposal would meet the Council's 45 degree, as referred to in Appendix D of the Council's Designing Walsall SPD, in relation to front and rear habitable room windows at no's 1 and 3 York Crescent. The Council's 45 degree code is guidance which aims to limit the impact of proposal in relation to neighbour's light and outlook.

The separation distance between the proposed new dwelling on the former Servis and Alucast site and new habitable room windows in the application house would be 22.2 metres which would be 1.8 metres less than the recommended separation distance of 24 metres between facing habitable room windows, as referred to in Appendix D of the Council's Designing Walsall SPD. In this instance it is considered that this shortfall in the separation distance would be mitigated by the significant difference in land levels between the former Servis site and the current application site. Any impact on neighbours' privacy would be limited if the Servis site houses are granted permission.

### **Parking**

The Highway Authority objects to the proposed development on the grounds that the development fails to provide sufficient on-site parking to meets its operational needs, contrary to the Council's UDP Policy GP2, T7 and T13, to the free flow of traffic along the public highway and to highway safety.

The development looks to extend the property including removing the existing garage and increasing the number of bedrooms from 3 to 4. No parking layout has been submitted. The length of the property frontage at about 4.5m means that only one vehicle is capable of being parked satisfactorily off street at an angle. Whilst the existing garage is to be lost as part of the development it is accepted that is unlikely that it could accommodate a standard sized vehicle, due to its width and so has been discounted.

The Council's UDP policy T13 Parking, requires an additional parking space as a result in the increase in bedrooms from 3 to 4 which cannot be accommodated on site. York Crescent is a relatively narrow road at about 4.5 metres in width and as such existing resident's park on street and part on the pavement, effectively obstructing the footway for pedestrians.

The Highway Authority considers that the proposed increase in the size of the dwelling and corresponding increase in parking demand, together with the lack of additional parking capacity above the existing one space on site is unacceptable in this instance, to the free flow of traffic along the public highway and to highway and pedestrian safety contrary to UDP Policy GP2, T7 and T13.

### **Positive and Proactive Working with the Applicant**

Officers have spoken with the applicant's agent regarding amendments and the applicant has confirmed they were unwilling to amend the planning application to conform to the Council's Design SPD or accommodate a further parking space. Consequently, in this instance, officers are unable to make a positive recommendation.

### **Recommendation Refuse**

#### **Reasons for Refusal**

1. The application house is located within a grouping of similar semi-detached houses, no's 1 to 4 and 29 to 33 York Crescent, of a similar design and with similar double garage width gaps between houses at first floor. These gaps are considered to be a characteristic of this part of the street. The design of the two storey side extension would, by closing the gap to the boundary with the adjoining house no. 3 York Crescent and with no first floor set back to the front, create a terracing effect should a similar extension be built to the side of number 3. The current proposal is considered would harm the appearance of the host dwelling and would be to the detriment of the character of the area. The proposal would be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; the Black Country Core Strategy policies ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, and ENV32, Appendix D of Designing Walsall SPD.
2. In respect of this application, the Highway Authority objects to the proposed development on the grounds that the development fails to provide sufficient on-site parking to meets its operational needs, contrary to UDP Policy GP2, T7 and T13, to the free flow of traffic along the public highway and to highway and pedestrian safety as York Crescent is a relatively narrow road which leads to existing residents parking on and obstructing the footway for residents.



**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 04-Feb-2016

**Plans List Item Number: 13.**

**Reason for bringing to committee: Call in by Councillor Hussain**

**Location:** 5, STENCILLS DRIVE, WALSALL, WS4 2HP

**Proposal:** TWO STOREY SIDE AND REAR EXTENSION.

**Application Number:** 15/1657

**Applicant:** Mr T. Mahmood

**Agent:**

**Application Type:** Full Application

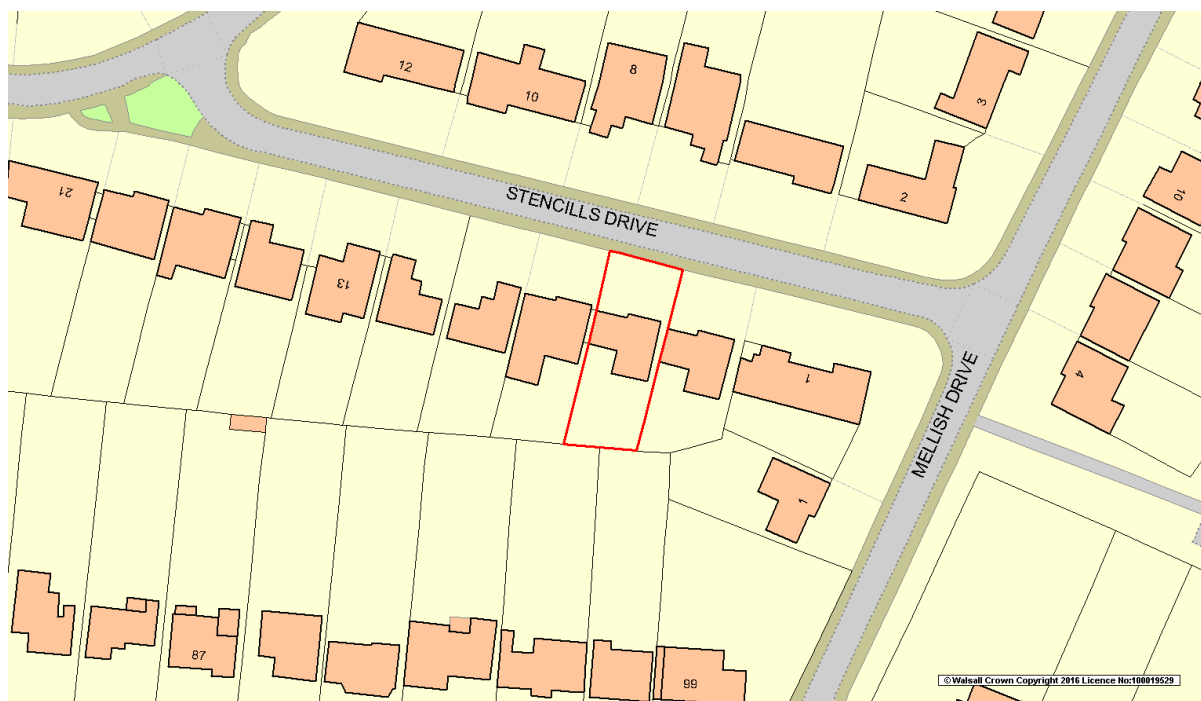
**Recommendation Summary:** Refuse

**Case Officer:** Helen Smith

**Ward:** St Matthews

**Expired Date:** 05-Jan-2016

**Time Extension Expiry:**



Councillor Hussain has called this application before planning committee because he considers that the proposal will have no adverse impact on the street or area.

### **Application and Site Details**

The application property is a detached house with a gable roof which has a front to rear ridge line along with a single storey garage and study extension to the side. The house is of brick with a tiled roof and has two chimneys near to no. 3 Stencills Drive.

The street has a residential character consisting of detached houses and bungalows, of a plain and simple design, with first floor gaps of varying width between the dwellings. No. 7 Stencills Drive has an existing two storey side extension, set back 6 metres from the front elevation of this property.

This proposal would provide a study and dining room at ground floor and two additional bedrooms, a bathroom and en suite at first floor. The existing garage door would be replaced by a window and the total number of bedrooms would increase from three to five. The plans do not indicate that any rooms are proposed in the loft space.

The proposed first floor side extension would be set back 0.8 metres from the existing first floor front elevation. This proposal would be 4.9 metres wide, with the existing two storey house being 5.6 metres wide. The proposal would have a gable roof which would be 0.3 metres lower than the existing ridge height. There would be a first floor gap of 0.3 metres between the proposed extension and the shared side boundary with no. 7 Stencills Drive which has a first floor 1 metre wide separation distance to the shared boundary with no. 5.

Three first floor side facing non-habitable room windows are proposed facing the side elevation of no. 7 Stencills Drive. No. 7 is to the west of the application house, with a separation distance of 0.9 metres between number 7's house and the shared boundary with number 5. Number 7 is in line with the two-storey part of the application house, with a first floor side facing non-habitable landing window facing number 5. Number 7 has front and rear facing habitable room windows, with the proposed rear extension of number 5, extending 2.6 metres beyond than the rear elevation of number 7.

The extension would have a rear facing gable roof which would be 0.6 metres lower than the proposed side extension ridge height.

No. 3 Stencills Drive is to the east and in line with the application house with front and rear facing habitable room windows near to the shared boundary with the application house. Number 3 has an existing side facing habitable room window towards the rear of their house, facing the existing two storey side elevation of no. 5.

There would be a habitable room window to window separation distance of 42 metres between the proposed extension and the rear of no. 95 Mellish Road.

No. 1 Stencills Drive is positioned to the east and 12.8 metres from the boundary with no. 5 Stencills Drive with no. 3 Stencills Drive separating the two plots of land.

No. 1 Mellish Drive is located 24 metres from the application house.

The length of the rear garden is 12.2 metres and the frontage is hard-surfaced with sufficient parking for at least three vehicles.

## **Relevant Policies**

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](http://cms.walsall.gov.uk/annotated_2011_udp_-_february_2011.pdf)

**National Planning Policy Framework (NPPF)** [www.gov.uk](http://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:

- 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:

### **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.

### **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

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](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 advised 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 weight they 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.

This checklist has been published on the BCCS and Council websites. Cabinet on the 24 July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy 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 the special qualities, design quality and local distinctiveness of the Black Country.

## Walsall's Unitary Development Plan (UDP)

[http://cms.walsall.gov.uk/annotated\\_2011\\_udp\\_-\\_february\\_2011.pdf](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: 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.

ENV23: Nature Conservation and New Development.

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

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:-
- On a visually prominent site.
- (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 integration and co-ordination of buildings and external space.
  - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
  - The effect on the local character of the area.

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
- 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](http://www.walsall.gov.uk)).
- Garden dimensions: 12m in length or a minimum area of 68 sq m for houses and 20 sq. m of useable space per dwelling where communal provision is provided.
- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character.

### **Conserving Walsall's Natural Environment**

Provides guidance on development which may adversely affect trees, important species and habitats.

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

### **Relevant Planning Policy**

None

## **Consultation Replies**

### **Natural Environment Team, Ecology – No ecological objections**

## **Representations**

Representations have been received from 3 residents objecting to the proposal on the following grounds;

- Massive increase in the size of this house and out of proportion
- More people will be living there with associated noise, vehicles, parking and general congestion problems in a narrow residential road
- Rear extension would restrict views and sunlight and greatly damage the rear aspect of no. 1 Stencills Drive (*there is no right to a view in planning legislation*)
- Create a precedent which would potentially damage the whole area (*planning applications are all assessed and determined on their own merits without creating a precedent*)
- Rear extension would extend significantly beyond the current building line
- Prominent eyesore to all properties in the road
- loss of light to the landing window in no. 7 Stencills Drive which has been enjoyed for more than 50 years (*the Council's policies don't protect light to non-habitable room windows*)
- Presumes foundations would be deepened and as this would be within 3 metres of their property they will need to be notified at least 1 month before work commences (*The Party Wall etc. Act is private legislation for developers and neighbours to observe*)

## **Determining Issues**

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Protected Species
- Parking

## **Observations**

### **Design of Extension and Character of Area**

The design of the proposal, in particular the excessive width of proposed two storey extension, gable roof and limited set back at first floor are considered would poorly integrate with the host dwelling. As a result the extensions would have a poor visual relationship with the neighbouring houses and a detrimental impact on the street scene.

Neighbours are concerned that the proposed rear extension would extend beyond the rear building line. During the officer's site visit it was noted that building lines along the rear of properties on Stencills Drive are stepped and no. 13 Stencills Drive has a similar two storey rear extension which was considered not to harm the character of the area. Consequently, it is considered that as there are limited views

from public areas, the proposed rear extension would have a limited additional impact on the character of the area in this instance.

### **Amenity of Nearby Residents**

The rear elevations of numbers 3, 7 and 5 (the application house) Stencills Drive, all face south. It is considered this orientation would limit any impact on neighbours' existing light and amenity.

The first floor, side facing landing window in no. 7 serves a non-habitable room which is afforded less protection by current planning guidance than habitable room windows as outlined in Appendix D of the Council's Designing Walsall SPD.

The proposal would meet the Council's 45 degree code, as referred to in Appendix D of the Council's Designing Walsall SPD, in relation to front and rear facing habitable room windows in no's 3 and 7 Stencills Drive. The Council's 45 degree code is guidance which aims to limit the impact of the proposal in relation to neighbour's light and outlook.

The side facing, ground floor, habitable room window in no. 3 faces the existing blank two-storey side elevation of the application house. It is considered this proposal would have little additional impact on neighbours' existing light and amenity.

The application house is a single family residence and there no evidence has been provided to demonstrate that there would be an increase in noise, vehicles and parking as a result of this development.

The separation distances of 12.8 and 24 metres between the application plot and no's 1 Stencills Drive and 1 Mellish Drive, respectively. This is considered sufficient to ensure that this proposal has a limited additional impact on neighbours existing amenity and light. Furthermore number 3 Stencills Drives separates the application plot from these two neighbouring properties.

The habitable room window to window separation distance of 42 metres between the proposed extension and the rear of no. 95 Mellish Road would exceed the Council's recommended separation distance of 24 metres, as detailed in Appendix D of the Council's Designing Walsall SPD by 18 metres.

### **Protected Species**

The Council's Ecologist considered a bat survey would not be required in support of this planning application. The site has limited links with the wider landscape and the surrounding neighbourhood is bisected by streets which fragment the landscape further. It is considered that there is not a high risk of bats occurring within the application site and there are no ecological objections to the proposal.

## **Parking**

The increase in the total number of bedrooms from three to five would require the provision of three off-street parking spaces to meet the requirements of the Council's UDP Policy T13. The frontage of the application house is hard-surfaced and there is sufficient space to accommodate three vehicles to meet policy T13. Should the application be approved, a condition could be imposed to retain 3 spaces on the frontage for the parking of vehicles.

## **Positive and Proactive Working with the Applicant**

Officers have written and met with the applicant requesting minor changes to the proposed plans to address concerns but unfortunately the applicant has refused to make these changes and the Council is unable to support this proposal in its current form as it is considered not to be in accordance with the Council's policies and guidance.

## **Recommendation Refuse**

2. The design of the proposal, in particular the excessive width of proposed two storey extension, gable roof design and limited set back at of the front first floor elevation are considered would poorly integrate with the host dwelling and as a result would have a poor visual relationship resulting in a harmful terracing appearance with the neighbouring house no. 7 Stencills Drive and a detrimental impact on the street scene. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; The Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, ENV32 plus Appendix D of Designing Walsall SPD.



**Economy and Environment, Development Management****Planning Committee**

Report of Head of Planning, Engineering and Transportation on 04-Feb-2016

**Plans List Item Number: 14.**

**Reason for bringing to committee: Call in by Councillor Nazir**

**Location:** 116, BROADWAY WEST, WALSALL, WALSALL, WS1 4DN

**Proposal:** TWO STOREY SIDE AND REAR EXTENSION WITH SINGLE STOREY FRONT AND REAR EXTENSIONS.

**Application Number:** 15/1378

**Applicant:** Mr Rizwan Ahmed

**Agent:** Mr M Mistry

**Application Type:** Full Application

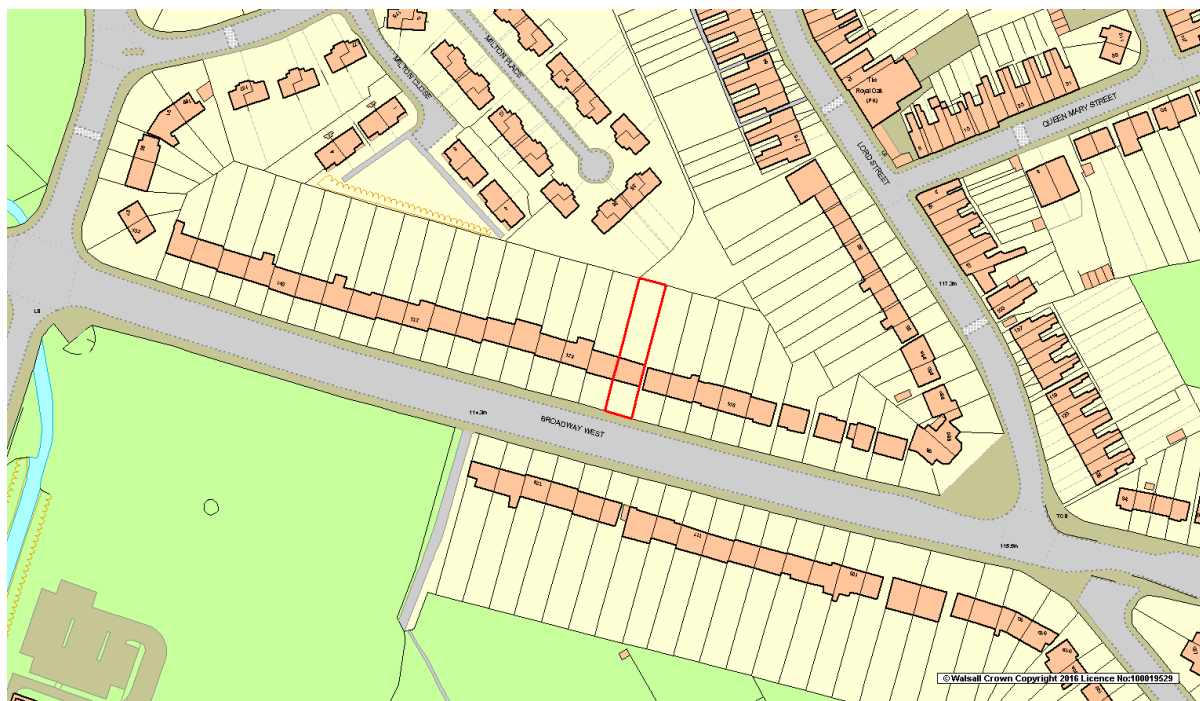
**Recommendation Summary:** Refuse

**Case Officer:** Helen Smith

**Ward:** Palfrey

**Expired Date:** 27-Dec-2015

**Time Extension Expiry:**



Councillor Nazir has called this application before planning committee because the proposal conflicts with the development plans and wishes to debate that this part of Broadway west is characterised by a mixture of residential developments that give a significant presence of developments that has been extended to the boundary line. This has become a feature in the street scene.

### **Application and Site Details**

The application property is a semi-detached house with a two-storey front curved bay feature which is reflected in the design of the adjoining semi, no. 118 Broadway West. There is a garage to the side of the existing house with a pitched roof.

This part of Broadway West consists of similar pairs of semi-detached houses. Historically and before the adoption of the Council's Designing Walsall SPD, there have been a number of first floor side extensions which have closed first floor gaps between houses resulting in the appearance of terracing between houses. More recent planning approvals including at no. 134 Broadway West have included first floor front elevation set-backs to lessen this terracing effect (12/0026/FL)

The proposed additions would provide an enlarged porch, kitchen/dining and lounge area and convert the existing garage area to a study at ground floor. At first floor the total number of bedrooms would increase from three to four with a fifth bedroom provided in the roof space. The following extensions are proposed;

Single Storey Front Extension would extend 1.35 metres forward of the existing house to provide a new porch and study area. This proposal would have a pitched roof between 2.4 and 3.5 metres high.

Two Storey Side and Rear Extension would be set back 0.45 metres from the first floor front elevation of the existing house and would have a 0.3 metres lower ridge height than the existing house. The side elevation would be built up to the shared side boundary with the neighbouring house no. 114 Broadway West with boxed eaves at first floor. The roof would have a hipped design to the side and rear with the rear ridge height 0.9 metres lower than the existing ridge.

The Proposed Rear single storey Extension would extend 3.9 metres from the existing two storey rear elevation of the application house, adjacent to the boundary with no. 114. This extension would be 5.6 metres wide and would have a separation distance of 3.5 metres to the side boundary with no. 118. A roof light would be installed in the roof slope facing no. 114 along with three front and rear facing roof lights in the main roof.

Two Single Storey Rear Extensions are proposed to the house. The first is a 3.5 metres deep extension along the rear garden boundary with no. 118 which would have a pitched roof between 2.6 and 3.8 metres high. This extension would be added to the proposed two storey rear extension giving a combined length of 7.4 metres.

The second single storey rear extension is proposed and would extend 3.5 metres from the original rear elevation of the application house. This extension would have a pitched roof between 2.6 and 3.7 metres high.

The length of the remaining rear garden at the application house would be 19 metres.

No. 114 Broadway West has a garage to the side adjacent to the application house with a 2.6 metres wide first floor gap between 114 and 116, wholly within the boundary of no. 114. This neighbouring house has a single storey rear extension and front and rear side facing habitable room windows. The first floor side facing window in no. 114 is obscurely glazed, plus there is a first floor rear bathroom window in no. 114 close to the application house.

No. 118 Broadway West, the adjoining semi, and is in line with the front and rear elevations of the application house. This neighbouring house has front and rear habitable room windows near to the side boundaries with no. 116.

There is a habitable room window to window separation distance of 41 metres between the proposed rear extensions and the rear elevation of no. 26 Milton Place.

## **Relevant Policies**

### **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.

## 11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment

118. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity

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](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:

ENV1, 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.

#### **ENV23: Nature Conservation and New Development.**

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

#### **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
- 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](http://www.walsall.gov.uk)).
- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character.

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](http://cms.walsall.gov.uk/planning_policy)

### **Relevant Planning Policy**

BC04526P – Storm Porch and garage extension- granted 26/8/82

### **Consultation Replies**

**Natural Environment Team, Ecology** – no ecological objections

### **Representations**

None

## **Determining Issues**

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Protected Species
  
- Parking

## **Observations**

### **Design of Extension and Character of Area**

The introduction of a boxed gutter to the proposed first floor side elevation is considered to represent poor design by failing to match the eaves details of the existing house and would harm the appearance of the host dwelling and the character of the area.

The planning agent has been asked to set the first floor side elevation in 0.9 metres from the side boundary and include first floor overhanging eaves to match the design of the existing dwelling and to accord with the Council's Designing Walsall SPD. This amendment has been declined.

Historically there have been a number of first floor side extensions along Broadway West which have closed first floor gaps between houses resulting in the appearance of unattractive terracing between houses. These decisions were made prior to the introduction of the Council's Designing Walsall SPD which includes terracing guidance for applicants and agents.

The design of the extension would, by closing the gap to the boundary with the adjoining house No. 114 Broadway West, coupled with the limited first floor set back of 0.45 metres, creates a terracing effect which would have a detrimental harm to the character of the area particularly if a similar extension is proposed for no. 114 in the future.

The failure to include a set in of 0.9 metres from the side boundary at first floor and a first floor set back less than 1 metre deep does not accord with the Council's guidance included in Appendix D of Designing Walsall. The design of the extension is considered would harm the character of the area, emphasising the terracing effect in the street scene plus impacting on the design of the house which further exacerbates the detrimental impact on the street scene including terracing.

The planning agent has referred to a similar planning application at no. 123 Broadway West in 2014 (13/1650/FL). This application was recommended for refusal, as it did not meet the Council's guidance set out in Designing Walsall SPD. The application was called before Planning Committee who overturned the recommendation to approve 13/1650/FL.

### **Amenity of Nearby Residents**

The front elevations of the application house and neighbouring properties face south. It is considered that the proposed side and front extensions would have little additional impact on neighbours' existing light and amenity.

The side facing window in no. 114 Broadway West serves a non-habitable room window. Non-habitable room windows, in planning guidance, are currently afforded less protection than habitable room windows.

The proposed two storey rear extension would project 4.2 metres further than the rear elevation of no. 114 which has a non-habitable room at first floor near to the boundary with the application house. Rear facing windows in no's 114 and 118 Broadway West face north and it is considered that this orientation would result in this proposal having a limited additional impact on neighbour's existing light.

The proposed single storey extensions would extend 3.5 metres further than neighbours' habitable room windows in no's 114 and 118 and would lie within the shadow of the existing application house and the proposed two storey rear extension. The impact on neighbours' existing light and amenity is considered would be limited.

The proposed extensions would meet the Council's 45 degree guidance, as referred to in Appendix D of the Council's Designing Walsall SPD, in respect of neighbours' habitable room windows in no's 114 and 118 Broadway West. The Council's 45 degree code is guidance which aims to limit the impact of proposal in relation to neighbour's light and outlook.

The habitable room window to window separation distance of 41 metres between the proposed rear extensions and the rear elevation of no. 26 Milton Place would exceed the Council's recommended separation distance between facing habitable room windows of 24 metres, as referred to in Appendix D of the Council's Designing Walsall SPD, by 17 metres.

### **Protected Species**

The property is in a neighbourhood with widely scattered mature trees which are likely to offer very little foraging opportunities for bats. Whilst bats may be present in the neighbourhood the application site and its environs it is considered they offer little habitat for bats. Consequently the Council's Ecologist considers that a bat survey report is not required in support of this proposal and there are no ecological objections to this application.

### **Parking**

This proposal would result in the loss of the existing garage parking place and the additional bedrooms would require the provision of three off-street parking spaces to meet the requirements of UDP Policy T13.

The existing hard-surface drive has sufficient space to accommodate three parking spaces utilising the existing dropped kerb to meet Policy T13 which could be conditioned should the application be approved.

### **Positive and Proactive working with the Applicant**

Officers have spoken with the applicant's agent and although amendments to the scheme have been requested the agent has declined and in this instance Officers are unable to support the proposal as it is considered not to be in accordance with the Council's policies and guidance.

## **Recommendation Refuse**

### **Reasons for Refusal**

1. The proposed first floor side extension would by closing the gap to the boundary with the adjoining house no. 114 Broadway West, when combined with a limited first floor front set back, would create the potential for a terracing appearance between the two houses, particularly should no. 114 extend in the future. This proposal is considered would represent poor design to the detriment of the character of the street scene. The proposal would be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; the Black Country Core Strategy policies ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, and ENV32, Appendix D of Designing Walsall SPD.
2. The introduction of a boxed gutter to the proposed first floor side elevation represents poor design, by failing to match the eaves details of the existing house, and is considered would have a detrimental impact on the appearance of the property and the immediate character of the area, further exacerbating the terracing effect in the street scene. The proposal would be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; the Black Country Core Strategy policies ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, and ENV32, Appendix D of Designing Walsall SPD.