

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26<sup>th</sup> June 2014

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2	21	14/0779/FL	LAND SOUTH OF WOLVERHAMPTON STREET, WALSALL	Application under section 73 to vary condition A7 of planning permission 13/0440/FL to enlarge the footprint of the proposed cinema units 5 and 6 (formally units 1a and 1b) and change elevation details.	Grant Permission Subject to Conditions and completion of a deed of variation for a 106 agreement and subject to no new material considerations which cannot be addressed through condition following consultation

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10	133	13/0637/FL	FOLEY SERVICE STATION, 1 BEACON HILL, WALSALL, W S9 0RH	Redevelopment of existing petrol filling station to include the provision of a new sales building, canopy, fuel pumps, fuel tanks, boundary treatments, with associated hard and soft landscaping and ancillary arrangements to the forecourt following	Grant Permission Subject to Conditions

				demolition of existing petrol filling station	
11	153	14/0712/FL	18 LITTLE ASTON ROAD,ALDRIDGE, WALSALL,WS9 0NN	Substitution of house type and garage on Plot 3 (previous planning permission 11/1188/FL). Revised application following refusal of application 13/1397/FL)	Grant Permission Subject to Conditions
12	171	14/0454/FL	350 CHESTER ROAD, WALSALL, WS9 9DE	Erection of 1no. dwelling house, formation of new vehicular access with associated works (re-submission of application 11/0232/FL).	Grant Permission Subject to Conditions
13	187	14/0681/FL	WATLING STREET JMI SCHOOL, WATLING STREET, WALSALL, WS8 7LW	Single storey extension to provide new nursery and reception classrooms, associated toilets, cloakroom; food prep area and meeting room.	Grant Permission Subject to Conditions

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19	229	14/0750/FL	10 RAGSTONE CLOSE, BENTLEY, WALSALL	Garage conversion to convert existing garage into bedroom and shower room space	Refuse



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 1.**

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

**Application Number:** 14/0762/FL

**Application Type:** Full application

**Applicant:** Cordwell Property Group

**Proposal:** Variation of condition 21 of planning consent 13/0206/FL to allow substitution of plans.

**Location:** VACANT LAND OFF WISEMORE, WALSALL, WS1

**Ward:** St. Matthews

**Case Officer:** Andrew White

**Telephone Number:** 01922 652609

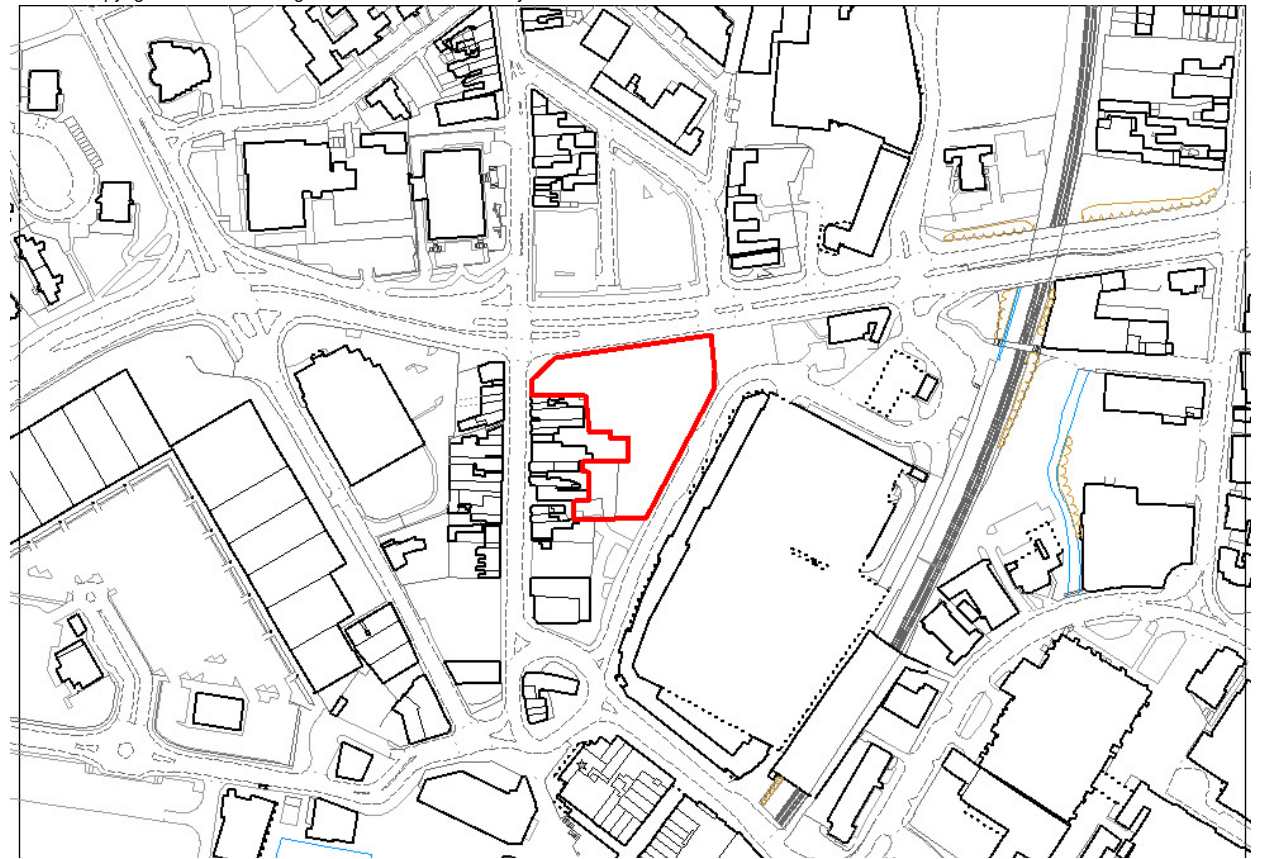
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** BBLB Corstorphine Wright  
Architects

**Expired Date:** 01/09/2014

**Recommendation Summary: Grant Subject to Conditions and subject to no new material considerations which cannot be addressed through condition following consultation**

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## **REASON FOR BRINGING TO COMMITTEE: Major Application**

### **Application and Site Details**

The applicant has submitted a Section 73 application seeking amendments to the scheme for a cinema and leisure based development at the corner of Littleton Street and Wisemore with some associated car parking and public realm enhancements to the Wisemore frontage. That application was considered by planning committee on 20 June 2013 under planning reference 13/0206/FL., the development approved would be equivalent of three storey development with the addition of plant and machinery within the roof-scape.

This application varies condition 21 (approved drawings) of the original planning consent 13/0206/FL.

The proposed amendments include the following:

- Increase in height by approx. 1.5m to the main elevations facing Littleton Street, Wisemore and the car park.
- Revision of the external materials from Kalzip to a white stucco panel system, in line with the Littleton Street corridor developments including Walsall College and Walsall Housing Group.
- Revision of material to the car park elevation from brick to a combination of brick and cladding to reduce massing.
- Revised parking layout to allow security gate across rear service yard area improve public realm.
- Increase in the number of auditorium seats by 142,
- Change in car parking to include; substation, plant room, CO2 wagon space, compactor/refuse area,
- Access to a bin store from off Littleton street frontage
- General alterations to the detailing of the elevations
- Removal of unit 2 by reconfiguring the internal ground floor space
- Delete ground floor box office
- Large first floor box office/concessions area created
- Toilets/public facilities created at first floor

The previous approved uses is not changed by this application with the exception of losing unit 2. The approved ground floor uses included the Cinema entrance and 7 retail units of varying sizes and consisting of 3 units with A1/A3/A4/A5 or D2 use class, 3 units with A3/A4 consent and one unit will have A1/A3/A4 or D1 use class consent.

On the First and Second Floor there will be the 7 Cinema Screens and the Projection Suite (Use Class D2)

The application is accompanied by an addendum to the previously submitted transport statement based on the revised auditoria numbers. The addendum includes revised trip generation based on the increased cinema capacity

The site is part of the former Walsall College of Art and Technology - St. Paul's Campus which has already been partly developed by the new Tesco superstore to the east of the site which is separated by Wisemore (which is an unadopted highway). To the north of the site is the Ring Road where on the other side is the replacement new college campus. Its western boundary is shared with the rear of shops along Stafford Street, three of which are locally listed. The exception to this is the north western corner of the application site (corner of

Stafford Street and the ring road) which is currently vacant. The proposed development will continue the existing building line along this part of Stafford Street creating an entrance to the cinema complex.

This part of the town centre is predominantly retail/commercial.

### **Relevant Planning History**

13/0206/FL – Proposed Multi-Screen Cinema (Use Class D2) with additional commercial units for retail, cafe and restaurants, drinking establishments and hot food takeaways (Use Classes A1, A3, A4 and A5) with associated car parking, access arrangements, landscaping and public realm. Granted 21/06/13.

14/0393/MA – Non material minor amendment to planning permission 13/0206/FL: amendments to heights of Auditoria with subsequent alterations to the building heights. Refused 15<sup>th</sup> April, 2014 on the grounds that the proposed amendments constituted a material alteration to that which had been approved by planning application 13/0206/FL.

### **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 that planning should:

- be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;
- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;
- 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, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including



- conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);
- contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
- 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;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

**Key provisions** of the NPPF relevant in this case:

20. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

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;
- retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive;
- 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 therefore undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites;
- allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available. If sufficient edge of centre sites cannot be identified, set policies for meeting the identified needs in other accessible locations that are well connected to the town centre;
- set policies for the consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres;
- recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites; and

- where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity.
30. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion
32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Assessment and account should be taken of the opportunities for sustainable transport modes
35. Developments should be located and designed where practical to
- accommodate the efficient delivery of goods and supplies;
  - give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
  - create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
  - incorporate facilities for charging plug-in and other ultra-low emission vehicles; and
  - consider the needs of people with disabilities by all modes of transport.
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. Policies should set out the quality of development that will be expected of an area, including:
- 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
70. To deliver the social, recreational and cultural facilities and services the community needs, ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.

On **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 it 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. 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 BCCS states that the councils will create cohesive, healthy and prosperous communities.

The relevant policies are:

CSP1 – sets out the targets for sustainable regeneration of the Black Country including enhancement of the town centre.

CSP4 – develops the need for high quality place making and design

CSP5 – sets out the need to develop and manage movement and ensure that sustainable modes of transport are promoted.

CEN1 - The Strategic Centres will provide the main focus for higher order sub-regional retail, office, leisure, cultural and service activities, balanced by a network of Town, District and Local Centres, providing for town centre uses including meeting day-to-day shopping needs (particularly convenience shopping). Proposals that undermine this strategy will be resisted. To strengthen the Black Country's centres, mixed-use developments that are well integrated with existing provision will be encouraged, including the use of upper floors.

CEN2 – sets out the Hierarchy of Centres

CEN3 – Strategic Centres provide the focus for comparison shopping, office employment, leisure and culture in the Black Country. Any proposed development exceeding 500 square metres gross floorspace - whether brought forward through a Local Development Document or planning application, that would lead to the amount of floorspace in an individual Strategic Centre exceeding the figures set out above, will only be considered favourably if the retail impact assessments contained in the most recent national guidance on retail planning are satisfied. Any proposed development in an edge-of-centre location exceeding 500 square metres gross floorspace will only be considered favourably if the retail impact assessments contained in the most recent national guidance on retail planning are satisfied. However, if it is considered that development below this threshold is likely to have a significant impact on centres, then those proposals will be required to carry out an impact assessment. Also identifies offices at Walsall Gigaport.

CEN4 – Seeks to regenerate the strategic centres - Retail capacity in Town Centres will largely be met by existing commitments, planning permissions and allocations, and any redistribution of floorspace between Centres to meet strategic priorities.

TRAN1 Sets the priorities for the development of the transport network and promoting sustainable transport modes.

TRAN2 requires development proposals to manage transport impacts of new development

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

ENV 1, ENV 2 and ENV 3 set out the criteria for nature conservation, the historic environment and design quality.  
ENV4 development must enhance the canal corridor.  
ENV5 seeks to ensure that new developments mitigate against flood risk and promote sustainable drainage  
ENV7 seeks to ensure new development promotes renewable energy provision  
EMP6 seeks to ensure that visitor and cultural facilities are provided in appropriate locations.

Although Diagrammatic, office lead development is shown on the Walsall Strategic Centre Diagram. These are supplemented by the following policies

SC3.1 By 2026 Walsall town centre will have been regenerated as a sub-regional focus for the local economy and the community. It will provide its catchment area with an attractive choice of comparison shopping and leisure, entertainment and cultural facilities, as well as supporting a thriving office market. Walsall will also support modern town centre living. The centre will bring all of these activities together in a vibrant, safe, attractive and accessible environment that combines local heritage with modern design.

SC3.5 highlights

- Growth in convenience floorspace for the strategic centre is likely to be delivered through existing commitments
- There is a need for more leisure facilities and venues to serve all sections of the community and boost the evening economy. In particular there is no cinema and no major entertainment venue. There is also a need for hotel and conference facilities.

### **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: 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.

ENV10: (a) The development of an industry or facility which may cause pollution will only be permitted if it would not cause unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

ENV14: The Council will encourage the reclamation and development of derelict and previously developed land wherever this is technically feasible

ENV23: The layout of all new development must take account of:-

- I. The potential for enhancement of the natural environment through habitat creation or the exposure of geological formations.
- II. The nature conservation opportunities provided by buildings by designing in features which provide roosting/ nesting places for bats/birds and other species.

ENV24(b) New development which would sever, or unacceptably harm the integrity of linear features such as rivers, streams, canals, field boundaries, tree belts, green lanes, and road verges or 'stepping stone' features such as lakes, reservoirs, ponds and small woodlands will not normally be permitted.

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

ENV33: Good landscape design is an integral part of urban design and the Council will require full details of external layout and landscape proposals on larger developments.

ENV40: Proposals for development will be encouraged to incorporate measures for the conservation of water resources such as the use of water efficient devices, the on-site recycling of water (including grey water systems), the collection and use of rainwater (e.g. the provision of water butts) and minimising the watering needed to sustain landscaping (eg. through the use of mulching and drought tolerant turf and plants).

S1 – Defines town centre uses – including offices, leisure and retail

S2 – Defines the hierarchy of town centres with Walsall Town Centre will be sustained and enhanced in its sub-regional role as the main centre for the Borough, and some places farther afield, for comparison shopping and other town centre uses. These should particularly include leisure and entertainment facilities appropriate to the centre's sub-regional role. It is also recognised that Walsall has a local role meeting the needs of adjacent communities for convenience shopping and local amenities and services.

S3 - To ensure the proper integration of developments in or on the edge of centres, proposals should:

I. Be of scale and nature appropriate to the size and function of the centre concerned.

II. Be sensitively integrated, in functional and visual terms, with the primary shopping area and other land uses, pedestrian routes, car parking provision, public transport facilities, servicing arrangements, traffic circulation, and the local townscape.

S4 - 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 or elsewhere in the affected catchment area: the Council may require an impact assessment if it considers that a proposal might have adverse effects. The Council will seek to further improve the environment of Walsall Town Centre, with particular stress on maintaining and enhancing their individual character. Improvements will be sought both through new investments and developments and through the Council's own actions.

I. Development proposals will be required to have a high standard of design

II. Development proposals will also be required to give particular attention to the principles of designing-out-crime.

III. When considering development proposals, the Council will explore with developers the scope for carrying out improvement works and will also seek, if relevant, the provision of new or improved facilities to meet wider community and social needs.

IV. The Council will pursue a programme of improvements to help to make these centres more attractive and will also seek to encourage others to invest in improvements.

S10: Restaurants and Food and Drinks outlets will be appropriate in Walsall Town, Centres subject to the use proposed must not adversely affect the amenities of existing or proposed dwellings (including those on upper floors above commercial premises) by reason of noise, smell, disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on residential amenity.

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

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

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

WA3: Outside the primary shopping area, and on upper floors within it, the Council will encourage business / service uses, offices, leisure, community uses and, subject to the provisions of Policy S8 in Chapter 5, residential development.

WA4: The Council will support the further development of the Walsall College of Art and Technology as an important centre for Higher Education in the Borough. It is also considered that the development of the college may have important potential to provide other facilities, including sport and leisure facilities, which would benefit the community as a whole.

WA6: Subject to the availability of resources for its installation and maintenance, the Council will seek to extend the coverage of the Walsall Town Centre CCTV system.

WA12:(b) The area, on both sides of the canal, is considered to be the main location in the town centre for substantial leisure development to serve the Borough and surrounding areas. It should be developed principally for leisure uses which can serve all sections of the community, and examples of uses that would be particularly welcomed by the Council include a cinema, a family entertainment centre and an adventure activity centre. Associated bars/ restaurants would also be encouraged, provided they form part of a comprehensive scheme to provide major facilities. Other appropriate uses will include hotel, and conference facilities, cultural uses, and office/business uses (including small scale craft-based activities) to complement development primarily for leisure uses. Retail use, except small-scale, complementary activities, will not be permitted. Generally, the mix of uses and the arrangement of those uses should be such as to ensure the creation of the most attractive possible scheme for investment in leisure facilities.

WA18: Priority will be given to maintaining, enhancing and increasing provision of short stay parking for shoppers and visitors, including suitable dedicated parking for disabled people. Long-stay parking for commuters will be strictly controlled or reduced.

WA19: Seek to improve public spaces, and improve significant pedestrian and cycle routes, both within the Town Centre and linking with surrounding areas.

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

### **Walsall Town Centre Area Action Plan**

Walsall Town Centre Area Action Plan offers support in principle for both applications, though at present the AAP is at a very early stage of production with submission, examination and adoption anticipated in 2015. The intention is to allocate land for cinema development in the AAP and to determine, during the plan-making process, how many such sites should be allocated. However, given the early stage of its preparation, the AAP can be given no material weight.

### **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**

Aims to achieve high quality development that reflects the Borough's local distinctiveness and character, through key design principles

- 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

### **Natural Environment SPD**

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

Protection is proposed for protected animals, plants etc.

### **Consultations**

**Transportation** – to be reported verbally

**Regeneration (Conservation)** – objection on the grounds of the appearance of Stafford Street elevation.

**Equality and Diversity** - No objections, but concerned the proposed car park would be available to any visitor to the town, insufficient spaces for disabled people (employees/visitors) to the site, relying on other car parks is unacceptable. Blue badge holders should be as close as possible within 50 metres. Design and Access statement doesn't extend to the internals, it is encouraged that the building meets Part M of Building Regulations, particularly for audience and spectator facilities. Discrepancies in the plans illustrating the auditorium;

- Auditorium 1– 369 seats, 4 accessible at front
- Auditorium 2– 215 seats, 4 accessible at front
- Auditorium 3– 136 seats, 4 accessible at front
- Auditorium 4– 66 seats, 3 accessible at front – **4 shown on plan**
- Auditorium 5– 93 seats, 3 accessible at front - **4 shown on plan**
- Auditorium 6– 58 seats, 2 accessible at front - **1 shown on plan**
- Auditorium 7– 57 seats, 1 accessible at front
- Auditorium 8– 93 seats, 3 accessible at front - **4 shown on plan**
- Auditorium 9– 166 seats, 4 accessible at front

Part M Section 4 requirements for permanent and removable seats for a seating capacity over 600 as; permanent 1% of seating capacity (rounded up) and removable to make a total of 6. More than 2 wheelchair spaces provided, located to give a range of views at each side, as well as front and back seating

**Police** – to be reported verbally

**Fire** - no objections

**Pollution Control (Contaminated Land/Scientific Team)** - no objection to change of plans, contaminated land conditions from original application need applying to any permission granted

**CENTRO** - to be reported verbally

**Environment Agency** - to be reported verbally

**Regeneration (Landscape Team)** - to be reported verbally

**Severn Trent** - to be reported verbally

**Walsall Civic Society** - to be reported verbally

**Western Power** - to be reported verbally

### **Public Participation Responses**

None

### **Determining Issues**

- Proposed amendments
- Increased number of cinema seats
- Height of the building
- Stafford Street elevation
- Conditions
- Environmental Impact Assessment (EIA) Screening Opinion

The following matters were considered in determining the previous planning application and the proposed changes raise no new concerns or comments:

- Principle of development
- Deliverability of a town centre cinema
- Impact on vitality and viability of the town centre
- Car parking and services
- Local Finance Considerations

### **Observations**

#### **Proposed amendments**

The principle of the development has previously been agreed through planning application 13/0206/FL. The extent of the amendments now being proposed, in particular the raising of the overall height of the buildings, the increased number of seats being added overall to the cinema and other proposed amendments, are on balance considered to be material amendments which now form this application.

#### **Increased number of cinema seats**

Previously it was reported that the total number of seats to be provided would be 1076 although the approved plans gave consent for 1139, this application now proposes a further increase to a total of 1281.

The following table breaks the figures down into each auditorium for reference:

Auditorium	No. of Seats	Auditorium	No. of Seats
1	307 (plus 4 disabled)	1	369 (plus 4 disabled)
2	171 (plus 3 disabled)	2	215 (plus 4 disabled)
3	140 (plus 3 disabled)	3	136 (plus 4 disabled)
4	72 (plus 3 disabled)	4	66 (plus 3 disabled)
5	85 (plus 3 disabled)	5	93 (plus 3 disabled)
6	59 (plus 1 disabled)	6	58 (plus 2 disabled)
7	59 (plus 1 disabled)	7	57 (plus 1 disabled)
8	82 (plus 3 disabled)	8	93 (plus 3 disabled)
9	140 (plus 3 disabled)	9	166 (plus 4 disabled)
total	1139	total	1281



Because of the number of seats has increased it is necessary to consider the traffic movements and car parking implications on the town centre and the TCTP through the town. The addendum to the transport Statement concludes that as a result of the increased cinema auditorium seats, peak hours on the road network and for the nearby supermarket it is likely to generate 10 additional two way trips in the afternoon peak and 11 two way trips at the weekend.

This is considered to be negligible and on balance would not impact on the free flow and safety of highway users or the provision of available car parking within the vicinity.

### **Height of the building**

The building has been increased by 1.4 m's in overall height. It is considered, that whilst there may be some impacts on the buildings relationship with existing adjoining building, it is considered the development it is unlikely that the proposals would have such a detrimental impact on the surrounding area or occupiers to warrant refusal or amendment of the building to reduce its height. The Littleton Street frontage height, is considered to be positive, helping to provide enclosure to the street scene.

### **Locally Listed Buildings / Stafford Street Elevation**

Stafford Street consists of a number of locally listed buildings but none are immediately adjacent to the proposed entrance from Stafford Street. However one of the alterations is the external facing to the vertical circulation on the Stafford Street elevation. The relationship between the new building and old along Stafford Street requires consideration and whilst the introduction of a brick element in this location is not considered unacceptable, as it replicates the traditional plot width of premises along this thoroughfare, it lacks any architectural distinction. The window openings are part blind and due to their regularity and homogenous use of the same material the relationship is not satisfactory. Similarly the ground floor is set into a blind reveal and is poor.

Stafford Street is a good example of early and mid 19<sup>th</sup> century retail development leading into the town. It is effectively the northern gateway into Walsall town centre. As such the quality of the building frontage in this location is important, currently it offers no activity over the street and on balance will have an impact on the character and vitality of this end of the street, by virtue of its blank façade.

Notwithstanding the above, it is considered that this can be achieved through the imposition of a condition which requires amendments to that part of the elevation.

### **Conditions**

Section 73 gives the local planning authority power to grant permission subject to different conditions to those attached to the previous permission. If granted, the conditions attached to planning permission 13/0206/FL will be repeated as part of this permission unless already discharged. Conditions will also be updated (for example, by the removal of any unnecessary 'tails') and the order shall be amended for clarity at the same time without changing the principle of the original condition.

The application includes details in order to comply with a number of conditions imposed by the original application.

A schedule of materials to be used in the external appearance of the development which includes materials such as render, various types and colours of composite cladding material,

facing bricks, engineering bricks, stone cladding, aluminium curtain walling and aluminium plank cladding are all materials considered appropriate for the development in this location.

The details also include a schedule of materials to be used in surfacing of land within the site. Mostly these are intended to match those which have been used in the existing external areas around the site such as granite setts to match the Wisemore road surface, granite paving slabs to match the existing Wisemore pavement and stone channels edgings to match existing Wisemore edgings. These will all assist in blending the appearance of this development into the existing setting of the wider area. On balance these are considered acceptable in order to comply with those conditions.

### **Environmental Impact Assessment (EIA) Screening Opinion**

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 distinguishes between two separate groups of development to which EIA are required. Schedule 1 Development requires an EIA in every case and Schedule 2 Development requires an EIA only if the project is judged likely to have significant effects on the environment by virtue of factors such as its size, nature or location.

The proposal does not fall within Schedule 1.

The development falls within Schedule 2 part 10(b) as it is an urban development project with an area of development that exceeds 0.5 hectares. The site is not within a sensitive area as the site is not statutorily protected and is a previously developed brownfield site. The development is not of more than local importance given its leisure use, its central location, which has good links to public transport and which is envisaged would serve the local community. The potential impact of the development on the surrounding area is not significant.

In light of the above an Environmental Impact Assessment for the proposed development is not needed.

### **Recommendation Summary: Grant Subject to Conditions, and subject to no new material considerations which cannot be addressed through condition following consultation**

1. This development must be begun no later than 21<sup>st</sup> December, 2014.

*Reason:* Pursuant to the requirements of Section 91(1)(b) of the Town and Country Planning Act, 1990 and to ensure that any delay in the delivery of the development takes account of the Walsall Town Centre Area Action Plan which will seek to develop a preferred option for a town centre cinema.

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

#### **Plans:**

- Location Plan (11026-P73-1) received 2/6/14
- Proposed Ground Floor Plan (11026-P73-2) received 20/5/14
- Proposed First Floor Plan (11026-P73-3) received 20/5/14
- Proposed Second Floor Plan (11026-P73-4) received 20/5/14
- Proposed Roof Plan (11026-P73-5) received 20/5/14
- Proposed Wisemore Elevations (11026-P73-11) received 20/5/14
- Proposed Littleton Street Elevations (11026-P73-12) received 20/5/14

- Drainage plan number 103 P1 and information contained in cover email from Scott Mills (of Nolan Associates dated 02/06/14).

**Documents:**

- Design and Access Statement (reference: 11026 - D&A - Rev ( )) prepared by BBLB
- Ground Investigation Report (reference: DNB/19830- 202873) prepared by ALcontrol Laboratories
- Transport Statement (reference: MID3499-001 Issue 02) prepared by JMP
- Supporting documents by Alliance Planning (ref: 4593)

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

3. i) Prior to the commencement of the a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (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)

*Reason:* In order to address potential impact from land contamination and ensure the safe development of the site and to protect human health and the environment.

4a. Prior to the commencement of development details shall be submitted to the Local Planning Authority for car park management. The development will operate a scheme of parking controls through a pay and display mechanism to:-

- i) Prevent use of the car parks on the site by long-stay commuters and
- ii) Maintain the use of the car park within the application site as short-stay parking for shoppers within the development, shoppers in the town centre and other non-

commuter uses within the site and in the town centre. Short-stay is defined as up to 4 hours,

4b. The scheme will have a pricing structure similar to that of the Council's short-stay car parks, with the following qualifications:-

- i) Charges shall never be less than the charges applicable to the Council's short-stay car parks; and may be up to, but never more than, twice the charges applicable to the Council's short-stay car parks
- ii) The site operator may offer free parking to customers of the development for up to 4 hours.

4c. The site operator may review the charges with the Council in the event that it is evident that any pricing structure fails to ensure that adequate parking remains available to customers.

4d. The approved scheme and details shall be fully implemented and fully operational prior to the first use of the car park.

*Reason:* To ensure town centre developments should be functionally integrated and not cause congestion on the surrounding highway network; parking should support the Council's strategy of enhancing the centre and should serve the centre as a whole, to provide for shoppers and visitors, through management and pricing arrangements; parking controls should discourage commuters and an inappropriate regime for parking could have an adverse impact on the vitality and viability of Walsall Town Centre.

5a. Prior to the commencement of development details of a waste storage, collection and litter management plan for the site shall be submitted to and agreed in writing by the Local Planning Authority

5b. The proposals shall be fully implemented in accordance with the agreed details and retained thereafter.

*Reason:* To spillage of waste products and materials onto Littleton Street and to ensure a satisfactory functioning of the development

6a. Prior to the commencement of development details of the proposed lighting for the development including details of foundations, luminance in candelas, light spillage details and hours of operation shall be submitted to and approved in writing by the Local Planning Authority.

6b. The approved details shall be fully implemented in accordance with the agreed details and retained thereafter.

*Reason:* The lighting should be designed to minimise the problems of glare, show consideration for bats and unnecessary light pollution.

7a. Notwithstanding the details provided and prior to the commencement of development details of the proposed boundary treatments shall be submitted to and agreed in writing by the Local Planning Authority.

7b. The development shall subsequently be fully implemented in accordance with the agreed details.

*Reason:* To protect the appearance of the area from the erection of poorly designed boundary treatments.

8a. Prior to the commencement of development details of security oriented design measures and physical security measures for all buildings and public spaces shall be submitted to and approved in writing by the Local Planning Authority.

8b. The approved measures shall be fully implemented concurrently with the relevant element of the development, and thereafter retained.

*Reason:* To ensure the safety of the occupiers and users of the development.

9a. Prior to commencement of the development details of the security gates to the car park to the side of the building and service yard at the rear of the building shall be submitted to and approved in writing by the Local Planning Authority.

9b. The approved details shall be fully implemented before any part of the development is first used and retained thereafter.

*Reason:* To ensure the safety and security of the property and those adjoining the site

10a. Prior to commencement of the use of the development details of internal lighting of the stairwell on Stafford Street shall be submitted to and agreed in writing by the local planning authority.

10b. The approved details shall be fully implemented before any part of the development is first used and retained thereafter.

*Reason:* To ensure the satisfactory appearance of the development along Stafford Street

11a. Prior to the commencement of the development details of the position of underground services linking to Wisemore, are to be submitted to and agreed in writing with the local planning authority.

11b. The approved details shall be fully implemented before any part of the development is first used and retained thereafter.

*Reason:* To safeguard the potential development of the future 5W's metro line.

12a. Prior to completion of built development details (including location and external appearance) of all plant and equipment used for the purpose of heating, ventilation and/or air conditioning shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:

i) Mitigation to ensure that the proposed systems are designed and operated to ensure that noise emissions do not give rise to a Rating Level of 5 dB at nearby residential premises as determined in accordance with British Standard BS 4142: 1997 '*Method for Rating industrial noise affecting mixed residential and industrial areas*'.

ii) Mitigation to ensure that the proposed systems do not give rise to a Noise Rating Exceeding NR 25 1m from the façade of occupied residential rooms.

iii) Flues serving commercial hot food cooking points

iv) The cleaning and maintenance regime for the odour extraction/abatement system shall be agreed in writing prior to the systems coming into use.

v) Extract ventilation flues and associated fan and motor units shall be fitted with vibration isolation mounting systems and ductwork shall be de-coupled from fan and motor units.

v) External appearance and appropriate design features to disguise the plant and machinery.

12b. The agreed details shall be fully implemented prior to the first use and retained thereafter.

*Reason:* To ensure satisfactory appearance of proposed plant and machinery and to ensure that it does not result in the loss of amenity to nearby residents by virtue of odours, smells and noise.

13a. Prior to the first occupation of development, a system to control grease, oil and fat discharges to drainage/sewerage systems shall be agreed in writing with the Local Planning Authority

13b. The approved details shall be fully implemented prior to use commencing and thereafter retained.

*Reason:* To prevent inappropriate discharges into the drainage system

14. Prior to the occupation of the development hereby approved the access, turning areas and parking facilities shown on the approved plan shall have been properly consolidated, surfaced, drained, free of loose stone and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall be thereafter be retained and kept available for those uses at all times.

*Reason:* In the interest of highway safety, and ensure the free flow of traffic using the adjoining Highway

15. Prior to built development the drainage and disposal of surface water and foul sewerage shall be fully implemented and retained thereafter as per the details submitted on plan drawing number 103 P1 and information contained in cover email from Scott Mills (of Nolan Associates dated 02/06/14).

*Reason:* In order to reduce the risk of flooding, pollution and to ensure the development is provided with satisfactory drainage.

16. The development shall be fully implemented and completed with the submitted external finishes of the building set out on the approved drawing numbers 11026/P73-11 received 20<sup>th</sup> May, 2014 and 11026/P73-12 received 20<sup>th</sup> May, 2014.

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

17. The development shall be fully implemented and completed with the submitted external surfacing / landscaping of the site as set out on the approved drawing number 11026/P73-2 Rev A, received 16<sup>th</sup> June, 2014

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

18a. The approved uses in the detailed planning permission are as follows:

Unit 1 – Use Classes A1, A3, A4, A5 and D2

Unit 3 - Use Classes A1, A3, A4, A5 and D2

Unit 4 - Use Classes A3 and A4

Unit 5 - Use Classes A3 and A4

Unit 6 - Use Classes A3 and A4

Unit 7 - Use Classes A1, A3, A4 and D1

18b. Retail use (Use Class A1) shall be located in Units 1, 3 and 7 and no greater than 1,000sqm

18c. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, and the Town and Country Planning (General Permitted Development) Order 1995 (as amended), there shall be no change of the particular use approved under part (a) of this condition to retail (Use Class A1) use.

*Reason:* To define the permission and to control the nature of retailing on the site, to secure retailing which is either complementary to the other uses on the site and to ensure that the retailing aspect relates to the original planning permission criteria for retail.

19. The permitted development shall meet the 2005 Building Research Establishment Environmental Assessment Method 'very good' standard, as a minimum.

*Reason:* In order to comply with guidance within saved policy ENV40 of Walsall's Unitary Development Plan, ENV3, ENV5 and ENV7 of the Black Country Core Strategy and the National Planning Policy Framework in terms of sustainable development and use of natural resources towards lower-carbon technology.

20. No speakers or public address facilities shall be installed externally.

*Reason:* To safeguard the amenities of nearby occupants and residents

21. At all times the internal arrangements of the ground floor uses within the buildings hereby approved will ensure that there are no;

- non-transparent partitions (other than those positioned at 90 degrees to the external wall)
- storage areas,
- refuse areas
- or toilet facilities

shall be located within 2 metres of any glazed external wall.

*Reason:* To ensure active frontages and a satisfactory appearance on all faces of the buildings, to ensure a permanently satisfactory urban design solution to the circulation of pedestrians around all faces of the buildings.

22. During construction of the development hereby permitted all practical steps shall be taken to ensure that vehicles do not deposit mud or other material onto the public highway or

Wisemore, and prompt measures will be taken to remove any material that is so deposited in accordance with details previously agreed in writing by the Local Planning Authority.

*Reason:* To prevent mud being deposited on the public highway.

23. The security gates across the car park and service yard area shall not be open other than during the hours of opening of the cinema and retail units hereby permitted.

*Reason:* To ensure the safety and security of the property and those adjoining the site

#### **NOTES FOR APPLICANT**

**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.

**No Drainage to Discharge to Highway** - Drainage arrangements shall be provided to ensure that surface water from the compound does 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.

#### **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 “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 groundwater. 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. 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.







# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 2.**

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

**Application Number:** 14/0779/FL

**Application Type:** Full application

**Case Officer:** Stuart Crossen

**Telephone Number:** 01922 652608

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** ID Planning

**Applicant:** Kier Property Developments

**Proposal:** Application under section 73 to vary condition A7 of planning permission 13/0440/FL to enlarge the footprint of the proposed cinema units 5 and 6 (formally units 1a and 1b) and change elevation details.

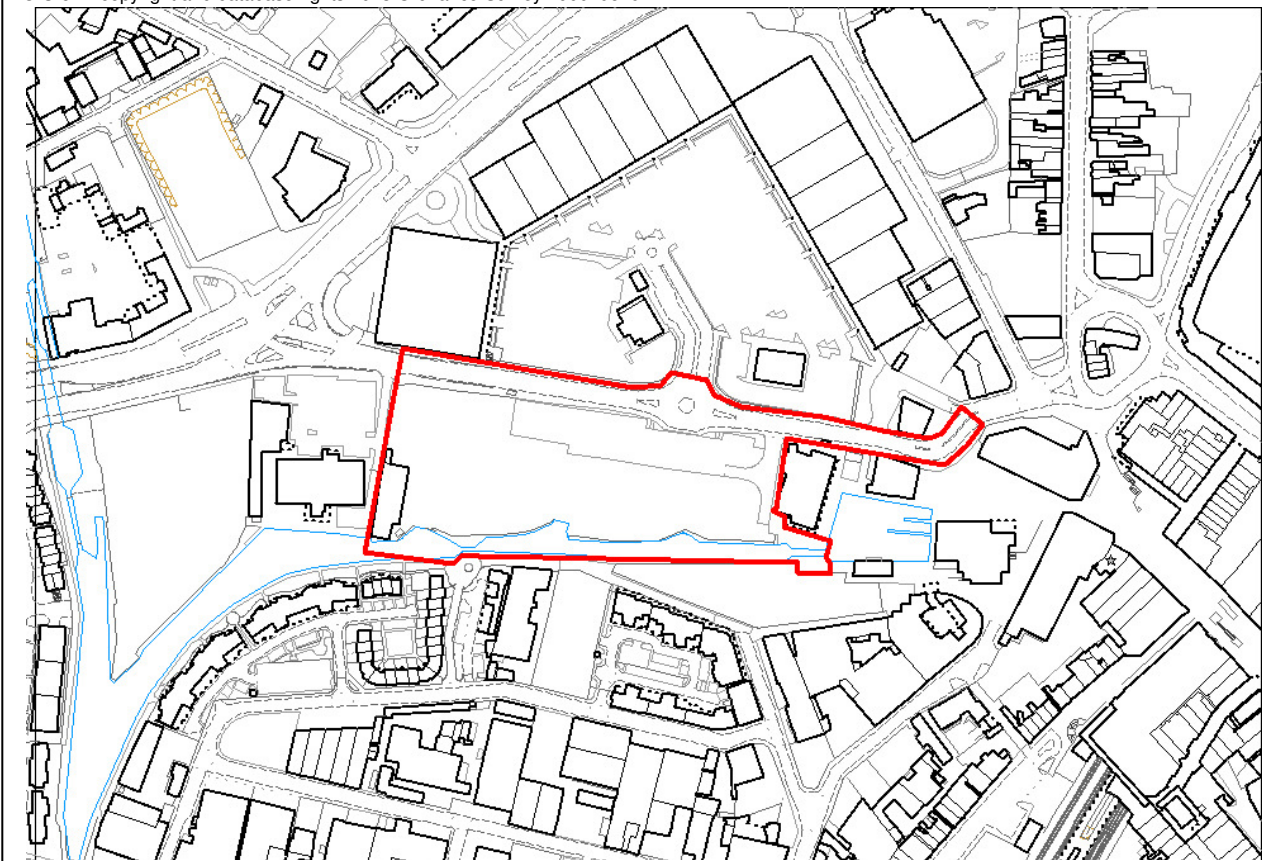
**Location:** LAND SOUTH OF WOLVERHAMPTON STREET, WALSALL

**Ward:** St. Matthews

**Expired Date:** 26/08/2014

**Recommendation Summary: Grant Subject to Conditions, and completion of a deed of variation for a 106 agreement and subject to no new material considerations which cannot be addressed through condition following consultation**

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### **Application and Site Details**

This Section 73 planning application is for a material amendment to the previous approved scheme considered by planning committee on 20 June 2013 under reference 13/0440/FL. This application is to increase the ground floor space of the cinema and the two restaurant units, described as units 5 and 6 on plan (00)305 rev G, as well as amending the cinema elevations.

The application site is the northern side of the Walsall Town Centre canal arm, up to Wolverhampton Street. The site is 2.14ha and represents the area with schemes previously approved through Urban Splash which have not been delivered. On the opposite side of the canal is the award winning Waterfront South development, a residential scheme developed by Jessup Brothers Ltd, with Crown Wharf Retail Park to the north. The site is adjacent to the Premier Inn Hotel which has already been constructed and the New Art Gallery is also in close proximity.

The application approved on 20 June 2013 was a hybrid application considering detailed and outline plans. A Full planning application for multi-screen cinema (Use Class D2) at first & second floor level with retail, restaurants & cafes, drinking establishments (Use Class A1/A3/A4) at ground floor level and two separate units for restaurants & cafes and drinking establishments (Use Class A3/A4). Car parking, external seating area, landscape works, additional temporary surface car parking, canal footbridge, associated works and access arrangements were also part of the consideration of the detailed application and are unchanged. An outline application (all matters reserved) for leisure, retail, restaurants and cafes, drinking establishments (Use Classes A1, A3, A4 and D2) was also considered.

Under this section 73 application, the proposed changes to floorspace are:

#### **Full Application**

Cinema Building: original total 5,224sqm; this application proposes an increase by 97sqm to 5321sqm)

Ground Floor Units: Use Classes A1, A3, A4 –2,257sqm; this application proposes an increase by 97sqm to 2354sqm)

First and Second Floor: Cinema Use Classes D2 2,407sqm and 560sqm respectively (no change from original approval)

It is noted that the retail would be a maximum of one unit up to 500sqm (no change from original approval)

There are two restaurant units also proposed:

Unit 1A and Unit 1B (A3/A4) – Originally 304sqm each – total 608sqm, this application amends Unit 1A to Unit 5 with a proposed floor space of 279sqm and Unit 1B to Unit 6 with a proposed floor space of 353sqm; this represents an overall increase of the two units by 24sqm.

In addition to this 183 car parking spaces will be provided, including 13 disabled spaces. A temporary car park of 69 spaces with 4 disabled spaces are also proposed whilst phase 2 of the development is finalised. This represents no change from the previous approval.

#### **Outline Application**

There are no changes to the outline application from the previous approval, which was considered and approved by planning committee on 20 June 2013.

### **Relevant Planning History**

### **Other Cinema application**

13/0206/FL - Proposed Multi-Screen Cinema (Use Class D2) with additional commercial units for retail, cafe and restaurants, drinking establishments and hot food takeaways (Use Classes A1, A3, A4 and A5) with associated car parking, access arrangements, landscaping and public realm. GSC – 21<sup>st</sup> June 2013.

14/0762/FL - Variation of condition 21 of planning consent 13/0206/FL to allow substitution of plans. Not determined but can found on the same planning committee agenda.

### **Previous Waterfront Applications**

#### **Waterfront North (The application site)**

13/0440/FL - Hybrid Application - Full Planning Application for Multi-Screen Cinema (Use Class D2) at first and second floor with Retail, Restaurants and Cafes, Drinking establishments (Use Classes A1/A3/A4) at ground floor level and two separate units for Restaurants and Cafes and Drinking Establishments (Use Class A3/A4), car parking, external seating area, landscape works, additional temporary surface car parking, canal footbridge, associated works and access arrangements. Outline Application (all matters reserved) for Leisure, Retail, Restaurants and Cafes and Drinking Establishments (Use Classes A1, A3, A4 and D2). GSC – 21<sup>st</sup> June 2013.

10/1093/FL - Hybrid Application: Detailed Application for 100-bed Hotel (Use Class C1) together with associated restaurant and bar, external seating area, associated landscape works and temporary surface 100 space car park (2 years) and access arrangements; change of use and external alterations to Wharfingers Cottage for retail, financial and professional services, offices, leisure, drinking establishment and restaurant encompassing implemented landscaping works and new external seating area (Use Classes A1, A2, A3, A4, B1(a) and D2). Outline application (all matters reserved) for leisure, retail, financial and professional services, restaurant, drinking establishments, hotel, office, residential development (Use Classes A1, A2, A3, A4, B1(a), C3, D2) and associated multi-storey car park together with proposed access, servicing, landscaping, canal bridge and works to canal basin. GSC – 7<sup>th</sup> January 2011.

*(Hotel is now built and operational)*

08/1849/FL – 120 bedroom hotel and restaurant – reduced to 100 bed hotel under a minor amendment. GSC 09/02/2009

06/1450/OL/W1, in December 2006. Outline permission for a mixed use scheme including leisure, offices, retail, apartments and associated multi storey parking (consisting of 12 buildings, 7 of which were submitted as reserved matters). GSC 21/12/2006

#### **Waterfront South (adjoining to the south of the application site, and extending further west)**

07/0618/FL/W7 and amended through 09/0832/FL – development of 316 dwellings and commercial buildings is currently under construction.

#### **Relevant Planning Policy Summary (Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)**

##### **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 that planning should:

- be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;
- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;
- 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, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);
- contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
- 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;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

**Key provisions** of the NPPF relevant in this case:

20. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

21. Investment in business should not be over-burdened by the combined requirements of planning policy expectations. Planning policies should recognise and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure, services or housing.

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;
- retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive;
- 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 therefore undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites;
- allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available. If sufficient edge of centre sites cannot be identified, set policies for meeting the identified needs in other accessible locations that are well connected to the town centre;
- set policies for the consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres;
- recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites; and
- where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity.

30. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion

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

35. Developments should be located and designed where practical to

- accommodate the efficient delivery of goods and supplies;
- give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
- create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
- incorporate facilities for charging plug-in and other ultra-low emission vehicles; and
- consider the needs of people with disabilities by all modes of transport.

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. Policies should set out the quality of development that will be expected of an area, including:

- 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
70. To deliver the social, recreational and cultural facilities and services the community needs, ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.
- 103 – seeks to ensure that development is located in appropriate areas at low risk of flooding and does not exacerbate the risk of flooding.
- 123 seeks to ensure that development mitigates against pollution, including noise.

On **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.

### **Regional Strategy (RS)**

The Regional Strategy was cancelled by the Secretary of State on 20<sup>th</sup> May 2013.

### **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. 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 BCCS states that the councils will create cohesive, healthy and prosperous communities.

The relevant policies are:

**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

1. Focussed investment and development in comparison shopping, office employment, leisure, tourism and culture within Walsall, to retain and increase their share of economic activity and meet the increasing aspirations of their catchment areas.
2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.
5. A network of vibrant and attractive town, district and local centres
6. A high quality environment
7. A first-class transport network providing rapid, convenient and sustainable links between the Strategic Centres, existing and new communities, and employment sites

The above are supported by the following policies:

CSP1 – sets out the targets for sustainable regeneration of the Black Country including enhancement of the town centre.

CSP4 – develops the need for high quality place making and design

CSP5 – sets out the need to develop and manage movement and ensure that sustainable modes of transport are promoted.

CEN1 - The Strategic Centres will provide the main focus for higher order sub-regional retail, office, leisure, cultural and service activities, balanced by a network of Town, District and Local Centres, providing for town centre uses including meeting day-to-day shopping needs (particularly convenience shopping). Proposals that undermine this strategy will be resisted. To strengthen the Black Country's centres, mixed-use developments that are well integrated with existing provision will be encouraged, including the use of upper floors.

CEN2 – sets out the Hierarchy of Centres

CEN3 – Strategic Centres provide the focus for comparison shopping, office employment, leisure and culture in the Black Country. Any proposed development exceeding 500 square metres gross floor space - whether brought forward through a Local Development Document or planning application, that would lead to the amount of floor space in an individual Strategic Centre exceeding the figures set out above, will only be considered favourably if the retail impact assessments contained in the most recent national guidance on retail planning are satisfied. Any proposed development in an edge-of-centre location exceeding 500 square metres gross floor space will only be considered favourably if the retail impact assessments contained in the most recent national guidance on retail planning are satisfied.



However, if it is considered that development below this threshold is likely to have a significant impact on centres, then those proposals will be required to carry out an impact assessment. Also identifies offices at Walsall Gigaport.

CEN4 – Seeks to regenerate the strategic centres - Retail capacity in Town Centres will largely be met by existing commitments, planning permissions and allocations, and any redistribution of floor space between Centres to meet strategic priorities.

TRAN1 Sets the priorities for the development of the transport network and promoting sustainable transport modes.

TRAN2 requires development proposals to manage transport impacts of new development

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

ENV 1, ENV 2 and ENV 3 set out the criteria for nature conservation, the historic environment and design quality.

ENV4 development must enhance the canal corridor.

ENV5 seeks to ensure that new developments mitigate against flood risk and promote sustainable drainage

ENV7 seeks to ensure new development promotes renewable energy provision

EMP6 seeks to ensure that visitor and cultural facilities are provided in appropriate locations.

Although Diagrammatic – office-led development is shown on the Walsall Strategic Centre Diagram. These are supplemented by the following policies

SC3.1 By 2026 Walsall town centre will have been regenerated as a sub-regional focus for the local economy and the community. It will provide its catchment area with an attractive choice of comparison shopping and leisure, entertainment and cultural facilities, as well as supporting a thriving office market. Walsall will also support modern town centre living. The centre will bring all of these activities together in a vibrant, safe, attractive and accessible environment that combines local heritage with modern design.

SC3.5 highlights

- Growth in convenience floor space for the strategic centre is likely to be delivered through existing commitments

- There is a need for more leisure facilities and venues to serve all sections of the community and boost the evening economy. In particular there is no cinema and no major entertainment venue. There is also a need for hotel and conference facilities.

### **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: 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.

ENV10: (a) The development of an industry or facility which may cause pollution will only be permitted if it would not cause unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

ENV14: The Council will encourage the reclamation and development of derelict and previously developed land wherever this is technically feasible

ENV23: The layout of all new development must take account of:-

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

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

ENV24(b) New development which would sever, or unacceptably harm the integrity of linear features such as rivers, streams, canals, field boundaries, tree belts, green lanes, and road verges or 'stepping stone' features such as lakes, reservoirs, ponds and small woodlands will not normally be permitted.

ENV29: 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.

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

ENV33: Good landscape design is an integral part of urban design and the Council will require full details of external layout and landscape proposals on larger developments.

ENV40: Proposals for development will be encouraged to incorporate measures for the conservation of water resources such as the use of water efficient devices, the on-site recycling of water (including grey water systems), the collection and use of rainwater (e.g. the provision of water butts) and minimising the watering needed to sustain landscaping (eg. through the use of mulching and drought tolerant turf and plants).

S1 – Defines town centre uses – including offices, leisure and retail

S2 – Defines the hierarchy of town centres with Walsall Town Centre will be sustained and enhanced in its sub-regional role as the main centre for the Borough, and some places farther afield, for comparison shopping and other town centre uses. These should particularly include leisure and entertainment facilities appropriate to the centre's subregional role. It is also recognised that Walsall has a local role meeting the needs of adjacent communities for convenience shopping and local amenities and services.

S3 - To ensure the proper integration of developments in or on the edge of centres, proposals should:

I. Be of scale and nature appropriate to the size and function of the centre concerned.

II. Be sensitively integrated, in functional and visual terms, with the primary shopping area and other land uses, pedestrian routes, car parking provision, public transport facilities, servicing arrangements, traffic circulation, and the local townscape.

S4 - 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 or elsewhere in the affected catchment area: the Council may require an impact assessment if it considers that a proposal might have adverse effects. The Council will seek to further improve the environment of Walsall Town Centre, with particular stress on maintaining and enhancing their individual character. Improvements will be sought both through new investments and developments and through the Council's own actions.

I. Development proposals will be required to have a high standard of design

II. Development proposals will also be required to give particular attention to the principles of designing-out-crime.

III. When considering development proposals, the Council will explore with developers the scope for carrying out improvement works and will also seek, if relevant, the provision of new or improved facilities to meet wider community and social needs.

IV. The Council will pursue a programme of improvements to help to make these centres more attractive and will also seek to encourage others to invest in improvements.

S10: Restaurants and Food and Drinks outlets will be appropriate in Walsall Town, Centres subject to the use proposed must not adversely affect the amenities of existing or proposed dwellings (including those on upper floors above commercial premises) by reason of noise, smell, disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on residential amenity.

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

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

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

WA3: Outside the primary shopping area, and on upper floors within it, the Council will encourage business / service uses, offices, leisure, community uses and, subject to the provisions of Policy S8 in Chapter 5, residential development.

WA6: Subject to the availability of resources for its installation and maintenance, the Council will seek to extend the coverage of the Walsall Town Centre CCTV system.

WA12:(b) The area, on both sides of the canal, is considered to be the main location in the town centre for substantial leisure development to serve the Borough and surrounding areas. It should be developed principally for leisure uses which can serve all sections of the community, and examples of uses that would be particularly welcomed by the Council include a cinema, a family entertainment centre and an adventure activity centre. Associated bars/ restaurants would also be encouraged, provided they form part of a comprehensive scheme to provide major facilities. Other appropriate uses will include hotel, and conference facilities, cultural uses, and office/business uses (including small scale craft-based activities) to complement development primarily for leisure uses. Retail use, except small-scale, complementary activities, will not be permitted. Generally, the mix of uses and the arrangement of those uses should be such as to ensure the creation of the most attractive possible scheme for investment in leisure facilities.

WA18: Priority will be given to maintaining, enhancing and increasing provision of short stay parking for shoppers and visitors, including suitable dedicated parking for disabled people. Long-stay parking for commuters will be strictly controlled or reduced.

WA19: Seek to improve public spaces, and improve significant pedestrian and cycle routes, both within the Town Centre and linking with surrounding areas.

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

### **Walsall Town Centre Area Action Plan**

Walsall Town Centre Area Action Plan offers support in principle for both applications, though at present the AAP is at a very early stage of production with submission, examination and adoption anticipated in 2015. The intention is to allocate land for cinema development in the AAP and to determine, during the plan-making process, how many such sites should be allocated. However, given the early stage of its preparation, the AAP can be given no material weight.

### **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*

Seeks to guide development and deliver high quality design through local distinctiveness and sustainable design.

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

*Walsall Waterfront SPD*

Amplifies Policy WA12 for development proposals in seeking to maximise the dynamism and character of the historic canal frontage through appropriate public realm improvements, creating an accessible canal and water space with a series of linked focal spaces and waterside routes connecting to the wider town centre. The public realm must be accessible for all and integrated with the wider transport network, especially cycling and pedestrian networks. Seeks to achieve the delivery of 'world class' architecture and public art within a scheme that reflects the unique waterside, cultural and urban character of the area.

Large areas of surface car parking should be avoided; other options including well-designed multi-storey or underground solutions should be explored as alternatives to this approach. Only in the short-term should vacant sites be considered as appropriate in providing temporary car parking solutions.

The location of new bridges across the canal, and their associated public spaces, is of particular importance to the success of the quarter, as is their relationship with adjacent developments. Pedestrians must be able to move freely through the development and onto the wide, surrounding network of public squares, spaces and streets within the town centre.

*Natural Environment SPD*

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

Protection is proposed for protected animals, plants etc.

**Consultations**

**Natural England** – No objections

**Highways Agency** – No objection

**National Grid** – No objection

**Fire Officer** – No objection

**The Coal Authority** – No objections

**Police Architectural Liaison Officer** – To be updated

**Homes and Communities Agency** – To be updated

**Transportation** – To be updated

**Pollution Control**

*Scientific Team* – To be updated

*Contaminated Land Team* – To be updated

**Environment Agency** – To be updated

**Canal and River Trust** – No objections

**Natural Environment Team**

*Conservation* – No objection subject to additional condition requiring details of proposed cinema building cladding prior to implementation of phase 1 development.

*Ecology* – No objection

*Landscape Team* – To be updated

**Local Access Forum (including Ramblers Association)** - To be updated

**Representations**

Noise impact assessment does not cover Smiths Flour Mill.

2 letters of support for the development, but concern about construction noise early morning, late evening and Sundays (a material consideration of the previous application, a condition limiting construction hours will be repeated if approved) and concern about wildlife and wild flora, (these matters were considered in the previous application and no new issues are raised through this amendment)

**Determining Issues**

- **Design of Phase 1 and visual relationship to the canal of the cinema and restaurant unit**
- **Environmental Impact Assessment**
- **Section 106 Deed of Variation**
- **Planning conditions**

**The following matters were considered in determining the previous planning application and the proposed changes raise no new concerns or comments:**

- Principle of development
- Deliverability of a town centre cinema
- Impact on vitality and viability of the town centre
- Ecological issues and the canal bank
- Car parking and services
- Phase 2 and future reserved matters
- Impact on residents opposite (in Waterfront South and Marsh Street developments) and in the vicinity
- Local Finance Considerations

## **Observations**

### **Phase 1 and visual relationship to the canal of the cinema and restaurant unit**

As previously, the Conservation Officer considers that a real effort has been made to provide an interesting and independent architectural solution, largely secured through its innovative cladding. The Conservation Area Appraisal seeks to ensure buildings address the canal with an active frontage. Whilst this has been achieved, it is recognised that this site is visible at 360-degrees and that this will present difficulties in delivering an effective service area that is not overly prominent.

The alterations to the elevation of the cinema are considered acceptable, but careful consideration must be given to how different materials will relate to one another and form a reveal or different depth, which can be conditioned.

The other amendments, which include a small increase in floor space, raise no other significant issues than have already been considered in the previous scheme.

### **Environmental Impact Assessment (EIA) Screening Opinion**

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 distinguishes between two separate groups of development to which EIA are required. Schedule 1 Development requires an EIA in every case and Schedule 2 Development requires an EIA only if the project is judged likely to have significant effects on the environment by virtue of factors such as its size, nature or location.

The proposal does not fall within Schedule 1.

The development falls within Schedule 2 part 10(b) as it is an urban development project with an area of development that exceeds 0.5 hectares. The site is not within a sensitive area as the site is not statutorily protected and is a previously developed brownfield site. The development is not of more than local importance given its leisure use, its central location, which has good links to public transport and which is envisaged would serve the local community. The potential impact of the development on the surrounding area is not significant.

In light of the above an Environmental Impact Assessment for the proposed development is not needed.

### **Section 106 Deed of Variation**

A section 106 was completed as part of the previous permission a deed of variation is required to ensure the section 106 obligations apply to the new permission.

### **Planning conditions**

Section 73 gives the local planning authority power to grant permission subject to different conditions to those attached to the previous permission. If granted, the conditions attached to planning permission 13/0440/FL will be repeated as part of this permission unless already discharged. Conditions will also be updated (for example, by the removal of any unnecessary 'tails') and the order shall be amended for clarity at the same time without changing the principle of the original condition.

### **Other Matters**

It is recognised that the noise impact assessment does not cover Smiths Flour Mill. However, the development would be over 200 metres from Smiths Flour Mill with other retail uses between and a busy main road into the Town Centre. For these reasons it is considered unnecessary for the noise impact assessment to cover Smiths Flour Mill.

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

Officers have met with the applicant's agent and worked closely in response to concerns raised, amended plans have been submitted to enable full support to be given to the scheme.

### **Recommendation - Grant Subject to Conditions, and completion of a deed of variation for a 106 agreement and subject to no new material considerations which can not be addressed through condition following consultation:**

#### **Schedule of Conditions**

A- General Planning Conditions applying to the whole development

B - Phase 1 Planning Conditions (Full Planning Permission)

C - Phase 2 Planning Conditions (Outline Planning Permission)

#### **A - General Planning Conditions applying to the whole development**

A0 - the term "Phase" means:-

Individual sites within the overall application site that can be progressed in individual reserved matters submissions and still meet the overall aspirations and objectives of the outline planning permission.

*Reason:* To define the permission, and create the framework for the conditions, and their application to parcels of land.

A1) For the avoidance of doubt the Phases shall comprise as follows:

Phase 1 – as shown on Plan reference (00) 304 Rev K, including the following:

Cinema and associated ground floor units, Unit 5 and Unit 6, access, landscaping, public realm, canal works, highways works, temporary car park subject to the conditions within Schedules A and B of this permission.

Phase 2 – Replacement of the temporary car park with appropriate development as illustrated on drawing (00)300 Rev M subject to the submission of a satisfactory reserved matters as defined by Schedules A and C of this permission. The buildings shown are not approved by this permission.

*Reason:* In order to define the permission and phasing of the development.

A2) Unless amendment is sought through planning conditions or the Reserved Matters submission, the development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:

Plans and Drawings:

(00)100 Rev J

(00)300 Rev M

(00)304 Rev K

(00)305 Rev G

(00)310 Rev F

(00)311 Rev E

(00)312 Rev C

(00)321 Rev E

(00)400 Rev D

(00)500 Rev F

(00)510 Rev E

(00)520 Rev B

(90)350 Rev A

**Documents:**

Design and Access Statement (ref: 13,026/IMAGES) prepared by Archial/ID Planning  
Statement prepared by ID Planning  
Flood Risk Assessment and Addendum (ref: 2372/FRA\_v1.2) prepared by Westwood  
Baseline Ecological Audit (ref: 5501/3987/1/HAUD) prepared by Betts Ecology  
Ecological Planting to Supplement Landscape Strategy (ref: 5501 Version2.0) prepared by Betts Ecology  
Transport Assessment and Addendum (ref: W50775 / R01 Rev A) prepared by Pell Frischmann  
Framework Travel Plan (ref: W50775 / R02 Rev A) prepared by Pell Frischmann  
Landscape Report (ref: 15010 Rev D) prepared by Gillespies  
Geo-environmental Appraisal (ref: T/13/1216/GA) prepared by Tier Environmental  
Statement of Community Involvement prepared by Acceleris Marketing Communications

*Reason:* To define the permission

A3) Before work commences on site details of measures to control water runoff from the site during construction (including details of the timing of construction of the proposed measures, and of their removal) shall have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approval.

*Reason:* To protect the water environment.

A4a) Prior to the commencement of the development hereby approved and for the duration of the reclamation of the site, and the construction period, the accesses to the site shall include wheel washing equipment in accordance with details to be submitted to and agreed in writing by the Local Planning Authority.

A4b) The agreed details shall be fully implemented and retained throughout the reclamation and construction period.

*Reason:* To prevent mud being deposited on the public highway.

A5a) Prior to the commencement of the development hereby approved 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 CL1)

A5b) The remedial measures as set out in the “Remediation Statement” required by part a) of this condition shall be implemented in accordance with the agreed timetable.

A5c) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation is encountered development shall cease until the “Remediation Statement” required by part a) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.



A5d) 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 CL2)

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

A6a) The approved uses in the detailed planning permission are as follows:

- i) Cinema Building:  
Ground Floor Units (Use Classes A1, A3, A4)  
First and Second Floor (Use Class D2)  
Unit 5 and Unit 6 (Use Classes A3/A4)
- ii) The approved uses in the outline planning permission are A1, A3, A4 and D2
- iii) Retail use (Use Class A1) shall be a maximum of one unit and no greater than 500sqm

A6b) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, and the Town and Country Planning (General Permitted Development) Order 1995 (as amended), there shall be no change of the particular use approved under part (i and ii) of this condition to retail (Use Class A1) use.

*Reason:* To define the permission, to deliver appropriate levels of leisure development, to control the nature of retailing on the site, to secure retailing which is either complementary to the other uses on the site, or of a character which adds interest to the site and the town centre, to reflect the overprovision of convenience retailing in the town centre identified in the Black Country Centres Study 2009 (GVA Grimley) and to ensure the health and viability of the Primary Shopping Area as the primary location for comparison retailing.

A7) No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation) or deliveries associated with demolition, construction or engineering works, shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 13.00 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.

*Reason:* In the interests of the amenity of adjacent occupiers

## **B - Phase 1 Planning Conditions**

B1a) This development must be begun not later than 21<sup>st</sup> December 2014.

*Reason:* Pursuant to the requirements of Section 91(1)(b) of the Town and Country Planning Act, 1990 and to ensure that any delay in the delivery of the development takes account of the Walsall Town Centre Area Action Plan which will seek to develop a preferred option for a town centre cinema.

B2a) No development or site clearance shall commence until full details of landscaping is submitted to the Local Planning Authority and approved in writing. Information required and shall provide full details of:

- Preparation of land for planting.
- Specification and depths of topsoil/ subsoil/ growing medium (e.g. coir rolls) and any mulches.
- Locations of all planting.
- Density of 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.
- Specifications and locations of all bird and bat boxes.
- Locations and full specifications of all hard landscaping/ lighting.

b) Before any part of the development is brought into use a management plan shall be submitted to the Local Planning Authority and approved in writing. 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.
- Monitoring and reviewing the effects of management and incorporating any remedial works required to implement the approved landscape scheme.
- How the 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 within a period of 5 years from the completion of the development.
- 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.

c) The landscape scheme shall be managed in accordance with the approved management plan.

*Reason:* To ensure satisfactory development of the application site and to enhance the appearance of the area and to ensure that the proposed development contributes to the preservation and enhancement of the local character, distinctiveness and ecological value of the waterway corridor.

B3a) Prior to the commencement of development details shall be submitted to the Local Planning Authority for car park management. The development will operate a scheme of parking controls through a pay and display mechanism to:-

- i) Prevent use of the car parks on the site by long-stay commuters and
- ii) Maintain the use of the car park within the application site as short-stay parking for shoppers within the development, shoppers in the town centre and other non-commuter uses within the site and in the town centre. Short-stay is defined as up to 4 hours,

B3b) The scheme will have a pricing structure similar to that of the Council's short-stay car parks, with the following qualifications:-

- i) Charges shall never be less than the charges applicable to the Council's short-stay car parks; and may be up to, but never more than, twice the charges applicable to the Council's short-stay car parks
- ii) The site operator may offer free parking to customers of the development for up to 4 hours.

B3c) The site operator may review the charges with the Council in the event that it is evident that any pricing structure fails to ensure that adequate parking remains available to customers.

B3d) The approved scheme and details shall be fully implemented and fully operational prior to the first use of the car park.

B3e) No car park shall be brought into use prior to the commencement of built development.

*Reason:* To ensure town centre developments should be functionally integrated and not cause congestion on the surrounding highway network; parking should support the Council's strategy of enhancing the centre and should serve the centre as a whole, to provide for shoppers and visitors, through management and pricing arrangements; parking controls should discourage commuters and an inappropriate regime for parking could have an adverse impact on the vitality and viability of Walsall Town Centre. Further short stay surface level car parking is not required and should only be provided in support of the proposals for development.

B4a) Prior to the commencement of development details of a waste storage, servicing area, collection and litter management plan for the site shall be submitted to and agreed in writing by the Local Planning Authority. For the avoidance of doubt, the servicing areas and bin storage areas shall not comprise timber fencing, but integral walling and planting.

B4b) The approved details of the servicing areas and bin storage areas approved shall be fully implemented prior to the occupation or bringing into use of any of the commercial units approved in Phase 1.

*Reason:* To prevent pollution of the waterway and ground water from wind blow, seepage or spillage of waste products and materials, and to ensure the satisfactory appearance of the development in accordance with policies ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy, ENV29 and ENV32 of the Unitary Development Plan and the Adopted Walsall Waterfront SPD.

B5a) Prior to the commencement of development details of the proposed boundary treatments, including for the service areas and of any barriers to be provided to prevent vehicles from entering the canal, shall be submitted to and agreed in writing by the Local Planning Authority.

B5b) The development shall subsequently be fully implemented in accordance with the agreed details.

*Reason:* To protect the integrity of the canal infrastructure and to prevent a detrimental impact on the appearance of the waterway corridor from the erection of poorly designed boundary treatments, in accordance with policies ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy.

B6a) Prior to the commencement of development a schedule of the facing materials and details of the Phase 1 cinema building cladding shall be submitted to and approved in writing by the local planning authority. For the avoidance of doubt this shall allow for a reveal to be generated at the meeting of different materials.

B6b) The Phase 1 cladding and facing materials of commercial units shall be implemented in full prior to the occupation or bringing into use of any of the commercial units approved in Phase 1 in accordance with the agreed details.

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

B7a) Prior to the commencement of development a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be fully implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- i) Limiting the rate of surface water run-off generated by the site to discharge at no more than the Greenfield rate of 6.4 l/s.
- ii) Provision of attenuation storage volume on the site to retain the 100-year + climate change flow event volume assuming the discharge rate given above as detailed.
- iii) Details of how the entire surface water scheme shall be maintained and managed after completion.
- iv) At the detailed design phase, details must also be provided to confirm that surface water will not leave the proposed site in the 100 year + climate change allowance event. Drainage calculations must be included (e.g. Micro Drainage or similar package calculations), including the necessary attenuation volume, pipeline schedules, network information and results summaries to demonstrate that the greenfield discharge rate as proposed in the FRA and addendum will be achieved across all storm events.
- v) If the system surcharges, the location of any surcharging should be identified as should any resultant overland flood flow routes. Any excess surface water must be routed away from any proposed or existing properties. If above ground flooding is to occur, detail must be provided of depth and where this will go and prove that the development or adjacent property will not be flooded as a result.

*Reason:* To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the system.

B8a) Prior to the commencement of the development details of the roof treatment and plant and machinery of Units 1A and 1B shall be submitted to and agreed in writing by the Local Planning Authority. The submitted details appropriate treatment to disguise the industrial nature of plant and machinery.

B8b) The approved details shall be implemented prior to use.

*Reason:* Units 1A and 1B are significantly lower in height than the New Art Gallery and Premier Inn hotel and will be looked down on by members of the public and users of these buildings. The proposed roofs will therefore need to be as attractive as possible and appropriate use and appearance is required.

B9a) Notwithstanding the plans submitted prior to the commencement of the development hereby approved a survey of the condition of the waterway wall, and a method statement

and schedule of the repairs identified shall be submitted to and approved in writing by the Local Planning Authority

B9b) The proposals shall be fully implemented in accordance with the agreed details and retained thereafter.

*Reason:* In the interests of the structural integrity of the waterway wall, waterway heritage, navigational safety and visual amenity in accordance with policies ENV2 Historic Character and Local Distinctiveness, ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy and the Adopted Walsall Waterfront SPD.

B10a) Before the proposed temporary car park is constructed, details shall be submitted to and approved in writing by the Local Planning Authority, showing its position, arrangement, surfacing and boundary treatment. It will be implemented in accordance with those approved details before the cinema is first brought into use.

B10b) The car park use shall cease no later than 3 years from the first occupation of the cinema or within 6 months of the Reserved Matters approval, whichever is the earlier.

B10c) Should no development come forward within the timescale of part b of this condition, the car park shall be replaced by a scheme of public realm to match landscaping proposals approved under condition B4 of this permission.

*Reason:* An unlimited permission would prejudice the comprehensive development of the whole site in accordance with the Unitary Development Plan and the application submission.

B11a) Before any part of the development is brought into use a management plan showing how the landscape treatment will be established and managed is submitted to the Local Planning Authority and approved in writing. The management plan shall be carried out to an accepted methodology and detail:

- i) How the ecological planting will be established and managed thereafter.
- ii) Management operations to be carried out with proposed dates.
- iii) Monitoring and review to ensure the ecological enhancement of the site/ canal frontage develops in accordance with the approved landscape details.
- iv) Bird and bat boxes position

B11b) The management shall be fully carried out in accordance with the approved management plan.

*Reason:* To ensure satisfactory development of the application site and to enhance the appearance of the area and to ensure that the proposed development contributes to the preservation and enhancement of the local character, distinctiveness and ecological value of the waterway corridor.

B12a) Prior to completion of built development details (including location and external appearance) of all plant, machinery, equipment and facilities used for the purpose, *inter alia*, of heating, extract-ventilation, and/or air conditioning, refrigeration, chilling, provision of compressed air, provision of electricity, waste disposal shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:

- i) Mitigation to ensure that the proposed systems and methods are designed and operated to ensure that noise emissions, either individually or cumulatively, do not

give rise to a complaint likelihood assessment exceeding “marginal significance” at nearby residential premises as determined in accordance with British Standard BS 4142: 1997 *‘Method for Rating industrial noise affecting mixed residential and industrial areas’*.

ii) Mitigation to ensure that the proposed systems and methods do not give rise, either individually or cumulatively, to a Noise Rating Exceeding NR 35 1m from the window of any occupied residential premises during the hours 19.00 to 07.00.

iii) Flues serving commercial hot food cooking points

iv) Cleaning and maintenance regimes for odour extraction and abatement systems shall be agreed in writing prior to the systems coming into use.

v) External appearance and appropriate design features to visually disguise plant and machinery.

B12b) All of the agreed details shall be fully implemented prior to the first use of any of the hereby approved buildings.

**Reason:** To ensure satisfactory appearance of proposed plant and machinery and to ensure that it does not result in the loss of amenity to nearby residents by virtue of odours, smells and noise.

B13a) Prior to the installation of any external seating area or any street furniture within the development details of the chairs, tables, any boundary treatment or barriers and any other external features within the external seating area shall be submitted to and approved in writing by the Local Planning Authority.

B13b) The development shall subsequently be fully implemented in accordance with the agreed details.

**Reason:** To ensure the satisfactory appearance of the development and to prevent furniture entering the canal.

B14a) Prior to the installation of any external lighting, details of the proposed lighting for the development including details of foundations, luminance in candelas, light spillage details and hours of operation shall be submitted to and approved in writing by the Local Planning Authority.

B14b) The approved details shall be fully implemented in accordance with the agreed details.

**Reason:** The lighting at waterside developments should be designed to minimise the problems of glare, show consideration for bats and unnecessary light pollution should be avoided by ensuring that the level of luminance is appropriate for the location, is sustainable and efficient, and protects the integrity of the waterway infrastructure in accordance with policies ENV1 Nature Conservation, ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy.

B15a) Within 6 months of the development hereby approved being brought into use, a full Travel Plan relating to the cinema use shall be developed/submitted in partnership with the Highway Authority. This shall identify a package of proposed measures consistent with the

aim of reducing reliance on the car, and encouraging the use of sustainable transport. The agreed details of the Travel Plan shall be fully implemented within three months of being agreed and shall be retained throughout the life of the development.

B15b) A Travel Plan Co-ordinator shall be nominated (this may not be their only role). They will manage the Travel Plan and co-ordinate the annual survey and review, which will be submitted to, and approved in writing by the Local Planning Authority in consultation with the Highway Authority on the 12 month anniversary of the travel plan originally being implemented.

*Reason:* To promote sustainable travel with a view to reduce congestion, the environmental impact of car use, and improve health, in accordance with TRAN 4 of the Black Country Core Strategy.

B16a) Prior to the commencement of development details shall be submitted to the Local Planning Authority setting out where the location of parking for site operatives and visitors will be provided within the application site.

B16b) The approved details shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during construction of the development.

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

B17a) Prior to the commencement of development details of security oriented design measures and physical security measures for all buildings and public spaces shall be submitted to and approved in writing by the Local Planning Authority.

B17b) The approved measures shall be fully implemented concurrently with the relevant element of the development, and thereafter retained.

*Reason:* To ensure the safety of the occupiers and users of the development.

B18a) A system to control grease, oil and fat discharges to drainage/sewerage systems shall be agreed in writing with the Local Planning Authority

B18b) The approved details shall be fully implemented prior to use and retained thereafter.

*Reason:* To prevent inappropriate discharges into the drainage system

B19) The permitted development shall meet the 2005 Building Research Establishment Environmental Assessment Method 'very good' standard, as a minimum or provide details of sustainable construction and management details to reduce energy and consumption.

*Reason:* In order to comply with guidance within saved policy ENV40 of Walsall's Unitary Development Plan, ENV3, ENV5 and ENV7 of the Black Country Core Strategy and the National Planning Policy Framework in terms of sustainable development and use of natural resources towards lower-carbon technology.

B20a) Within 6months of the commencement of the development, the following details shall be submitted for approval in writing by the Local Planning Authority and in conjunction with the Highway Authority and Walsall Council's Street Lighting partner Amey;

- Full engineering details of the proposed improvements to the existing roundabout junction and Wolverhampton Street, to include pedestrian crossing facilities.
- Full engineering details of the proposed new access off Wolverhampton Street as specified on the approved plans.
- Full engineering details of the highway infrastructure works to facilitate the closure of the all existing redundant accesses and vehicular crossovers onto Wolverhampton Street.

B20b) Prior to occupation of the development all the detailed highway infrastructure works and cycle parking shall be fully implemented, completed and brought into use to the satisfaction of the Highway Authority in accordance with the agreed construction method statement and timetable.

*Reason:* In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development.

B21a) Notwithstanding the plans submitted within 12months of the commencement of the development details of the canal basin bridge including construction details shall be submitted to and approved in writing by the Local Planning Authority in conjunction with the Canal and Rivers Trust.

B21b) The proposals shall be fully implemented in accordance with the agreed details within 12months of the first occupation of the development and retained thereafter.

*Reason:* In the interests of the structural integrity of the waterway walls, waterway heritage, navigational safety and visual amenity and to ensure the delivery of pedestrian links to the development which would be otherwise lessened and in accordance with policies ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy and the Adopted Walsall Waterfront SPD.

B22a) Prior to the occupation of the development hereby approved the access, turning areas and parking facilities shown on the approved plan shall have been properly consolidated, surfaced, drained, free of loose stone in accordance with details to be submitted to and approved in writing by the local planning authority

B22b) These areas shall be thereafter be retained and kept available for those uses at all times.

*Reason:* In the interest of highway safety, and ensure the free flow of traffic using the adjoining Highway.

B23) No speakers or public address facilities shall be installed externally.

*Reason:* To safeguard the amenities of nearby residents

## **C - Phase 2 Planning Conditions**

C1) Application for approval of the Reserved Matters shall be made before the 21<sup>st</sup> June 2016.



*Reason:* Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

C2) The development must be begun not later than:

- i) 5 years from the date of decision of the first reserved matters.
- ii) 2 years from the approval of the last Reserved Matters

*Reason:* Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

C3) This development shall not be commenced until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- a) The layout of the building(s);
- b) The scale of the building(s);
- c) The external appearance
- d) Access to the site and buildings,
- e) The landscaping of the site

*Reason:* Pursuant to Article 3 (i) of the Town & Country Planning (General Development Procedure) Order 1995

C4) The Reserved Matters will contain a development amount comprising a minimum footprint for development of 1,173sqm.

*Reasons:* To define the permission and to ensure that future phases of development meet aspirations for leisure led development, especially as the design and amount of development is not agreed and given the need to promote the Waterfront development for formal leisure, banqueting and conference facilities.

C5a) As part of each Reserved Matters submission details of the following shall be submitted to and approved by the Local Planning Authority:

- a) strategy pedestrian movement towards the Primary Shopping Area and across the canal
- b) public realm enhancement and maintenance strategy
- c) a scheme for external lighting and maintenance with areas around the canal and basin minimising glare and light pollution.
- d) details of proposed refuse and waste recycling facilities
- e) fire and emergency service access
- f) measures for ecological enhancement

C5b) The agreed details shall be fully implemented prior to the first use of the, hereby approved development and retained thereafter.

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

C6a) As part of the Reserved Matters details shall be submitted to the Local Planning Authority for car park management as a result of the proposed additional development. The development will operate a scheme of parking controls through a pay and display mechanism to:-

- i) Prevent use of the car parks on the site by long-stay commuters and
- ii) Maintain the use of the car park within the application site as short-stay parking for shoppers within the development, shoppers in the town centre and other non-

commuter uses within the site and in the town centre. Short-stay is defined as up to 4 hours,

C6b) The scheme will have a pricing structure similar to that of the Council's short-stay car parks, with the following qualifications:-

- i) Charges shall never be less than the charges applicable to the Council's short-stay car parks; and may be up to, but never more than, twice the charges applicable to the Council's short-stay car parks
- ii) The site operator may offer free parking to customers of the development for up to 4 hours.

C6c) The approved scheme and details shall be fully implemented and fully operational prior to the first use of the car park.

*Reason:* To ensure town centre developments should be functionally integrated and not cause congestion on the surrounding highway network; parking should support the Council's strategy of enhancing the centre and should serve the centre as a whole, to provide for shoppers and visitors, through management and pricing arrangements; parking controls should discourage commuters and an inappropriate regime for parking could have an adverse impact on the vitality and viability of Walsall Town Centre.

C7a). As part of each Reserved Matters submission a detailed landscaping scheme for the site, (including any necessary phasing of implementation), has been approved in writing by the Local Planning Authority. The submitted scheme will include where appropriate,

- a) any necessary phasing
- b) arrangements for temporary servicing of buildings that are brought into use in advance of completion of the servicing access arrangements
- c) green and brown roof ecological impact mitigation measures, bat and bird boxes
- d) surfacing able to handle a 17 tonne high reach Fire Service vehicle
- e) litter collection bins
- f) suitable details for all parts of the site not covered by buildings.
- g) canal side improvements

C7b). The landscape scheme shall be submitted on a plan to an appropriate scale and shall include, where applicable, details of:

- Proportions (%) of plant species within each proposed plant mix.
- How the plants will be introduced, for example as: seeds, plugs, whips, standards, through natural colonisation and how the land will be prepared.
- Topsoil/growing media specification
- Specification of trees and shrubs and associated tree pit specification.
- Plant numbers, weights of seed, density of sowing/ planting.
- Locations of all planting.
- Details of hard landscaping/ lighting and drainage.
- Details of access and circulation.
- Coir rolls and gabions to be provided within the canal
- Management strategy and regime for a period of 5years

C7c) The development shall be carried out in accordance with the approved landscaping scheme and management regime.

C7d) The approved scheme shall be implemented, in its entirety, in accordance with any agreed phasing or within one year of any part of the development being brought into use or

such other period of time as may be agreed in writing by the Local Planning Authority.

*Reason:* To ensure satisfactory development of the application site and to enhance the appearance of the area and to ensure that the proposed development contributes to the preservation and enhancement of the local character, distinctiveness and ecological value of the waterway corridor.

C8a) Prior to commencement of development a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

i) Limiting the rate of surface water run-off generated by the site to discharge at no more than the Greenfield rate of 6.4 l/s

ii) Provision of attenuation storage volume on the site to retain the 100 year + climate change flow event volume assuming the discharge rate given above as detailed.

iii) Details of how the entire surface water scheme shall be maintained and managed after completion.

iv) At the detailed design phase, details must also be provided to confirm that surface water will not leave the proposed site in the 100 year + climate change allowance event. Drainage calculations must be included (e.g. Micro Drainage or similar package calculations), including the necessary attenuation volume, pipeline schedules, network information and results summaries to demonstrate that the greenfield discharge rate as proposed in the FRA and addendum will be achieved across all storm events.

v) If the system surcharges, the location of any surcharging should be identified as should any resultant overland flood flow routes. Any excess surface water must be routed away from any proposed or existing properties. If above ground flooding is to occur, detail must be provided of depth and where this will go and prove that the development or adjacent property will not be flooded as a result.

C8b) The scheme shall subsequently be fully implemented in accordance with the approved details before the development is completed and retained thereafter.

*Reason:* To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the system.

C9a) As part of the reserved matters submission a schedule of the facing materials shall be submitted to approved in writing by the Local Planning Authority.

C9b) The development shall subsequently be implemented in accordance with the agreed details.

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

C10a) As part of the reserved matters submission details of the proposed boundary treatments, including for the service areas and of any barriers to be provided to prevent vehicles from entering the canal, shall be submitted to and agreed in writing by the Local Planning Authority.

C10b) The development shall subsequently be fully implemented in accordance with the agreed details and retained thereafter.

*Reason:* To protect the integrity of the canal infrastructure and to prevent a detrimental impact on the appearance of the waterway corridor from the erection of poorly designed boundary treatments, in accordance with policies ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy.

C11a) As part of the Reserved Matters submission assessment and details wherever practicable shall be submitted to and agreed in writing by the Local Planning Authority in conjunction with the Canal and Rivers Trust for the following:

- i) street furniture
- ii) lighting strategy
- iii) ablution facilities for canal users
- iv) electricity and water supply to the canal and canal basin

C11b) The proposals shall be implemented in accordance with the agreed details and retained thereafter.

*Reason:* The Phase 2 proposals are in outline with all matters reserved with no end users or detail agreed and therefore additional infrastructure should be explored to promote a lively and interesting canalside development which is active for users of the canal in addition to users of the waterside development and in accordance with policies ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy and the Adopted Walsall Waterfront SPD.

C12a) As part of the Reserved Matters submission details of a waste storage, collection and litter management plan for the site shall be submitted to and agreed in writing by the Local Planning Authority

C12b) The proposals shall be fully implemented in accordance with the agreed details and retained thereafter.

*Reason:* To prevent pollution of the waterway and ground water from wind blow, seepage or spillage of waste products and materials in accordance with policies ENV3 Design Quality and ENV4 Canals of the adopted Black Country Core Strategy and the Adopted Walsall Waterfront SPD.

C13a) As part of the Reserved Matters submission a management plan showing how the landscape treatment will be established and managed is submitted to the Local Planning Authority and approved in writing. The management plan shall be carried out to an accepted methodology and detail:

- i) How the ecological planting will be established and managed thereafter.
- ii) Management operations to be carried out with proposed dates.
- iii) Monitoring and review to ensure the ecological enhancement of the site/ canal frontage develops in accordance with the approved landscape details.
- iv) Green and brown roof detail and management
- v) Bird and bat boxes position

C13b) The management of the landscaping shall be fully carried out in accordance with the approved management plan.

*Reason:* To ensure satisfactory development of the application site and to enhance the appearance of the area and to ensure that the proposed development contributes to the preservation and enhancement of the local character, distinctiveness and ecological value of the waterway corridor.

C14a) As part of the Reserved Matters the submitted Travel Plan Framework shall be updated in consultation with this Council's highways officers and the Public Transport Authority (PTA) and include a mechanism for delivery of the Travel Plan.

C14b) The Travel Plan submission will identify a package of measures consistent with the aim of reducing reliance on the car, and should include (but not be limited to) providing information on / promoting the use of alternative modes of transport, by:-

- i) The appointment of a travel plan co-ordinator,
- ii) The establishment of targets for modal shift,
- iii) The details of measures to be employed to achieve the identified targets,
- iv) Mechanisms for ongoing monitoring and review of targets and travel plan measures,
- v) Details of penalties and/or additional measures to be investigated / implemented in the event that the identified targets are not met.
- vi) Public transport information and ticket details;
- vii) Cycle provision, showers and lockers and associated infrastructure for staff; and
- viii) Walking initiatives.
- ix) Improving overall links to the main public transport infrastructure of and the primary retail core.

C14c) Prior to the first occupation of each building the approved measures shall be developed into a formal Travel Plan and agreed in writing by the Local Planning Authority, including binding methods of delivery, review, and monitoring of the measures in the Travel Plan (including the requirements of this condition).

C14d) The approved Travel Plan shall be fully implemented during the six months following the first occupation of the premises. Following the expiry of this period of time, a review of the Plan shall be carried out, and submitted to the Local Planning Authority for approval. The review will identify any refinements and clarifications deemed necessary to the Plan.

C14e) The occupation and use of the development shall comply with the requirements of the revised plan approved under part (d) of this condition, at all times,.

*Reason:* To ensure the satisfactory functioning of the development, to promote the use of a range of modes of transport, and minimise the use of the car.

C15a) As part of the Reserved Matters details shall be submitted to the Local Planning Authority setting out where the location of parking for site operatives and visitors has been provided within the application site.

C15b) The approved details shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during construction of the development.

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

C16a) As part of the Reserved Matters details of security oriented design measures and physical security measures for all buildings and public spaces shall be submitted to and approved in writing by the Local Planning Authority.

C16b) The approved measures shall be fully implemented concurrently with the relevant element of the development, and thereafter retained.

*Reason:* To ensure the safety of the occupiers and users of the development.

C17a) prior to occupation details (including location and external appearance) of all plant, machinery, equipment and facilities used for the purpose, *inter alia*, of heating, extract-ventilation, and/or air conditioning, refrigeration, chilling, provision of compressed air, provision of electricity, waste disposal shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:

- i) Mitigation to ensure that the proposed systems and methods are designed and operated to ensure that noise emissions, either individually or cumulatively, do not give rise to a complaint likelihood assessment exceeding “marginal significance” at nearby residential premises as determined in accordance with British Standard BS 4142: 1997 ‘*Method for Rating industrial noise affecting mixed residential and industrial areas*’.
- ii) Mitigation to ensure that the proposed systems and methods do not give rise, either individually or cumulatively, to a Noise Rating Exceeding NR 35 1m from the window of any occupied residential premises during the hours 19.00 to 07.00.
- iii) Flues serving commercial hot food cooking points
- iv) Cleaning and maintenance regimes for odour extraction and abatement systems shall be agreed in writing prior to the systems coming into use.
- v) External appearance and appropriate design features to visually disguise plant and machinery.

C17b) Agreed details shall be fully implemented prior to the first use and retained thereafter.

*Reason:* To ensure satisfactory appearance of proposed plant and machinery and to ensure that it does not result in the loss of amenity to nearby residents by virtue of odours, smells and noise.

C18. The development, the subject of the Reserved Matters submission shall meet the equivalent of the 2005 Building Research Establishment Environmental Assessment Method 'very good' standard, as a minimum.

*Reason:* In order to comply with guidance within saved policy ENV40 of Walsall's Unitary Development Plan, ENV3, ENV5 and ENV7 of the Black Country Core Strategy and the National Planning Policy Framework in terms of sustainable development and use of natural resources towards lower-carbon technology.

C19a) A system to control grease, oil and fat discharges to drainage/sewerage systems shall be agreed in writing with the Local Planning Authority

C19b) The approved details shall be fully implemented prior to the first use of the development and retained thereafter.

*Reason:* To prevent inappropriate discharges into the drainage system

**NOTE FOR APPLICANT:**

A) The applicant/developer is advised to contact the Works Engineering Team in order to ensure that any necessary consents are obtained and that the works comply with the Trust's "Code of Practice for Works affecting Canal & River Trust".

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

C) The proposed development indicates the provision of a bridge crossing and soft planting within the canal. The applicant/developer is advised that Canal & River Trust' consent is required for these. Please contact the Canal & River Trust Estates Team on 01827 252034 for further advice.

D) The proposed development indicates that surface water may be discharged to the canal. The applicant/developer is advised that Canal & River Trust' consent is required for such a discharge. Please contact the Canal & River Trust Utilities Team on 01926 626108 for further advice.

**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.

**No Drainage to Discharge to Highway**

Drainage arrangements shall be provided to ensure that surface water from the compound does 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.

**Contaminated Land**

CL1) 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.

CL2) Validation reports will need to contain details of the "as installed" remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported "clean cover" materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is

not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.







# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 3.**

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

**Application Number:** 14/0593/CM

**Application Type:** County Matters Application

**Applicant:** Asbestos Abatement Services Ltd

**Proposal:** Part change of use of parking area to asbestos waste transfer station.

**Location:** UNIT 1, NORTH STREET, WALSALL, WS2 8AU

**Ward:** Blakenall

**Case Officer:** Paul Hinton

**Telephone Number:** 01922 652607

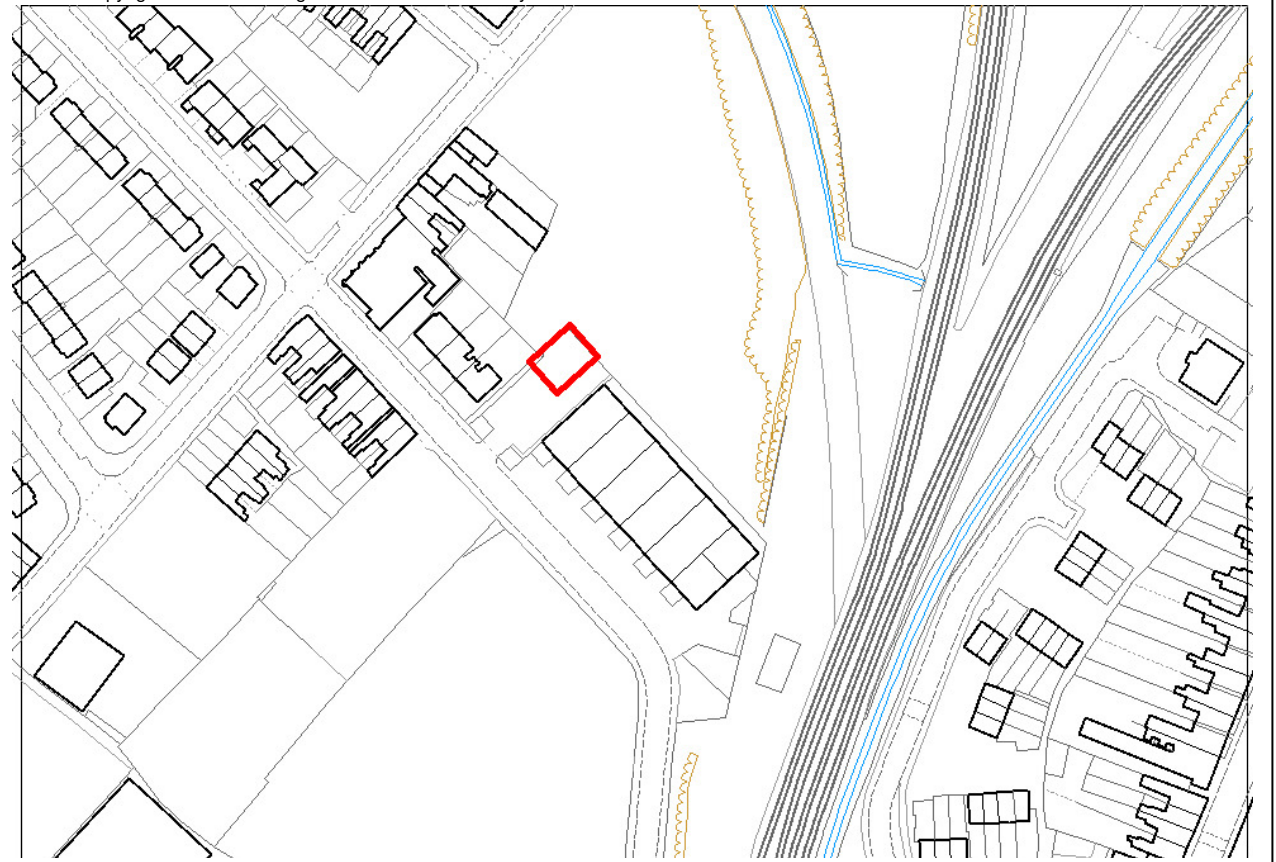
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Ludgate Consultancy & Training Ltd

**Expired Date:** 17/07/2014

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

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## **Application and Site Details**

This application seeks planning permission for the use of part of the site as a transfer station for asbestos removed from buildings and construction sites. The application relates to the car park to the side of this industrial building. The applicant Asbestos Abatement Services Limited is an experienced operator working under licence from the Health and Safety Executive. They occupy Unit 1 North Street which is the head office of the company, the rear part of the unit is used for the storage of plant and equipment and the car park used for the parking of vehicles and trailers required as part of the asbestos removal operation.

It is proposed following removal of asbestos from sites, the double bagged and sealed asbestos would be temporarily transferred to one of two lockable steel containers located at the end of the yard next to the building, prior to being taken to a licensed landfill site for disposal. Asbestos would not be processed in any way. Two containers are needed as there is either fibrous or bonded asbestos; practice for disposal means they are required to be kept separate.

The transfer station would occupy an area of 135sqm of the 406sqm car park, including a raised concrete kerb where two enclosed containers would be located to create a bund to three sides. Along the fourth boundary a raised rubber kerb would be installed so that waste container can be delivered and collected by large goods vehicles. These containers are typically 6.1m long, 2.4m wide and 2.1m in height

Instead of individual small vehicles going direct to the landfill site at the end or start of each day, the bulk container would be exchanged once a fortnight between the hours of 09:00 to 17:00 Monday to Friday. The waste transfer operation is proposed to be open 06:00 to 19:00 Monday to Friday and 09:00 to 18:00, Saturdays, Sundays and Bank Holidays.

The unit is one of seven industrial units located to the northern part of North Street. To the rear is open space and directly opposite is the land of the former Hatherton Liberal Club and open space adjacent. The remaining part of North Street is predominately residential, with number 81 directly next to the car park. The other industrial units include a car repairs garage and commercial food processing. There is parking to the front of the unit and within the yard to the side which is secured by metal railings and gates to the front, timber fences to the boundary with the neighbouring house and chain link fences to the area. There is also some on street parking opposite with double yellow lines to the front of the units.

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

### *Supplementary information*

- Containers will be padlocked shut at all times, other than during receipt and despatch of waste.
- The proposed operation will comply with the Environment Agency's standard rules for an asbestos waste transfer station.
- Water from the bunded area will be pumped into a tank which will be emptied by a specialist waste contractor.
- When small works are undertaken it is not viable to place a large container on the development site, so asbestos is removed from the site in smaller quantities and delivered directly to a transfer station/landfill.
- Currently AAS takes asbestos waste on a daily basis to the transfer station operated by Watling Wastes Ltd in Brownhills. There are no landfill sites for asbestos in the Walsall area, the nearest is approximately 50 miles away in Upton, near Leamington Spa.

- Often work is completed too late in the day to transport the waste to the nearest waste facility before it closes. Some works are undertaken outside normal hours so the premises can be closed to the public e.g. retail premises. In these circumstances the waste is left overnight on a vehicle or kept on the customer's premises.
- It is not desirable to leave the wastes at the customer's premises once work is completed as there may be considerable cost to the customer in having their premises unavailable.
- If waste is left on the vehicle overnight, staff have to drive to Brownhills to unload the waste before driving to site for the days' work, delaying the start of the day.
- To service these small works AAS wishes to operate a transfer station for asbestos waste only.
- AAS would see in the region of 100 tonnes of waste pass through the transfer station per annum.
- The application seeks the maximum amount of waste (3650 tonnes) under the Environment Agency Permit as it could be beneficial to other companies operating in the area and also reduce the amount of road journeys undertaken. Access would not be available to the general public. This is a theoretical maximum and highly unlikely such volumes would be achieved.

### **Relevant Planning History**

08/0767/FL – Refurbishment and alterations of industrial unit to form 2 floors of office space with toilets to front section and workshop to rear half of unit. GSC 14/07/2008.

Condition 2 controls the times and days of collections, deliveries and detaches to and from the site.

### **Relevant Planning Policy Summary**

#### **European Union Waste Framework Directive (2008/98/EC) and Waste Regulations 2011 (As Amended)**

The most important objectives of national and local policy come directly from the European Union Waste Framework Directive (2008/98/EC). The Directive has been transposed into secondary legislation in England through the Waste Regulations 2011 (as amended).

Regard is also had to CLG Guidance on Implementing the Planning Requirements of the Waste Framework Directive (2008/98/EC) (December 2012) and Defra Guidance on Applying the Waste Hierarchy (June 2011), the Legal Definition of Waste (August 2012), Energy from Waste (February 2013)

Article 16 of the Waste Framework Directive (Regulation 18 (b) and (c)) is relevant and in the application of the "waste hierarchy" Article 4 of the Waste Framework Directive (Regulation 12); and application of the principle of "protection of human health and the environment" in Article 13 of the Waste Framework Directive (Regulation 18 (a)) are important considerations.

#### **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:

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

**Key provisions** of the NPPF relevant in this case:

1. Delivering sustainable development

18 The Government is committed to securing economic growth in order to create jobs and prosperity.

19 Planning should encourage and not act as an impediment to sustainable growth.

21 Investment in business should not be over-burdened by the combined requirements of planning policy expectations.

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 and designed where practical to: accommodated efficient delivery of goods, give priority to pedestrian and cycle movements, create safe and secure layouts.

7. Requiring good design

56. Good design is a key aspect of sustainable development, is indivisible from good planning.

58 Developments should function well and add to the overall quality of the area. Establish a strong sense of place using streetscapes and buildings to create attractive and comfortable places to live, work and visit. Optimise the potential of the site to accommodate development. Respond to local character and history, and reflect the identity of local surroundings and materials. Create safe and accessible environments that are visually attractive as a result of good architecture.

61 Securing high quality design goes beyond aesthetic considerations. Decisions should address the connections between people and places and the integration of the new development into the built environment.

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

11. Conserving and enhancing the natural environment

109 The planning system should prevent new and existing development from contributing to...unacceptable levels of soil, air, water or noise pollution or land instability.

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.

120 To prevent unacceptable risks from pollution decisions should ensure that new development is appropriate to its location. The effects (including cumulative effects) of pollution on health or general amenity and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

122. Local planning authorities should focus on whether the development itself is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.

123 Planning decisions should aim to:

- avoid noise from giving rise to significant adverse impacts
- mitigate and reduce to a minimum adverse impact on quality of life arising from noise from new development, including through the use of conditions.
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value.

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.

#### **Planning Policy Statement 10: Planning for sustainable waste management**

The overall objective is to protect human health and the environment by producing less waste and by using it as a resource wherever possible. By more sustainable waste management, moving the management of waste up the waste 'waste hierarchy' of prevention, preparing for reuse, recycling, other recovery and disposing only as a last resort (para 1). The planning system controls the development and use of land in the public interest and should focus on whether development is an acceptable use of land, and the impacts of those uses on the development and use of land. Waste planning authorities should work on the assumption that relevant pollution control regime will be properly applied and enforced (para 27). It should not be necessary to use planning conditions to control the pollution aspects of a waste management facility where the facility requires a permit from the pollution control authority (para 31). Waste management facilities in themselves should be well-designed (para 35).

Appendix E: Waste planning authorities should consider: a) protection of water resources, b) land instability, c) visual intrusion, d) nature conservation, e) historic and built environment, f) traffic and access, g) air emissions, including dust, h) odours, i) vermin and birds, j) noise and vibration, k) litter and l) potential land use conflict.

#### **Consultation Draft to replace PPS10**

Published on 29<sup>th</sup> July 2013 this seeks to replace PPS10 and take account of the NPPF and updates in law and policy since the original publication.

6. When determining planning applications, waste planning authorities should:

- only take into account the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date local plan;

- refuse planning permission for waste disposal facilities not in line with the local plan unless the applicants can demonstrate that the facility will not undermine the local waste planning strategy through prejudicing movement up the waste hierarchy;
- consider the likely impact on the local environment and on amenity. Modern, appropriately located, well-run and well-regulated, waste management facilities operated in line with current pollution control techniques and standards should pose little risk to human health;
- ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located;
- concern themselves with implementing the planning strategy in the local plan and not with the control of processes which are a matter for the pollution control authorities.

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

The application has been assessed and it is not a Schedule 2 Development and therefore it is an EIA development.

### **The Development Plan**

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

### **The Black Country Core Strategy (BCCS)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](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

**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

2. A restructured sub-regional economy which provides sufficient strategic high quality employment land in the best locations within Regeneration Corridors to attract new high technology and logistics businesses and also recognises the value of local employment land.

The relevant key policies are:

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

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.

CSP1: Sets out the targets for sustainable regeneration of the Black Country.

CPS3: Proposals will need to protect, enhance and expand network of environmental infrastructure.

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

CSP5: Sets out the need to develop and manage movement and ensure that sustainable modes of transport are promoted.

DEL1: all new development should be supported by the necessary on and off-site infrastructure to serve the development and mitigate its impacts on the environment EMP1-

4: Seeks to secure, safeguard and provide appropriate levels of employment land to aid sustainable economic growth

EMP3: Local quality employment areas provide for the needs of locally based investment and will be safeguarded for: industry and warehousing; motor trade; haulage and transfer depots; trade wholesalers; scrap metal, timber, construction; and, waste collection, transfer and recycling.

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.

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

ENV3: Provision of a high quality network of streets, buildings and spaces

ENV5: Seeks to ensure that new developments mitigate against flood risk and promote sustainable drainage

ENV8: Where development is proposed in areas where air quality does not meet (or is unlikely to meet) air quality objectives or where significant air quality impacts are likely to be generated by the development, an appropriate air quality assessment will be required. The assessment must take into account any potential cumulative impacts as a result of known proposals in the vicinity of the proposed development site, and should consider pollutant emissions generated by the development.

WM1: The Black Country will aim to achieve zero waste growth by 2026 through: moving waste up the waste hierarchy and supporting proposals which involve optimum uses for waste materials.



WM4: Waste arising in the Black Country should be managed within Black Country where feasible. All proposals should minimise adverse visual impacts, potential detrimental effects on the environment and human health, and localised impacts on neighbouring uses from noise, emissions, odours, vermin and litter. To minimise such impacts, wherever possible, waste management operations should be contained within a building or other physical enclosure.

Transfer stations are likely to be suitable on local quality employment areas.

Sets out locational criteria for new facilities including:

- Whether the proposal supports national and local waste strategies, objectives and targets for waste;
- Whether the proposal is well-located in relation to the sources of waste it will be managing;
- Whether the location is suitable for the type of facility and operations proposed and capable of adapting to changing;
- Whether the proposal would provide opportunities for co-location of related uses and/or generate other benefits (for example, would it manage a range of waste types or streams, produce high quality aggregates or other useful raw materials, or supply heat and power or other forms of energy to adjacent uses);
- Whether the proposal would involve re-use of previously-developed land;
- Whether the proposal contributes towards the positive environmental transformation of the Black Country;
- Whether the proposal is compatible with neighbouring uses (taking into account the nature of the wastes being managed, the technologies used, the hours of operation and cumulative effects), and if so, whether it identifies and adequately addresses potential harmful effects on amenity;
- Whether the proposal supports economic and growth objectives for the Black Country (for example, would it create or retain local jobs, provide a service to local businesses, produce material resources for local industries, or aggregates to supply construction projects within the Growth Network);
- Whether the proposal would address impacts on the highway/ transport network (for example, has the potential to move waste by rail or inland waterway been fully considered, and does it identify and adequately address impacts on the local/ strategic highway and drainage network

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

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

[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 Expects all development to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact upon the environment: i) Visual appearance, ii) The creation of, or susceptibility to, pollution of any kind, xix) The hours of operation.

3.6 Development 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: a) Development of an industry or facility which may cause pollution will only be permitted if it would not:

1. Release pollutants into water, soil or air
2. Cause unacceptable adverse effect in terms of smoke, fumes, gases, dust steam, heat, light, vibration, smell, noise or other polluting emissions
3. Have an unacceptable adverse effect on nearby land uses and/or restrict the types of new development that could be permitted in the locality, or impose special conditions on them.

b) 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. Where there is contamination, stability or ground gas issues, the application must assess the level of the risk and set out a strategy for dealing with them as part of the proposed development.

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

ENV40: Seeks conservation and protection of all water resources.

JP7: Waste transfer stations will be permitted subject to JP8.

JP8: a) The location of potentially bad neighbour uses will be given very careful consideration taking into account the particular environmental implications of individual proposals, which must satisfy all of the following:

- i. Uses should be within an existing employment area, but not in a core employment area, and should not have a detrimental effect on the environmental quality of employment areas.
- ii. Uses should not have an adverse, or potentially adverse, environmental impact upon, amongst other facilities for sport and recreation, or other sensitive land uses.
- iii. Sites should be capable of providing satisfactory screening and landscaping
- iv. Uses that are unsightly and cannot be screened satisfactorily will not be permitted in prominent or visually sensitive locations
- v. Sites must be subject to stringent operational control to minimise disturbance to nearby firms or other uses.
- vi. Proposals should be acceptable in term of Policy GP2

b) The Council will normally impose conditions on planning permissions covering the following matters:

- i. Height of open storage
- ii. Location, within the site, of activities with a potentially adverse impact
- iii. Hours of operation
- iv. Boundary treatment
- v. Proper demarcation of areas for parking, loading and manoeuvring which shall be kept clear of stored material

T1: Seeks to ensure people can get access to public transport and improve mobility

T4: Sets the aim of managing the flow of traffic on the Borough's road network

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.

T12: Industry (B1b&c, B2 and B8) i) developments should be within 400m walking distance of a bus stop ii) The service frequency should be at least 30mins during working hours.

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.

Use class B1a), b) and c): 1 car park space per 30m<sup>2</sup> of gross floorspace, 1 bike locker for every 10 spaces. Taxi facilities.

Use class B2: 1 car park space per 50m<sup>2</sup> up to 250m<sup>2</sup>, then 1 space for every additional 100m<sup>2</sup> of gross floorspace. 1 bike locker for every 10 parking spaces. Taxi facilities.

Use class B8: 1 car park space per 50m<sup>2</sup> of gross floorspace up to 250m<sup>2</sup>; then 1 space per 100m<sup>2</sup> up to 2500m<sup>2</sup>; then 500m<sup>2</sup> of gross floorspace. 1 bike locker for every 10 car parking spaces. Taxi facilities.

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

### **Supplementary Planning Documents (SPD)**

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

#### *Designing Walsall SPD*

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

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

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

DW10 – new development should make a positive contribution to creating a sustainable environment.

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

### **Consultations**

**Transportation** – no objection subject to the use of recommended conditions in regard to remaining ancillary and retention of the parking area.

#### **Pollution Control**

*Scientific Team* – no objection. It should be noted that the site will be controlled by an Environmental Permit issued by the Environment Agency.

*Contaminated Land* – no objection. Site is a former gravel pit with subsequent infill that may have resulted in localised ground contamination. Note for applicant is recommended.

**Environment Agency** – no objection.

**Natural Environment** – no objection.

**Severn Trent Water** – no objection subject to a condition requiring full drainage details and note for applicant.

**Fire Services** – no objection.

## **Public Participation Responses**

Site notice displayed, press notice and letters sent to nearby residents.

No comments received.

## **Determining Issues**

- Principle of use
- Waste Management/Hierarchy Policy
- Impact upon amenity
- Impact upon the character and appearance of the area
- Highway safety
- Drainage

## **Observations**

### **Principle of use**

The application site is not specifically allocated in the UDP or Core Strategy, however this is an existing other employment/local employment provision. BCCS Policies EMP3 and WM4 permit transfer stations in this type of area, and encourage operations to be contained within a building, which is the case here. The unit is the head office of an asbestos related company and supports the continued operation of that business by having the transfer station within its own grounds and within its own control. Due to the nature of the business the proposal is well-located in relation to the source of waste it is managing. The proposal would allow the more efficient and sustainable management of the asbestos. The principle of use is therefore acceptable.

### **Waste Management/Hierarchy Policy**

Applications for waste related activities should seek to move waste up the waste hierarchy i.e. only take waste to landfill as a last resort. Asbestos is a special case in that it cannot be reused and currently there is no viable means of recycling, so there is no alternative to landfill. The proposal due to this special nature does not conflict with the waste management policy.

### **Impact upon amenity**

Asbestos is well-known to be hazardous to health. The operations would be strictly regulated by the Health and Safety Executive and the Environment Agency. An Environmental Permit (EP) would be required to handle the waste on site which would be subject to conditions. These conditions would limit the quantity of waste that can be accepted and require all asbestos wastes must be double bagged and kept within secure lockable containers. There would be a requirement that asbestos wastes must be stored on an impermeable surface with sealed drainage, to ensure no drainage to controlled waters.

The application for an EP is a separate process from the planning application. PPS10 states that the planning system controls the development and use of land in the public interest and should focus on whether development is an acceptable use of land, and the impacts of those uses on the development and use of land. The NPPF says that authorities should focus on whether the development itself is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Modern, appropriately located, well-run and well-regulated waste management facilities operated in line with current pollution control

techniques and standards should pose little risk to human health. Local planning authorities should assume that these regimes will operate effectively. While planning permission is required for the use of the site, environmental permits are required to operate it. The Environment Agency is the organisation in charge of day-to-day operations. For amenity, the determining factor is whether the use is acceptable, which is the case as explained above. The Environment Agency do not object to the use noting that the processes would be subject to the controls of an Environmental Permit. Pollution Control do not raise any objections to the application.

The operation of the site subject to the EP would ensure that there would be strict controls to minimise the risk of asbestos escaping into the environment where it could cause a health hazard to residents and others. The storage of the material within lockable containers would effectively control the risk of fire as a possible cause of contamination. The applicant does not intend to process any asbestos on the site, and once there the bags in general would remain sealed. The requirements for an EP would ensure that there would be no material harm to human health.

BCCS policy WM4 requires uses to be compatible with neighbouring uses. Weight is given to the established row of industrial units next to housing. The containers would serve simply as external storage, with vehicles dropping of bags of asbestos. Given the existing context this is not considered to give rise to a significant loss of amenity. The applicant explains containers would be collected/exchanged between 09:00 to 17:00 Monday to Friday, which is not considered unreasonable. They are likely to be exchanged once a fortnight. In the interests of residential amenity, a condition is recommended to control these times.

The waste transfer operation is proposed to be open 06:00 to 19:00 Monday to Friday and 09:00 to 18:00, Saturdays, Sundays and Bank Holidays. The recent planning permission 08/0767/FL for the refurbishment of the unit included a condition controlling the times of collections, deliveries and despatches to not take place on any Sunday, Bank Holiday or Public Holiday, and otherwise shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. The proposed 06.00 start and all day operations on Saturdays, Sundays and Bank Holidays in combination that the transfer station would be accessible for other companies needing somewhere to transfer asbestos is considered unreasonable given its location next to houses. While the operations could be low key, the combination of noise from vehicles, operatives and the opening and closing of the containers doors has the potential for disturbance. For consistency it is recommended that operational times mirror those of the current planning permission. The applicant has agreed to these times and a condition is recommended accordingly.

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

Visually the proposal is for the siting of two metal containers, typically 6.1m long, 2.4m wide and 2.1m in height, set back 23m from the pavement. This is a small collection of industrial units, with the containers typical of an industrial context. Weight is given to the housing next door, with the containers being next to the boundary with the rear garden of number 81 North Street, 10m from the rear of the house. The combination of the height, location and the existing commercial nature of the site mean that the development would not have a significant impact upon the appearance or character of the area. It is considered necessary for a condition to control the amount, location and height of the storage containers in the interests of visual amenity.

### **Highway safety**

In terms of transport convenience and sustainability, aggregating small amounts of asbestos from various sites into a central collection point not only has advantages for the applicant,

but is also likely to be in the public interest. There are also advantages in terms of safety, security and convenience, in such a central facility being located next to the company's base. While there will be some large goods vehicles attending the site for the delivery and collection of containers, there will be a corresponding reduction in the number of van journeys to the nearest transfer station.

The proposed containers would occupy an area of the site which is currently available for the parking of vehicles. Transportation have considered the operational needs of the unit and the remaining off-street parking areas in control of the applicant and consider there is sufficient space available for the parking of vehicles so not to cause an issue in regard to highway safety. Conditions are recommended in regard to retaining the transfer station to be ancillary and not to become independent and that the parking area is retained.

### **Drainage/Land contamination**

Severn Trent request a condition requiring drainage details. The site will be bunded, which is the requirement of the EP and the bunded water pumped into a container and disposed off. This element is more effectively achieved under legislation other than planning and will be an ongoing consideration of an EP. Accordingly a drainage condition is not necessary as no water will drain from the site.

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

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

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

1. 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:

- Site plan (plan 2) received 13/5/14
- Detailed Site plan (plan 3) received 13/5/14
- Supplementary Information received 13/5/14

*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 containers shall not be emptied, removed or exchanged outside of the hours of 09:00 to 17:00 Monday to Friday.

*Reason:* In order to safeguard the amenities of nearby residential occupiers.

4. The use hereby permitted shall only operate between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays and not at any time on any Sunday, Bank Holiday or Public Holidays.

*Reason:* In order to safeguard the amenities of nearby residential occupiers.

5. There shall be no more than two metal containers stored within the area shown on approved plan 3, received on 13/5/2014 and the containers shall not exceed a height of 2.1m.

*Reason:* In the interests of residential amenity and to define the permission.

6. The waste transfer station shall not be open to the general public.

*Reason:* In the interests of Highway safety.

7. Storage associated with the transfer of waste shall at all times be kept within the confines of the containers hereby approved.

*Reason:* To define the permission and to minimise open storage.

8. The development hereby approved shall at all times remain ancillary to the main use of Unit 1 and shall not at any time operate independently.

*Reason:* To define the permission and use of the site and to ensure adequate on-site parking and vehicle manoeuvring is available for the safe and satisfactory operation of Unit 1 and to accord with UDP policy GP2, T7 and T13.

9. The car parking area shown on approved plan 3, received on 13/5/2014 shall be retained and used for no other purpose.

*Reason:* To ensure adequate on-site parking and vehicle manoeuvring is available for the safe and satisfactory operation of the site in accordance with UDP policy GP2, T7 and T13.

#### Note for applicant

##### *Pollution Control*

The area of this proposed development was formerly a gravel pit with subsequent infilling that may have resulted in localised ground contamination that may present Health and Safety implications for persons undertaking ground works. No specific detail of ground conditions in the area is available other than that obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking construction work at the site of the proposed development.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 4.**

**Reason for bringing to committee: Significant Community Interest**

**Application Number:** 14/0237/FL

**Application Type:** Full application

**Applicant:** Asda Stores Ltd

**Proposal:** Refurbishment and conversion of existing building within service yard to 'Home Shopping Pod', provision of external freezer and cold store and erection of two loading canopies.

**Location:** ASDA STORES LTD, WOODALL STREET, WALSALL, WS3 3JR

**Ward:** Bloxwich East

**Case Officer:** Barbara Toy

**Telephone Number:** 01922 652615

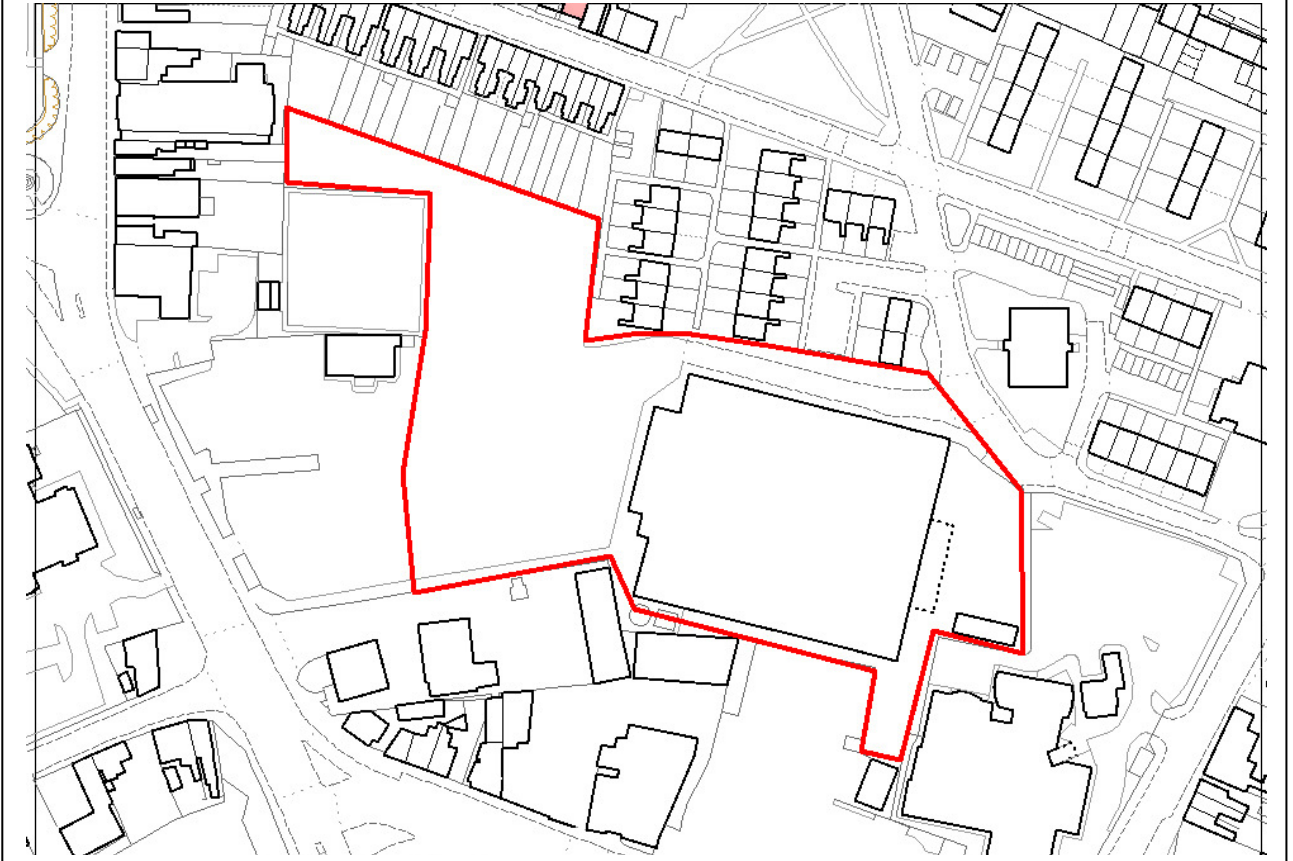
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Deloitte LLP

**Expired Date:** 29/04/2014

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

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### **Current Status**

At Planning Committee on 15<sup>th</sup> May 2014 Members referred to the requirements of condition 4 to ensure no obstruction of the vehicle manoeuvring areas within the yard and resolved to defer determination of the application until the following meeting to allow negotiation with the applicant regarding vehicle access and to ensure that the applicant or agent attend Committee to answer any questions from Members. The following report remains unchanged.

### **Application and Site Details**

The site comprises a retail food store situated within Bloxwich District Centre. The main vehicle access to the store is off Woodall Street with a further entrance (only) off High Street. The store itself is set to the rear of the site with the car parking on the frontage to High Street. The gated/walled service yard is situated to the rear of the store directly off Woodall Street.

This application relates to the service yard. Immediately to the east and south east of the service yard is a large medical centre and its car park, to the north east two storey residential properties in Woodall Street, to the north a eight storey block of flats (Woodall House) and to the north west are further two storey residential properties. To the south and south west is a car sales area, retail premises and a local fire station.

This is a revised application following a refusal for a similar scheme last year. This application proposes the refurbishment and conversion of the existing single storey flat roofed building at the southern end of the service yard to form a 'Home Shopping Pod', together with the provision of a new external freezer and chiller and erection of two canopies in order to initiate a home shopping service from the store.

The chiller (5.8m x 3.4m) and freezer (3.2m x 3.4m) would be situated on the front on the building with double doors between to allow access into the building. A loading canopy (7.6m wide by 7m in depth with max height of 3.8m) would sit forward of the chiller and freezer and a smaller canopy (6.2m in depth and up to 2.8m wide with max height of 3m) would sit at the western end of the building adjacent to the existing compactor. The chiller and freezer units would be constructed from insulated composite wall cladding finished in white (RAL 9010) and the canopies would be galvanised steel frame with profile sheeting roof to match existing structures within the service yard.

The facility would only be accessed by employees and not the public and would provide storage for customer orders once they have been filled, whilst waiting to be loaded into the vans for customer deliveries at pre-determined time slots throughout the day. The scheme would operate with the use of two vans. The use would eventually result in up to 25 additional part time staff being employed, depending on the take up of the service. It is proposed that the vans would start loading from 0700 hours and the last van would return to the yard by 2200 hours.

The store has been in situ for over 40 years and has no planning restrictions to either its opening hours or delivery times. However the store is currently open 0700 – 2300 hours Mon – Sat and 1000 – 1600 hours Sun, with no deliveries before 0600 hours or after 2000 hours.

The agent has confirmed that the introduction of the proposals would not result in an increase in the number of existing HGV deliveries to the store to cater of the proposed home shopping facilities.

The following have been submitted in support of the application:

Letter from the Agent (Deloitte)

This describes the proposals and looks at planning policy compliance.

Design and Access Statement

This discusses the use, amount of development, layout, scale, landscaping, appearance, design and access.

Transport Statement

This looks at the traffic flows for the proposed use and confirms that the use would operate using 2 vans that would undertake a maximum of 4 runs a day, which amounts to a total of 8 vehicle movements spread throughout the day between 0700 – 2200 hours. Each van would typically accommodate 60n orders per day at full capacity. The facility will allow customers to order on –line and make use of the delivery service rather than travelling to the store which will mean that the home shopping vans will replace customer visits to the store. A 2 van operation at full capacity could account for a total of 120 customer orders, which could potentially mean 240 fewer customer movements per day. A survey of other Asda stores indicates that the net change in vehicle movements as a result of the introduction of home shopping facilities is -15 for PM peak movements, -22 for Saturday peak movements and -232 for daily movements and so would result in a net reduction in traffic to the store.

The Statement includes an Auto Track analysis to show the satisfactory operation of the service yard following the introduction of the home shopping facility.

**Relevant Planning History**

03/0087/FL/E2, new refrigeration plant. New ATM room (extension) plus recladding of front entrance elevation. Toilets alterations, new music & video section, granted subject to conditions 23-06-03

13/0097/FL, Replacement and upgrading of HVAC equipment and de-commissioning of existing centralised air handling unit and replacement with 5 new packaged air handling units located on main roof store, granted subject to conditions 18-03-13.

13/1195/FL, demolition of existing storage building within service yard and erection of a single storey 'Home Shopping Pod' and loading canopy, refused 06-11-13.

Reason for refusal:

1. The proposals fail to satisfactorily demonstrate that the operation of the proposed loading canopies for a Home Shopping Service would not have a detrimental impact on the overall operations of the service yard, vehicle access and the surrounding highway network and as such would be detrimental to highway safety.

**Relevant Planning Policy Summary**

**National Planning Policy**

**National Planning Policy Framework (NPPF)**

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

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

- Seek to secure high quality design and good standards of amenity for all existing and future occupants

- Take account of the different roles and character of different areas.
- Positively drive and support sustainable economic development to deliver business, taking account of the needs of the residential and business communities.

**Key provisions** of the NPPF relevant in this case:

**1: Building a Strong, Competitive Economy**

18. The Government is committed to securing economic growth in order to create jobs and prosperity.

19. The planning system should do everything it can to support sustainable growth

21. Planning policies should seek to address potential barriers to investment, including a poor environment, or any lack of infrastructure, services or housing.

**4: Promoting Sustainable Transport**

32. Development that generate significant amounts of movement should be supported by a Transport Statement or Assessment. Decisions should take account of whether safe and suitable access can be achieved for all people and development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.

**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. Policies should set out the quality of development that will be expected of an area, including:

- Optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses and support local facilities and transport networks.

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. 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)**

[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:

ENV2 states that development proposals will be expected to preserve and, where appropriate, enhance local character.

CSP4 - develops the need for high quality place making and design

ENV3: Design Quality

Development should deliver an urban renaissance through high quality design that stimulates economic, social and environmental benefits.

TRAN2: Managing Transport Impacts of New Development

Planning permission will not be granted for development proposals that are likely to have significant transport implications

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

### **Walsall’s Unitary Development Plan (2005)**

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:

VII Adequacy of proposed access

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. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

(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.

- Community safety and security
- 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.
- The proposed vehicular and pedestrian circulation patterns.
- The integration of existing natural and built features of value.
- The maintenance requirements of the developments.

It is considered in this case that the relevant provisions of Walsall's saved UDP are consistent with the National Planning Policy Framework.

### **Supplementary Planning Documents (SPD)**

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

### **Designing Walsall SPD**

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

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

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

DW 10 – 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 SPD are consistent with the National Planning Policy Framework.

### **Consultations**

**Transportation** – No objections subject to conditions to ensure that the improvements to the service yard are implemented and that no goods or obstructions be located within the vehicular manoeuvring areas.

**Environmental Health** – No objections. It is noted that the Transport Statement indicates that there will be a reduction in the traffic movements to the store. This is a noise sensitive location so it is recommended that the proposed new chiller and freezer have an acoustic treatment and the hours of operation of the home shopping service be restricted.

**Pollution Control Scientific Team** – No objections

**Pollution Control Contaminated Land Team** – No specific contaminated land requirements.

### **Public Participation Response**

A petition against the proposals with 26 signatures from 18 properties within Woodall House has been received and includes 3 photographs to show the service yard and delivery vehicles.

Objections:

- Existing severe parking problems on Woodall Street, Church Street and Field Road.

- All these roads are marked up with double yellows but this is ignored by Asda traffic, with vehicles parked on double yellow lines within the one way route.
- Sometimes the rubbish bins for Woodall House are not emptied because Asda lorries are obstructing the rear entrance to the flats.
- Service yard already packed with goods and operated 24/7
- The flats directly overlook the service yard and the noise that starts at 0600 is very very disturbing, they should not be allowed to increase the volume of traffic, noise, parking, selling etc.
- The 'pod' will occupy a large space, when they are already fighting for space in the service yard.
- Where are the new extra vans going to collect from?
- What will happen to the large lorries when the smaller vans are loading?
- Not prepared to live with outdoor freezers making a constant noise
- Continual disturbance
- Please check wheelchair access to Asda and the doctors surgery when lorries park over the yard access gates, wheelchairs have to go into the middle of the road to get round the vehicles.

### **Determining Issues**

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

- The operation of the service yard and highway safety

Other Issues Raised by the Petition:

- Existing unlawful parking
- Noise and disturbance

### **Observations**

The previous application for this use failed to provide a Transport Statement and failed to satisfactorily demonstrate that the proposed use would not have a detrimental impact on the operation of the service yard, vehicle access and the surrounding highway network and as such would have a detrimental impact on highway safety.

A Transport Statement has now been submitted and concludes based on other Asda stores that operate a home delivery service that the proposals would ultimately result in an overall reduction in traffic movements to the store as the home delivery service would eventually reduce the number of customers to the store through those that change their shopping habit by having goods delivered to home. It is estimated that the net reduction of about 15 vehicle movements in the PM peak hour and 22 vehicle movements in the Saturday peak hour would result in an overall reduction in vehicle movements during typical operations of 232 daily. In addition the agent has confirmed that the proposals would not result in any additional delivery vehicles to the site. It is therefore considered that the proposals would have a positive impact on local road network conditions by reducing the numbers of traffic movements in and out of the site.

The Transport Statement also includes an auto track plan to show the vehicle movements in and out and within the service yard, this clearly demonstrates that the service area can accommodate the additional delivery vehicles required to operate the new service.

It is concluded therefore that the proposals would comply with paragraph 32 of the NPPF, as the submission has demonstrated that the residual cumulative impacts of the development are not severe and transportation have raised no objections subject to conditions.

### Existing Unlawful Parking

The objectors have raised the issue of Asda delivery vehicles parking on double yellow lines within Woodall Street, Church Street and Field Road, blocking access for other users and blocking access for collection of bins from Woodall House. Further they indicate that the illegal parking results in difficulties for wheelchair users who have to use the road way to pass the vehicles.

The Asda site has no delivery or hours planning restrictions due to the age of the store and unlawful parking on double yellow lines is a parking enforcement issue not a planning one. Whilst residents indicate that unlawful parking of delivery vehicles takes place on a regular basis parking enforcement have confirmed that this issue has not been previously raised with them and they are unaware of any notices issued to any of the delivery vehicles.

Residents have been advised that if this continues to be an issue then they should contact parking enforcement direct for action to be taken. In addition Asda have been advised that they should have better control of their delivery scheduling to ensure that only one HGV is at the site at any one time, in the interests of good neighbourliness. Vehicles parked across the public footpath blocking pedestrian access is a police matter.

The submitted auto track drawing shows that the service yard layout would allow for one HGV delivery vehicle within the site and for one home delivery vehicle to enter and manoeuvre satisfactorily without any detriment to highway safety. It is not considered that the proposals would have any adverse impact on the surrounding highway network.

The proposals give the planning authority the opportunity to place some restrictions on the operation of the service yard through a condition to ensure that the vehicle manoeuvring areas within the service yard remain free of goods/storage and restrict the hours of operation of the home shopping facility, this is considered to be an improvement over the existing situation.

### Noise and Disturbance

The objectors have raised the issue of noise and disturbance from the service yard and from the new freezer and chiller unit. The freezer and chiller unit would be set approx 31m back into the site behind the proposed loading canopy. Environmental Health have recommended a condition to ensure that the units are noise insulated and consider that the proposed units would have no additional adverse impact on the amenities of the surrounding residents. The area already has a background noise level from the existing use and traffic and it is considered that if noise insulation measures are put in place the proposals would have no additional adverse impact.

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

After a request from the case officer the agent has provided confirmation that the proposals would result in no additional delivery vehicles to the site.

### **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 92 of the Town and Country Planning Act, 1990.

2a. Prior to the commencement of any development on site details of noise insulation measures for the proposed external chiller and freezer in the service yard shall be submitted to and approved by the Local Planning Authority.

2b. The approved noise insulation measures shall be fully implemented prior to the first operation of the Home Shopping service from the site and thereafter maintained and retained.

*Reason:* In order to safeguard the amenity of the surrounding occupiers.

3. Prior to the first operation of the home Shopping Facility hereby approved the proposed improvements to the existing service area shown on drawing 0854.4653 (00)010 Rev C submitted on 18<sup>th</sup> February 2014 shall be fully implemented and thereafter retained.

*Reason:* To ensure the safe and efficient operation of the service area.

4. At no time shall any goods/materials or any other obstructions including the parking of any vehicles (other than for loading or unloading) be located within the vehicular manoeuvring areas shown drawing 0854.4653 (00)010 Rev C submitted on 18<sup>th</sup> February 2014.

*Reason:* To ensure the safe and efficient operation of the service area.

5. There shall be no more than two Home Shopping delivery vehicles operating from the site.

*Reason:* To ensure the safe and efficient operation of the service area.

6. The Home Shopping delivery vehicles shall not operate outside of the hours of 0700 – 2200 hours daily.

*Reason:* In order to safeguard the amenity of the surrounding occupiers.

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

Site Location Plan Drawing 0845.4653 (00)002 Rev B submitted on 18<sup>th</sup> February 2014

Existing Layout Drawing 0854.4653 (00)001 Rev B submitted 18<sup>th</sup> February 2014

Existing Elevations Drawing 0854.4653 (00)003 Rev B submitted 18<sup>th</sup> February 2014

Proposed Layout Drawing 0854.4653 (00)010 Rev C submitted 18<sup>th</sup> February 2014

Proposed Elevations Drawing 0854.4653 (00)011 Rev C submitted 18<sup>th</sup> February 2014

Letter from Deloitte received 18<sup>th</sup> February 2014

Design and Access Statement submitted 18<sup>th</sup> February 2014

Transport Statement by Cottee Transport Planning submitted 18<sup>th</sup> February 2014

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







# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 5.**

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

**Application Number:** 14/0696/MA

**Application Type:** Non Material Amendment

**Applicant:** Mr K Sandhu

**Proposal:** Non-material minor amendment to layout space and access points to planning permission 10/0297/OL - Outline application (considering access, scale and layout) for residential development.

**Location:** LAND AT BERKLEY CLOSE AND COTTLE CLOSE, REAR OF 31-59 EDINBURGH AVENUE, BENTLEY, WALSALL

**Ward:** Bentley & Darlaston North

**Case Officer:** Karon Hulse

**Telephone Number:** 01922 652614

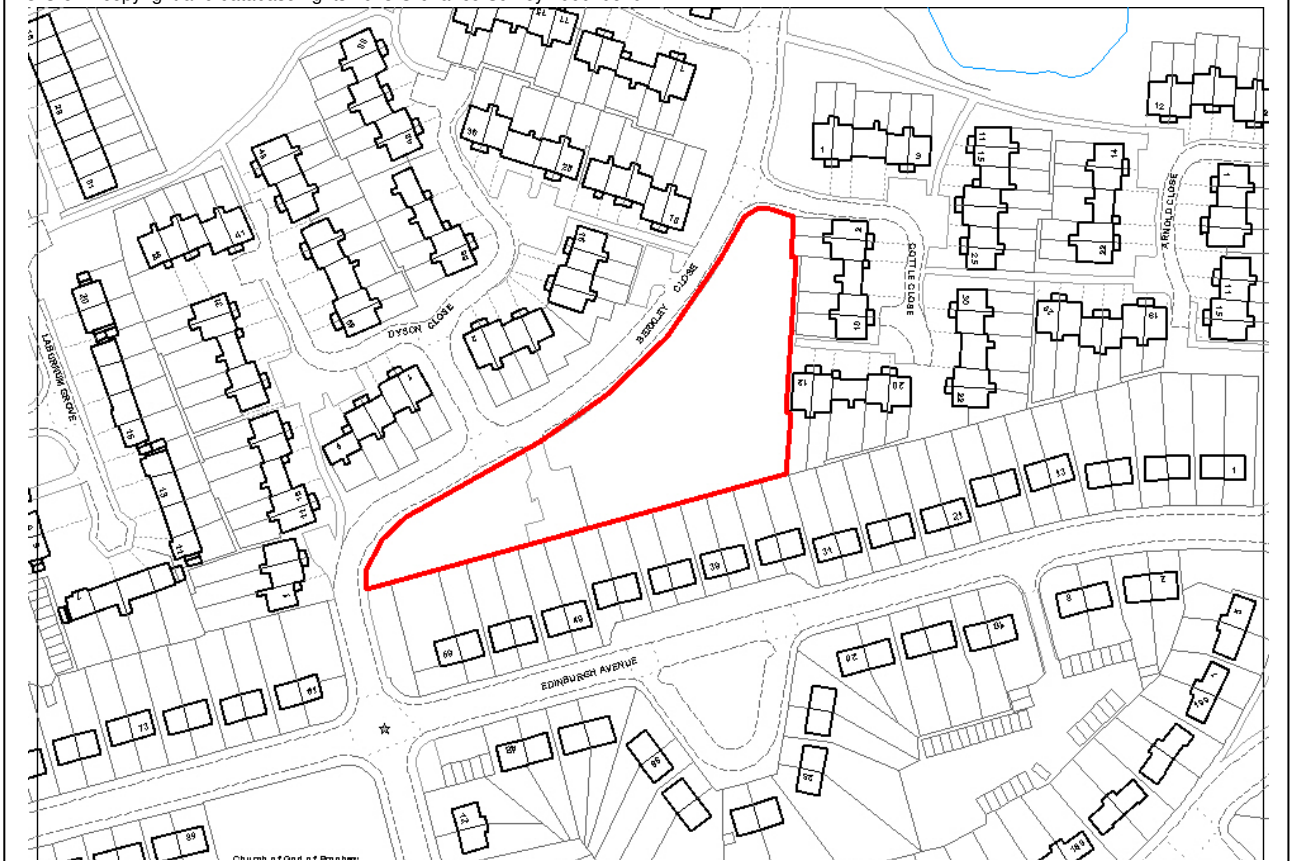
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Bharya & Co

**Expired Date:** 10/06/2014

**Recommendation Summary:** Approve Non-Material Amendment(s)

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Textphone: 0845 111 2910, Fax: (01922) 652670

## **Application and Site Details**

This application seeks confirmation of amendments to planning permission reference number 10/0297/OL - Outline consent for the erection of 16 dwellings consisting of 4 x two bedroom two storey dwellings, 6 x three bedroom two storey dwellings and 6 x three bedroom two and half storey dwellings on land at Berkley Close, Bentley, Walsall, granted 13<sup>th</sup> November, 2011.

The amendments sought are:

- Repositioning of some parking spaces and increased from 150% to 200% provision
- Re-siting of plots 5, 6, 11, 12, 15 and 16,
- Minor amendments to house type details

The application was in outline only with access, layout and scale being approved, landscaping and appearance being reserved matters.

The details included parking provision at a rate of 175% for the whole site.

The proposed rear gardens share boundaries with the rear gardens of dwellings in Edinburgh Avenue to the south and Cottle Close to the east.

The site currently remains as a open area of land within a residential setting, it is roughly triangular in shape with the rear of the site being bordered by Edinburgh Avenue, Cottle Close and Berkley Close which forms the third side of the triangle and fronts the site. Part of the site was previously occupied by the former doctors surgery, this has since been demolished and the site cleared. The site is to the northeast of Bentley local centre.

At either end of the application site there are existing tree preservation order trees.

## **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:

- - Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- - Take account of the different roles and character of different areas
- - Reuse land that has been previously developed

**Key provisions** of the NPPF relevant in this case:

- NPPF 1 - Building a strong, competitive economy
- NPPF 4 - Promoting sustainable transport
- NPPF 6 - Delivering a wide choice of high quality homes
- NPPF 7 - Requiring good design

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)

The relevant policy is:

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- ENV3: Design Quality
- ENV6 – Open Space, Sport and recreation

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

#### **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
- GP3: Planning Obligations
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings

- T7: Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open space

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

## **Supplementary Planning Document**

### **Conserving Walsall's Natural Environment**

- Development with the potential to affect trees, woodlands and hedgerows
  - NE7
  - NE8
  - NE9
  - NE10

### **Designing Walsall**

- Policy DW1 Sustainability
- Policy DW2 Safe and Welcoming Places
- Policy DW3 Character

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

## **Relevant Planning History**

10/0297/OL - Outline application (Considering access, scale, and layout) for Residential Development at Land at Berkley Close and Cottle Close, Rear of 31-59 Edinburgh Avenue, Bentley, Walsall. Granted 13<sup>th</sup> November, 2011.

## **Consultations**

**Transportation** – no objections

## **Public Participation Responses**

None

## **Determining Issues**

- **Are the details a non-material amendment?**

## **Observations**

### **Are the details a non-material amendment?**

This application seeks confirmation that the proposed amendments are non material amendments to the original planning permission for the outline erection of 16 houses flats with associated access, parking, garages, landscaping and amenity space following demolition of existing buildings.

The amended details are for the following:

- Increased parking provision from 150% to 200%
- Repositioning of plots 5, 6, 11, 12, 15 and 16,
- Minor amendments to house type details

*Parking provision increased from 150% to 200%*

The provision of additional parking will not impact on the free flow and safety of either pedestrian or vehicular movement and as such it is considered to be non material in this instance. The increased provision of parking from 150% to 200% is welcomed and whilst it increases the amount of hard standing areas around the site it will not detract from this small housing development and the streetscene.

*Re-positioning of plots 5, 6, 11, 12, 15 and 16*

This application seeks non material amendment to the position of plots 5, 6, 11, 12, 15 and 16. This involves plots 5 and 6 being orientated slightly to sit at angle across the corner, plots 11 and 12 will be angled which will create a step in the three pairs of semi detached houses as opposed to the original two pairs of semi detached dwellings being flat and then the other two pairs being stepped and plots 15 and 16 will continue along the building line of the other houses rather than being staggered. These alterations are minor changes in the orientation of the plots but continues to provide sufficient rear amenity space, achieves 24 metres between habitable room windows thereby protecting existing and future residential amenity and divides the rear gardens more equally between the plots.

*Minor amendments to house type details*

Details of the house types were submitted as part of the original approval but were for illustration only with the appearance of the dwellings being subject to the reserved matters submission. This application shows that the illustrated three pairs of semi detached houses types in the central part of the site being reduced from three storey to two storey.

Consideration of this change i.e. two and half storey houses to be replaced with two storey ones will be a matter for the reserved matters submission however it is considered that this will be more in keeping with the surrounding area.

On balance the proposed amendments are considered to be non material changes in view of the overall redevelopment scheme and the changes are insufficient to warrant the submission of a Section 73 planning application. The site is also subject to the submission of an application for reserved matters to consider landscaping and appearance.

**Recommendation:** Approve Non-Material Amendment(s)

1. Application for approval of the first Reserved Matters shall be made before the 13<sup>th</sup> October 2014 to meet the outline decision. The development must be begun not later than 3 years from the date of approval of the final Reserved Matters permission to which the permission relates.

*Reason:* Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

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

- Location Plan (52024 D00) received 11/5/11
- Proposed Site Plan (BCO/710-002-C) received 23/5/14
- Site section (52024 D10 rev B) received 11/5/11
- Proposed Landscape Layout (BCO/710-003-C) received 23/5/14
- Illustrative drawings D20-D23) received 11/5/11
- Transport Statement prepared by Opus international received 11/5/11
- Open space assessment report prepared by ALS landscape architecture ltd.  
Received 11/5/11

- Ecological scoping and protected species survey report prepared by Apex ecology received 11/5/11
- Desk study report prepared by JPA received 11/5/11
- Ground investigation report prepared by CJ Associates received 11/5/11
- Design & Access Statement prepared by BM3 Architecture received 11/5/11
- Proposed Boundary Treatments (BCO/710-004-C) received 23/5/14
- Existing Location & Site Plan (BCO/710-001) received 9/5/14

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

3. This development of each parcel of land shall not be commenced until details of the following, hereafter named “the Reserved Matters”, have been submitted to and approved by the Local Planning Authority:-

- a) The external appearance of the buildings
- b) The landscaping of the site

*Reason:* Pursuant to Town & Country Planning (Development Management Procedure) Order 2010

4. The reserved matters application shall include a schedule of the facing materials to be used. The approved details shall be fully implemented in accordance with the agreed details.

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

5. As part of the Reserved Matters details of boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved scheme.

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

6. As part of the Reserved Matters details of the location and size of a garden shed for each dwelling shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved scheme.

*Reason:* In order to provide satisfactory functioning of the development site and to ensure that there is no conflict with the drainage easements.

7. Prior to the first occupation of any dwelling to which this permission relates an area for car parking shall be laid out within the curtilage of that property, in accordance with the approved plans which shall be properly consolidated, surfaced and drained, in accordance with details to be submitted to and approved in writing by the Local Planning Authority and these areas shall not thereafter be used for any other purpose than the parking of vehicles.

*Reason:* In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.

8. Development shall not begin until parking for site operatives and visitors has been provided within the application site in accordance with details to be submitted to and approved by the Local Planning Authority, and such provision shall be retained and kept available during construction of the development.

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

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

- I. Prior to built development commencing additional ground gas monitoring having regard to current best practice shall be undertaken. (see Note for Applicant CL1)
- II. Prior to built development commencing a copy of the findings of the ground gas monitoring together with an assessment of the hazards arising from any 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 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 ii) 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)

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

10. 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 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason:* To ensure safeguard the amenities of neighbouring residential occupiers.

11. Notwithstanding the approved plans as part of this permission, in accordance with UDP Policy GP3, the submitted open space assessment and the Council's Adopted Urban Open Space Supplementary Planning Document, a scheme for Open space provision and enhancement shall be submitted as part of the Reserved Matters submission.



*Reason:* In order to enhance open space in the area and comply with saved policies LC1 and LC6 of the Walsall Unitary Development Plan 2005 and Green space audit.

12. As part of the Reserved Matters submission full details of hard and soft landscaping works have 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 future management of the landscape scheme.
- Ground preparation measures to be adopted.
- Existing and proposed levels.

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

13. The approved landscaping details shall be implemented before the development is brought into use and retained for 5 years and managed in accordance with the approved management details.

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

14. No development shall begin until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking, re-enacting or modifying that Order), no additional extensions, outbuildings, structures or means of enclosure (e.g. walls, gates, or fences) other than those approved as part of the this outline permission or the reserved matters submission shall be erected without prior written approval of the Local Planning Authority.

*Reason:* Having regard to the size of the approved back gardens, relationship to neighbouring properties, relationship to the drainage easements and possible ground contamination on the site.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 6.**

## **Reason for bringing to committee: Significant Community Interest**

**Application Number:** 14/0518/FL

**Application Type:** Full application

**Case Officer:** Stuart Crossen

**Telephone Number:** 01922 652608

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Applicant:** Impact Ltd

**Agent:**

**Proposal:** Proposed change of use service station A2 to B2 general industrial B1 business.

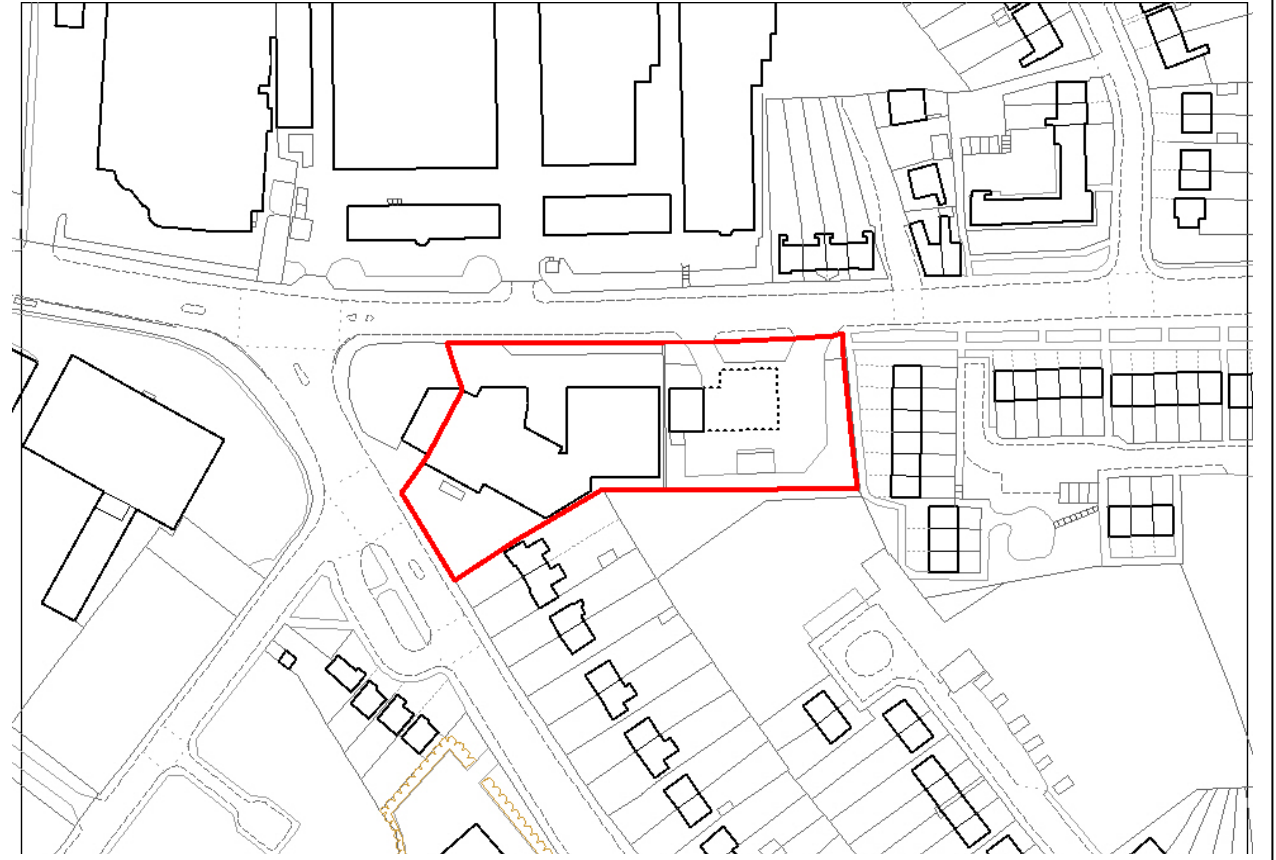
**Location:** 1A HIGH STREET, MOXLEY, WEDNESBURY, WS10 8RX

**Ward:** Darlaston South

**Expired Date:** 06/06/2014

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

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### **Application and Site Details**

The application proposes a change of use of a former car wash to general industry (B1). The site would be incorporated into an existing adjoining industrial site within Wolverhampton City Council district.

The existing service station was previously used without authorisation as a car wash and is in a poor state of repair, with until recently temporary heras fencing defining the boundary of the site.

The proposal would utilise the existing access at the adjoining business Impacta and provide a new access from one of the existing access points at the application site, the remaining one being blocked off. Opposite the proposal is Bilston industrial estate.

The existing service station canopy, shop and carwash would be used with aluminium screening panels to improve their appearance.

2.4 metre high Palisade fencing has been erected to the front of the site attached to the existing front elevation fencing for Impacta and part way along the east side elevation. A sliding gate is proposed for the new access which would be painted grey. No other new boundary treatment is proposed.

The houses at Castle View Close are less than 10 metres from the application site with existing timber boundary fencing and their front gardens in between.

The houses to the rear are 36 metres away and more with their gardens in between and are closer to the existing Impacta site.

Also proposed is an advert along the front fascia of the canopy which provides details of the company and its name in white text on a black background. The measures are:

4 metres from ground level  
Maximum 0.25m projection  
0.5m high,  
6 metres wide  
0.25m deep

The applicant has submitted a copy of a letter sent to residents on the 18<sup>th</sup> December 2013 which explained that Impact had secured the adjacent petrol station and invite neighbours to view the plans and make comments prior to the planning application.

### **Relevant Planning History**

BC27673P New Petrol Filling Station, Shop, Car Wash & Canopy Refused. Allowed on appeal, including restricting opening hours to 0700 to 2200 hours Monday to Saturday and 0800 to 2100 hours on Sundays and Bank Holidays.

BC40007P Jet Wash Installation Grant Subject to Conditions 1993

08/0031/FL Retrospective: Change of Use from Vacant Petrol Filling Station to Hand Car Wash Grant Subject to Conditions 2008

08/1131/AD Erection of 2 no. Internally illuminated single sided freestanding advertisement units measuring 1.905m by 1.310m (6 sheets) Refused 2008

## **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:

- Support sustainable development
- Promoting sustainable transport

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

Paragraph 121 Development sites should be suitable for new uses taking account of ground conditions and land instability, including from natural hazards or former activities such as mining and pollution.

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.

10. Safeguard and make the most sustainable use of the Black Country's mineral resources including primary, secondary and recycled materials without compromising environmental quality.

The above are supported by the following policies:

CSP2: Outside strategic centres and regeneration corridors free-standing employment sites to provide local employment opportunities to serve communities outside the corridors will be supported.

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

EMP1: Aims to provide industrial land and warehouse jobs in the Black Country and to protect jobs and support economic growth.

EMP2: Encourages development of high quality employment land.

EMP3: Provides for local quality employment land.

EMP5: Seeks to improve access to the labour market by securing recruitment and training.

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.

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

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.

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.

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.

JP7: When windfall sites come forward for redevelopment these will be safeguarded for appropriate employment uses unless there are exceptional circumstances where it may be more appropriate to consider other uses such as housing due to the relationship of the site to the surrounding land uses or because the site is not well located to serve the needs of modern industry.

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.

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.

- Class B1 (Business) – 1 car park space per 30m<sup>2</sup> gross floor area
- Class B2 (Industrial) – 1 car park space per 50m<sup>2</sup> up to 250m<sup>2</sup> then 1 space for every additional 100m<sup>2</sup> of gross floor area
- Class B8 (Storage) – 1 car park space per 50m<sup>2</sup> up to 250m<sup>2</sup> then 1 space per 100m<sup>2</sup> up to 2500m<sup>2</sup> then 1 space for every 500m<sup>2</sup> gross floor area

### **Supplementary Planning Documents (SPD)**

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

### **Designing Walsall SPD**

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

DW 10 – new development should make a positive contribution to creating a sustainable environment.

### **Consultations**

**Transportation** – No objection subject to conditions

**Pollution Control, Contaminated Land** – No objections

**Pollution Control, Scientific Team** – No objections subject to conditions

### **Public Participation Response**

A neighbour has written in on behalf of 5 other neighbours objecting on the following grounds:

Lack of detail as to the use

Existing noise and smell issues would be made worse

New noise issues from equipment, movement of equipment, lorry noise, fork lift truck noise.

Noise reducing fence details required on the south boundary before planning permission issued.

Restrictions should be placed on the site regarding odours.

No details about Japanese knotweed which is present on the site.

### **Determining Issues**

- Principle of development
- Relationship to surrounding properties
- Design and character of the area
- Means of access and impact on the highway network

### **Observations**

#### **Principle of Development**

The premises are located within a mixed use area which includes an established industrial estate opposite with existing industrial uses at the adjoining site. The site has been used for a car wash and remained in a poor state of repair for some time prior to the recent purchase by Impacta. The proposal being an extension to an existing site is in accordance with policy EMP3 of the BCCS not having an impact on local quality employment areas and is in accordance with JP8 of the UDP. JP8 provide scope for conditions to protect the amenities of the area.

The proposal is for an alternative use that will allow flexibility for the established neighbouring occupiers to encourage employment and offer economic benefits.

#### **Relationship to surrounding properties**

Pollution Control – Scientific Team have concerns about potential noise impacts on nearby residential properties, including their gardens. It is recommended that the permitted external activities are controlled by condition, as are operational hours. Additional controls on external speakers/PA systems and a restriction on the use of high-pitch audible reversing alarms on forklift trucks should be considered.

The application site is located on a busy road and therefore elevated levels of road traffic noise contribute to the background noise levels. Based on the submission the applicant is not intending to undertake any heavy industrial activities at the proposal site, with the intention to only undertake loading, storage, assembly, quality control, and inspection activities at the site. A noise survey therefore is not being recommended, however, a restriction on industrial type activities taking place externally is recommended.

The planning application states that the intended operational hours are 07.00 to 18.00 Monday to Friday and 07.00 to 12.00 Saturdays. Pollution Control – Scientific Team do not object to these hours, recommending that these are stipulated within a planning condition.

The applicant has indicated that the existing fencing may require repairs. Solid fencing will improve acoustic impacts to residential premises, it is recommended that a planning condition is placed requiring the repair and on-going maintenance of a solid barrier between the application site and houses.

The houses at Castle View Close are less than 10 metres from the application site with existing acoustic boundary fencing and their front gardens in between. It is considered that the previous comings and goings of the service station use would not be significantly difference to the proposed use which can now be restricted to more reasonable hours which could be an improvement to the previous situation.

The houses to the rear are 36 metres away and more with their gardens in between and are closer to the existing Impacta site, they also face a busy road. For these reasons the proposal is unlikely to result in significant loss of neighbouring amenity.



The palisade fencing has already been erected and is the same as already erected around the existing Impacta site and at the rear of the application site facing houses on Castle View Close. The palisade fence erected at the side of the site, near to the houses along Castle View Road is partly screened by existing 2 metre high close boarded fencing.

Council Officers are aware of Japanese Knotweed on the site, as raised by residents, a condition can be attached for its removal as part of this application if approved.

### **Design and character of the area**

Both the proposed signage and elevation details would represent a significant improvement to a site which was in a poor state of repair for a number of years. The palisade fencing would not normally be supported near to houses. Taking into account the mixed use nature of this location with similar fencing and is opposite Bilston industrial estate, in this instance this boundary treatment is considered acceptable and would be compatible with the existing mixed character of the area.

### **Means of access and Impact on the Highway Network**

The Transportation Officer has no objections to the proposal in principle provided further details are submitted regarding the parking layout and engineering details of the access which can be conditioned.

### **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 has been submitted. In light of the submitted details officers are able to support 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 92 of the Town and Country Planning Act, 1990.

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

- Location Plan (14-1727/03a) received 6/3/14
- Design & Access Statement prepared by GH Design (14-1727) received 26/2/14
- Ground Floor Plan as Existing (14-1727/01) received 26/2/14
- Section & Elevations as Existing (14-1727/02) received 26/2/14

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 highway access being brought into use, the following details shall be submitted and approved in writing by the Local Planning Authority in conjunction with the Highway Authority:

- (i) Full engineering details of the proposed permanent reinstatement of the redundant access to the site off High Street.

3b. Prior to the highway access being brought into use, all highway infrastructure works detailed and agreed, shall be fully completed and brought into use to the satisfaction of the local planning authority and all associated costs to be met by the applicant.

Reason: In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development.

4a. Within 1 month of the date of the decision details shall be submitted to the Local Planning Authority in conjunction with the Highway Authority, setting out where the location of parking for site operatives and visitors has been provided within the application site.

4b. The approved details shall be fully implemented within 2 months of being agreed and thereafter be retained, maintained and kept available during the development process.

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

5. Within 2 months of the date of this decision the canopy signage and elevation screening shall be fully implemented in accordance with the submitted details and retained thereafter.

Reason: In the interests of local amenity in accordance with policy ENV32 of Walsall Unitary Development Plan.

6. Fixed electrical or electronic sound reproduction, amplification or production equipment used in respect of speech and music shall not be installed at the site (with the exception of fire/emergency alarms).

Reason: In the interests of local amenity in accordance with policies GP2, ENV10 and JP8 of Walsall Unitary Development Plan.

7. Plant, machinery or equipment used for the purpose of liquid pumping, providing compressed air, heating, ventilation and air conditioning shall be situated within building structure(s), or acoustically designed enclosures and thereafter retained.

Reason: In the interests of local amenity in accordance with policies GP2, ENV10 and JP8 of Walsall Unitary Development Plan.

8. No manufacturing, paint spraying, fabrication, production, servicing or associated operation(s) other than essential building maintenance shall take place externally within the application site.

Reason: In the interests of local amenity in accordance with policies GP2, ENV10 and JP8 of Walsall Unitary Development Plan.

9. Permitted operating hours including collections, deliveries and despatches shall be 07.00 to 18.00 Monday to Friday excluding Bank Holidays and Public Holidays and 07.00 to 12.00 Saturdays.

Reason: In the interests of local amenity in accordance with policies GP2, ENV10 and JP8 of Walsall Unitary Development Plan.

10. Where Forklift Trucks operating in the yard area are to have audible reverse alarms these shall be of the non-intrusive warbler or white noise type systems.

Reason: In the interests of local amenity in accordance with policies GP2, ENV10 and JP8 of Walsall Unitary Development Plan.

11. Within three months of the date of this decision there shall be the full eradication and control of Japanese Knotweed within the application site.

Reason: In the interests of local amenity in accordance with policies GP2 of Walsall Unitary Development Plan.

12. There shall be no open storage on the site.

Reason: In the interests of local amenity in accordance with policies GP2, ENV10, ENV32 and JP8 of Walsall Unitary Development Plan.

13. Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987 (as amended) the premises shall only be used for Classes B1(c) light industry, B2 general industry or B8 storage or distribution purposes and for no other purpose.

Reason: To ensure that adequate on-site parking and servicing is available in order to minimise potential indiscriminate parking on the public highway in the interests of the free flow of traffic and highway safety in accordance with policies GP2, T7 and T13 of Walsall Unitary Development Plan.

**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.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 7.**

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

**Application Number:** 13/1666/FL

**Application Type:** Full application

**Case Officer:** Paul Hinton

**Telephone Number:** 01922 652607

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** E & H Design Ltd

**Applicant:** Friendship Care & Housing

**Proposal:** Enlargement of 1 no 1 person bedsit to 1 bedroom person apartment with wheelchair space facilities, amended entrance to provide scooter and bin storage area and external brick storage sheds

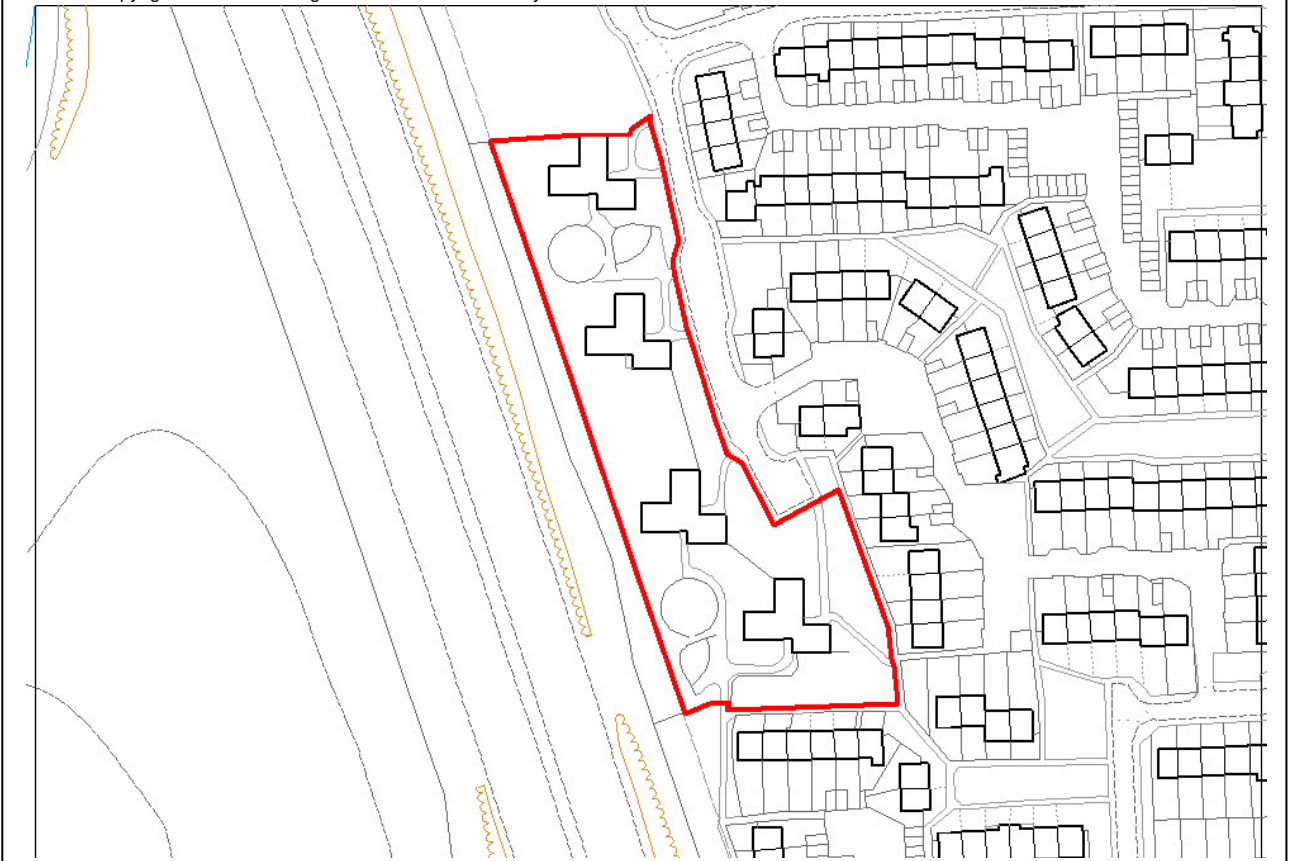
**Location:** FLATS 38, 56, 74 & 92 HADLEY ROAD, WALSALL

**Ward:** Birchills Leamore

**Expired Date:** 17/02/2014

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

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## **Application and Site Details**

This application seeks planning permission to enlarge an existing bedsit at the ground floor of four identical three storey blocks of flats. Currently there is a bedsit area, with a kitchen and bathroom to which next to it is an integral storage area. The application proposes this storage area to be used to create a larger residential unit with a separate lounge, bedroom, kitchen and bathroom to be accessible for wheelchair users. Additional windows would be created with the unit having direct access from the street. Provision for an integral shared secure bicycle store within the fabric of the existing buildings is also proposed.

Following consultation with residents the application has twice been amended and now also proposes an external tile canopy and brick store beneath at the front elevation of the flats (1.7m by 6.5m with a mono pitch roof rising to 3.5m in height) providing two secure areas, one for two mobility scooters and one for two euro bins. The entrance to the new flat would be in the centre and would be accessible through the provision of a ramped blocked paved access from the existing paved areas. To replace the loss of existing internal stores, a single block of eight external brick and tile storage units projecting 1.2m from the side of the building along 5.2m of the building's existing blank brick perimeter are proposed. The roof would have a hip on it with a maximum height of 3.4m and would be located to the side of the buildings facing the amenity areas. A previously blocked up door at this location would be re-provided for access from the flats to the stores. This would be a secure door. Internal arrangements are also proposed to provide two internal storage areas. The applicant has undertaken consultation with residents. Contact with 30 of the 36 residents was made, all agreeing to the plans, with 23 happy with the alternative storage and seven seeking bigger storage than offered. CCTV and motion security lights are proposed to the front and rear entrances.

The application site is in a residential area that is dominated by houses. Jenner House; an apartment block for residents who need some day-to-day support is next to six blocks of flats, four of which are subject to this application. To the west of these apartments is the elevated M6 motorway. Parking for the flats takes place on site, with each block of flats having its own amenity areas.

### *Design and Access Statement*

The layout has been designed to accommodate a wheelchair user with front door access directly from the outside. The scheme takes into account and limits overlooking of existing dwellings but with the added advantage of good surveillance over the rear adjoining properties including the access route to the property.

## **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:

- always seek 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 been previously developed (brownfield land), provided that it is not of high environmental value
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable
- contribute to conserving and enhancing the natural environment and reducing pollution
- encourage effective use of land by reusing land that has been previously developed

**Key provisions** of the NPPF relevant in this case:

#### 4. Promoting sustainable transport

32 Decisions should take account of safe and suitable access to the site can be achieved for all people. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

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

35 Developments should be located and designed where practical to; create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.

#### 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.

#### 7. Requiring good design

58 Developments should function well and add to the overall quality of the area..

61 Decisions should address the connections between people and places and the integration of the new development into the built environment,

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

#### 11. Conserving and enhancing the natural environment

109 The planning system should prevent new and existing development from contributing or being put at unacceptable risk from, or being adversely affected by unacceptable levels of.... noise pollution.

111 Encourage the effective use of land be re-using land that has been previously developed.

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.

## **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)

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 relevant policies are:

The Vision consists of three major directions of change and underpins the approach to the whole strategy which includes the delivery of Sustainable Communities, Environmental Transformation and Economic Prosperity which are supported by the following policies:

The relevant key policies are:

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

CSP4: Develops the need for high quality place making and design

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. Meeting Code for Sustainable Homes Level 3 or above.

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.

TRAN4: Requires new developments to link to existing walking and cycling networks. Cycle parking facilities should be provided at all new developments.

WM5: All new developments should address wastes as a resource, minimise waste as far as possible, manage unavoidable waste in a sustainable and responsible manner, and maximise use of materials with low environmental impacts.

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

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

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

The relevant policies are:

GP2: Environmental Protection

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 The Council will seek to protect people from unacceptable noise, pollution and other environmental problems.

Policy 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 and through the conversion of existing buildings, including vacant dwellings and the upper floors above shops and other business premises, 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.

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.

ENV18: Existing Woodlands, Trees and Hedgerows. The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows.



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

3.116 & 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.

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

#### 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 (SPD) (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. The following are the relevant policies;

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

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.

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

Annexe D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings.

### **Conserving Walsall's Natural Environment SPD**

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**

**Transportation** – no objection.

#### **Pollution Control**

*Scientific Team* – no objection.

*Contaminated Land* – no objection.

**Tree Officer** – to be reported.

**Environmental Health** – no objection.

**Housing Standards and Improvements** - no objection.

**Coal Authority** – no objection.

**Fire Services** - no objection.

### **Public Participation Responses**

In respect of the original submission:

A petition with 16 signatures has been received objecting to the application on the following grounds:

- Oppose the loss of the existing sheds.
- No room for storage in the existing flats.

Three letters have been received objecting on the following grounds:

- Not enough existing storage.
- Existing storage used for wheelchairs, prams, pushchairs, maintenance tools and equipment.
- No provision for alternative storage.

Following the first amended plans (which proposed replacement storage areas for each flat), two letters have been received from the same person stating the provision of an additional shed is better, but its construction in timber would be a security risk and fire hazard.

Suggests blocking up of the remainder of the window would be better.

Following the second amended plans (provision of brick sheds and integral bin store) no further comments have been received.

### **Determining Issues**

- Housing need and sustainability
- Design and visual amenity
- Residential amenity
- Parking and access

### **Observations**

#### **Housing need and sustainability**

The NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed. Each set of flats are in use, but with one of the ground floor units used as a bedsit. The proposal would increase the ability for multiple occupier and accessible users within each new flat and therefore to the benefit of local inclusive housing provision. This is an existing residential area, within walking distance of the local shop and schools. This is a sustainable development. The principle of additional housing capacity in this location is therefore acceptable subject to a satisfactory residential environment and highway safety being achieved.

#### **Design and visual amenity**

The existing storage area has a blocked up aperture facing the street, louver windows and a blank door to the other elevations. The proposal would provide new windows and doors that omits this blank elevation and provides increased street frontage activity. The additional store and canopy provides a projection to the front of the building. Due to its design and modest size, this would appear as a traditional porch structure to which there are examples in the area. Subject to the use of a condition requiring matching brick and tile materials, the store would not have an impact upon visual amenity. The bin store also ensures that bins can be hidden away and secured.

The eight external brick stores would be attached to the side of the building behind the 'L' shape of the building. These would not be readily viewed from the street. They have been designed to have a hipped roof like the main roof of the flats, having a limited mass. The use of matching materials will ensure they integrate into the character of the area. At present this side elevation is a window to a lobby area, the proposal include a new door which not only provides access to the external storage areas but also to the amenity areas. One resident following the first set of amended plans suggested blocking up one of the retained windows to the rear access, which is now proposed.

The sheds would be secured by timber doors, with CCTV and security lights providing further surveillance.

In the grass verge between the pavement and the three storey building an external bin store was originally proposed, this has been amended to make it integral to ensure the development would not have an adverse impact upon the street.

#### **Residential amenity**

The increased size of the units to bring them to a similar size as the other flats would not result in a loss of amenity to neighbours. The additional windows due to their location and the presence of other windows to these elevations would not result in a loss of privacy and

would provide greater surveillance to the street and the amenity areas. The location of the brick stores are not directly in front of windows and are within a shared amenity area where there is a level of existing activities. Refuse bins are currently stored next to the building; the proposed location within an integral store would be to the benefit of residential amenity. The provision of CCTV and security lighting would improve the sense of security in the area.

Objections have been received about the loss of the internal storage areas to provide the space for this proposed flat. In response for each set of the four blocks of flats, eight external sheds are proposed with two internal storage areas, in addition a secure integral cycle store and a brick storage area to secure two mobility scooters are proposed. There would be nine flats within each block. On balance the loss of the internal storage areas is compensated for by the provision of the other storage areas. The development is not considered to have an adverse impact upon residential amenity.

### **Parking and access**

The proposal does not increase the amount of residential units and therefore would not increase the parking provision requirement. A secure cycle store is provided to each flat.

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

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

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

1. 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: -

- Site location plan (EH1347/100) received 4/12/13
- Block plan (EH1347/00C) received 16/5/14
- Existing layout (EH1347/01) received 4/12/13
- Proposed layout (EH1347/04C) received 16/5/14
- Existing east and south elevation (EH1347/02) received 4/12/14
- Proposed east and south elevation (EH1347/05B) received 16/5/14
- Existing north elevation (EH1347/03) received 4/12/14
- Proposed north elevation (EH1347/06A) received 19/2/14
- External storage (EH1347/12A) received 16/5/14

*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 walls, roof and windows of the development shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application.

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

4. The development hereby approved shall not be brought into use until the cycle store, mobility scooter and bin store, two internal store areas and eight external stores as shown on approved drawing EH1347/04C received by the Local Planning Authority on 16<sup>th</sup> May

2014 are available for use. These areas shall be retained.

*Reason:* In the interests of residential amenity and to encourage use of sustainable travel.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 8.**

**Reason for bringing to committee: Significant Community Interest**

**Application Number:** 14/0331/OL

**Application Type:** Outline Application

**Applicant:** Walsall Housing Group

**Proposal:** Outline application for erection of 2 dwellings (all matters reserved)

**Location:** FORMER GARAGE SITE, GREEN LANE, WALSALL

**Ward:** Birchills Leamore

**Case Officer:** Alison Ives

**Telephone Number:** 01922 652604

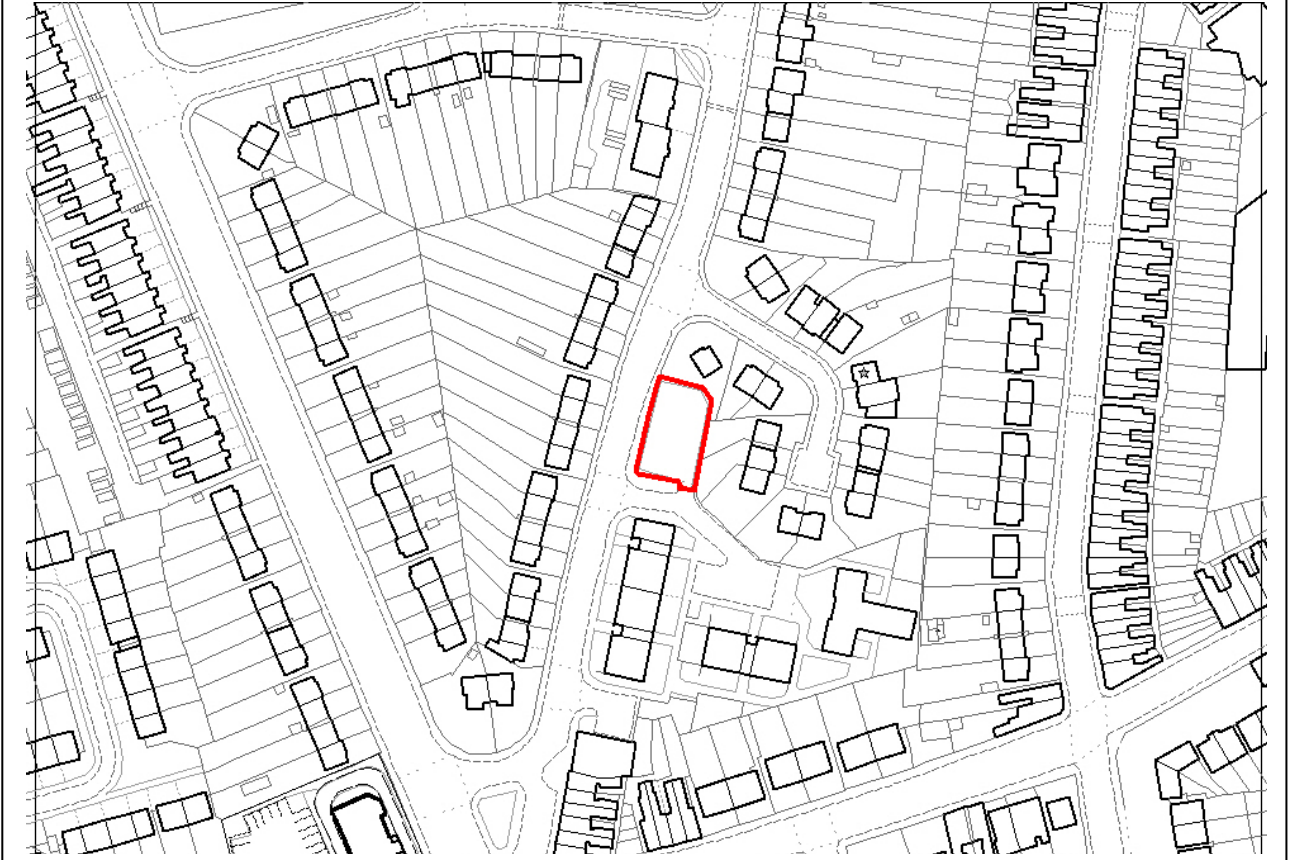
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** BM3 Architecture Ltd

**Expired Date:** 02/05/2014

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

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### **Application and Site Details**

The proposal seeks outline permission for the erection of two dwellings on a former garage site in Green Lane. All matters are reserved for subsequent approval. The garages have been removed and the land is vacant. The site access is in Sherborne Close. It is a flat site and there is a low wall around its perimeter. Gardens of adjacent houses in Dorsett Place surround the rear of the site. There are two storey flats adjacent in Sherborne Close and predominantly semi detached and terraced housing in the vicinity with the exception of a detached house at 2 Dorsett Place.

The indicative layout shows a pair of 2 bedroom semi-detached wide fronted houses positioned at right angles to one another with plot 1 facing Green Lane and plot 2 facing Sherborne Close. Two parking spaces are provided for each house. The position of the proposed dwellings allows for plot 1 to have a rear garden of 82m<sup>2</sup> and plot 2 has a rear garden of 69m<sup>2</sup>.

The site area is 0.04 hectares which equates to 50 dwellings per hectare.

The Design & Access Statement – Describes the location, layout, scale and other aspects of the development. It also highlights local transport links and design principles for inclusive access.

The Supporting Statement – Highlights that there have been recent problems and issues in relation to derelict land within the WHG ownership and following a Neighbourhood Planning exercise this site was identified as preferred for potential residential development. There are currently no garages or licenses for parking on the land. There has been limited demand for parking since the garages were demolished and residents have complained of anti-social behaviour and fly tipping on the site whereby residential development offers an opportunity to enhance the area.

The Parking Survey – Identifies that there is no evidence of parking at the site at different intervals over a four day period including during the weekend.

### **Relevant Planning History**

No specific history.

### **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:

- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

**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 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.

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 provision of a high quality environment.

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors will provide new homes in sustainable communities built on brownfield sites close to existing public transport routes.

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

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

HOU1: Seeks to deliver at least 63,000 net new homes over the period 2006-2026.

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. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness

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: 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.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

### **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.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

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

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV32 & 3.116: 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.

ENV33 & 3.117: deals with landscape design and opportunities to create and enhance environmental quality.

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

T1: Seeks to improve access and help people get around

T7 – Car Parking

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.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

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.

1, 2 & 3 bedroom houses: 2 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:

### **Designing Walsall SPD**

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

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

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

DW 10 – new development should make a positive contribution to creating a sustainable environment.

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

### **Consultations**

**Transportation** – No objections in principle. The car park is not a public car park and was constructed at the time of the Sherborne Close flats for residents use. Surveys have been undertaken by the applicant that shows the car park is not used. The development utilises the existing access in Sherborne Close and creates a new access point on Green Lane which is acceptable. As part of the reserved matters application the applicant needs to demonstrate off street parking, pedestrian visibility splays, new dropped kerb vehicle access on Green Lane and modification of the existing bell mouth in Sherborne Close to a dropped kerb. A note for applicant is recommended regarding consideration of incorporating the grass verge fronting Sherborne Close (in front of plot 2) into any future application.

**Pollution Control (Scientific Team)** – No objections. A condition is recommended to control construction times to minimise impacts on neighbouring residential properties.

**Pollution Control (Contaminated Land)** – No objections subject to works being implemented to investigate and remediate any localised ground contamination and ground gas issues associated with the site. Conditions to address these concerns are recommended.

**Severn Trent Water** – No objections subject to securing drainage details. A condition is recommended.

### **Public Participation Response**

There is 1 letter of objection and a petition with 11 signatures objecting to the proposals which are summarised as follows:

- Object to new Council properties
- Unknown new occupiers
- Loss of property value Increased congestion in the street
- Loss of light and privacy
- Restricts parking availability in the area
- Loss of secure off street parking in the area

- A park would be a better option

Further consultation on amended plans has been carried out. This consultation period expired on 19<sup>th</sup> June 2014. Any further representations will be reported to Committee.

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
- Means of Access and Parking
- Local Finance Considerations

### **Observations**

#### **Principle of residential development**

The principle of redevelopment for new housing on this previously developed site in a sustainable urban location is in accordance with the NPPF and BCCS and local development plan policies.

The former garages have been removed and the developer has identified that all leases have been terminated and there is no lawful right of access for surrounding properties to park on the site or gain access across it. Residents have objected to the loss of the site for parking but as the land is private and there is no legal right to utilise it for parking this is a private legal matter between the developer and surrounding residents. The parking survey provided also identifies that the site is not currently used for parking.

Residents have objected to the unknown nature of future occupiers which could be social rented properties rather than market sale. The tenure of future properties is identified as market housing but nevertheless a mix of tenure type and size is considered appropriate in a sustainable urban location such as this.

The alternative suggestion to develop a park on the land put forward by an objector is not part of this proposal and is not a material planning consideration.

It is considered that residential development is appropriate in this residential area.

#### **Layout and design**

Although this is an outline application with all matters reserved the indicative layout shows how a pair of semi-detached houses could be accommodated on the site. The layout respects the position of surrounding houses and achieves a satisfactory distance between dwellings and adequate garden areas. On this basis two houses could be accommodated on the site in a satisfactory manner in accordance with planning policies and supplementary guidance.

The layout shows how the proposed dwellings would relate to both Green Lane and Sherborne Close creating active frontages that address each street. The wide-fronted house types allow for larger rear gardens and greater distance separation.

The Transportation officer recommends the applicant considers incorporation of the grass highway verge fronting Sherborne Close in front of plot 2 as additional front garden land. The verge has limited value and is a maintenance liability for the Council. If the land were to be

considered in any future application it would form additional front garden land for plot 2 on the layout indicated. This does not affect consideration of the current application and a note for applicant is recommended regarding this.

The density of the proposed housing is appropriate and in keeping with surrounding housing which is approximately 44 dwellings per hectare.

Although layout and design are not for consideration the illustrative plan demonstrates how a satisfactory layout could be achieved.

### **Relationship to surrounding properties**

There is over 15m between the potential two storey gable on plot 2 and facing elevation of 10 Dorsett Place which complies with Council guidelines. There is 21.8m between facing elevations of plot 1 and 8 and 10 Dorsett Place which is below the recommended 24m distance separation. Despite the shortfall the existing fencing and trees within the adjoining gardens provide some screening and reduce potential overlooking. The detached house at 2 Dorsett Place does not directly face the proposed properties and the wide fronted units will limit the extent to which the buildings impede sunlight to this property. Other Dorsett Place properties are located to the east of the proposed houses so there is also limited impact on daylight. In the circumstances the potential development of the site as indicated on the proposed layout would not have a significant adverse impact on the outlook, daylight or privacy of surrounding neighbours. There is existing boundary fencing, trees and shrubs within the gardens of surrounding properties in Dorsett Place which partially screen the ground floor and gardens of the proposed properties.

Residents have objected to loss of property value but this is not a material planning consideration.

The relationship to surrounding properties is considered to be acceptable.

### **Means of access & parking**

This part of Green Lane is a cul-de-sac which prevents "rat running" through the area onto the surrounding highway network. In the circumstances there is relatively low passing traffic to cause congestion. There were formerly garages on the site providing parking for up to 10 cars. The garages have been removed and the site remains vacant. The land owner advises that all leases were terminated and there have been no enquiries for parking from surrounding residents. It is evident that many of the surrounding houses have created individual driveways within their front gardens to accommodate off-street parking. There are no parking restrictions on street. The parking survey does not show any evidence of parking on site at various intervals over a four day period.

Residents consider the proposal leads to increased congestion in the street due to displaced parking and results in the loss of secure parking in the area. As referred to above the parking survey did not show any evidence of parking currently on site so there is none to displace. The car park is currently open and is not secured in any way so this objection is not valid.

The Transportation officer is satisfied that the proposal will not be detrimental to highway safety. The applicant has demonstrated that the car park is unused. It is also noted that many of the surrounding houses have driveways and the proposed housing has adequate off-street parking to serve its needs there is no considerable impact on the surrounding highway network by development of two houses.

Proposed parking for plot 1 has been moved further away from the boundary with 2 Dorsett Place to allow for improved visibility when emerging from the driveway due to the presence of the boundary wall and hedge at 2 Dorsett Place. The layout of the site will be determined at a later stage but there is scope within the site to provide off street parking for each dwelling and improved visibility.

On this basis the means of access and parking is acceptable.

### **Local Finance Considerations**

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

This application proposes 2 new homes.

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

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

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

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

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

1. Application for the approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission.

*Reason:* Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

2. The development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the reserved matters application, or the last reserved matters approval.

*Reason:* Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

3. This development shall not be commenced until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- a) Appearance
- b) Means of Access

- c) Landscaping
- d) Layout
- e) Scale

*Reason:* Pursuant to Article 3 (i) of the Town & Country Planning (General Development Procedure) Order 1995

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

- i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (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).

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

5a. No development shall commence on site until drainage plans for the disposal of surface water and foul sewage has been submitted to and approved in writing by the local planning authority.

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

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

6a. Prior to the commencement of development samples of all facing, roofing and hard surfacing materials plus details of all boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority.

6b. The development shall be completed with the approved details and retained thereafter.

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

7. As part of any Reserved Matters application details to address the following matters shall be submitted to and approved in writing by the local planning authority and thereafter implemented in accordance with the agreed details:-

- i. Parking for two vehicles per dwelling based upon dwellings up to 3 bedrooms.
- ii. Each access point demonstrating a 2.4m x 3.4m pedestrian visibility splay, within which no planting or structure exceeding 600mm in height above footway level will be permitted.
- iii. A new dropped kerb vehicle access point constructed at the new access point onto Green Lane.
- iv. The modification of the existing bell mouth access point in Sherbourne Close to a vehicle dropped kerb type crossing.

*Reason:* In accordance with UDP policy GP2, T7 and T13, to ensure adequate pedestrian/vehicle inter-visibility is provided and retained at the access points and in the interests of highway safety.

8. 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 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; Easter Monday; Good Friday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.*

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

9. This development shall not be carried out other than in conformity with the following approved plans and documents except in so far as may otherwise be required by conditions:

-

- Site Location Plan (D10) received 4/3/14
- Site Layout (D12 Rev B) received 2/6/14
- Design & Access Statement prepared by BM3 Architecture received 4/3/14
- Parking Survey received 28/5/14

*Reason:* To ensure 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 require).

## **Note 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 “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 should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

#### **Note for applicant – Highways Land**

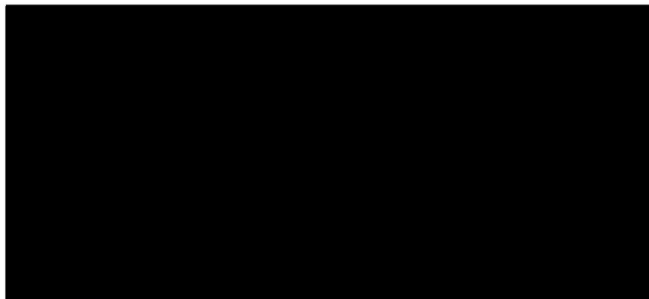
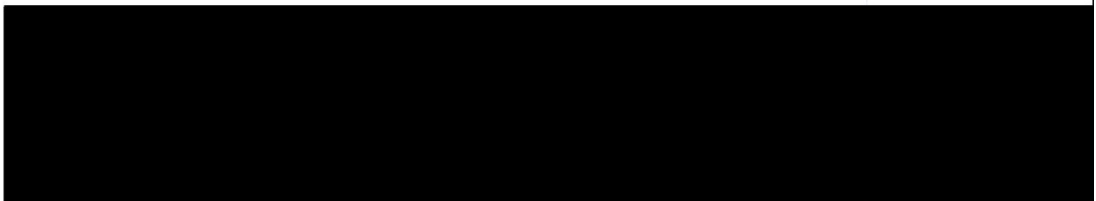
As part of any future Full or Reserved Matters application, consideration should be given to incorporating the existing narrow grassed verge area along the Sherborne Close frontage of the site which could become part of the front garden area to the new dwelling. The land, which is public highway and in Council ownership, would appear to have little amenity benefit and is a maintenance liability and as such there would be clear benefits both to the Highway Authority and future residents of the new dwelling for the land to be absorbed into the development. A Change of Use of highway land to residential garden land, the acquisition of the sub soil ownership from the Council and a highway Stopping Up Order under S247 of the Town and Country Planning Act 1990 will be required but the Highway Authority look to support such an approach.

Petition Against Planning Application To Build Two Dwellings –  
Green Lane

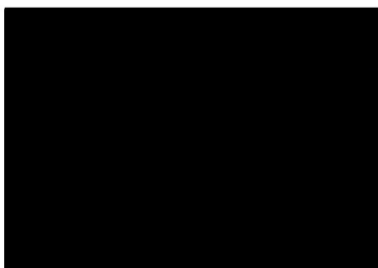
Case Officer- Alison Ives

Ref no 14/0331/ol

Names and Addresses of residents who don't agree to build two  
dwellings.



90  
Greenlane



88 GREEN LANE

Dorsett Place.  
Dorsett Place.



6. Dorsett Place  
WS3.2BW

12 Dorsett  
Place  
Leamore  
WS3-2BW





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 9.**

**Reason for bringing to committee: Significant Community Interest**

**Application Number:** 14/0629/FL

**Application Type:** Full application

**Case Officer:** Alison Ives

**Telephone Number:** 01922 652604

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Walker Troup Architects Ltd

**Applicant:** Walsall Housing Group

**Proposal:** Erection of 5 x 2 bedroom houses with external works, car parking, private access road and landscaping.

**Location:** Land off Radford Drive (former garage court), Shelfield, Walsall, WS4 1AE

**Ward:** Rushall-Shelfield

**Expired Date:** 23/06/2014

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

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### **Application and Site Details**

The proposal seeks permission for the erection of 5 X 2 bedroom houses on a garage site in Radford Drive. There are presently 26 garages located in two rows along the northern and southern site boundaries with a grassed area in between. Gardens of adjacent two storey houses in Radford Drive, Defford Avenue and Broad Lane surround the site which is in a residential area.

The layout shows a terrace of three houses (plots 1, 2 & 3) and pair of semi-detached houses (plots 4 & 5) positioned to face a new private drive that faces the side garden of 66 Radford Drive. This is parallel to 64 Radford Drive although stepped back 6.2m from the front of no.64. Two parking spaces are provided on a driveway for each house. A bin collection point is located adjacent to the cul-de-sac entrance next to the boundary wall of 66 Radford Drive. Each of the proposed dwellings has a 15m length rear garden.

The Supporting Statement – Explains the proposals are to bring forward a high quality residential development that achieves Code for Sustainable Homes Level 3. It also discusses access, highway design and parking (including a shared surface with 500mm service strip incorporated and visibility splay), security, safety and Secure by Design, refuse collection. It also highlights that a public consultation was carried out with local residents. It concludes the high quality sensitive design offers a comprehensive redevelopment of this sustainable site.

The Arboricultural Survey – Identifies one multi stemmed self set Sycamore tree within the site that has no long term retention value. It also identifies a Leyland Cypress hedge off-site adjacent to the boundary of low quality and value. It recommends all development is located outside the root protection area of the retained trees.

The Initial Bat Survey – A full assessment has not been carried out so further recommendations are made. The site provides limited foraging for bats. A full internal inspection of the garages prior to works commencing is recommended.

The Extended Phase 1 Habitat Survey – Recommends compliance with the initial Bat Survey, avoidance of vegetation clearance during the nesting bird season, covering of excavations overnight, a biodiversity enhancement plan to be incorporated into any landscaping scheme to maximise the ecological value of the site, and protection of trees on site or overhanging the site.

The Preliminary Risk Assessment – Examines the environmental and geotechnical aspects of the site. It recommends a programme of intrusive investigation and subsequent quantitative risk assessment is undertaken. Foundation design should be based on the results of the intrusive ground investigation.

Supplementary Gas Monitoring Report – Reports the findings of a gas monitoring programme undertaken and that a negligible gas regime has been identified and therefore it is unlikely that gas protection measures will be required.

The Geotechnical and Geoenvironmental Site Investigation Report - Concludes that there are unlikely to be unacceptable risks to human health associated with the development of the site. Made round soils encountered on site are non hazardous. Traditional shallow spread footings are appropriate.

### **Relevant Planning History**

No specific history.

### **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:

- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

**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 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.

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 provision of a high quality environment.

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors will provide new homes in sustainable communities built on brownfield sites close to existing public transport routes.

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

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

HOU1: Seeks to deliver at least 63,000 net new homes over the period 2006-2026.

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. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness

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: 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.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

### **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.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

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

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV32 & 3.116: 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.

ENV33 & 3.117: deals with landscape design and opportunities to create and enhance environmental quality.

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

T1: Seeks to improve access and help people get around

T7 – Car Parking

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.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

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.

1, 2 & 3 bedroom houses: 2 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:

#### **Designing Walsall SPD**

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

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

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

DW 10 – new development should make a positive contribution to creating a sustainable environment.

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

#### **Consultations**

**Transportation** – No objections subject to conditions to secure access and parking arrangements. The access modification to form a footway crossing and improve pedestrian/vehicle inter-visibility and pedestrian dropped crossing facilities across the access is supported. There are 2 parking spaces per dwelling in accordance with UDP policy T13.

**Pollution Control (Scientific Team)** – No objections. A condition is recommended to control construction times to minimise impacts on neighbouring residential properties.

**Pollution Control (Contaminated Land)** – No objections. The supplied reports have not identified any elevated levels of ground contamination or levels of ground gas that require remediation. Notes for applicant are recommended to deal with any contamination arising during demolition.

**Fire service** – No adverse comments. A note for applicant is recommended regarding water supplies for fire fighting.

**Landscape** – No objections subject to a condition to secure details of landscaping.

**Natural Environment (Ecology)** – No objections. An Ecological Survey and Bat survey has been supplied and raises no ecological issues.

**Natural England** – No objections. The site is within 11.9km from the Cannock Chase Special Area of Conservation (SAC) and it is anticipated that the housing development proposed in combination with other developments would increase visits that could have likely effects on the SAC. A full assessment of this impact is required. Comments regarding protected species, local sites, biodiversity enhancements and landscape enhancements are highlighted.

**Police** – No comments. The scheme can accommodate Secured by Design requirements.

**Severn Trent Water** – No objections subject to securing drainage details. A condition is recommended.

### **Public Participation Response**

There are four letters of objection which are summarised as follows:

- Prefer bungalows
- Concern over incorporation of social housing and young families in a quiet area
- Proximity of the houses to existing properties
- Overlooking/loss of privacy
- Loss of sunlight to adjacent gardens
- Loss of outlook as the view will be of a gable wall
- The dwellings should be rotated 90 degrees.
- Loss of brick boundary wall and replacement with a fence poses security issues on the boundary
- Incorporation of an alleyway reduces security for surrounding properties
- Lack of parking for flats in Radford Drive near the entrance to the site leads to parking congestion
- Inadequate access for two way traffic has caused damage to fences in the past
- The adjacent drive (no.64) adjoins the site and would be exposed and need re-landscaping
- Is there adequate access for emergency vehicles?
- Bin store area would cause be obtrusive to adjoining neighbours and cause smell and nuisance
- WHG ignored residents views in submitting the application
- Potential damage to surrounding properties and vegetation during construction
- Noise and disturbance during construction
- Loss of property value
- Lack of consultation
- The site is becoming an eyesore

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
- Means of Access and Parking
- Impact on Cannock Chase Special Area of Conservation
- Local Finance Considerations

## **Observations**

### **Principle of residential development**

The principle of redevelopment for new housing on this previously developed site in a sustainable urban location is in accordance with the NPPF and BCCS and local development plan policies.

The developer has identified that all leases on the garages have been terminated and there is no lawful right of access for surrounding properties to park on the site or gain access across it. It is also evident that the majority of surrounding houses have their own driveways for parking off-street. In the circumstances the redevelopment of the site for new housing is acceptable in this sustainable location.

Residents are concerned that the properties will be for social housing encouraging young families in this quiet area and that a bungalow development would be preferable. There is already a mix of housing in the area including flats and semi-detached housing. Policy HOU2 of the BCCS encourages an appropriate mix of house types and the incorporation of new two storey houses is considered appropriate in this area.

An objector has stated that the site is becoming an eyesore and unsafe. In the circumstances officers consider redevelopment for housing is appropriate.

Neighbours have commented that the applicant WHG has ignored residents by submission of the application. This refers to pre-application consultations and does not override consideration of residents' views on the application. Consultations were carried out with direct neighbours as part of the planning application process despite the objector's comments to the contrary. Loss of property value has been raised as an objection but this is not a material planning consideration.

It is considered that residential development is appropriate in this residential area.

### **Layout and design**

The proposed layout shows the five plots served by a private drive that runs parallel with the boundary of 66 Radford Drive along the same axis as 64 Radford Drive. The layout is considered appropriate as it clearly defines public and private areas and creates an active frontage to the private drive. The houses will not be prominent from the street in Radford Drive as they sit back within the site.

The houses have adequate rear gardens well in excess of the minimum 68m<sup>2</sup> recommended in SPD: Designing Walsall. This will benefit future residents and allows adequate distance separation between existing and proposed dwellings.

The design of the proposed dwellings is modern two storey housing with a slightly projecting facade (200mm) to the kitchen and bedroom no.1 with grey aluminium box window surround to the bedroom. The elevations are a combination of brickwork and tile hangings. There is a porch canopy to the main entrances. A rooflight to the bathroom on plots 1 & 2 is included. The elevations are acceptable in the surrounding context.

Each house has ample space within the gardens to accommodate refuse bins. This is no different to the situation of surrounding housing. A bin collection area is located near the front of the site adjacent to the garage wall of 66 Radford Drive but this is only for bin collection day and bins should not be permanently stored in this location to cause nuisance for neighbours or be considered obtrusive.

Objectors consider the houses should be rotated 90 degrees so they back onto the boundary with Defford Avenue properties. This would have a poorer relationship with existing housing and be more obtrusive.

When the garages are demolished it is proposed to replace the boundary to neighbouring properties with a 1.8m high close boarded fence with 300mm of trellis on top (2.1m) and where a rear access is included to plots 1 and 2 this will be 2.1m high close boarded fence with 300mm of trellis on top (2.4m). Neighbours have objected to this as they consider their boundaries will become insecure and the rear access to plots will create a vulnerable access. The height of the boundary fencing is considered appropriate without being obtrusive to neighbours and as the access will be private and gated and is immediately adjacent to the proposed houses this will deter intruders.

The layout and design of the site is considered acceptable.

### **Relationship to surrounding properties**

The proposed houses are set back 6.2m from the front elevation of 64 Radford Drive and there is 6m between the gable of the nearest house on plot 5 and the boundary to this property. There are no habitable windows to overlook 64 Radford Drive as there is only a bathroom/toilet window in the first floor gable on plot 5. The position of the proposed house is at such a distance as to comply with 45 degree code in respect of the neighbouring property.

There is 24m between the rear of plots 4 and 5 and 65-71 Broad Lane which accords with Council guidelines and will have no adverse effect on neighbours outlook, privacy and daylight. There is 31m between the rear of plots 1-3 and 73-79 Broad Lane which exceeds the guidelines. There is over 15m between the gable of plot 1 and rear elevations of 9-15 Defford Avenue which again exceeds Council guidelines which stipulate 13m. There is 20m between the rear elevation of the proposed house on plot 3 and the main dwelling at 66 Radford Drive but the elevations are not directly facing so there is limited opportunity for overlooking.

On the basis of the above the space and separation between dwellings is adequate and accords with Council policy and despite neighbour's concerns to the contrary the proposed dwellings will not have any significant adverse impact upon outlook, daylight or privacy of surrounding occupiers.

Objectors are concerned about potential damage to their property during construction but this is a private matter. A condition is recommended to restrict hours of construction and demolition in order to protect neighbour's amenity and address their objection.

The relationship to surrounding properties is considered to be acceptable.

### **Means of access & parking**

The proposal is to utilise the existing access which previously served 26 garages and would now serve 5 dwellings. The width of the access is adequate to cater for the level of traffic

now proposed and there is adequate turning area within the site to cater for larger (including emergency) vehicles. This addresses the neighbour objections in relation to access.

The Transportation officer has recommended a condition to secure surfacing and drainage of parking prior to occupation of any of the dwellings. A condition to require an amendment to the bell mouth to alter it to a vehicle crossing is also included. On the basis that the access and parking levels are appropriate the Transportation officer is satisfied that the proposed development will not have a detrimental impact on the highway.

The neighbour objection that their driveway would be exposed is not a significant issue as there will be a clear demarcation between their property and the application site. The driveway of plot 5 which adjoins their driveway would be clearly demarcated.

Residents have objected to a lack of parking for flats in Radford Drive near the entrance to the site which leads to parking congestion. The flats have no right to park on the application site and the parking survey has identified that it is unused. The case officer notes that of the 22 houses in this part of Radford Drive, 18 properties have created their own driveways for off-street parking and only 4 dwellings do not have a driveway. In the circumstances the loss of the parking spaces is acceptable as it will not have a significant impact on availability of off-street parking.

On this basis the means of access and parking is acceptable.

### **Impact on Cannock Chase Special Area of Conservation**

Natural England has identified that the site is within 11.9km from the Cannock Chase Special Area of Conservation (SAC) and the housing development proposed in combination with other developments would increase visits that could have likely effects on the SAC from wear and tear of paths, dog fouling and alteration of heathland vegetation.

This proposal is for 5 houses which is not a major development and is considered not to give rise to a significant increase in the number of potential visitors to the SAC. Given that the plots have generous gardens residents will have no immediate need to visit Cannock Chase for recreation purposes. Also as the Cannock Chase SAC is 11.9km (7.6 miles) away from the site residents may be more likely to visit local playing fields off Spring Lane, Pelsall North Common, open space at Clayhanger, extensive heathland around Chasewater or Green Belt land surrounding Jockey Fields which is nearer. The former Vigo landfill recreation which is a 20 hectare site capable of offering similar recreational activities to Cannock Chase will also soon be available. This is 1km to the east of the site.

On balance the proposal is considered not to have a significant impact on Cannock Chase SAC.

### **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 5 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-

2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the ‘formula grant’ the Council will receive from Government.

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

**Positive and Proactive working with the applicant**

Officers have discussed the significance of the proposals with the applicant’s agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

**Recommendation:** Grant Permission Subject to Conditions

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

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

2a. No development shall commence on site until drainage plans for the disposal of surface water and foul sewage has been submitted to and approved in writing by the local planning authority.

2b. The scheme shall be implemented in accordance with the approved scheme before the development is first brought into use.

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

3a. Prior to the commencement of development samples of all facing, roofing and hard surfacing materials plus details of all boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority.

3b. The development shall be completed with the approved details and retained thereafter.

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

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

- i. correct botanical names
- ii. numbers/planting densities for each block of planting proposed
- iii. size supplied of all proposed shrubs at time of planting
- iv. details of proposed turf/seeded areas
- v. topsoil and mulching depths and specifications
- vi. details of landscaping establishment/maintenance proposals to be undertaken during the standard maintenance period
- vii. details of future management of the landscape scheme
- viii. ground preparation measures to be adopted

- ix. existing and proposed levels
- x. Management plan

4b. The approved landscaping shall be implemented within 12 months of the completion of the development.

4c. All planting shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any trees, shrubs or plants which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

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

5a. Prior to the first occupation of any new dwelling on the development, the following works shall be fully implemented in accordance with details to be submitted to and approved in writing by the Local Planning Authority:-

- i) All parking spaces serving that dwelling shall be fully consolidated, hard surfaced and drained.
- ii) The shared private access road shall be fully consolidated, hard surfaced and drained, including the installation of appropriate drainage across the access road to prevent surface water discharging onto the public highway.
- iii) The modification of the existing bell mouth access point onto Radford Drive to take the form of a vehicle footway crossing, including appropriate demarcation along the highway boundary, full engineering details of which to be submitted to and approved by the Local Planning Authority

5b. All parking spaces shall thereafter be retained and used for no other purpose.

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

6. 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 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; Easter Monday; Good Friday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.*

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

7. This development shall not be carried out other than in conformity with the following approved plans and documents except in so far as may otherwise be required by conditions:

-

- Site Location Plan (1408-01) received 28/4/14
- Proposed Site Layout (1408-02C) received 28/4/14
- 2B4P Narrow House Plans & Elevations (1408-03A) received 28/4/14
- Street Scene (1408-04) received 28/4/14
- Site Survey (S219/408) received 28/4/14
- Supporting Statement prepared by Walker Troup Architects (1408) received 28/4/14

- Arboricultural Survey prepared by Middlemarch Environmental (RT-MME-116110D-03) received 28/4/14
- Preliminary Risk Assessment prepared by RSK (312490-01-00) received 28/4/14
- Supplementary Gas Monitoring Report prepared by RSK (312490-03-00) received 28/4/14
- Geotechnical & Geoenvironmental Site Investigation Report (312490-02-00) received 28/4/14
- Initial Bat Survey prepared by Middlemarch Environmental (RT-MME-116110D-02) received 28/4/14
- Extended Phase 1 Habitat Survey prepared by Middlemarch Environmental (RT-MME-116110D-01) received 28/4/14

*Reason:* To ensure 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 require).

**Note for applicant – Fire Service**

Suitable water supplies for fire fighting should be provided. This shall be subject to consultation with West Midlands Fire Service once a Water Scheme plan has been produced and approved by the relevant Water Company.

Contact: Tim Ford, West Midlands Fire Service, 99 Vauxhall Road, Birmingham, B7 4HW  
 Tel: 0121 3807500  
 tim.ford@wmfs.net







# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 10.**

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

**Application Number:** 13/0637/FL

**Application Type:** Full application

**Case Officer:** Paul Hinton

**Telephone Number:** 01922 652607

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Rapleys LLP

**Applicant:** BP Oil (UK) Ltd

**Proposal:** Redevelopment of existing petrol filling station to include the provision of a new sales building, canopy, fuel pumps, fuel tanks, boundary treatments, with associated hard and soft landscaping and ancillary arrangements to the forecourt following demolition of existing petrol filling station

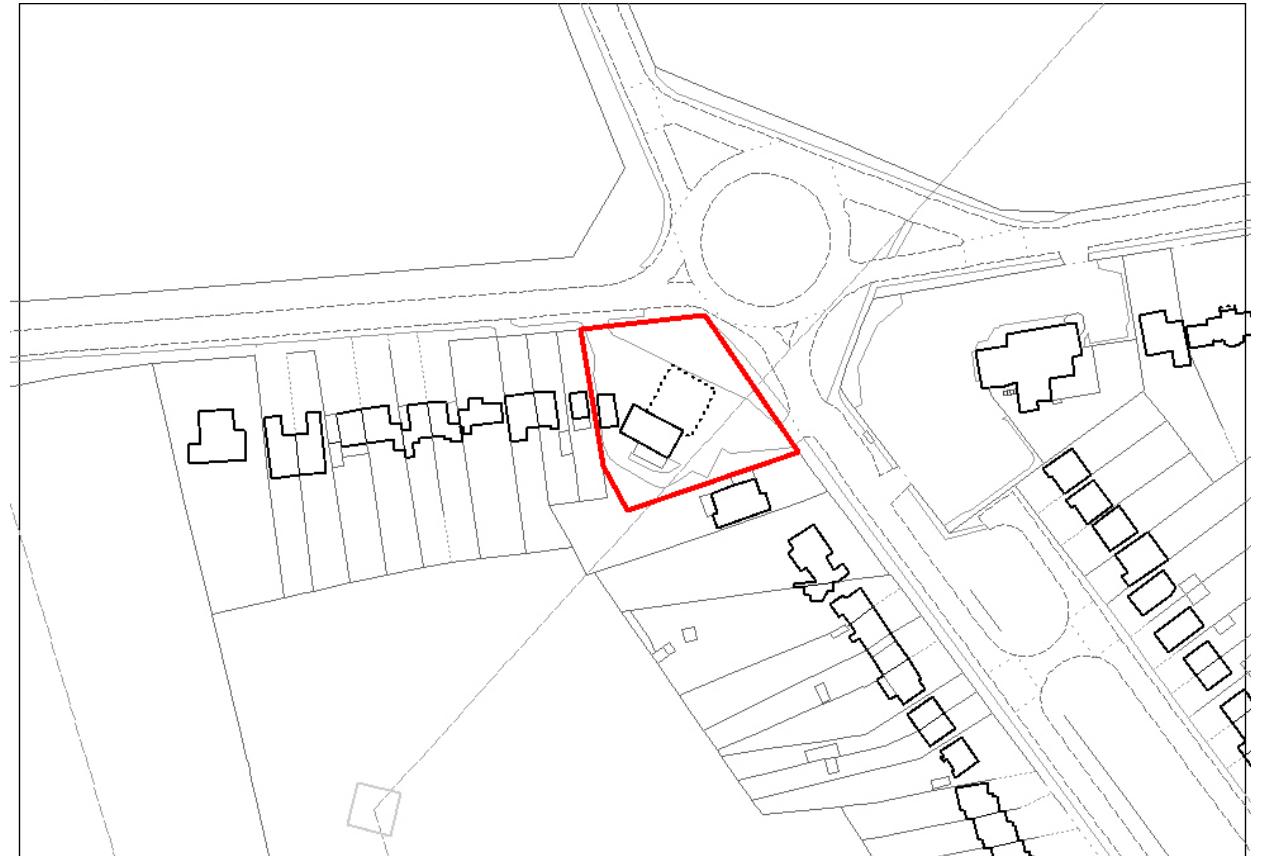
**Location:** FOLEY SERVICE STATION, 1 BEACON HILL, WALSALL, WS9 0RH

**Ward:** Streetly

**Expired Date:** 15/07/2013

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

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## **Application and Site Details**

This application seeks planning permission for the redevelopment of this existing petrol filling station with a new sales building, canopy, fuel pumps, fuel tanks, boundary treatments, with associated hard and soft landscaping and ancillary arrangements to the forecourt following demolition of existing petrol filling station.

The existing petrol station has a 14.5m by 13.8m, 4.7m high canopy at the front which serves eight petrol pumps to which behind is the sales shop (14.4m by 8.5m, 4.3m high) that sits centrally within the site. To the side of the shop is a covered automated car wash (9m by 5.2m, 4.3m high) where vehicles enter across a tarmac area to the rear of the shop. Customer and staff parking takes place on the hardsurfaced areas around the site. The proposed shop would be (22.3m by 10m with a flat roof 4.2m in height) located to the side of the site in place of the car wash with its front facing Aldridge Road. The building would be finished in composite steel cladding finished in Pearl RAL 1013 with a black skirt at the base. The shop front would be mainly glazed with an ATM machine.

The grey colour canopy (25.2m by 23.5m with a flat roof height of 6.8m) would cover eight fuel pumps and is supported by four columns also finished in RAL 1013 Pearl colour. The exact shade of grey is to be agreed with the LPA. Ten designated parking spaces (including one disabled space) are proposed with a 2.1m high timber fence compound to the side of the shop for the storage of bins and operational plant. The surfaces would be a combination of concrete, asphalt and cast concrete paving. Next to the boundary with 1A Aldridge Road there is a landscaped bank that would be partly re-graded with a new retaining wall. A replacement retaining wall is also proposed to the boundary with the electric sub-station and rear garden of 5 Beacon Hill.

At the front of the site a proposed retaining wall (maximum 1.4m high) and 1.1m high railings are proposed. The access onto Beacon Hill is proposed to be widened to 8m. Three 5m high lighting poles are proposed at the front of the site. Also fronting Aldridge Road is an air/water bay.

The application has been amended by reducing the size of the canopy as originally submitted and omitting the proposal for 24 hour use. The application seeks opening hours (including fuel deliveries) of 6am to 12am seven days a week and shop deliveries limited to 9am to 9pm seven days a week.

The petrol station is located on the corner of Beacon Hill and Aldridge Road, facing a road traffic island. To the west of the site is an electric sub-station with houses along the southern side Beacon Hill. Aldridge Road is to the south with houses both sides of the road. The Foley Arms Public House is directly opposite across the traffic island. On the other two sides of the island and to the rear of the site are open fields which are part of the Green Belt. There are accesses from both Beacon Road and Aldridge Road. There is a large grassed verge directly in front of the petrol station with the traffic island, traffic arms and verges opposite all grassed. A high voltage transmission overhead line runs directly above the site. Streetly Local Centre is 1.8km away with the nearest local shops along Blackwood Road 1.3km away.

The application is supported by the following documents:

### *Design and Access Statement*

The site is accessible by motorists; the landscaping of the site's boundaries will continue to ensure that there is an adequate buffer between the site and uses beyond. The proposal

maximises the use of a previously developed site, with an efficient layout and a tidier appearance. The design is simple and uncluttered adopting a modern and appearance. Vehicle access is provided via ingress from Aldridge Road and egress off Beacon Hill to promote one-way traffic through the site.

#### *Supporting Statement*

The existing operation fails to meet modern requirements of petrol filling station operators and their customers. The proposed shop will sell groceries (chilled, tinned and packaged), confectionery, snacks and drinks, non-food items (toiletries, newspapers/magazines, BBQ fuels and fuel goods), cigarettes (and other tobacco products) and car care items. The focus is upon convenience top-up shopping products.

#### *Environmental Investigation Report*

- Additional ground water sampling is required.
- Proposed geotechnical design profile for foundation design required.
- A detailed Quantitative Risk Assessment is required. If risk assessment indicates remediation is required, a remediation strategy will be provided.

#### *Additional information in regard to meeting local needs*

The existing sales building has floor space of 168sqm with net retail space of approximately 87sqm. The proposed building has a gross floor space of 224sqm and net sales of approximately 123sqm.

The facility will primarily intercept motorist travelling across the strategic highway network. Typically 90% of customer visits will be for the purpose of fuel. The proposal seeks to continue to meet the day-to-day needs through the upgrading of the facility. The nearest local centre is Streetly, which is over 2km away. The site appears to offer the only provision in a sustainable location for the surrounding residential area.

#### *Noise Impact Statement*

Explains current noise sources. Five air conditioning units are proposed, four facing the road and one within a fenced enclosure. These units are manufactured to reduce noise level from previous models and have good acoustic comfort. Refrigeration plant is proposed within the external fence enclosure and is designed as low noise. The car wash and vacuum would be removed and not replaced.

Fuel deliveries are anticipated to remain similar to the current frequency of five deliveries every 14 days. The development has been designed so that the tanker can enter and exit without any reversing. Shop deliveries are required from 7am due to the proposed increased range of short life chilled products. Deliveries will be made to the delivery door within the fenced enclosure. Delivery and site staff receive additional training for sites in residential areas.

#### *Example of driver delivery briefing note*

Example of a note given to delivery drivers explaining practices required to minimise noise.

#### *Example of delivery driver info pack*

Pack includes directions, routing and reminds about keeping noise to a minimum.

#### *Canopy justification*

The petrol filling station is located below National Grid 400kVa overhead power lines. The design is developed in accordance with "APEA/IP Design, Construction, Modification, Maintenance and Decommissioning of Filling Stations" book which supports the

requirements of the DSEAR Regulations 2002 and also the Petroleum Regulations. This requires:

- An electrically bonder and earthed metal canopy created over the hazardous areas (area in which a flammable atmosphere may be found) and extended 3m laterally beneath the overhead line.
- All suppose for the metal canopy to be located outside of the hazardous area
- Vent pipes and tanker delivery stands should be located away from the area beneath overhead conductors.

The applicants state that the canopy has been designed to act as a physical barrier to prevent any failed lines from entering any of the hazardous areas of the site, with the canopy designed to ensure the 3m zone around the hazardous area is covered.

### **Relevant Planning History**

03/2148/FL/E2 Proposed re –development of petrol service station. Granted subject to conditions 16/02/2004. Opening hours of shop and ATM conditioned 0600 to 2300.

04/0566/FL/E2 – Revision of (03/2148/FL/E2) re-development of existing petrol service station. Granted subject to conditions 10/5/04. Opening hours of shop and ATM conditioned 0600 to 2300.

08/1220/FL - Installation of one free standing ATM pod. Granted subject to conditions 17/09/2008.

### **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:

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

**Key provisions** of the NPPF relevant in this case:

1. Delivering sustainable development

18 The Government is committed to securing economic growth in order to create jobs and prosperity.

19 Planning should encourage sustainable growth.

20 Meet development needs of businesses

21 Investment in business should not be over-burdened by the combined requirements of planning policy expectations. Identify strategic sites for local and inward investment. Identify priority areas for economic regeneration

#### 4. Promoting sustainable transport

32 Decisions should take account of safe and suitable access to the site can be achieved for all people. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

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

35 Developments should be located and designed where practical to; create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.

#### 7. Requiring good design

58 Developments should function well and add to the overall quality of the area and optimise the potential of the site to accommodate development.

61 Securing high quality design goes beyond aesthetic considerations. Decisions should address the connections between people and places and the integration of the new development into the built environment,

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

#### 9. Protecting Green Belt land

88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt

#### 11. Conserving and enhancing the natural environment

109 The planning system should prevent new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water 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.

120 To prevent unacceptable risks from pollution decisions should ensure that new development is appropriate to its location. The effects (including cumulative effects) of pollution on health or general amenity and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

123 Planning decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts
- Mitigate and reduce to a minimum other adverse impacts on health and quality of life.
- Recognise that development will often create some noise
- Identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value.

On **planning conditions** the NPPF says:

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

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

## **The Development Plan**

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

### **The Black Country Core Strategy (BCCS) (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 relevant policies are:

The Vision consists of three major directions of change and underpins the approach to the whole strategy which includes the delivery of Sustainable Communities, Environmental Transformation and Economic Prosperity which are supported by the following policies:

The relevant key policies are:

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

CSP4 – develops the need for high quality place making and design

EMP1: Providing for economic growth and job creation.

CEN1: Black Country Centres will provide for the main focus for....service activities.

CEN3: The Strategic Centres should be the principle locations for major leisure, commercial leisure, entertainment, cultural facilities and services.

CEN6: New small scale local facilities outside of defined centres of up to 200 square meters will be permitted if;

- The proposal is of an appropriate scale and nature to meet a specific day-to-day need for a population within convenient, safe walking distance for new or improved facilities.
- Local provision could not be better met by investment in a nearby centre
- Existing facilities will not be undermined
- Access to facilities by means other than by car would be improved and within convenient, safe walking distance of the community it is intended to serve.

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

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

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

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

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

ENV3: 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.

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

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

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

The relevant policies are:

GP2 Expects all development to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact upon the environment.

3.6 Development 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.

ENV3: Assess proposals for their impact on the Green Belt in terms of siting, design, grouping, height and scale of buildings,

ENV10 states that development which may give rise to pollution such as noise and smell will only be permitted where it would not have an adverse effect on adjoining uses/potential uses.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV18: Protection and replacement of trees.

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

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

ENV40: Seeks conservation and protection of all water resources

S1: Defines retailing as an appropriate Town Centre use

S2: The role of the Local Centre is to meet the day-to-day convenience shopping and local service needs of their communities.

S5: Local Centres – retention, enhancement and further development of shops, services and other town centre uses will be encouraged.

S6: New small-scale local facilities will be permitted if it can be shown:

- i. The proposal is a scale and kind to meet a local need for improved facilities
- ii. The local need cannot be better met by investment in a nearby centre
- iii. There will be no likelihood of an adverse impact on the vitality and viability of any established centre in the Borough or elsewhere within the affected catchment area.
- iv. There will be no impact on existing local provision such as to leave some local needs unmet, contrary to efforts to promote social inclusion.



- v. The proposal will improve accessibility to facilities by means other than the car and, in particular, will be within convenient, safe walking distance of the community it is intended to serve.
- vi. The proposal will help to reduce the need to travel, especially by car.
- vii. There must be no significant loss of amenity for neighbouring homes.
- viii. Servicing and parking associated with the proposed use must not create any significant road safety or traffic problems.

S7: Sequential tests need to be undertaken to justify out of centre development of town centre uses in edge of centre locations, except where in accordance with policy S6.

S12: Petrol Filling Station Shops

- a) Retailing at petrol filling stations should be ancillary to the principle use of the site for the sale of fuel and confined to motoring accessories, newspapers and magazines, tobacco and confectionery and a limited range of basic food and convenience goods. The gross retail floorspace should not normally exceed 50 square metres.
- b) The customer base of such shops should primarily be motorists who are visiting the site to purchase fuel, although it is accepted that some petrol filling station shops also have a small element of walk-in trade from local people. The shop should not seek to trade as a significant retail destination in its own right.
- c) Proposals for retailing over and above that allowable under (a) and (b) will be subject to Policies S6 and S7.

S15: ATM facilities will be accepted in out-of-centre developments where a clear need can be demonstrated and they would not place at risk the continued provisions of such facilities. They should be appropriately located to ensure amenities of nearby residents are not adversely affected, can be used safely and off-street parking can be provided.

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.

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.

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

### **Supplementary Planning Documents (SPD)**

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

### **Designing Walsall SPD**

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

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

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

DW10 – new development should make a positive contribution to creating a sustainable environment.

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.

- 13m separation between habitable windows and blank walls exceeding 3m in height.
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk)).

#### **45 Degree code**

Extensions, which would breach the 45 degree code, will not normally be allowed, except for single-storey extensions where the length of the extension would not exceed 3.5 metres in length as measured from the nearest window in the adjoining dwelling.

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

#### **Consultations**

**Planning Policy** – no objection subject to a condition to control the amount of retailing and to be ancillary.

**Transportation** – no objection subject to conditions relating to access and operation.

**Environment Agency** – no objection subject to recommended conditions in regard to pollution mitigation measures. The highest level of pollution prevention infrastructure should be installed on the site.

#### **Pollution Control:**

*Scientific Team* – recommends noise impacts from the proposed redevelopment to nearby residents are controlled by condition.

*Contaminated Land Team* – no objection. Notes the recommended conditions from the Environment Agency and proposed works to mitigate potential contamination.

**Crime Prevention Officer** – no objection subject to use of CCTV.

**Environmental Health** – no objection on the basis of the car wash and vacuum cleaner being removed. A time restriction on deliveries to the shop is recommended.

**Severn Trent Water** – no objection subject to a condition requiring full drainage details.

**Tree Officer** – no objection.

**Landscape Officer** – concern about loss of existing green space. Full landscape scheme required.

**National Grid** – no objection.

**Fire Services** – no objection.

#### **Public Participation Responses**

In respect of the original submission:

One letter has been received not objecting to the application, commenting that the current site is dated and tired. The area will benefit from an upgrade. No need for 24 hour facility.

Four letters objecting to the application on the following grounds:

- no need for 24 hour facility which would bring noise and light pollution
- noisy and anti-social behaviour in the early hours
- close proximity of canopy to houses
- more rubbish from larger shop
- impact on property values
- the development would necessitate the removal of neighbours conifer trees and shrubs
- refrigeration and air conditioning units are noisy
- position of building effects views
- size of canopy will block natural light
- loss of grass verge affects natural view of the island and would add to flooding problems
- air pumps and car vacuum are noisy and would hinder view of motorists
- external compound would produce noise pollution
- fuel vent would be an obstruction to view and have fuel emissions
- increased size of the shop and additional pumps will increase emissions.
- smell of food will entice rats and mice
- external lighting should have restricted hours
- any security cameras must not be directed towards houses
- want to be consulted on any landscaping details and demolition plans.

Following re-consultation on amended plans reducing the size of the canopy, omitting 24 hour use and provision of soft landscape areas one objector has written a further letter stating that the proposal does not fully overcome their previous concerns and in addition:

- Drawings fail to acknowledge the close proximity of their property

Further re-consultation was undertaken on amended plans that increased the size of the grassed verge along Beacon Hill and a statement on the technical justification for the size of the canopy. No further comments have been received.

### **Determining Issues**

- Principle of use
- Impact on Local Centre
- Land contamination
- Impact upon visual amenity
- Impact on surrounding occupiers
- Impact on community safety
- Car parking, manoeuvring and access arrangements

### **Observations**

#### **Principle of use**

This is a long established petrol filling station. The proposal would look to continue this use with a redevelopment of the site. The principle of re-use would be acceptable and would not be contrary to current planning policies. There are no planning conditions that control the day-to-day operation of the site; this application provides the opportunity control necessary aspects of the operation of the site.

### **Impact upon Local Centre**

Proposals for shops at petrol filling stations have become increasingly common in recent years. At some petrol stations, the retail stores are not simply ancillary to petrol stations and as such can have an adverse impact upon the vitality and viability of Local Centres. This site is 1.8km away from Streetly Local Centre. The nearest local shops are along Blackwood Road 1.3km away. Therefore residents in close proximity of the petrol station are not encouraged to use sustainable travel to use these local shops. The shop at the application site provides a local facility. The current retail contribution is approximately 87sqm with the application proposing approximately 123sqm. UDP policy S12 states that gross retail floorspace should not normally exceed 50sqm unless they comply with policies S6 and S7.

The proposal would assist in meeting the day-to-day needs of the local community; the immediate area is poorly served in quantitative terms by existing local convenience shopping. The proposal is of a scale and kind to meet local need, this need cannot be better met by investment in a nearby centre; due to its size and location it is not likely to impact upon the vitality and viability of the nearby centre, it will encourage sustainable travel and reduce the need to travel. Subject to neighbouring amenity and highway safety considerations the principle of the increased shop size is acceptable. To ensure compliance with policy S12 it is considered necessary to restrict the type of goods sold and to ensure the retail element is ancillary to the petrol filling station and not used for any other purpose.

ATMs in out of centre locations are considered acceptable providing they would not place existing facilities in established centres at risk. For the same reasons for the shop, the ATM would be unlikely to have an adverse impact on existing facilities.

### **Land contamination**

The underlying ground is classified by the Environment Agency as a principal aquifer linked to water supply boreholes. The site is located upgradient of these boreholes; subsequently the groundwater beneath the site is very sensitive to surface contamination. The redevelopment provides an opportunity to improve the site infrastructure and activities to protect the sensitive controlled waters receptors in the area. The Environment Agency require the highest level of pollution prevention infrastructure to be installed on site to include double skinned tanks and pipeworks with intermediate leakage detection. Site drainage should pass through fuel interceptors prior to discharge into the mains sewer. Due to underground storage the potential risk of contamination to controlled waters is very high. The long term impact of contamination encountered on the site needs to be identified through a detailed site specific quantitative risk assessment and a strategy to remediate any contamination which poses a risk to controlled waters. Further investigations are required. The Environment Agency do not object subject to the use of recommended 'pre-commencement' conditions. Pollution Control do not object to the application based on the imposition of these conditions which are recommended below.

### **Impact upon visual amenity**

The proposal seeks to increase the size of the shop building, with a 0.1m reduction in its height. The current building is in the middle of the site orientated towards the traffic island. The proposal would remove the car wash building which is parallel to the boundary with the sub-station and the rear garden of 5 Beacon Hill. Along this boundary would be the rear of the shop and the compound with the frontage facing Aldridge Road. The building would project 4.5m further forward than the established building line along Beacon Hill.

The canopy would be increased by an area of 392sqm with an increase in height of 2.1m. Along Beacon Hill the canopy would not be any closer to the road than the edge of the existing canopy, but would have an increased presence towards this boundary. Along

Aldridge Road the canopy would be level with the front of 1a Aldridge Road and angled towards the traffic island, 2.3m from the pavement. In comparison the canopy would be 6m closer to the road than the existing. To the front of the site is a grassed area, with a maximum width of 14.4m that would be reduced to a maximum of 3.5m.

The applicant explains the position and size of the canopy has been informed by the overhead power line and has been designed to act as a physical barrier to prevent any failed lines from entering any of the hazardous areas of the site. The applicant states the likelihood of the power lines failing is very low but the effects on a 'standard designed' site would be potentially very dangerous. The canopy has been designed to ensure the 3m zone around the hazardous area is covered to ensure the proposal would meet the modern industry safety standards.

The impact of the building projecting forward of the established building line is softened by the use of a flat roof and use of pearl colour finish. The ground levels increase going up Beacon Hill which means the building would sit lower than its immediate neighbours. The building would have an additional presence in the street but this is not considered to cause significant visual harm. Weight is given to the NPPF which seeks to optimise the potential of the site to accommodate development.

The increased area and height of the canopy would also have a greater presence than the existing modest canopy. Along Beacon Hill it would follow the same line as the shop building and not project any closer to the road than the existing. It is not considered there would be harm to this elevation. Along Aldridge Road, Erdington Road and Foley Road West would be longer views of the corner of the canopy and the support column. Due to the nature of the canopy there would be views through this structure. Subject to the canopy and columns being of a neutral colour it is not considered its increased size and forward projection would cause a significant harm to the appearance of the area. The corner location and the relative openness of the junction means that the site could absorb this additional development without eroding the quality of the area. The proposal would have a modern clean appearance. The site is between, but outside of two wedges of Green Belt. The single storey nature of the development and the use of neutral colours would ensure that the proposal would not cause any further harm to the Green Belt.

There would be a loss of a large portion of the grass verge to the front. Planning permission was previously approved for redevelopment of the site which reduced the landscaped area to the front in a similar way. There are grass verges on the other corners of the traffic island which will continue to provide landscape value to the area. The proposal retains a grass verge of between 1.4m and 3.4m around the front perimeter of the site, similar to highway verges in front of nearby houses. Objectors comment that the loss of the grass verge would add to flooding problems. The proposal would not lead to the total loss of the grassed area, though the addition of hard surface would reduce some natural drainage, however subject to full drainage plans Severn Trent do not object to the application. The Environment Agency do not raise any issue on this.

Three cypress trees to along the boundary with 1a Aldridge Road are proposed to be removed. Four trees would be retained to this boundary. The Tree Officer does not consider the trees have a high amenity value to warrant their retention.

### **Impact on surrounding occupiers**

Neighbours object to the application on the grounds of 24 hour use, which is how the application was originally presented. The application has been amended for consideration of opening hours of 6am to 12am seven days a week. The current petrol station is unrestricted

and could be used for 24 hour operation. It is understood the current hours are 6am to 11pm. Given the long established use of the site and the ability of 24hour use currently it is not considered the proposed opening hours would have a further significant impact on the amenity of residents. Conditions would be able to provide control over the site.

Fuel deliveries are expected to continue to be five deliveries every 14 days, with delivering times restricted to the opening hours of the proposal. Due to this frequency and the current unrestricted nature of fuel deliveries, it is not considered this would cause any further harm and would provide a level of control to the benefit of residential amenity.

The use would also require deliveries to the shop which the applicant seeks to limit to 7am to 9pm seven days a week. Again weight is given to the existing unrestricted operations at the site and the proposal would provide control over the time of these operations. The noise impact assessment explains how delivery and shop staff will be trained to ensure minimum disturbance.

Objections have been received in regard to external refrigeration and air conditioning units, the external compound and air pumps and car vacuum. To the side closest to 5 Beacon Hill is the car wash building with open ingress and egress; next to the ingress is the existing air conditioning/refrigeration plant. The car wash would be removed and replaced with an enclosed shop building and enclosed compound. While not indicated on the submitted drawings the rear garden to no. 5 joins the boundary with the site (the drawings suggest this is land to the rear of the sub-station). The enclosed compound would be next to this boundary and would include external plant. The ground levels of the proposal would continue to be lower than the garden of no. 5, with a maximum difference of 2.2m. At the boundary a new retaining wall stepped from 1.2m in height to 2.5m is proposed. It is behind the highest part of this wall where the external plant is proposed. The current air/vacuum units are located at the side of the building, they are proposed towards the front of the site, further away from housing.

Environmental Health and Pollution Control do not object to the application, Pollution Control recommend conditions to control the level of noise from fixed plant, which should be verified prior to the development being brought into use and the prevention of a tannoy system.

Residents also object to the floodlights and them causing light pollution. The application shows three 5m high lighting columns next to the road frontage and orientated towards the building. Subject to details on lighting levels and position it would be possible that the lights would not cause any further impact than the existing situation. The agent explains that there will be no lighting on the edge of the canopy. Details of lighting can be required by condition and this can also include the use of zonal lighting to ensure areas closest to houses can be appropriately dimmed or turned off during the late evening operation. It is also considered necessary that lights and any illuminated advertisements are turned off when the petrol station is not open for business.

Concern has also been raised about increased rubbish and food attracting vermin. It is considered reasonable for a condition requiring details of refuse bins and their retention to ensure provision for appropriate rubbish disposal. While the site could continue to sell food as the current use, subject to appropriate management it is not considered the proposal would give rise to vermin that would warrant the refusal of the planning application. Environmental Health raise no concern about this. Objections on the ground of loss of property values are not a material planning consideration.

The location of the shop and lower ground levels means that the building would not have an adverse impact upon outlook from either of the neighbouring properties. While parts of the building could be viewed from the rear gardens there is a 1.8m high boundary fence that provides a partial screen. To the boundary with number 5 this is on top of the existing retaining wall which is proposed to be replaced. A condition is required for full boundary details and the retention of boundaries.

The occupier of number five has conifer trees and shrubs immediately next to this boundary and raised objections to them having to be removed as a consequence of works. The tree officer has considered the presence of the existing retaining wall and fences. The conifers have a shallow and not too extensive root system and would be expected to be resilient to any works and remain relatively unaffected by the proposal.

Objections have been received about the size and proximity of the canopy to houses. For number 5, the canopy would be 22m from the side of the house and would therefore have no significant impact upon outlook. 1a Aldridge Road has dormer windows to each of the four roof planes. The northern bedroom window faces the forecourt of the petrol station with a 5-6m high conifer within the grass verge in the application site. There are three cypress trees along this boundary which are proposed to be removed; their removal would allow more light into this window. The window would be 11m from the new canopy. Due to the open nature of the canopy, the north facing window, the removal of three trees, but the retention of the central conifer tree, it is not considered the structure would result in a significant loss of existing outlook to this window or cause a loss of light.

Comments have also been received about the development resulting in a loss of view. Planning case law has established that nobody has a right of a view, but a reasonable level of outlook. For the reasons explained, the development is not considered to cause harm in this respect.

Concern has also been raised about the four 5m high vent stacks located towards the front of the site next to the boundary of the substation. From the visual point of view they would be seen in the context of the existing street furniture of road traffic signs, bus stop and lamppost and would not cause a significant harm. There are also objections on the grounds of air quality from increased fuel emissions from the site. Pollution Control have considered the application and make no objections.

One objector seeks to be consulted on any landscaping details and demolition plans. The application does not include full landscape details, which are necessary and can be provided through a condition. Condition discharge applications are not required to be subject to public consultation, but will serve to ensure compliance with planning policies in regard to impact on the environment and residential amenity.

### **Impact on community safety**

Objections have been received that the development will attract criminal activity and any security cameras must not be directed towards houses. The Police do not object to the application but note that there has been an increase in drive off offence nationally where offenders make off without paying for fuel. The Police recommend the use of a comprehensive CCTV system across both the forecourt and the shop. Ram bollards are proposed in front of the shop and ATM. A condition requiring CCTV is considered necessary. Accordingly it is considered security can be managed across the site. Any condition discharge application will need to demonstrate that CCTV does not overlook neighbouring houses. Concerns about anti-social behaviour in the early hours is addressed by the 6am to 12am opening hours of the petrol station.

### **Car parking, manoeuvring and access arrangements**

The proposal includes 10 demarcated parking spaces and also the spaces next to the eight fuel pumps. Transportation do not object to the application, but recommend conditions which are considered necessary. Due to the increased size of the shop and its attraction to use by nearby residents a pedestrian crossing facility to the Aldridge Road arm of the roundabout is required, as too are tactile crossings on both of the accesses. Parking spaces are required to be demarcated and retained. A scheme for the signing and lining demonstrating a one way operation of the site is required as is the provision of a cycle stand facility.

There is an objection that the air pumps and car vacuum would hinder views of motorists. The application has been assessed and provides the necessary visibility splays that would not pose a risk to highway safety.

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

Officers have liaised with the applicant's agent during the application process resulting in amendments to the proposal to enable full support of the scheme.

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

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

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

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

- Location plan received 17.5.14
- Existing elevations (14978-21) received 17.5.13
- Layout as existing (14978-20) received 17.5.13
- Proposed planning layout (14978-22 Rev E) received 30.5.14
- Proposed planning elevations (14978-23 Rev D) received 30.5.14
- Environmental Investigation Report (12958 CL 001) received 17.5.13.
- Letter supporting Environmental Investigation Report received 5.7.13.
- Design and Access Statement received 17.5.13
- Additional information in regard to Centre Policies received 5.7.13.
- Noise Impact Assessment received 12.2.14

*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 a scheme that includes the following components to deal with the risks associated with contamination of the site shall each have been submitted to and approved in writing by the Local Planning Authority:

i) A preliminary risk assessment which has identified:

all previous uses

potential contaminants associated with those uses

a conceptual model of the site indicating sources, pathways and receptors

potentially unacceptable risks arising from contamination at the site.

ii) A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.



iii) The results of the site investigation and detailed risk assessment referred to in (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

3b. The development shall be completed in accordance with the approved details.

*Reason:* To ensure that the proposed redevelopment does not cause pollution of controlled waters receptors.

4a. The development shall not be brought into use until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation has been submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan.

4b. The long-term monitoring and maintenance plan shall be implemented as approved.

*Reason:* To ensure that the agreed remediation strategy is implemented to protect controlled waters receptors.

5a. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval to these works from the Local Planning Authority.

5b. The remediation strategy shall be implemented as approved.

*Reasons:* To protect controlled waters receptors

6a. No development shall commence until a scheme to install the underground tank(s) has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include the full structural details of the installation, including details of: excavation, the tank(s), tank surround, associated pipework and monitoring system.

6b. The approved scheme shall be fully implemented and subsequently maintained, in accordance with the scheme.

*Reason:* To ensure protection of the quality of controlled waters receptors.

7a. No development shall commence 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.

7b. The scheme shall be implemented as approved and maintained.

*Reason:* To protect the quality of controlled waters in the local area and to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

8a. No infiltration of surface water drainage into the ground or groundwater is permitted other than for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. Any details shall first be submitted to and approved in writing by the Local Planning Authority.

8b. The development shall be carried out in accordance with the approval details and maintained.

*Reason:* To protect the quality of controlled waters receptors in the local area.

9a. No development shall commence until details of all boundary treatment, including materials and finishes have been submitted to and approved in writing by the Local Planning Authority.

9b. The approved details shall be implemented prior to the development first being brought into use. The approved boundary to 5 Beacon Hill shall be retained at all times.

*Reason:* In the interests of visual amenity and protecting the amenity of neighbouring occupiers.

10a. No development shall commence until a schedule for all external materials to be used within the development has been submitted to and approved in writing by the Local Planning Authority.

10b. The development shall be built in accordance with the approved materials and retained.

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

11a. No development shall commence until:

i) a signing and lining layout drawing details demonstrating the one-way operation of the site whereby access shall be via Aldridge Road and egress via Beacon Hill have been submitted to and approved in writing by the Local Planning Authority.

ii) the provision of at least 1 cycle stand for the use of staff or customers to be located in convenient location near the store entrance.

11b. The signing and lining and the one-way access arrangement and cycle stand facility shall be fully implemented in accordance with the approved details prior to the development first coming into use and shall thereafter be retained.

*Reason:* In the interests of highway safety and to encourage sustainable travel.

12a. No development shall commence until full engineering details of the following improvements to the existing highway infrastructure have been submitted to and approved in writing by the Local Planning Authority:

i) The provision of a pedestrian crossing facility across the Aldridge Road arm of the roundabout, which shall include the provision of a section of 2m wide footway as a spur from the existing footway around the periphery of the Foley Arms car park on the southern side of the junction to a point opposite the splitter island (where the present salt bin is located), the provision of dropped kerbs with tactile paving at the footway terminus, on both sides on the splitter island and tactile paving added to the existing pedestrian dropped kerb on the northern side of the junction.

ii) The provision of tactile dropped crossings on either side of the unaltered bellmouth access point on Aldridge Road and also on either side of the widened bellmouth access point on Beacon Hill.

iii) The widening of the bellmouth access on Beacon Hill.

12b. The approved details shall be fully implemented prior to the development first coming into use.

*Reason:* To improve pedestrian links.

13a. No development shall be carried out until full details of hard and soft landscaping works have 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 future management of the landscape scheme.
- Ground preparation measures to be adopted.
- Existing and proposed levels.

13b. The approved scheme shall be implemented before the development is brought into use and retained for 5 years and managed in accordance with the approved management details.

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

14a. The development shall not be brought into use until full details of floodlighting and/or security lighting have been submitted to and approved in writing by the Local Planning Authority. Details shall include a scheme of illumination levels, angles of light direction, lighting zones and management of lighting zones.

14b. The development shall be carried out in accordance with the approved details, retained and maintained.

14c. The operation of any floodlighting and non- motion sensor operated security lighting shall be confined to those times when the site is open for business in accordance with the terms of condition 19 below and zoning times approved under the terms of condition 14a.

*Reason:* To safeguard the amenities of the area.

15a. The development shall not be brought into use until details of the location of a litter bin has been submitted to and approved in writing by the Local Planning Authority.

15b. The litter bin shall be available for use prior to first operation of the petrol filling station and available during opening hours and retained.

*Reason:* In the interests of visual amenity.

16a. The development shall not be brought into use until details for CCTV covering the inside of the shop and the forecourt area has been submitted to and approved in writing by the Local Planning Authority.

16b. The approved details shall be implemented before the development is brought into use and thereafter retained in working order.

*Reason:* In the interests of security and preserving residential amenity.

17a. Prior to the development first coming into use, all parking and vehicle manoeuvring areas shown on the approved plan, shall be fully consolidated, hard surfaced and drained and the parking bays clearly demarcated on the ground.

17b. These areas shall thereafter be retained and used for no other purpose.

*Reason:* To ensure the satisfactory completion and operation of the development.

18a. Prior to the development being brought into use verification that fixed plant, machinery and equipment designed, selected and installed to achieve in combination a Noise Rating of NR 35 or less at 1 metre from the façades of bedroom windows at residential premises between the hours 23.00 and 07.00 shall be provided for written approval by the Local Planning Authority.

18b. The fixed plant, machinery and equipment shall continue to be operated at these standards.

*Reason:* To protect the amenity of neighbouring occupiers.

19. The fuel pumps, service shop and air/water facility shall only be open for business between the hours of 06.00 and 00.00 Monday to Sunday.

*Reason:* To safeguard the amenities of neighbouring occupiers.

20. All deliveries with the exception of fuel shall only take place between the hours of 07.00 to 21.00 Monday to Sunday.

*Reason:* To safeguard the amenities of neighbouring occupiers.

21. Fuel deliveries shall only take place between the hours of 06.00 and 00.00 Monday to Sunday.

*Reason:* To safeguard the amenities of neighbouring occupiers.

22. There shall be no provision of vacuum, car wash, jet wash or hand washing facilities.

*Reason:* To define the permission.

23. There shall be no lighting of display signs between the hours of 00.00 and 06.00.

*Reason:* To safeguard the amenities of occupants of adjoining premises.

24. The shop shall be used for the sale of convenience goods. It shall not be used for the sale of comparison goods except for the ancillary sale of goods for motorists (such as engine oils, de-icer, car care products and maps). The premises shall not be used, in whole or in part, as a post office or pharmacy.

*Reason:* To ensure retail facilities which have a role in serving the wider community are provided and retained in existing centres.

25. The site and buildings shall remain in single occupation and shall not be subdivided to form two or more units in separate occupation. If at any time the petrol filling station ceases trading, the associated shop shall also cease trading.

*Reason:* In the interests of avoiding harm to the vitality and viability of existing centres.

26. There shall be no increase in the size of the sales area shown on the approved plans.

*Reason:* In the interests of avoiding harm to the vitality and viability of existing centres.

27. No public address facility, tannoy system, radio, electrical or electronic sound production or amplification system or similar device, which could be audible beyond the boundary of the site, shall be installed internal or external to any building or structure.

*Reason:* To protect the amenity of neighbouring occupiers.

28. No demolition 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 07.00 to 18.00 weekdays and 08.00 to 13.00 Saturday s unless otherwise permitted in writing by the Local Planning Authority. 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 purposes shall be: Christmas Day; Boxing Day; New Year's Day; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)*

*Reason:* In the interests of the amenity of adjoining residents.

29. The noise from the site shall meet the limits set out in the World Health Organisation Guidelines for Community Noise to avoid annoyance and sleep disturbance.

*Reason:* To protect the amenity of neighbouring occupiers.

#### Note to the Applicant

The applicant will be expected to enter into an agreement under S278 of the Highways Act 1980 in respect of all works within the public highway.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 11.**

**Reason for bringing to committee:** Departure from the development plan

**Application Number:** 14/0712/FL  
**Application Type:** Full application

**Case Officer:** Paul Hinton  
**Telephone Number:** 01922 652607  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Mr Adrian Carey

**Applicant:** Mr Adrian Carey

**Proposal:** Substitution of house type and garage on Plot 3 (previous planning permission 11/1188/FL). Revised application following refusal of application 13/1397/FL)

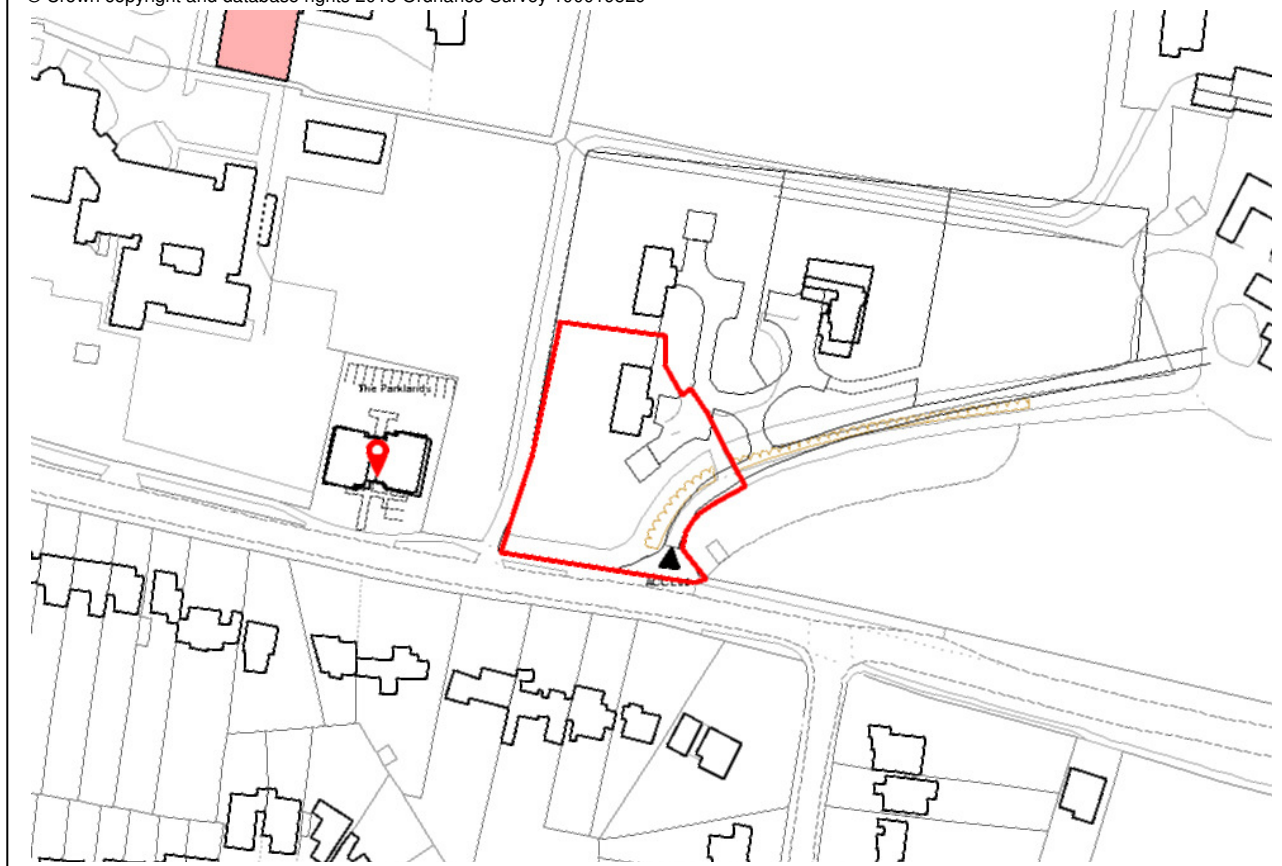
**Location:** 18 LITTLE ASTON ROAD, ALDRIDGE, WALSALL, WS9 0NN

**Ward:** Aldridge Central & South

**Expired Date:** 08/07/2014

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

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## **Application and Site Details**

This application seeks planning permission for a substitution of house type on plot 3 of this residential development of three houses and follows a recent refusal for a larger substitution. This is the site of the former Beacon View Children's home. Planning permission was approved for three houses originally in 2009 using the footprint of the previous building as very special circumstances to justify the development of new houses in the Green Belt. Plots 1 and 2 have been built and are being lived in. The land for plot 3 is vacant.

The application proposes the increase of the footprint of the approved plot 3 from 155m<sup>2</sup> (including the detached garage) to 170.6m<sup>2</sup>. The approved five bedroom house has a maximum width of 16.5m, with a detached garage of 5.6m set 1.7m away from the house. The approved roof is 8.6m high, with the approved house having a maximum depth of 8.9m. The proposed five bedroom house would have a linked garaged, making the maximum width of the house 21.6m, with a proposed roof height of 8.5m and a maximum proposed depth of 11.8m.

The further changes between the approved plot and the proposal are:

- Front and rear projecting feature gable walls, with secondary front gable projection.
- Linking the double garage to the house.
- Raising the height of the roof of the garage to include a studio above.
- Additional chimney.
- Casement dormer windows to the front and rear.
- Provision of a t.v. room and increased sized dining room at ground floor.
- Additional bedroom, and increased bedroom sizes at first floor.
- Playroom at second floor with en-suite to fifth bedroom.
- House orientated from a west orientated rear elevation, to a southwest orientation.

The house would be constructed out of facing brick with clay roof tiles with wooden frame windows within a stone surround with a brick plinth course to the base of the front and side elevation. Brick headers would be used above the garage doors, with hanging tiles to part of the first floor front elevation and between the front projecting bay windows.

Plot 1 has been completed with red facing brick, with hanging red tiles at first floor and a clay tile roof with a single projecting gable. Plot 2 has been built with render finish to the ground floor and double front and rear projecting gables, red hanging tiles at first floor and clay roof tiles. The plots are of individual architecture, but share common features. The application explains full material details are to be submitted for any later approval.

The proposed house would have a block paved drive behind a set of electric gates that are bounded by a continuation of the existing 1.8m high brick wall with shallow fencing infills that forms the front boundary to the other plots. There would be a 1.8m high close boarded fence set away 10m from the private access drive. There would be a 1.8m high close boarded fence to the rear of the site.

The site is located 260m from Aldridge District Centre on the busy A454 (District Distributor). The site is located within the West Midlands Green Belt and Aldridge Conservation Area. Access to the site is via a driveway shared with Aldridge Court Nursing Home (a locally listed building) which is located to the north east. The character of the surrounding area is spacious plots with trees and hedges along the boundaries. There is a sports ground set behind Little Aston Road, more recently built flats to the west and Cooper & Jordan School further to the west. Opposite the site there is a mix of dwellings of differing age and design

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set in spacious plots facing Little Aston Road. A public right of way (ALD33) runs between the apartments and the rear boundary of the plot.

To the front of the site along the boundary with Little Aston Road and along the side of the access site and within the application boundary are a group of sycamore, scots pine, beech, lombardy, birch and ash trees between 5m and 20m in height. A leylandii hedge forms part of the boundary with the public footpath.

The site area is 0.25ha which gives an indicative housing density of 4 dwellings per hectare.

#### *Design and Access Statement*

The proposed garage is switched to the northern part of the site and the house is turned to maximise the opportunity for the plot and the dwelling itself to benefit from the sun. It increases the separation between the rear windows in Plots 3 and the trees along the boundary. The dwelling would also have a better relationship with Little Aston Road, providing for an improved view of the house. The siting of the dwelling remains, on the whole, within the footprint of the original buildings that were demolished at Beacon View Children's home. The application represents an opportunity to secure additional landscaping within the site.

#### *Planning Statement*

Explains the development history of the site and considers the relevant planning policy on this previously developed land. Takes the view that the increase in the footprint of the proposal across the wider site in comparison with the footprint of the original children's home would not be materially larger and would not result in the development having a greater impact upon the openness of the Green Belt than the building that was originally replaced, therefore the proposal is not inappropriate development. The proposed dwelling is of a bespoke design that is of the highest order. The re-siting of the dwelling provides benefits of energy efficiency and to residential amenity. The proposed development would not result in encroachment into the surrounding countryside. The provision of a substantial dwelling on this site will bring with it the benefit of improving the choice of housing in the Black Country through the provision of aspirational housing. This is a sustainable location that has access to services and facilities that can be reached by foot, cycle or public transport.

### **Relevant Planning History**

#### Whole site

09/1134/OL – Outline application for demolition of existing building and development of 3 houses – Granted subject to conditions - October 2009. Access, layout and scale were determined at outline stage. A condition limiting the footprint of each of the houses to no greater than 131 sq m and ridge height of 7.5m was included to safeguard the amenity of the green belt.

10/0866/FL – Construction of 3 new dwellings – granted subject to conditions October 2010. The combined footprint of the three houses was approved at 436m<sup>2</sup>. There was also a condition removing permitted development for extensions and alterations, outbuildings and hard surfacing.

#### Plot 1

10/1424/FL – Enlarged house on plot 1 – Granted subject to conditions - December 2010, including the removal of permitted development rights for extensions and outbuildings. This increased the footprint of the approved house on plot 1 by 9m<sup>2</sup>. Total footprint of 201m<sup>2</sup>



### Plot 2

11/1487/FL – Proposed alterations to dwellinghouse design on extant planning permission 10/0866/FL consisting of: The removal of basement and substitution of ground level attached garage. Minor roof changes, rear elevation projection, internal layout alterations and consequential window changes. The removal of existing sycamore tree and provision of two tree plantings. Granted subject to conditions March 2012, including the removal of permitted development rights for extensions and outbuildings. This increased the footprint of the approved house on plot 2 by 45.5m<sup>2</sup> Total footprint of 173.7m<sup>2</sup>

### Plot 3

11/0544/FL - Substitution of house type on Plot 3 to delete basement & erection of a detached garage – Refused July 2011 for the following reason:

*“1. The applicant has failed to demonstrate that there are any very special circumstances to outweigh the harm to the openness of the Green Belt caused by the additional footprint of the garage and further dispersal of buildings within the site. The proposed double garage is inappropriate development in the Green Belt and exceeds the footprint that was calculated as being not materially larger than the original buildings on site as specified in the outline consent 09/1134/OL. For these reasons the proposals are contrary to the aims of saved policies ENV2, ENV3 and ENV4 of Walsall Unitary Development Plan and PPG2: Green Belts.”*

11/1188/FL – Substitution of house type to delete basement and erection of a detached garage (resubmission following refusal of 11/0544/FL). Granted subject to conditions November 2011, including the removal of permitted development rights for extensions and outbuildings. This increased the footprint of the approved house on plot 2 by 45.5m<sup>2</sup> Total footprint of 155m<sup>2</sup>

13/1397/FL - Substitution of house type and garage on Plot 3 (previous planning permission 11/1188/FL) Refused for the following summarised reasons on 3/12/13:

1. Increased footprint, floorspace, built volume, height and width would be inappropriate development in the Green Belt to which no very special circumstances exist
2. Would appear incongruous and unrelated to the surrounding development causing harm to the character and appearance of the area

## **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.

9, Protecting Green Belt land

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

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 New buildings are inappropriate in the Green Belt. Except:

- Limited infilling or the 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.

11. Conserving and enhancing the natural environment

109. The planning system should prevent new and existing development from contributing or being put at unacceptable risk from, or being adversely affected by unacceptable levels of...air...or noise pollution.

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

12 Conserving and enhancing the historic environment

126 Heritage assets are an irreplaceable resource.

131 Take account of: Desirability of new development making a positive contribution to local character and distinctiveness.

133 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.

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.

CSP1: A network of Regeneration Corridors linking the Strategic Centres will provide: high quality employment land, new homes in sustainable communities built on redundant employment land and other brownfield sites close to existing public transport routes and canal networks and locations with the best access to residential services, at moderate densities that allow for a range of house types.

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.

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. Meeting Code for Sustainable Homes Level 3 or above.

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.

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

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 a) In the Green Belt there will be a presumption against the construction of new buildings except for the following purposes:

v. limited infilling or redevelopment of major existing developed sites in accordance with 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 vii. The cumulative physical effect of proposals in any one area.

ENV4: b) Redevelopment of major developed sites may be permitted provided they have (i) no greater impact (and where possible less impact) than the existing development on the openness and purposes of the Green Belt, (ii) the height of existing buildings is not exceeded and (iii) the area to be covered by buildings would not occupy a larger area than the aggregate floor area of the existing buildings, unless it would achieve a reduction in height which would benefit visual amenity.

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.

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.

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

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:

I. Within a Conservation Area

IV. Adjacent to transport corridors.

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

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.
- VI. The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- VII. The effect on the local character of the area.

ENV33: Good landscape design is an integral part of urban design

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, and be well designed.

T10: Accessibility Standards – General

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

i small residential developments within existing residential areas including infill plots

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

T13: Parking Provision

4 bedroom houses and above	3 spaces per unit
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It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF

### **Supplementary Planning Documents (SPD)**

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

### **Designing Walsall (Feb 2008)**

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

Design Principle – Homes: Plot sizes and built density will relate to their local context.

Common building lines along road frontages must be maintained.

Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity. Minimum guidelines are contained in Appendix D, however greater distances maybe applicable where it is in the interests of protecting the character of an area.

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.

### **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.

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

Section 72(1) with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

### **Consultations**

**Transportation** – no objection subject to the use of recommended conditions in regard to provision and retention of access and parking areas.

#### **Pollution Control:**

*Contaminated Land Team* – no objection.

*Scientific Team* – no objection.

**Conservation Officer** – no objection.

**Trees** – to be reported.

**Environmental Health** – no objection.

**Natural Environment** – no objection.

**Walsall Group of the Ramblers** – no objection.

**Severn Trent Water** – to be reported.

**Fire Service** – no objection.

### **Public Participation Responses**

One letter has been received objecting to the application on the following grounds:

- Other two houses have unsightly fence, the proposed fence would look shoddy.

### **Determining Issues**

- Whether the application overcomes the previous reasons for refusal in respect of:
  - Impact upon the openness of the Green Belt
  - Impact on the character and appearance of the area
- Impact on the amenities of the surrounding occupiers
- Access and parking

### **Observations**

#### **Impact upon the openness of the Green Belt**

The planning permission for three new houses in the Green Belt, replacing a vacant children's home was granted on the basis that the houses would not have an increased impact on the openness and character of the Green Belt beyond that which was associated with the previous use. The footprint of the children's home and garage was 436m<sup>2</sup>, with the three houses originally approved having an identical total footprint. Each plot has received separate planning permission for changes to plot types; incrementally increasing the total permitted floor area to 529m<sup>2</sup> (plot 1: 201m<sup>2</sup>, plot 2: 173m<sup>2</sup>, and plot 3: 155m<sup>2</sup>), with permitted development rights for extensions and outbuildings removed.

The history of the change in plot types is relevant to this application:

For plot 1, the 9m<sup>2</sup> increase was not considered to have a greater impact on the openness and character of the Green Belt.

For plot 2 the increased footprint of 45.5m<sup>2</sup> was acceptable on the basis that the overall approved floor area was reduced by the removal of the basement area and the proposed surface level garage was not dispersed across the site; it was considered that the proposal would not be detrimental to the openness of the Green Belt.

For plot 3 the increased footprint of 32.4m<sup>2</sup> was acceptable on the basis that the overall approved floor area was also reduced by the removal of the basement area and the surface level garage was not dispersed across the site; concluding that the proposal would not be detrimental to the openness of the Green Belt.

The proposed substitution of house type would increase the mass of plot 3 and would increase the approved footprint from 155m<sup>2</sup> to 170.6m<sup>2</sup> a 9% (15.6m<sup>2</sup>) increase for this plot.

The footprint of the whole site would increase from the approved total footprint of the site from 529m<sup>2</sup> to 544.6m<sup>2</sup>, an increase of 3%.



Green Belt policy is to prevent urban sprawl by keeping land permanently open. New buildings are inappropriate development in the Green Belt except the complete redevelopment of previously developed sites which would not have a greater impact on the openness of the Green Belt than the existing development – these were the circumstances that justified the original three houses. Inappropriate development is harmful to the Green Belt and should not be approved except in ‘very special circumstances’, these circumstances do not exist unless the harm to the Green Belt is clearly outweighed by other considerations.

As a matter of fact and degree the increase in the size of the house over and above that previously approved would result in a development that has a greater impact on the openness of the Green Belt than the original children’s home. As a consequence and by definition the proposal is inappropriate development that has harm upon the openness of the Green Belt.

In the Planning Statement the application puts forward a number of points as very special circumstances to support the proposed development, which are considered below:

*1) Re-siting of the dwelling provides benefits of energy efficiency and to residential amenity*

The approved plot has its rear elevation and patio facing due west, with one kitchen window and bedroom window to the south elevation facing the detached garage. The new orientation would ensure lounge, dining, family, kitchen and three bedroom windows would receive increased sun light for a longer period of the day. This would be to the benefit of energy efficiency and residential amenity.

*2) Increases the separation between the rear windows in Plots 3 and the trees along the boundary.*

The rear windows of the approval are 15.6m from the tree belt to the western boundary, the orientation would increase the separation to between 18m and 35m.

*3) A better relationship with Little Aston Road, providing for an improved view of the house.*

The approved house has its side elevation facing Little Aston Road, with a detached garage in between. The proposed plot would present views of both the side and rear of the proposed house with visual breaks in the form of windows, an attractive feature chimney breast, breaks in the roof and different external materials. The proposal would have a greater interaction with the street, increasing public views of the building to the benefit of visual amenity.

*4) Not result in the development having a greater impact upon the openness of the Green Belt than the building that was originally replaced*

The total width of approved built development (the house and detached garage) is 22.1m; the proposed house with linked garage would be narrower at 21.6m. The height of the house would be decreased by 0.1m with the maximum depth increased by 2.9m. This larger house would have a greater presence in the Green Belt and therefore would reduce its openness. The 2.9m increase in depth would be for a small width of the property with the use of materials and its design ensuring the proportions are not disproportionate or over dominant. Considering the context of the two large detached houses, from the public realm this increase would not appear significant and therefore would not cause significant harm.

*5) The proposed dwelling is of a bespoke design that is of the highest order.*

The approved plot is of a bespoke design. The proposal looks to enhance the approved design by improving its relationship with the street, the energy efficiency credentials and the residential amenity for potential occupiers. This would be an attractive development.

- 6) *The proposed development would not result in encroachment into the surrounding countryside.*

The development would be contained within the boundaries of the site as established by the original residential permission.

- 7) *The provision of a substantial dwelling on this site will bring with it the benefit of improving the choice of housing in the Black Country through the provision of aspirational housing.*

The existing planning permission and the proposal would provide a five bedroom house within a sustainable location.

This would be a larger house in the Green Belt and accordingly would be inappropriate development. The most important attribute of Green Belts is their openness, which can be interpreted in the sense of freedom from development. The increase of the footprint by 15.6m<sup>2</sup> would not be significantly larger than the approved house. In the context of the existing approval and the other two properties, the increased footprint and massing would not have a further significant impact upon the openness of the Green Belt. As discussed above, very special circumstances have been presented providing environmental, amenity and design benefits that in this case outweigh the harm this larger house would have on the openness of the Green Belt. In the circumstances it is considered that this inappropriate development is outweighed by very special circumstances and therefore the first reason for refusal of the previous application has been overcome. As with previous permissions, it is necessary to remove permitted development rights to ensure the remaining openness of this part of the Green Belt is maintained.

#### **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 to preserve or enhance the character of the area. Policies CPS4, HOU2, ENV2, ENV3 of the BCCS; GP2, 3.6, ENV29 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.

Each of the three plots are of individual design, they have simple horizontal proportions that give the buildings modest appearance. This development is a different character to other houses along Little Aston Road. The houses have one central gable feature, with hanging tiles at first floor and a narrow depth. The houses are broadly an oblong shape, with an unfussy appearance. The last application was refused due to the mass, proportions and architectural detailing. This application has reduced the mass of the building and its proportions and has scaled down the different architectural features. The proposed design is individual but continues to retain key features previously approved on this and the other two plots, namely hanging tiles and front projecting bays. This is an attractive design as a result of good architecture. The proposal would not have an adverse impact upon the character and appearance of the area and due to its relationship with the other two plots would preserve the visual amenity of the Conservation Area. The second reason for refusal has been overcome.

One letter has been received objecting to the application on the grounds of an unsightly fence. The garden boundary would run parallel with the back of the pavement with a cluster of trees to this boundary. A boundary fence in this location in front of the trees would appear out of character. The proposed boundary at this location is unclear, details can be provided

as part of a condition which would require the fence to be set back from the highway and behind some of the trees. This would ensure visual amenity and security is maintained.

### **Impact on the amenities of the surrounding occupiers**

The development would increase the separation between plot 2 compared to the approved layout. Its amended orientation would result in the front of the house positioned towards the front drive of plot 2. There would be a separation 19m between the front of the proposal and the boundary fence to the front garden and drive, with the front bedroom window of the proposal 25m from the secondary window to the master bedroom. The proposal would be sufficiently located so not to give rise to a loss of outlook or privacy. The proposal would be 53m from plot 1 and would have no impact.

The rear garden length has been increased from 15m to a maximum of 35m, which would be to the benefit of the amenity of future occupiers.

### **Access and parking**

A large drive and double garage are proposed to ensure that the development has enough parking spaces to meet its needs. Transportation raise no objection to the application subject to the use of conditions in regard to the provision and retention of access and parking areas that are recommended.

### **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 1 new home.

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**

The nature of the application has not required proactive working with the applicant to enable full support to be given to the scheme.

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

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

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

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

- Location plan (4149.99) received 13/5/14
- Proposed site layout (9404.PL.02 D) received 13/5/14
- Proposed floor plans (9404.PL.04 B) received 13/5/14
- Proposed elevations (9404.PL.06B) received 13/5/14

*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 be carried out until a schedule of facing materials to be used in the external walls, roofs, windows, doors and rainwater goods have been submitted to and approved in writing by the Local Planning Authority.

3b. The approved scheme shall be implemented in accordance with the submitted details.

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

4a. No development shall commence until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority.

4b. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

5a. No development shall commence until details to incorporate bat roosting features into the dwelling hereby approved have been submitted to and approved in writing by the Local Planning Authority. The proposals may provide access to bats to cavity walls or under roof tiles and/or incorporating purpose made Schwegler-type roosting boxes into the fabric of the building.

5b. The approved scheme shall be incorporated into the development before any part is brought into use and retained thereafter.

*Reason:* To conserve local bat populations.

6a. No development shall commence until details to incorporate bird nesting boxes in appropriate locations within the site have been submitted to and approved in writing by the Local Planning Authority.

6b. The approved scheme shall be incorporated into the development before any part is brought into use and retained thereafter.

*Reason:* To conserve and enhance local nesting bird populations.

7a. No development shall commence until a detailed landscaping scheme which takes account of the ecological appraisal of September 2009 for the wider site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include;

development site boundaries, enhancing hedgerows, the creation of diverse ground flora, creation of habitat to perpetuate habitats for birds within the site, enhancing and reinforcing the existing habitats.

7b. The approved scheme shall be implemented within 12 months of the development completed.

7c. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs or plants which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted, unless otherwise agreed in writing with the Local Planning Authority.

*Reason:* In order to define the permission and to safeguard the visual amenity of the Conservation Area, Green Belt and natural environment of the site and the immediate vicinity.

7a. No development shall commence on site until boundary details have been submitted to and approved in writing.

7b. The development shall be completed in accordance with the approved details and retained thereafter.

*Reason:* To ensure the satisfactory appearance of the development and to secure the site.

8a. Prior to the commencement of development full details of proposed external lighting to be installed on the site shall be submitted to and approved in writing by the Local Planning Authority.

8b. The development shall be completed in accordance with the approved details

*Reason:* To safeguard the visual amenities of the area.

9a. No development shall commence until details of proposed measures to achieve a high quality sustainable design to meet code level 3 of the Code for Sustainable Homes have been submitted to and approved in writing by the Local Planning Authority. Examples may include the following:

- 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)
- Measures to reduce water consumption (e.g. recycling surface water or grey water)
- Responsible sourcing of materials
- Reduction of surface water run-off (e.g. surface water management and management of flood risk)
- Household recycling, construction waste management and composting facilities
- Means of reducing pollution and emissions
- Health and wellbeing measures (e.g. daylighting, sound insulation, private space, Lifetime Homes)
- Management opportunities (e.g. home user guide and considerate constructors scheme)
- Ecological enhancements

9b. The development shall be carried out in accordance with the approved details, and the dwellings shall not be occupied before the approved facilities have been 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.

10. None of the existing trees on the site shall be lopped, felled or root pruned without the prior consent in writing of the Local Planning Authority.

*Reason:* To safeguard the trees in the Conservation Area on site.

11. The approved tree protection measures and fencing detailed in the Arboricultural Report dated 10 July 2009 approved under permission 10/0866/FL shall be fully implemented 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 5837:2005.

*Reason:* To safeguard the trees in the Conservation Area on site.

12. During site preparation and building operations no storage of materials, equipment or waste, nor passage of vehicles, nor lighting of fires shall take place beneath the canopy of any tree to be retained.

*Reason:* To safeguard the trees in the Conservation Area on site.

13. No digging of trenches or changes in ground level shall be undertaken within the canopy of any tree to be retained on the site without the written approval of the Local Planning Authority.

*Reason:* To safeguard the trees in the Conservation Area on site.

14. Before this development is brought into use, the accessways, vehicle parking and manoeuvring areas shown on the approved plans shall be surfaced of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwelling. The areas shall thereafter be retained and used for no other purpose.

*Reason:* To ensure the satisfactory provision of off-street parking.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, the garage shall be retained for the purposes of a garage and shall not be altered to deprive the house of garage facilities and no development within Schedule 2, Part 1, Classes A, B, C, D, E, F and G of the Order shall be carried out to the dwelling without first obtaining separate planning permission..

*Reason:* To enable the Local Planning Authority to retain effective control over future development of this site and the Green Belt and ensure maintenance of adequate garage facilities for the house.

16. 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 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. 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.

#### Note for applicant

##### *Severn Trent Water*

Severn Trent Water advises that 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 diverted without consent. The developer is advised to contact Severn Trent Water to discuss proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note when submitting a Building Regulation 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 metres 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. If you require any further information please contact Miss Jaz Kaur Jeer on 01902 793883.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 12.**

**Reason for bringing to committee:** Departure from Development Plan

**Application Number:** 14/0454/FL

**Application Type:** Full application

**Applicant:** Mr & Mrs T Singh

**Proposal:** Erection of 1no. dwelling house, formation of new vehicular access with associated works (re-submission of application 11/0232/FL).

**Location:** 350 CHESTER ROAD, WALSALL, WS9 9DE

**Ward:** Aldridge North and Walsall Wood

**Case Officer:** Barbara Toy

**Telephone Number:** 01922 652615

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** CT Planning Limited

**Expired Date:** 26/05/2014

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

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### **Application and Site Details**

The site is located on the western side of Chester Road (A452) which forms part of the Strategic Highway Network within the Borough. The site is currently vacant and the workshop buildings and sheds connected with the previous B1 light industrial use have mostly been demolished. The majority of the site is hardstanding with the existing vehicle access located at the northern end of the site frontage from Chester Road.

The A452 Chester Road is subject to a 50mph speed limit within the vicinity of the site. Chester Road forms the boundary between Walsall MBC and Lichfield DC. The land on the opposite side of Chester Road comprises Green Belt land within Lichfield DC. To the south the site is bordered by 370 Chester Road, as residential property. The character of the surrounding area is generally rural, interspersed with small groups of dwellings. The land to the north and west is extensive woodlands with Shire Oak Park SINC, Local nature Reserve and Castlebank Plantation SLINC beyond. The site is situated within the Green Belt.

This application seeks to erect a 6 bedroom detached house with new vehicular access onto Chester Road, as a renewal of planning application 11/0232/FL.

The house would have a footprint of 244sqm and a ridge height of 7.9m and would be positioned perpendicular to Chester Road with a new vehicle access created approx 14m to the south of the existing access to the site with new gates set back 7m from the road.

The house would be of a bespoke design incorporating a blend of traditional and contemporary styling and a mix of stone render, facing brickwork and with a hipped natural slate roof.

Planning consent for this house was granted in April 2011, but due to the significant works required to discharge all the pre-commencement conditions work has failed to start on site within the 3 year time limit on the approval, hence this resubmission.

A Design and Access statement and a Planning Statement have been submitted in support of the proposal.

The site area of 0.3ha would provide a density of 3 dwellings per hectare.

### **Relevant Planning History**

19/07/94 – appeal against Enforcement Notice. Notice corrected to read ‘light Industrial purposes’. Appeal allowed and Enforcement Notice quashed, planning permission granted for the use of the land and premises for light industrial purposes subject to safeguarding conditions regarding hours of use, storage and B1 use only.

07/1443/FL/E9, Demolition of existing buildings and erection of 2 x four bed houses, formation of new vehicular access, landscaping and associated works. Granted subject to Conditions 08/04/2008.

11/0232/FL, erection of 1 x 6 bed house, formation of new vehicular access with associated works, granted subject to conditions 05-04-11.

11/0414/TE, time extension on 07/1443/FL/E9 for demolition of the existing buildings and erection of 2 x four bed houses, formation of new vehicular access, landscaping and associated works, granted subject to conditions 27-06-11.

### **Relevant Planning Policy Summary**

## **National Planning Policy**

### **National Planning Policy Framework (NPPF)**

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

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

- Proactively drive and support sustainable economic development to deliver homes
- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas
- Reuse land that has been previously developed
- Contribute towards conserving and enhancing the natural environment

#### 6: Delivering a wide choice of high quality homes

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 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

#### 11: Conserving and Enhancing the Natural Environment

123. Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development

#### 9. Protecting Green Belt Land

80. identifies the five purposes of Green Belts which are:

- *to check the unrestricted sprawl of large built-up areas*
- *to prevent neighbouring towns merging into one another*
- *to assist in safeguarding the countryside from encroachment*
- *to preserve the setting and special character of historic towns*
- *to assist in urban regeneration by encouraging recycling of derelict and other urban land*

81. states local planning authorities should plan positively to enhance the beneficial use of the Green Belt and to retain and enhance landscapes and visual amenity.

87. states inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

89. states the construction of new buildings is inappropriate in Green Belt except for specific purposes including:

- *buildings for agriculture or forestry*

- *provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within i*
- *replacement of a building provided the new building is the same use and not materially larger than the one it replaces*

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.

Annex 2 defines 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 the whole of the curtilage should be developed). This excludes land that is or has been occupied by agricultural or forestry buildings.

### **The Development Plan**

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

### **The Black Country Core Strategy (BCCS)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](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 above are supported by the following policies:

ENV1: Development within the Black Country will safeguard nature conservation, inside and outside its boundaries by ensuring that:

- development is not permitted where it would harm internationally (Special Areas of Conservation), nationally (Sites of Special Scientific Interest and National Nature Reserves) or regionally (Local Nature Reserve and Sites of Importance for Nature Conservation) designated nature conservation sites;

- locally designated nature conservation sites (Sites of Local Importance for Nature Conservation), important habitats and geological features are protected from development proposals which could negatively impact upon them.

HOU2: 3.12 The Black Country suffers from a lack of housing choice, which limits its ability to attract more households in Social Groups A and B. At present, one quarter of new market housing built in the Black Country is occupied by A and B households who are new to the area or who would otherwise have left. If the equivalent national level of A and B households in 2033 were to be achieved in the Black Country this would require all new market housing built over the Plan period to be occupied by A and B households. Factors most likely to attract A and B households are proximity to professional and managerial jobs, the appearance of the surrounding area and good schools. It will be important, therefore, that the various elements of the Core Strategy work together to achieve a level of transformation necessary to attract A and B households at the required levels.

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

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

### **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:

Policies 3.6 and 3.7 states that development should help to improve the environment of the Borough whilst seeking to protect people from environmental problems.

GP2: Environmental Protection

Development should be sustainable and contribute to environmental improvement and have no adverse effect on the countryside and the Green Belt.

Policy 3.3 states that the character and function of the Green belt will continue to be safeguarded, as part of the wider West Midlands Green Belt. Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

Policy 3.16 requires high quality design.

Policy 3.23 states that the Green Belt has a positive role to play in terms of retaining attractive landscapes.

ENV2: Control of Development in the Green Belt

In the Green Belt there will be a presumption against new buildings except in very special circumstances. Where development is acceptable in principle the siting, design, form, scale and appearance should be compatible with the surrounding area and careful consideration of the openness and character of the Green Belt.

ENV3: Detailed Evaluation of Proposals within the Green Belt

Proposals will be assessed for their impact on the Green Belt including:

- i. layout
- ii. siting, design, grouping, height and scale of buildings
- iii. colour and suitability of materials
- iv. use of redundant land and buildings for alternative uses
- v. quality landscaping

- vi. impact on significant views
- vii. cumulative physical effect in one area

#### ENV 4: Major Development Sites in the Green Belt

Criteria for determination of such applications include:

- No greater impact than the existing development on the openness or purposes of the Green Belt
- The height of the existing buildings would not be exceeded
- The area covered by the buildings would not occupy a larger area of the site.

#### ENV14: Development of Derelict and Previously-Developed Land.

The Council will encourage the reclamation and development of derelict and previously developed land.

#### ENV18: Existing Woodlands, Trees and Hedgerows

Seeks to protect, manage and enhance existing trees and where developments are permitted which involve the loss of trees developers will be required to minimise the loss and to provide appropriate planting of commensurate value.

#### ENV23: Nature Conservation and New Development

The layout of all development must take account of the potential for enhancement of the natural environment and the nature conservation opportunities provided by buildings by designing in features which provide roosting/nesting places for bats/birds etc.

#### ENV32: Design and Development Proposals

States that poorly designed proposals which fail to take account of the context or surroundings will not be permitted.

#### ENV33: Landscape Design

Good landscape design is an integral part of urban design and the Council will require planning applications to be fully supported by details of external layout and landscape proposals.

#### H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings.

Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

#### T7 – Car Parking

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

#### T13: Parking Provision

4 bed houses and above – 3 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:

#### **Designing Walsall SPD**

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

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

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

DW 10 – 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.

## **Consultations**

**Transportation** – No objections subject to conditions relating to the existing hedge along Chester Road and the existing and new vehicle access points. There is sufficient parking to meet UDP T13 requirements.

**Pollution Control Scientific Team** – No objections subject to condition to ensure acoustic glazing to habitable room windows is installed to protect the future occupiers from traffic noise.

**Pollution Control Contaminated Land Team** – No objections subject to additional works being implemented to investigate and remediate any localised ground contamination and ground gas issues associated with the site and its previous uses, appropriate conditions recommended.

**Fire Service** – No objections.

**Landscape Officer** – No objection subject to detailed landscaping condition.

**Natural Environment Ecology Officer** - The site is close to the Castlebank Plantation SLINC and adjacent to Shire Oak Park SINC along the site's northern boundary. The site has been cleared and no trees are to be felled therefore a bat survey is not required, but bat mitigation measures as the previous consent are recommended again.

However since the previous approval great crested-newt have been discovered in Shire Oak Park. There are three established ponds in the neighbourhood, two within 500m the accepted distance newts move to their breeding pond. Both ponds are in private ownership therefore it is not feasible to request the applicant to undertake surveys of the 2 nearest ponds. Conditions are therefore recommended to require a method statement for the dismantling of the rubble piles on the site and to ensure that the proposed landscaping scheme provide habitat for newts around the site.

**Tree Officer** – No arboricultural objections.

**Environmental Health** – No objections

## **Public Participation Responses**

None.

## **Determining issues**

- Principle of the use and Development within the Green Belt
- Design
- Access

## **Observations**

### **Principle of the use and Development within the Green Belt**

The principle of redevelopment of this site has been established by the previously planning consents 07/1443/FL/E9 in April 2008 and 11/0232/FL in April 2011. The justification provided in each occasion is that the proposed houses whilst higher than the existing buildings on the site would occupy a smaller footprint and would replace unsightly derelict buildings with a well designed environment. The amount of hardstanding would be

significantly reduced and the reduction in vehicle movements connected with the commercial use would be a positive enhancement to the site and surroundings. The current proposal to renew the 2011 consent for a single house would equate to 8% less than the footprint of the buildings that previously occupied the site and 12% less than the combined footprint of the two dwellings that were previously approved. The ridge height of the roof at 7.9 metres is 0.5 metres lower than the ridge height of the two previously approved dwellings.

The dwelling is to be sited perpendicular to the A452 Chester Road and would be largely screened from by the existing hedgerows along the frontage of the site.

It is considered that although the redevelopment of the site for residential purposes with new build would be regarded as inappropriate development in the Green Belt, the very special circumstances as detailed in 07/1443/FL/E9 and 11/0323/FL still exist and this smaller overall development would ensure that the development would have no greater impact on the openness, character or appearance of the Green Belt.

A landscape condition is attached to ensure that there is sufficient and appropriate planting around the site (especially where the existing access at the northern end of the site is to be closed) in keeping with the Green Belt location, and updated since the previous approval due to the discovery of Great Crested Newts on the adjoining site and the requirement for appropriate habitat for the newts.

### **Design**

The bespoke design of the house is a blend of traditional and contemporary styling and would provide an aspirational house within a special exclusive location.

The walls of the house are to be a mixture of stone render with facing brickwork and the hipped roof would be natural slate. The windows and doors are to be anodised aluminium to give the house a contemporary appearance. The BCCS aims to attract more affluent households to the district and therefore high quality design such as the proposed would be appropriate and comply with guidance.

The ridge height of the house is proposed to be 0.5 metres lower (7.9m) than the ridge height of the two houses previously approved. This lower height together with the existing hedgerow along the site boundaries would ensure that only limited views of the house would be visible from the road.

The proposed house has been designed in compliance with the 'Code for Sustainable Homes' to reduce the impact on the environment.

The proposed house would be set away from the existing boundaries and would have no adverse impact on the amenities of the adjoining residential occupiers at 370 Chester Road.

### **Access**

The proposals include the provision of a new vehicle access and the closure of the existing access to the northern end of the site. The access is proposed to be positioned 14m to the south of the existing access and approx 13 metres to the north of the new access approved for the two houses which was in the centre of the site.

The existing access has poor visibility in either direction along Chester Road, situated within a bend in the road. The new access position would provide improved visibility in both directions, which would have clear benefits from a highway safety point of view and would maximize the amount of south facing private amenity space to the new dwelling.

Whilst the proposals would necessitate the removal of a small section of the existing vegetation along the road frontage this is considered acceptable when weighed against the highway safety benefits of the proposals.

The proposals would represent a form of development that would attract less traffic particularly larger vehicles than the lawful commercial use of the site. Transportation have raised no objections subject to a condition to cut the hedgerow on the Chester Road frontage back to the site boundary to allow clear visibility in both directions.

### **Conclusion**

The principle of the development has been established by the granting of two previous planning consents for 2 houses in 2008 and for a single dwelling in 2011, the single dwelling would have a smaller footprint and lower ridge height than the two houses and the very special circumstances that existed which led to the grant of 11/0232/FL still exist and justify the proposal that would outweigh the harm caused by inappropriate development in the Green Belt. The only change in circumstances since the previous approval in 2011 is the discovery of Great Crested Newts on the adjoining land, the previous conditions have been amended to take this into consideration. As such the proposal is considered would comply with policy and is recommended for approval subject to conditions.

### **Summary of Reasons for Granting Planning Permission**

#### **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)

2a. No development shall commence until samples of all facing and roofing materials for the proposed house, plus all proposed hardsurfacing within the site have been submitted to and approved in writing by the Local Planning Authority.

2b. The development shall be completed with the approved details and retained as such.

*Reason:* To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

3a. No development shall commence on site until details of the disposal of both surface and foul water drainage have been 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. No development shall be carried out until full details of existing and proposed levels of the site, access way and floor levels for the proposed dwellings, have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site and any drainage or other works necessary to facilitate this development.



4b. The development shall be carried out and retained in accordance with these approved details.

*Reason:* In the interests of the amenity of the area and to ensure satisfactory development of the site.

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

i) Prior to built development of the dwelling commencing an additional site investigation, ground contamination survey and assessment of ground gas (as recommended in the Phase 2 Geo-Environmental Ground Investigation reference BRD2055-OR2-A dated January 2014), having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

ii) Prior to built development of the dwelling 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 of the dwelling 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)

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

6a. Prior to the commencement of any development on site detail of acoustic glazing and ventilation to habitable rooms with a facade onto Chester Road. The acoustic glazing and ventilation shall have a minimum sound reduction property of Rw38dB.

6b. The approved details shall be fully installed prior to the first occupation of the property and thereafter retained.

*Reason:* In order to protect the amenities of the future occupiers from road traffic noise.

7a. No development shall take place until details of the access gates and control system for the vehicle access have been submitted to and approved in writing by the Local Planning Authority.

7b. The development shall be completed with the approved details and retained in working order.

*Reason:* In the interests of securing the site.

8a. No development shall be carried out until a landscaping scheme, including boundary treatments, has been submitted to and approved in writing by the Local Planning Authority. The following information will be required:

- Preparation of land for planting.
- Specification and depths of topsoil/ subsoil/ growing medium and any mulches.
- Density of 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 including tree pit details.
- Boundary treatments. Including provision for native hedge planting and ground cover planting to provide cover for great crested-newts and other species likely to be present.
- Full hard landscape details and specification.
- Drainage/ SUDs.
- Lighting.
- Maintenance of soft landscaping scheme throughout establishment and operational phases.

8b. The scheme shall be completed in accordance with the approved details before the development is first occupied. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs of plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree. Shrub or plant of the same or greater size and same species as that originally required to be planted.

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

9a. No development or site clearance shall take place until a protective fencing scheme for the site has been received and approved in writing by the Local Planning Authority.

9b. The scheme will ensure that all trees, hedgerows and other ground flora habitats are protected from damage by machinery, fires, storage of materials, rubbish, welfare facilities and vehicles. The fencing type shall be capable of withstanding collisions with vehicles and machinery.

9c. The approved scheme shall be implemented prior to site clearance commencing and retained until development is complete.

*Reason:* To ensure there is no damage to boundary trees and shrubs.

10. No development or site clearance shall take place until a schedule of underground services for the site has been received and approved in writing by the Local Planning Authority.

10b. The schedule will show the locations of all underground services on a plan and shall demonstrate that all trees and hedgerows are protected from damage by the installation of all underground services required within the application site.

10c. The approved scheme shall be carried out only in accordance with the approved schedule.

*Reason:* To ensure there is no damage to boundary trees and shrubs.

11a. The development shall be constructed only in accordance with recommendations described in the Bat Mitigation Proposals report by S Christopher Smith dated 6/2/11 and submitted in support of the planning application 11/0232/FL. The key proposals are as follows:

- Two bat roosts constructed along the ridge tiles of the proposed building.
- A tawny owl box to be installed on a tree as indicated in the report.
- A little owl box to be installed on a tree as indicated in the report.

11b. The bat roosts and bird boxes shall be constructed/erected before any part of the development is brought into use and retained with entrances kept free of obstructions thereafter.

*Reason:* To conserve and enhance populations of local species.

12a. No external lighting scheme shall be installed other than in accordance with the recommendations described in the Bat Mitigation Proposals report by S Christopher Smith dated 6/2/11 and submitted in support of the planning application 11/0232/FL. Namely:

- There shall be no direct illumination of the new bat roosts installed.
- Any lighting installed shall be low wattage down lights at low level to provide security and safety lighting which will be set no higher than head height of the ground floor windows.
- Any security lighting shall use PIRs to ensure they turn off automatically once movement has ceased.
- Floodlighting of trees and buildings or parking areas shall not be permitted.

12b. All external lighting shall be carried out in accordance with the above requirements and thereafter maintained as such.

*Reason:* To conserve and enhance local wildlife habitats and species.

13a. No development or site clearance shall commence until a method statement for the clearance of rubble within the site is submitted to and approved in writing by the Local Planning Authority. The method statement shall include provisions for timing and a description of how the clearance of the land is carried out to avoid causing harm to any great crested-newts which may be present.

13b. The site clearance shall proceed only in accordance with the approved method statement.

*Reason:* To avoid mortality to great crested-newts.

14. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no development within Classes A, B, D, E and F of Schedule 1 to the Order shall be carried out to either dwelling without the prior submission and approval of a planning application.

*Reason:* To enable the Local Planning Authority to retain effective control over future development of this site and the Green Belt.

15. At no time shall vehicular access to the development be gained via the existing northern access point.

*Reason:* In the interests of highway safety.

16. Prior to the new vehicle access point first coming into use, the existing hedgerow along the Chester Road frontage shall be cut back to the site boundary between

600mm and 2 metres in height above ground level to allow a clear visibility envelope in either direction at the access point and the hedge shall thereafter be maintained in accordance with these requirements.

*Reason:* To ensure adequate visibility at the access point is maintained at all times in the interests of highway safety.

17. Prior to the development first coming into use, the driveway, vehicle hardstanding, manoeuvring areas and parking bays shall be fully consolidated, hard surfaced and drained and these areas shall thereafter be retained and used for no other purpose.

*Reason:* To ensure the satisfactory completion and operation of the development.

18. Prior to the first occupation of the development the proposed dropped kerb crossing to serve the new access shown on the approved plan shall be constructed to a specification to be approved and agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements.

*Reason:* To ensure the satisfactory completion and operation of the development and to meet the requirements of the Highways Act 1980.

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

Location Plan Drawing 3668.99 submitted 27<sup>th</sup> March 2014  
Site Level Survey Drawing 05/024/01 submitted 27<sup>th</sup> March 2014  
Detailed Site Level Survey Drawing 05/024/02 submitted 27<sup>th</sup> March 2014  
Site Plan Drawing 1006 1 Rev \* submitted 27<sup>th</sup> March 2014  
Ground Floor Plan Drawing 1006 4 Rev \* submitted 27<sup>th</sup> March 2014  
First Floor Plan Drawing 1006 5 Rev \* submitted 27<sup>th</sup> March 2014  
Elevation 1/2 Drawing 1006 2 Rev A submitted 27<sup>th</sup> March 2014  
Elevations 2/2 Drawing 1006 3 Rev A submitted 27<sup>th</sup> March 2014  
Design and Access Statement submitted 27<sup>th</sup> March 2014  
Planning Statement submitted 27<sup>th</sup> March 2014  
Bat Mitigation Proposals dated 6 February 2011 by S. Christopher Smith deposited 18 February 2011 under PA 11/0232/FL.

*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).

### **Notes for Applicant**

#### **Contaminated Land**

##### **CL1**

Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 –

Planning and Pollution Control; British Standard BS10175: 2001

"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 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.

### **Pollution Control**

Pollution Control cannot verify that the actual glazing/ventilation has been or will be installed as per manufacturer's instructions. It is recommended that such confirmation be obtained from a suitable third party, such as a Building Control Inspector or the acoustic performance verified by a person or organisation certified for the purposes of sound insulation testing by either by the Association of Noise Consultant (ANC) or the United Kingdom Accreditation Service (UKAS).

### **Severn Trent Water**

Severn Trent Water advise that there is a public sewer located within the application site. Public sewers have statutory protection and many not be built close to, directly over or 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 metres 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.

### **Nesting Birds**

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. Most birds nest between mid-February and the end of August, although exceptions to this do occur. No site clearance work should take place in the bird nesting season if there is a risk that nests may be damaged or destroyed. If site clearance work is unavoidable, a suitably qualified and experienced ecologist should check the development site for the

presence of nesting birds prior to the commencement of any site clearance work. If nesting birds are discovered clearance works should be delayed and advice sought from Natural England or your ecologist.





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 13.**

**Reason for bringing to committee:** Departure from Development Plan

**Application Number:** 14/0681/FL

**Application Type:** Full application

**Case Officer:** Barbara Toy

**Telephone Number:** 01922 652615

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Walsall Council Property Services

**Applicant:** Watling Street Primary School

**Proposal:** Single storey extension to provide new nursery and reception classrooms, associated toilets, cloakroom; food prep area and meeting room.

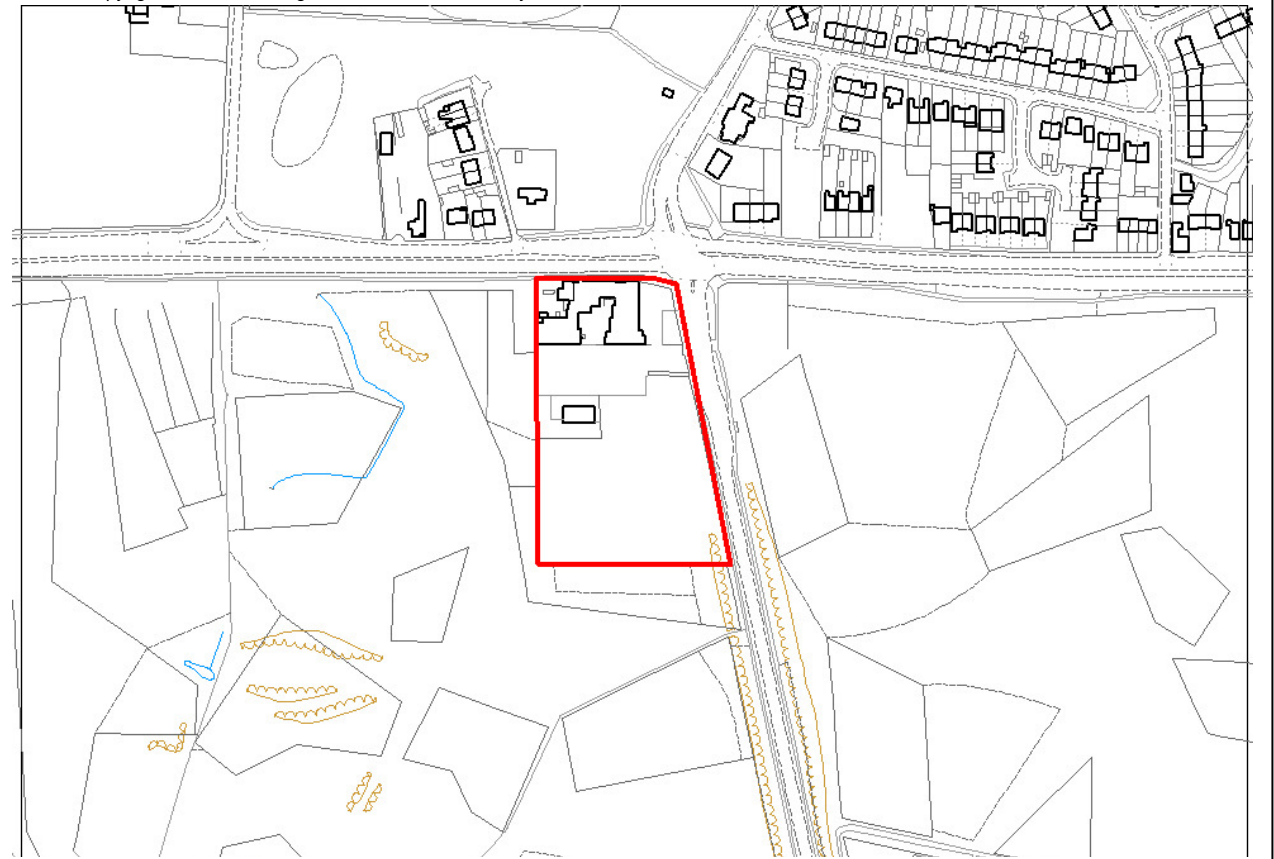
**Location:** WATLING STREET JMI SCHOOL, WATLING STREET, WALSALL, WS8 7LW

**Ward:** Brownhills

**Expired Date:** 02/07/2014

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

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## **Application and Site Details**

The site is situated on the southern side of Watling Street (A5, part of the Strategic Highway Network) on the western corner of the (traffic light controlled) junction with The Parade and comprises a primary school catering for children aged 3 – 11 years. The site is approx 1.3 hectares and has been used as a school since the 1880's. The main school building fronts Watling Street and comprises a series of red brick Victorian buildings with pitches roofs, the buildings create a small courtyard area which is used for outdoor seating and cycle storage. The main vehicle access to the school is off The Parade with car parking areas to the east of the building and playground to the south with a playing field beyond.

The site is situated within the Green Belt with Brownhills Common (Holland Park SINC) situated to the east, south and west of the site with residential properties situated on the opposite side of the Watling Street dual carriageway.

To the south west of the playground area is an area of hardstanding fenced off, which was previously occupied by a detached mobile classroom (140sqm footprint) and outdoor play area used by the nursery. After severe weather at the end of last year the building was inspected by a structural engineer and found to be unsafe, closed to pupils and demolished at February half term this year. A temporary (portacabin style) classroom has been provided within the main playground to provide short term emergency accommodation for pupils, to be removed on completion of the proposed extension.

This application proposes a single storey extension to the southern elevation of the main school building incorporating part of the central courtyard area to provide a permanent replacement for the demolished building. The extension (167sqm footprint) would provide nursery and reception classrooms and ancillary facilities as well as minor remodelling of some existing areas in the school to improve the reception and administration areas and to improve the existing toilet facilities.

The extension would be of single storey traditional construction with a mono pitched roof and canopy to the southern elevation (to the playground area). The proposals would include a mix of both traditional and new materials with a 'blue' rendered element to separate the old and the new brickwork. An external play space for the nursery/reception class would be provided to the south of the extension and enclosed by 1.2m high bow top fencing with landscaped borders surrounding.

The proposals include the resurfacing of the fenced off area formally occupied by the demolished building to include it as playground space to replace the space loss as a result of the extension and marking out of a netball pitch on this area of the playground. The existing trees that run along the edge of the playground and the playing field area would be retained and protected during construction works.

The proposals would result in no additional pupils or staff at the school but provide permanent replacement accommodation for the foundation stage of the school. The existing vehicle and pedestrian access and parking arrangements would remain unaffected by the proposals.

A Design and Access Statement has been submitted in support of the proposals which explains the history of the temporary building, describes the site and existing buildings, it discusses the proposals and the requirements of the school and the access arrangements.

## **Relevant Planning History**

BD4556, erection of mobile classrooms, granted (no conditions) 02-06-76.

03/2142/FL/E5, extension to staffroom, granted subject to conditions 04-02-04.

## **Relevant Planning Policy Summary**

### **National Planning Policy**

#### **National Planning Policy Framework (NPPF)**

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

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

- Always seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different area, promoting the vitality of our main urban areas, protecting Green Belts around them
- Contribute towards conserving and enhancing the natural environment
- Take account of and support local strategies to improve health, social and cultural wellbeing for all and deliver sufficient community and cultural facilities and services to meet local needs.

#### 7. Requiring good design

58. supports high quality design and highlights several criteria including the need for development that will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit; optimise the potential of the site to accommodate development, and are visually attractive as a result of good architecture and appropriate landscaping.

#### 8. Promoting Healthy Communities

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

72. Local planning authorities should give great weight to the need to create, expand or alter schools.

74. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

Paragraph 79 states the essential characteristic of Green Belts is their openness and permanence.

#### 9. Protecting Green Belt Land

80. identifies the five purposes of Green Belts which are:

- *to check the unrestricted sprawl of large built-up areas*

- *to prevent neighbouring towns merging into one another*
- *to assist in safeguarding the countryside from encroachment*
- *to preserve the setting and special character of historic towns*
- *to assist in urban regeneration by encouraging recycling of derelict and other urban land*

81. states local planning authorities should plan positively to enhance the beneficial use of the Green Belt and to retain and enhance landscapes and visual amenity.

87. states inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

89. states the construction of new buildings is inappropriate in Green Belt except for specific purposes including:

- *buildings for agriculture or forestry*
- *provision of appropriate facilities for outdoor sport, outdoor recreation and 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*
- *replacement of a building provided the new building is the same use and not materially larger than the one it replaces*

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.

Annex 2 defines 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 the whole of the curtilage should be developed). This excludes land that is or has been occupied by agricultural or forestry buildings.

### **The Development Plan**

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

### **The Black Country Core Strategy (BCCS)**

[http://www.walsall.gov.uk/index/environment/planning/local\\_development\\_framework/ldf\\_core\\_strategy.htm](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 above are supported by the following policies:

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

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

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

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

### **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:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

ENV2 and 3.3: In the Green Belt there will be a presumption against the construction of new buildings except for certain purposes. Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

ENV3: Identifies more detailed considerations for proposals in the Green Belt which include:

- I. The detailed layout of the site
- II. The siting, design, grouping, height and scale of buildings
- III. The colour and suitability of building materials
- VI. Impact on significant views

3.116 & ENV32: seeks to create high quality 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.

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

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.

LC6: Sports Pitches

Proposals which would result in the loss or reduction of sports pitches, public or private, will only be permitted if it can be demonstrated that:

I. A carefully quantified and documented assessment of current and future needs has demonstrated that there is an excess of sports provision and the site is not of good quality or importance to the development of sport; or

II. At least equal compensatory provision will be made in respect of quality, quantity, suitability of location, and subject to equivalent or better management arrangements prior to the commencement of development.

#### **T7 – Car Parking**

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.

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

### **Supplementary Planning Documents (SPD)**

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

#### **Designing Walsall SPD**

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

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

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

DW 10 – 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**

**Transportation** – No objections.

**Pollution Control Scientific Team** – No objections but it should be noted that the acoustic requirements of Building Bulletin 93: Acoustic Design of Schools is relevant.

**Pollution Control Contaminated Land Team** – No specific contaminated land requirements.

**Sport England** – No objections to amended plans subject to a condition to ensure that the replacement hard play area is provided and the new netball court marked out within 3 months of the occupation of the new extension.

**Fire Officer** – No objections

**Coal Authority** – No objections. The site falls within a defined development high risk area. However the area of unrecorded shallow underground coal mining and the 2 recorded mine entries are not located within the specific part of the site where the new development is proposed. Note to applicant recommended.

### **Public Participation Response**

None

## **Determining Issues**

- The principle of the development
- Design and Layout

## **Observations**

### **The Principle of the Development**

The erection of an extension to the school would be regarded as inappropriate development within the Green Belt unless very special circumstances exist to outweigh the harm to the openness and character of the Green Belt.

The very special circumstances in this case:

- The proposals would provide a permanent extension to the main school building to replace a standalone temporary building that had been in situ (with planning consent) since 1976. The temporary building had a footprint of 140sqm and the proposed extension would have a footprint of 167sqm. It is considered that the extension would not be materially larger than the building it replaces (only 19%) and as an extension to the school rather than a detached building set 32m from the main building, would have less impact on the openness and character of the Green Belt than the previous structure as the extension would be viewed against the backdrop of the main school building from the surrounding Green Belt land.
- The temporary building had been in situ for approx 38 years and latterly had a very poor appearance and due to its poor condition was condemned as unsafe for use, hence its demolition. The proposed extension would provide a permanent addition to the main school building improving the overall appearance of the site within the Green Belt.
- The extension would be single storey with a mono pitched roof well below the height of the main school building. The design incorporates both new and traditional materials, with a blue render element separating the old and the new brickwork. Blue has been chosen as it is the schools corporate colour and uniform colour. The coloured element is considered appropriate in these circumstances to define the extension from the main school and separate the old from the new brickwork. It is not considered that this would have any adverse impact on the appearance or character of the Green Belt.
- The proposals would not result in any additional hardstanding and the existing trees on the site would be unaffected by the proposals.

It is considered that these very special circumstances would outweigh any harm to the Green Belt by reason of inappropriateness.

The proposals would result in the loss of existing playground space, part of which is laid out as a netball court, so a loss of play and sports facilities would occur. It is however proposed that the area of land from the removed temporary building and former outdoor play area would be resurfaced as playground space and a new netball court marked out (up to 390sqm of space). It is considered that the provision of the additional playground space and the netball court would provide an equivalent provision in terms of quantity and quality in a suitable location replacement for the area to be lost as a result of the development and would comply with policy. Sport England have raised no objections subject to a condition to ensure that the replacement facilities are provided.

The proposals would provide a permanent replacement facility for the foundation stage of the school following the demise of the former temporary building and would not involve any increase in the number of pupils or staff. As well as providing much needed accommodation the proposals would allow for minor remodelling of the main school building to improve the overall facilities and operation of the school.

### **Design and Layout**

It is considered that the design, scale, massing and height of the extension would be sympathetic to the main Victorian school building.

The mono pitch roof would allow for high level windows to be included and would provide a more sustainable cross –flow ventilation strategy to both the new classrooms. The overhanging canopy would be integral to the roof and would provide a covered play area as well as reducing solar heat gains on the south glazed elevation.

The materials would include a mix of new and more traditional. The blue render panels would separate the new brickwork from the old and define the extension from the main building, whilst also providing traditional elements and is considered appropriate.

Bulls eye windows at different heights included in the extension would break up the mass of the solid elements of the extension and introduce a playful theme and opportunity for children to ‘peep’ through.

The extension would allow the foundation stage to integrate better with the main school in a purpose built extension rather than in a poor quality detached building.

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

At the request of the case officer the agent has provided amended plans to show the inclusion of the new playground area and netball pitch as part of the proposals.

### **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 92 of the Town and Country Planning Act, 1990.

2a. Prior to the commencement of the development, drainage plans for the disposal of surface water and foul sewage shall be submitted to the Local Planning Authority for written approval.

2b. The scheme shall be implemented in accordance with the approved details before the development is first brought in to 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.

3a. No development shall commence until samples of all facing and roofing materials for the proposed extension, including all proposed hardsurfacing within the site have been 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 facing and roofing materials harmonise with those in the surrounding vicinity.

4a. Prior to the commencement of any development on site details of tree protection measures for the trees on the edge of the existing playground and details of the method of installation of the new playground area shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall be completed in accordance with the approved details and the protection measures installed prior to any work on site and retained during the construction period.

*Reason:* In order to ensure the protection and retention of the trees on the site.

5. Within 3 months of the first occupation of the extension hereby approved the additional playground area identified on drawing H161/506 Rev B submitted on 10<sup>th</sup> June 2014 shall be provided, appropriately surfaced in accordance with details approved under condition 3 above and a marked netball court provided.

*Reason:* In order to ensure that the appropriate replacement play facilities are provided.

6. Within one month of the first occupation of the extension hereby approved the temporary classroom within the playground area shall be removed and the ground reinstated if necessary.

*Reason:* In order to define the permission, ensure a satisfactory level of play space and to protect the appearance, openness and character of the Green Belt.

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

- Location Plan Drawing H161/500 submitted 7<sup>th</sup> May 2014
- Existing Site Plan Drawing H161/501 Rev B submitted 10<sup>th</sup> June 2014
- Proposed Site Plan Drawing H161/506 Rev B submitted 10<sup>th</sup> June 2014
- Existing GF plan of demolished portacabin Drawing H161/503 submitted 7<sup>th</sup> May 2014
- Existing GF Plan Drawing H161/502 submitted 7<sup>th</sup> May 2014
- Proposed GF Plan Drawing H161/507 submitted 7<sup>th</sup> May 2014
- Existing Elevations 1 Drawing H161/504 submitted 7<sup>th</sup> May 2014
- Existing Elevations 2 Drawing H161/505 submitted 7<sup>th</sup> May 2014
- Proposed Elevations Drawing H161/508 submitted 7<sup>th</sup> May 2014
- Proposed Elevations 2 Drawing H161/509 submitted 7<sup>th</sup> May 2014
- Proposed Sections Drawing H161/510 submitted 7<sup>th</sup> May 2014
- Topographical & Utility Survey Drawing 19754/1 submitted 7<sup>th</sup> May 2014
- Design and Access Statement submitted 7<sup>th</sup> May 2014.

*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 and effective control is maintained over ancillary elements of the development, as such (except in so far as other conditions may so require).

### **Notes To Applicant**

#### **Coal Authority**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.



Further information is also available on The Coal Authority website [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk)  
Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0345 762 6848 or at [www.groundstability.com](http://www.groundstability.com)



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 14.**

**Reason for bringing to committee: Significant Community Interest**

**Application Number:** 14/0507/FL

**Application Type:** Full application

**Applicant:** Mr Martin Davis

**Proposal:** Retrospective - Detached garage in rear garden

**Location:** 398 BIRMINGHAM ROAD, WALSALL, WS5 3NX

**Ward:** Paddock

**Case Officer:** Helen Smith

**Telephone Number:** 01922 652606

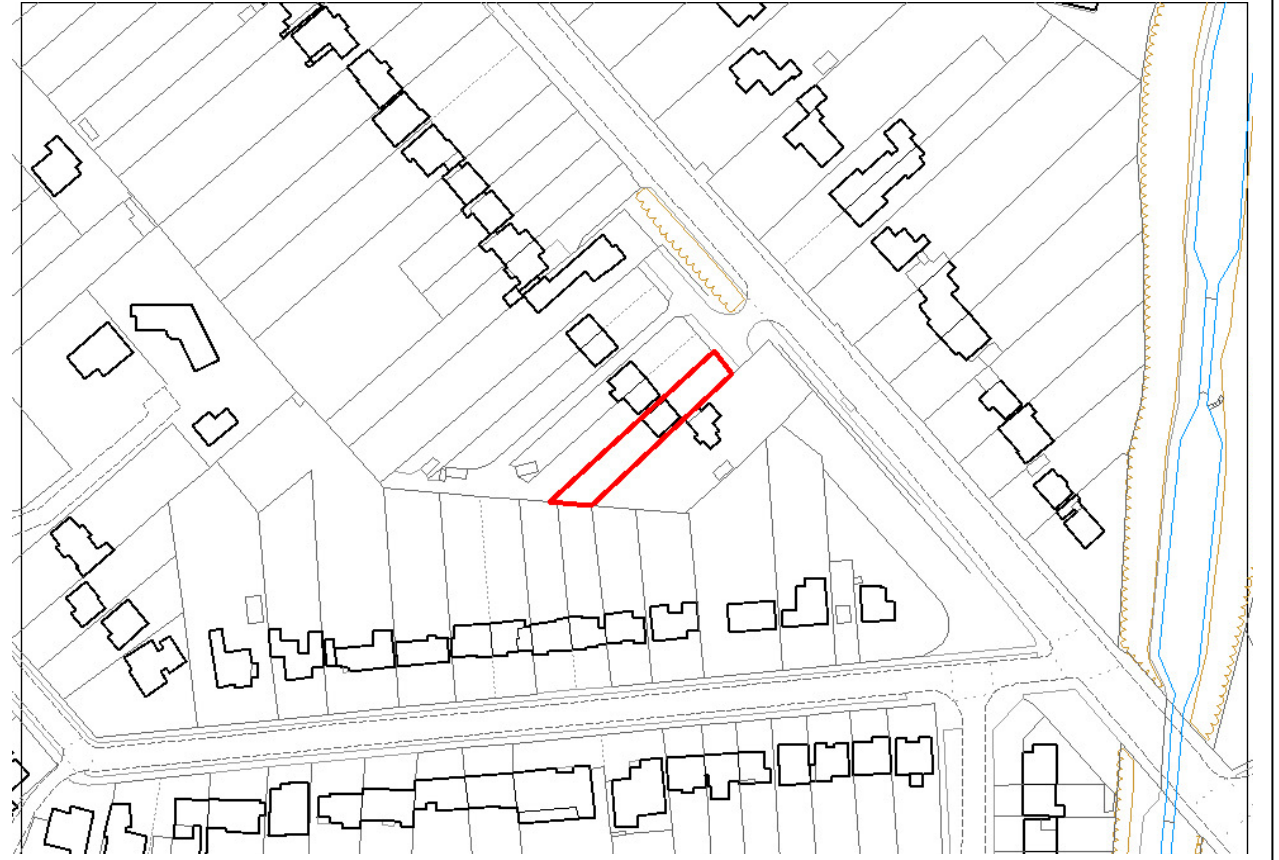
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Mr Alexander Crook

**Expired Date:** 03/06/2014

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

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## **Application and Site Details**

The application property is a detached house located within a row of houses set back from Birmingham Road and served by a shared rear private access. There are a number of existing detached garages along the shared access serving neighbouring properties.

This proposal is for the retention of a detached garage with a flat roof and part-rendered exterior finish located next to the rear garden boundary of no. 398 and served from the private shared rear access road. It is understood that a timber garage in a similar position and of smaller dimensions was demolished to construct this garage.

The garage has a footprint measuring 32.7 square metres and the roof height of 2.85 metres. The elevation facing rear gardens on Charlemont Road has a block finish with a bark screening attached.

The garage includes and 'up and over' garage door facing the shared access and a side facing roller shutter door, pedestrian door and window opposite the rear elevation of no. 398.

The applicant has advised the garage is to be used for parking of their car with a roof storage box attached and domestic storage including garden furniture.

The garage is located 24 and 30 metres from the rear elevations of no's 396 and 400 Birmingham Road, both of which have mature planting in their rear gardens. No. 396 has a similar brick built garage 0.3 metres lower and adjacent to the garage at no. 398, which has a flat roof.

The rear gardens of no's 8, 10 and 12 Charlemont Road slope down towards these houses and there are separation distances between these properties and the garage of at least 29 metres. No. 8 has a timber children's play fort near to the rear boundary and is in the foreground of the garage when viewing from no. 8. It is understood that this is to be removed, at some point in the future, as it is no longer required.

There is a group of mostly deciduous trees (without Tree Preservation Orders) along the rear garden boundaries of this part of Charlemont Road and Birmingham Road.

The applicant proposes an exterior paint finish for the walls using Dulux Weathershield, colour Dublin Bay Green 07GG 08/244 with a green colour paint finish for the white roof fascia boards of Plasti-Kote 10608 Gloss Hunter Green.

## **Relevant Planning History**

BC33729P – Detached garage – granted permission subject to conditions 28/8/91

## **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
- Contribute to conserving and enhancing the natural environment

**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 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.

ENV18: Existing Woodlands, Trees and Hedgerows.

The Council will ensure the protection, positive management and, enhancement of existing woodlands, trees and hedgerows.

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 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.

#### **Conserving Walsall's Natural Environment**

Provides guidance on development which may adversely affect trees, important species and habitats.

Policies NE7 and NE8

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

#### **Consultation Replies**

**Transportation** - No objections

**Natural Environment Team, Trees** – No objections

**Police Crime Prevention Design Advisor / Crime Reduction Officer** – No objections

#### **Public Participation Responses**

Representations have been received from two neighbours on Birmingham Road supporting and three neighbours on Charlemont Road objecting to the proposal on the following grounds;

In support;

- garage is a long way from houses on Birmingham Road and is not obtrusive
- it is well constructed and improves the site
- lane leading to the garage has been greatly improved with a newly laid surface
- garage could be easily screened at little cost if needed

- ludicrous that a complaint can be made when so many very large extensions remain standing all over the neighbourhood

#### Objections;

- no notification of the proposed build or consultation period (*retrospective application submitted and neighbours notified of the proposal*)
- overwhelming in size and out of place within context of surroundings
- highly visible from rear windows of property on Charlemont Road
- grey block construction of north wall elevation unsightly creating an industrial ambience over the garden
- replaced a previous construction approx. half its size in volume
- over 2.5 metres high within 2 metres of their boundary
- loss of outlook and the garage is in view from all their windows
- looks worse in winter months
- burgled in 2013 via rear garden and consider a flat roof would serve as an ideal vantage point for any prospective intruder
- structure dominates skyline from every rear aspect of house (*the garage is positioned below a belt of mature trees and is considered does not impact upon the skyline*)
- possible drainage issues (*the development is not located within a Flood Zone and no evidence has been provided by neighbours in support of this objection*)
- built on boundary and inhibits the erection of a boundary fence (*not a material planning consideration and boundaries are a private legal matter*)
- built below a mature Willow and two Birch trees which compromises the maintenance of the trees (*trees do not have protected status and consequently this is not a material planning consideration in this instance*)
- shrubs removed without consent to construct the building (*private legal matter rather than a material planning consideration in this instance*)
- Section 7 of application form incorrectly completed (*by planning agent*) as there are clearly trees and shrubs within falling distance of the development (*noted by case officer during site visit and Tree Officer consulted*)
- breeze block elevation facing their property has been covered by rush-matting which will soon deteriorate in the British climate.

#### **Determining Issues**

- Design of Garage and Character of Area
- Amenity of Nearby Residents
- Impact on Trees
- Parking

#### **Observations**

##### **Design of Extension and Character of Area**

The garage has a larger footprint than neighbouring garage structures but is a similar design to detached garages and outbuildings in the surrounding area. The garage is not visible from public areas and is considered has no impact on the existing street scene. It is considered the position of the garage below a dense band of trees will quickly weather the new appearance of this structure.

This garage has been built 0.3 metres higher than that allowed for detached outbuildings in this position within 2 metres of a boundary (in most areas) by current Permitted Development allowances. The allowance does not specify any requirement for the types of

materials to be used in such a development. The submission of a retrospective planning application allows the Local Planning Authority to condition the exterior finish of the garage to avoid an industrial type appearance and its future use.

A condition would be included requiring the bark screening to be removed from the elevation facing houses on Charlemont Road for the breeze block side elevation to be rendered to match the other three elevations of the garage and painted with Dulux Weathershield, colour Dublin Bay Green 07GG 08/244. The white roof fascia boards are to be sprayed with Plasti-Kote 10608 Gloss, colour Hunter Green.

### **Impact on Amenity of Nearby Residents**

The garage is located to the north and at least 29 metres from the rear habitable room windows in no's 8, 10 and 12 Charlemont Road. Whilst the land level to the rear of these properties is higher than the houses which increases the prominence of this development, it is considered that the separation distances, orientation and existing tree screening results in the proposal having a limited impact on neighbours existing light.

The impact on neighbours' visual amenity would be greater during winter months when the trees have shed their leaves. However it is considered that the proposed condition to remove the attached bark screening and add a render finish to the elevation facing Charlemont Road plus a muted paint finish would limit the impact of this development on neighbours' outlook.

The use of the garage can be conditioned to be incidental to the residential use of the existing dwelling house only to protect neighbours amenity.

The Police Crime Prevention Design Advisor has advised that potential offenders would more than likely scale the low level fencing than climb up onto the garage roof, where they have a greater chance of being seen. Anti climb paint could be added around the edges of the garage roof approximately 2' in depth from the edge. This is a non-drying grease based paint that sticks to offenders and would act as a deterrent to anyone seeking to climb up onto the roof.

### **Impact on Trees**

There are unprotected trees in close proximity to the recently constructed garage (mainly Birch and Willow). The Tree Officers opinion is that these do not merit the protection of a Tree Preservation Order as they are not particularly good examples of the species or highly visible from outside of the site.

It is considered that these trees are unlikely to have been significantly affected by the construction of the garage and consequently there are no arboricultural objections to the proposal.

### **Parking**

The application property at least two off-street parking spaces to meet the requirements of UDP Policy T13 and Transportation Offices have no objections to the proposal on highway grounds.

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

Officers have liaised with the applicant's agent and in response to concerns raised and additional details have been submitted to enable full support to be given to the scheme. This proposal is recommended for approval.

### **Recommendation**



Grant subject to conditions

### **Summary of Reasons for Granting Planning Permission**

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

1: This development shall not be carried out other than in conformity with the following approved plans: -

- Location Plan, deposited 03/04/14
- Site Plan, deposited 03/04/14
- Ground Floor Plan, drawing no. P1, deposited 03/04/14
- Elevations, drawing no. P2, deposited 03/04/14

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).

2: Notwithstanding the information provided on the submitted plans, as detailed in Condition no. 1, within 1 calendar month of this decision the side elevation of the garage facing no's 8, 10 and 12 Charlemont Road shall;

-have the bark screening removed,  
-be rendered to match the existing rendered elevations of the garage,  
-The four rendered elevations of the garage shall be painted with Dulux Weathershield, colour Dublin Bay Green 07GG 08/244 and,  
-the white roof fascia boards sprayed with Plasti-Kote 10608 Gloss, colour Hunter Green.  
The garage shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

3: Notwithstanding the information provided on the submitted plans, as detailed in Condition no. 1, within 1 month of this decision anti-climb paint should be added around the edges of the garage roof approximately 2 inches in depth from the edges of the garage roof and retained at all times thereafter.

Reason: To improve the security of the neighbours on Charlemont Road at the rear of the application property and to comply with policy GP2 of Walsall's Unitary Development Plan.

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, 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: This development shall only be used for parking of vehicles or domestic storage incidental to the enjoyment of the dwelling house at 398 Birmingham Road. No vehicle repairs other than routine servicing of vehicles owned or used by the occupiers of the dwelling shall take place in the garage.

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

### **Notes for Applicant**

#### **Standing advice**

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at: [www.groundstability.com](http://www.groundstability.com)





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 15.**

**Reason for bringing to committee: Contrary to policy**

**Application Number:** 14/0504/FL

**Application Type:** Full application

**Applicant:** Mr Kirk Joesbury

**Proposal:** Single storey extension to side and rear of house.

**Location:** 178 HALL LANE, WALSALL, WS9 9AR

**Ward:** Aldridge North and Walsall Wood

**Case Officer:** Jenny Townsend

**Telephone Number:** 01922 652610

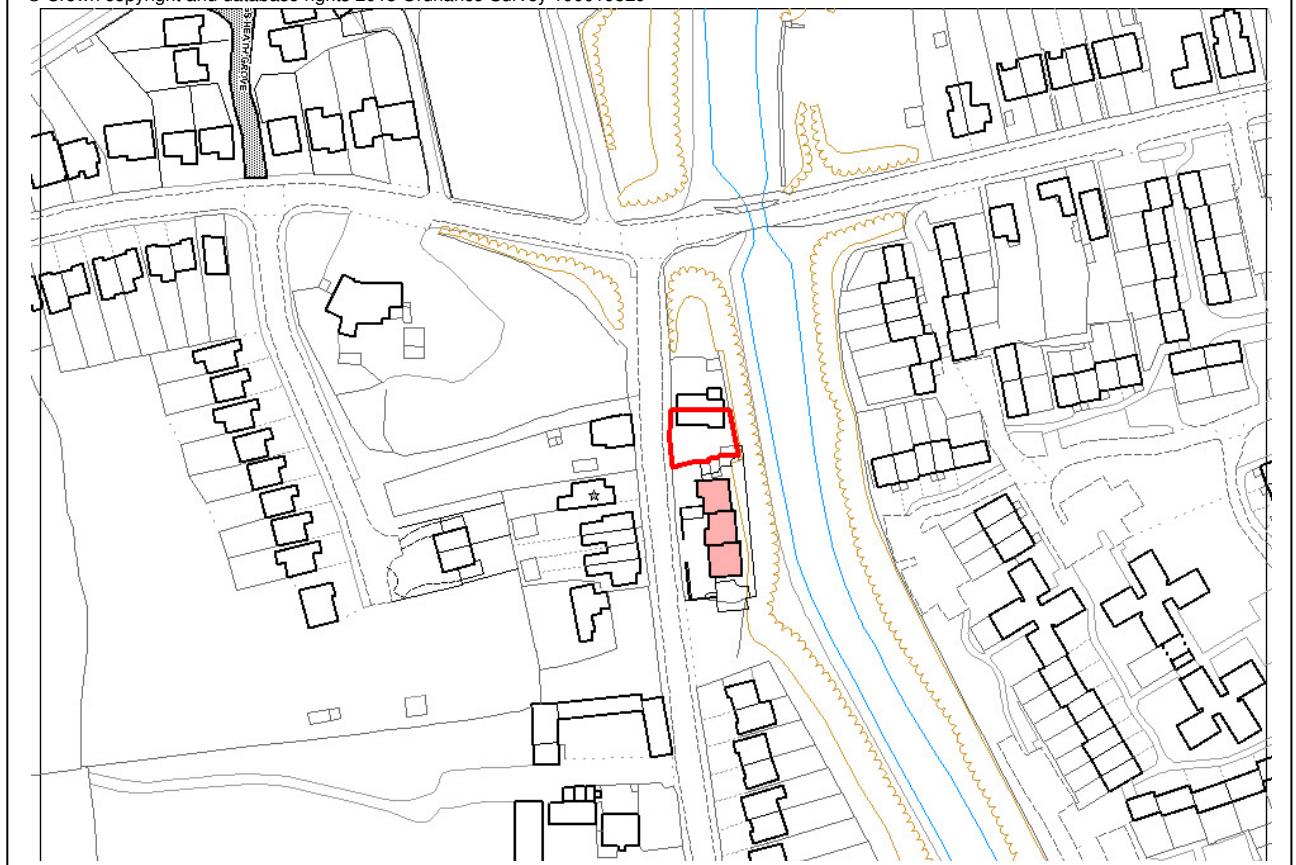
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:**

**Expired Date:** 29/05/2014

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

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### **Application and Site Details**

This application is for a single storey extension to the side and rear of a semi detached house that would provide an enlarged kitchen, new toilet and utility room. The extension would replace an original rear brick projection housing a toilet and coal house and a wooden side veranda.

The application house is a traditional Victorian design with a steeply pitched gable roof. The application house is sited close to the Daw End Branch of the Wyrley and Essington Canal with the 3.5 metre high retaining wall to the canal bank directly to the rear of the house.

To the south of the application house there is a recently constructed terrace of 3 cottages. The nearest cottage has a door and window combination in the side elevation that would be approximately 11 metres from the side elevation of the proposed extension. There is already a window to the dining room in the two storey side gable wall of the application house which faces towards the side of the cottages with a separation of 13 metres. Between them there is a 2 metre high boundary fence and a shed belonging to the application house which screens the rear part of the cottage.

Number 180, the other half of the pair has a kitchen window on the rear nearest to the boundary. The existing coalhouse (belonging to 178) next to the shared boundary is 1.4 metres deep.

The proposed extension would be set in from the boundary with number 180 to accommodate the guttering and would project 0.5 metres further than the existing coalhouse and toilet. The extension would be 6 metres wide, 5 metres deep and would wrap around the rear corner of the house projecting 2 metres beyond the two storey side gable wall. The front of the extension would be set back 8.5 metres from the front of the house.

A gable roof between 2.5 and 4.2 metres high is proposed with small velux rooflights proposed in the side roofslope facing towards the cottages.

Windows to the new toilet and utility room would face towards the retaining wall to the canal bank and a small window to the utility area and a window to the kitchen are proposed in the side elevation facing the new cottages. A small secondary window to the kitchen is proposed on the front elevation.

### **Relevant Planning History**

None.

### **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
- Take account of the different roles and character of different areas

**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

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

131. In determining planning applications, local planning authorities should take account of: the desirability of new development making a positive contribution to local character and distinctiveness.

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.

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.

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 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.

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:-
- Within or adjacent to transport corridors, including canals, railways, motorways and major roads.
  - Areas with a special character arising from the homogeneity of existing development in the neighbourhood.
  - Within or adjacent to Local Nature Reserves, Sites of Special Scientific Interest, Sites of Importance for Nature Conservation, parks, cemeteries or public open spaces.
  - Within or adjacent to Green Belt, agricultural or open land.

- (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.

'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 Designing Walsall are consistent with the NPPF.'

### **Consultation Replies**

**Canal and River Trust** – No objections subject to conditions regarding structural integrity, drainage and former landowner issues and an informative regarding environmental quality of the Canal.

**Inland Waterways Association** – No objection but highlights previous mining subsidence and recommends that the design of the foundation trench for the extension must take into account any engineering advice from the Canal and River Trust. Also advises that there are existing covenants on the land which need to be adhered to.

**Natural England** – No objection.

### **Public Participation Responses**

None.

### **Determining Issues**

- Design and character of area



- Amenity of nearby residents
- Impact on Daw End Canal
- Positive and proactive working with the applicant

### **Observations**

#### **Design and Character of Area**

The design of the extension would be compatible with the existing house with the proposed gable roof reflecting the main roof shape.

The front of the extension would be set well back from the front of the house and the modest width means that there would be little adverse impact on the appearance of the house or the area from the proposal.

#### **Amenity of Nearby Residents**

The extension would project 1.9 metres beyond the rear of number 180 which complies with policy for single storey extensions that would otherwise breach the 45 degree code.

The extension would be to the south of 180 and whilst it is recognised that this orientation would result in additional shading to the rear of number 180. On balance and taking into consideration that the roof slopes away from the boundary and that the close proximity of the 3.5 metre high canal embankment wall already significantly shades the rear of the houses, the small increase in length of the proposed extension (0.5 metres) is not considered to significantly worsen the existing situation sufficient to sustain a refusal for this reason alone. It must also be noted that permitted development allows for extensions up to 3 metres deep and 4 metres high to be added adjacent a shared boundary without permission from the Local Planning Authority.

The new kitchen window would face towards the side of the new build cottage with a separation of approximately 11 metres. Whilst this is less than the 24 metre separation which policy requires between facing habitable room windows, there is a 2 metre high fence on the boundary which completely screens the window and doors in the side of the new cottage from view from the existing ground floor dining room window of the application house and a condition for this to always be maintained for at least the length of time the proposed extension is in place is considered to protect the privacy and amenity of the occupiers of both properties.

#### **Impact on Daw End canal –**

##### **Structural Integrity of the Daw End Canal**

The proposed works to the property will extend towards the canal embankment retaining wall.

Excavation for the extension and its foundations must not undermine, alter or cause any damage to the canal embankment or the retaining wall which could risk the structural stability of the canal and our assets. Consideration should be given to excavating the foundations on short sections rather than one long open excavation at the toe of the retaining wall and embankment. Proposed excavation and foundation works for the extension including structural calculations should be seen and approved by us prior to construction.

##### **Impact on the Daw End Canal from Drainage**

Drainage on and around the proposed extension must be adequate to prevent any long term damage to the canal embankment and retaining wall from saturated ground. It is a sandy embankment so free draining, meaning groundwater could be significant in times of heavy rainfall and could liquefy the ground if left to build up, this must be considered in the design.

Details of the surface water drainage arrangements should therefore be secured by condition.

#### Impact on Environmental Quality of the Daw End Canal

Japanese knotweed on or around the area of works should be treated before the works and continually treated until complete removal to prevent any long term damage to the canal embankment, retaining wall or the new extension. The extension works must not add to the spread of any knotweed. Other vegetation growth on or adjacent to the canal structure should be managed long term to prevent damage to the canal assets

#### Former Landowner Issues

The application property was sold by the Council in 2008. The applicant is advised to contact the Canal & River Trust Estates department to discuss this proposal in respect of the transfer of the property which include a number of covenants which need to be adhered to.

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

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

The proposed development is considered to meet the aims and objectives of the National Planning Policy Framework including paragraphs 56, 57, 58, and 64, Walsall's Saved Unitary Development Plan policies, in particular GP2, ENV32 and the Supplementary Planning Document "Designing Walsall" and other material planning considerations.

#### **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: The development hereby permitted shall be carried out in accordance with the following approved plans and documents except insofar as other conditions may so require:

Location plan deposited 3 April 2014;  
Existing layout plan deposited 3 April 2014;  
Existing elevations deposited 3 April 2014;  
Proposed layout plan and block plan deposited 3 April 2014;  
Proposed elevations and section deposited 3 April 2014;  
Existing and proposed roof plans deposited 3 April 2014.

Reason: For the avoidance of doubt and in the interests of proper planning.

3: No development shall take place until full details of the proposed design of the foundations for the extension (including structural calculations) have first been submitted to and agreed in writing by the Local Planning Authority in consultation with the Canal & River Trust. The development hereby approved shall thereafter only be carried out in accordance with the agreed details.

Reason: To protect the structural integrity of the canal embankment which could be adversely affected by the development, in accordance with policy ENV4 Canals of the adopted Black Country Joint Core Strategy and paragraph 120 of the National Planning Policy Framework.

4: No development shall take place until full details of the method of construction of the foundations of the extension hereby permitted, including details of any excavations associated with the proposal have first been submitted to and agreed in writing by the Local Planning Authority in consultation with the Canal & River Trust. The development shall thereafter only be carried out in accordance with the agreed details.

Reason: To ensure that any excavations required for the construction of the extension and the method of construction do not adversely affect the structural integrity of the adjacent Daw End Canal in accordance with policy ENV4 Canals of the adopted Black Country Joint Core Strategy and paragraph 120 of the National planning Policy Framework.

5: No development shall take place until full details of the intended surface water drainage arrangements for the extension have first been submitted to and agreed in writing by the Local Planning Authority. The development shall only be carried out in accordance with the agreed details.

Reason: To ensure that surface water from the site is disposed of in an appropriate manner in order to protect the structural integrity of the Daw End Canal in accordance with policy ENV4 Canals of the adopted Black Country Joint Core Strategy and paragraph 120 of the National Planning Policy Framework.

6: The walls and roof of the extension shall comprise facing materials that match those which are used in the existing building as it exists at the [date of this permission](#), and shall be retained as such after completion of the extension.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

7: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, 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.

8: The 2 metre high fence on the boundary shared with number 172 Hall Lane shall be retained from in line with the front of the proposed extension and for at least the length of the extension thereafter. Should any part of this section of the fence fall down, it should be repaired or replaced within one month.

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

## Notes for Applicant

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

*The applicant/developer is advised that Canal & River Trust' consent is required for works. Please contact the Canal & River Trust Estates Team on 0303 040 4040 for further advice*

The applicant is advised to contact the Canal & River Trust Estates department to discuss this proposal in respect of the transfer of the property which include a number of covenants which need to be adhered to.

Japanese knotweed on or around the area of works should be treated before the works and continually treated until complete removal to prevent any long term damage to the canal embankment, retaining wall or the new extension. The extension works must not add to the spread of any knotweed. Other vegetation growth on or adjacent to the canal structure should be managed long term to prevent damage to the canal assets

### **ALL DEVELOPMENTS WITHIN COALFIELD STANDING ADVICE AREAS**

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at:  
[www.groundstability.com](http://www.groundstability.com)





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 16.**

**Reason for bringing to committee: Contrary to policy**

**Application Number:** 14/0474/FL  
**Application Type:** Full application

**Case Officer:** Devinder Matharu  
**Telephone Number:** 01922 652602  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Extension Design Services

**Applicant:** Mr D Winter

**Proposal:** Two storey side extension, single storey rear extension and loft conversion.

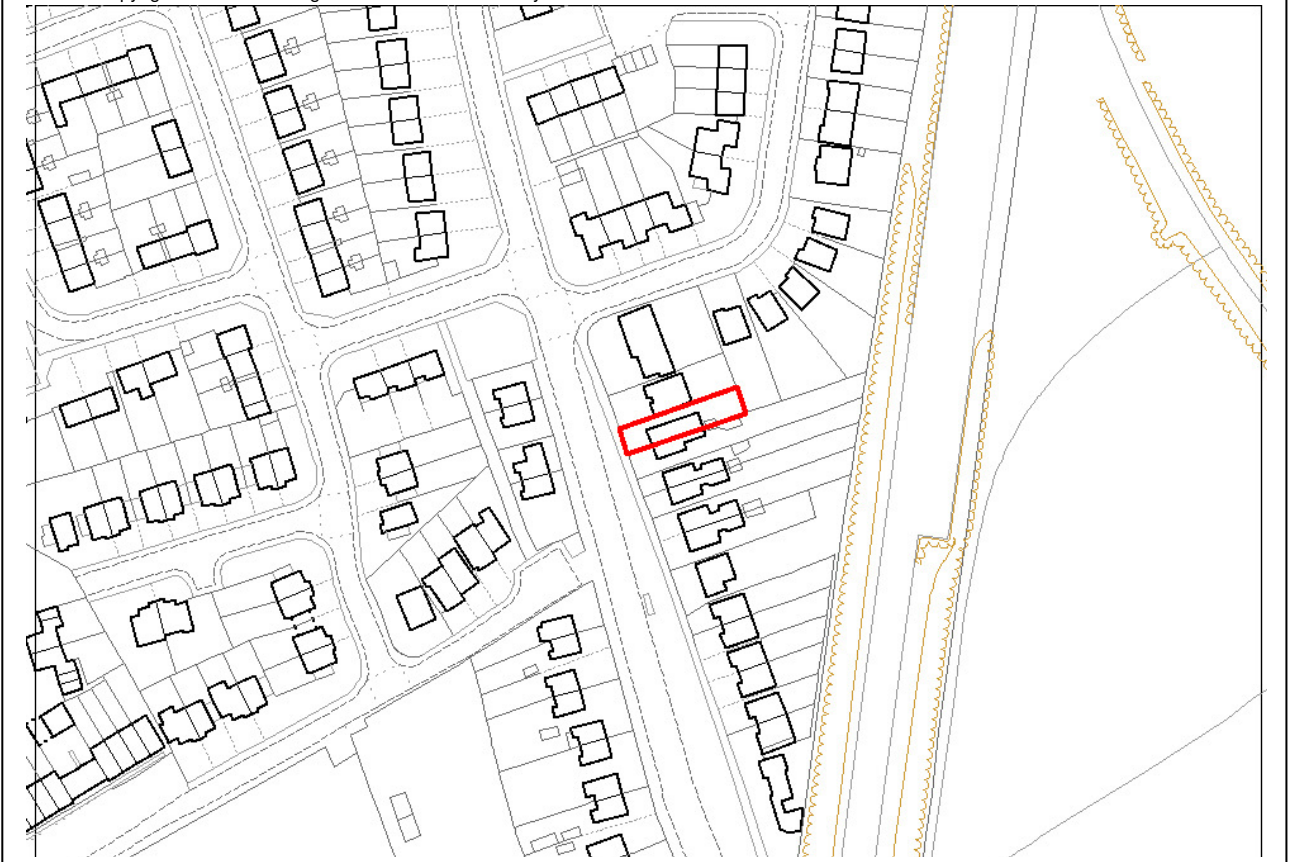
**Location:** 35 WALSALL ROAD, PELSALL, WALSALL, WS3 4DP

**Ward:** Pelsall

**Expired Date:** 26/05/2014

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

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### **Application and Site Details**

Number 35 is a one half of a pair of semi detached property located on the eastern side of Walsall Road, Pelsall.

The property is set further forward of 35a by 3.1m and there is a side gap between 35 and 35a of 2.6m. There is a single storey wing.

The other half of the pair of semi detached is number 33. This property has been extended with a rear single storey mono pitch extension adjacent number 35 and a two storey side extension adjacent number 31 and a rear conservatory.

Adjacent number 31 Walsall Road is a two storey property with a projecting rear wing. On this rear wing there are habitable room windows that face towards numbers 33 and 35.

Number 35a is a modern 4 bedroom detached property which is positioned approximately 3.1m further back than the front elevation of 35 Walsall Road. Number 35a has a garage adjacent the application site. At first floor a three plane window belonging to a bedroom. This bedroom also has a 2 plane window positioned approximately 0.5m away belonging to the same bedroom.

There is a dropped kerb and parking for a vehicle at the side of the 35.

Part of the garden has been fenced off but this has not been shown on the submitted plans. The applicant and owner of 35a have verbally confirmed this part of the garden will be returned to 35.

The application proposes:

- a two storey side extension, which would be set back from the front elevation by 2.1 m and would measure in width by 7.1m in length. The roof height would be set 1m lower than the original roof.
- single storey rear extension would measure 4.2m high.
- loft conversion
- tiled canopy across the front
- increase in the ground floor window size

The two storey side extension has been brought forward by 1.1m from the previous scheme considered under reference number 14/0146/FL.

The following discrepancies on the submitted plans with the dimensions have been noted.

- The width of the front elevation on the proposed elevation plan measures 6.4m and on the proposed ground floor layout plan measures 6.2m.
- The length of the overall house on the proposed side elevation measures 14m and on the proposed layout plan measures 13.7m.

### **Relevant Planning History**

06/0919/FL/H2 – 33 Walsall Road, Two storey extension to side and conservatory to rear. GSC 25/07/2006.

BC51799P- Construction of 1 no 4 bedroom detached house, plot adj, 35 Walsall Road. GSC 1998.

14/0146/FL - Two storey side & rear extension, single storey rear extension and loft conversion, refused 24<sup>th</sup> March 2014 for the following reasons:

- 1) The proposed two storey extension fails to meet the Council's 13m separation distance between habitable room and blank walls exceeding 3m high and as a result would have an overbearing impact upon the amenities of the occupiers of 31 Walsall Road as well as resulting in loss of outlook.
- 2) The proposed two storey rear extension would have an unacceptable and overbearing impact upon the conservatory and garden area of 33 Walsall Road, impacting upon the amenities of the occupiers of number 33 Walsall Road.

### **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:

- Proactively drive and support sustainable economic development to deliver homes
- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas
- Support the transition to a low carbon future, encouraging the reuse of existing resources including the conversion of existing buildings
- Contribute to conserving and enhancing the natural environment
- Reuse land that has been previously 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

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)**

[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 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.

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

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

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

The relevant policies are:

GP2: Environmental Protection

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:

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

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.

T4 – residential street are minor roads

T13 – car parking requirements

2 parking spaces for houses with 3 bedrooms.

3 parking spaces for houses with 3+ bedrooms.

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 E (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

Policy DW3 refers to character

Annexe D: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, setbacks to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

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

## **Consultations**

**Transportation** – No objection the proposal seeks to provide 2 off road parking spaces within the cartilage of the property which meets Policy T13.

## **Public Participation Responses**

None

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:

- Overbearing impact upon the amenities of the occupiers of both 31 and 33 Walsall Road
- Impact upon the amenities of the occupiers of 35a Walsall Road.
- Design
- Parking and access

## **Observations**

### **Overbearing impact upon the amenities of the occupiers of both 31 and 33 Walsall Road**

The proposed two storey rear extension which previously under planning reference 14/0146/FL which had an overbearing impact upon the amenities of the occupiers of 31 Walsall Road has been deleted from the revised scheme. The proposal now includes a single storey rear extension. The separation distance from this rear single storey extension to the side elevation of 31 Walsall Road is approximately 10m, which falls short of the Council's 13m separation distance by 3m. It is considered that as the extension is single storey and north facing, the proposal would not unduly impact upon the amenities of the occupiers of 31 Walsall Road by way of loss of light or loss of sunlight to warrant refusal of the application.

The removal of the two storey element would eliminate the unacceptable and overbearing impact upon the amenities of the occupiers of 33 Walsall Road.

There are no side facing windows that would result in loss of privacy for either the occupiers of 33 or 31 Walsall Road.

### **Impact upon the amenities of the occupiers of 35a Walsall Road.**

The proposed two storey side extension has been brought forward by 1.1m from the previous scheme refused under reference number 14/0146/FL. The existing property, 35 Walsall Road already shadows the front elevation of this property, in particular the nearest habitable room widow at first floor.

The main bedroom of 35a Walsall Road is served by 2 bedroom windows, a 3 pane window adjacent 35 and a two pane window in the middle of the property.

The first floor two storey side extension will be set back from the main front elevation of 35. It is considered that the proposed two storey side extension would not unduly impact upon the amenities of the occupiers of 35a Walsall Road to warrant refusal of the application, as the main bedroom is served by two windows and light would still be available into the

bedroom. The proposed two storey side extension meets the Council's 45 degree code from the nearest bedroom window.

### **Design**

The design of the proposed rear extension is acceptable as it would not be seen from the main public realm. The proposed two storey side extension will be subservient to the main house.

Amended plans have been received which illustrate the removal of the canopy across the main front elevation.

### **Parking and Access**

Transportation have no objection to the proposal.

### **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 as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

### **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: -

- 2014-02-06/A entitled "two storey side and rear extension" submitted on 5th June 2014
- 2014-02-06/C entitled "two storey side and rear extension" submitted on 5th June 2014
- 2014-02-05/B entitled "two storey side and rear extension" submitted on 9<sup>th</sup> April 2014
- 2014-02-04/A entitled "two storey side and rear extension" submitted on 31<sup>st</sup> March 2014
- Location plan submitted 31<sup>st</sup> March 2014
- Block plan submitted 31<sup>st</sup> March 2014

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

3: The walls and roof of the extension shall comprise facing materials that match, in 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.

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, 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.



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 17.**

**Reason for bringing to committee: Called in by Councillor McCracken**

**Application Number:** 14/0483/FL  
**Application Type:** Full application

**Case Officer:** Stuart Crossen  
**Telephone Number:** 01922 652608  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Mistry Design Services

**Applicant:** Mr Najib Ali

**Proposal:** Two storey side and single storey rear extension, with new rear dormer

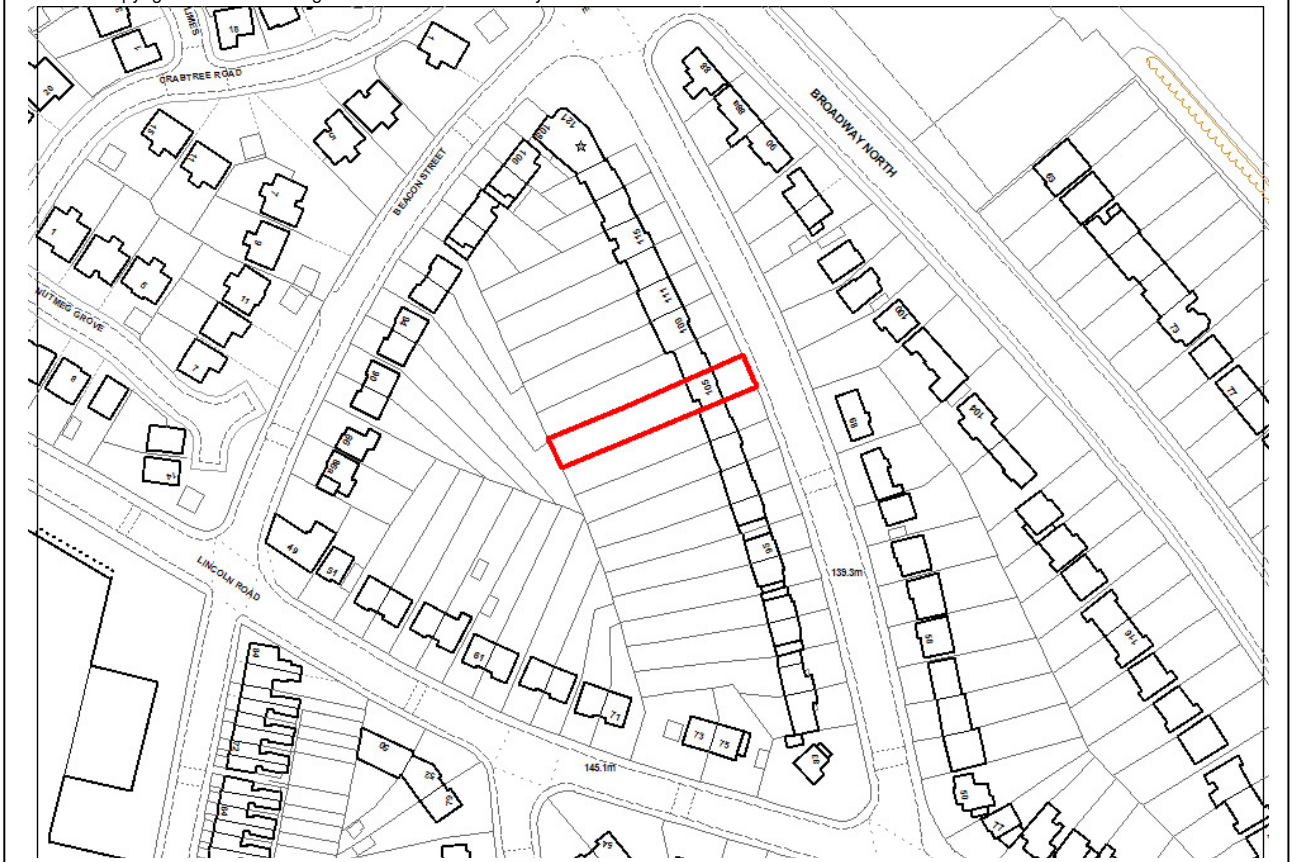
**Location:** 105 PRINCES AVENUE, WALSALL, WS1 2DH

**Ward:** Paddock

**Expired Date:** 29/05/2014

**Recommendation Summary:** Refuse

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**Status** Councillor McCracken has called the planning application before planning committee because The proposed extension is in keeping with other houses in this section of Princes Avenue, where a terracing effect already prevails and the application is not detrimental to the existing character of the area.

### **Application and Site Details**

This application is a resubmission of a previous refusal which proposes a two storey side and part two, part single storey rear extension at a traditional styled semi-detached house in a row of similar styled houses with feature front gables and bay windows. The extensions would provide on the ground floor an open plan kitchen and lounge and toilet, on the first floor a third and fourth bedrooms and a loft conversion with rear box dormer to provide a fifth bedroom without windows.

The application differs to the previous refusal now proposing a deeper, wider and higher two storey rear extension, higher single storey rear extension, an additional box dormer and an enlarged roof design over the two storey side extension having a bonnet hip instead of the previously proposed side hip. Amended plans have also been received which now include a parapet gutter to the side.

The two storey side extension would be built up to the shared boundary, have a front elevation in line with the original front elevation and would have:

- a bonnet hipped roof,
- new double entrance door and window,
- a front facing bedroom and landing window,
- parapet roof to the side
- the same front eaves and roof ridge height as the original house

The rear extension at ground floor would be the full width of the application house and proposed side extension would include a mono-pitched roof, rear facing doors and windows and would measure:

3.5 metres deep,

2.2 metres high to the eaves,

3.9 metres to the highest point of the roof,

The first floor rear extension would be built in line with the rear of the proposed side extension with a rear facing window, include a hipped roof and would measure:

2.4 metres deep

The same eaves height as the original roof

1.2 metres lower than the main roof ridge.

The box dormer would have a rear facing window to a bedroom and would measure:

400mm set in from the main rear elevation

5.9 metres wide attached to the side of the roof of the proposed two storey rear extension

1.2 metres lower than the main roof ridge.

The nearest house to the proposal is number 103 which has a side landing room window, single storey garage at the side up to the boundary. The rear boundary is defined by a 1.8 metre high fence.

Number 107 is the attached house, the boundary here is defined by a 1.8 metre high fence.

The application house is within a row of three semi-detached houses without first floor side extensions and within a row of nine semi-detached houses, five of which have no first floor side extensions and four with, two of which have a flat roof, one of these is set significantly back from the main front elevation.

### **Relevant Planning History**

09/1352/FL - Two-storey side extension & part single, part 2 storey rear extension. Refused 27/09/14 for the following reasons:

The design includes the first floor part of the side extension being built in line with the front elevation of the application house up to the shared boundary with number 107 which would not be subservient to the original design and would integrate poorly with the original house. This design would not provide space at first floor between the existing semi-detached houses which define their character, resulting in a terraced appearance in an area where this is not a defining characteristic, and would not accord with the Council's terracing policy which requires a minimum 1 metres setback from the front elevation and a 900mm setback from the shared boundary.

The design of the proposal includes a fifth bedroom in the roof space without windows providing a poor functioning living space below what might be reasonably expected from a bedroom. The proposal would lower the quality of the application house which would be out of character with this area of high quality traditional semi-detached houses providing poor standards of amenity for occupiers which would not be sustainable.

The application has failed to include conclusive evidence about the possible presence of bats, which are a protected species, or the impact on their roosts or habitats.

The application proposes to increase the number of bedrooms and has failed to demonstrate that there is adequate parking provision to park 3 cars within the application site to the detriment of Highway Safety.

### **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:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas

**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

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.

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

#### **Decision-taking**

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:

Policy ENV2 states that all development should aim to protect and promote the special qualities, historic character 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. This policy will be applied to all development.
- (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.
  - Community safety and security.
  - 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.
  - The proposed vehicular and pedestrian circulation patterns.
  - The integration of existing natural and built features of value.
  - The maintenance requirements of the development.

T7: Car Parking

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

T13: Parking Provision

4 bedroom houses and above                      3 spaces per unit

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

#### Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with 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 E (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 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.

#### **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 and Conserving Walsall's Natural Environment are consistent with the NPPF.

#### **Consultations**

**Natural Environment, Ecology** – A bat survey is required.

**Transportation** – No objection

#### **Public Participation Response**

The neighbour at number 107 has objected on the following grounds:

Overshadowed

Overlooked

Overpowered

#### **Determining Issues**

Has the current planning application overcome the previous reasons for refusal

- Protected Bat Species
- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking
- Positive and Proactive working with the applicant

#### **Observations**

### **Protected Bat Species**

The application site is within 50 metres of mature trees in an area characterised by large mature gardens. The Ecology Officer considers that there is sufficient green infrastructure for there to be a reasonably high prospect of finding bats in the building. As the development would require partial demolition or modification of the existing roof it meets the criteria set out in Conserving Walsall's Natural Environment. The Ecology Officer has recommended that in the absence of a satisfactory bat survey the application should not be granted. For these reasons the proposal does not overcome the previous third reasons for refusal.

### **Design of Extension and Character of Area**

The design is considered to not be subservient to the original house because the first floor elevation would be in line with the original main front elevation and would include matching roof pitch height, the side bonnet hip with parapet also does not reflect the original design for the house and would add to the dominance of the extension in the street scene. For these reasons the proposal would not integrate with the original house and would detract from the original feature gable and bay.

The application house has space to the side at first floor level as do both of the neighbouring houses, this space characterises their traditional semi-detached designs which define the character of the area. It is acknowledged that there four instances where these spaces have been lost within the same row of nine houses. Two of these include flat roofs and would have been built many years ago, utilising the pre 1988 permitted development allowances. One is set back from the main front elevation. The overall character of the area is still considered to be traditional semi-detached houses and the proposal which would result in a potential terracing effect would have a significant detrimental impact on the character of the area and would be contrary to the Councils terracing policy. The proposed side bonnet hip design with parapet is also an unusual design which is not reflected at any of the neighbouring houses and is considered would add to the visual harm and dominance in the street scene. This proposal does not overcome the previous first reason for refusal.

The design of the proposal includes a fifth bedroom in the roof space which in the previous refused scheme had no windows. This application proposes a rear dormer and rear facing window providing an acceptable level of amenity for occupiers and which is considered to overcome the second reason for refusal.

### **Amenity of Nearby Residents**

The proposal would be closest to number 103. The first floor side extension would be opposite the landing window of number 103. The two storey rear part would project 2.4 metres beyond the main rear elevation of number 103, the single storey part 3.5 metres which would accord with the Councils 45 degree code from the nearest ground floor kitchen window and is considered would not have a significant overbearing impact or result in significant loss of light.

The single storey part would project 3.5 metres beyond the main rear elevation of number 107, the box dormer would be lower than the main roof and be set in from the main rear elevation, and the gap between this house and the proposed two storey rear extension are considered acceptable not having an overbearing impact or resulting in unacceptable loss of light. An objection has also been received about the potential for overlooking, however there are no side windows proposed and the dormer is considered would present no more opportunity for overlooking than the existing first floor bedroom window.

No side facing windows are proposed and the proposed dormer windows would not offer significant potential for overlooking anymore than the existing first floor windows do.

### **Parking**

The Transportation Officer previously objected to the proposal due to the lack of parking. The existing garage would be converted into storage, the existing driveway is illustrated to have space for three cars and the number of bedrooms would be increased from three to five. The proposal accords with the Council's parking standards which require three car parking spaces for houses with four bedrooms or more and overcomes the previous third refusal reason. If otherwise acceptable a condition can be added requiring further drainage details.

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

The previous application had been on hold at the applicant's request since 2010. Meetings had been held with the applicant and a local Councillor to resolve the Council's concerns, however no changes were made to the original scheme and it was eventually refused in agreement with the applicant in September 2013. The new proposal is a larger scheme than previously refused and which does not address all of the previous refusal reasons. Amendments have now been submitted which overcome two of the previous four refusal reasons.

### **Recommendation: Refuse**

1. The design includes the first floor part of the side extension being built in line with the front elevation of the application house up to the shared boundary with number 107 which would not be subservient to the original design and with side bonnet hipped roof would poorly integrate with the original house. This design would not provide space at first floor between the existing semi-detached houses which define their character, resulting in a terraced appearance in an area where this is not a defining characteristic, and would not meet the Council's terracing policy which requires a minimum 1 metres setback from the front elevation and a 900mm setback from the shared boundary creating detrimental visual harm to the street scene. For these reasons the proposal is contrary to the NPPF core principles, policies 56, 58 and 64, Walsall's Unitary Development Plan policy ENV32, and the Supplementary Planning Document "Designing Walsall" appendix D in particular regarding terracing.
2. The application has failed to include conclusive evidence about the possible presence of bats, which are a protected species, or the impact on their roosts or habitats. The application is therefore contrary to the NPPF core principles, policy 109, Walsall's Unitary Development Plan, in particular policy ENV23, and the Supplementary Planning Document "Conserving Walsall's Natural Environment".



# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 18.**

**Reason for bringing to committee: Called in by Councillor Whyte requires delicate judgement**

**Application Number:** 14/0267/FL  
**Application Type:** Full application

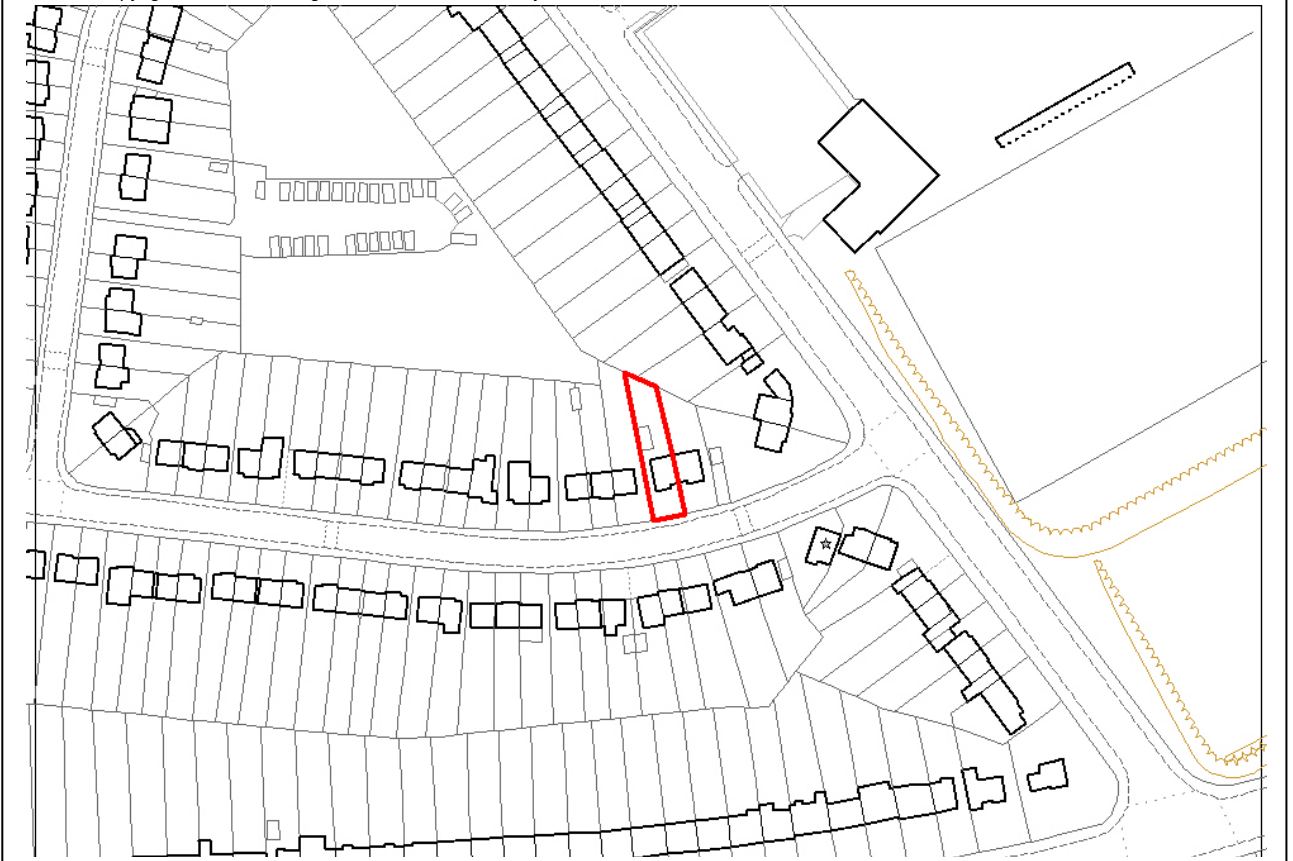
**Case Officer:** Helen Smith  
**Telephone Number:** 01922 652606  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Roscrowden Ltd

**Applicant:** Mr Mohammed Raza  
**Proposal:** Single storey rear extension and double storey rear extension  
**Location:** 81 TAME STREET EAST, WALSALL, WS1 3LB  
**Ward:** Palfrey

**Expired Date:** 28/04/2014

**Recommendation Summary:** Refuse

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## **Application and Site Details**

The application house is a semi-detached property with an existing single storey rear extension. The current proposal has been amended to remove a proposed two storey front extension. The proposal would now provide a rear ground floor enlarged kitchen and living room with a 4<sup>th</sup> bedroom above. There are allotments to the rear of the site.

The proposed two storey rear extension would extend 4 metres from the original two storey rear elevation and with the side of the extension being in line with the existing side elevation. The opposite side of the proposed extension would be 1.9 metres from the shared rear boundary with the adjoining semi, no. 83. This extension would have a hipped roof with a ridge height matching the existing ridge height.

The proposed rear extension would be L-shaped extending 5.8 metres near to no. 83 and 1.8 metres further than the proposed two storey rear extension. The single storey proposal would have a flat roof which would be 2.7 metres high and would include a roof light near to no. 83.

No. 83 has an existing 4.2 metres deep single storey rear extension near to no. 81 plus a first floor rear extension which is 1.8 metres deep and is positioned 2.9 metres from the rear boundary with no. 81. No. 83 has a bedroom window at first floor next to no. 81.

There is a gap of 4.3 metres between the side elevation of the application house and house no. 79 which has side facing non-habitable room windows. No. 79 has rear facing habitable room windows. There is an existing secondary lounge window in the side elevation of no. 81 facing no. 79. This proposal would add four new side facing habitable room windows in the side elevation opposite no. 79.

The proposed extension would face across rear gardens to houses on Delves Road across a separation distance of 32 metres.

There is a detached garage at the end of the rear garden of no. 81 and the frontage of the property is hard-surfaced to provide off-street parking.

### **Relevant Planning History**

None for the application property

Planning permission was granted in 2006 for extensions to no. 83 Tame Street East which included a first floor rear extension.

## **PLANNING POLICY**

[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

- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas

**Key provisions** of the NPPF relevant in this case:

- ***NPPF 7 - Requiring good design***

On **planning conditions** the NPPF says:

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

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

## **Local Policy**

### **Black Country Core Strategy**

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

### **Unitary Development Plan**

- GP2: Environmental Protection
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

## **Supplementary Planning Document**

### **Conserving Walsall's Natural Environment**

- Development with the potential to affect species, habitats or earth heritage features
  - NE1
  - NE2
  - NE3
- Survey standards
  - NE4

### **Designing Walsall**

- Policy DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall SPD are consistent with the NPPF.

**Policies are available to view online:** [http://cms.walsall.gov.uk/planning\\_policy](http://cms.walsall.gov.uk/planning_policy)

### **Consultation Replies**

**Natural Environment Team, Ecology** – No objections on ecological grounds



**Pollution Control, Scientific Team – No objections**

**Pollution Control, Contaminated Land Team – No objections**

**Public Participation Responses**

None.

**Determining Issues**

- Amenity of Nearby Residents
- Protected Species
- Parking

**Observations**

**Amenity of Nearby Residents**

The proposed first floor extension would extend 4 metres beyond an existing adjacent rear bedroom window at no. 83 and it is considered that the proposed combined excessive length and height would have an overbearing and unacceptable impact on neighbours' light and visual amenity. This part of the proposal breaches the Council's 45 degree guidance in respect of the first floor bedroom window in no. 83.

The separation distance of 4.3 metres between the side elevation of the no's 79 and 81 would limit the impact of this proposal on the existing amenity at no. 79. The proposed installation of first floor side facing windows to serve bedroom no's 3 and 4 are considered would result in an unacceptable overlooking of the neighbouring house no. 79. The window serving bedroom no. 3 would be the only window serving this room and it is considered would provide poor amenity for residents to require this glazing to be obscurely glazed and with top-opening parts only. This window would be installed in the original house but as this has been included on the plans has been assessed as part of this proposal. The applicant may consider Permitted Development allowances for this alteration.

The side facing window serving bedroom 4 and two side facing living room windows are secondary windows and could be conditioned to be obscurely glazed.

There would be some loss of sunlight to the rear of no. 79 in the afternoon but it is not considered that it would be to a degree that would result in harm to the living conditions of the occupiers of this property.

The proposed single storey rear extension would extend 1.6 metres further than the existing extension to the rear of no. 83 and would be located the north of the two properties. This orientation and the low flat roof of 2.7 metres high is considered would have little additional impact on the existing light available to neighbours ground floor habitable room windows in no's 79 and 83.

The proposed single storey extension would comply with the Council's 45 degree guidance in relation to ground floor rear habitable room windows in no's 79 and 83.

**Protected Species**

Whilst the site backs onto overgrown allotments and there are mature trees in the neighbourhood, the neighbourhood is fragmented by roads and it is not considered the risk of bats in this building is sufficiently high to justify a bat survey. Consequently no bat survey is required but a note to the applicant should be included if planning permission is granted.

**Parking**

The existing frontage of the property is hard-surfaced and there is sufficient space to accommodate three off-road parking spaces to meet the requirements of UDP Policy T13.

**Positive and Proactive working with the applicant**

Officers have spoken with the applicant's agent and whilst some helpful changes were made to the initial proposal it is considered in this instance that the changes are insufficient and the Local Planning Authority are unable to support the proposal.

**Recommendation:** Refuse

1. The proposed first floor rear extension would result in an unacceptable loss of light and outlook to the rear bedroom windows at the adjoining house no. 83 Tame Street East because of its excessive length and height in relation to this property. 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 ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, and ENV32, Appendix D of Designing Walsall SPD.
2. The proposed side facing window to serve Bedroom 3 is considered would result in overlooking and an unacceptable loss of privacy for the occupiers of no. 79 Tame Street East and could not be satisfactorily overcome by planning condition as this would be the sole window to serve a primary room could not be required to be obscurely glazed with opening parts at high level only. 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 ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, and ENV32, Appendix D of Designing Walsall SPD.





# Walsall Council

Regeneration Directorate – Planning and Building Control

Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 26/06/2014

**Plans list item no: 19.**

**Reason for bringing to committee: Contrary to policy. Called in by Councillor Arif for delicate judgement.**

**Application Number:** 14/0750/FL  
**Application Type:** Full application

**Applicant:** Mr Ajit Athwal

**Proposal:** Garage conversion to convert existing garage into bedroom and shower room space

**Location:** 10 RAGSTONE CLOSE, WALSALL, WS2 8TH

**Ward:** Birchills Leamore

**Case Officer:** Jenny Townsend

**Telephone Number:** 01922 652610

**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** David Wilson Partnership Limited

**Expired Date:** 15/07/2014

**Recommendation Summary:** Refuse

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### **Application and Site Details**

This is a resubmitted application for the conversion of the garage at a modern detached house to create a bedroom with a shower area for a disabled person. The number of bedrooms would be increased from 4 to 5. The submitted plans are identical to the previously refused application but a personal statement justifying the need for the conversion and a photograph showing 2 cars parked on the driveway have been included in this submission.

The house is on a small residential development which was originally approved with a shortfall in the parking provision for some of the 4 bedroom houses on the basis of the site's sustainability. There are currently 2 parking spaces at the house: one in the garage and one on the front driveway. The policy requirement in the UDP at the time the application was originally approved was 3 for a four bedroom dwelling.

There is a difference in levels between the existing driveway and front garden and the path between the two has been raised to allow for level access into the house.

The application proposes to replace the existing garage door with a wall and window in the same position. The new bedroom window would face the side of number 7 Ragstone Close which has 4 windows, three are secondary windows and one is the only window to a bedroom. The separation between the windows would be approximately 14 metres with the road between them.

Discussions have taken place with the Council's disabled facilities team regarding enlarging the existing ground floor toilet and adding a small extension on the rear of the house to enlarge the dining room and convert this to create the new bedroom which would provide sufficient accommodation for the disabled user without reducing the existing parking provision.

### **Relevant Planning History**

07/0084/FL/W7 Erection of 44 dwellings and associated works following demolition of existing industrial buildings. Granted subject to conditions 18/04/07.

14/0048/FL Conversion of garage to bedroom with level access shower facility for disabled access. Refused 24/02/14 on the grounds that the proposed development has failed to demonstrate that there is sufficient on-site parking remaining to meet the operational needs of the development which is likely to result in indiscriminate parking in the turning area or on the public highway, contrary to UDP policy GP2, T7 and T13, to the free flow of traffic and to highway safety.

### **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
- Take account of the different roles and character of different areas

**Key provisions** of the NPPF relevant in this case:

**4: Promoting Sustainable Transport**

32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

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

**7: Requiring Good Design**

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

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.

131. In determining planning applications, local planning authorities should take account of: the desirability of new development making a positive contribution to local character and distinctiveness.

**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.

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.

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 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.

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.
- (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.
  - The proposed vehicular and pedestrian circulation patterns.

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

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

### **Consultation Replies**

**Pollution Control Contaminated Land Team** – No objections provided a condition relating to ground gas protection measures is added to any planning approval.

**Pollution Control Scientific Team** – No comments.



**Transportation** – Object on lack of parking and concerned that proposal would set a precedent that would result in indiscriminate parking on the estate that would have highway safety implications.

### **Public Participation Responses**

None.

### **Determining Issues**

- **Whether the previous reasons for refusal have been overcome**

### **Observations**

#### **Whether the previous reasons for refusal have been overcome**

The proposal is identical to the previously refused application which was considered to be an acceptable design which would not harm the appearance of the house and would have little impact on the amenity of the occupiers of the neighbouring houses but failed to provide sufficient parking to meet the operational needs of the development.

The proposed development looks to convert the existing integral garage into an additional bedroom as part of a proposed disabled person facility increasing the number of bedrooms from 4 to 5. At the same time the number of parking spaces at the property will be reduced from 2 to 1 as a result of the garage conversion.

This reduction in parking provision to one third of the amount normally required for a four bedroom house, is likely to result in overspill parking off the applicants own drive and accordingly increase indiscriminate parking in the turning area immediately outside the property or on the public highway. This would be to the detriment of the free flow of traffic and satisfactory operation of the turning facility and highway safety.

The proposed conversion of the integral garage to a habitable room if approved would create a precedent that will be difficult to defend should other 4 bedroom dwellings on this estate come forward in future for similar garage conversions. Under the original estate approval a level of parking across the estate was approved at about 82% with many 4 bedroom dwellings having 2 parking spaces. Whilst this is below the UDP T13 parking policy requirement for 4 bed dwellings to have 3 spaces (which remains unchanged), it was accepted at the time by the Highway Authority and approved by Planning Committee on the basis of the site's sustainability.

In this instance the Council's transportation officer considers that a further reduction in the number of off street parking spaces in Ragstone Close is likely to result in indiscriminate parking in the cul-de-sac which could block neighbours drives or access off Bentley Lane into the close. The potential cumulative impacts of garage conversions on this estate could have severe transportation implications and therefore should be resisted in accordance with NPPF (paragraph 32).

No changes have been made to the plans to provide additional parking but the personal statement says that '...the neighbours accommodate each other's guests. The Athwal family owns 2 cars and visitors can park at the daughter's house'.

The photograph included as part of the application clearly illustrates that whilst two cars can physically be parked next to each other in a space designed for one vehicle, it also demonstrates the impracticality of this arrangement in terms of actually getting in and out the parked vehicles whilst keeping the level access ramp to the house clear.

With respect to the offer of additional parking at the relatives house, this arrangement cannot be secured in perpetuity especially if the house is sold or the daughter may purchase their own vehicles which would mean there would be no space left for the applicants own displaced vehicles to continue to park there.

As part of any planning application, UDP policy GP2 (vii) requires the Council to consider the 'adequacy of the proposed access and the adequacy of the parking facilities' which, in the view of the Highway Authority, the photograph fails to address.

It is therefore recommended that any revised application either retains the existing garage and extends at the rear/internally instead or demonstrates a practical, satisfactory secondary 2.4m x 4.8m parking space on the property frontage. As such this additional information is not considered sufficient or acceptable to overcome the previous reasons for refusal.

No assessment or statement to support the requirement for the proposal for disabled living has been provided apart from the personal statement and in this instance it is considered that the alternative scheme (enlarging the dining room and existing ground floor toilet) would provide the same accommodation for Mrs Athwal without compromising the parking provision at either the house or the development as a whole.

#### **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. In this instance the council has not been able to support the proposed development as detailed in the planning report.

#### **Recommendation: Refuse**

The proposed development has failed to demonstrate that there is sufficient on-site parking remaining to meet the operational needs of the development which is likely to result in indiscriminate parking in the turning area or on the public highway, contrary to UDP policy GP2, T7 and T13 and to the free flow of traffic and highway safety.