



**To: DEVELOPMENT CONTROL COMMITTEE**

**Report of Head of Planning  
and Transportation  
on 08 March 2005**

**REASON FOR BRINGING TO COMMITTEE: Major Development**

**Application Number:** 04/2385/FL/W1

**Case Officer:** Bob Scrivens

**Application Type:** Full application

**Telephone Number:** 01922 652488

**Applicant:** KingsOak West Midlands

**Agent:** Martin Healer Development  
Services Ltd

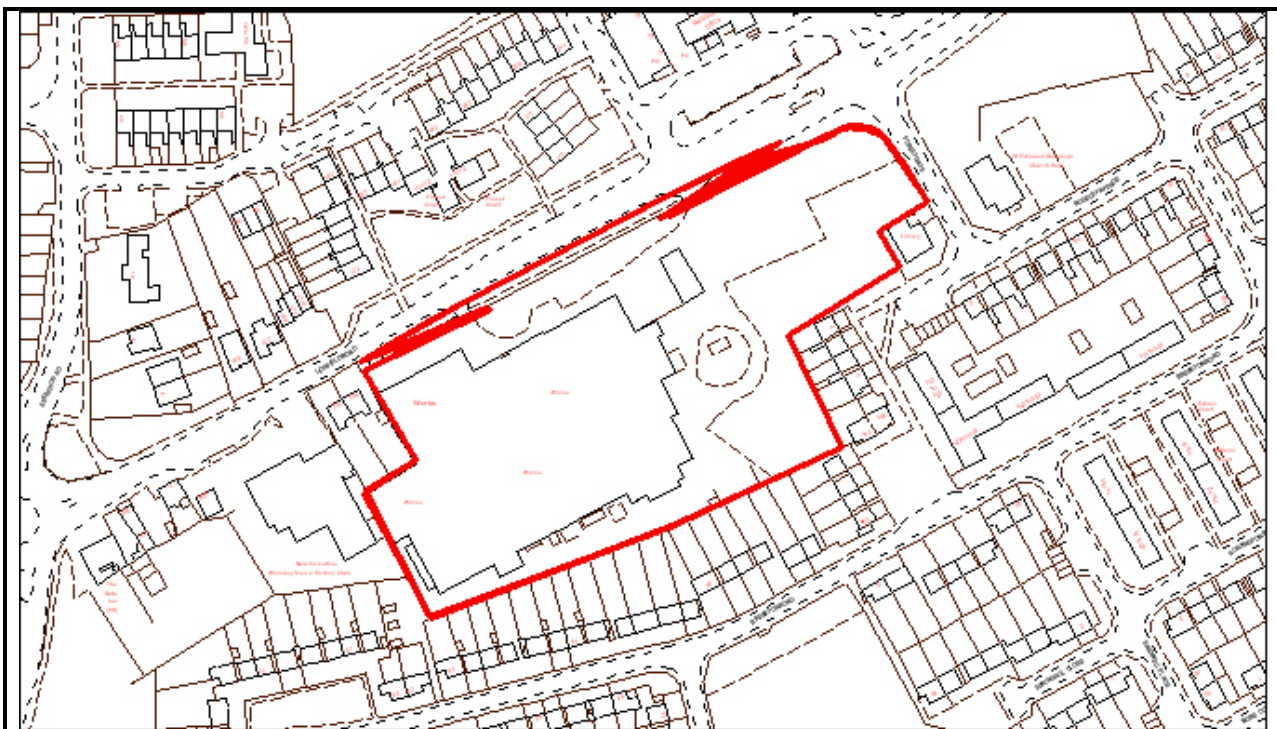
**Proposal:** Erection of 137 No Dwellings  
together with all associated road and sewer  
works

**Location:** HENRY SQUIRE AND  
SONS LTD, LICHFIELD ROAD, NEW  
INVENTION, WALSALL, WEST  
MIDLANDS

**Ward:** Willenhall North

**Expired:** 03 February 2005

**Recommendation Summary:** Grant Permission Subject to Conditions a Section 106  
Agreement, no new material representations, and resolution of the drainage issue



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## **Application and Site Details**

The site is a factory, with associated land (some areas being largely unused by the factory, and under grass). The development is shown as being phased, to allow the factory longer to relocate (though the expectation on the part of the developers is that phase one would follow phase two immediately).

The proposal is housing development, replacing everything on the site.

Access is from Lichfield Road. Phase one is accessed through a new road at the location of the existing main factory entrance. Phase two would see the phase one entrance closed and relocated further west.

The scheme is a mix of flats and houses, with the flats on the road frontage. Houses are proposed at the back of the site, closest to the rear gardens of the existing housing to the south.

All the buildings are shown as brick with tiled, pitched roofs. The houses are two storey. The flats, generally, are three storeys. The immediate corner of Forest Gate / Lichfield Road is four storeys (as a feature), dropping down to three storeys on either side.

Parking provision is 2 spaces per house. Parking for the flats is complicated by the division of this part of the development into courtyards. One courtyard is slightly over provided with parking (by 7 spaces) the other two are slightly under (one by 3 spaces, one by 4). Total parking for the flats is 159 spaces.

The application is supported by a Transport Assessment, a Design Statement, a Planning Statement, and a ground conditions appraisal.

Site area is approximately 1.5 hectares.

Adjoining the site on the south-east corner, is a small local library, a single storey building, taking access from Forest Gate.

## **Relevant Planning History**

The history of the site is essentially that of the factory. There was a retail application on part of the site which was refused in 2002, and subsequently dismissed on appeal.

There is therefore nothing of significance for this application.

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

ADOPTED UDP

Policy 3.6 - redevelopment schemes to contribute towards the environmental improvement of the area.

Policy 6.6 - provision of a satisfactory residential environment

Policy 6.8 - schemes to be well integrated into the existing pattern of settlement and surrounding land use and to provide adequate open space.

Policy 8.4 requires new developments to provide open spaces to meet their own requirements. Where this is not possible or appropriate, improvements to facilities in the wider area may be required.

Policy H4 gives guidelines for the layout and design of residential development and protection of residential amenity.

Appendix 2 'Development Control Guidelines' then provides a clear statement to prospective developers of the Council's normal requirements.

## UDP REVIEW

Policy GP2 states that the Council will not permit development which would have an unacceptable adverse impact on the environment and lists the considerations that will be taken into account in the assessment.

Policy 3.6 reiterates policy 3.6 of the adopted UDP.

Policy ENV15 encouragement of the reclamation and development of derelict and previously developed land.

ENV34 considers design of development indicating that development needs to take account of its context and surroundings.

Part b) indicates the criteria to be taken into account in assessing proposals.

Policy 6.3 - housing should be in locations that have good accessibility and are well related to local facilities, such as town, district and local centres.

Policy H3 states that the Council will encourage the provision of additional housing through the re-use of brownfield previously developed windfall sites, subject to a satisfactory environment being achieved.

Policy H9 indicates that housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites.

Policy H10 states that residential developments should create a high quality living environment, well - integrated with surrounding land uses and local character.

Policy 8.8 then states that residential developments will only be permitted where adequate school capacity exists or can be provided. The Council will require developers to make a contribution to the costs of providing these facilities.

Policy LC1 d) states that residential developments will be required to make a financial or other contributions which will enable the provision of new, or the improvement of existing, urban open spaces.

Policy H4 requires provision of affordable housing. The details that support the policy are recently published for consultation, but it has some weight.

## Government Policy

Planning Policy Guidance Note 1: General Policy and Principles:  
paragraph 13) '...The appearance of proposed development and its relationship to its surroundings are material considerations in determining planning applications...'

Planning Policy Guidance Note 3: Housing, promotes sustainable patterns of development and advocates the better use of previously developed land over Greenfield sites. Promotes the need for good design in new housing developments and affordable homes. Aims to achieve more efficient use of land and to increase the density of development above that generally achieved to date, it is also stated in paragraph 56 that new housing of whatever scale should not be viewed in isolation and consideration of design and layout must be informed by the wider context so that the quality of the environment is not compromised.

Planning Policy Guidance Note 13 - Transport, promotes sustainable patterns of development, which reduce the need for travel, especially by car.

## **Consultations**

### **Transportation**

Parking satisfactory.

Access arrangements comply with standards. Junctions would operate with spare capacity and there is unlikely to be any material impact on highway network.

### **Pollution Control**

Support the application, subject to conditions:-

1. restricting hours of construction
2. ground study and remediation
3. minor improvement to noise remediation proposed
4. compliance with the Building Regulations on noise transmission within buildings

**National Grid** - not affected.

**Energis** - not affected.

### **Lifelong Learning and Community - Head of Library and Heritage**

Concerned that four storey flats will significantly obscure the library from the main road. It is not particularly well used in its present location and hiding it will have a negative impact on its role in the community. Early stages of service review indicate a continuing need for this library and this application will reduce available options and may contribute to its closure.

### **Director of Environmental Regeneration**

#### **Landscape and Conservation**

A number of large trees are to be lost - replacements should be of suitable size. More detail is required for landscaping scheme. Existing walls and railings could usefully be kept.

### **Housing Services**

The provision of a suitable affordable housing scheme is appropriate on this site.

### **Environment Agency**

Objects on basis of risk of increasing flooding from water run-off.

**Drainage**

Acceptable. Sewer is known to exist on edge of site. Also reports have been received of small scale flooding on the south west edge of the site, in adjoining properties.

**Severn Trent**

No objection subject to conditions on drainage and not building over sewers.

**Primary Care Trust** - no requirement for investment.

**Education** - no objection.

**Representations**

Three letters of concern received from residents to the south of the site (Brereton Road). The issue is security for residents. Taller or stronger boundary treatment is suggested by residents as a solution. There is also concern that the alleyways on the development could attract abuse.

One letter received from residents west of the site, similarly concerned about security, as above. There is also concern about the volume of traffic entering Lichfield Road.

I have also received comments from New Invention Local Committee. They support the proposal, but argue that including the library land would improve the development, give full potential to the development and make a vast improvement to New Invention. The 106 receipt could then be used to benefit New Invention.

The period for comment on the amended plans expires just after your meeting, and this is reflected in the recommendation.

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

**Determining Issues**

1. Layout and design of the development
2. Access
3. Affordable housing
4. Including the site of the library in the development site
5. Relocation of library and improvement of the nissen hut as part of development
6. Flooding
7. Alleyways / security for existing houses
8. Railings
9. Provision of public open space

## **Observations**

### **1. Layout and design of the development**

The proposed flats create an attractive urban edge to the road, at a point opposite a local centre (The Square). As a design approach that is to be supported, emphasising the significance of the area for the wider community. The small number of taller flats on the corner of Forest Gate and Lichfield Road create a visual emphasis for the same reason.

In side the site, the roadways and buildings have been arranged to create attractive spaces.

The houses are grouped adjoining existing houses, to avoid any undue impact from the taller flats.

Overall, the scheme meets Council design objectives. It also meets guidelines such as garden lengths, and distances between windows.

### **2. Access**

Phase one has an access which would be closed when phase two is built. That is reflected in the conditions.

Both accesses are acceptable (though not at the same time, hence the requirement to close phase one, set out in the conditions).

### **3. Affordable housing**

The policy base (national and local) identifies there are legitimate needs for this provision. The Council is close to defining a set of 'standards' for this.

In advance of the formal standards, the developers in this case are prepared to make a reasonable contribution on the subject (probably shared ownership through a registered social landlord such as a Housing Association).

The policy recognises that sites can be expensive to develop and that this may be a reason to reduce the affordable provision.

I have recommended approval subject to a section 106 agreement. The preparation of the agreement would include a process of defining precisely the level of affordable housing, which would be required.

### **4. Including the site of the library in the development site**

The developers are prepared to consider this option. However, they seek a decision on this application before they do that.

They may or may not choose to try to buy this land.

The library is not physically affected by the development currently proposed. Although, it will acquire neighbouring buildings, they are on the same building line. The library will not, in my view, be significantly less prominent. In any event, I do not consider that the library secures customers who happen to be passing by and who chance to see it. Passing trade, which

might need to be protected, is not an issue.

There is no reason in planning to refuse this application simply for not including the library site.

#### 5. Relocation of library

This issue has been raised as part of the consultation process. (It is not the same as the developers buying the library site, though the two may go together.)

The developers have been invited to consider whether they would be prepared to support the local community by volunteering to relocate the library into The Square.

It is clear to me that there is no planning policy that supports, requires, or validates such a request. It is not a prerequisite to granting planning permission.

The developers accept that there is a sum of money they can allocate from their project for community matters. However, they have indicated that it is at present aimed at the provision of affordable housing on this site. They would be agreeable to shifting a suitable sum to other projects, should that be the Council's priority.

The developers are seeking to be helpful, but their idea leads the Council into difficulties.

Such payments are, generally, governed by a section 106 agreement. The legislation and national policy that controls such agreements makes clear how they can be used.

Agreements must be relevant to the application, relevant to policy, necessary, and reasonable. It is clear that they can be used to control road building, open space provision etc. **where these are a consequence of the development.** In this case, this idea has no relationship to the site, or the development, other than mere proximity. There is no planning basis on which this development can be shown to require such investment.

Conversely, there is a planning policy basis for the open space contribution (see elsewhere in this report), and there is a policy basis for a contribution to affordable housing. They can be properly justified.

However, matters go further. Having received the money for open space or affordable housing, under the appropriate justification, that is what the money must be spent on. It is not legitimate for the Council to re-allocate that money to another project (even with the agreement of the developer).

#### 6. Flooding

In relation to the EA objection matters need to be resolved between the developer and EA. I have recommended approval with this as a prerequisite.

In relation to the minor flooding of rear gardens, the developers anticipate reduced run-off as the area adjoining is proposed to be gardens, rather than a mix of hard surface and rough ground. They intend to submit levels, and are considering the possibility of adding land drainage as necessary. The issue is therefore capable of resolution and features in the conditions.

## 7. Alleyways / security for existing houses

The Police Architectural Liaison Officer (ALO) is satisfied that alleyways as they are proposed on this site (serving a few back gardens, in a dead end arrangement) can be adequately secured by lockable gates etc. The developers have confirmed their agreement to this approach.

In areas such as those identified by local residents, the developers propose 1.8m close boarded fences.

I would not see these as issues. Though the residents have expressed concern. I would not seek increased height, or the provision of walls, as the ALO does not consider there is a security issue.

The Police did have some concerns about one corner of the site, where there was a largely unsupervised car park. The plans have been revised to address this, and I understand they agree the principle. At the time of writing I am awaiting confirmation.

## 8. Railings

The railings on the front of the site are decorative, embodying a logo for Squires. The developers wish to keep them, and I have addressed this through an appropriate condition.

## 9. Provision of public open space / rebuilding the nissen hut

The nissen hut has been raised as part of the consultation process.

The developers have been invited to consider whether they would be prepared to support the local community by volunteering to improve the nissen hut.

Unlike the library relocation issue, the nissen hut is part of an open space and is legitimately a target for the open space contribution from this site. Lifelong Learning anticipate using the open space contribution in this way.

## Conclusion

The scheme accords with Council policy and guidelines.

Approval is appropriate, subject to resolving issues such as the Environment Agency comments, and subject to a section 106 agreement. The agreement would provide for:-

- Open space contribution
- and
- Affordable housing.

## **Recommendation: Grant Permission Subject to Conditions, a Section 106 Agreement, no new material representation, and resolution of the drainage issue**

1. This development must be begun not later than 5 years after the date of this decision.

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



2. No development shall be commenced until details of existing and proposed levels of the site, access way and floor levels, in relation to land adjoining the site have been submitted to and 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 or adjoining land.

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

3. No building shall be commenced until a schedule of facing materials to be used in external walls and roofs, and a statement of which design option has been adopted for the elevations from the available choices for each building, has been approved in writing by the Local Planning Authority.

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

4. No development shall be commenced until a detailed landscaping scheme for the site has been submitted to and approved in writing by the Local Planning Authority., The approved scheme shall be implemented within 12 months of any part of the development in that submission being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

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

5. The noise measures specified in the application will be implemented before any of the dwellings affected are occupied.

*Reason.* To ensure the satisfactory development of the site.

6. (a) No development shall be commenced until a scheme for the provision of storm and foul drainage works has been approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.
- (b) There shall be no discharge of foul sewage, trade effluent or contaminated drainage from the site into either groundwater or surface waters, whether direct or via soakaways. Any such drainage shall be discharged to the public foul water sewerage system, subject to the prior approval of the sewerage undertaker.

*Reason.* To prevent pollution of the water environment.

7. No development shall be commenced until a protocol has been submitted to and approved in writing by the Local Planning Authority, to ensure that the immediately surrounding highways are not adversely affected by the deposition of materials from vehicles leaving the site. All operations on the site shall comply with the provisions of the approved protocol.

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

8. Prior to any development on the site

- (a) A ground contamination survey and site investigation approved in writing by the Local Planning Authority shall be undertaken having regard to current advice. [Note: Ground contamination and site investigation surveys shall assess the likely hazards of all identified contamination to the proposed development (and its future occupants) and any surrounding development resulting from the presence of potentially toxic materials

and the emission of toxic, flammable and asphyxiant gases. Landscaped areas will need to have an adequate depth of clean cover.]

- (b) the approved survey and investigation shall be undertaken in accordance with the approved details
- (c) the results of the ground contamination survey and site investigations, together with a report setting out proposed remedial measures to deal with any identified and potential hazards arising from any land contamination, and a timescale for their implementation in relation to the development of the site, have been submitted to and approved in writing by the Local Planning Authority.
- (d) The approved measures shall be implemented in accordance with the approved timetable.

#### NOTE FOR APPLICANT

The ground contamination survey and phased site investigation carried out on the site shall be made in reference to current standards and best practice such as British Standard BS10175:2001 'Investigation of potentially contaminated sites - Code of Practice'; British Standard BS5930:1999 'Code of practice for site investigations'; Waste Management Paper No. 27 'Landfill Gas'; Environment Agency, NHBC 'Guidance for the Safe Development of Housing on Land Affected by Contamination' R and D Publication 66, 2000; and the Contaminated Land Exposure Assessment Model (CLEA) 2002. Please note that this is not an exhaustive list.

*Reason.* To ensure the satisfactory development of the site.

9. Prior to remediation works commencing, details of plant required for any crushing and / or grading of brick / concrete shall be submitted to the Local Planning Authority for written approval. The machinery shall be operated in accordance with the approved details.

*Reason.* To control the environmental impact of the remediation of the site, to protect nearby occupiers.

10. No development shall be carried out until full details of the proposed boundary treatment of the site have been approved in writing by the Local Planning Authority, including the retention of the existing decorative railing on the street frontages. The submitted scheme shall include any internal site divisions. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

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

11. No construction, demolition or engineering works (including land reclamation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours of 0700 to 1800 weekdays and 0800 to 1300 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 operated on the site outside of these permitted hours.

*Reason.* To safeguard the amenity of surrounding residents.

12. The car park to serve the existing factory on the site shall be surfaced in tarmac and parking spaces marked before it is brought into use. The replacement car park will be completed within one month of the commencement of the phase 1 development on the site,

and shall be retained until the commencement of the phase 2 development of the site.

*Reason;* To ensure satisfactory car parking provision for the factory.

13. Before any dwelling in phase 1 is brought into use, the bus shelter on Lichfield Road shall be relocated, in a position agreed beforehand with the Local Planning Authority.

*Reason:* To ensure a satisfactory environment for the adjoining dwellings.

14. Before any part of this development is brought into use, the accessways, vehicle parking and maneuvering areas (including the drives and / or car parking spaces associated with individual houses) shown on the approved plans for that part of the development shall be surfaced in tarmacadam (or alternative impervious hardwearing material to be agreed in writing by the Local Planning Authority). The areas shall thereafter be retained and used for no other purpose.

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

15. All planted and grassed areas shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

- (a) grassed areas shall be maintained in a tidy condition by regular cutting and any areas that fail to establish shall be reinstated;
- (b) planted areas shall be maintained in a tidy condition by regular weeding and litter collection;
- (c) any tree, shrub or 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 the same species as that originally required to be planted;
- (d) any damage to protective fences shall be made good.

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

16. At all times, the landing windows in plots 35, 45, 48 shall be obscure glazed.

*Reason* To preserve the amenity of adjoining dwellings by controlling overlooking.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no development within Classes A, and E of Schedule 2 Part 1 to the Order shall be carried out to the dwellings on plots 14, 15, 16, 17, 18, 26, 163, 164, 190, 191 or 206, without the prior approval of a planning application.

*Reason* To control the provision of extensions on plots where the design of the scheme increases the impact of such extensions beyond normal.

18. This permission relates to drawings designated / numbered:-

0419-20  
0419-13  
0419-12A  
0419-PORS-01  
0419-PELS-01  
2194/MOR/01A  
0419-SHL-01

0419-MIDS-01  
0419-LIT3-02  
0419-LAN3-KNI3-02  
P1132

*Reason.*

To define the permission.

**Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision**

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies 3.8, 6.6, 8.4, and H4 of Walsall's Unitary Development Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. If the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at [www.walsall.gov.uk](http://www.walsall.gov.uk)

**NOTES FOR APPLICANT**

A. This permission does not grant approval under the Building Regulations 2000 for which a separate application may be required. You are advised to contact the Building Control Section on telephone helpline number 01922 652408 should you require further advice.

B. This permission does not grant approval over separate land ownership issues, or in any way overrides the requirement to comply with any restrictive covenant(s) that may be on the land. You should be aware that there is a risk involved in proceeding with development without clarifying whether there are any relevant covenants relating to the property.

C. Your attention is drawn to the Party Wall Act 1996. If you intend to carry out building work which involves:

- work on an existing wall shared with another property;
- building on the boundary with a neighbouring property;
- excavating near a neighbouring building;

you should find out whether that work falls within the scope of the Act. If it does, you must serve the statutory notice on all those defined by the Act as adjoining owners. You may wish to seek professional advice. However, two guidance booklets have been published entitled 'The Party Wall etc. Act 1996: Explanatory Booklet' or 'A Short Guide to the Party Wall etc. Act 1996', both are available from the DOE Publications Despatch Centre, Blackhorse Road, London, SE99 6TT. Tel. 0208 691 9191. Fax. 0208 694 0099.

D. The following organisations have been consulted on this application, and attention is drawn to their responses:-

- Environment Agency
- Severn Trent Water



**To: DEVELOPMENT CONTROL COMMITTEE**

**Report of Head of Planning  
and Transportation  
on 08 March 2005**

**REASON FOR BRINGING TO COMMITTEE: Major Development**

**Application Number:** 04/1304/OL/W2

**Case Officer:** Marilyn Kowalski

**Application Type:** Full application

**Telephone Number:** 01922 652488

**Applicant:** Mr P.E. Jackson

**Agent:** Mr P.E. Jackson

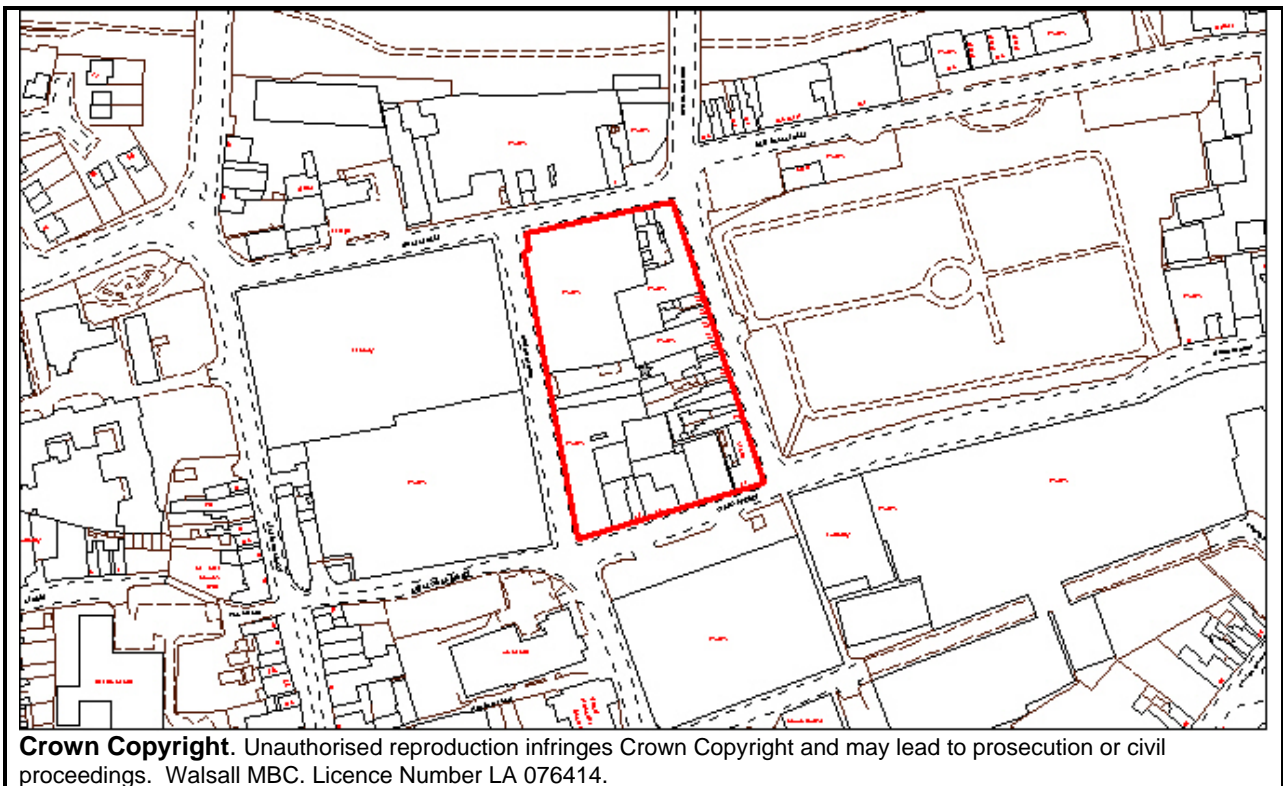
**Proposal:** OUTLINE : Residential  
Development involving the retention and  
conversion of some factory units and demolition  
of other factory units

**Location:** LAND BETWEEN MOAT  
STREET TO WOOD  
STREET, WILLENHALL

**Ward:** Willenhall South

**Expired:** 05 February 2005

**Recommendation Summary:** Grant Permission subject to conditions



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## **Application Details**

This is an outline application, which has been amended since its original submission. It now relates to just the principle of the development along with the retention of individual buildings on the site. Indicative plans showing the layout of the site and elevations were also provided with the original submissions.

The site is roughly rectangular in shape and is bounded by roads on all four sides. Most buildings on site are to be demolished except for the group of buildings on the corner with Gower Street and Wood Street i.e Union Lock Works and 93 and 94 Wood Street.

The applicant has submitted a supporting letter and a design statement with the application. The Union Lock Building will be retained and refurbished (excluding out of keeping extensions) along with nos. 93 and 94 Wood Street. The remainder of the site will be cleared. Car parking will be provided to meet Council standards. Confirmation that the applicant is prepared to contribute towards public open space off site provision is given. It explains that the application took siting and access into account originally as buildings of local interest lie on the site. Conditions relating to archaeological matters will be accepted. Each frontage of the site is assessed in turn in design terms. Access and highway issues, key design features for future submissions and sustainable issues are commented upon. It is outlined that no building will exceed 4 storeys in height (except for the Cemetery Road frontage where it is stated that 2 - 2½ storey will be the maximum) and height and massing may need to be staggered to ensure a 'comfortable fit' on site. (These matters will be dealt with at the reserved matters stage.)

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

Part of the site falls within the Willenhall Conservation Area, including the Gower Street Union Lock Works which are also on the local list of buildings of interest.

## **Unitary Development Plan**

Policy 3.7 seeks to protect uses from noise etc, and provides that residential development will not normally be permitted in locations which experience high levels of environmental nuisance.

Policy 6.6 states that: 'The re-use for housing of previously developed sites and the development of infill sites within the urban area (including 'windfall' sites) will be encouraged where a satisfactory residential environment can be provided, and where there is no overriding need for other uses. In considering this type of proposal, the Council will wish to ensure that the cumulative effects will not damage the character and amenity of existing residential areas. The Council will not permit new housing near to existing or potential activities which will have a significant detrimental effect on the local residential environment or on the health of residents because of noise, dust, fumes or gases'.

Policy 7.2 The protection of environment and promotion of safety are central aims of transport planning.

Policy 7.21 parking provision should be sensitively integrated, and Policy 7.23 requires all development to provide parking to the standards.

Policy 8.4 requires new developments to provide open space for active uses. Where this is not possible appropriate improvements to facilities in the wider area may be substituted (under a non-statutory policy of the Council) controlled by a section 106 agreement.

### **Unitary Development Plan Review**

The site is within an identified Industrial Regeneration Area and Development Opportunity Area (WH4 vi) in the UDP Review. All development in Industrial Regeneration Area areas will be expected to work towards the improvement of the local environment and enhance the image of the area; introduce security improvements to reduce crime and vandalism and create new, and safeguard existing, job opportunities. Development in the Opportunity Area is considered to have the potential for great change, given the changing requirements of many traditional industries and general social trends. Existing employment uses will be encouraged to remain and their expansion will be facilitated where appropriate. The extent to which alternative uses could be satisfactorily accommodated within the area will be determined by a number of factors including: their functional relationship with the Primary Shopping Area; adjacent land uses; and the improvement of vehicular access to and within the area. Development must retain, and preferably enhance, public car parking.

Policy 3.12 and ENV24 The protection, management and enhancement of the natural environment is recognized as being fundamental to the well being of the Borough.

Policy 3.14 Buildings of special architectural or historic interest will be safeguarded.

Policy 3.16 Development will be considered in relation to its setting with reference to the character and quality of the existing local environment.

Policy 3.18 and 3.20 The boroughs built heritage will be protected and enhanced.

ENV28 section (a) states that 'In considering proposals for development the Council will have regard to the industrial and/or historical importance of the site or building'.

Policy H3 Encourages re-use of previously developed sites, providing a satisfactory residential environment can be achieved; they have good accessibility and are well related to community facilities; would not unacceptably constrain the development of any adjacent site for its allocated use; and be acceptable in terms of other policies of the plan.

H4 seeks affordable housing provision.

H10 development should provide a high quality living environment, well integrated with surrounding uses and local character; provide adequate open space; appropriate dwelling mix; give careful attention to ways of reducing the impact of noise and vibration.

T7 (e) All parking provision should be well designed and sensitively integrated into the townscape.

### **Current Status of Unitary Development Plan**

Although the 1995 UDP is still the adopted Plan at the present time, it is intended that the UDP Review will be adopted by the Council on 7<sup>th</sup> March 2005 and that will then replace the

1995 Plan. The UDP Review, although not yet formally adopted, can therefore now be given very considerable weight. The version of the UDP Review to be adopted will be based on the Revised Deposit Draft as amended by the Proposed Modifications published in November 2004.

### **National policy**

Planning Policy Guidance Note 24 : Planning and Noise outlines the considerations to be taken into account in determining planning applications both for noise sensitive developments and for those activities which will generate noise. The impact of noise has a material consideration in the determination of planning applications and guidance given in this Note relates to whether or not the site is feasible for development even though there is a level of noise nuisance which will be experienced at the site.

Planning Policy Guidance Note 3: Housing, seeks higher densities, to control urban sprawl.

### **Relevant Planning History**

None

### **Consultation Replies**

**Transportation** - There are no transportation objections in principle however, the access arrangement, internal site layout and parking provisions would have to comply with current design guidance/standards.

### **Pollution Control - Noise.**

Minded to recommend refusal of the application.

The development will be subject to a variety of noise sources that include the metro link that is proposed to run adjacent to the development along Gower Street. There are many industrial noise sources in the area in particular Wedges Galvanizing Limited. This company has access doors immediately opposite the proposed development that are generally left open for the ingress and egress of heavy goods vehicles with internally generated noise clearly audible off-site. Noise from extraction fans located on the roof may also be a source of noise. I am not aware of any operational restrictions.

The proposed buildings would not protect future occupants from noise. The design of the development is flawed from an acoustic engineering standpoint, on account of habitable rooms having elevations onto Gower Street and Wood Street.

If the application is to be approved conditions are suggested relating to the need for a noise survey; a noise control scheme; ground contamination survey and site investigation and remedial measures

### **Air Quality.**

The proposed site is immediately adjacent to some heavy industry and close to a foundry.



These companies are authorised for emissions to air under the Environmental Protection Act. Air pollution is a material planning consideration, as although emissions are controlled, this does not mean that such emissions are zero.

**Black Country Archaeologist** - A medieval mansion house lies within the south east corner of the development area. A condition should require a scheme of archaeological work comprising a desk based assessment to gather information as to the precise extent and nature of the moat and any associated buildings, and the excavation of any buried archaeological deposits affected by the development. The work should be monitored.

**Police Architectural Liaison Officer** - No comments at present.

**Environment Agency** - No objections in principle. Conditions suggested regarding site investigation and remediation. Records suggest that there was a landfilled area of the site some years ago.

**Severn Trent Water Authority** - No objection subject to conditions relating to drainage details.

**National Grid** - Not affected.

**Drainage** - Satisfactory.

**Building Control (demolition)** - Informative recommended regarding demolition information.

**Property and Development Team** - The site is within an identified Development Opportunity Area in the UDP Review. This policy states that when existing industrial sites are vacated other uses e. g. residential - might be acceptable subject to a number of caveats. The nature of adjacent land uses will be taken into account when judging proposals. Residential use is acceptable, in principle if a satisfactory residential environment can be provided. Main concern is B. E. Wedge (galvanisers) adjacent. Comprehensive redevelopment for residential has previously been promoted in this area but the cost of relocating B. E. Wedge appears to be prohibitive. The views of pollution control are crucial to the consideration of the application. Given the possibility of residential development highlighted in the UDP Review and the fact that there is little demand for other uses for the site it would be unfortunate if the application were to be refused and a compromise with pollution control should be sought. The developer should enter into discussions with Council officers prior to the submission of a detailed application regarding design, this should address relationship with open space (i.e. the cemetery on Cemetery Road) reducing impact of nearby industrial uses and improvement of road junctions.

**Built Conservation and Urban Design Team** - The amended application and design statement are acceptable with 2 reservations; this team will decide which extensions are out of keeping with the buildings to be retained and the Drawing entitled 'Indicative Layout Plan' is for guidance purposes only and shall not be taken to form part of the application. This is a great improvement to the original plans.

**Fire Officer** - No objections in principle.

**Housing** - Would support affordable low cost possibly shared equity development in this location. Also if specifically aimed at accommodating the elderly.

## **Representations**

I have received 3 letters of objection from neighbouring industrial premises. The grounds of objection are:-

- a) Noise from adjacent industrial uses (casting and machine processes 24 hours a day, 7 days a week amongst others) may be detrimental to any prospective residents of the proposed development.
- b) Measures need to be incorporated into the design of the apartments to secure acceptable levels of noise attenuation;
- c) The developer should be required to provide appropriate information to the first occupiers of the apartments regarding the levels of noise attenuation.
- d) Heavy goods and commercial vehicles are entering and leaving this site at all times during the working day which can cause congestion and access difficulties.
- e) Head office employing 100 people for B. E. Wedge Holdings is opposite the development;
- f) The site is zoned industrial;
- g) The industrial activities at B. E. Wedge have evolved so that the quiet uses are on the Stafford Street frontage and the industrial activity is on the Gower Street frontage, this would be totally incompatible with residential development;
- h) This is one of the larger surviving industrial activities that takes place in Willenhall and is a substantial employer and business rates payer.

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

## **Determining Issues**

I consider that the determining issues in this case are:-  
the relationship of the development to the surrounding industrial uses and their objections to the development,  
conservation issues  
the provision of amenity space.

## **Observations**

### **The relationship of the development to the surrounding industrial uses and their objections to the development**

The Unitary Development Plan seeks to provide a satisfactory residential environment; ensuring that schemes are well integrated into the existing pattern of settlement and surrounding land use. Residential development will not normally be permitted in locations that experience high levels of environmental nuisance.

The proposal is potentially vulnerable to noise, vibration etc. Equally, if such effects arise, the commercial uses are at risk of action under the Environmental Protection Act to control their activities.

It is therefore important that the development be properly designed to avoid these effects.

Pollution Control have objected to the application as they have concerns about residential development in the location proposed. They feel that due to the surrounding

noisy environment, exacerbated by unrestricted industrial uses, future occupants could suffer from potential noise intrusion. Comments relate to the indicative layout supplied with the application. However, this is meant as a guide to the development of the site only, and to show the buildings which will be retained on the site. If the development is approved pollution control have suggested measures which should be incorporated into the final layout of the site which would be satisfactory from an acoustic engineering standpoint. They have also suggested conditions concerning remedial measures to be undertaken at the reserved matters stage. Due to the conversion element of the development acoustic measures are required in accordance with approved documents. This would be the subject of conditions should the application be approved.

The surrounding industrial uses have also raised concerns about the proximity of residential development to their operations. I am however, mindful of Government guidance contained within PPG24 which advocates the use of conditions to overcome these issues where possible.

Furthermore, UDP Review policy supports the possibility of residential development of this site due to its status within a Development Opportunity Area, subject to a number of caveats. Residential use is acceptable, in principle if a satisfactory residential environment can be provided bearing in mind adjacent land uses. Given this and the fact that there is little demand for other uses for the site as indicated by the Property and Development Team I feel the application should be supported in principle bearing in mind that pollution control have suggested ways of mitigating against the surrounding noise sources in the form of design and conditions.

### **Conservation issues**

The Black Country Archaeologist has commented that a medieval mansion house lies within the south east corner of the development area. He requires a condition which would require the implementation of a programme of archaeological work in accordance with a brief written by the council's archaeologist, and a written scheme of investigation. This will ensure that any archaeological deposits will be salvaged and saved.

Part of the site falls within the Willenhall Conservation Area, and includes the Union Lock Works. This building represents the best example of the International Modern Style in Willenhall. It makes a crucial contribution to the stock of historic buildings associated with the evolution of the internationally important Willenhall lock industry. Its retention, within the scheme, along with nos 93 and 94 Wood Street, is welcomed.

Built Conservation and Urban Design Team are satisfied that an appropriate development can be achieved. Prior to the submission of a detailed application matters of design, relationship with the cemetery on Cemetery Road, character of the conservation area and reducing the impact of nearby industrial uses should be addressed. The applicant has indicated that these are issues which have been recognised as important and has given an undertaking to ensure they are addressed at the appropriate stage.

### **Amenity space.**

It is UDP policy that residential development should provide amenity space (kickabout areas, open spaces etc.) Council policy is that such provision can be deleted from a development, and replaced by a financial contribution to the improvement of public spaces in the area. The

standard arrangement is embodied in a section 106 Agreement, at the rate of £100 per bedroom. In this case, as the application is in outline completely conditions are appropriate

## **Conclusion**

On balance residential use can be supported in principle providing the reserved matters details take account of the comments regarding design and layout of the site respecting the location and historic character of the remaining buildings. The site has the potential to make a valuable contribution to the housing land supply. I therefore recommend approval subject to conditions.

## **Recommendation: Grant Permission subject to conditions**

- 1 Application for approval of the Reserved Matters shall be made within 3 years of the date of this decision. The development must be begun not later than:

i) 5 years from the date of decision.

ii) 2 years from the approval of the Reserved Matters or in

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

2. 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 siting of the building(s);
  - b) The design of the building(s);
  - c) The external appearance
  - d) The means of access to the building(s),
  - e) The landscaping of the site

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

- 3 The reserved matters will include details of existing and proposed levels of the site, access way and floor levels, in relation to land adjoining the site have been submitted to and 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 or adjoining land.

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

- 4 No building shall be commenced until a schedule of facing materials, has been approved in writing by the Local Planning Authority.

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

- 5 No development shall be commenced until a detailed landscaping scheme for the site has been submitted to and approved in writing by the Local Planning Authority., The approved scheme shall be implemented within 12

months of any part of the development in that submission being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

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

6. No development shall be commenced until a scheme for the provision of both surface water and foul drainage works has been approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

*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.

7. A protocol shall be submitted to and approved in writing by the Local Planning Authority, before the commencement of any works on the site, to ensure that the immediately surrounding highways are not adversely affected by the deposition of materials from vehicles leaving the site. All operations on the site shall comply with the provisions of the approved protocol.

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

8. Following the demolition of existing structures and buildings and prior to any residential development on the site
  - (a) a specification for a ground contamination survey and site investigation to assess the likely hazards of all identified contamination on the site to the proposed development (and its future occupants), resulting from the presence of potentially toxic materials and the emission of toxic, flammable and asphyxiant gases. and having regard to appropriate advice and guidance, particularly that contained in British Standard BS10175:2001 'Investigation of potentially contaminated sites - Code of Practise'; British Standard BS5930:1999 'Code of Practise for site investigations'; Waste Management Paper No. 27 'Landfill Gas'; and the Inter-Departmental Committee on the redevelopment of Contaminated Land' document ICRCL 59/83: Second Edition 1987 'Guidance on the Assessment of Contaminated Land', Contaminated Land Exposure Assessment (CLEA) model shall be approved in writing by the Local Planning Authority
  - (b) the approved survey and investigation shall be undertaken in accordance with the approved details
  - (c) the results of the ground contamination survey and site investigations, together with a report setting out proposed remedial measures to deal with any identified and potential hazards arising from any land contamination, and a timescale for their implementation in relation to the development of the site, have been submitted to and approved in writing by the Local Planning Authority.
  - (d) The approved measures shall be implemented in accordance with the approved timetable.

*Reason:* To ensure the satisfactory development of the site and due to the current industrial use of the site and unknown previous use that may have given rise to ground contamination.

9. Prior to development commencing, a noise survey shall be undertaken in accordance with guidance and procedures contained in Planning Policy Guidance Note, PPG24, to the written satisfaction of the local planning authority. This shall include an assessment in accordance with British Standard BS 4142 'Method for rating industrial noise affecting mixed residential and industrial areas'. The results of this survey, including details of all instrumentation used, prevailing weather conditions and traceable calibration tests shall be submitted to the local planning authority within 4 weeks of completion. Prior to occupancy of the development, a noise control scheme reflecting the findings of the survey shall be implemented and thereafter maintained in accordance with this approval so that:
  - a).internal noise levels within bedrooms of residential development do not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(5 \text{ minutes})}$ , of 30 dB together with a maximum instantaneous level of 45 dBF  $L_{Amax}$ , between the hours 23.00 to 07.00;
  - b).internal noise levels within living rooms of residential development do not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(1 \text{ hour})}$ , of 40 dB between the hours 07.00 to 19.00; and
  - c).internal noise levels within living rooms of residential development do not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(1 \text{ hour})}$ , of 35 dB between the hours 19.00 to 23.00.

*Reason:* To ensure the satisfactory development of the site and a satisfactory environment for residents

10. Prior to remediation works commencing, details of plant required for any crushing and / or grading of brick / concrete shall be submitted to the Local Planning Authority for written approval. The machinery shall be operated in accordance with the approved details.

*Reason:* To control the environmental impact of the remediation of the site, to protect nearby occupiers.

11. Before any part of this development is brought into use, the accessways, vehicle parking and maneuvering areas (including the drives and / or car parking spaces associated with individual houses) shall be surfaced in tarmacadam (or alternative impervious hardwearing material to be agreed in writing by the Local Planning Authority). The areas shall thereafter be retained and used for no other purpose.

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

12. All planted and grassed areas shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

- (a) grassed areas shall be maintained in a tidy condition by regular cutting and any areas that fail to establish shall be reinstated;
- (b) planted areas shall be maintained in a tidy condition by regular weeding and litter collection;
- (c) any tree, shrub or 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 the same species as that originally required to be planted;
- (d) any damage to protective fences shall be made good.

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

13. The siting of buildings to be submitted under the reserved matters application should not obstruct the 4.5m x 60m visibility splays required at the junctions of Gower Street/Moat Street, Moat Street/Cemetery Street and Cemetery Street/Wood Street.

*Reason:* In the interests of highway safety.

14. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a brief written by the council's archaeologist, and a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

*Reason:* To ensure that below ground archaeological remains are recorded ahead of and during development.

15. There shall be no more than 20 dwellings built on the application site, unless the applicant has entered into a section 106 planning agreement to provide appropriate financial contributions towards
  - health and education facilities in the area
  - affordable housing on the site, or a contribution towards affordable housing off site.

*Reason :* To ensure that the health , educational and housing needs of the potential occupiers of a large development on the site are met .

16. There shall be no more than 4 dwellings built on the application site, unless the applicant has entered into a section 106 agreement to provide £100 per bedroom towards off site open space provision in accordance with policy 8.4 of the Adopted Unitary Development Plan.

*Reason:* To ensure adequate amenity space provision for the potential occupiers of the development.

#### NOTES FOR APPLICANT:-

- A. Drawings 'Indicative Layout Plan' and 'Plans/elevation' are for guidance purposes only and shall not be taken to form part of the application.
- B. In order to achieve a suitable noise climate it may be necessary for the developer to incorporate either one or a combination of the following

measures into the design/layout of the development at Reserved Matters stage:

- Courtyard style development to include all non-habitable rooms located on external façade facing industrial premises and habitable windows facing away from industrial premises.
- Stairwells/corridors serving the flats located on external façade facing industrial premises.
- Brick only (i.e. 'single aspect') façade to face onto the industrial premises.
- The layout of individual buildings to act as a noise barrier to neighbouring properties.

- C. The Environment Agency has been consulted on this application and your attention is drawn to the attached reply.
- D. If your application includes demolition work, it may be necessary for you to also notify Building Control Services of your intention to demolish (Section 80 of the Building Act 1984). This should be done as soon as possible but not less
- E. The Fire Officer has been consulted on this application and your attention is drawn to the following comments: Detailed plans should show a clear route through the courtyard suitable for fire service vehicles to get from Wood Street entrance to Gower Street entrance.
- F. The reserved matters submission shall provide for access points to the site which require visibility splays of 2.4m x 60m and a Transportation Assessment to support the application to assess the likely implications of the proposed development on the highway network in the area. The TA should demonstrate how the development and its associated traffic can be safely integrated into the highway network.
- G. The internal site layout should be designed in accordance with DB32 and parking provisions should accord with the Council's standards.

**Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision**

The proposed development is considered to comply with the relevant policies of the development plan, in particular Unitary Development Plan policies: 3.7, 6.6, 7.2, 7.21 and Unitary Development Plan Review Policies 3.12, ENV24, 3.14, 3.16, 3.18 3.20, ENV28, H3, H4, H10 and T7 of Walsall's Unitary Development Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. If the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at [www.walsall.gov.uk](http://www.walsall.gov.uk)





**To: DEVELOPMENT CONTROL COMMITTEE**

**Report of Head of Planning  
and Transportation  
on 08 March 2005**

**REASON FOR BRINGING TO COMMITTEE: Not all garden depths accord with Council standard**

**Application Number:** 04/1662/OL/E2

**Case Officer:** Ron Moss

**Application Type:** Full application

**Telephone Number:** 01922 652420

**Applicant:** Brownhills and Pelsall Methodist Circuit

**Agent:** CT Planning Limited

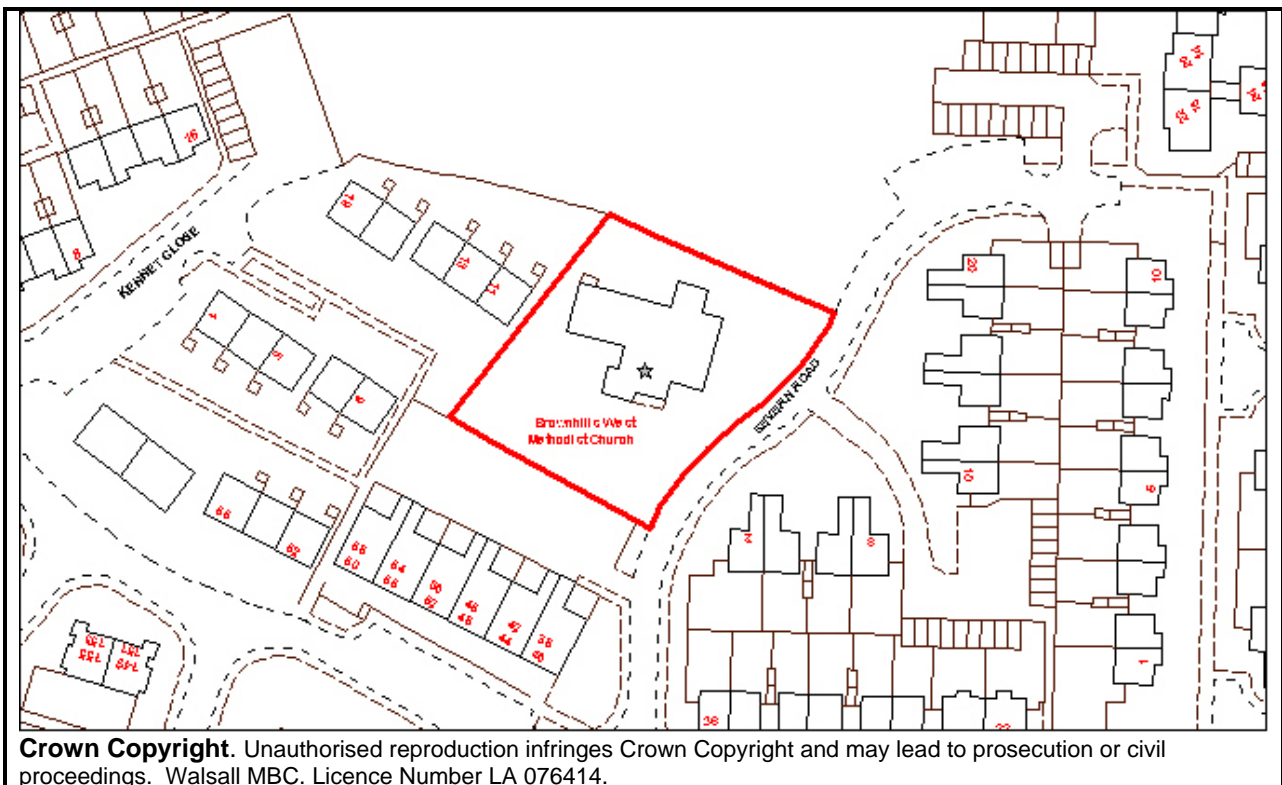
**Proposal:** Outline: Demolition of existing church and erection of 6no dwelling houses (siting and means of access).

**Location:** BROWNHILLS WEST METHODIST CHURCH, SEVERN ROAD, BROWNHILLS, WALSALL, WS8 7LB

**Ward:** Brownhills

**Expired:** 28 September 2004

**Recommendation Summary:** Grant Permission Subject to Conditions and a Section 106 Agreement



### **Application and Site Details**

The application site currently contains the currently vacant Brownhills West Methodist church. The applicants state that this church was closed in early 2004. The surrounding area is predominantly residential. Directly to the south of the site is a 2 storey parade of local shops with residential accommodation above, while to the north is a raised open space area with a wooded bank actually adjoining the site.

The application is an outline application for the demolition of the existing church and erection of 6 no. dwellinghouses. Siting and means of access are the only matters for current consideration. The submitted drawings show 6 dwellings linked by garages and a new road from Severn Road.

### **Relevant Planning History**

None

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

#### **ADOPTED UDP**

Policy 3.6 - redevelopment schemes to contribute towards the environmental improvement of the area.

Policy 6.6 - provision of a satisfactory residential

Policy 6.8 - schemes to be well integrated into the existing pattern of settlement and surrounding land use and to provide adequate open space.

Policy 8.4 requires new developments to provide open spaces to meet their own requirements. Where this is not possible or appropriate, improvements to facilities in the wider area may be required.

Policy H4 gives guidelines for the layout and design of residential development and protection of residential amenity.

Appendix 2 'Development Control Guidelines' then provides a clear statement to prospective developers of the Council's normal requirements.

#### **UDP REVIEW**

Policy GP2 states that the Council will not permit development which would have an unacceptable adverse impact on the environment and lists the considerations will be taken into account in the assessment.

Policy 3.6 reiterates policy 3.6 of the adopted UDP.

Policy ENV15 encouragement of the reclamation and development of derelict and previously developed land.

ENV34 considers design of development indicating that development needs to take account of its context and surroundings.

Part b) indicates the criteria to be taken into account in assessing proposals.

Policy 6.3 - housing should be in locations that have good accessibility and are well related to local facilities, such as town, district and local centres.

Policy H3 states that the Council will encourage the provision of additional housing through the re-use of brownfield previously developed windfall sites, subject to a satisfactory environment being achieved.

Policy H9 indicates that housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites.

Policy H10 states that residential developments should create a high quality living environment, well - integrated with surrounding land uses and local character.

Policy LC1 d) states that residential developments will be required to make a financial or other contributions which will enable the provision of new, or the improvement of existing, urban open spaces.

Policy LC9 states that the loss of community facilities will only be permitted if it can be demonstrated that there are other existing facilities in an equally or more convenient location which could accommodate any community activities displaced by the proposed development, or there is no longer a need for the facility.

### **Consultations**

**Transportation** - No objection subject to a condition on any permission stating that the access road is provided with visibility splays of 2.4m x 60m , which should be kept clear of landscaping over 600mm in height and structures over 1.05m in height.

**Pollution Control** - Due to past mining activities ground gases and contamination may have affected the area. It is recommended that a ground contamination survey and site investigation be undertaken, along with any necessary remedial measures.  
Also need conditions relating to provision of facilities to prevent waste materials entering on to public footpaths and watercourses, and to restrict hours of construction and demolition.

**Drainage** - No objection

**Severn Trent Water** - No objection to the proposal , subject to the condition that no buildings be erected or trees planted within 2.5m of the public sewer which crosses the site.

**National Grid** - No apparatus would be affected by the proposal.

**Energis** - No apparatus would be affected by the proposal.

**West Midlands Fire Service** - Access for fire engines would be satisfactory

### **Representations**

None

## **Determining Issues**

The determining issues are whether:-

- a) The principle of the development is acceptable.
- b) An acceptable living environment would be created without impacting unacceptably on the amenities of neighbouring occupiers
- c) Adequate access and parking would be provided
- d) Other material considerations raised by the consultation response representations can be satisfactorily resolved.

## **Observations**

### **a) The principle of the development is acceptable**

Policy LC9 of the Revised Deposit Draft UDP refers to the loss of community facilities and states that the loss will only be acceptable if there is no longer a need for the facility. The church has been closed for around a year now, while there have been no objections raised in response to the public consultation for this application. It would therefore appear difficult to substantiate that there is a need for the church and the principle of its loss is considered acceptable. The surrounding area is residential and therefore the proposed is considered acceptable.

### **b) An acceptable living environment would be created without impacting unacceptably on the amenities of neighbouring occupiers**

The application is for siting and access only. The siting on plot 1 has been revised to ensure an adequate relationship with the neighbouring bungalow, no.11 Kennet Close. The period for receipt of representations on the amended plan expires on 10 March 2005. There are no windows to habitable rooms in the adjacent elevation of no.11 Kennet Close, while the proposed dwelling would only project 2 metres beyond the rear elevation of no.11, with a gap of 3 metres between the buildings. This relationship would therefore be acceptable. The proposed plots are all shown with a minimum of 68 square metres amenity area and while the garden lengths for four of the properties would be less than the standard 13 metres at 9,10,11 and 12 metres in size. The area is however characterised by small properties with garden depths of around 10m. These smaller gardens would therefore ensure that the pattern of residential development in the area is retained. The scheme would also be able to ensure that all dwelling to dwelling standards for proposed and existing dwellings could be met. With respect to public open space, there is no on site provision shown, but any approval should be subject to a s106 agreement to provide a commuted sum towards improvement of off site provision.

### **c) Adequate access and parking would be provided**

The scheme has been revised to ensure adequate visibility splays for the access from Severn Road and to ensure a fire appliance could turn in the indicated turning head. A bin store is shown provided to the flank of unit no.4 to allow collection without requiring the refuse truck to enter the cul-de-sac. The scheme shows space for car parking at a level of 2 cars per dwelling which would allow up to 3 bedroom dwellings to be built with parking levels still complying with standards.

**d) Other material considerations raised by the consultation response representations can be satisfactorily resolved**

Conditions on any approval would ensure that no development or tree planting takes place within 2.5m of the public sewer that crosses the site, and that a contamination survey is carried out before development takes place.

**Recommendation**

That Planning Permission be GRANTED subject to conditions, no new material issues being raised as a result of the revised consultation period which expires on 10 March 2005 and the applicant entering in to a section 106 agreement to provide a commuted payment in lieu of lack of on site open space provision.

**Recommendation: Grant Permission Subject to Conditions and a Section 106 Agreement**

**List of Conditions**

1. Application for approval of the Reserved Matters shall be made within 3 years of the date of this decision. The development must be begun not later than:

- i) 5 years from the date of decision.
- ii) 2 years from the approval of the Reserved Matters or in

*Reason:*

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

2. 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 design of the building(s);
- b) The external appearance
- c) The landscaping of the site

*Reason:*

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

3. No development shall be carried out until details of car parking and manoeuvring areas have been approved in writing by the Local Planning Authority. The plans shall clearly show the proposed surfacing materials and means of surface water drainage. The approved scheme shall be implemented before this development is brought into use and the parking spaces shall have been clearly marked out. The areas shall thereafter be retained and used for no other purpose.

*Reason:*

To ensure the satisfactory provision of off-street parking.

4. No development shall be carried out until full details of the proposed boundary treatment of the site have been approved in writing by the Local Planning Authority. The submitted

scheme shall include any internal site divisions. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

*Reason:*

To ensure the satisfactory appearance of the development.

5.No development shall be carried out until a detailed landscaping scheme for the site has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

*Reason:*

To ensure the satisfactory appearance of the development.

6. No development shall be carried out until a plan showing the species and location of all existing trees and hedges on the site, details of which trees and hedges are to be retained or removed, and details of the design and location of protective guards or fencing, has been approved in writing by the Local Planning Authority.

*Reason:*

To safeguard the trees on the site.

7.No development shall be carried out until a survey and site investigation has been carried out to assess the likely hazards to the proposed development of any contamination of the land resulting in the presence of potentially toxic substances or combustible fill materials, the possibility of chemical attack on building materials, the emission of toxic and flammable gases, or general problems of stability, drainage, odour, leachate production, and surface run-off.

A copy of the survey and site investigation, together with a report setting out any remedial measures proposed to deal with the hazards from any contamination of the land, shall be submitted to the Local Planning Authority and no development shall be carried out until remedial measures have been approved in writing by the Local Planning Authority. The remedial measures identified shall be implemented prior to the development being brought into use.

*Reason:*

In the interests of health and safety.

8.This development shall not be carried out until a schedule of facing materials to be used in external walls and roofs has been approved in writing by the Local Planning Authority.

*Reason:*

To ensure the satisfactory appearance of the development.

9. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no rear extensions to the development hereby permitted shall be constructed 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.

10. No windows shall be inserted in the first floor of the north west flank elevation of the dwelling on plot 1 unless otherwise agreed in writing by the Local Planning Authority.

*Reason:*

To prevent overlooking of the neighbouring property, no.11 Kennet Close.

11. Full details of refuse storage shall be submitted to and approved in writing by the Local Planning Authority before the dwellings are occupied.

*Reason:*

To ensure satisfactory refuse collection.

12. The junction of the access road with Severn Road shall be provided with vehicular visibility splays of 2.4m x 60m , which should be kept clear of landscaping over 600mm in height and structures over 1.05m in height from carriageway level. These splays should be maintained thereafter.

*Reason:*

In the interest of highway safety.

Reason For Approval

The application is considered to accord with policies 3.6, 6.6, 6.8, 8.4 and H4 of the Adopted Unitary Development Plan and policies GP2, 3.6, ENV15, ENV34, 6.3, H3, H9, H10, LC1 and LC9 of the Revised Deposit Draft Unitary Development Plan Review .



**To: DEVELOPMENT CONTROL COMMITTEE**

**Report of Head of Planning  
and Transportation  
on 08 March 2005**

**REASON FOR BRINGING TO COMMITTEE: Significant Community Interest**

**Application Number:** 04/2708/FL/E6

**Case Officer:** Sally Morton

**Application Type:** Full application

**Telephone Number:** 01922 652429

**Applicant:** M & T Homes Ltd

**Agent:** KRT Associates

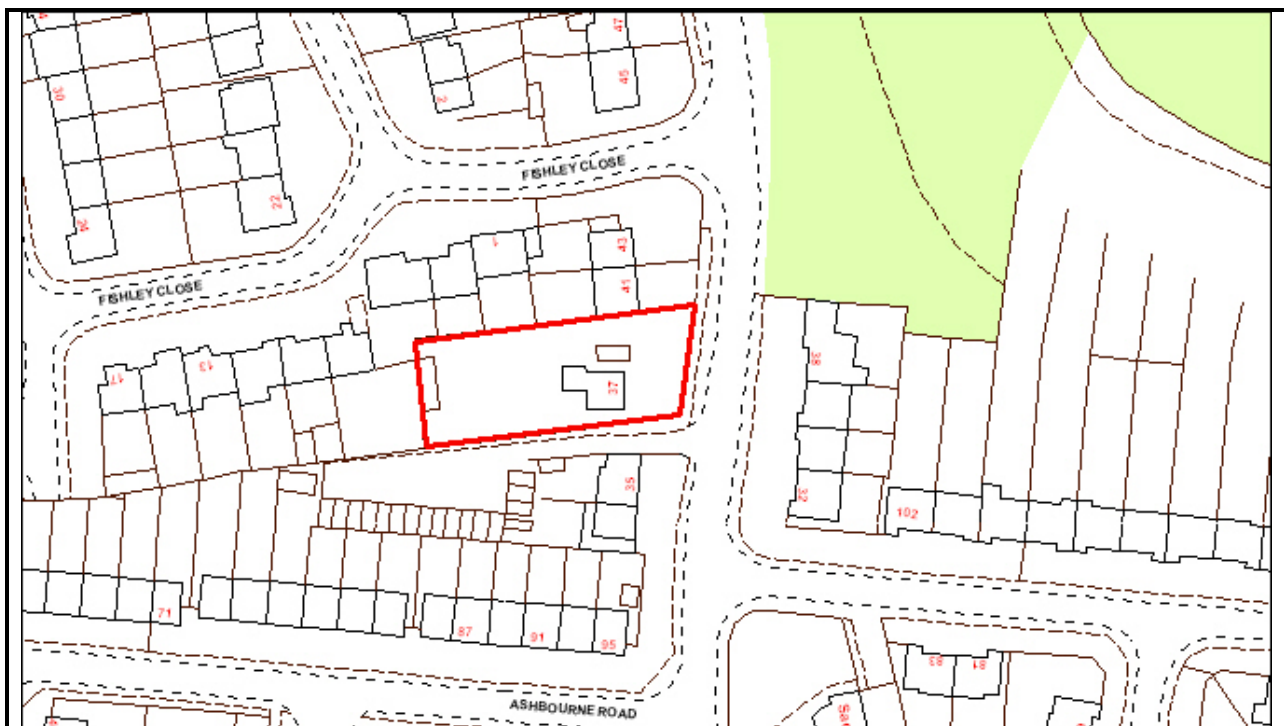
**Proposal:** 4 Two Bed Apartments, 1 Three Bedroom Duplex, 1 Three Bed End Terrace

**Location:** 37, FISHLEY LANE, BLOXWICH, WALSALL, WEST MIDLANDS, WS3 3PY

**Ward:** Bloxwich East

**Expired:** 18 February 2005

**Recommendation Summary:** Grant Permission subject to conditions



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## **Application and Site Details**

The application is for full permission for the demolition of an existing derelict detached dwelling and erection of a building 9.1 metres high to provide three two-bedroom flats, a duplex (split-level) three-bedroom dwelling, over three floors, and a 2 storey dwelling with three bedrooms on the side, adjacent 41 Fishley Lane. Ten parking spaces proposed at the rear of the site, accessed from a new driveway which runs to the side of 41 Fishley Close. The house and duplex dwelling are shown with gardens to the rear, while an amenity area would be located to the rear of the block for the flats.

The proposal would have a density of 65 dwellings per hectare.

The application has been amended in light of the consultation responses received, which are reported below. The building has been reduced in height, and car parking and access arrangements improved. Re-consultation has been carried out on the amended scheme.

## **Relevant Planning History**

04/0257/OL/E4 outline planning application for the demolition of the existing dwelling and the erection of 6 new dwellings was withdrawn by the applicant.

04/2252/FL/E2 application for 3 houses and 3 apartments. Refused 15<sup>th</sup> October 2004. The reasons for refusal were due to the cramped nature of the development, inadequate amenity space, loss of privacy and insufficient parking provision.

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

Adopted UDP  
Walsall Unitary Development Plan 1995

Policy 3.6 requires layout, design and landscaping to contribute towards the environmental improvement of the urban area.

Policy 6.6 the re-use for housing of previously developed sites and the development of infill sites within the urban area will be encouraged where a satisfactory residential environment can be provided, and where there is no overriding need for other uses.

Policy 6.8 density of development will depend on the location and character of individual sites, the scale of the surrounding development. Schemes should be well integrated, provide adequate open space and an appropriate mix of housing types.

Policy 8.4 requires new developments to provide open spaces to meet their own requirements. Where this is not possible or appropriate, improvements to facilities in the wider area may be required.

Policy H4 gives guidelines for the layout and design of residential development and protection of residential amenity including privacy, amenity, crime prevention, and design criteria set out in Appendix 2, including separation standards and garden lengths, and parking houses, 3 bedrooms and below 2 spaces per unit requirement, flats with communal parking 1.5 spaces per unit

#### Walsall Unitary Development Plan Revised Deposit Draft March 2002

Policy GP2 aims to ensure no adverse impact on the environment by way of visual appearance, overlooking, loss of privacy, and the effect on day light and sun light received by nearby property, and adequacy of parking facilities

ENV34 (b) poor design which fails to take account of context and surroundings, will not be permitted.

H3 encourage the provision of additional housing through the re-use of brownfield previously developed windfall sites.

H9 indicates that housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites.

Policy H10 create a high quality living environment, well - integrated with surrounding land uses and local character with good design set out in Policy ENV34

Policy LC1 d) residential developments required to make a contribution to enable provision of new, or improvement of existing, urban open spaces.

#### Government Policy

**Planning Policy Statement 1:** Delivering Sustainable Development, emphasises need to reject poor design.

**Planning Policy Guidance Note 3:** Housing, promotes sustainable development and better use of previously developed land. It promotes the need for good design in new housing developments. Promotes efficient use of land and density increase. Consideration of design and layout must be informed by the wider context.

**Planning Policy Guidance Note 13** - Transport, promotes sustainable patterns of development, which reduce the need for travel, especially by car.

#### Consultations

**Transportation** have no objections to the proposal.

**Pollution Control** request that a condition is imposed to restrict the time that work can be carried out in relation to the development. It requests that it should be limited to 07:00 to 18:00 on weekdays, and 08:00 to 13:00 Saturdays, with no works on any Sunday, Bank Holiday or Public Holiday.

**Drainage** comment that the application is OK.

**West Midlands Fire Service** comment that the access for fire appliances is satisfactory.

**Environmental Regeneration: Landscape and Conservation** have no objections to the proposal.

### **Representations**

Nine letters have been received objecting to the original proposal on the following grounds:-

- a) Over development of the site.
- b) Three storey high and siting of building is not in-keeping.
- c) Loss of privacy and overlooking.
- d) Loss of daylight.
- e) Extra traffic generated by proposal will cause a hazard.
- f) Sewerage capacity.
- g) Boundary treatment.
- h) Concerns about heights of trees.

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

### **Determining Issues**

The determining issues with regard to this application are :

- 1) Whether the proposed development would be in character with the surrounding area.
- 2) Whether the proposed development would provide a satisfactory living environment for its potential occupiers, while preserving the amenities of the neighbouring residential occupiers
- 3) Access and parking
- 4) Other material considerations

### **Observations**

**1) Whether the proposed development would be in character with the surrounding area**  
The general area is characterised by residential development in the form of predominantly 2 storey attached and detached dwellings located along inter connecting roadways and within cul-de-sacs, with the residential units positioned fronting the streets and pathways. The style of properties vary in the area, however there is a distinctive set pattern and spacing of development. The proposal shows the dwellings 9.1 metres in height, over three floors with

the top floor accommodated in the roof space. This is considered to be generally acceptable in terms of character with the spacing and pattern of development in the area.

The terraced dwellings are also shown set forward of the neighbouring dwelling by 1.5 metres adjacent 35 Fishley Lane, but are in line with 41-43 Fishley Lane. The gabled end adjacent 35 Fishley Lane would appear prominent, however in terms of the street scene would be read in conjunction with 35 and therefore would be partly obscured, particularly given that 35 Fishley Lane is slightly higher than the application site, by some 0.7 metres.

## **2) Whether the proposed development would provide a satisfactory living environment for its potential occupiers, while preserving the amenities of the neighbouring residential occupiers**

The proposal shows adequate amenity space for the house an area measuring 13 x 4 metres, and there is provision of an area approximately 100 square metres of amenity space for the flatted development. It is considered that this provides a satisfactory amenity area.

The residential development with living accommodation in the roof are shown at just over 25 metres separation distance to the properties across the road (36 Fishley Lane) and over 40 metres back to back, which is well above standard.

## **3) Access and parking**

The proposal provides ten parking spaces, against a requirement of 9.5, therefore it would provide sufficient parking spaces, meeting the requirements of the UDP. It is recommended that the parking is conditioned to be retained in its proposed form to ensure that there is adequate parking maintained for use and to ensure that no adverse impacts occur to the detriment of highway safety or the amenity of neighbouring properties. Furthermore, by landscaping condition, screening will have to be provided along the length of the access, the scheme shows a new close boarded fence 1.8 metres high to be provided, and there is a strip 0.5 metre wide along the access to provide further separation this will also have the advantage of improving the visual appearance. The boundary treatment should minimise any impact on the neighbouring property from use of the vehicular access to the site.

## **4) Other Material Considerations**

The development shows no public open space within it and therefore in accordance with policy 8.4 it is intended that the applicants would have to enter into a section 106 agreement in respect of compensatory provision to be made off site. This is reflected in the recommendation.

The Landscape officer has previously commented on the earlier application that the sycamore tree located within the garage court would not be capable of retention if this development was to proceed. However she further states that the tree has developed twin stems and has signs of included bark, making it not worthy of long term retention.

The provision of adequate capacity at the sewerage station is not a reason for refusing this application. Any details with regards to sewerage will have to be resolved between the developer and Severn Trent Water. The Drainage section was consulted on this application and raised no objection to the proposal.

Any concerns relating to securing the site during building works is governed by Health and Safety procedures, which by law the developers should obey.

**RECOMMENDATIONS: Grant Permission subject to conditions and a s106 agreement and no new material representations**

**Recommendation: Grant Permission subject to conditions**

1. This development must be begun not later than 5 years after the date of this decision.  
*Reason:* Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.
2. The development shall only be carried out only in accordance with the details and specifications included in the submitted application, as amended by the revised drawing received by the local planning authority on 25<sup>th</sup> February 2005  
*Reason:* To make sure that the scheme takes the form agreed by the authority and thus results in a satisfactory form of development.
3. This development shall not be carried out until a schedule of facing materials to be used in external walls and roofs and detailing the surface treatment of the car park and access road has been approved in writing by the Local Planning Authority.  
*Reason:* To ensure the satisfactory appearance of the development.
4. No development shall be carried out until full details of the proposed boundary treatment of the site have been submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out before this development is brought into use and shall be thereafter retained.  
*Reason:* To safeguard the amenity of occupants of adjoining premises and to ensure the satisfactory appearance and functioning of the development.
5. Before this development is brought into use, the accessways and vehicle parking shown on the approved plans shall be provided, and thereafter shall be retained and not altered or used for no other purpose, except with the express permission of the Local Planning Authority.  
*Reason:* To ensure the satisfactory provision of off-street parking and to ensure the satisfactory functioning of the development.
6. No development shall be carried out until full details of existing and proposed levels of the site, access way and floor levels, in relation to land adjoining the site, have been approved in writing by the Local Planning Authority. The development shall be carried out and retained in accordance with these approved details.  
*Reason:* To ensure the satisfactory appearance of the development and to safeguard the visual amenity of the area.
7. Before this development is brought into use, obscure glazing shall be installed and thereafter retained in the windows on the side elevation of the dwelling at plot number 6.  
*Reason:* To safeguard the amenities of the neighbouring properties, in particular 41 Fishley Lane.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows shall be installed in the side elevation of the dwelling without the prior approval of a planning application.  
*Reason:* To safeguard the amenities of the neighbouring properties, in particular 41 Fishley Lane.

The following policies were considered relevant in the determination of this application

Adopted UDP Policies 3.6, 6.6, 6.8, 8.4, H4, and Appendix 2, and in the Revised Deposit Draft March 2002 policies GP2, ENV15, ENV34, H3, H9, H10, LC1, 8.8.

National Government Guidance Planning Policy Statement 1: Delivering Sustainable Development, Planning Policy Guidance Note 3: Housing, and Planning Policy Guidance Note 13 - Transport.

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**To: DEVELOPMENT CONTROL COMMITTEE**

**Report of Head of Planning  
and Transportation  
on 08 March 2005**

**REASON FOR BRINGING TO COMMITTEE:** The application has been called in by  
**Councillor Martin.**

**Application Number:** 04/2664/FL/H4

**Case Officer:** Jenny Townsend

**Application Type:** Full application

**Telephone Number:** 01922 652485

**Applicant:** Mr Dhanda

**Agent:** S D Design

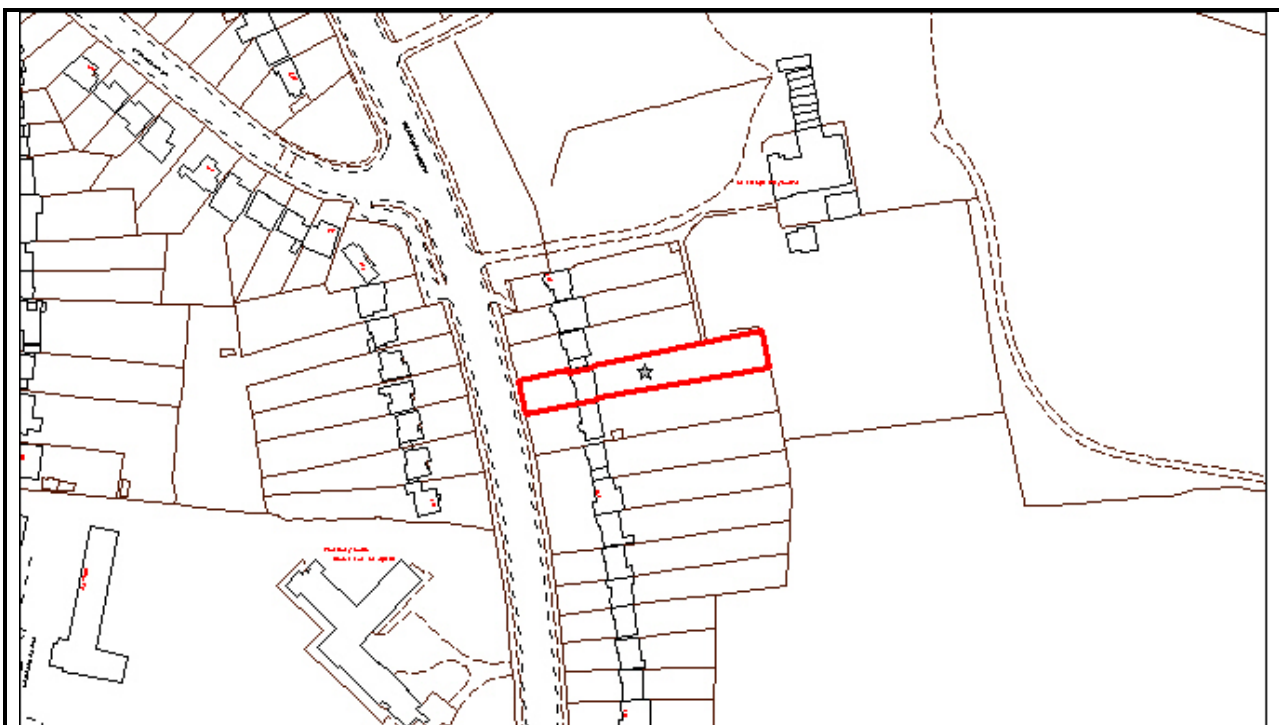
**Proposal:** Two Storey Side, Single Storey  
Front And Rear Extensions Including Raising  
Roof

**Location:** 141, BROADWAY  
NORTH, WALSALL, WEST  
MIDLANDS, WS1 2QB

**Ward:** Paddock

**Expired:** 14 February 2005

**Recommendation Summary:** Grant Permission subject to conditions



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## **Application Details**

This application proposes extensions to a detached house which would provide a new porch and enlarged lounge and garage, kitchen and utility rooms at the rear and add 2 further bedrooms at the side above the existing garage. The number of bedrooms would be increased from 3 to 5. The roof shape would remain hipped although the application proposes to increase the height of the roof by 0.7 metres.

The garage is proposed to be extended forward by 1.5 metres with a porch alongside. A sloping roof measuring between 2.4 and 3 metres high is proposed above.

The first floor extension is proposed above the garage and would be in line on both the front and rear elevations with the existing two storey part of the house. No side windows are proposed.

The first floor of number 143 is approximately 1 metre forward of the rear two storey part of 141 and the two storey part of 139 projects approximately 0.5 metres past 141. Number 139 has a side landing window which already faces the two storey gable wall of 141.

At the rear the single storey extension is proposed to replace an existing store alongside the boundary with 143 and would project 1.4 metres beyond the rear of the single storey extension at the rear of 143 which lies adjacent the boundary.

On the other side of the house the extension would be in line with an existing single storey extension to the rear of 139.

The house has an open aspect at the rear.

## **Relevant Planning History**

None.

## **Relevant Policies (Note the full text version of the UDP is available from Planning Services Reception and on Planning Services web site)**

### **Adopted UDP Policies**

H4(c)

The design of extensions to dwellings should be compatible with the existing dwelling and the character of the wider area. Proposals which would have an unacceptable impact on the amenities of nearby residents will not be approved.

Appendix 2

Section 8. Design of Residential Extensions

(c) Ground floor extensions at the rear of houses will normally be expected to be restricted to a maximum length of 3.5 metres and a maximum height of 3.0 metres where constructed along or close to the boundary of the property with another house, except where there are exceptional circumstances. This will be measured from the adjoining house.

(e) First floor extensions to the side of a property should avoid creating a terracing effect, or the potential for such, if repeated on other houses, where this would detract from the



appearance of the area. It may be necessary in these circumstances to vary the form of roof to avoid terracing.

#### Section 12. Car parking standards

1, 2 and 3 bedroom houses	2 spaces per unit
4 bedroom houses and above	3 spaces per unit

#### **UDP Review**

##### ENV34: Design and Development Proposals

(b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:

- I The appearance of the proposed development.
- II The height, proportion, scale and mass of proposed buildings/structures.
- 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.
- X The maintenance requirements of the development.

#### **Consultation Replies**

Pollution Control (Methane) - Methane survey not required.

#### **Representations**

Councillor Martin has queried whether a potential terracing effect would result and how the gable wall on the adjacent house will be maintained, and has suggested that policy ENV34(b) X applies.

#### **Determining Issues**

The determining issues are whether the design of the extensions are compatible with the existing house and in keeping with the character of the area, the impact on the amenity of the nearby residents and parking.

#### **Observations**

This part of Broadway North consists of mainly detached houses of a variety of designs. Of the 6 houses nearby (numbers 135 to 145) only number 139 has a gap at first floor level. This is now the character of this part of the street and the proposal, by closing the first floor gap with number 143, would be in keeping with this.

This has been recognised when considering previous applications in the area. An application for extensions including a first floor side extension above garage at number 143 was granted by Aldridge District Committee in November 2000. The report noted that 'the reduction in the gap between the properties at first floor would not be detrimental to the character of the area. Most properties on this part of Broadway North are located in close proximity to the neighbouring property with generally quite close gaps at first floor.'

The gable roof proposed above the side extension would match with the existing gable on the other side of the house and the sloping roof would be in keeping with similar roofs on the front of the neighbouring houses.

The increased roof height would not have an adverse impact on the street scene as it would be compatible with the highest central section of the roof at 137 and the eaves would remain at the same height, which matches with the neighbouring houses.

The first floor extension would project approximately 1 metre beyond 143 but as number 141 lies to the north of 143, this would cause no loss of light or overshadowing to the bedroom window of 143. There is already a high stepped parapet wall belonging to 143 alongside the boundary and the extension would not worsen the existing situation.

The rear single storey extension would comply with policy in length and height and it would have no detrimental impact on neighbouring houses.

The proposed garage and driveway provide sufficient parking space to meet Council's requirements.

With respect to the concerns about maintenance of the gable wall of the adjoining house, policy ENV34 of the UDP Review is intended to refer to maintenance issues that affect the public realm and are hence legitimate planning concerns, for example maintenance of open space and how the choice of facing materials for a development can affect its appearance in the long term. Maintenance of a wall between two houses is entirely a private matter. Paragraph 29 of the Government's new Planning Policy Statement 1 relating to the general principles of the planning system, advises that:

'The planning system does not exist to protect the private interests of one person against the activities of another, although private interests may coincide with the public interest in some cases. It can be difficult to distinguish between public and private interests, but this may be necessary on occasion. The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.'

### **Recommendation: Grant Permission subject to conditions**

#### **Conditions and Reasons for conditions, including relevant policies and proposals in the development plan**

1. This development must be begun not later than 5 years after the date of this decision.

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

2. The external surfaces of the development hereby permitted shall match those used in the existing building before the development is brought into use, and shall thereafter be retained as such.

*Reason:* To ensure the satisfactory appearance of the development and to comply with Policy H4(c) of Walsall's Unitary Development Plan.

3. 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

shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises and to comply with Policy H4(c) of Walsall's Unitary Development Plan.

**Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision**

The proposed development is considered to comply with the relevant policies of the development plan, in particular policy H4(c) and Sections 6, 8 and 12 in Appendix 2 of Walsall's Unitary Development Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. If the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at [www.walsall.gov.uk](http://www.walsall.gov.uk) [<http://www.walsall.gov.uk>](http://www.walsall.gov.uk) .

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