



## Development Control Committee

01<sup>st</sup> April 2010

### Report of Head of Planning and Building Control, Regeneration

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2	43	10/0120/FL	UNIT 4, BLOXWICH INDUSTRIAL ESTATE, BLOXWICH LANE, WALSALL	Change of Use from B2 to B1, B2 and B8 (light industrial/general industrial/storage and distribution)	Grant Subject to conditions
3	48	10/0159/FL	UNIT 3A, 3B & 3C WODEN BANK ESTATE, WODEN ROAD WEST, WEDNESBURY, WS10 7BL	Change of use from B2(General Industrial) to B1b (research & development), B1c (light industry), B2(General Industry) and B8(Storage and Distribution)(development adjoins public footpath Wed 5).	Grant Subject to conditions
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11	117	08/1938/FL	58 BUCHANAN ROAD, WALSALL, WS4 2EN	First floor front extension, single storey front and side extension and rear single and two storey extension.	Refuse
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13	131	09/1782/FL	3 CEDAR DRIVE, STREETLY, WALSALL, B74 3RJ	Two storey side extension and single storey rear extension to dwelling	Refuse
14	139	10/0172/FL	161 THE CRESCENT, WALSALL, WS1 2DD	Rear two storey extension (amendment to 09/1264/FL)	Grant Subject to conditions
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			WILLENHALL, WV13 2AO	existing car garage to carpet and furniture showroom including new shutters	
16	153	08/1856/FL	THE KEYS (FORMER UNION LOCKS SITE), WOOD STREET, WILLENHALL, WV13 1JY	Conversion of existing industrial buildings and new construction work to form 73 houses and apartments and associated car parking (amendment to existing permission under 07/1650/FL/W7).	Grant with conditions, subject to no new information raising new material issues



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010

## REASON FOR BRINGING TO COMMITTEE: Major Application

**Application Number:** 09/0079/OL

**Application Type:** Outline Application

**Applicant:** Renwick Consultants Limited

**Proposal:** Outline - Industrial development,  
and informal open space

**Case Officer:** Bob Scrivens

**Telephone Number:** 01922 652488

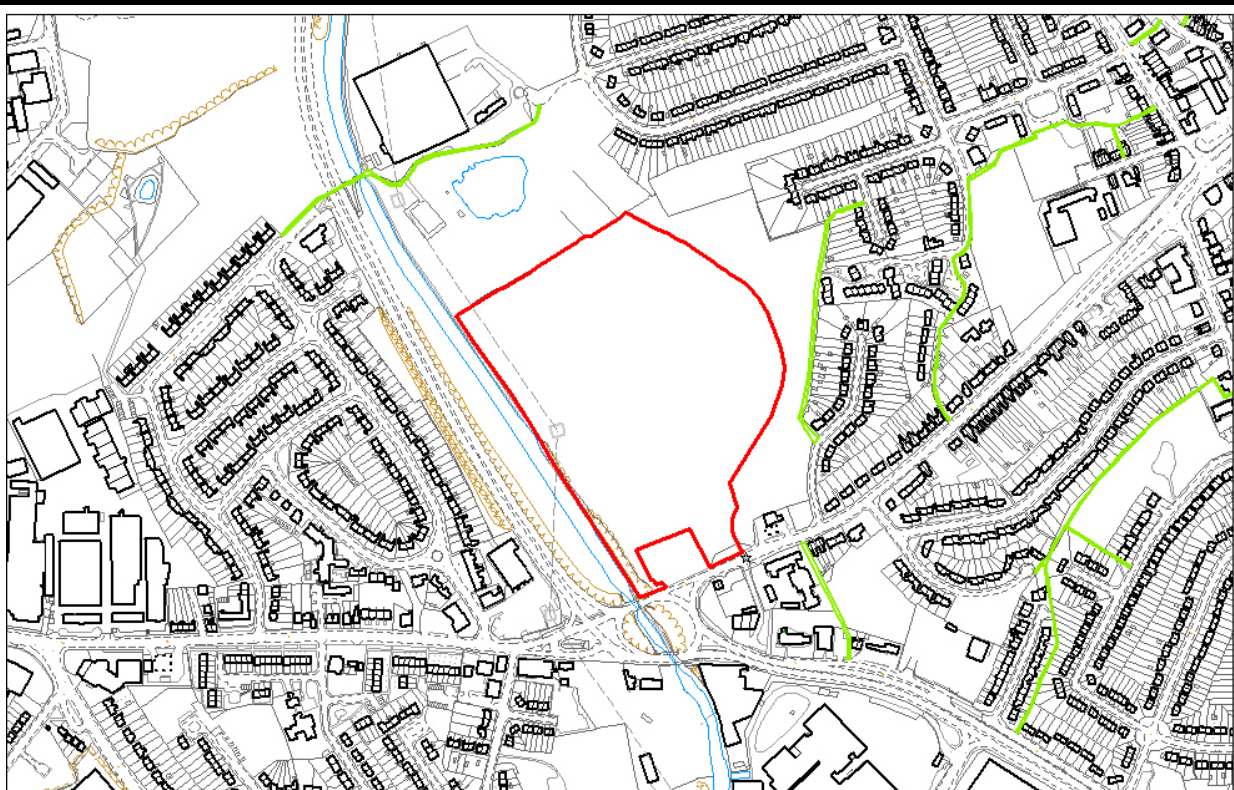
**Agent:** Mr Matthew Ferguson

**Location:** LAND OFF MOXLEY ROAD  
(PREVIOUSLY KNOWN AS PART OF  
MOXLEY TIP), DARLASTON,  
WALSALL

**Ward:** Darlaston South

**Expired:** 24/04/2009

**Recommendation Summary:** Grant Permission Subject to Conditions, a Planning  
Obligation and no Further Representations



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## **Application and Site Details**

The application proposes 2,000 sq.m. of B1 office space, 5,000 sq.m. of B2 industrial use, and 5,000 sq.m. of B8 warehousing. All matters are reserved for future approval.

The site is 7.95 hectares in area. It is a large part of the area known as Moxley Tip (which was a quarry and then a tip). The surface has largely naturally regenerated, with grass, bushes, small trees, and ephemeral ponds. The surface is used as informal open space by local people, for walking, etc.

An area of the Tip has been given planning permission for residential development and that area is excluded from the present site. The site also excludes an area of land on the Moxley Road frontage, which is in separate ownership.

To the west of the Tip is a canal, the Black Country New Road and then Moxley centre. To the south is a mix of uses including a vacant school, and industrial. To the east is residential, including Sandwell Avenue.

To the north is unused ground, with a large pond in it. That land and the factory further to the north, have permission for residential development (and are known as the AP-UK site).

Although this application is in outline with all matters reserved for future approval, an illustrative plan is included. This shows

- access from Moxley Road
- a small roundabout just off that road separates the presently proposed commercial traffic from the residential
- the residential access road forms one boundary of this application site
- an area of land is proposed to be mounded, along this road, to screen the commercial development from the existing, and proposed, housing to the east.
- four buildings are envisaged
- three are large warehouse / factory style buildings, the fourth is smaller and envisaged as an office building
- each would have its own car parking and servicing
- the applicants have confirmed that the offices are to be ancillary to the other uses.
- the buildings surround a proposed service yard
- car and lorry parking is proposed close to the roundabout access point
- a landscaped area is proposed around the building complex, varying from 10 to 75 metres.
- In addition to the landscaping associated with the buildings, a further landscaped area extends around the north and east boundaries, providing "Landscaped walkways and footpath linkages". It varies from 7 to 65 metres in width
- parts of this area encompass steep levels changes as the surface of the site slopes down to the canal and the land to the north.

As part of the preparation of the application, the applicant has involved the community.

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The application is supported by:-

### **Design and Access Statement**

- This identifies the history of the site as a quarry and a tip
- There has been no formal restoration / remediation
- Vegetation cover is thin and bricks etc from the tip are visible in some areas
- The site gives an impression of dereliction (fly tipping and generally unmanaged)
- The land is uneven, with a domed shape overall (about 1 or 2 metres above the surrounding housing areas)
- There is a falloff about 6 metres to the canal
- The intention is to retain and enhance the existing access / open space attributes on three sides of site (*though this is inconsistent with the illustrative plan*)
- Moxley Regeneration Committee are generally very supportive
- The local residential areas have potential as a source of local employment
- The buildings will be large but are separated from the houses

### **Supporting Statement**

- There is planning permission for remediation of the Tip site, and a residential development on the Tip land to the north-west (including gas protection measures and both these elements remain unchanged) (*but see comments in Observations on the status of this element*)
- Tipping ceased in the 1980s
- The final surface layer of the tip comprises mostly inert construction wastes
- Scheme will generate employment
- There is support for the scheme in planning policy at national, regional, and Borough level, as well as in the Moxley Strategic Regeneration Framework document

### **Summary of Ground Investigation Works**

- There is up to 24 metres of tipped material
- The tip area excluded the land approved for housing to the north-west
- Elevated levels of contaminants exist within the former tip area and some contamination may exist within the soils on the site fringes
- Landfill gas is present in high concentration but with low / negligible flow rates
- Landfill gases currently vent to the atmosphere
- There is no evidence of lateral migration of landfill gas
- With suitable membranes and monitoring " ... it should be possible to develop the site for light industrial ... "

### **Coal Mining Report**

- Likely coal and ironstone workings under site.
- Ground movement should have ceased by now.
- There are 3 known mine entries on or close to the site (though the completeness of records is not guaranteed).

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In addition, since submission, the applicants have responded to comments from consultees, and have provided further information. This is as follows.



## Ecological Assessment

- As long as appropriate buffer zones and measures are implemented - will not have any adverse effects on nature conservation
- botanical diversity is comparatively poor
- in the absence of formalised management the site will continue to lose species diversity through overgrazing and scrubbing over
- a management regime would mitigate potential adverse effects and enhance biodiversity in the short- to medium-term
- badgers may use the site for foraging - berry-bearing shrubs around the proposed development will mitigate any potential loss of foraging
- There are no known bat roosts on site and its bat roost potential is very low. Bats are however, likely to forage on site and through a combination of maintaining ecological continuity, creation of roost sites (e.g. bat boxes), wetland creation and planting of shrubs and trees for foraging, the value of the site to bats can be enhanced in the short- to medium-term.
- There is no evidence that water voles or otters use the site. However, through the implementation of measures targeted at other species, e.g. creation of a reed bed and other wetlands, the site can be enhanced for water voles.
- There is no evidence that great crested newts are using the site and the suitability of breeding habitats is generally low. This is further reduced by the presence of a housing development between the site and the nearest known breeding site, which creates a barrier to dispersal. However, the maintenance of one pond in the northern section of the site and the creation of additional, newt-friendly, ponds would enhance the suitability of the site for newts in general.

The habitats encountered on site are man-made and easily recreated. Through a combination of maintaining and enhancing the best examples; creating new habitats targeting Birmingham and Black Country LBAP priority habitats, such as grasslands and ponds; additional mitigation measures, such as the creation of bat roosts, the erection of birds boxes and the creation of invertebrate micro-niches; the implementation of a management plan to guide the above, the biodiversity value of the site can be maintained and enhanced in the short- to medium-term without any significant adverse effects on target species or adjacent wildlife sites likely while at the same time maximising the biodiversity opportunities of the proposed development for wildlife and thus complying with national and regional planning policies.

## Pollution Control - Noise

Note that there is no objection subject to conditions.

However the suggestion of limiting noise rating levels to <5dB, we assume means that you expect to limit any increase in noise to 5dB above background levels.

We do suggest that your proposals to restrict hours of operation for collection and deliveries to 7am – 7pm, weekdays and 8am to 1pm Saturdays will be highly restrictive and will limit opportunities to attract new employers to the site. We do believe that this would severely limit the potential for new users who rely on the delivery of raw materials and products by road. Unfortunately, the commercial climate and road conditions in the UK means that overnight transport is essential.

## Pollution Control - Contamination

**Landfill Gas Issues:** We asked JPB to assess the suitability of the site for industrial/commercial development with specific reference to the potential for landfill gas

to be present. We have previously confirmed to you, (page 8 of the planning application Supporting Statement) that JPB have confirmed, "...it should be possible to develop the site for light industrial on the basis of the gas results." Since that report, JPB have continued to undertake monthly gas monitoring and these results have not changed their conclusions.

In terms of your concerns about creating a 'capping' layer, this is not what we are proposing. The proposal is to place a solid concrete foundation but with a granular sub-base, specifically designed to collect any ground gas which may exist and passively vent to atmosphere. Collected gas will vent at the edge of the concrete - NOT be forced laterally through the sides of the landfill site as appears to be your concern. There will be no lateral movement of gas beyond the development footprint and therefore no impact on any proposed or existing land uses.

The barrier trench will only be necessary if the housing permission is implemented so there is no need to construct it in advance of that implementation.

**Western Edge Works:** It is our proposal to undertake nominal regrading with the incorporation of a 3m (at the toe) soil buttress to cover and stabilise the surface. This can then be seeded and planted. It is our intention to retain all existing materials on site and believe that the area can be regraded such that there is no necessity to transport anything off site.

### **STWA**

We are pleased to note that there is no objection to the scheme although they are 'seeking' a sustainable drainage system. As you are aware, this site is a former landfill site and the basic premise is that there should be minimum disturbance to the surface and substrata. Clearly, the construction of a normal 'SUDS' scheme would involve excavation and landform remodelling.

We would therefore suggest that apart from some limited capture and use of rain and grey water, then the only practical solution, if this brownfield site is to be brought back into beneficial use, is to use the normal drainage system to a greater extent than might otherwise be the case.

We have looked at the site in some detail and have identified the area adjacent to Sandwell Avenue and behind the garage premises as being original ground. We can agree to incorporate SUDS facilities into this area to the extent that they can be accommodated – detail to be agreed with yourselves.

We feel sure that in the overall balance of achieving beneficial use and new jobs in the area that this is an acceptable compromise to be made.

### **Transportation**

We can understand the desire for a full Transport Assessment and Travel Plan although we do feel that these may not be wholly appropriate in the current circumstances. In order to meet your requirements, we appointed Messrs Atkins Ltd to undertake assessments suitable for an outline industrial development application.



You will appreciate that there is a speculative element to all such development, which is why we have chosen to submit an application in outline so that we can establish the principle of this form of development before committing to excessive expenditure.

In order to facilitate the benefits which ought to be accruing from the development of this site, we respectfully suggest that we will provide that which Atkins recommend as being "appropriate" for an outline application on this specific site. *(See also the information from the now submitted Transport Assessment, set out below.)*

This would not include the assessment of the complex Moxley Junction (A41/A4444/A4038) in the TA, as this is considered unnecessary for a development of the type and size.

### **British Waterways**

Commenting on each of the BW points in turn (see *Consultations section for those comments*), the applicant's position is as follows:

- a. It is intended that disturbance to the former tip surface and sub strata be minimised and consequently, ground levels will be raised as necessary to avoid any excavation. Finished floor levels for the proposed buildings are therefore likely to be at or about 235m AOD.
- b. We would consider external lighting details to be a matter for consideration at the 'detail' stage. We have no proposals to light the towpath.
- c. Noted
- d. Landscaping involving the use of native species as appropriate is perfectly acceptable and can indeed be achieved through condition.
- e. We agree that formal or informal access to/from the towpath would be beneficial. We were not aware that this would attract 'fees' but are prepared to discuss the matter.
- f. g. h. Any development works on the site will be undertaken in such a manner as to not affect the integrity of the adjacent canal.
- i. No leachate will be produced as a result of any operations on the site and as such there will be no effect on the canal or adjacent land.
- j. See comments under STWA above.
- k. See i. above
- l. We only implied the canal ('existing watercourse') be used for surface water disposal as the other options on the application form did not appear appropriate. If a licence can be obtained from BW to discharge any surplus surface water (after SUDS) then the canal may be a suitable discharge point. However, it is likely that the mains surface water system will be the preferred option.
- m. Heat exchange is not under consideration at this stage.
- n. o. We acknowledge that sections of the canal and associated infrastructure would benefit from improvement works. This is true regardless of whether or not the current proposed development proceeds. This presumably is all on British Waterways land and as such falls outwith the planning application boundary. It is not clear how the planning authority can 'require' works on third party land (or contribution towards such works). We are prepared to discuss this with you.

### **SPD Designing Walsall**

Percent for art - the requirement for such financial contributions might be regarded as something of a 'luxury' given the current economic climate and the desire to stimulate economic activity. Does the guidance allow for sensible flexibility?

## **Centro**

The requirements appear acceptable

## **Police**

Noted. This is a matter for more thorough consideration at the detailed design stage.

## **Moxley Project Reference Group**

The screening is intended to reduce the overall impact of the introduction of relatively large industrial buildings and the associated increased activity (particularly vehicle movements). It is considered that a screening mound with appropriate planting and landscaping works could be designed to avoid any impact as suggested.

## **Ecology**

As requested we have undertaken a specific survey of the site in an attempt to address each of the points raised by the various consultation responses.

## **Open Space**

It is acknowledged that the site is currently utilised on an informal basis as 'open space' principally by dog walkers, children playing or simply as a short cut for pedestrians. It is also clear that local residents and others utilise the fringes for fly-tipping purposes, which detracts further from the sites 'attractiveness', or 'quality' as open space. It is intended however that the development be carried out in such a manner that areas of accessible open space are retained on the site periphery, and that these would be properly landscaped. This, it is suggested, would enhance the open space provision for the area rather than detract from it.

## **Economy**

The current planning application is in outline only and it is therefore not possible to be precise about the nature of the likely development or the potential numbers of employees. We have received approaches from several interested parties. One is already a significant employer in the Borough and is seeking to expand operations. This would involve relocating certain of the existing operations to this site with a view to both retaining existing employment and providing new local employment opportunities. On the existing site, other parts of the business would be expanded providing further new employment opportunities. Another relates to the introduction of a new business with new additional employment prospects. A further and more recent enquiry has been received through the Councils own Economic Regeneration team, although that concerned only a small (2 hectares) part of the site. In the absence of a planning permission, these approaches are at an informal stage only. A reasonable estimate for employment opportunities would be circa 80.

## **Transport Assessment**

Assessment technique has been agreed with both WMBC Transportation and the Highways Agency. A Travel Plan is proposed. Accident rates in the vicinity are at acceptable levels to allow the development. The scheme would use the priority junction proposed as part of the adjoining residential development. The development can be accommodated on the highway network without new works on the roads.

## **Relevant Planning History**

There has been tipping on this site since the 1940s. A limestone cap was placed over a proportion of the site in the early 1980s. Further unauthorised tipping took place after that date such that there is now up to 5 metres of fill on top of the limestone. . Tipping largely ceased in 1984.

Outline permission for open space, housing, and marina was refused in 1987, on the basis that contamination could adversely affect the development, insufficient information had been deposited to identify the contamination and remedial measures, and the risk from methane.

Planning permission (BCW609) was given in 2000, an outline permission for pub, housing, formal and informal recreation use, plus a reclamation strategy. The strategy centred on creating a cap over the tip. The permission was not implemented.

In 2002 an application (02/2122/FL - OL/M1) was submitted for a reclamation strategy and after uses of informal recreation and housing ( a small area). It was approved in December 2007, and comprises:-

- i) a planning permission for the reclamation and restoration of the site, and
- ii) an outline planning permission for the development of the site after restoration, and
- iii) a planning permission for the use of land, other than in association with the buildings to be erected under item (ii).

Maintenance of a gas breather trench between the main body of the tip and the residential area was secured by a section 106 agreement.

A further planning application (04/070/FL/M1) sought a time extension for submission of details required as reserved matters for BCW609, to 6<sup>th</sup> April 2005 and was granted.

This was extended again, to 2007 (05/0598/FL/M1). As no Reserved Matters application was made in that time, 02/2122/FL-OL/M1 can no longer be implemented.

(A further attempt was made in 2007, to further extend the time limit on submission of details for 02/2122/FL-OL/M1, but the application was incomplete and not determined.)

**Relevant Planning Policy Summary** *(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website).*

## **Unitary Development Plan**

Policy LC2 is site specific and identifies that 7.75ha of Moxley Tip is proposed as additional open space. In addition, policy H2 identifies a housing site adjoining the LC2 area. These allocations reflect the 2000 planning permission.

More generally the UDP sets out the following policies.

Development will be guided by principles of sustainability, minimising need to travel by car, maximising re-use of vacant land and buildings without prejudice to the beneficial use of adjoining land or buildings (Policy GP1).

Development schemes should help improve the environment of the Borough whilst not having an adverse impact (Policy GP2).

Planning obligations will be used to secure provision of on or off-site infrastructure, facilities, services or mitigating measures made necessary by development. These may include transport infrastructure, open space, drainage works, affordable housing, education facilities, health care facilities and other forms of social and community infrastructure (Policy GP3).

Development is expected to design out crime, through maximising surveillance of public areas, maximising defensible space, care in design and layout to avoid hiding places for criminals, measures to combat crime need to maintain good urban design (Policy GP7).

Policy 3.9 seeks derelict land reclamation for both development and open space use, taking account of wildlife and landscaping, while 3.12 seeks to protect the natural environment and ENV18 seeks to protect existing woodland trees and hedgerows. ENV14 seeks the development of derelict and previously-developed land. ENV23 identifies that the layout of all new development must take account of the potential for enhancement of the natural environment through habitat creation. The Council will require habitat creation to encourage the conservation of wildlife in proximity of wildlife corridors.

Policies 3.16 and ENV32 identify that the Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

Policy ENV10 seeks to control the emission of pollution.

ENV34 – the Council will require the provision of public art to enhance the quality and individuality of new development.

LC9 on canals encourages environmental improvements to enhance the attractiveness and recreational potential of the canal network. All development alongside canals should relate positively to the opportunity presented by the waterway, to achieve high standards of design.

T7 and T13 set out the position on the provision of car parking.

### **Walsall Local Development Framework**

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land and high quality design are further advanced in the document taking account of recent national and regional planning guidance

### **SPDs**

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

Adopted in April 2008 it sets out the approach of the Council to protecting, preserving and enhancing ecology and related matters. It expands on the policies contained within the UDP.

### **Designing Walsall**

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

DBW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DBW3 – all new development must be designed to respect and enhance local identity

DBW6 – new development should contribute to creating a place that has a clear identity

DBW9 new development must seek to ensure it creates places with attractive environmental quality

DBW 10 – new development should make a positive contribution to creating a sustainable environment.

#### **Annex D – Public Art**

The Council will negotiate Section 106 agreements to secure benefits in line with the UDP, and this SPD with respect to developments that meet the criteria outlined in Policy DW9(b). It sets out a tariff of £5 per sq.m. up to 2,000sqm, and £3 per sq.m. above 2,000sqm. On this site, assuming the development uses all of the proposed floorspace, the contribution would be £40,000.

### **Regional Planning Policy**

The focus for the Black Country policies is to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

a) to reverse out-migration accommodating within the Black Country all of the generated household growth from 2011 and meeting at least the identified levels of housing provision;

b) to raise income levels raising demand and household incomes (average earnings, GDP per head and reducing unemployment) to the UK average by 2033;

c) to create an inclusive and cohesive society within the Black Country removing barriers to opportunity and changing the socio economic mix by increasing the proportion of social grades A and B to match the national profile by 2033 or earlier; and

d) to transform the Black Country Environment by protecting and enhancing the sub-region's environmental and heritage assets and biodiversity.

Policies QE7 and QE10 deals with protecting, managing and enhancing the Region's biodiversity and nature conservation resources.

The Strategy promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)).

### **National policy**

PPS1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. Planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and design which fails to take the opportunities available for improving the character and quality of an area should not be accepted.'

PPS4 on sustainable economic growth sets out

The Government's overarching objective is sustainable economic growth.

To help achieve sustainable economic growth, the Government's objectives for planning are to:

- build prosperous communities by improving the economic performance of cities, towns, regions, sub-regions and local areas, both urban and rural
- reduce the gap in economic growth rates between regions, promoting regeneration and tackling deprivation
- deliver more sustainable patterns of development, reduce the need to travel, especially by car and respond to climate change
- promote the vitality and viability of town and other centres as important places for communities

PPS9 seeks to ensure that biodiversity is considered as part of the application.

PPG13 guides that reliance on the private car should be reduced and that developments should accommodate opportunities for walking, cycling and use of public transport.

PPG14 seeks to ensure that development takes account of unstable land,

PPS22 encourages the use of renewable energy and seeks to reduce the energy requirements of new developments.

PPS23, PPS10 and Waste Management Paper 27 (WMP27) are all relevant to the reclamation issues (though the latter has been extensively superseded by other publications). Notably, the precautionary tone of WMP27, for example, setting "safe" distances between tips and development has been replaced in many documents by a risk assessment approach.

PPG 24 Planning & Noise: The planning system should not place unjustifiable objects in the way of development which creates jobs and infrastructure, but must ensure that it does not cause an unacceptable degree of disturbance. Noise-sensitive development should not normally be permitted where high levels of noise will continue throughout the night, especially during the hours when people are normally sleeping (23.00 to 07.00).

Circular 05/2005 (Planning Obligations) is of relevance with regard to the appropriate level of planning contributions that will be sought.

Circular 06/2005 is on Biodiversity and Geological Conservation, setting out the statutory obligations and their impact within the planning system.



## **Consultations**

**Transportation** –no objection subject to conditions. In addition, the submitted documents have satisfied the Highway Authority that there will be no significant impact on the existing highway network as a consequence of the proposed development.

On the issue of access to the school opposite (if a development proposal comes forward), the currently proposed development will be accessed via an already agreed access off Moxley Road, as part of the previous residential planning application. As there isn't a committed development for the Moxley School site then it has not been considered in this assessment. Any implications of the proposed access on any scheme brought forward on the school site will have to be dealt with by the school development, as this will solely depend upon the scale of the development on the school site. It would be unfair to expect the developer of the Moxley Tip site, to solve any potential issues arises from an uncommitted development where the scale/size is both uncertain and unknown. It is not possible to categorically state whether the Moxley Tip scheme will not prejudice the development of the school site but I do not expect this to be the case.

### **Pollution Control Scientific Team**

No objection to this proposal with the proviso that measures are put in place to address noise issues arising. Conditions have been recommended to this end.

### **Pollution Control Contaminated Land Team**

*Initial comments – may be updated in Supplementary paper*

Application specifies a reclamation strategy which addresses most of the concerns about potential impacts from landfill gas and ground contamination and provides a basis to facilitate redevelopment. There are however some uncertainties that can be dealt with by imposing conditions.

The report and reclamation strategy set out broad principles for dealing with the site and proposed residential development.

There remains the need to attach a S106 agreement to ensure on going maintenance, upkeep and assessment of the effectiveness of the trench.

### **Policy Team – range of comments**

#### **National policy**

The supporting statement does not mention PPS 1 Climate Change Supplement. Although this is unlikely to significantly affect consideration of the principle of the proposed development, it could impact on a range of design features aimed at mitigation of or adaptation to climate change.

#### **RSS 2008**

The supporting statement mentions stages in development of the RSS Phase One Revision, but does not recognise that this revision was approved and published in January 2008. This revision to the RSS is important with respect to this application because it is now part of the statutory development plan and sets out two key aspects of urban renaissance in the Black Country; in general terms:

- Focus investment in the strategic centres and regeneration corridors (Policy UR1A and B); and
- Environmental transformation (policy QE10).

From the Spatial Strategy Diagram the Moxley area is shown as being in an Employment Land Investment Corridor, but the plan is small scale and diagrammatic only. The corridors are further defined on the Black Country Core Strategy Key Diagram, which shows the area west of the Black Country New Road as being in Regeneration Corridor (RC) 5, excluding Moxley Tip and areas east of that road, where residential growth is planned. Nonetheless, focusing investment in corridors does not prevent some development elsewhere, especially, it can be argued, in an area of relative economic deprivation. In addition the evidence is that there is insufficient high quality employment land in the Black Country and, given proximity to the strategic highway network, this site, insofar as it can be developed at all, could help to redress this deficiency.

The environmental transformation policy covers all parts of the Black Country. In this context the Moxley Tip site and surroundings have particular potential with respect to policy QE10 (ii) and (iii), given its relationship with the canal and as a component of a network of open spaces. Again, this does not prevent development of at least some of the site, but it does warrant careful consideration of that potential.

#### Walsall UDP 2005

##### Open space allocation

The Moxley Tip site is proposed for open space in proposal LC2.1. One reason for this was the understanding when the UDP was being prepared that built development was inconceivable.

This is a long standing proposal (see UDP 1995 policy REC2.2) and several attempts to implement it, sometimes in combination with residential development on adjoining land, have failed, even in times of relative economic buoyancy. Consequently, there must be considerable doubt as to whether this can be achieved, especially if the recession turns out to be as long and deep as feared (this comment was made earlier in the year – there are indications of improving economic activity being to be reported). If it is the case that the site is now considered capable of development for industrial use it would be legitimate in the circumstances to consider alternatives to the allocated use.

The Moxley Regeneration Framework (RF) does foresee a new park, but this is a non-statutory document and should be given relatively little weight compared to the great weight to be afforded the RSS and UDP.

#### Greenspace Strategy Audit & Assessment Report

The mapping shows a deficiency in substantial parts of Moxley.

The application site is not counted as unrestricted open space in the Audit. The proposed open space at Hughes Road (UDP LC2.4) is unlikely to reduce the deficiency by much, if any, given the possibility of housing on part of the site and the way this has been evaluated in the Moxley RF.

All sites in the area are assessed as either low quality or low value or both. There is therefore a deficiency in quality and value of open spaces in the Moxley area.

The application site has some potential to redress these numerical and qualitative deficiencies. It is therefore important that the application provides sufficient open space to optimise this potential.

### Offices

A free standing office in Class B1(a) is a town centre use as defined by UDP policy S1 and, as such, in this location, would be subject to the tests on policy S6 and S7, which in my view it would fail. The application should be amended to exclude B1(a) – this would not prevent offices that are ancillary to the proposed industrial use.

*N.B. applicants confirmation that all offices would be ancillary to other uses on the site has been submitted after this comment was made.*

### Local Area Regeneration

The site is important. It is large and prominent and of great potential value to the community.

### Employment

It can be argued that a key benefit of the proposed development would be the jobs arriving in Moxley and yet the application form and the supporting and D&A statements say absolutely nothing about the number of jobs that would be located there and how many would be available to local people. They say nothing about what will happen to their existing factories and sites. The employment value to the area and the likely future of existing sites are important material considerations if a UDP designation is to be overridden.

*Applicants have confirmed that the scheme is speculative.*

**Regeneration – Economic** – support conclusions of Policy Team. It is fair to say the developer has a major task ahead to make the land good, however would support development on the site that would create/support new jobs for the area.

**Development Team** – support the proposal but comment:-

- Access point should not negatively impact on redevelopment of school opposite which is seen as a development site
- Site must be considered with the APUK site – nothing should be done to “.... further complicate or otherwise adversely affect the realisation of the development on the APUK site.”

**Advantage West Midlands** - welcome the proposal in principle.

The site has the potential to provide a significant modern local employment resource. It will be important to ensure a high standard of design.

### **Natural Environment**

Object. *(N.B. These comments reflect the amplified submission set out in the introductory section, and are therefore the most up to date position.)*

### General

The proposed development would probably not result in the loss of habitat of Site of Importance for Nature Conservation (SINC) or Site of Local Importance for Nature

Conservation (SLINC) quality or unacceptably sever the wildlife corridor centred on the Walsall Canal. However, the site is clearly used by local people and is a place for informal recreation and contact with wildlife. The designation of this site as Urban Open Space appears justified and therefore the site should not be developed, in accordance with the Urban Open Space UDP policy. This is an area lacking in accessible open space. The retained site would complement the larger complex of sites including the Walsall Canal and the Ward's Pool site immediately to the north.

The site has been left undisturbed for many years and has developed ecological interest.

#### Nature conservation value of the site.

An ecological report has been submitted. In general, the report concludes that there is no nature conservation value of national or regional importance. This conclusion is unsurprising but this does not mean that the habitats present on the site have value at a more local level.

The report makes reference to several protected species. With the possible exception of badgers, no survey work for protected species appears to have been carried out. A brief summary of the conclusions for each species is provided below together with my commentary:

Bats: The report's author speculates that the site presents good foraging habitat for bats. Some of it will be lost to development but this can be mitigated by habitat creation on the land not required for development. Without survey work these conclusions are simply an opinion.

Badgers: The site may contain badgers, although no setts have been found. The report writer considers it possible that badgers use the current application site and that foraging areas will be lost. Mitigation in the form of the planting of berry-bearing shrubs is proposed.

Amphibians: Smooth newts, frogs and toads were discovered on the adjacent AP(UK) site in 2007. Smooth newts were also found to be breeding on a small pond within the application site. The indicative layout would destroy a large proportion of the terrestrial habitat in the vicinity of the breeding pools which these amphibians are likely to use.

The report's author proposes the retention of a seasonal pond in the north-east of the site in the event that great crested-newts are present. However, this raises concerns. If great crested-newts are present, a large proportion of their terrestrial habitat around the pond will be lost. Presumably, if the pond is retained because of the risk that great crested-newts are present, then their habitat should be protected as well.

Otters: The value of the site to otters was not considered significant in the ecological report. I agree with this conclusion.

Water voles: The only parts of the site where this species may be present is along the Walsall Canal. Providing care is taken to avoid pollution from the development into the Walsall Canal there should be no impact. Water voles may use any wetlands created but I accept that this species would not be expected on this site.

### Impacts of the development.

Introducing industrial use and new earth mounding on the majority of the site runs the risk that much of the existing habitat will be lost if the outline permission applied for is granted. There is a danger that the only vegetation left will be that on land that cannot be used for industrial development rather than retaining the most botanically diverse and important areas.

The proposals in the ecological report are somewhat vague and lack a clear link to the illustrative layout plan. Some identification on the extent of habitats which should be retained is essential. It is thought necessary to retain habitat on the west and north of the site but how much and in which locations is not clear. The ecological survey work should set clearer constraints to development.

Accept that some of the site has limited nature conservation value but other areas approach Site of Local Importance for Nature Conservation (SLINC) quality due to their botanical diversity. It is likely that the ecological diversity will increase over time. The statement in the ecological report that this is habitat that can be recreated easily is true but it cannot be done in the short term. The report also underplays the importance of the structural diversity of the vegetation. This is important as habitat for many animal and invertebrate species.

In terms of compliance with relevant policies.

- None of the site is currently within a designated site. It is likely that some habitats, especially along the canal corridor could be incorporated into the Walsall Canal SLINC. However a development which retains these habitats should be possible. Similarly a scheme which retains more terrestrial habitat around the seasonal pond (which is proposed for retention) should also be possible.
- UDP Policy ENV24: Wildlife Corridors protects identified wildlife corridors. The whole of the site is identified as part of the wildlife corridor centred on the Walsall Canal. It is unlikely that the integrity of the wildlife corridor will be harmed to a degree which demonstrably conflicts with this policy. However, the capacity of the corridor to support wildlife will undoubtedly be reduced.

### Open space

Strongly linked to the ecological issues is the site's designation as additional Urban Open Space. The applicants would like to remove the designation but UDP policy LC1: Urban Open Space states that development of any such site will only be permitted if it can be demonstrated that 11 listed functions would not be prejudiced. These include:

- VIII Contributing to biodiversity;
- IX Contributing to the urban forest;
- X Contributing to visual amenity.

The site certainly contributes to biodiversity and the applicants have provided no evidence to the contrary. The site also contributes to the Black Country Urban Forest. The site undoubtedly contributes to visual amenity. While the visual amenity could be improved by removal of rubble and rubbish, it is a reasonably attractive place with wider views across the urban landscape. It also forms an attractive backdrop to Moxley. The site is therefore already fulfilling its open space designation.. The applicants certainly have not demonstrated that the three functions listed above would not be prejudiced by the proposed development as the policy requires.



There is a network of desire lines many of which would be severed by the proposed development. It is unclear how the space which is not envisaged for industrial use on the indicative layout would be used. Who would use it and what would they do on it? Circular walks would be difficult and much of the site would be destroyed by either development or mounding.

This land is providing an open space function in an area of the borough with little natural green space. This is a site where local people can enjoy the natural environment and this is important. This application is solely for industrial development and, if granted, would not make provision for open space. The loss of open space to the north to housing makes this space more important.

### **Greenspaces**

- The site is an area of natural and semi-natural green space in the Green Space Strategy
- It is a local space serving a small area, though immediately west of the Black Country Route, is a residential area deficient in open space
- This site is in private ownership and identified as “Not Accessible” in the Green Space Strategy
- Greenspaces support the creation of new areas of publicly accessible open space, but do not have the resources to adopt and maintain such areas so the responsibility for them has to remain with the developer / landowner.

### **Birmingham and Black Country Wildlife Trust – objects**

Disappointed by the lack of consideration of biodiversity. Should be a bat, great crested newt and ecology study to support the application. Wards Pool adjoins to the north and is a Site of Importance for Nature Conservation (SINC). Site adjoins a wildlife corridor (the canal). If the scheme is approved there should be a landscaping scheme focussing on native species.

### **Natural England - objects**

Recommend refusal as the application contains insufficient survey information to demonstrate no adverse effect on legally protected species.

Issue is the likely impact upon Great Crested Newts (GCN). While submitted survey did not find any evidence of GCN, and the suitability of the site was found to be ‘generally low’, it remains that GCN are present within the area (within 500m of the site) and that the northern pond (in particular) holds some suitability for GCN.

Natural England would therefore recommend the completion and submission of a GCN Survey prior to determination so that the absence / presence of this legally protected species can be confirmed and, assuming the latter, the appropriate mitigation measures adopted.

In the event of a planning approval, Natural England would also advise that the recommendations of the updated Ecological Assessment are required, in order to ensure the protection and enhancement of supporting habitat for legally protected species including: bats, badgers, water voles, otters and GCN.

### **Regeneration – Landscaping – Support in principle.**

**Regeneration – Trees** – no objection in principle – no individual trees worthy of retention - condition recommended on tree information and actions.



**Severn Trent Water** - no objection to the scheme though they seek sustainable drainage.

**British Waterways** – comments made (applicants have responded - see introductory section)

- a. Details need to be provided to demonstrate the relationship of the proposed buildings with the canal. Site levels and finished floor levels would confirm the overall height of buildings and give an indication of the environment to be created.
- b. External lighting details are required, including of foundations etc to ensure that the integrity of the waterway is not adversely affected. Waterside lighting affects how the waterway corridor is perceived, particularly when viewed from the water, the towpath and neighbouring land.
- c. The retention of existing landscaping along the towpath and the provision of additional landscaping and footpath linkages are welcomed.
- d. Parking areas and service yards should be screened using native species to enhance biodiversity.
- e. Any proposed pedestrian access to the towpath would require a connection agreement and incur a fee.
- f. British Waterways requires assurances that the design of waste storage in close proximity to the canal will not result in pollution of the waterway
- g. During construction and operation of the site, British Waterways would require the works, handling, storage and disposal of waste generated by construction and operation of the buildings to be carried out in accordance with relevant legislation and regulatory requirements. Potential contamination of the waterway and ground water from wind blow, seepage or spillage at the site should be avoided.
- h. British Waterways offer no right of support to the adjacent property. The land owner should take appropriate steps to ensure that their works do not adversely affect the towpath and canal wall at this location.
- i. The in-filled canal basin should be isolated from the tip, as it may provide a pathway for landfill leachate to enter the canal.
- j. The proposed development will produce more areas of impermeable land and given that the canal lies some 6m below the surface level of the tip, careful consideration of sustainable urban drainage systems must be undertaken.
- k. Excavations must not increase the risk of contaminants entering the canal. A leachate management system should be in place to ensure that leachate does not enter the canal during and post construction phases.
- l. The application forms indicate the discharge of surface water into the watercourse. The applicant would require agreement with British Waterways
- m. In regard to heat exchange using the canal, this is an initiative that British Waterways supports and promotes. Should the applicant wish to utilise the canal for heat exchange the applicant would require agreement with British Waterways and British Waterways can provide further advice
- n. There is an existing canal towpath bridge which could benefit the development by either being brought back into use or demolished and the towpath reinstated. British Waterways seeks contributions towards these works as they would benefit not only the development itself but also residents in the area by providing safe and attractive route for walkers and cyclists.
- o. British Waterways wishes to be party to any s106 agreement and can provide costs and detailed information in regard to the required contributions, if requested.

**Inland Waterways Association** – no objection to use of land – concerned at impact of buildings on site high over canal – should be screened by planting mature trees.

**Centro** have responded that although the number of proposed employees is not stated, if it exceeds 50 then the developer (or final occupiers) should be required to affiliate to Company TravelWise and develop a Travel Plan to promote public transport. The developer should also be required to provide secure cycle parking facilities.

**Police Architectural Liaison** - this is a relatively high crime area, and the application should reflect the intention to address this. They also suggest that the development should seek Secured by Design status in due course.

**Structures and Geotechnics** – aware of ground gas monitoring programme and site investigations. Decision should incorporate a warning note on the issue.

**Drainage** – No objection

**National Grid** – based on an assessment of the scheme the risk is moderate (*there is a transmission cable across / alongside the site*).

**Fire Service** – no objections subject to compliance with Building Regulations.

### **Public Participation Responses**

Moxley Project Reference Group – support the principle, but with comments.

- The development will contribute to the wider regeneration aspirations of the Moxley area through increasing employment opportunity and supporting the local economy through the retention and creation of jobs within the local area.

- Members of the group have concerns as follow:

- Concerns over ground conditions due its historic use as a landfill – they request that an effective programme of mitigation measures are undertaken to ensure that any development complies with relevant legislation in this regard
- Development should ensure the safety of those using the site and those outside of the site - with specific regard to the effect of the migration of gases from the site.
- There is concern with regards to the height and subsequent impact of the proposed screening between the proposed operations on site and the residencies to the east of the site.
- There is concern over the level of noise, dust, pollutants and other by-products created through the operations on the site and the prevailing wind direction blowing these over the residencies in the vicinity.
- Members of the group also have an issue with the section of the Design and Access statement for the application which states '*Discussions have taken place with the Moxley Regeneration Committee and they were generally very supportive of the proposals to encourage further employment opportunities into this area. This accords with the regional and local policies for the area*'. This document gives the impression that the group have no concerns with the proposal, and this is not the case.

There have also been 18 letters or e-mails of objection. One is signed by (or on behalf of) 46 people. The issues raised are:-

- Log history of environmental problems on this site
- Scheme is contrary to UDP policies
- Site is allocated for open space –many residents support that designation – it should be made formal
- The application for residential on part of the land was supported by the argument that it was needed to secure the open space function of the rest – this application reneges on that arrangement
- Barrier trench on residential proposal should go ahead anyway - why is the council not forcing that aspect
- On landfill gas, the applications says it **should** be possible to develop the site for light industrial but the word **should** makes it clear that the area it is not suitable
- area is short of open space – designation should not be switched
- area has lost open space with development of Darlaston Academy on part of George Rose Park
- will spoil the character of the area
- For more than 20 years people have been walking on the site as informal open space
- Will adversely affect wildlife and fail to meet English Nature standards (1ha. of Local Nature Reserve per 1,000 residents) *See Observations on issue of this "standard"*.
- Site is now a "thriving and beautiful nature site"
- It is not local residents who fly tip on the site
- Closure of school opposite entrance to the land was done to facilitate this access – a crafty move on the part of the Council
- Site could now be registered as a village green
- Would not create new jobs only relocate existing an existing company from 3 separate sites
- company planning to relocate are known for high noise levels-
- Would affect houses with dust, light and noise pollution
- Recent development on the other side of the Black Country Route already causes light pollution, this site will be worse as it is closer
- Overnight lorry use is particularly objectionable – must not be allowed
- Area is very quiet – this will cause excessive noise e.g. from lorries, including reversing beepers
- Trees will not prevent nuisance from noise
- There are other sites (including vacant sites) that could be used for commercial development
- Volume of traffic will be a problem at the access to the site
- Support improved use of the site for the community but not for commercial uses like this
- The 2008 consultation exercise on the future of Moxley clearly showed most people want this kept as open space
- Adjoining houses are affected by surface water run-off from Moxley Tip Water, can you guarantee that this will not get any worse?
- There should be a screening opinion on record
- Proposal will loom over land to the north (proposed housing area)
- Waste of council money to build these units

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

### **Determining Issues**

- Status of development and of residential development
- Natural Environment
- Quality of regeneration, reclamation, and restoration of the site
- Public access to the open space
- Vehicle Access
- Ground contamination conditions
- Impact on houses
- Loss of open space
- Public art
- Works to and along the canal
- Drainage / SUDS
- Section 106 agreement

### **Observations**

#### **Status of development and of residential development**

Some of the application submissions are made on the basis that the residential development of part of the site can proceed. It will be apparent from the history that this is not the case, as the time for submission of a Reserved Matters application expired in 2007. There would be a reasonable expectation of the renewal of that permission (though it is important not to prejudge the issue).

However, this application includes the area of the intended shared access, and as such that access is now part of the present application (though the details are reserved). That is sufficient to allow a decision to be made on this application.

#### **Natural Environment**

The ecological assessment with the application makes a number of recommendations. The developers have advised that not all of these can, necessarily, be implemented, and they advise as follows (recommendations of the assessment are in italic text):-

*The incorporation of a reed bed (e.g. SUDS) and/or sealed bunds, along the northern and western boundaries and the adoption of standard measures to prevent pollution*

SUDS is not really an appropriate drainage solution on this site (minimising excavation into the previous filled areas). The only appropriate area for such a feature might be adjacent to Sandwell Avenue to the rear of the garage. Normal drainage systems with cut off ditches as appropriate would appear to offer the best solution.

*maintain the best habitats on site (e.g. some of the scrub areas in the north and west, the pond in the north-eastern section).*

Generally agree to retention of some scrub areas in the north and west fringes, but retention of the pond is not practicable – falls within the area already granted planning permission for housing development.

*enhance existing habitats through appropriate management.*

Generally agree in so far as this relates to the fringe areas – although grazing might not be practicable. Our Ecologist was thinking only of the possibility of retaining the existing horse/pony grazing habit.

*create better habitats*

Generally agree – although as previously indicated, SUDS is not appropriate. Also, not sure that the landform lends itself to the creation of further pools.

*eradicate Japanese Knotweed*

Agree

The site is polluted, but it is clear that the surface has achieved a significant degree of natural regeneration. It now has some value for ecology. The 2002 permission recognised this and provided for patching and repair of that regeneration, to create a privately owned, public open space.

Under this proposal much of the natural elements of the site would be removed, in favour of an employment generating development. Other natural areas would be removed and then restored (e.g. the necessary regrading of the western edge of the site, where tipped material is exposed on the surface).

Limited survey work has been done, but this points to a site which is not expected to affect protected species. However, this is not a conclusion that all parties accept.

The most significant effect, if there is one, would be on great crested newts. The applicants argue that the nearest known presence of these creatures is 500 metres away. They also point to the presence of intervening residential development and argue there is little likelihood of a progression of the species from those areas to the site.

It is for the decision maker (your committee) to weigh whether those factors are outweighed by the economic gains that job creation on the site offers. However, the recommendation takes a more circumspect approach. A specific survey is sought to define whether or not Great Crested Newts use the site. If they do, then any approval must be conditional on suitable mitigation measures.

On balance, your officers conclude there is a low likelihood of protected species being affected, and there is scope for relevant levels of mitigation. The scheme is supported in the terms embodied in the recommendation.

### **Quality of regeneration, reclamation, and restoration of the site**

The UDP has two aims for the larger site. One is to contribute to the regeneration of the area and for the site to provide high quality open space. The UDP also requires the proper reclamation of contaminated sites where development is proposed. The other is to create a small housing site.

A key issue on this site is the degree to which the past uncontrolled tipping can influence the surface uses / users and this featured significantly in the 2002 permission for the open space / housing proposal.

Ground gas is known to exist in the tip, as well as a range of contaminants. The 2002 permission recognises that suitable arrangements can be made for public access. Suitable design of the buildings and other features of the commercial development presently proposed can be developed.

The degree to which the reduced area of public access damages the scope to walk on and around the site needs to be judged. Officers also consider there is scope to redesign some of the noise mounds out of the commercial area, adding them to the public space areas, improving the latter without impairing the former.

Overall, a satisfactory scheme is capable of being achieved, in these terms.

### **Public access to the open space**

A condition is proposed to secure this.

### **Vehicle Access**

Though consideration is being given to the development to the school opposite, there are no current proposals for other developments in the vicinity, so these can not be a factor in this decision.

The Transport Assessment now shows that the present proposal can be access safely, as envisaged in the illustrative layout. Transportation accept this position.

There is no reason to oppose the scheme on this issue.

### **Ground contamination conditions**

The application as amended addresses most of the concerns about potential impacts from landfill gas and ground contamination and thus provides a basis to facilitate redevelopment.

There is existing housing in Sandwell Avenue within 50 metres of the main body of the tip. This is an unengineered site, with no gas control measures in place at present. However, the Risk Assessment done in 2002, by identifying the acceptability of new housing on the edge of the site adjoining Sandwell Avenue, offered reassurance on this issue. The present scheme (provided it makes satisfactory arrangements for gas control and dissipation) does not challenge that position.

The gas trench referred to (e.g. by residents) was a feature of the previous proposals for the site. It ensured a barrier between the proposed housing and the edge of the tip. The applicants have stated it is not relevant to the present application, given this role.

The position of Pollution Control on this issue is that it is feasible to install gas ventilation measures etc under the proposed buildings, and the proposed mounds (as both of these will affect the ability of ground gas to emerge into the atmosphere). As a result, with suitable measures, there will be no greater likelihood of gas migration off the tip than there is at present.



## **Impact on houses**

Pollution Control Scientific Team has no objection to the principle of industrial development on this site, despite its proximity to the proposed residential development adjoining on two sides. Part of the proposal involves raising the ground levels in the area of the site between the industrial buildings and the residential development. These raised ground levels will form a barrier to contain noise generated by the industrial development but to ensure any noise created does not create problems conditions are recommended. Noise control measures are proposed to control any potential impacts on houses.

An unresolved issue is whether the commercial uses can be allowed to operate on a 24/7 basis, as desired by the applicant.

In the absence of a detailed scheme that can be tested, Pollution Control advise the imposition of a condition restricting hours of use. In relation to condition 40, restricting the hours of operation, if the applicant submits a noise impact assessment to indicate the potential effects on nearby residents (and any mitigation measures) it may be possible to the amend this restriction to give more time for deliveries, but the decision turns on the detail so that the noise barriers, and the arrangements of the site and buildings can be tested.

However, the area of the noise barrier area is such that (on the illustrative layout) the noise sources (yard and buildings) are nowhere nearer than 75 metres from existing or proposed areas.

Access for vehicles is by a short length of road connecting the entrance to the site to Moxley Road. The scope for nuisance from this traffic affecting the existing or proposed houses is limited as a result.

## **Loss of open space**

A resident argues that not only will the scheme adversely affect wildlife but it will also fail to meet English Nature standards for 1 hectare. of Local Nature Reserve (LNR) per 1,000 residents.

There is no standard of this sort in the UDP, or any of our SPD documents, nor even in the RSS.

Also, this site is not, at present a Local Nature Reserve.

In the Borough there are about 180 hectares of LNR, which equates to about 0.72 hectares per 1,000 population (a shortfall of about 70 hectares across the Borough.

The key question is how the alleged standard could be delivered, how can significant LNR provision be created. In the absence of a planning policy to secure such areas, it is not a key issue for the application.

In a wider sense, the land is informal open space. As some of it is proposed to be built on, it follows that if the scheme proceeds, open space will be lost. The consultation responses indicate there is no strong policy base to require this land to remain in open space use (as

envisaged in the UDP). In essence, this aspect of the UDP is no longer justifiable. The recommendation reflects this.

### **Public Art**

The UDP and the Designing Walsall SPD sets out the policy base on this subject. Developers are expected to contribute (in this case, in the sum of £40,000). The developers have queried the relevance of this in the prevailing economic climate. However, they have not sought to demonstrate a lack of economic viability (e.g. by an assessment tested by the District Valuer, as other developers have). They have simply queried its relevance.

Officers have therefore recommended that this policy requirement should be met, and that permission should not be granted until a section 106 agreement is in place to deliver this contribution.

### **Works to and along the canal**

British Waterways seek:-

- the removal of the towpath bridge (a derelict structure, now largely redundant as a footpath / desire line has been created around it on the site)
- access agreement for access to the towpath for pedestrians (and their associated fee)
- control of light pollution
- control of leachate
- improvement works (unspecified) to the canal and its environs (*BW have been asked to identify exactly what work, and the costs*)

The proper development of the site will address light pollution and leachate control, and this is reflected in the recommended conditions.

A S106 Agreement would normally be required to ensure financial contributions. On the adjoining site to the north, British Waterways proposed works to the canal (the towpath and local environment in order to ensure that the canal environment is upgraded to accommodate the increased pressure placed on it by the anticipated increase in local residents and access). They had, in that case, a specific list of works. The financial appraisal of that site meant a limited contribution (£45,000) was ultimately agreed.

Providing the requests for contributions can be justified these would normally be supported, and that is part of the recommendation on this application.

### **Drainage / SUDS**

Polluted sites such as this do not offer much scope for SUDS (relying as it does on use of soakaways or other infiltration / treatment works). It is a matter for further detailed examination, but is unlikely to make a significant contribution to the development of the site.

### **Section 106 agreement**

This should provide for the percent for art arrangements (£40,000), and the canal improvement works (when the amount has been identified).

## **Conclusion**

The site has considerable technical issues such as ground gas, but these are capable of being overcome by suitable design measures.

The UDP designation as open space is a constraint but the report concludes setting this aside to facilitate the development is justified.

The scope for impact on protected species is important, but the available information is incomplete, and needs to be augmented by a specific newt study before permission can be granted.

A section 106 is proposed to deliver the relevant contributions.

The ultimate decision (assuming these matters are resolved) would be subject to conditions based on those set out below. Conditions related to wildlife and ecology will need to be included, as these matters are explored, under the recommendation.

## **Summary of Reasons for Granting Planning Permission**

The development proposes adequate measures to provide for the traffic generated by the site, including the preparation of a Travel Plan to minimise use of the private car. Measures to address noise issues arising from the development are controlled by the conditions of the permission.

The reclamation envisaged addresses the concerns about potential impacts from landfill gas and ground contamination and provides a basis for the development, with the conditions included in the decision.

The RSS Phase One Revision sets out two key aspects of urban renaissance in the Black Country; in general terms, focussing investment and transforming the environment. The proposal fits within both themes, and does not prevent some development elsewhere, especially in an area of relative economic deprivation.

There is evidence that there is insufficient high quality employment land in the Black Country and this site will help to redress this deficiency.

The site is proposed for open space in the adopted UDP, but this has proved to be difficult to achieve, there is evidence that this part of the Borough is not short of open space, and the proposal is seen as acceptable, notwithstanding this allocation, by reason of its potential for economic benefits.

The office space should be ancillary to the rest of the development, and this is required by a condition.

Use of parts of the site for informal open space are controlled by condition, including the need for a safe surface for users.

The proposed development will alter the wildlife value of the site, but the conditions require suitable mitigation.

The trees on the site do not, individually, warrant retention or protection.

The scope for sustainable drainage may be limited by the ground conditions, but the conditions require attempts to be made to deliver such arrangements. Control through conditions is also provided for run-off from the site onto surrounding areas.

The ground conditions on the site are such that mitigation for gas and other effects are necessary and these are required by condition.  
Conditions are used to control overnight lorry noise, surface water run-off, external lighting impacts, levels, landscaping of the development, waste management, construction nuisance,  
On balance, the proposed development is considered to comply with the relevant policies of the development plan, in particular GP1, GP2, GP3, GP7, 3.9, 3.16, ENV14, ENV23, ENV34, LC9, T7, AND T13, having taken into account all material planning considerations, the proposal is acceptable.

**Recommendation: Grant Permission Subject to Conditions, a Planning Obligation and no Further Representations**

1. A) Application for approval of the Reserved Matters shall be made not later than the expiration of 3 years beginning with the date of this permission.  
B) The development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the Reserved Matters application, or the last Reserved Matters approval.

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

2. The development shall not be commenced until details (the "Reserved Matters") of all of the following have been submitted to and approved by the Local Planning Authority:-
  - a) The layout of the building(s);
  - b) The scale of the building(s);
  - c) The external appearance of the building(s)
  - d) The landscaping of the site
  - e) The access arrangements of the site

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

3. a) The maximum gross floorspace approved under this permission is 5,000sq.m. of B2 floorspace, 5,000 sq.m. of B8 floorspace and 2,000 sq.m. of B1 office floorspace  
b) The B1 office floorspace approved under part (a) if this permission shall at all times be ancillary to the B2 and B8 floorspace on the site.

*Reason:* To define the permission, and control the location of office floorspace other than that required to use the site for the other approved uses.

4. a) The layout of buildings and hardstandings submitted as part of the Reserved Matters submission(s) will avoid the provision of lorry parking in areas of the site close to the edges of the site  
b) At no time will lorries be parked on the site within 40 metres of the edges of the site.

*Reason:* To protect the visual amenity of the area.

5. The layout and design of the proposed surface uses on the site will not hinder vehicle access to the electricity transmission towers on the site, and wherever possible should facilitate such access. Details of this, and of security measures to prevent access by unauthorised vehicles, will form part of the relevant submissions under this permission.

*Reason.* To safeguard access to the towers.

6. There will be no vehicular access through this site to the land to the north-west of the site and bounded by the canal, Heathfield Lane West and Berry Avenue. Details of how this will be achieved, and of security measures to prevent access by unauthorised vehicles, will form part of the relevant submissions under this permission.

*Reason.* To restrict use of the access points into this site, and prevent the creation of through routes with the potential for increased disturbance of the area.

7. The Reserved Matters submission will include, for the written approval of the Local Planning Authority, a detailed landscaping scheme for the informal open space. The scheme will include details of:-

- a) site preparation,
- b) existing / remaining trees,
- c) proposed plant and tree species / sizes,
- d) plant densities,
- e) proposed footpaths and construction methods;
- f) the arrangements to be made for the disposal of surface water from landscaped areas
- g) protective fencing around planted areas during the initial establishment of planting
- h) arrangements and specifications for the maintenance of the approved scheme for a period of 5 years from completion

The approved scheme will be implemented in the first planting season (1st October-1st April) following occupation of any of the buildings on the site, or in accordance with any agreed phasing or such other period of time as may be agreed in writing by the Local Planning Authority. Completion of implementation of the approved landscaping scheme will be notified to the Local Planning Authority.

*Reason.* To ensure the satisfactory appearance of the development and to protect the health and appearance of the trees and other plants; to safeguard the visual amenity of the area; and to ensure a satisfactory standard of work.

8. All surface water from any car parks in the development shall be passed through petrol/oil interceptors of a type and capacity to be agreed in writing by the Local Planning Authority prior to discharge into the public sewerage system. The approved interceptors shall be installed before the use of the premises commences and shall thereafter be retained.

*Reason.* To protect the water environment.

9. Unless otherwise agreed in writing by the Local Planning Authority, all storm drainage on the site which is to be connected to a public sewer will incorporate flow balancing measures, unless evidence is submitted to the Local Planning Authority, before construction starts, to demonstrate that such measures are not needed. In the absence of

such evidence, no building will be erected until the intended measures have been approved in writing by the Local Planning Authority, and they will be installed as approved during the construction of the building.

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

10. As part of the Reserved Matters submission:-

- a) Vehicular access to the site shall be from Moxley Road approximately in the position indicated on the illustrative plan deposited with this application.
- b) The detailed design of the access point defined under part (a) of this condition shall be submitted with the first Reserved Matters application made under this permission.
- c) The Reserved Matters submission(s) will include details of proposed vehicle access(es) to the site, and details of gates or other barriers, to be approved in writing by the Local Planning Authority. The approved scheme will be implemented before the development is brought into use, and thereafter retained as approved. There shall be no other vehicle access(es) to the site at any time.

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

11. As part of the Reserved Matters submission, details of cycle sheds or other cycle parking / security measures, in accordance with Policy T13 of the UDP for the written approval of the Local Planning Authority. The approved details shall be implemented and completed before the development is brought into use, and shall be thereafter retained.

**Reason:** To promote the use of transport other than the car.

12. A) As part of the Reserved Matters submission, a Travel Plan shall be submitted for the written approval of the Local Planning Authority. The Travel Plan submission will be in line with the submitted Framework Travel Plan and will identify a package of measures consistent with the aim of reducing reliance on the car, and, unless otherwise agreed in writing by the Local Planning Authority, shall include (but not be limited to) providing information on / promoting the use of alternative modes of transport, by

- a) The appointment of a travel plan co-ordinator,
- b) The establishment of targets for modal shift,
- c) The details of measures to be employed to achieve the identified targets,
- d) Mechanisms for ongoing monitoring and review of targets and travel plan measures,
- e) Details of penalties and/or additional measures to be investigated / implemented in the event that the identified targets are not met.
- f) Public transport information and ticket details;
- g) Cycle provision, showers and lockers and associated infrastructure; and
- h) Walking initiatives.
- i) Car park allocation strategy.

B) Prior to the first occupation of the development (or such other period as may be agreed in writing by the Local Planning Authority) the approved measures shall be developed into a formal Travel Plan and agreed in writing by the Local Planning



Authority, including binding methods of delivery, review, and monitoring of the measures in the Travel Plan (including the requirements of this condition).

C) The approved Travel Plan shall be implemented during the six months following the first occupation of the premises. Following the expiry of this period of time or such other period of time as may be agreed under part (A)(d) of this condition, a review of the Plan shall be carried out, and submitted to the Local Planning Authority for approval. The review will identify any refinements and clarifications deemed necessary to the Plan.

D) The occupation and use of the development shall comply with the requirements of the revised plan approved under part (A)(e) of this condition, at all times, unless otherwise agreed in writing by the Local Planning Authority.

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

13. a) The Reserved Matters submission will include

- full details of mitigation measures for protected species, including a timetable for implementation, all to be consistent with and in accordance with the recommendations in the Ecological Assessment report dated September 2009, for the written approval of the Local Planning Authority.
- a scheme for monitoring protected species populations, for the written approval of the Local Planning Authority. The monitoring scheme shall also make recommendations for any remedial action if necessary.

b) No site clearance or construction works shall commence until a method statement covering:-

- the timing of works
  - restrictions on the lighting of fires, the use of lighting during construction, and the protection of trees hedges and other vegetation to be retained
- has been submitted to and approved in writing by the Local Planning Authority

c) The details approved under parts (a) and (b) of this conditions will be implemented and completed, and monitoring will be carried out, all in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

*Reason* To ensure the scheme does not impact on protected species.

14. The Reserved Matters submission will include full details of the proposed levels of the site, access and floor levels and of any retaining structures required to ensure the stability of the site or adjoining land to be approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels.

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

15. a) The Reserved Matters submission will include details of

- the proposed boundary treatment of the site to be approved in writing by the Local Planning Authority.

- the painting of all existing palisade fencing to be retained (including techniques for preventing paint affecting existing vegetation adjoining such fences)
  - any internal site divisions.
- b) The approved fencing scheme shall be implemented prior to the occupation of the development and shall be thereafter retained.
- c) Painting of the fences, at any time, will accord with the approved details for such work.

*Reason:* To ensure the satisfactory appearance of the site and protect the trees and shrubs adjoining the fencing.

16. The Reserved Matters submission will include, for the written approval of the Local Planning Authority:-

- a) a detailed survey and assessment of trees, shrubs and hedgerows has been carried out by a qualified arboriculturalist in accordance with BS5837 'Trees in relation to construction on site', including details and positions of all trees on the site, and whether the tree is proposed to be retained, its species, trunk diameter, height, radial crown spread, height of crown clearance, general condition, recommended works, and the root protection areas for each tree proposed to be retained.
- b) details of the working method to be employed for the construction of the development within the Root Protection Areas of all trees to be retained and the details shall include, but not be restricted to, details of any machinery to be used for the erection of new buildings and fencing, details of the extent of machinery use within the RPAs of trees to be retained, measures to be employed to safeguard the long-term health and condition of the trees, and the proposed routing of service runs including foul water and surface water disposal
- c) details to demonstrate that the development has been designed to reflect the presence of the existing trees on the site.
- d) details of the means of protection and maintenance of the proposed trees, shrubs and hedges until they are established
- e) The development shall be carried out in accordance with the approved details. The plans and particulars submitted in accordance with part (a) of this condition shall include:-
  - 1) a plan to a scale and level of accuracy appropriate to the proposal that shows the position of every tree on site with a stem diameter over the bark measured at 1.5 metres above ground level of at least 75 millimetres. In addition any tree on neighbouring or nearby ground to the site that is likely to have an effect upon or be affected by the proposal (e.g. by shade, overhang from the boundary, intrusion of the Root Protection Area (para. 5.2.2 of BS5837, 2005, Trees in relation to construction - Recommendations) or general landscape factors) must be shown.
  - 2) the details of each tree as required at para. 4.2.6 of BS5837 in a separate schedule.
  - 3) a schedule of tree works for all the trees in paragraphs (a) and (b) above, specifying those to be removed, pruning and other remedial or preventative work.
  - 4) the details of any proposed alterations to the existing ground levels or the position of any proposed excavations within 5 metres of the Root Protection Area (para. 5.2.2 of BS5837) of any retained tree (which means an existing tree which is to be retained in accordance with the plan referred to at paragraph (a) above), including those on neighbouring ground.
  - 5) the details of all the appropriate tree protection measures for every retained tree before and for the entire duration of the course of the development.

- 6) a statement setting out the principles of arboricultural sustainability in terms of landscape, spatial integration and post development pressure.
- 7) details of the quantity, size, species, position of all trees to be planted, together with an indication of how they integrate with the proposal in the long term with regard to their mature size and anticipated routine maintenance. In addition, all shrubs and hedges to be planted that are intended to achieve a significant size and presence in the landscape should be similarly specified.

*Reason:* To preserve and enhance the visual amenities of the locality in accordance with Policies ENV18 of the Walsall UDP 2005 and NE7, NE8 and NE9 of the Natural Environment SPD 2008 and to ensure that the development is carried out with the minimum loss of existing ecological features which are important to the amenity of the area.

17. The Reserved Matters will include details of cycle sheds or other cycle parking / security measures, as envisaged in the Transport Statement with this application, for the written approval of the Local Planning Authority. The approved details shall be implemented and completed before the development is brought into use, and shall be thereafter retained.

*Reason:* To promote the use of transport other than the car.

18. a) As part of the Reserved Matters submission, a Travel Plan Framework shall be submitted for the written approval of the Local Planning Authority.

b) That Framework shall be developed in consultation with this Council's Travel Wise co-ordinator and include a mechanism for delivery of the Travel Plan.

c) The Travel Plan submission will identify a package of measures consistent with the aim of reducing reliance on the car, and, unless otherwise agreed in writing by the Local Planning Authority, shall include (but not be limited to) providing information on / promoting the use of alternative modes of transport, by:-

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

d) Prior to the first occupation of the development (or such other period as may be agreed in writing by the Local Planning Authority) the approved measures shall be developed into a formal Travel Plan and agreed in writing by the Local Planning Authority, including binding methods of delivery, review, and monitoring of the measures in the Travel Plan (including the requirements of this condition).

e) The approved Travel Plan shall be implemented during the six months following the first occupation of the premises. Following the expiry of this period of time or such other period of time as may be agreed under part (d) of this condition, a review of the Plan shall be carried out, and submitted to the Local Planning Authority for approval. The review will identify any refinements and clarifications deemed necessary to the Plan.

f) The occupation and use of the development shall comply with the requirements of the revised plan approved under part (e) of this condition, at all times, unless otherwise agreed in writing by the Local Planning Authority.

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

19. a) The Reserved Matters submission will include details of the proposed lighting for the development including details of foundations (where these are within 10 metres of the boundary of the site), luminance in candelas, and hours of operation, for the approval in writing of the Local Planning Authority. Lighting on the site and thereafter implemented in accordance with the agreed details unless otherwise agreed in writing.

b) No external lighting (other than as approved part (a) of this condition) shall be installed on the site until details have been submitted to and approved in writing by the Local Planning Authority and the lights shall be installed in accordance with the approved details.

*Reasons:*

To safeguard the amenity of nearby properties and users of the area, and because the lighting at waterside developments should be designed to minimise the problems of glare, show consideration for bats and unnecessary light pollution should be avoided by ensuring that the level of luminance is appropriate for the location, is sustainable and efficient, and protect the integrity of the waterway infrastructure.

20. The Reserved Matters submission will include details of how the development is to achieve Secured by Design status, for the written approval of the Local Planning Authority. The development will be carried out in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To ensure appropriate measures are in place to minimise crime and the fear of crime.

21. Wherever the proposed finished levels of the site, within 20 metres of the boundary of the site, are higher than the surrounding land, the site will incorporate land drains to ensure that surface water run-off (from a 20 year storm) can not run over the surface of the site onto land beyond the boundary of the site. The reclamation of the site will not commence until details of those land drains, including the timing of their installation, relative to the reclamation of the site and the construction of the housing on the site, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented as approved.

*Reason.* To ensure that surface water can not run off the site, to the detriment of adjoining land, as a consequence of the proposed works.

22. (a) If surface water run-off and / or ground water is proposed to drain into the waterway, details shall be submitted to and approved in writing by the Local Planning Authority before implementation.

(b) Foul and surface water drainage work shall not commence until plans have been submitted to and approved in writing by the Local Planning Authority.

*Reason:* To determine the potential for pollution of the waterway and likely volume of water, and to ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

23. Noise levels generated by construction, demolition or engineering works (including land reclamation stabilisation, preparation, remediation or investigation) and any associated operations or activities shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq}(1 \text{ hour})$ , of 60 dB, together with a maximum instantaneous noise level of 75 dB(A)F.. Noise level limits shall apply as measured at or within 1 metre of the facade of any occupied residential premises and at a microphone height above ground level of not less than 1.2 m or greater than 1.5 metres. Sound level measuring instrumentation shall conform to 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level meters' and BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' (or any superseding standard(s) as applicable) which shall have been verified in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' within a preceding 2 year period.

*Reason.* To safeguard the amenity of neighbouring occupiers.

24. a) Levels of ground and structure-borne vibration attributable to any construction, demolition or engineering works (including land reclamation, stabilisation, preparation, remediation or investigation) and any associated operations or activities shall not exceed a peak particle velocity (PPV) of  $0.56 \text{ mms}^{-1}$  in vertical and horizontal planes respectively at the boundary of any vibration sensitive building as determined in accordance with the main procedural requirements of British Standard BS 6472: 1992 'Guide to Evaluation of human exposure to vibration in buildings (1Hz to 80Hz)', or any superseding standard.  
b) Instrumentation used for the determination of compliance with any vibration condition shall accord with requisite components of British Standard BS 7482: 1991 'Instrumentation for the measurement of vibration exposure of human beings' where applicable or any superseding standard, and shall have a performance frequency range of not less than 1Hz to 80 Hz.

*Reason.* To safeguard the amenity of neighbouring occupiers.

25. During the reclamation of the site, there will be no bonfires, nor any other burning of materials on the site.

*Reason.* To safeguard the amenity of neighbouring occupiers.

26. For the duration of the reclamation works and of the construction works, the access(es) from the site to the public highway will include wheel washing equipment (or such other arrangements as may be agreed in writing by the Local Planning Authority) to prevent material being deposited on the public highway.

*Reason.* In the interests of highway safety.

Note for applicant - the Local Planning Authority has a preference for a submission under this condition showing the use of a long internal roadway with a surface hard enough to



allow the mud to fall off, as with a wheel washer / spinner there is a tendency for wet mud to be thrown onto the bodywork of the lorry, falling off later, often on the road.

27. Prior to the commencement of any built development on site details shall be submitted to and approved in writing by the Local Planning Authority for the conservation and efficient use of energy and natural resources and sustainable development, including consideration of micro energy generation, on site composting, grey water systems, SUDS and locally produced building materials. The development shall then be implemented in accordance with the approved details.

*Reason:* In order to comply with guidance within policies ENV39 and ENV40 of Walsall's Unitary Development Plan, and PPS1 in terms of sustainable development and the use of natural resources.

28. For the duration of the reclamation works and of the construction works, the access(es) from the site to the public highway will include wheel washing equipment (or such other arrangements as may be agreed in writing by the Local Planning Authority) to prevent material being deposited on the public highway.

*Reason:* In the interests of highway safety.

29. Before commencement of the development, a survey of the surface area of the former landfill to establish areas where regrading works, as identified in the amended reclamation strategy, are required or where existing cover of wastes needs to be improved to encourage and maintain vegetation growth, and the nature of the remediation works in those areas, will be submitted for the written approval of the Local Planning Authority. The approved works shall be carried out prior the commercial development on the site being brought into use.

*Reason:* To identify and bring forward works to treat the exposed areas of concern in the proposed public access area.

30. Unless otherwise agreed in writing by the Local Planning Authority, 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 scheme shall provide details of:-

- proposals to explore recycling in situ soils;
- wildflower seeding and soil specification;
- tree pit / station detail;
- planting areas to be mulched to conserve soil moisture and reduce weed competition;
- hard landscape proposals (materials and layout), site furniture etc;
- a maintenance plan for the establishment and long term management proposals for planting and wildflowers and demonstrate how it will achieve the enhancement of the boundaries as protected species foraging and commuting routes and how the scheme will add to the nature conservation value and green infrastructure of the area. The approved scheme and maintenance plan shall be implemented and completed 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, and the subsequent maintenance regime shall be as approved in that submission.



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

31. Unless otherwise agreed under condition 34, no development shall be carried out until details to ensure that:-

- the works, handling, storage and disposal of waste generated by construction and operation are to be carried out in accordance with relevant legislation and regulatory requirements,
- and
- that potential contamination of the waterway and ground water from wind blow, seepage or spillage at the site will be avoided, have been submitted to and approved in writing by the Local Planning Authority. The approved scheme will be implemented before the development is brought into use, and thereafter retained as approved.

*Reason:* To control the risk of pollution.

32. No reclamation of the site will commence until suitable physical and operational noise mitigation measures and details of a strategy for dust suppression on the site has been submitted to and approved in writing by the Local planning Authority. The reclamation of the site will be carried out in accordance with the approved details.

*Reason.* To control the impact of the reclamation on neighbouring properties, and passers-by.

Note for applicant - the Local Planning Authority would expect the dust control strategy to include

- 1 the use of water bowsers, brought into action in conditions that would give rise to air-borne dust levels sufficient to cause nuisance to properties around the site,
- 2 at such times as the prevention of dust nuisance by water bowsers proves impossible then the operations which cause that nuisance, such as the movement of soils or the movement of fill or restoration materials to temporarily cease until such time as the weather conditions change and dust suppression becomes effective.
- 3 Any vehicle used for the movement of reclamation materials to be equipped with downward pointing exhaust pipe(s).

33. The development hereby permitted shall not commence until drainage details, incorporating sustainable drainage principles (or a justification for their exclusion from the development) and an assessment of the hydrological and hydro geological context of the development, have been submitted to and approved by the Local Planning Authority. The approved plans shall be implemented in accordance with that approval before the development is first brought into use.

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

34. (i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken.

*(see Note for Applicant E)*

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

*(see Note for Applicant F)*

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

*(see Note for Applicant F)*

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

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

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

*(see Note for Applicant L)*

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

35. No development shall take place until suitable noise mitigation measures, including the screening mounds envisaged in the illustrative plan deposited with this application, to protect internal and external areas of adjacent residential development have been agreed in writing with the local planning authority, and the development shall not be occupied until such measures have been fully completed.

*Reason:* To protect the amenity of nearby occupiers and users of the area.

36. Before this development is brought into use, the accessways, vehicle parking and manoeuvring areas shown on the approved plans shall be hard surfaced (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. The parking spaces have been clearly marked out.

*Reason:* To ensure the satisfactory provision of off-street parking, appearance and functioning of the development and in the interests of highway safety.

37. Plant and equipment used for the purpose of heating, ventilation, air conditioning, refrigeration and/or freezing shall be situated within building structure(s), or acoustically designed enclosures, or at suitable locations approved in writing by the local planning authority, and thereafter retained in accordance with any approval for the period of their use.

*Reason:* To protect the amenity of nearby occupiers and users of the area.

38. Noise from fixed plant and machinery associated with this industrial development shall not give rise to a Rating Level exceeding 5 dB as determined in accordance with the methodologies contained British Standard BS 4142: 1997 'Method for Rating industrial noise affecting mixed residential and industrial areas'.

*Reason:* To protect the amenity of nearby occupiers and users of the area.

39. Noise levels generated by plant, equipment and machinery associated with the development, following completion, shall not exceed a rated level of 5dB below background level at any time as determined in accordance with British Standard BS 4142: 1997 "Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas" or its successor.

*Reason:* To protect the environment and nearby residents.

40. Collections, deliveries and despatches to and from the development shall only take place between the hours: 07.00 to 19.00 weekdays, excluding Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday, and August Bank Holiday Monday; 08.00 to 13.00 Saturdays; and at no time on any Sunday, Bank Holiday or Public Holiday.

*Reason:* To protect the amenity of nearby occupiers and users of the area.

41. Unless otherwise agreed in writing by the Local Planning Authority, there shall, at no time, be any construction, building or paving works (other than fencing) within 8 metres of the boundary of the site with the canal.

*Reason:* To prevent adverse impact of the development on water voles.

42. No industrial process shall take place in the open on any part of the site.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises and to ensure the satisfactory appearance of the development.

43. No open storage shall take place in the open on any part of the site.

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

44. Notwithstanding the provisions of the Town and Country Planning (General Development) Order 1995 and succeeding or amending legislation, at no time will there be any

1 extensions to the buildings proposed on the site,

- 2 any other buildings associated with those buildings
  - 3 any other substantial enclosure comparable to a building associated with those buildings
- erected without the prior approval of a planning application.

*Reason.* To control the implications of landfill gas for such structures.

45. Notwithstanding the provisions of the Town and Country Planning General Development Order 1988, or succeeding Orders, no gates, fences, walls or other means of enclosure which significantly affect the appearance or functioning of the public areas of the development, except those included on the plans approved under condition 15 herein, will be erected or moved without the prior approval of a planning application relating to that work.

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

46. No floodlights or other external lighting will be installed on the site while reclamation is in progress until details have been submitted to and approved in writing by the Local Planning Authority. The lights will be installed in accordance with the approved details, and will not be subsequently modified without the prior written approval of the Local Planning Authority

*Reason.* To safeguard the amenity of neighbouring properties, and the safety of vehicles on the highway.

47. Plant or equipment used in connection with liquid pumping and the provision of compressed air or electricity shall be located at positions as submitted to and approved in writing by the local planning authority and thereafter retained in accordance with any written approval.

*Reason.* To safeguard the amenity of neighbouring occupiers.

48. Plant, machinery and equipment used in the reclamation of the site shall be maintained and serviced either:-

a) in accordance with the manufacturer's and/or supplier's recommendations and instructions and shall feature proprietary acoustic silencing devices where available;  
or

b) in accordance with details submitted to and approved in writing by the Local Planning Authority.

*Reason.* To safeguard the amenity of neighbouring occupiers.

49. Audible vehicle reversing alarms shall not be operated without the prior written approval of the local planning and health and safety enforcement authorities.

*Reason.* To safeguard the amenity of neighbouring occupiers.

## NOTES FOR APPLICANT

- A) The applicant is advised to contact Mr Des Harris, Senior Third Party Works Engineer on 01827 252038 in order to ensure that any necessary consents are obtained and that the works comply with British Waterways' "Code of Practice for Works affecting British Waterways".
- B) British Waterways offer no right of support to the adjacent property. The land owner should take appropriate steps to ensure that their works do not adversely affect the canal wall at this location.
- C) The applicant is advised that any access to the towpath that is to be provided as part of the scheme will require an agreement with British Waterways.
- D) The applicants are advised that this planning permission does not absolve them from complying with the relevant law applicable to wildlife, including obtaining and complying with the terms and conditions of any licences required as described in Part IV B of the *Circular 06/2005*.
- E) Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings (Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.
- F) When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 "Model Procedures for the Management of Land Contamination", The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 "Updated technical background to the CLEA model" and Science Report – SC050021/SR2 "Human health toxicological assessment of contaminants in soil" or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.
- G) Validation reports will need to contain details of the "as installed" remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported "clean cover" materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.
- H) Protected species mitigation measures will need to be consistent with the requirements

of any the necessary Natural England protected species licence.

I) It is likely that the bat mitigation measures to be approved under this permission will include a prohibition on construction working after dark.

J) All wild birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 and subsequent amending legislation. It is an offence to damage or destroy the nest of a wild bird. Most birds nest between mid-February and the end of August, although exceptions to this do occur. No site clearance work should take place in the bird nesting season if there is a risk that nests may be damaged or destroyed. If site clearance work is unavoidable, a suitably qualified and experienced ecologist should check the development site for the presence of nesting birds prior to the commencement of any site clearance work. If nesting birds are discovered clearance works should be delayed and advice sought from Natural England.

K) With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

a). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(8 \text{ hours})}$ , of 35 dB together with a maximum instantaneous level of 45 dB  $L_{AFmax}$ , between the hours 23.00 to 07.00;

b). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(16 \text{ hour})}$ , of 45 dB between the hours 07.00 to 23.00;

Unless otherwise specified in a relevant standard, code or guidance, sound level measuring instrumentation shall conform to either 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level meters' and/or BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' and/or Class 1 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications which shall have been verified in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' or British Standard BS 61672 Electroacoustics- Sound Level Meters - Part 3: Periodic tests, within a preceding 2 year period.

L) Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:

Planning Policy Guidance Note PPG 24 'Planning and Noise'. 1994;

Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005

British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise".

British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures;

British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use



British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits.

British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas

Calculation of Road Traffic Noise, 1988

Calculation of Railway Noise, 1995

This is not an exhaustive list.

M)

The Local Planning Authority has a preference for landscaping to be designed to enhance, or recreate the natural eco-system presently on site. This should be borne in mind in the design of landscaping on the site, The possibility that the landscaping scheme could include pond(s) wherever possible, practical, and sensible should also be borne in mind.

N. Footpaths on the informal public open space should be suitable for wheelchair users, as far as possible.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010

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

**Application Number:** 10/0120/FL

**Application Type:** Full application

**Applicant:** L & C Investments Ltd

**Proposal:** Change of Use from B2 to B1, B2  
and B8 (light industrial/general  
industrial/storage and distribution)

**Ward:** Birchills Leamore

**Recommendation Summary:** Grant Subject to conditions

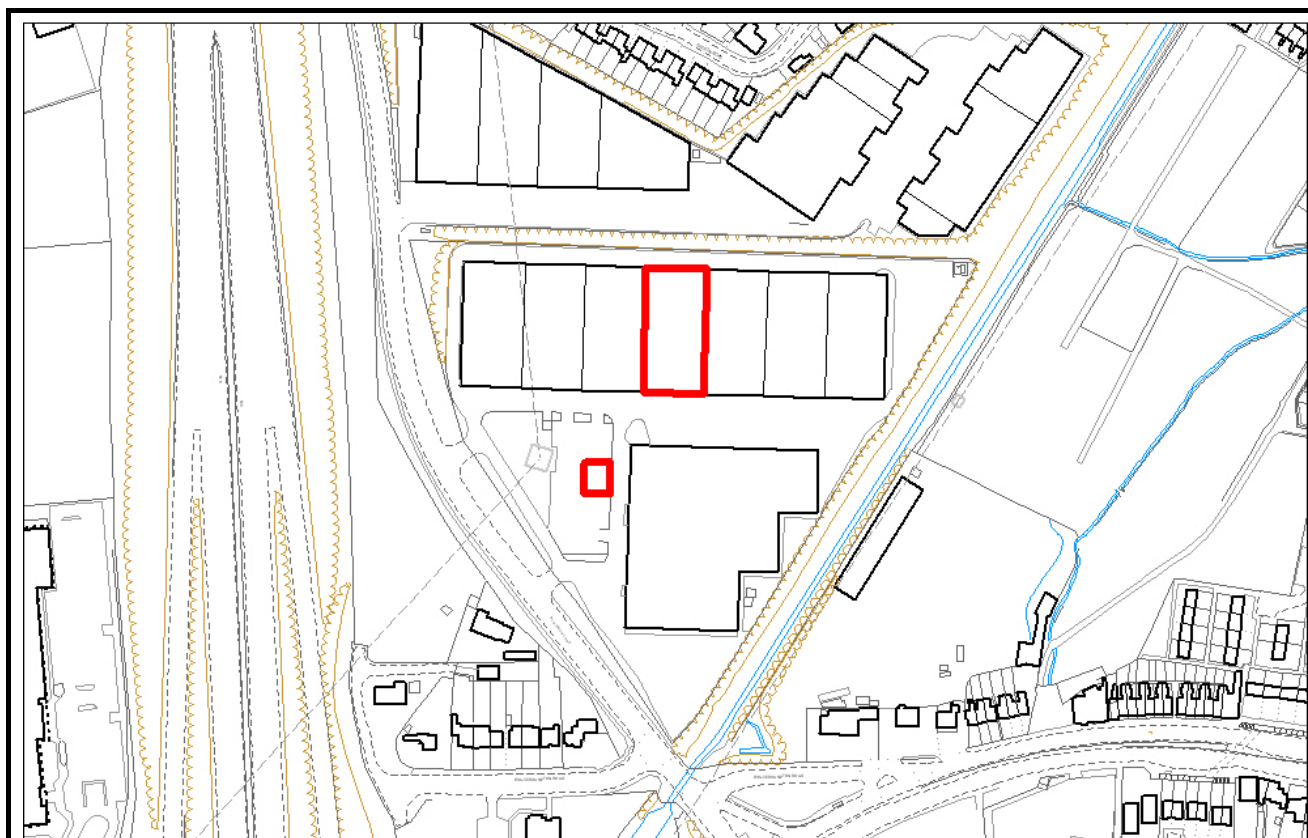
**Case Officer:** Karon Hulse

**Telephone Number:** 01922 652492

**Agent:** G H Design Ltd

**Location:** Unit 4, Bloxwich Industrial  
Estate, Bloxwich Lane, Walsall

**Expired:** 07/05/2010



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## **Application and Site Details**

The application site is a purpose built industrial unit within a block of 7 similar sized units on an industrial estate accessed off Bloxwich Lane, via an in and out system and a one way road system around the estate.

The proposal seeks to change the use of unit 4, which comprises of 1,854 square metres floor area, from a B2 general industrial unit to B1 (light industrial), B2 (general industrial) or B8 (storage/distribution). The purpose of the planning application is to open up the marketing potential of the unit with the aim of securing a tenant and thereby securing the viability of the estate.

The application site has 16 dedicated parking spaces within the central car park area shared by the estate users generally. It also has a further 9 spaces directly in front of the unit.

A cash and carry warehouse is also situated within the estate.

The application does not propose any alterations to the unit.

## **Relevant Planning History**

BC51962P - Change of use to B1, B2 and B8 Units of 1 - 3 and 6 and 7 Bloxwich Lane Industrial Estate. Grant Subject to Conditions 28<sup>th</sup> July, 1998

09/1296/FL - Change of use from an industrial unit with a trade counter to B1 (light industrial), B2 (general industrial) or B8 (storage/distribution). Grant Subject to Conditions 3<sup>rd</sup> December, 2009.

## **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

The site is not identified as a core employment area.

## **Unitary Development Plan (UDP)**

GP1: Supports the sustainable location of development.

GP2 and 3.6 seek the protection of people from unacceptable noise pollution and other environmental problems.

GP4: Local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

Policies T7 and T13 relate to parking standards

## **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) is progressing to its examination in public during the summer of 2010. Its key policies should be read in conjunction with the Key Spatial Diagram and associated Map Appendices

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

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;  
DW3 – Character -design to respect and enhance local identity;  
DBW 10 – new development should make a positive contribution to creating a sustainable environment.

### **Regional Planning Policy**

The Strategy seeks to provide broad regional directives and recognises the role of the regeneration of the Black Country to the overall performance of the West Midlands Region.

The focus for the Black Country policies are to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

Overall the strategy promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

### **National Policy**

Planning Policy Statement (PPS) 1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system.

PPG13 on transportation seeks to minimise the use of the car by the sustainable location of development.

National Policy Statements, which discuss significant infrastructure projects, are also a material consideration in the application process.

### **Consultations**

**Transportation** – no objections

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

### **Public Participation Responses**

None

### **Determining Issues**

- Principle of the use
- Impact on surrounding occupiers
- Parking and access.

### **Observations**

#### **Principle of the use**

The units are situated within a purpose built industrial estate, which already has a mix of uses ie B1(b - research & development / c - light industry), B2 - General Industry and B8 -

Storage and Distribution. Consent has previously been granted in 2009 and previously in 1998 for B1, B2 and B8 uses on other units on the estate, there have been no changes in policy which would require a different view to be taken on this particular unit. Office use (B1a) is however not acceptable in policy terms in industrial areas and if planning permission is granted, a condition should be imposed which excludes this use.

### **Impact on Surrounding Occupiers.**

There would be no impact on surrounding occupiers of the estate. The nearest housing is either on the far side of Bloxwich Lane and beyond other industrial units to the north.

There should be no impact on these residential occupiers from this proposal.

### **Parking and Access**

Access and vehicular circulation around the estate would remain unchanged.

Transportation have raised no objections to the parking arrangements for this unit.

### **Summary of Reasons for Granting Planning Permission**

The proposed change of use to include B1 (b and c), B2 and B8 use is in accordance with the overall use of the industrial estate and will allow the continued use of the units and promote investment and diversification within this location to meet the needs of both inward investors and existing firms. Therefore the proposed development is considered to comply with the relevant policies of the development plan, in particular policies 3.6, 3.7, 3.16, ENV14, 4.1, 4.2, GP1, GP2 and GP4 of Walsall's Unitary Development Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

### **Recommendation: Grant Subject to conditions**

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

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

2. No materials, goods or refuse shall be stored or deposited in the open on any part of the site other than refuse in a refuse container which shall be positioned to avoid interference with car parking spaces and vehicle manoeuvring on the site.

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

3. No industrial process shall take place in the open on any part of the site.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises and to ensure the satisfactory appearance of the development.

4. This permission grants consent for the use of the premises for purposes within Classes B1 (b), B1(c), B2 and B8 of the Town and Country Planning (Use Classes) Order 1987 only and not for any other purpose.

*Reason:* To define the permission and to control the location of B1 (a) office uses in accordance with policy JP7, which are town centre uses in planning policy terms.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010

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

**Application Number:** 10/0159/FL

**Application Type:** Full application

**Applicant:** LCP Securities Ltd

**Proposal:** Change of use from B2(General Industrial) to B1b (research & development), B1c (light industry), B2(General Industry) and B8(Storage and Distribution)(development adjoins public footpath Wed 5).

**Ward:** Darlaston South

**Recommendation Summary:** Grant Subject to conditions

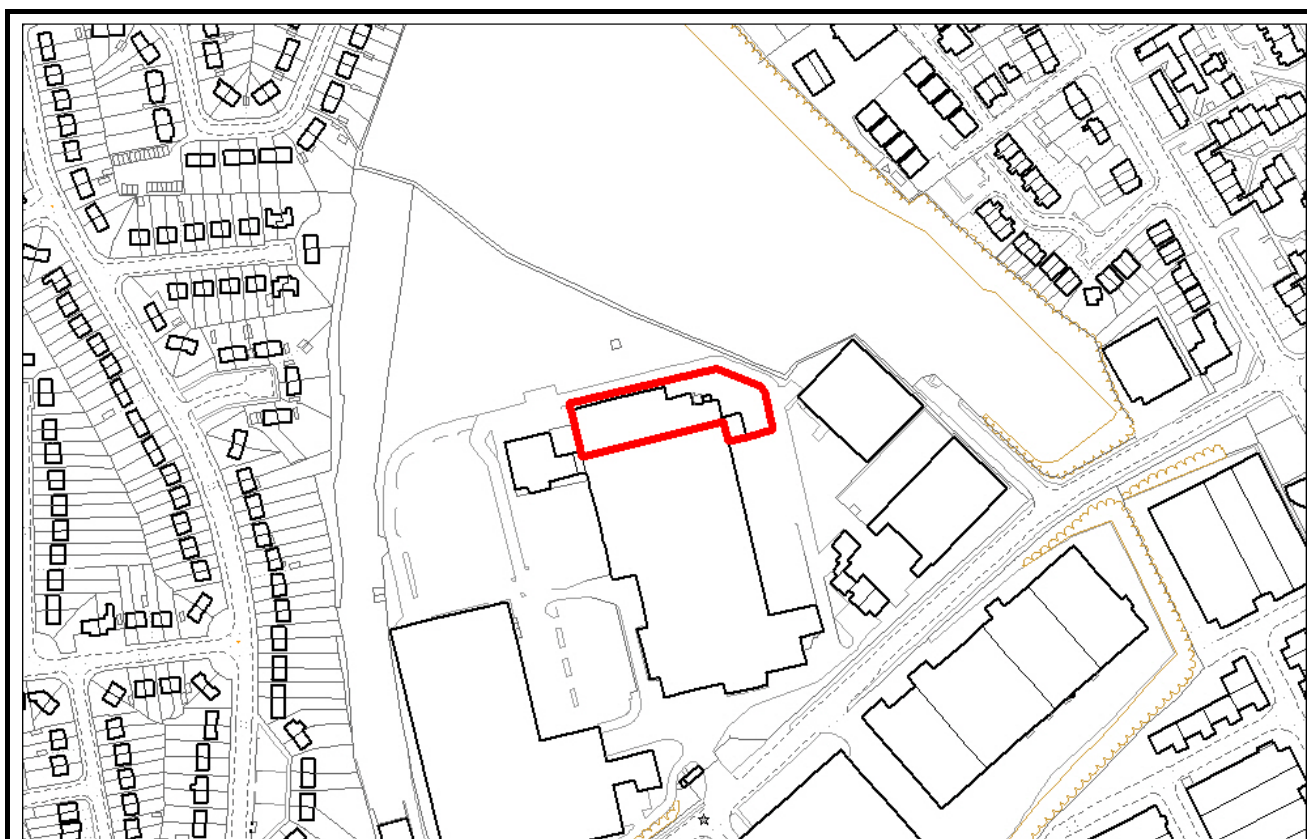
**Case Officer:** Karon Hulse

**Telephone Number:** 01922 652492

**Agent:** G H Design Ltd

**Location:** UNIT 3A, 3B & 3C WODEN BANK ESTATE, WODEN ROAD WEST, WEDNESBURY, WS10 7BL

**Expired:** 17/05/2010



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## **Application and Site Details**

This application seeks consent to change the use of units 3a, 3b and 3c (which are effectively a single large unit with three entrances) from a B2 general industrial use to B1b (research & development) and B1c (light industry), B2 (general industrial) or B8 (storage/distribution). The total floor area of all these unit is 1,744 square metres.

The units are a purpose built industrial unit within an existing industrial estate accessed off Woden Road West, Darlaston, via an in / out and a one way road system around the perimeter of the estate.

These units have been vacant since 2008 and the purpose of the planning application is therefore to open up the marketing potential of the unit with the aim of securing a tenant and thereby securing the viability of the estate.

There are 9 dedicated parking spaces within the curtilage of the units, other is provided within the shared car park areas situated around the site.

The estate has a mix of uses which include B1, B2 or B8.

## **Relevant Planning History**

09/1570/FL - Change of use to B1, B2 and B8 and re-cladding of external elevations of units 3 and 4, Woods Bank Estate, Woden Road West Road West, Darlaston (this is a different unit to that subject of this planning application but on the same estate)). Grant Subject to Conditions

08/1425/FL - Sub division to 2 units to include B1, B2 and B8. Grant Subject to Conditions October, 2008

05/2348/fl/W5 - New unit. Grant Subject to Conditions March, 2006

BC46056P - Change of use to B2. Grant Subject to Conditions 20<sup>th</sup> May, 1996

10/0126/FL - Change of use from general industry (B2) to light industry (B1), general industry (B2) or storage and distribution (B8) – Unit 6 Woods Bank Estate, planning application undetermined at time of writing this report.

## **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

The site is not identified as a core employment area.

## **Unitary Development Plan**

GP1: Supports the sustainable location of development.

GP2 and 3.6 seek the protection of people from unacceptable noise pollution and other environmental problems.

GP4: Local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

3.7...protect from unacceptable noise, pollution and other environmental problems...encourage relocation of bad neighbour uses from residential and other sensitive areas

3.16...consider development in relation to its setting, character and quality of the existing local environment and require a high quality of built and landscape design.

ENV14...encourage reclamation and development of derelict and previously developed land where feasible,

4.1...seek to improve 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.

4.2...promotes investment and diversification to meet the needs of both inward investors and existing firms

Policies T7 and T13 relate to parking standards

### **Designing Walsall SPD**

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

### **Local Development Framework (LDF)**

The Black Country Joint Core Strategy (JCS) is progressing to its examination in public during the summer of 2010. Its key policies should be read in conjunction with the Key Spatial Diagram and associated Map Appendices

### **Regional Planning Policy**

The Strategy seeks to provide broad regional directives and recognises the role of the regeneration of the Black Country to the overall performance of the West Midlands Region.

The focus for the Black Country policies are to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

Overall the strategy promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

### **National Policy**

Planning Policy Statement (PPS) 1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted.” Paragraphs 33 to 39 also state the importance of good design. Supplementary document published on the need to address climate change through the planning system.

PPG4...seeks a positive approach to the location of new business developments and assisting small firms....economic growth and high-quality environment to be pursued

together....the importance of industrial and commercial development to be considered with that of maintaining and improving environmental quality.

PPG13 on transportation seeks to minimise the use of the car by the sustainable location of development.

### **Consultations**

**Transportation** – no objections

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

### **Public Participation Responses**

None

### **Determining Issues**

- Principle of the use
- Impact on surrounding occupiers
- Parking and access.

### **Observations**

#### **Principle of the use**

The site is within an established employment area and as such the proposed change of use to include B1, B2 / B8 uses accord with the policies of the Unitary Development Plan, therefore the principle is acceptable.

The unit is situated within a purpose built industrial estate, which already has a mix of uses ie B1(b - research & development / c - light industry), B2 - General Industry and B8 - Storage and Distribution. Consent was previously granted in 2009 and 1998 for B1, B2 and B8 uses on other units on the estate, there have been no changes in policy which would require a different view to be taken on this particular unit. Office use (B1a) is however not acceptable in policy terms in industrial areas and if planning permission is granted, a condition should be imposed which excludes this use.

#### **Impact on Surrounding Occupiers.**

The development of the former TRW site for residential brings dwellings closer to this estate than previously. However the industrial estate is well established and measures, such as noise attenuation, have been incorporated into the design of the new dwellings to reduce any potential impact from this industrial estate. The existing use of this unit is for general industrial any change of use to include B8 storage and distribution and B1 light industrial etc. will not have any impact on those residents above the existing which could already exist from this estate. Similarly there will be no impact on the amenities of those residents in Dangerfield Lane.

#### **Parking and Access**

The application utilises the existing access to this long established industrial estate and the one way traffic system around it, therefore there will be no impact in terms of access/egress or manoeuvring around the site.

There is satisfactory provision of parking both adjacent to the unit and around the estate.

Transportation have raised no objections to the parking arrangements for this unit.

### **Summary of Reasons for Granting Planning Permission**

The proposed change of use to include B1, B2 and B8 use of these units is in accordance with the overall use of the industrial estate. The change of use of this unit will continue to promote investment and diversification within this location to meet the needs of both inward investors and existing firms, thereby securing the estate's viability and vitality. The proposed change of use will have no additional impact on nearby residential amenity above that which exists from this industrial estate. Therefore the proposed development is considered to comply with the relevant policies of the development plan, in particular policies 3.6, 3.7, 3.16, ENV14, 4.1, 4.2, GP1, GP2 and GP4 of Walsall's Unitary Development Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

### **Recommendation: Grant Subject to conditions**

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

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

2. No materials, goods or refuse shall be stored or deposited in the open on any part of the site other than refuse in a refuse container which shall be positioned to avoid interference with car parking spaces and vehicle manoeuvring on the site.

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

3. No materials shall be stored on the site to a greater height than the height of the existing boundary treatment.

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

4. No industrial process shall take place in the open on any part of the site.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises and to ensure the satisfactory appearance of the development.

5. This permission grants consent for the use of the premises for purposes within Classes B1 (b), B1(c), B2 and B8 of the Town and Country Planning (Use Classes) Order 1987 only and not for any other purpose.

*Reason:* To define the permission and to control the location of B1 (a) office uses in accordance with policy JP7, which are town centre uses in planning policy terms.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010

**REASON FOR BRINGING TO COMMITTEE: Requiring delicate judgement**

**Application Number:** 10/0165/FL

**Application Type:** Full application

**Applicant:** Cory Environmental (Central) Ltd

**Proposal:** Request to extend the time to allow landfill operations to continue at Vigo Utopia Quarry and to continue the time in which it and the adjacent Highfields South Quarry will operate concurrently.

**Ward:** Aldridge North and Walsall Wood

**Recommendation Summary:** Grant Time Extension

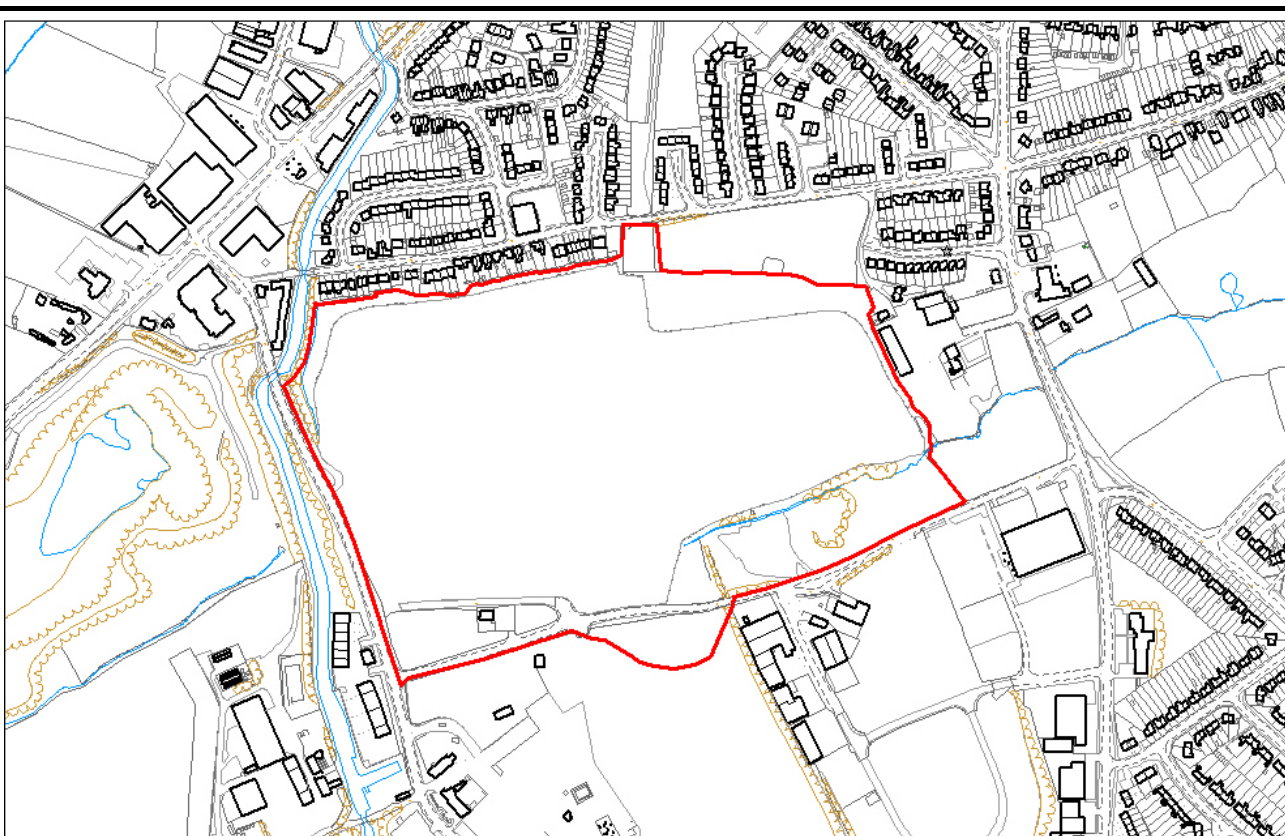
**Case Officer:** Paul Hinton

**Telephone Number:** 01922 652486

**Agent:**

**Location:** VIGO/UTOPIA  
QUARRY, COPPICE  
LANE, ALDRIDGE, WALSALL,

**Expired:** 06/08/2009



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## **Application and Site Details**

The Local Planning Authority has received a request from Cory Environmental to extend the time to allow landfill operations to continue at Vigo Utopia Quarry and to continue the time in which it and the adjacent Highfields South Quarry will operate concurrently. The request also seeks an extension to the time allowed for remediation of Vigo Utopia to be completed.

In October 2008 the Local Planning Authority agreed extend the time allowed to fill and restore Vigo Utopia Quarry. The Vigo Quarry is operated concurrently with the adjacent Highfields South Quarry which accepts all of the Council's landfilled domestic waste. It was agreed that the site could continue to accept waste until 24<sup>th</sup> June 2009 and the restoration scheme would be completed by 24<sup>th</sup> September 2010 or sooner.

The time extension request is made under the terms of a condition on the existing planning permission for tipping granted in 1995. Cory Environmental now want to extend the time to allow landfill operations to continue to the end of September 2010. Cory considers that the subsequent restoration of the site should be completed by 30<sup>th</sup> December 2011.

### **Vigo Utopia**

The quarry is located between Coppice Lane, Boatmans Lane and Queen Street, Walsall Wood. The original planning permission (reference BC39489P) for extraction of marl and infilling with approved wastes and restoration to informal open space was granted planning permission subject to conditions in 1995.

Condition 3 requires that the disposal of controlled waste shall cease within 11 years of commencement, unless agreed in writing by the Local Planning Authority. The site originally had planning permission to accept waste until 24<sup>th</sup> March 2008. At the time the permission was granted it was estimated that sufficient waste would be received to enable the approved final restoration profile to be achieved within the 11 years allowed.

Cory Environmental have stated that waste input levels are such that it cannot be filled to the approved restoration levels in the time currently permitted. The current economic downturn is the most significant contributing factor. The reduced inputs have restricted progress on the restoration of the site. It is necessary to provide for the continued operation of the site to ensure that the approved restoration scheme can be achieved and to enable the consented landfill capacity to be efficiently utilised.

Cory have provided details of waste inputs at Vigo Utopia and sites in Dudley, Gloucester and Essex between 2007 and the middle of 2009 showing a drop of waste inputs across the regions of around 60%.

### **Highfields South Quarry**

The quarry is located between Lichfield Road and Boatmans Lane, Walsall Wood. Condition 1 of permission 07/0046/WA/E1 states *"The deposit of waste material at the site shall not continue concurrently with the deposit of waste at the neighbouring Vigo Utopia site for a period exceeding six months, unless otherwise previously approved in writing by the Mineral Planning Authority"*. Because of the requirements of the Vigo Utopia site to continue to accept waste for a longer period, both sites would need to operate

concurrently until the end of September 2010 as they have been since April 2008. To that extent, this is a retrospective application to regularise this position.

### **Relevant Planning History**

#### **Vigo Utopia**

BC39489P – Regrading of quarry slopes, surface extraction of marl, infilling with approved wastes, restoration to informal open space, construction of new section of Coppice Lane and re-alignment of part of Vigo Brook. Granted subject to conditions 26/5/1995

#### **Highfields South**

Planning Permission BC48719P: New conditions for mineral working permission EB593 (dating from 1954), issued in 1997 under the requirements of the Environment Act 1995. These new conditions include provision for the completed mineral excavation to be landfilled to achieve a beneficial after use. A scheme of working for the quarry was approved under consent BC5828 in 1978.

07/0046/WA/E1.Planning Application and Environmental Statement to amend Conditions 27, 42, 43, 48 and 50 of Planning Permission Reference BC48719P dated 9 July 1997, and the development details in particular: the provision of information regarding the waste types imported to restore the site to wet and deciduous woodland, grassland and a waterbody with public access at Highfields South Quarry, Walsall. Granted planning permission subject to conditions 27/4/2007.

**Relevant Planning Policy Summary** (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).

### **Unitary Development Plan**

UDP Policy GP2 requires that all developments make a positive contribution to the quality of the environment and does not permit development which would have an adverse impact on the environment. It states that the factors that will be taken into account when assessing impact will include the creation of, or susceptibility to, pollution of any kind (II), potential problems of land stability, contamination or landfill gas (III), and the storage, use or manufacture of any hazardous, toxic or noxious substances, and any danger to health or the environment arising from this (IV).

UDP Policy ENV2(c) indicates that mineral extraction and controlled tipping of waste can be appropriate development in the Green Belt, subject to conformity with minerals and waste policy.

UDP Policy ENV10 seeks to control development that may release pollutants into water, soil or air giving rise to effects such as harm to health and safety or the natural environment, smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

UDP Policy JP8 requires that potential bad neighbour uses should not have an adverse impact on housing or other sensitive land uses and should provide effective screening, boundary treatments and stringent operational controls.

UDP Minerals Strategic Policy Statement (paragraphs 9.2 - 9.3) seeks to define Minerals Safeguarding Areas to protect known resources for future mineral extraction. Paragraph 9.8 requires mineral workings to be restored to a condition fit for an agreed after-use within as short a timescale as possible. However, restoration proposals are expected to include appropriate measures to protect the environment and ensure land stability. Particular encouragement is given to high quality restoration schemes that provide for recreation and amenity areas, new wildlife habitats, forestry or agriculture, and provision is expected to be made for any necessary after-care of the site.

ENV32 poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. The council will consider the appearance, scale, mass, materials, and integration with existing environment of the proposal.

UDP Policy M1 identifies four Minerals Safeguarding Areas within the Borough, including Highfields South. These areas are to be reserved for the future extraction of minerals, in line with the UDP Minerals Strategic Policy Statement (paragraphs 9.2 - 9.3).

9.38 acknowledges that the existing minerals permission at Highfields South includes the restoration of the site by landfill.

Paragraph 10.7 states that attention will be given to safeguarding the environment and residential properties when considering landfill proposals.

UDP Policy WM1 sets out criteria for developing new waste management facilities, including landfill sites. All new proposals are expected to demonstrate that the facility is the best practical environmental option (BPEO) for the achievement of the Council's strategy for waste management, avoid adverse impact on the environment and health, and to include adequate screening, fencing and landscape schemes.

UDP Policy WM2 sets out detailed criteria for the control of landfill operations. Proposals are required to comply with policies WM1 and GP2, to be an adequate distance from existing development, to have a suitable method of infilling, with appropriate types of materials to achieve earliest restoration to an appropriate after use, and to include a clear commitment towards the monitoring, control, and venting of landfill gases and treatment of leachate. Use of landfill gas for energy is encouraged, subject to there being no unacceptable adverse impacts. Proposals for the re-working of deposited wastes are only permitted where they represent the BPEO, where the restoration will not be unacceptably delayed, and where there will be no unacceptable adverse impact.

**Regional Spatial Strategy** for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

Policy UR1 - Urban Renaissance in the Major Urban Areas (MUA's)

Policy CF1 - Scale and range of new housing development

Policy QE1 - Environment

Overall, these seek improvements the design and sustainability of the urban areas.



## **National Policy**

Planning Policy Guidance 2: Green Belts indicates that mineral extraction need not conflict with the purposes of including land in Green Belts, provided that high environmental standards are maintained and that the site is well restored. Mineral planning authorities are expected to ensure that planning conditions for mineral working in Green Belts achieve suitable environmental standards and restoration (paragraph 3.11). All large-scale developments, including mineral extraction and the tipping of wastes, should as far as possible contribute to the objectives for the use of land in Green Belts (paragraph 3.13). These objectives are: providing access to the open countryside for the urban population, providing opportunities for outdoor sport and recreation near to urban areas, retaining attractive landscapes/ enhancing landscapes near to where people live, improving damaged or derelict land around towns, securing nature conservation interest, and retaining land in agriculture, forestry and related uses (paragraph 1.6).

## **Planning Policy Statement 10: Planning for Sustainable Waste Management**

emphasises that positive planning has an important role in delivering sustainable waste management by providing sufficient opportunities for new facilities of the right type in the right place at the right time (paragraph 2). The guidance no longer includes a requirement for waste management proposals to demonstrate BPEO, but retains the concept of the "waste hierarchy," with re-use, recovery and recycling being the preferred options, and disposal to landfill being the last resort. However, PPS10 acknowledges that there will continue to be a need for landfill, and that it must be adequately catered for (paragraph 3). PPS 10 warns that when assessing planning applications, waste planning authorities should have regard to the policies in the PPS as material considerations that may supersede the policies in their development plan, and that waste management proposals should be considered favourably when consistent with the policies in the PPS (paragraphs 5 and 24). It goes on to say that any refusal of planning permission prior to the review of development plans on the grounds of prematurity will not be justified unless it accords with the policy in "The Planning System: General Principles" (paragraph 5). When considering applications for waste management facilities, waste planning authorities are advised to concern themselves with implementing the planning strategy in the development plan and not with the control of processes that are a matter for pollution control authorities, although impacts on the environment and amenity are matters for legitimate concern (paragraphs 26 and 29).

## **Consultations**

**Transportation** – no objection. Taking into account the volumes of materials imported will be the same as the original agreed schemes it is unlikely to have a significant detrimental impact upon the highway network.

**Pollution Control (Scientific Team)** – no objection. The site is regulated by the Environment Agency.

**Pollution Control (Regulation Team)** – no objection. The Environment Agency regulates the site's environmental permit.

**The Environment Agency** – no objection. The site needs to be completed and for the time the Compliance Officer has been regulating the site he has no concerns in regard to the operator or site staff. Any areas of concern have been promptly addressed.

**Environmental Health** – no objection.

### **Public Participation Responses**

Six letters have been received raising objections to the time extension and one further letter makes comments on current concerns without raising an objection in principle. Responses are summarised below.

- The operations from Vigo are a continuous source of noise from vehicles operating from 7am 6 days a week, cannot see any reductions in the amount of lorries coming to the site daily. There is a constant flow of heavy lorries coming through the village bringing dust, dirt and stench each year.
- The landfill is very close to residential housing and is unsightly. The landfill smells, we cannot sit in our garden. There are a lot of flies in the surrounding area. Litter blows across the land, partially caught in a make shift net, the rest blown into the playground for children.
- Feels that there has been a breach of human rights. The extension can only be to the detriment of local residents. Why can't we be compensated, e.g. Council Tax reduced?
- The landfill has been operating for a number of years and now it is time to finish operations and start on the restoration. The landfill is quite high. Why not cap Vigo now? Walsall Wood has had enough dumping of other town's and people's waste Hope this is the last extension they are permitted to apply for.
- Something must be done to stop the heavy flooding of Boatmans Lane.
- Why use two dumps. One should be completed and capped before the other is open.
- What is being dumped into each site? What is in the yellow bags?
- Cannot believe people have less waste in current economic downturn. Where is the landfill coming from? The original estimate of void space was calculated to be 3.3Mm<sup>3</sup>, this was recalculated to be 4.1Mm<sup>3</sup> in 2002 and in 2009 a figure of almost 4.18Mm<sup>3</sup>. Where has the new void space come from? Are Cory filing higher than the original planning proposal?

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

### **Determining Issues**

- The need for continued landfilling to restore Vigo quarry.
- Impact upon residential amenity.

### **Observations**

#### **The need for continued landfilling to restore Vigo Quarry.**

When the landfill operations were approved in 1995 an agreed restoration level was also approved to take account of landscaping, water drainage and stability. Extending the time to accept wastes is the only way in which these approved levels can be achieved in accordance with the permission. To achieve the required levels would be to the long term benefit of the site in its future as informal open space and this would also be to the benefit of adjoining residents.

The request to extend the time to accept waste is down to the reduction in waste streams on top of the increase in recycling in the community, therefore Cory were unable to reach



the approved restoration levels by June 2009 as previously permitted. The recent request to extend the time for waste acceptance was until the end of December 2010, however in the last half of 2009 waste streams began to increase and Cory confirm they will no longer require wastes after 30<sup>th</sup> September 2010.

The Vigo site accepts non-hazardous waste, specifically excluding household waste. The waste comes from Walsall and the surrounding areas. The Highfields South site currently only accepts household waste collected in Walsall and an incidental amount of other waste materials for use as daily cover, and materials for site engineering, as agreed with the Environment Agency. Once the Vigo site is full, the type of materials currently accepted at Vigo will be directed to Highfields South.

Taking into account the remaining void to be filled and the current level of inputs, the landfill operation to restore Vigo will be completed during 2010. Cory anticipate that, taking into account days when the site is closed to the receipt of lightweight and dusty loads (due to windy weather conditions) the landfilling of waste will have ceased by the end of September 2010. They are currently completing the penultimate phase (7) and will soon be working toward completing the final phase (8) as identified on the Overall Phasing Masterplan.

Since the middle of 2008 there has been a marked reduction in tonnages of waste going to landfill. Some of this may be due to increased recycling initiatives. However, the timing of the marked reduction in tonnages does correlate with the economic downturn. Cory also dispose of the waste collected from houses in Walsall. Because household waste is not allowed to be taken to the Vigo site it is taken to the Highfields South site. This is a sustainable approach avoiding undue reliance on the transfer of wastes over long distances to sites outside the Borough. As a consequence, there has to be a period when the two sites operate concurrently. Once the Vigo site is completed all materials will then be landfilled at the Highfields South site to bring about its phased restoration.

Once the Vigo site has stopped receiving waste, areas will need to be capped and covered with top soil, following this planting can take place in accordance with the approved landscape plan. Cory originally sought to complete planting by March 2011. However further discussions of the types of planting and the available seasons to plant following September, the request has been revised until the end of December 2011. This further time would ensure that planting is undertaken at the best time of the year for each particular type of planting to assist plants survival and establishment in the long term. Retaining the March 2011 date would mean that only partial planting would take place and could jeopardise achieving the high quality restoration required for this site. This would not have a significantly detrimental impact upon adjoining residents.

### **Impact upon residential amenity**

Landfilling close to housing requires strict site management to contain the impacts, but as with any major engineering operation there is always some impact outside the site. The aim is always to secure completion of the operation in the shortest possible timescale, balanced against the ability of the local area to accommodate high levels of activity.

A large area of the site has already been capped or sealed following completion of waste tipping. Further areas are to be capped in the Spring of 2010 and the remainder will be capped following completion of landfill. To restore the site only using soil, as a resident

suggests, would take considerably longer than using waste, which is more readily available. Most soils are used in landscaping works at development sites and so are not available in sufficient quantity to complete the Vigo site within the timescale. When soils are available they are brought onto site for use in the final restoration of the site.

With regard to concerns about landscaping works, an element of landscaping has previously been carried out to the site boundaries with Coppice Lane, Boatmans Lane and the rear of houses in Queen Street. The north flank of the site with the Playing Fields in Vigo Road, has also been grass seeded. A programme of restoration works is now being prepared by Cory involving further landscaping. This is programmed for Spring 2010 to the side flanks of the landfill with Queen Street and with Coppice Lane. This will be followed, upon completion of the landfill, by final capping, spreading of soils and completion of landscape planting, grass seeding and establishment of footpaths in accordance with the approved Landscape Concept Masterplan.

The void space for landfill is correctly stated as being 4.1Mm<sup>3</sup>. This is still the case. Cory are unable to identify any record relating to the 4.18 figure referred to by residents. Cory are continuing to work to the approved restoration contours; this is the approved 4.1Mm<sup>3</sup> figure. The site is progressively being filled, capped and spread with soils to the final pre-settlement levels as shown on the approved drawing.

The yellow bags of waste seen by some residents contain wastes collected from establishments such as OAP homes and children's nurseries. This is non-infectious hygiene waste and is authorised for disposal at the site in accordance with the Permit given by the Environment Agency.

Whilst concern has been raised by residents about excessive run-off causing heavy flooding in Boatman's Lane, there is no surface water drainage discharged from the Vigo site. Surface water arising on site is impounded and used on site for dust suppression and maintenance and operation of the wheel wash. Vigo Brook is culverted beneath the site compound. In accordance with a scheme agreed with the Environment Agency, final surface water drainage will be installed on the restored landform which will carry water into the Vigo Brook without affecting Boatmans Lane. There is a low point on Boatmans Lane where, possibly, the highway drainage collects during heavy rainfall but this is not supplemented by site run-off, which the existing site drains manage effectively.

Residents raise concerns about noise, smells, dust and flies. Cory keep a record of all complaints, whether they are passed via the Council, via the Environment Agency or made direct to the site manager. Since the beginning of 2006 they have received just three complaints. All complaints are fully investigated. One, via the Council, on 13.9.07 was about a banging noise; on investigation this was identified as coming from another site nearby. One direct to site, on 12.12.08 was about litter on Coppice Lane; this was quickly removed. The third was via the Environment Agency about dust from the site but was made immediately after very heavy rainfall and at a time when no dusty loads were being delivered to site.

Noise levels along the north boundary, close to the houses, are continually monitored by Cory. They advise that they are below the noise limits imposed by the planning permission. They advise that dust monitoring results show no cause for concern. The site is the subject of unannounced site inspections by the Environment Agency, the

government body appointed to regulate this type of activity. The Agency's reports do not highlight any concerns about noise, odours, flies or dust. The Environment Agency raise no objection to the request, commenting that any areas of concern have been promptly dealt with and that the site needs to be completed.

Cory undertake routine daily site inspections which include inspection of the fence and the site boundary for litter. Waste inputs are managed to reduce the risk of litter during windy weather. If litter is identified on the playing field or anywhere else beyond the boundary it is collected immediately and disposed of on site. The "makeshift net" residents refer to is installed around the tipping area specifically for the purpose of containing wind blown litter and preventing its escape to the surrounding areas. Now that tipping is much closer to the surface, the site is closed to the receipt of lightweight loads in windy conditions to minimise the potential for wind blown litter to arise. In addition, the Environment Agency's reports of their unannounced site inspections do not highlight any concerns about litter, either on site or in the surrounding area.

The Council's Pollution Control Officer has advised that he has received a few complaints about odour and seagulls in recent years. These were passed to the Environment Agency but the Agency were unable to attribute them to either Highfields South or Vigo. At the recent Vigo Utopia Landfill Site Liaison meeting residents commended the operators over their management of the site particularly focusing on odour and litter nuisance.

A comparison of traffic numbers delivering materials to the Vigo site shows that for the 12 month period to 30 June 2009 there were 20,544 deliveries. This is 4,133 deliveries less than the previous 12 months to 30 June 2008, a reduction of 16.7%. All wagons have to use the vehicle wheel wash when visiting the site and vehicles delivering waste are all sheeted. There have been no complaints received by the Council or Environment Agency since the 2008 time extension was granted. Transportation raise no objection to the extension of time.

A resident requests compensation via reduced Council Tax. This is not a material planning consideration. Any reduction of Council Tax would need to be discussed separately with the Council Tax Office. With regard to breaches of human rights it is considered that full regard has been paid to individual rights through the aims to protect residential amenity whilst securing the wider community aims of securing satisfactory restoration of the site at the earliest possible time, with the minimum environmental impact.

The Council's Environmental Health and Pollution Control Officers raise no objection to the extension of time nor do the Environment Agency. It is considered that the limited number of complaints made in the last few years demonstrate that the site is being operated to a high standard. On this basis it is considered that allowing operations for a further six months to achieve the approved restoration levels would not have a significant impact upon residential amenity and would be in the long term benefit of local amenity.

## **Recommendation: Grant Time Extension**

**APPROVAL IS HEREBY GIVEN** for the continued operation of Vigo Utopia Quarry under the terms of planning permission (ref: BC39489P), as follows:

IN RESPECT OF CONDITION 3 for an extended period to continue to accept approved wastes until 30<sup>th</sup> September 2010.

IN RESPECT OF CONDITION 4 the timescales for restoration are similarly extended until 31<sup>st</sup> December 2011 to allow, upon cessation of waste disposal, for the site to be progressively restored in accordance with the provisions of the condition.

**APPROVAL IS HEREBY GIVEN** for the continued operation of Highfields South Quarry under the terms of planning permission (ref: 07/0046/WA/E1), as follows:

IN RESPECT OF CONDITION 1 for an extended period for Highfields South Quarry to operate concurrently with the deposit of waste at the neighbouring Vigo Utopia Quarry until 30<sup>th</sup> September 2010.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010

**REASON FOR BRINGING TO COMMITTEE: Requires delicate judgement**

**Application Number:** 09/1086/FL

**Application Type:** Full application

**Applicant:** Walsall Council

**Proposal:** Proposed demolition of single storey buildings & erection of new visitor centre.

**Ward:** St. Matthews

**Recommendation Summary:** Grant Subject to conditions

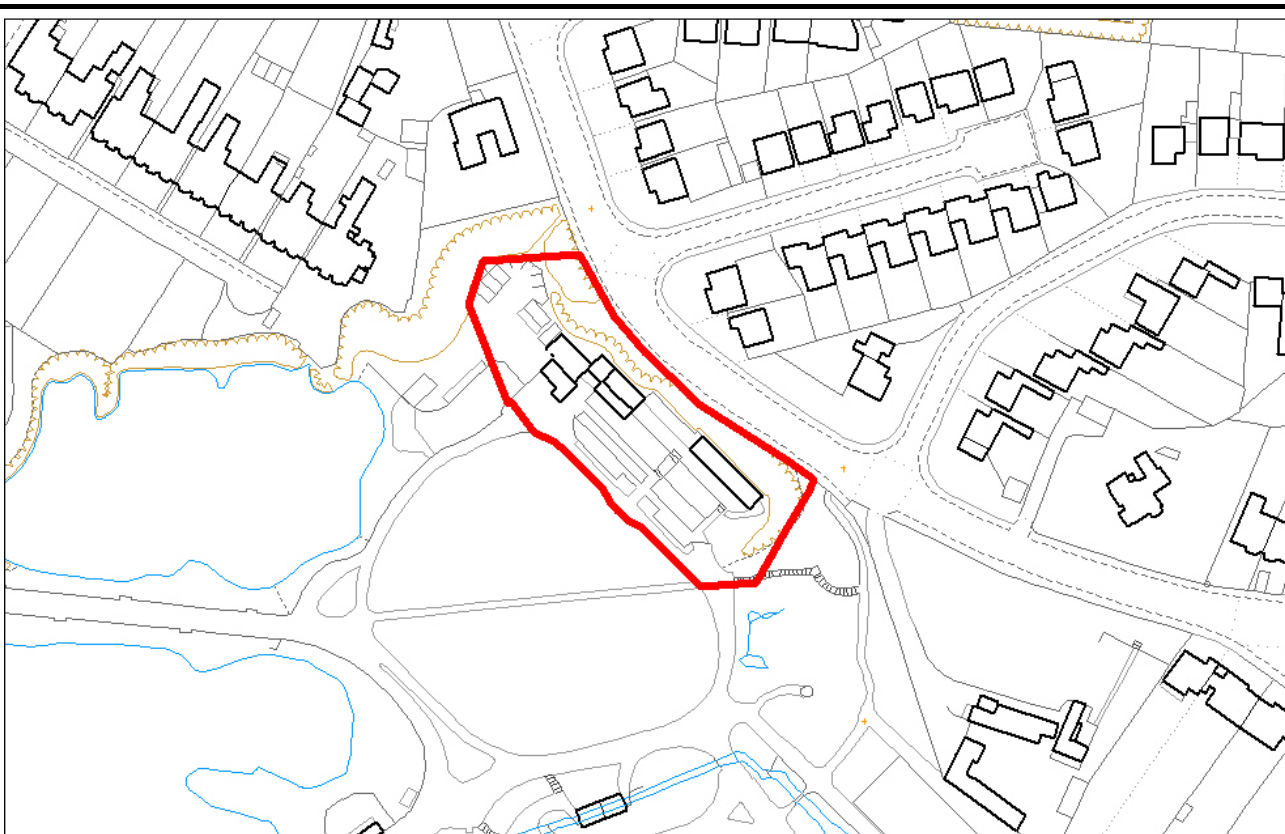
**Case Officer:** Jan Scrivens

**Telephone Number:** 01922 652436

**Agent:** Brownhill Hayward Brown

**Location:** WALSALL  
ARBORETUM, LICHFIELD  
STREET, WALSALL

**Expired:** 05/11/2009



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## **Current Status**

This application was considered by Development Control Committee on 5.11.09 when it was resolved that it be approved subject to conditions and the resolution of any concerns raised by the Environment Agency.

The Flood Risk Assessment relates to the Arboretum as a whole, rather than just the Visitor Centre, although particular attention has been given to this proposed building. As a result it is necessary to focus only on those parts of the Assessment relevant to the present application. Detailed flood level data has been obtained from modelling undertaken by consultants and the extent of predicted flooding, and frequencies is now well defined.

Summarising the position:-

- Flood assessment is about probability – a 1 in 100 year event **might** occur tomorrow
- Submitted Assessment defines the 1 in 100 year flood level in the area of the visitor centre as being 124.46 metres
- Submitted Assessment also defines the 1 in 5 year flood level, setting out that it is 124.06 to 124.16 (variation depends on location of prediction)
- The submitted plans define the floor level of the entire building as being 123.65
- As a result, in the 1 in 100 scenario, the whole building will be flooded to a depth of 0.81 metre
- In the 1 in 5 scenario, the building will be flooded to a depth of about 0.4 to 0.5 metre

The new building has been designed to incorporate part of an existing building complex, and this is a constraint on the floor level proposed.

The building will be equipped with mitigating features, such as locating electrical equipment above the 1 in 100 flood level and a sensor and alarm system. It is also proposed to adopt procedures for the evacuation of the building and the creation of an emergency access/egress which will ascend the bank to Buchanan Avenue at the rear of the visitor centre (to ensure the safety of occupiers in the event of a flood).

The design of the new building and the adoption of the procedures outlined above will minimise the consequences of flooding in the visitor centre. These outcomes are consistent with the advice given by the Environment Agency on their website (and they will not offer more specific advice).

Approval of the planning application as submitted is consistent with your November resolution, even though the building can be predicted to be flooded with uncertain regularity, because that position is acceptably within EA guidelines for flood assessments. Equally, the applicants are clearly comfortable with the risks associated with these design principles. The Council as Local Planning Authority has to judge the advisability, in planning terms, of allowing the scheme while exercising due diligence in making the decision. On balance the application is recommended for approval.

The report in November covered several applications. All but this one have been



determined. A copy of the original report follows, edited to focus on this application. In considering it, members also considered a Supplementary paper which reported that the Flood Risk Assessment submitted in respect of the application was under consideration and that the Environment Agency had indicated that they were likely to consider the proposal to be 'low risk'.

## **Original report**

### **Application and Site Details**

#### **09/1086/FL**

A planning application for the erection of a new visitor centre (with a brick storage structure retained as part of the building) and the former Palm House recreated (in part) with the metal cladding removed and the roof raised.

The new visitor centre will provide educational facilities (in the Palm House area), changing rooms, meeting room, visitor café and toilets and staff facilities. The building would be of modern design and aims to enhance the Arboretum's historic buildings such as the boathouse and bandstand by providing a contrast. The building has also been designed to incorporate energy saving technologies as well as being constructed from sustainable materials. The building will provide disabled access throughout.

The intention is not to bring vehicles into the Arboretum due to the detrimental effect which it would have on pedestrians but the scheme includes three parking spaces for disabled users outside the building and for school minibuses to improve access to the new facility for these groups.

The applications are accompanied by Design and Access Statements, a Flood Risk Assessment, Arboricultural Assessments, Habitat and Botanical Surveys, Aquatic Invertebrate Surveys, Water Vole Surveys, White Clawed Crayfish Surveys and Bat Surveys. These show, in brief, that no plant species of national scarcity were recorded and the habitats/species are typical of a semi-formal amenity/recreational facility. No water voles were recorded but white –clawed crayfish and Bullhead fish were found to be present. The bat survey work is incomplete.

The buildings are within the Arboretum Conservation Area, the boathouse is a Grade II listed building and the Arboretum is a Registered Park and Garden (Grade II).

### **Relevant Planning History**

None

### **Relevant Planning Policy Summary**

#### **Development Plan**

GP2 and 3.6 require new development to make a positive contribution to the quality of the environment and the principles of sustainable development.

GP6 requires new development to be designed to provide good access for disabled

people

GP7 requires development to 'design out crime'

ENV18 relates to the protection of trees within Conservation Areas

ENV23 requires new development to take account of the natural environment and nature conservation opportunities.

ENV29 requires development to preserve or enhance the character of a Conservation Area

ENV30 seeks to protect the Borough's Registered Parks and Gardens of Special historical Interest from the effects of inappropriate built development and insensitive alteration.

ENV32 requires new development to take account of its context or surroundings

ENV33 supports good landscape design

LC1 proposes the enhancement of urban open spaces

Conserving Walsall's Natural Environment Supplementary Planning Document adopted 16.4.2008

DW3 of designing Walsall Supplementary Planning Document

Arboretum Conservation Area Appraisal and Management Plan 2007

## **National Policy**

Planning Policy Guidance Note 9: Nature Conservation and Geodiversity

Circular 06/2005 Biodiversity and Geological Conservation- statutory obligations and their impact within the planning system

Planning Policy Guidance Note 15: Planning and the Historic Environment, paragraph 4.14

## **Consultations**

**Transportation:** No objection

**English Heritage:** No objection

**Conservation Officer:** No objection

There is no objection to the proposed demolition. The new build is purposely a contemporary contrast to that of the retained Victorian structure; this is welcomed. The new build generally follows the same form and scale as that of the retained structure whilst allowing the historic section to remain as the main focal point from many views within the park. The glass section allows a neutral transition from the traditional and contemporary aspects. The use of glass also maintains the overall openness in relation to the whole park.

**Severn Trent:** No objection .. Recommend conditions requiring drainage details to be submitted.

**Drainage:** No objection..

## **Pollution Control**

**Contaminated Land Team:** No objection. Recommends a condition requiring a site investigation and remediation if appropriate.

**Scientific Team :** No objection.. Recommends a condition restricting hours of working.

**Environmental Health:** No objection.

**Fire Service:** No objection.

**Police Architectural Liaison Officer:** No objection. Recommendations made for improvements to security in respect of 09/1086/FL (the visitor centre). The applicant should be encouraged to achieve Secured by Design accreditation.

**Landscape:** No objection but conditions need to be imposed relating to hard and soft landscaping.

**Tree Officer:** No objection. Conditions will be required to ensure tree protection.

**Natural England:** Objects to applications 09/0168/CC, 09/0170/FL, 09/0171/LB and 09/0172/FL due to insufficient survey information being submitted to demonstrate whether the development would have an adverse effect on legally protected species. The concerns relate specifically to bats. Any comments received in respect of the application for the visitor centre and its related demolition application will be reported to the meeting.

**Centro:** No objection.. Recommend, in connection with 09/1086/FL, that a Travel Plan is undertaken to ensure that the site promotes public transport

**Structures:** No objection.

**Building Control:** No objection. Notice of intention to demolish should be given at least 6 weeks before commencement.

### **Representations**

One letter has been received from a neighbour in Glen Close which is on the opposite side of Buchanan Avenue to the proposed visitor centre, concerned that Buchanan Ave. is already full of parked cars belonging to town centre workers and visitors to the Arboretum. Visitors to the properties in Buchanan Avenue find it difficult to park and that the culs-de-sac off Buchanan Avenue are narrow and not designed for extensive parking other than their own visitors. There is the threat that these roads will become dangerously clogged with longer term parking.

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

### **Determining Issues**

- Benefits to the Conservation Area, Listed Building and Registered Park and Garden, trees and protected species
- parking

## **Observations**

### **Benefits to the Conservation Area, Listed Building and Registered Park and Garden, trees and protected species**

The proposed visitor centre, which would offer replacement café/toilet / educational facilities, would incorporate an attractive Victorian building and add a modern surround.

The applications have the potential to affect trees and species identified in the various surveys but this can be addressed if appropriate protection measures and method statements for the demolition and other works are secured. This can be done by condition.

The main concern with all of the applications is their potential to affect bats  
*As now reported, Members are advised this has been resolved.*

### **Parking**

Apart from the three disabled parking spaces and the proposals to allow minibuses to park outside the visitor centre, there is no intention to provide additional parking. To do so in this location would be detrimental to the character of the Arboretum and potentially affect the safety of its users.

A neighbour has expressed concern about parking on Buchanan Avenue and in the cul-de-sac to the north of it and the possibility that this would prevent visitors to the houses parking on street. There is however no automatic entitlement for anyone to park on the highway. The demolition and refurbishment proposals will not affect this situation. The visitor centre has some potential for such effects, but much of the use centre will be formal e.g. by school, and parking for such users is part of the scheme. Overall, the likelihood of parking problems as a result of this scheme is minimal.

The Arboretum is in a central location, within easy walking distance of some of its visitors and well served by bus routes. Parking is also available in the Arboretum extension and on Broadway itself for people who wish to come by car but the central location of the Arboretum makes any further provision unnecessary.

## **Conclusion**

These applications are satisfactory and can be approved provided that evidence is provided that the proposals will not cause harm to bats.

## **Summary of Reasons for Granting Planning Permission**

The proposed development would make a positive contribution to the quality of the environment using the principles of sustainable development. It would enhance the quality of the Arboretum Conservation Area and Registered Park and Garden through the use of good design which takes account of its surroundings and protects the natural environment. The development would enhance the use of this urban open space, providing good access for disabled people and in accordance with the principles of designing out crime. The design minimizes the effects of any flooding that may occur. The approval of this application would be in accordance with policies GP1, GP2, 3.6, GP6, GP7, ENV18, ENV23, ENV29, ENV30, ENV32, ENV33 and LC1 of Walsall's adopted Unitary Development Plan.

## **Recommendation: Grant Subject to conditions**

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

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

2. Details of ground gas protection measures to be installed in the proposed structure shall be provided to and agreed in writing by the Local Planning Authority prior to development commencing. The approved measures shall be installed prior to the development being brought into use and thereafter retained in working order.

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

3. No development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

4. No development shall be carried out until details of a method to prevent grease entering the drainage system have been submitted to and approved in writing by the Local Planning Authority. The premises shall not be brought into use until this approval has been given and the approved details have been fully implemented. The approved equipment shall thereafter be retained and maintained in accordance with the manufacturer's or installer's requirements.

*Reason:* To prevent grease entering into the drainage system in the interests of the free flow, capacity and the prevention of pollution of the system.

5. No development shall be carried out until details of ventilation and fume control equipment have been approved in writing by the Local planning Authority. The approved

details shall be implemented before this development is brought into use and thereafter maintained in working order.

*Reason:* To safeguard the amenities of the area and the visual amenity of the Arboretum Conservation Area and Registered Park and Garden.

6. Notwithstanding the details shown on the submitted plans no development shall be carried out until details of a proposed evacuation route or routes, including existing and proposed site levels, materials and all safety measures have been submitted to and approved in writing by the Local Planning Authority. The approved route or routes shall be constructed as approved (unless otherwise agreed in writing by the Local Planning Authority) and be available for use prior to the building being first brought into use and thereafter retained.

*Reason:* To provide a safe method of egress as recommended in the Flood Risk Assessment prepared as part of this application.

7. No development shall be carried out until details of the proposed surfacing of the areas of the application site to be used for pedestrians and vehicles have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the development being brought into use and thereafter retained. The disabled car parking spaces shown on the deposited plan shall have been marked out and thereafter retained and used for no other purpose than disabled parking.

*Reason:* To ensure the satisfactory functioning of the site and the provision of disabled parking spaces.

8. No development shall be carried out until details of secure cycle parking have been submitted to and approved in writing by the Local Planning Authority. The approved details shall have been implemented prior to the development being brought into use and thereafter retained.

*Reason:* To encourage cycling as a means of travel.

9. No development shall commence until a method statement for the works to the existing buildings to be incorporated into the visitor centre has been received and approved in writing by the Local Planning Authority. The method statement shall demonstrate that sufficient steps have been taken to demonstrate that bats are unlikely to be present. It shall also describe the precautions to be taken to ensure that bats will not be harmed, if present. The proposals described in the method statement shall be followed exactly during building works. If bats are found either prior to or during development, Natural England (Birmingham Office 0121 233 0399) must be contacted. Work must cease and it may be necessary to apply for a European Protected Species licence from Natural England.

*Reason:* To conserve local bat populations.

10. No development shall be carried out until a sample panel of all facing materials to be used in the development (other than the brickwork of the retained building) has been submitted to and approved in writing by the Local Planning Authority. Unless otherwise



agreed in writing by the Local Planning Authority the sample panel shall contain both new and weathered examples of the facing materials and colour finishes and demonstrate the proposed pointing and mortar mix. The development shall be carried out in accordance with the approved sample panel details.

*Reason:* To ensure the satisfactory appearance of the building and the visual amenity of the Arboretum Conservation Area and Registered Park and Garden.

11. No development shall be carried out until a method statement demonstrating how the glazed link will be fixed to the external brickwork of the Victorian building to be retained has been submitted to and approved in writing by the Local Planning Authority. The glazed link shall be fixed in accordance with the approved method statement prior to the development being brought into use.

*Reason:* In the interests of the satisfactory appearance of the proposed development and the visual amenity of the Arboretum Conservation Area and Registered Park and Garden.

12. All new external and internal works to the building to be retained, including works of making good, shall match the original work in respect of methods, detailed execution and finished appearance unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the proposed development and the visual amenity of the Arboretum Conservation Area and Registered Park and Garden.

13. No development shall commence until the arboricultural works specified in paragraph 9.4 of the Arboricultural Method Statement submitted in connection with this application have been carried out in accordance with this Method Statement and British Standard 3998. No other trees within the application site shall be topped, lopped or felled without the prior written consent of the Local Planning Authority. Any tree within the application site which is removed, uprooted or dies within 5 years of the completion of the development, shall be replaced in the same location by a tree of a size and species and within a timescale to have been agreed in writing by the Local Planning Authority.

*Reason:* To preserve and enhance the visual amenities of the area in accordance with Policy ENV18 of Walsall's Unitary Development Plan.

14. The protective fencing and ground protection described in appendix A of the Arboricultural Method Statement submitted in respect of this application shall be installed following the completion of the arboricultural works referred to in condition 8 of this permission and before any equipment, materials or machinery are brought onto the site in connection with the development. The protective fencing and ground protection shall be retained until all equipment, machinery and surplus materials have been removed from the site. At no time shall anything be stored or placed within the approved protective fencing; there shall be no fires lit, tipping, refuelling, disposal of solvents, cement mixing or vehicular access within this area and its ground level shall not be altered.

*Reason:* To preserve and enhance the visual amenities of the area in accordance with Policy ENV18 of Walsall's Unitary Development Plan.

15. No development shall be carried out until a detailed landscaping scheme for the application 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 and the visual amenity of the Arboretum Conservation Area and Registered Park and Garden.

16. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Christmas Day; Boxing Day; New Year's Day; Good Friday, Easter Monday; May Day; Spring Bank Holiday Monday or August Bank Holiday Monday, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

#### NOTE FOR APPLICANT

- 1 All wild birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 and subsequent amending legislation. It is an offence to damage or destroy a nest of a wild bird. Most birds nest between mid-February and the end of August, although exceptions to this do occur. No site clearance work should take place in the bird nesting season if there is a risk that nests may be damaged or destroyed. If site clearance work is unavoidable, a suitably qualified and experienced ecologist should check the development site for the presence of nesting birds prior to the commencement of any site clearance work. If nesting birds are discovered clearance works should be delayed and advice sought from Natural England.
2. The Police Crime Reduction Officer has been consulted on this application and your attention is drawn to the attached reply.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010

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

**Application Number:** 10/0190/FL

**Application Type:** Full application

**Applicant:** Mr Tom Bayley

**Proposal:** Erection of one 3 bedroom house

**Case Officer:** Devinder Matharu

**Telephone Number:** 01922 652487

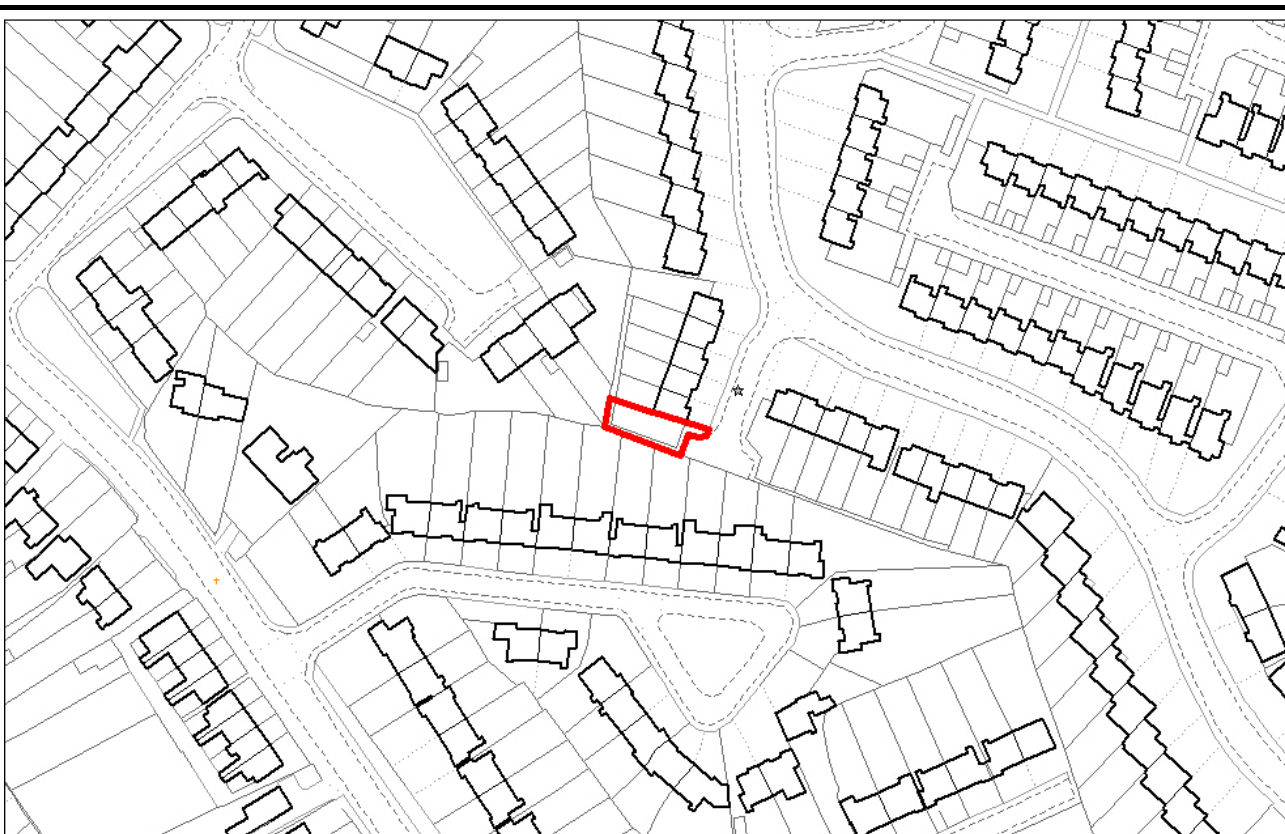
**Agent:** RMS Designs

**Location:** 10 LEACROFT  
CLOSE, WALSALL, WS9 8RX

**Ward:** Aldridge North and Walsall Wood

**Expired:** 20/04/2010

**Recommendation Summary:** Grant Subject to conditions



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### **Application and Site Details**

The application proposes the erection of a three bedroom dwelling in the side garden of number 10 Leacroft Close with a garage to accommodate two cars.

The proposed rear garden would be angled and would have a maximum length of 10metres with a total of 83 square metres of amenity space.

Leacroft Close is a cul de sac serving 5 uniform terrace houses. The application site is the side garden of number 10 Leacroft Close. There are residential properties that surround the site and front Sandringham Drive and Widney Avenue.. The properties to the south of the site fronting Sandringham Drive are semi detached properties, the rear of number 15, 17 and 19 Sandringham Drive form the boundary to the application site. The properties on Kingshayes Road at the junction of the cul de sac consist of detached and semi detached properties. In front of the application site there is a turning head, which will be utilised as access to the proposed dwelling.

### **Relevant Planning History**

10/0190/FL. Land adj 10 Leacroft Close Walsall. Erection of new dwelling. Refused January 2010.

**Relevant Planning Policy Summary** (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).

### **Unitary Development Plan (UDP)**

Policies 2.2, 3.6, 3.7 and GP2 seek high quality design and access whilst protecting people from unacceptable noise, pollution and other environmental problems.

Policy GP7 proposals should have regard to designing out crime.

Policies ENV17 encourages new planting as part of landscape design around new developments.

Policies ENV32, 3.16, 3.116 and H10 - seek the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character and in accordance with the principles of good design. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted, particularly in locations such as visually prominent sites.

Policies ENV33 and 3.117 Landscape design is an integral part of good design; opportunities to create and enhance environmental quality.

Policies 6.3 and H3 – encourage the provision of additional housing through the re-use of previously developed windfall sites provided a satisfactory residential environment can be achieved and that the proposal is acceptable in terms of other Policies of the Plan.

Policy H9 – the net density of residential development should be at least 30 dwellings per hectare. Densities in the range of 30 – 50 dwellings per hectare net are likely to be suitable on most sites.

Policy 6.49 Policy seeks to raise densities to make the most efficient use of housing land.

Policy 7.36 refers to PPG13 states that Local Authorities should use parking policies to promote sustainable transport choices and reduce the reliance on the car.

Policy T7 (b) states that all development should satisfy the car parking standards set out in Policy T13.

Policy T13 car parking standards  
3 bedroom houses 2 spaces per unit

**Designing a Better Walsall SPD (2008) - Designing a Better Walsall SPD (2008)** refers to the development respecting massing, scale and rhythm of adjacent buildings, plots sizes and built density will relate to their local context , privacy and aspect distances between buildings must ensure all occupants have a satisfactory level of amenity, whilst reflecting the emerging and existing character of the area, ground floor activity and natural surveillance will be maximised, a clear definition between private and public realm and building frontage to overlook the public realm, common building lines along road frontages must be maintained with buildings have a clear relationship with their neighbours and new development should make a positive contribution to creating a comfortable, adaptable and sustainable built environment.

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

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

DW4- Continuity -attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

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

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

DBW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

**Regional Spatial Strategy** for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

Policy CF1 - Scale and range of new housing development



## Policy QE1 - Environment

Overall, these seek improvements the design and sustainability of the urban areas.

### **Safer Places - The Planning System and Crime Prevention states the following:**

- It is desirable to restrict public access to the rear of buildings.
- Places are laid out so that crime is discouraged and different uses do not cause conflict.
- Places that could be vulnerable to crime should be overlooked by buildings
- Windows and doors should face onto the street

### **National Policy**

Planning Policy Statement 1: Delivering sustainable development in paragraphs 3, 33, 34, 35 and 36 makes reference to sustainable development and that good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.

It also states that developments should create safe and accessible environments where crime and disorder or fear of crime does not undermine quality of life or community cohesion.

Planning Policy Statement 3: Housing states that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed. However, when identifying previously developed land, sustainability will need to be considered as some sites will not necessarily be suitable for housing. Paragraph 13 reiterates the advice given in PPS1 about good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.

### **Consultations**

Transportation – No objection

In terms of visibility at the access point, the site cannot achieve a 2.0m x 25m visibility splay in an easterly direction without crossing the adjacent property driveway. However, as the site is situated at the terminus of a small, quiet, residential cul de sac where vehicle speeds will be low and there will be no passing traffic, plus there is likely to be very little pedestrian movements as there is no footway fronting the site, in this case the Highway Authority considers that the access would be acceptable.

Pollution Control (Scientific Team) – No objection subject to a planning condition to address any noise during works.

Pollution Control (Contaminated Land) - No objection

Environmental Health – No objection



Arboricultural Officer – No objection. The proposal would result in the loss of one tree but it is not significant to warrant refusal.

### **Public Participation Responses**

Three letters have been received objecting to the proposal on the following grounds:

- Small cul-de-sac can only accommodate vehicles belonging to current residents
- Congestion
- Vehicle collision
- Young children play in the cul-de-sac
- Close only intended to accommodate 5 dwellings
- Overshadowing and overlook rear garden of 21 Sandringham Drive
- Loss of outlook
- Invasion of privacy – people looking out onto a brick wall over 20ft high
- Over development
- House not in keeping with the area
- Noise from traffic of work vehicles
- Loss of light and privacy to 4 Leacroft Close
- Current house is rented out and not maintained with grass over growing
- Opportunity to make an income

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

### **Determining Issues**

Whether the proposal has overcome the previous reason for refusal in terms of

- design features
- visual integration with the street scene
- enhancement of local identity

### **Observations**

#### **Design features, visual integration with the street scene and enhancement of local identity.**

The design features of the proposed dwelling now mirror the design features of the other five properties in Leacroft Close. They are uniform in style and design and it is important that the proposed dwelling reflected these key important design features. The design includes hanging tiles and timber cladding at first floor level on the front elevation. The positioning of the garage and front door mirrors 10 Leacroft Close. The proposed property in line with the existing five properties sits comfortably within the street scene. The inclusion of the design features now ensures the property relates to the street scene and the local identity.

The proposed dwelling provides two off road car parking spaces that meet the UDP requirements of Policy T13. Transportation have no objection.

The rear garden of number 20 Widney Avenue forms the boundary to the application site. The proposed dwelling would not impact on this dwelling, as it is positioned at an angle and there would be no direct overlooking of any habitable room windows.

Objectors have raised concerns regarding overshadowing of the garden and overlooking of 21 Sandringham Drive. Due to the orientation of the sun, the rear gardens of 21 Sandringham Drive would not be significantly affected from shadowing or loss of light, as any shadowing would occur in the rear garden of the proposed property during the morning.

Number 21 Sandringham Drive is in line with the proposed dwelling towards the north. The separation distance from the rear of this property to the boundary of the existing side boundary of 10 Leacroft Close is 20m. There are no habitable room windows on the side elevation of the property, only WC and ensuite windows. As the windows proposed on the side elevation facing 21 Sandringham Drive are non habitable rooms, it is considered that there would be no direct overlooking or loss of privacy from these windows to the habitable room windows or the rear garden of 21 Sandringham Drive. To address any concerns the residents may have about overlooking a condition can be imposed restricting the window to a top opening and ensuring it was obscurely glazed.

Objectors have raised concerns over invasion of privacy in that residents would be looking onto a brick wall. Annex E of the Designing Walsall SPD requires a separation distance of 13m between blank walls exceeding 3 m high. In this case, the separation distance from the rear of numbers 19 and 21 Sandringham Drive exceed these limits, those being 22m and 20m respectively. It is considered that the proposed dwelling would not impact on the amenities of the occupiers of numbers 19 and 21 Sandringham Drive. Furthermore, a two storey extension to the existing dwelling could be built in this location.

Objectors have raised concerns that the house is not in keeping with the area and that the Close only intended to accommodate five dwellings and this proposal would represent over development. The design features of the proposed dwelling mirrors the design of the existing five properties on Leacroft Close. Policy H3 of the UDP encourages windfall sites to come forward and in this case, the proposed dwelling can be adequately accommodated in this site whilst meeting the residential standards as set out in the Designing Walsall SPD.

Objectors have raised concerns over loss of light and privacy to 4 Leacroft Close. The proposed dwelling sits in line number 10 Leacroft Close, apart from a single storey rear projection to accommodate a two car garage. Number 4 Leacroft Close is set some 20m away from the application site and the rear is positioned facing 18 Widney Avenue, the proposed dwelling would have no impact on this dwelling regarding loss of light and privacy.

Objectors have raised concerns car parking in the cul-de-sac and that there is enough space for the current residents to park there vehicles and that the proposal would lead to congestion and a traffic collision. The proposal seeks to provide two off road car parking spaces. The property would be located at the end of the cul-de-sac and it is unlikely that residents would be driving in this area at high speed towards the end of the cul-de-sac to cause any traffic collisions.

Objectors have raised concerns regarding noise from traffic during the construction period. Pollution Control have already address this issue by stipulating a condition restricting hours of work.

Objectors have raised concerns that the current property is rented out and not maintained and that this is an opportunity to make money. The Planning system has no control over whether the current property is let out and the maintenance issues. These are civil issues that need to be taken up privately. The issue regarding making money from the proposed dwelling is a matter outside of the planning system.

### **Summary of Reasons for Granting Planning Permission**

The design of the proposed dwelling is acceptable as it reflects the design features of the existing properties along Leacroft Close. The proposed dwelling sits comfortably within the street scene.

Objectors have raised concerns regarding overshadowing of the garden and overlooking of 21 Sandringham Drive and invasion of privacy in that residents would be looking onto a brick wall. Due to the orientation of the sun the proposed dwelling is unlikely to have an impact in terms of shadowing to the rear garden of 21 Sandringham Drive. The proposal meets the 13m separation distance as set out in the Designing Walsall SPD regarding separation distances between blank walls exceeding 3m in height.

Objectors have raised concerns that the house is not in keeping with the area and that the Close only intended to accommodate five dwellings and this proposal would be over development. However the proposal is a mirror image of number 10 Leacroft Close and windfall sites are encouraged to meet housing need demands in the Borough.

Objectors have raised concerns over loss of light and privacy to 4 Leacroft Close. The proposed dwelling is situated 20m away from the application site and the rear is positioned facing 18 Widney Avenue, the proposed dwelling would have no impact on this dwelling regarding loss of light and privacy.

Objectors have raised concerns about car parking in the cul-de-sac and that there is only enough space for the current residents to park their vehicles and that the proposal would lead to congestion and a traffic collision. The proposal provides two car parking spaces in compliance with Policy T13 of the UDP. Furthermore, the site is at the end of the cul-de-sac where people would drive slowly to enter and exit their drives.

Objectors have raised concerns regarding noise from traffic during the construction period. This can be addressed through a planning condition controlling hours of work.

Objectors have raised concerns that the current property is rented out and not maintained and that this is an opportunity to make money. These issues are not ones to be dealt with through planning legislation.

The proposal meets the aims and objectives of policies 2.2, 3.6, 3.7, GP2, GP7, ENV17, ENV32, 3.16, 3.116, H10, ENV33, 3.117, 6.3, H3, H9, 6.49, 7.36, T7, and T13 of the Walsall Unitary Development, Policies DW1, DW3, DW4, DW6, DW9 and DW10 of the Designing Walsall SPD, Policies CF1 and QE1 of the Regional Spatial Strategy and the advice given in PPS1, PPS3 and PPG13.

### **Recommendation: Grant Subject to conditions**

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

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

2) The development shall be completed in accordance with drawings submitted on 23 February 2010.

Reason: To define the permission

3) No development shall commence on site until a schedule of facing materials to be used in external walls and roofs has been approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained and maintained at all times.

Reason: To ensure the satisfactory appearance of the development.

4) No development shall commence on site until drainage details for the disposal of both foul and surface water have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed 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.

5) The ensuite window on the side elevation facing 21 Sandringham Drive shall be top hung and obscurely glazed unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of the occupiers of 21 Sandringham Drive.

6) No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 16.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: To protect the amenity of adjoining residential occupiers

### **Notes to applicant**

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



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010

**REASON FOR BRINGING TO COMMITTEE: Submission by an officer within  
Regeneration Directorate.**

**Application Number:** 10/0145/FL

**Application Type:** Full application

**Applicant:** Integrated Designs & Associates  
Limited

**Proposal:** Amendments to the Design of New  
Dwelling (approved under 09/0252/FL) to raise  
the height of the front and rear gable features

**Ward:** Paddock

**Recommendation Summary:** Grant Subject to conditions

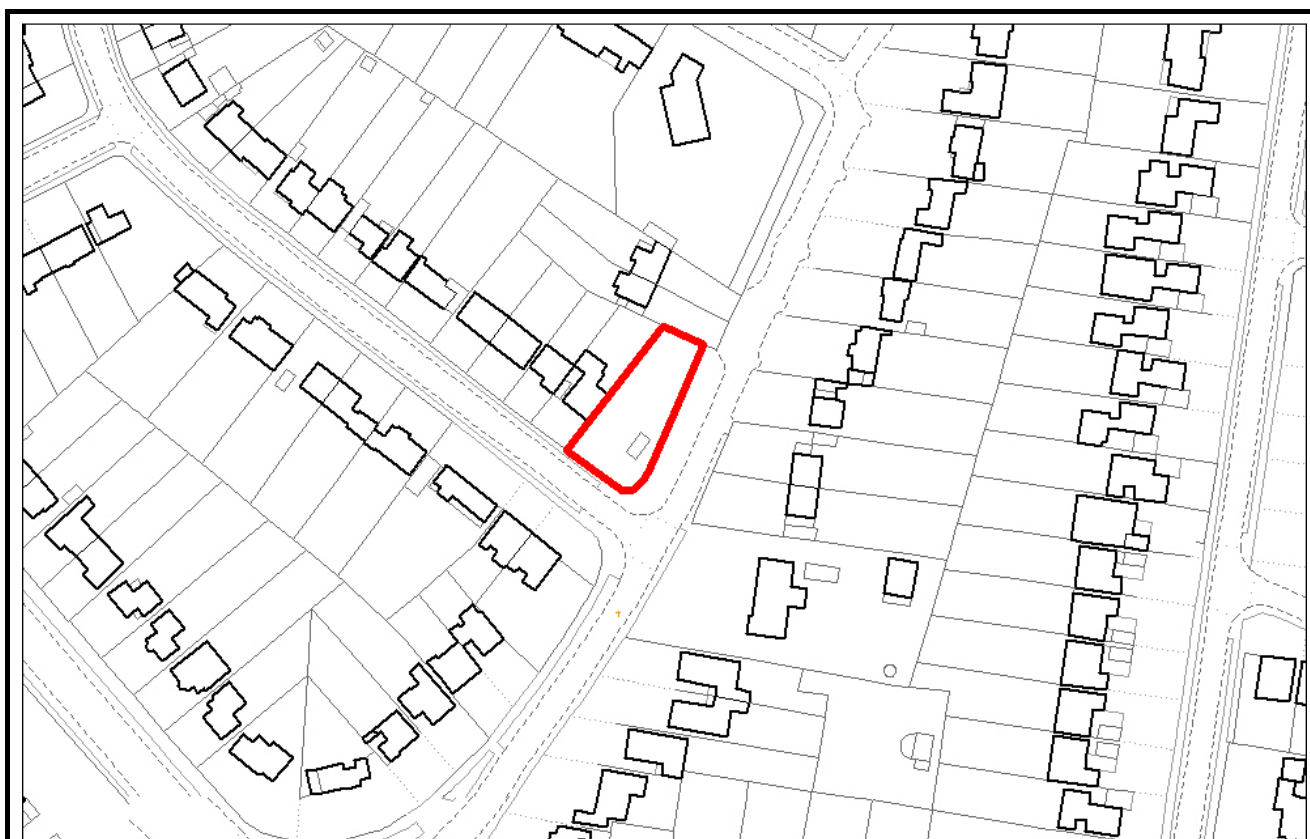
**Case Officer:** Barbara Toy

**Telephone Number:** 01922 652429

**Agent:** Mr Singh

**Location:** Land Adjacent No. 4  
Lonsdale Road, Walsall, WS5 3JJ

**Expired:** 19/04/2010



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## **Application and Site Details**

The application site is situated at the junction of Lonsdale Road and Bell Road and comprises part of the side garden area of No 4 Lonsdale Road, to the east of the existing house. No 4 comprises a two storey detached house with existing single storey side garage adjacent to No 6 (to the west) as well as an existing detached pitched roof single garage within the application site, with its own existing footway crossing.

Lonsdale Road is characterised by semi detached and detached houses varying in design and age.

Bell Road also comprises a mix of houses in terms of styles and age, but predominantly detached houses in large plots. The properties opposite the site (10-18) are set back from the road with large frontages, but Nos 1-7a to the south are more modern detached houses with shorter frontages. No 9 and 11 Bell Road comprise a pair of semi detached houses set immediately to the rear of the site (north) and the houses are set well back from the road.

Nos 3 and 5 Lonsdale Road opposite the site comprises a pair of modern semi detached houses.

There is a large ash tree situated on the corner, within the application site adjacent to the existing detached garage, protected by TPO 14 of 2004. The TPO also protects the replacement cockspur thorn situated on the frontage of No 4, but no other trees on the site are included.

This is a revised submission following a previous approval in April 2009 for the erection of a 5 bed, two storey detached house with integral double garage, fronting Lonsdale Road, with a new access point off Lonsdale Road. The front of the garage would follow the building line of the existing house at No 4 and the side would follow the building line of the No 3 Lonsdale Road on the opposite corner. The house has been designed to address the corner and avoid the protected ash tree situated on the corner/frontage.

This application proposes amendments to the design of the house already approved, by raising the height of the front and rear projecting gables by approx 0.7m. The gables would remain approx 2m lower than the main ridge height of the house, which would not change. The overall footprint and position of the building within the site would remain unchanged. The proposals also include a minor alteration to the internal layout to include a ground floor cloakroom within part of the double garage.

The appropriate conditions on the original approval have been discharged and construction work has already commenced on site under the original approval.

## **Relevant Planning History**

09/0252/FL, Erection of 5 Bedroom two storey detached dwelling on land adjacent. Grant Subject to Conditions 22/04/09

## **Relevant Planning Policy Summary**



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

## **Walsall Unitary Development Plan March 2005**

2.1 and 2.2 state that creating, sustaining and enhancing a high quality natural and built environment, including a high standard of design is a key consideration.

### **GP2: Environmental Protection**

The Council will not permit development which would have an unacceptable adverse impact on the environment.

3.6 seeks environmental improvement resulting from development.

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

### **GP7: Community Safety**

Proposals would be expected to have regard for the objectives of 'designing out crime' which include maximising the surveillance of public areas from the living areas of homes and from other buildings.

### **H10: Layout, Design and Dwelling Mix**

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

### **ENV18: Existing Woodlands, Trees and Hedgerows.**

Loss of TPO'd trees will be resisted unless it would be in the interests of good arboricultural practice. Where any trees are lost replacements should be provided to minimise the loss.

### **ENV32: Design and Development Proposals.**

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Detailed criteria are listed for consideration when assessing the quality of design of any development proposal including:- the appearance, materials, height, proportion, scale and mass of the proposed buildings, the visual relationship of the proposal with adjacent areas, the street and the character of the surrounding neighbourhood, the effect on the local character of the area.

### **T7 – Car Parking**

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

T13: Parking Provision 4 bed houses and above 3 spaces per unit.

## **Supplementary Planning Document "Designing Walsall" (February 2008)**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are relevant policies to this case;

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

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

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

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

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

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

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

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

### **National Policy**

PPS 1: Delivering sustainable development emphasis the need to reject poor design and the need for sustainable development.

### **Consultations**

**Transportation** – no objections subject to conditions relating to access, the redundant footway crossing requires reinstatement. The new internal layout results in the loss of one parking space within the double garage, however 3 parking spaces remain (1 within the garage and 2 on the driveway) so the proposals still comply with policy T13.

**Pollution Control – Scientific Team** - no objections subject to condition to restrict hours of working on site.

**Contaminated Land Team** – no specific requirements.

**Tree Officer** – no objections.

**Landscape Officer** – no objections.

### **Public Participation**

One letter of representation received which raises concerns about an increase in rats as a result of building work at the site.

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

## **Determining Issues**

- Protected Ash tree
- Overall design of the house
- Street scene
- Surrounding residential occupiers
- Access and parking

## **Observations**

### **Protected Ash Tree**

The proposed amendments would involve no increase in footprint, no alteration to the position of the house within the site, or to access and parking arrangements. The proposed amendments would have no adverse impact on the protected ash tree.

### **Overall Design of the House.**

The footprint and position of the house within the site has not changed. The increase in height of the would allow increased head room in the first floor bedrooms. The window design to the front elevation has been maintained as the original approval. The windows on the rear gable have been amended to allow a larger opening element to bedroom 2. The proposed amendments would have no adverse impact on the design of the house.

### **Street Scene**

The proposed increase in height of the two gable features would have no adverse impact on the street scene. The amendments do not impact on the overall height of the building. The house will continue to address the corner, avoid the protected tree, continue to follow the established building lines of both Bell Road and Lonsdale Road and the design still incorporates key characteristics of the surrounding area.

### **Surrounding Residential Occupiers**

The proposed increase in height would have no adverse impact on the amenities of the surrounding residential occupiers.

### **Parking and Access**

The proposed amended internal layout to include a ground floor cloakroom within the integral garage would result in the loss of one of the car parking spaces in the garage, however three off street parking spaces would remain, one within the garage and two on the driveway, which would still comply with policy T13. There are no objections to the revised internal layout.

## **Summary of Reasons for Granting Planning Permission**

The proposed amendments to the internal layout and design of the house are considered acceptable. The amendments would have no adverse impact on the protected ash tree on the frontage. The house has been designed to reflect the character of the area, fit the plot, follow the existing building lines of both roads and sit within the street scene, the proposed amendments to increase the height of the front and rear gables features would

have no adverse impact on the overall design of the property, the street scene or the amenities of the surrounding residential occupiers. The proposals would have no adverse impact on the access or parking arrangements for the property.

The proposals would accord with the aims and objectives of the development plan, in particular policies 2.1, 2.2, GP2, GP7, 3.6, 3.16, ENV18, ENV32, H10 and T13 of Walsall's Unitary Development Plan (2005), and Supplementary Planning Document: Designing Walsall (2008).

### **Recommendation: Grant Subject to conditions**

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

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

2. This development shall be implemented with the external materials approved on 21<sup>st</sup> January 2010 under Discharge of Planning Conditions application 09/1693/DOC, and no other materials used unless otherwise agreed in writing by the Local Planning Authority.

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

3. This development shall be implemented in accordance with drainage details approved on 21<sup>st</sup> January 2010 under Discharge of Planning Conditions application 09/1693/DOC unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution.

4. This development shall be implemented in accordance with levels details contained within drawing number BV/225/2b, approved on 21<sup>st</sup> January 2010 under Discharge of Planning Conditions application 09/1693/DOC unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* In the interests of the amenity of the area and to ensure satisfactory development of the site.

5. This development shall be implemented in accordance with the landscaping scheme shown on drawing number BV/225/2b approved on 21<sup>st</sup> January 2010 under Discharge of Planning Conditions application 09/1693/DOC unless otherwise agreed in writing by the Local Planning Authority.

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

6. Prior to the first occupation of the development the existing vehicular footway crossing made redundant by the development hereby approved, shall be reinstated back to verge

and full height kerbed footway to a specification to be approved and agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements.

*Reason:* To ensure the satisfactory completion and operation of the development.

7. This development shall be implemented in accordance with the boundary treatment shown on drawing number BV/225/2b approved on 21<sup>st</sup> January 2010 under Discharge of Planning Conditions application 09/1693/DOC unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* In order to ensure the satisfactory appearance of the development.

8. During site preparation and building operations no storage of materials, equipment or waste, nor passage of vehicles, nor lighting of fires shall take place beneath the canopy of any tree to be retained. Upon the completion of the development the area used shall be fully reinstated to its former condition, prior to occupation of the dwelling hereby approved.

*Reason:* To safeguard the trees included in the Tree Preservation Order on the site.

9. No digging of trenches or changes in ground level shall be undertaken within the canopy of any tree to be retained on the site without the written approval of the Local Planning Authority.

*Reason:* To safeguard the trees included in the Tree Preservation Order on the site.

10. None of the existing trees on the site shall be lopped, felled or root pruned without the prior consent in writing of the Local Planning Authority.

*Reason:* To safeguard the existing trees on the site not included in the Tree Preservation Order.

11. The approved tree protection measures detailed in the arboricultural report by R.Helliwell, dated February 2009, shall be fully implemented on site and shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2005

*Reason:* To safeguard the trees included in the Tree Preservation Order on the site.

12. No demolition, engineering or construction works (including land reclamation, stabilisation, 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 1400 hours Saturdays, unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason:* To safeguard the amenity of occupiers of premises within the vicinity.

13. Prior to first occupation of the house hereby approved the land to the east of the application boundary, outlined in blue on drawing number BV/305/1b shall be reinstated with landscaping in accordance with details to be submitted to and approved in writing with the Local Planning Authority.

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

14. The works hereby approved shall only be carried out in accordance with details contained within drawing Nos BV/305/c submitted on 18<sup>th</sup> February 2010, BV/305/1c and BV/225/2c submitted on 16<sup>th</sup> March 2010 and Design and Access Statement submitted on 15<sup>th</sup> February 2010.

*Reason:* In order to define the permission.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010

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

**Application Number:** 10/0102/FL  
**Application Type:** Full application  
**Applicant:** Mr Mohammed Nazar  
**Proposal:** New Dwelling

**Case Officer:** Barbara Toy  
**Telephone Number:** 01922 652429  
**Agent:** Phillip Taylor Associates  
**Location:** 35 PRINCES  
AVENUE, WALSALL, WS1 2DG  
**Expired:** 31/03/2010

**Ward:** Paddock

**Recommendation Summary:** Grant Subject to conditions



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## **Application and Site Details**

The site is on the western side of Princes Avenue on the corner of Willows Road, and comprises land to the side of No 35 Princes Avenue, a two storey traditional semi detached Edwardian house, with entrance door on the side elevation.

Princes Avenue and Willows Road contains similar semi detached houses within a residential area comprising detached, semi detached and terraced houses. On the opposite side of Princes Avenue are three storey modern apartment blocks within Lorimers Grove and Shrubbery Close, set behind a high boundary wall.

The application proposes the erection of a two and a half storey, two bed house on the corner, with entrance door facing Willows Road, vehicle access and two off street parking spaces off Willows Road and garden area (68sqm) to the side of the house. The accommodation would comprise a hall, kitchen/dining and WC at ground floor level together with a car port, bedroom and living room at first floor and a second bedroom and bathroom at second floor. The proposals also include a driveway off Princes Avenue for two parking spaces and 68sqm of amenity space set to the rear for the existing house at No35.

The house has been designed to address the corner.

Site area 193sqm (0.019 hectare) with a density of 52 dwellings per hectare.

## **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)***

### **Walsall Unitary Development Plan March 2005**

2.1 and 2.2 state that creating, sustaining and enhancing a high quality natural and built environment, including a high standard of design is a key consideration.

GP2: Environmental Protection

The Council will not permit development which would have an unacceptable adverse impact on the environment.

3.6 seeks environmental improvement resulting from development.

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

GP7: Community Safety

Proposals would be expected to have regard for the objectives of 'designing out crime' which include maximising the surveillance of public areas from the living areas of homes and from other buildings.

H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings.

Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

#### H9: Minimum Densities

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

#### H10: Layout, Design and Dwelling Mix

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

#### ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Detailed criteria are listed for consideration when assessing the quality of design of any development proposal including:- the appearance, materials, height, proportion, scale and mass of the proposed buildings, the visual relationship of the proposal with adjacent areas, the street and the character of the surrounding neighbourhood, the effect on the local character of the area.

#### T7 – Car Parking

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

#### T13: Parking Provision

1, 2 and 3 bed houses      2 spaces per unit

### **Supplementary Planning Document “Designing Walsall” (February 2008)**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are relevant policies to this case;

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

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

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

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

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

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

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

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

minimum 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

### **National Policy**

PPS 1: Delivering sustainable development emphasis the need to reject poor design and the need for sustainable development.

### **Consultations**

**Transportation** – no objections subject to conditions regarding pedestrian visibility splay to vehicle access and reinstatement of existing dropped kerb no longer required.

**Pollution Control – Scientific Team** - no objections subject to mitigation measures to protect nearby dwellings from noise during construction. Condition recommended.

**Contaminated Land Team** – no specific requirements.

**Fire Officer** – Satisfactory.

**West Midlands Police** – no objections, although a wall would be required across the garden to improve security of the car port area.

### **Public Participation**

One letter in support of the proposals, indicating that the elevations of the new dwelling would fit well in the area including features from around the area and will add value to the area.

Twenty nine objections, including 17 copies of a standard letter.

Objections:

- Out of character with the surrounding authentic Edwardian houses in the area.
- Plenty of two bed accommodation in the area already
- New access drive too close to the junction of Willows Road and Princes Avenue.
- Loss of privacy and light to adjacent properties and those opposite
- Eyesore
- Out of place in terms of size and style
- Increase in on street parking creating highway safety issues
- Noise, dust and nuisance during construction
- Density too high
- Loss of garden to No 35 and creation of a small garden for the new house
- Overcrowding the site which is currently open
- Willows Road/Princes Avenue junction is the site of previous traffic accidents
- Existing low water pressure likely to be affected
- Over shadowing of No35
- Loss of outlook
- Adverse impact on nature conservation, listed buildings and conservation area (the property is not situated within a conservation area)

- Residents previously ignored in their attempts to retain the character of the area, in the fight for retaining a retirement home, complaints about taxi firms and increase in crime.
- How will the garden be screened?
- Overlooking of adjacent gardens and properties from first floor living room
- Concerns regarding inappropriate consultation on the application to properties in Lorimers Grove and Beaconsfield Court
- Proximity of new house to No 35, obscures the entrance from the street
- Development for commercial gain, not appropriate for the area (not a material planning consideration)
- Extends beyond the existing building lines
- Property devaluation (not a material planning consideration)

Photos also submitted showing existing parking in Willows Road and Princes Avenue.

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

### **Determining Issues**

- Principle of the use
- Design and layout
- Impact on the street scene and surrounding residential occupiers
- Access and parking

### **Observations**

#### **Principle of the Use**

The site is situated in a residential area comprising predominantly traditional Edwardian semi detached two houses, with a newer apartment development situated opposite the site. The site comprises the side garden area of No 35 Princes Avenue. Policy H3 of the UDP encourages the use of windfall sites for residential development.

The proposals would provide a density of 52 dwellings per hectare, slightly exceeding the 30-50 dwellings per hectare expectation in H9, but the density is considered appropriate as the site is situated in a sustainable location within walking distance of Walsall Town Centre and the 374 bus route runs along Princes Avenue with the closest bus stop within 70m of the site. The area is characterised by a range of housing densities up to 64 dwellings per hectare for the apartment development opposite the site. The plot is considered sufficiently large to accommodate a dwelling. Therefore the principle of residential use on the site is considered acceptable.

#### **Design and Layout**

The proposed house would be situated on the corner with an angled two storey gable element addressing the corner, with traditional square bay at ground floor to match others in the surrounding area (including No 35) and a squared bay style entrance door to the Willows Road elevation. The house is therefore considered to address the corner well, and providing habitable room windows to both street frontages.

Whilst the house is two and a half storeys the second floor rooms are located within the roof space, with roof lights facing the street, and the overall height of the building reflects the surrounding properties in terms of scale.

The gable feature, square bay and chimney incorporated within the design are all key features of properties in the surrounding area and the house would be constructed from traditional brick and render with a tiled roof to match the existing properties.

Whilst the footprint of the proposed house is smaller than those in the immediate vicinity, it fits well within the plot and includes design features common to the properties in the area.

An amenity space of approx 68sqm (in compliance with Appendix E of Designing Walsall) would be provided to the side of the house adjacent to the side boundary with 2 Willows Road, with approx 36sqm enclosed as private space. Amenity space is normally expected to be situated at the rear of the dwelling, where it would be shielded from views from the street. In this case the side garden has been designed to provide some privacy to that part which is away from the street frontage. This approach is considered acceptable in the context of the overall design approach at the site.

### **Impact on the Street Scene and Surrounding Occupiers**

Whilst the proposals would remove an existing open corner, the distance from the side of the existing house (No 35) to the back of pavement in Willows Road is significantly greater than other corner plots in the vicinity. It is therefore considered that the principle of a new house on the site is acceptable.

The house follows the existing well established building lines of both Princes Avenue and Willows Road and has been carefully designed to fit the plot and fit with the existing architecture and character of the area, addressing the corner and both street frontages.

Whilst the pattern of development in the area is quite traditional, comprising plots with frontages and rear gardens, the eastern side of Princes Avenue comprises a significantly different form of development being apartments within three storey blocks, enclosed by a high boundary wall at back of pavement. This provides a variety of development in the area, into which the proposals would fit comfortably.

The house has no windows facing the rear (towards No 35), all the habitable room windows would face the street, therefore creating no overlooking issues for either 35 Princes Avenue or 2 Willows Road.

35 Princes Avenue has a side facing entrance door and four side facing windows, facing the site, however these windows are to non habitable rooms or small secondary windows to rooms with primary windows to the front elevation. The proposals therefore comply with the separation distances to habitable room windows identified in Appendix E of Designing Walsall.

Residents comment on the existing availability of two bedroom accommodation within the vicinity, however this is provided predominantly within the apartment development on the opposite side of Princes Avenue. The proposals would provide a two bedroom house, adding to the mix of housing types in the area in compliance with policy H10.



## **Access and Parking**

The layout includes two off street parking spaces, one within a car port under the first and second floors of the building and one space within the driveway in front, both accessed via a new footway crossing in Willows Road.

The site has an existing vehicle access on Willows Road which served a former garage to No 35, set 14m from the junction with Princes Avenue. This dropped kerb is to be reinstated with full height kerbs and a new access for the proposed house will be created 10m from the Princes Avenue junction, which is considered acceptable by Transportation.

In addition, two parking spaces are provided for the existing house (no 35) with access off Princes Avenue.

The comments from residents regarding parking, access and accidents at the junction and in the immediate vicinity have been considered by Transportation, who have confirmed that there are no recorded injury accidents and Princes Avenue benefits from traffic calming measures and therefore traffic speeds are low. The proposals provide off street parking provision to comply with the maximum standards in policy T13 of the UDP. It is considered that a new dwelling in this location is unlikely to have any detrimental impact on highway safety.

## **Summary of Reasons for Granting Planning Permission**

The house has been designed to fit the plot, following the existing building lines of both Princes Avenue and Willows Road and is considered to sit well within the street scene and character of the area. The design incorporates traditional architectural features and materials from the immediate vicinity and addresses the corner.

All the habitable room windows face the street to avoid overlooking of neighbouring properties and comply with separation distances and will therefore not result in any loss of privacy.

The new vehicle access in Willows Road is considered appropriate, the off street parking facilities for the new house and the existing house at No 35 Princes Avenue comply with policy and an appropriate level of amenity space for both the proposed and existing houses is provided to comply with policy. Transportation have confirmed that there are no recorded injury accidents at the junction and Princes Avenue benefits from traffic calming measures, therefore traffic speeds are low. It is considered that a new dwelling in this location is unlikely to have any detrimental impact on highway safety.

The proposals would add to the mix of housing types in the area, in compliance with policy H10 of the UDP. The density at 52 dwellings per hectare is considered appropriate and fits with the character of the area that provides a wide range of densities.

Whilst the proposals would remove an existing open corner, the distance from the side of the existing house (No 35) to the back of pavement in Willows Road is significantly greater than other corner plots in the vicinity. The area provides a number of properties with entrance doors to the side elevation, the majority of which are obscures from the

street by other properties and parked cars. No 35 has a side facing entrance door and four side facing windows, facing the site, however these windows are to non habitable rooms or smaller secondary windows to rooms with primary windows to the front elevation, therefore creating no outlook or overlooking issues.

The site comprises the side garden area of No 35 Princes Avenue which is already substantially paved and enclosed by a boundary wall, it is therefore considered that the proposals would have little impact on the existing natural environment. The existing property is not listed or within a conservation area.

Appropriate measures are will be implemented to restrict hours of working on site to protect the amenities of local residents during the construction period.

It is considered the proposal would have no adverse impact on the amenities of the surrounding residential occupiers.

Property devaluation, low water pressure, developer financial gain and previous attempts by residents to maintain the character of the area through a fight to retain a local retirement home and complaints about taxi businesses have been ignored are not material planning considerations.

The proposals would accord with the aims and objectives of the development plan, in particular policies 2.1, 2.2, GP2, GP7, 3.6, 3.16, ENV32, H3, H9, H10, T7 and T13 of Walsall's Unitary Development Plan (2005), and Supplementary Planning Document: Designing Walsall (2008).

### **Recommendation: Grant Subject to conditions**

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

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

2. No development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

*Reason:* To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

3. No development shall commence on site until details of the disposal of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

*Reason:* To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution.

4. No development shall be carried out until full details of existing and proposed levels of the site, access way and floor levels for the proposed dwellings, have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site and any drainage or other works necessary to facilitate this development. The development shall be carried out and retained in accordance with these approved details.

*Reason:* In the interests of the amenity of the area and to ensure satisfactory development of the site.

5. No development shall commence on site until details of a landscaping scheme, are submitted to and approved by the Local Planning Authority. The scheme shall be completed in accordance with the approved details before the development is occupied, unless otherwise agreed in writing with the local planning authority, and retained as such. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which die, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

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

6. Prior to the first occupation of the development the existing vehicular footway crossing made redundant by the development hereby approved shall be reinstated back to verge and full height kerbed footway to a specification to be approved and agreed in writing by the Local Planning Authority, and any works shall meet all statutory requirements.

*Reason:* To ensure the satisfactory completion and operation of the development.

7. Prior to commencement of any development on site, details of boundary treatment to the frontage, corner and side elevations shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to first occupation of the dwelling hereby approved and thereafter retained.

*Reason:* In order to ensure the satisfactory appearance of the development.

8. No demolition, engineering or construction works (including land reclamation, stabilisation, 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 1400 hours Saturdays, unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason:* To safeguard the amenity of occupiers of premises within the vicinity.

9. The works hereby approved shall only be carried out in accordance with details contained within amended drawing Nos 1916-10, 1916-11 Rev C, 0916-12 Rev B, 0916-13 Rev B, 0916-14 Rev B, 0916-15 Rev B and 0916-16 submitted on 11<sup>th</sup> March 2010 and Design and Access Statement submitted on 13<sup>th</sup> January 2010.

*Reason:* In order to define the permission.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010

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

**Application Number:** 10/0010/FL

**Application Type:** Full application

**Applicant:** Mr Philip Bethell

**Proposal:** Change of Use from existing shop  
to hot food takeaway.

**Ward:** Bloxwich East

**Recommendation Summary:** Grant Subject to conditions

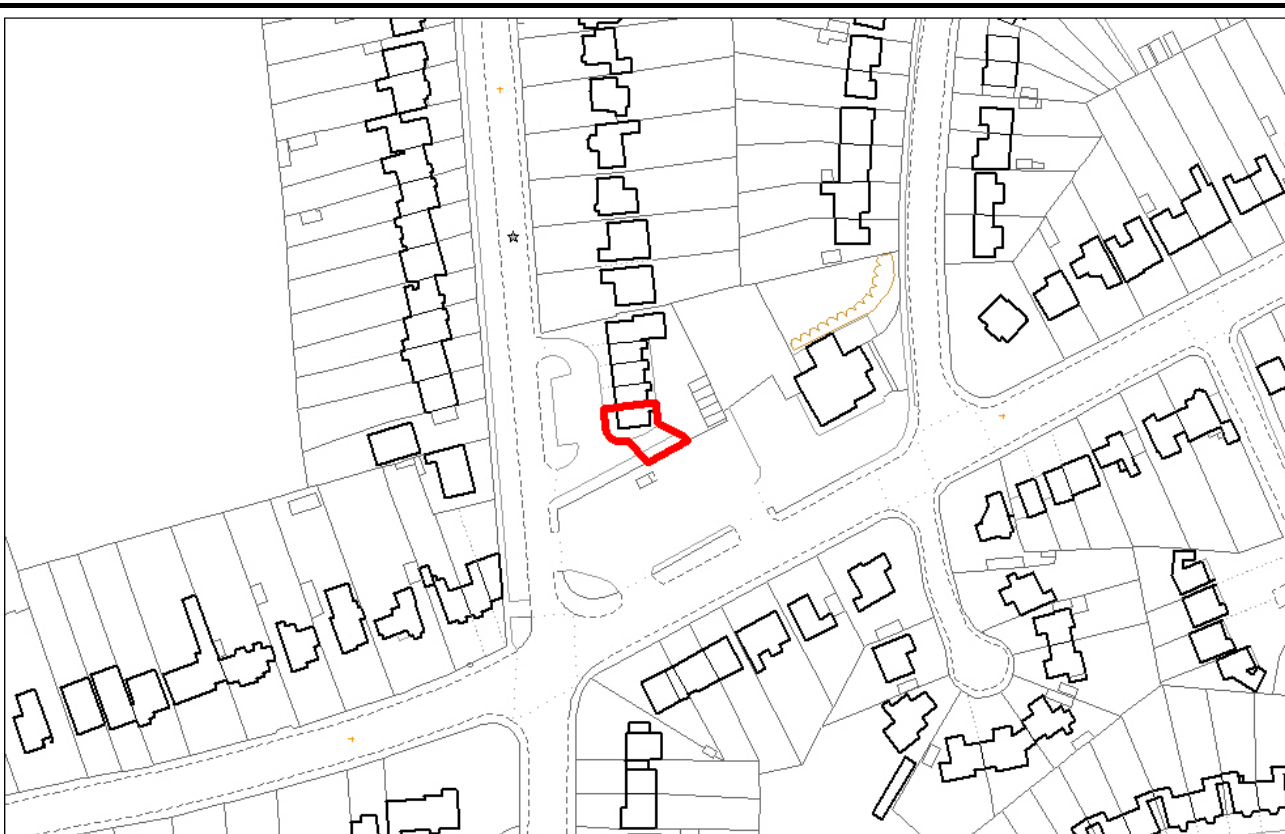
**Case Officer:** Devinder Matharu

**Telephone Number:** 01922 652487

**Agent:** Advance Land & Planning  
Limited

**Location:** 5 SELMANS  
PARADE, SELMANS  
HILL, WALSALL, WS3 3RN

**Expired:** 28/04/2010



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## **Application and Site Details**

The application proposes the change of use of 5 Selman's Hill from an A1 use (formerly a tanning shop) to an A5 Use – hot food take-away.

A Design and Access Statement has been submitted with the application which advises that the premises have been vacant for 6 months and that the flat above would be occupied by the proprietor. It also states the extraction unit would comprise grease filters, carbon filters and an odour neutralisation system and a grease trap fitted to the drainage system to prevent grease entering the drainage system. In terms of hours of opening it has been specified the premises would be open from 17:00 hours to 23:00 hours Mondays to Sundays.

The site is on Selman's Hill, within a parade of 5 shops close to the junction with Lichfield Road. Above the shops are flats accommodated in a three storey flat roofed building. In front of the shops are 6 car parking spaces and a service road. The parcel of land adjacent number 5 Selman's Hill is the former Field Service Station fronting both Selman's Hill and Lichfield Road and next to that is the Knave of Hearts public house that fronts onto Lichfield Road. Adjacent number 1 Selman's Parade (the opposite end of the application site) is a bungalow and on the opposite side of the road are residential properties that are set back from the highway with a grass verge fronting Selman's Hill.

An application, planning reference 09/1789/FL at the former Field service station on Lichfield Road is currently being considered for a Tesco Express with opening hours till 11pm.

## **Relevant Planning History**

None

**Relevant Planning Policy Summary** (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).

## **Unitary Development Plan (UDP)**

GP1: Supports the sustainable location of development.

Policies 2.2, 3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

3.16, GP7, ENV32 and 3.116: seeks to create high quality living environments, well integrated with surrounding land uses and local character. Designing out crime' through design is encouraged.

Policy S1 identifies a hot food take-away as a town centre use

Policy S6: Meeting Local Needs

(a) Outside the identified centres other facilities - in the form of shopping parades will be encouraged to continue to meet the day-to-day needs of their communities.



(c) There are some areas, away from established centres, which are poorly served in quantitative and/or qualitative terms by existing local provision for eating and drinking places. Out-of-centre development may be appropriate to meet such specific local needs. Therefore, new small-scale local facilities will be permitted if it can be shown that all of the following requirements will be met:-

- I. The proposal is of a scale and kind to meet a local need for improved facilities.
- II. The local need cannot be better met by investment in a nearby centre.
- III. There will be no likelihood of an adverse impact on the vitality and viability of any established centre in the Borough or elsewhere within the affected catchment area.
- IV. There will be no impact on existing local provision such as to leave some local needs unmet, contrary to efforts to promote social inclusion.
- V. The proposal will improve accessibility to facilities by means other than the car and, in particular, will be within convenient, safe walking distance of the community it is intended to serve.
- VI. The proposal will help to reduce the need to travel, especially by car.
- VII. There must be no significant loss of amenity for neighbouring homes.
- VIII. Servicing and parking associated with the proposed use must not create any significant road safety or traffic problems.

(d) Define areas where there is a lack of local facilities, such as residential areas which are more than 500m from a food shop. In such areas it will work with the local community to identify ways of providing new facilities to meet local needs (or improving access to existing facilities) in accordance with the principles set out above.

(e) Where there are suitable vacant premises in the area, it is preferred that these are used to accommodate new facilities adjacent to existing shop clusters or parades.

Policy S10 advises that such uses will be appropriate in Town, District and Local Centres subject to the following considerations:

- i) The use proposed must not adversely affect the amenities of existing or proposed dwellings (including those on upper floors above commercial premises) by reason of noise, smell disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on residential amenity.
- ii) Where the Council is minded to grant planning permission, the closing time for hot food take-aways will be considered in relation to the amenities of nearby dwellings – both existing and proposed – where these are likely to be affected. In such locations, the Council will usually impose a condition requiring the premises to close at 23:00 hours Mondays to Friday and 23:30 hours on Saturdays. Later opening hours and Sunday opening will be considered on their merits.
- iii) Permission will not be granted where the absence of adequate off street parking would likely to lead to on street parking in a hazardous area.
- iv) Permission will only be granted where fume and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment will not be detrimental to visual amenity.

7.1: Seeks to promote an efficient highway network

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

T13: car parking standards

4 car parking spaces for establishments with a gross floorspace up to 50 square metres then 1 space per 22 square metres.

### **Designing Walsall SPD**

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

### **National Policy**

PPS1 on delivering sustainable development and good design.

PPS4 applications should consider the impact on the vitality and viability on the town centre.

PPG13 on transportation seeks to minimise the use of the car by the sustainable location of development.

### **Consultations**

**Transportation** – No objection. The site is located in a parade of shops with mixed uses and duplex units above served by a private service road and parking area to the front and servicing and garaging to the rear. The proposed hours of opening would be 5pm till 11pm and it is likely that some of the other businesses would be closed in the evening when the hot food take-away would be its busiest.

**Pollution Control Contaminated Team** – No specific contaminated land issues

**Pollution Control Scientific Team** – No comments

**Strategic Policy** – No objection. The premises are empty and would not have a greater negative impact on the vitality and viability of the parade of shops than the unit does at present. There is a general trend identified by the New Economics Foundation (Independent British Think Tank) for sites within smaller centres and shopping parades, such as the proposal site, to fall out of retail use and either to remain vacant or to be used for services.

**Environmental Health** – No objection. There is a concrete floor separating the ground floor and the first floor and this is a suitable barrier to prevent transmission of noise from the ground floor to the first floor. The shops are served by an existing service road and parking spaces and the properties opposite sit behind a grass verge and sizeable front drive so it not anticipated that there will be a significant degree of disturbance. The extraction flue should be fitted with anti-vibration mounts to prevent noise disturbance to occupiers of the flats above.

The applicant has supplied a written undertaking to fit an extraction system incorporating grease filters, carbon filters and an odour neutralisation system such as Purified Air ON1000 system. Such a system must be operated and maintained in accordance with the manufacturer's specification and requirements.

It is necessary for a grease trap to be installed to prevent drainage blockages by oils and fats. The internal layout appears to offer adequate space for the hygienic preparation of food. A bin store and litter bin should be provided to contain refuse from the premises.

**Fire Officer** – No objection

**Police** – No objection. But have advised that CCTV should be installed that digitally records images with a time and date ad that any recording should be kept on site for 28 days and the equipment screened from public view. The counter should be set high and out of reach to prevent customers climbing over the counter.

### **Public Participation Responses**

Eight letters have been received objecting to the proposal on the following grounds:

- Already many take-aways near the area
- Knave of Hearts PH will be converted to a hot food take-away serving from 7am till 11pm
- High Street better location for a take-away
- If the premises are dirty there are concerns over vermin and litter
- Noise and disturbance late at night due to people congregating around and later opening hours and car doors slamming and extractor fans
- Had to tolerate noise and disturbance from the Knave of Hearts PH for many years
- residents already experience loutish behaviour when people visit the shops
- Increase in traffic – with new Tesco's traffic would be dangerous
- Residents experience problems with blocked drives by parents picking children up from nearby school.
- Elderly residents need to be considered
- Not good for family of swifts seen in the area
- Smells

The neighbour consultation period expires on 24<sup>th</sup> March 2010; any further representations would be reported in the supplementary papers.

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

### **Determining Issues**

- Principle of development
- Visual amenity of the flue
- Impact on neighbouring amenities
- Car parking

### **Observations**

#### **Principle of development**

The application site is the end unit in a parade of shops is outside any established district and local centre. It has been vacant for 6 months; the proposed change of use would allow the unit to be occupied assisting the local economy and enhance the vitality and viability. Policy S6 of the UDP supports such facilities in shopping parades and small clusters as they meet local needs providing they do not impact on residential amenity.

There is a general trend identified by an Independent British Think Tank, New Economic Foundation for sites within smaller centres and shopping parades, such as the proposal site, to fall out of retail use and either to remain vacant or to be used for services. In this case, it is considered that the proposed change of use of the premises for a hot food take-away should be supported.

### **Visual amenity of the flue**

The proposed flue to the side and rear of the building has been located to reduce its prominence along the frontage. The building is three storey and the proposed flue would terminate at a high level. No specific details of the flue have been submitted but the Design and Access Statement states that the flue could be painted to ensure it is not prominent in the street scene. It is considered the location and the painting of the flue would be acceptable in this instance, subject details of the colour and anti-vibration mounts being provided.

### **Impact on neighbouring amenities**

There are residential flats above the parade of shop and residential properties adjacent and on the opposite side of the road. Environmental Health have advised that the solid concrete floor separating the ground floor take-away use and the first floor flat would be a suitable barrier to prevent the transmission of noise from the take-away to the flat above.

The occupiers of number 10 Selman's Hill have objected to the proposal on the grounds of nuisance from youths loitering and noise disturbance. The proposed take-away unit is 20m away from number 10 Selman's Hill with four existing shops and a service road and parking separating the proposed take-away and number 10 Selman's Hill. The proposal would not create any significant disturbance over and above the current activity of the shops, in particular the off license which is immediately adjacent number 10 Selman's Hill. There are residential occupiers above the adjoining commercial units; it is considered that the premises opening till 11pm would not impact on the level of amenity for any existing occupiers.

No specific details of the flue have been submitted but in the Design and Access Statement it states that the flue extraction system would include an odour neutralisation system which would assist in removing any odours from the cooking process overcoming any potential smell problems. Objectors have raised concerns about noise coming from the extraction unit; details of the extraction unit can be sought by way of a condition to ensure a silencer is installed in the flue to prevent any noise from the flue. The flue would be seen against the existing building and with colour coding would reduce its visual impact on the locality.

The Police have no objection to the proposal but have requested that CCTV is installed to deter anti-social or criminal activity. CCTV assists with the detection of crime but does not prevent crime; passive surveillance is more effective in crime prevention. In this case, there would be surveillance of the premises from the residential properties on the opposite side of the road and the flats above, as residents to the flats above would have to walk past these premises to the rear entrances of the flats. The Police have also stated that the counter should be high and the till put out of reach of customers, but these are considerations for the proprietor and outside of planning control.

The proposal seeks to provide a refuse area for the bins, it is considered details of this bin store will be required to ensure that it is adequate for the premises and the design is in keeping with the area.

Objectors have raised concerns over litter and vermin. The agent has stated that they are willing to put a litter bin outside the take-away. However, if litter and vermin become an issue then it can be dealt with by Environmental Health. Additional litter bins can be placed on site and this can be achieved by planning condition.

Objectors have raised concerns over the Knave of Hearts PH, which is on Lichfield Road and the fact it will be converted into a restaurant. It is set away from the properties on Selman's Hill. The Use Classes Order 2005 allows public houses to convert into restaurant uses without the need for planning permission. A current planning application is also being considered at the former Field service station on Lichfield Road for a Tesco Express with opening hours until 11pm. It is considered that cumulatively, the proposed change of use of 5 Selman's Parade, the Knave of Hearts and the proposed Tesco Express would not impact on the amenity of residential occupiers in terms of noise or disturbance due to the level of vehicular activity in the area.

It is considered that the proposed take-away meets the aims and objectives of Policy S10 in that the proposal would not affect the amenities of the surrounding residential occupiers over and above the level of activity in the area at present. With regards to hours of opening the applicant has sought opening from 5pm till 11pm Mondays to Sundays. It is considered that the proposed hours of use would be acceptable in this location.

### **Car parking**

The parade of shops has a communal car parking area, which accommodates 6 car parking spaces. All six spaces would be available when the premises would be open as the other two premises in the parade would be closed at this time. Any customer visiting the premises would remain at the site for a short period of time whilst ordering and collecting their meals, this would enable spaces to be available at all times. Furthermore, the site is within walking distance from the residential properties on Selman's Hill and Lichfield Road.

Objectors have raised concerns that the proposal would result in increased traffic movements; but there is no evidence to suggest that this would be the case. With regards to the objections made about vehicular drives being blocked by the public collecting their children from school, this is not relevant, as the school would be closed during the evening.

### **Summary of Reasons for Granting Planning Permission**

The proposal is acceptable in principle as it meets the aims of Policy S6 in providing for a local need and bringing investment into the local economy.

The proposal would not impact on the amenity of the occupiers of the flat above as a concrete floor is in place that mitigates against any noise disturbance. The positioning of

the flue towards the rear of the premises would ensure the flue is not prominent and the details of the flue including external finish can be agreed by condition.

Objectors concerns about existing take-aways nearby and the Knave of Hearts PH being converted to a hot food take-away and that take-aways should be on the High Street have been considered. Policy S6 of the UDP encourages development that meets a local need outside the district and local centre. The premises are vacant and the proposal would bring investment to the area. There are no UDP policies that restrict the number of hot food take-aways in a location.

Objectors living nearby want the area to remain quiet without noise and disturbance late at night due to people congregating as they have had to tolerate loud behaviour before. However there is a significant separation distance that would protect the amenity of these residents. The take-away would be the end unit away from number 10 Selman's Hill, any customers visiting the premises would be on site for a short period of time whilst ordering or collecting their take-away. Furthermore the application site is set back within the site with a car parking area to the front of the premises which acts as a buffer between the main road and the properties on the opposite side of the road. Any noise from customers visiting the premises would be indiscernable.

Concerns about noise and disturbance from the Knave of Hearts PH have also been raised. This pub is situated on Lichfield Road and any noise and disturbance from it should be dealt with through Environmental Health. Similarly concerns over potential litter and vermin problems should be dealt with through Environmental Health.

Objectors have raised concerns over smells and noise from the extractor fan. The agent has specified that an odour neutraliser would be installed in the extraction unit to prevent smells being a problem in the area. A planning condition has been included to ensure a silencer is also installed in the extraction unit to prevent any potential noise pollution.

Objectors have raised concerns over increase in traffic and people blocking neighbours drives. There is a car park to the front of the premises to serve the shops and any customers visiting the premises would be on site for a short period of time whilst they order or collect their take-away and the premises would be open when the school would be closed. There is no evidence to suggest that the change of use from a retail premises to a take-away would result in a significant increase in traffic to warrant refusal of the application in this instance.

### **Recommendation: Grant Subject to conditions**

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

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



2) The development shall be carried out in accordance with drawing numbers GTDZ0AJW01-01, GTDZ0AJW01-02, GTDZ0AJW01-03 and GTDZ0AJW01-04 and the amended location plan submitted on 3 March 2010.

Reason: To define the permission

3) No development shall commence until details of a method to prevent grease entering the drainage system have been submitted to and approved in writing by the Local Planning Authority. The premises shall not be open for business until this approval has been given and approved details have been fully implemented. The approved equipment shall thereafter be retained and maintained in accordance with the manufacturer's or installer's requirement.

Reason: To prevent grease entering into the drainage system in the interests of the free flow, capacity and the prevention of pollution of the system.

4) No development shall commence until full details of the siting, design (the ventilation duct should extend one metre above the top of the building eaves), appearance – including external finish including colour (ventilation duct should be painted with a weather proof material intended not to peel or flake from the galvanised substrate), vibration and noise mitigation measures, odour control of the ventilation extraction duct and details of the anti-vibrational mounts to be used to install the flue have been submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be implemented and shall remain and be maintained thereafter.

Reason; To safeguard the amenities of the occupiers of the adjoining premises and of the wider area to ensure the satisfactory functioning of the development.

5) No development shall commence on site until a plan has been submitted showing the provision of litter bins within the parade of shops and outside the proposed take-away has been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details.

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

6) No development shall commence on site until design details of the proposed bin store have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved bin store details and retained and maintained at all times.

Reason: In the visual amenities of the area



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010

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

**Application Number:** 10/0077/FL

**Application Type:** Full application

**Applicant:** Mr J Singh

**Proposal:** Change of use of storage building to taxi base, with 3 taxis operating from garage site.

**Ward:** Short Heath

**Recommendation Summary:** Grant Subject to conditions

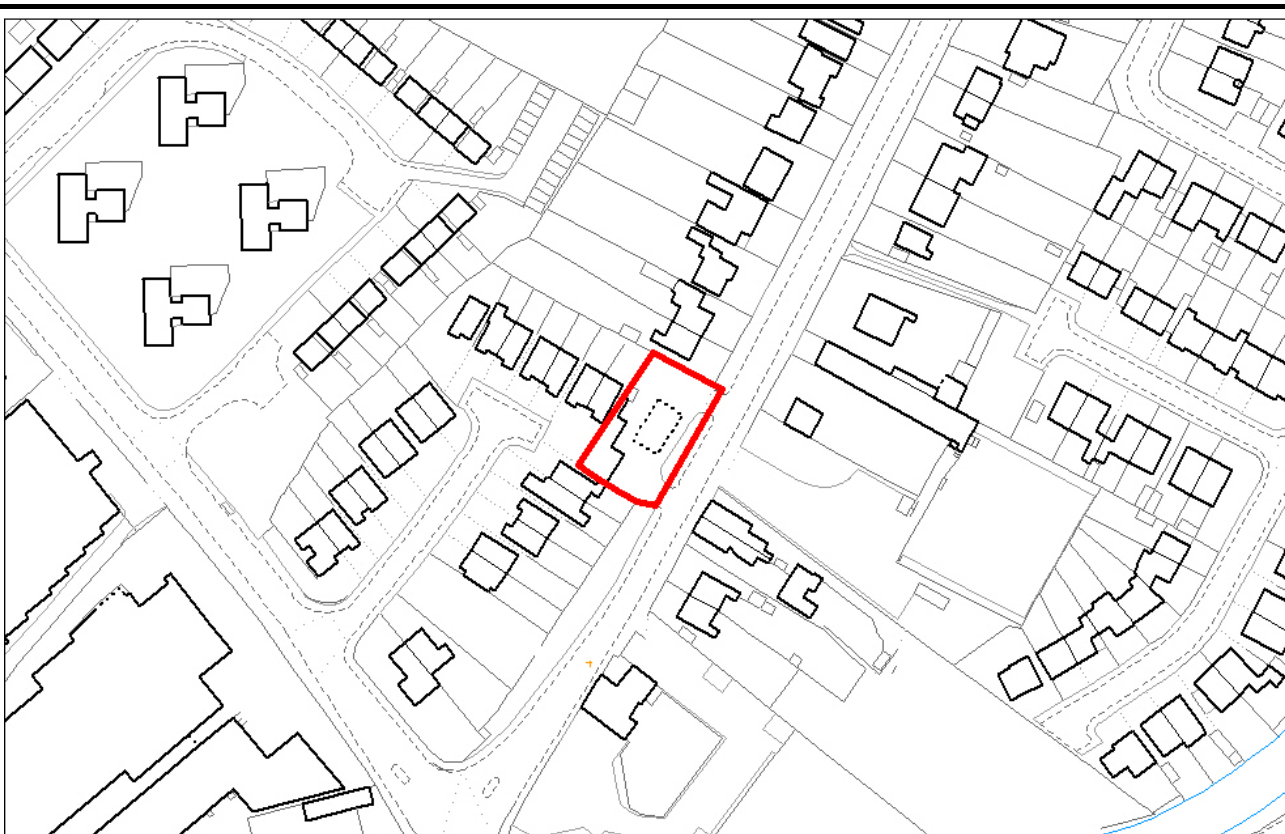
**Case Officer:** Andrew Thompson

**Telephone Number:** 01922 652403

**Agent:** Mr J Jhand

**Location:** 15 BLOXWICH ROAD  
NORTH, SHORT  
HEATH, WILLENHALL, WV125PG

**Expired:** 22/03/2010



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### **Application and Site Details**

This application relates to the change of use of an existing single storey store building at the Bloxwich Road North Petrol Filling Station into a taxi base and to provide alterations to allow for on-site parking on the site.

The applicant has stated in their supporting letter that the petrol filling operations will cease should planning permission be granted and are willing to accept restrictions in the operation of the site to 21.00 hours 7 days a week.

The site is a long standing Petrol Filling Station on the western boundary of Bloxwich Road North with other uses including Short Heath Liberal Club, the United Kingdom and Bridge Tavern Public Houses and Arrow Industrial Estate all near the site. To the south is also a signalised junction with Straight Road.

### **Relevant Planning History**

The application site has a long planning history relating to a Petrol Filling Station, MOT and car repairs (dating to the 1960s). The application site however, has had no recent planning applications relating to the use of the site.

### **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

### **Unitary Development Plan (UDP)**

GP1: Supports the sustainable location of development.

2.2, 3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

3.16: The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

JP8 – seeks to control bad neighbour uses

S7 – considers retail development outside or on the edge of town centres

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

ENV14: The Council will encourage the reclamation and development of derelict and previously developed land.

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

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

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

7.1: Seeks to promote an efficient highway network;

T7: All development should satisfy the car parking standards set out in Policy T13. All parking provision should be well designed and sensitively integrated into the townscape or

landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment.

T13: sets maximum car parking standards, account should be taken of the location of development in relation to local facilities and public transport and unless demonstrated.

### **Regional Spatial Strategy for the West Midlands (RSS 11)**

The Regional Spatial Strategy has been revised and republished on 15<sup>th</sup> January 2008 to reflect the first Phase of Review. The Strategy seeks to provide broad regional directives and recognises the role of the regeneration of the Black Country to the overall performance of the West Midlands Region. The next phases of review are underway.

The focus for the Black Country policies are to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

Overall the strategy promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

Relevant policies include:

Policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas.

Policies QE1 and QE2 seek to improve the quality of the built environment. Policies CC1, EN1, EN2 seeks to conserve energy and address climate change.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

There is no need for this application to be considered under the Conformity Protocol.

### **National Policy**

Planning Policy Statement (PPS) 1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted."

Paragraphs 33 to 39 also state the importance of good design. Supplementary document published on the need to address climate change through the planning system.

PPS4: A wide reaching document that seeks to promote and deliver sustainable economic development.

PPG13 on transportation seeks to minimise the use of the car by the sustainable location of development.

### **Consultations**

**Transportation – No objection**

**Pollution Control**  
**Scientific Team – No objection**

**Contaminated Land – No objection**

**Environmental Health –** No objection but taking into account its location, have concerns regarding noise and potential light nuisance to nearby residential premises mainly from the use of the base in the early hours. Although within the accompanying letter they offer some mitigation to control the noise, there will be need at some point during the night for persons which could be members of the public awaiting a taxi or the taxi driver themselves to come back to the office/base. The noise that would mainly be of concern is the taxi office/vehicle radio's, the car noise of taxi's leaving and arriving and if the taxi's are left running whilst waiting, and noise from people both visiting public and persons working at the base.

A restriction of the operating hours may reduce the impact on the residents from noise as discussed above. Furthermore there may need to be further conditions added regarding light pollution to local residents, as no consideration has been made for this in the submitted documents especially if the premises has flood light style lighting.

**Public Participation Responses**

A petition of 57 signatures has been submitted in support of the application. The supporters express the view that there is a local need for such a facility.

A petition of 42 signatures has been submitted against the application (with a covering letter of support from Councillor Shires). There have also been 7 letters of objection received. The objectors raise the following comments to the application:

- Won't implement the use properly
- Increased noise from the existing premises
- Concerns about late night disturbance
- Do not believe that use will cease at 9pm, other taxi operators continue until 1am
- Over-intensification of the use of the site.
- There are parking problems in the area
- Create anti-social behaviour on the site and customers of the proposed use
- Late night disturbance and activity
- There are more appropriate locations for such a facility.

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

**Determining Issues**

- The principle of the use
- Noise and disturbance to neighbouring residents
- Parking and highway safety
- Anti-social behaviour associated with the use

**Observations**

**The principle of the use**

Commercial use of the application site has been established for a significant length of time (the petrol filling station being first approved in 1966). The site is commercial in



nature, although the area itself is mixed in character with residential uses mixed with the Short Heath Liberal Club, the United Kingdom and Bridge Tavern Public Houses and Arrow Industrial Estate all near the site.

The site is neighboured by residential properties, with Stourmore Close to the side and rear of the existing buildings.

The site has an established and unrestricted commercial use. Therefore the change of use for a taxi base, particularly with the petrol filling use ceasing as a result would potentially have a beneficial impact in terms of the use of the site. Officers note that objectors have raised the issue of implementation, in terms of the use of the site and hours of operation, and the lack of control over the site, it is the view of officers that this can be adequately enforced through planning conditions and Environmental Health legislation.

The closure of the petrol filling use would also mean that retail sales from the site will also cease. Therefore it is considered that the proposals, in principle, are considered to be acceptable.

### **Noise and disturbance to neighbouring residents**

Concerns of residents are noted and careful consideration has been given to the impact of persons using the site and comings and goings from the site. It is noted that the proposals are for a taxi base and not for collection from the premises. It is therefore considered that the use be restricted in this regard to prevent problems of anti-social behaviour and congregation and associated noise.

Taking into account the existing use, as a material consideration, it is not considered that there would be sustainable grounds for refusal based on noise and disturbance. The presence of the building blocks a large proportion of the noise and disturbance from the site onto neighbouring and nearby residents.

The comments of Environmental Health Officers are also noted and it is agreed that the proposed use should be restricted to operating hours up to 9pm. Condition 4 relates to this allowing for the site to be used between the hours of 07.00 and 21.00 during the week and on Saturdays and from 09.00 to 21.00 on Sundays allowing reduced operation in the early morning to the benefit of neighbouring residents' amenity. Other conditions relating to external lighting, requested by Environmental Health Officers in order to prevent floodlighting and external lights being installed on the site, are also attached.

As such, having regard to the existing use of the site, the relationship to neighbouring residents, the character of the area and the proposals presented, it is considered that the proposed use would be acceptable subject to safeguarding conditions.

### **Parking and highway safety**

The application site, being a petrol filling station benefits from a parking and forecourt area that can be used for overspill car parking. The highway does not have any parking restrictions outside the site, although there are double yellow lines to the south of the site.



It is noted that Transportation Officers raise no objection and that parking could be easily made available for taxi uses. As such, it is considered that parking requirements for the site could be accommodated on the site without causing detriment to highway safety.

### **Anti-social behaviour associated with the use**

The objectors have raised the comment that there has been anti-social behaviour from the current operations at the application site and that these may continue or be exacerbated by the proposed use. Officers note that there is no action that can be undertaken, in planning terms at least, in relation to existing and lawful users of the site.

Whilst these concerns are noted and carefully considered, Officers have included a number of conditions related to the proposed use which will result in potential conflict and users on the site potentially being reduced and reducing the opportunity for congregation at the site. It is noted that the Social Club and public houses have large public car parks and as such customers from this facility could be collected from this area rather than crossing the road to the petrol filling station. As such, it is considered that with the conditions suggested, the opportunity for anti-social behaviour is adequately mediated and that it would not be reasonable to refuse planning permission on these grounds.

### **Summary of Reasons for Granting Planning Permission**

The application site is located in an area that is mixed in character with the proposals seeking to replace the existing petrol filling station with a taxi base use. It is noted that the proposals would result in the closure of the existing petrol filling station activities.

The principal issues include the lack of parking, highway safety, noise and disturbance to neighbouring and nearby residential occupiers and anti-social behaviour at the application site.

Having considered the existing use of the site, the relationship of buildings and the opportunity to add safeguarding conditions, as well as the comments of local residents, Councillor Shires, Environmental Health Officers and Transportation Officers, it is considered that the proposals would, on balance, not cause material harm to the amenities of residents or to highway safety that would justify a refusal in this regard.

As such, having carefully considered all material considerations, consultation and public participation responses it is considered that the proposals are in accordance with Policies GP2, GP4, ENV10, ENV14, ENV32, ENV33, S7, T7 and T13 of Walsall Unitary Development Plan and, on balance, is acceptable.

### **Recommendation: Grant Subject to conditions**

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

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

2. Within one month of the taxi use, hereby approved, coming into use, the petrol filling sales and any associated retail sales shall cease. No further retail sales shall take place from the application site.

*Reason:* The site is located outside a designated centre and as such is not appropriate for retail use; in order to prevent an over-intensification of the site; and to ensure satisfactory functioning of the development.

3. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking, re-enacting or modifying that Order) the approved use shall be for a taxi-base only and shall not be used for the collection or delivery of persons to or from the application site.

*Reason:* In order to safeguard the amenities of neighbouring residents and to prevent the congregation of persons at the application site.

4. The use shall not take place other than between the hours of:  
0700 – 2100 on Mondays – Saturdays  
0900 - 2100 on Sundays

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

5. Unless otherwise agreed in writing by the Local Planning Authority no external lighting shall be installed on the site.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises and in the interests of highway safety.

6. Unless otherwise agreed in writing by the Local Planning Authority, before this development is brought into use, the accessways, vehicle parking and manoeuvring areas shall be either

A) surfaced in a porous or permeable hardwearing material or

B) provision shall be made to direct run-off water from an impermeable hard surface, to a permeable or porous area within the site.

Details of the proposed design and drainage provision, including information on the sub soil type and sustainable drainage methods (e.g. rainwater harvesting), shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development. The areas shall thereafter be retained and used for no other purpose.

*Reason:* In order to ensure sustainable high quality development and reduce the impact of development on natural resources

#### NOTE FOR APPLICANT:

A) In relation to Condition 4 of this permission it is the opinion of the Local Planning Authority, on the basis of the information presently available, that any extension to the operating hours, particularly into the evening would be likely to cause detriment to the

amenities of neighbouring residential occupiers, and as a result, any application to extend the hours of operation may be resisted.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010

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

**Application Number:** 08/1938/FL

**Application Type:** Full application

**Applicant:** Mr S. Wanti

**Proposal:** First floor front extension, single storey front and side extension and rear single and two storey extension.

**Ward:** St. Matthews

**Recommendation Summary:** Refuse

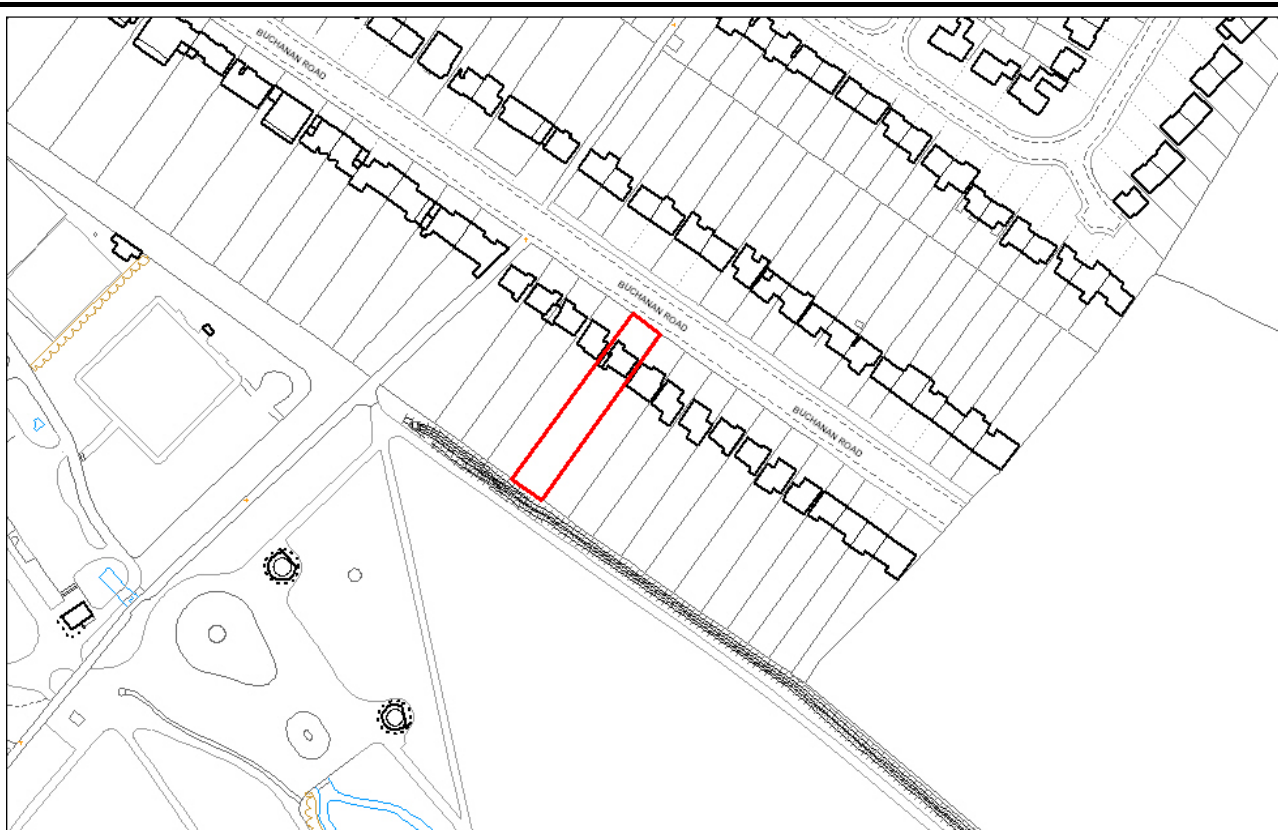
**Case Officer:** Helen Smith

**Telephone Number:** 01922 652486

**Agent:** Mr H Ghumra

**Location:** 58 BUCHANAN ROAD, WALSALL, WS4 2EN

**Expired:** 02/03/2009



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## **Application and Site Details**

This application is for additions to a previously extended traditional detached house to enlarge the rooms on the ground and first floor. The total number of bedrooms is to stay unchanged at four. The house originally had a two storey front bay next to the adjoining house number 60, and a garage on the opposite side next to house number 56 with a flat roof. The front section of the main roof sloped down to the top of the ground floor in the gap between the side of the garage and the two storey bay.

Following the approval of a planning permission in 2001 a first floor extension was added above the garage with a porch built between the garage and the two storey bay and a two storey rear extension next to 56. A conservatory was also added to the rear of the house.

This planning application was submitted in 2008 and since this date there have been a series of plans submitted which have containing errors and discrepancies. The applicant has subsequently changed their agent and made changes to the original proposal. Neighbours have been re-notified of the amended plans.

This current application seeks to extend the garage forward by 0.4 metres and change the existing use to a dining room. The garage door has been replaced by semi-glazed doors although this has not been shown on the latest amended plans. The existing porch will be rebuilt to the same dimensions. The gap between the side of the garage and the boundary with number 56 has already been infilled with a single storey side extension. The area above the sloping roof on the front elevation between the garage and the two storey bay is to be infilled at first floor level. This proposal is to have a hipped roof which rises to a proposed flat roof area above the existing house.

To the rear both the ground and first floor is to be extended and the walls for the ground floor section have already been partly built. The ground floor has been extended 4.2 metres across the full width of the rear elevation and the conservatory has been demolished. A pitched roof is to be added which will be between 2.5 and 3.7 metres high. The proposed first floor rear extension is to extend 3 metres, across the full width of the house. This part of the extension was changed (since the original submission) to remove the ground floor section next to number 56 and then amended to include it again.

House number 56 has a similar two storey bay to the front, but positioned away from the boundary, that projects a metre forward of the existing garage at the application house. The main entrance door to 56 with a bedroom window above lie in a recess set back 3.7 metres in the gap between the side of the bay and the boundary with the application property. To the rear, the original rear two storey part of the application house is in line with 56. The ground floor to the rear of the existing garage and extension at the application property currently projects 1.6 metres beyond the rear of number 56. Number 56 has ground and first floor habitable windows next to the application house.

Number 60 also has a two storey bay to the front that lies next to the boundary with the application house. The rear elevation of the first floor part of number 60 is in line with the existing rear of the application house, whilst 60 has a single storey rear extension next to the boundary that projects 2 metres with rear facing habitable room windows. Number 60 has a first floor rear bedroom window close to the application house.

The rear elevation of the application house faces Walsall Arboretum.

### **Relevant Planning History**

BC63949P – First floor side and rear extension – granted permission subject to conditions on 17 September 2001.

10/0009/FL – Single storey summerhouse – decision pending but construction had already started and has now stopped pending determination.

### **Relevant Planning Policy Summary**

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

#### **GP2: Environmental Protection**

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

#### **ENV23: Nature Conservation and New Development.**

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

#### **ENV32: Design and Development Proposals.**

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

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

1. The appearance of the proposed development
2. The height, proportion, scale, and mass of proposed buildings/structures.
3. The materials proposed for buildings, external spaces and means of enclosure.
4. The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
5. The effect on the local character of the area.

#### **H10: Layout, Design and Dwelling Mix.**

(a) The Council will expect the design of residential developments, including residential extensions, to:-



I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Documents relating to residential design.

#### **T7 – Car Parking**

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

#### **T13: Parking Provision**

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

### **Supplementary Planning Documents**

#### **Designing Walsall**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character. Appendix E includes;

1. 24 metre separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front.
2. 45 degree code : particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk))

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

Provides guidance on development which may adversely affect trees, important species and habitats.

#### **National Policies**

##### **PLANNING POLICY STATEMENT 1**

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

#### **Consultation Replies**

#### **Pollution Control – No specific contaminated land requirements**

**Environmental Regeneration - Natural Environment** - objects on the grounds that the application is not supported by a bat survey. There is a high likelihood of bats being present as the application site is immediately adjacent to the Arboretum where several species of bats have been recorded. A mature line of trees occur along the rear boundaries of the houses in Buchanan Road which provide a sheltered route from the house into the wider Arboretum. Other foraging routes exist along the lines of rear gardens. The application proposes a substantial rear extension which would involve extensive works to the existing roof. This work would be on the south side of the building where there is the highest risk of bats being present. Therefore there is a high risk of disturbance or destruction to any bat roots present.

### **Public Participation Responses**

Representations have been received from and on behalf of an immediate neighbour, neighbours that are not immediately adjoining and a resident living opposite the application property. Overall, they comment as follows:-

- the house has already been extensively enlarged and will have an overbearing impact on number 60
- residents are already subjected to the nuisance of cars and commercial vehicles parked in the road and blocking residents driveways. This proposal will potentially increase the number of vehicles in the road
- this proposal will result in a loss of daylight to neighbours to both sides and those further away by impinging on their right to light
- concerned that the new building line to the south will create a precedent and houses will appear terraced which will be out of keeping with the rest of the road
- no access for the occupiers of the application house to their rear garden and no access via the rear garden of number 60 will be permitted
- the rear extension breaches the 45 degree code in relation to the first floor rear bedroom window at number 60
- the partly built rear extension is inconsistent with the resubmitted plans by exceeding the stated boundary by 0.7 metres
- concerns about an external wall being built above a communal drain
- building works commenced prior to planning permission being obtained
- contradictions in the amended plans cause grave concerns regarding further changes and the final building design.

### **Determining Issues**

- Bats
- Design of Extension and Impact on Character of Area
- Impact on Amenity of Nearby Residents
- Parking.

### **Observations**

#### **Bats**

The lack of a suitable study of bats is justification for the refusal of the application.

## **Design of Extension and Impact on Character of Area**

The proposed garage extension will infill below the existing canopy and the porch will be rebuilt as existing. Both these additions will retain the existing roof shape and will have little impact on the appearance of the house. The ground floor front side extension in the recess to the side of the garage has already been built and is in keeping with the existing house. This part could be constructed under the revised 2008 permitted development allowances without the submission of a planning application.

The proposed first floor front extension will result in the loss of the sloping roof above the ground floor (although the latest amended plans are misleading). This is a feature of the original house and several others in the street. However the extension will be set back from the existing first floor extension and the original two storey bay so it will appear subservient to the existing house. The first floor extensions to both the front and rear are to have hipped roofs in keeping with the existing house.

The extensions to the front and rear will be joined by a new large flat roof area across the original house. Whilst the existing roof height of the property would remain unchanged a first floor flat roof would represent poor design. However as this will not be visible from the street it would be unreasonable to refuse on this basis.

The other proposed extensions are to the rear and they, and the single storey side extension will not result in the appearance of terracing or otherwise adversely impact on the street scene. Appearance is not seen as a refusal reason.

## **Impact on Amenity of Nearby Residents**

The first floor front extension and front porch will lie in the centre of the front elevation away from the boundaries with the houses to either side. The garage extension will lie below the existing canopy and the ground floor extension lies against the side of the existing two storey elevation when viewed from number 56. The front elevation of the application and the neighbouring houses face north-east and as these proposals are to the front of the application house will lie within the shadow of the existing house it is considered they will have an acceptable impact on the daylight received by the occupiers of the houses to either side.

The ground floor rear extension which has already been partly built projects 4.2 metres from the original rear elevation as per the submitted amended plans of 1 February 2010. This part of the proposal will only extend 2.2 metres further than the existing habitable room windows in the single storey extension at 60 and would therefore comply with policy. The first floor extension would project 3 metres further than the original rear elevation of 60 but as the rear elevation of the application house and the neighbouring houses face south-west it is considered that this proposal will have an acceptable level of impact on the rear first floor bedroom window at 60. The proposed first floor extension will comply with the 45 degree code in relation to the rear first floor bedroom window in 60.

The part-built proposed ground floor extension also lies along the rear garden boundary with 56. This proposal when added to the existing rear extension will project 4.2 metres further than the original rear elevation of 56. Whilst the rear of number 56 faces south-east it is considered that this part of the proposal will have an overbearing impact and loss of outlook on the rear ground floor habitable room window of 56. This part of the extension

also breaches the 45 degree code in relation to the same window in 56 and is one of the reasons for refusal.

The proposed rear first floor extension will project 3 metres further than the first floor bedroom at number 56 when added to the existing two storey rear extension next to 56. The orientation of number 56 in relation to 58 will result in some loss of light but it is considered that this proposal will not significantly worsen the existing situation. This part of the proposed extension will comply with the 45 degree code in relation to the first floor rear bedroom window in 56. The rear of the proposed extension will not face any habitable room windows.

The comments from neighbours at 52 and 54 Buchanan Road about a loss of light to their properties cannot be sustained as these properties lie 22.5 and 12 metres, respectively, away from the boundary with the application house and are not reasons for refusal. Appropriate extensions to properties in suitable locations can be supported where they comply with policy.

Pedestrian access to the rear of number 58 was removed by the previous 2001 extension and the occupier of 60 has advised that an informal arrangement existed with the previous owners of the application house to share the access serving 60. This matter would be a private legal matter rather than a planning matter.

Construction work has started prior to the determination of this planning application which was submitted in December 2008. The delay in determination of this application is the result of a succession of inaccurate drawings and changes which have prevented the accurate assessment of this proposal. Building works ceased following our advice of November 2009 and is not a reason for refusal.

The projection of the part built rear extension has been measured on site and matches the latest set of amended plans. Issues raised concerning a shared drain will be a Building Regulation consideration rather than a planning matter. Rights to light refer to civil matters between neighbours and are independent of the planning process.

There are still remaining errors on the amended drawing which cause uncertainty regarding the front first floor roof design and this is a reason for refusal.

## **Parking**

The total number of bedrooms will remain four but this proposal will result in the loss of the existing garage parking space. The provision of three parking spaces each measuring 2.4 by 4.8 metres are required by policy to serve a house with four bedrooms. The existing frontage has adequate space to provide the replacement parking space lost by the garage conversion. The neighbouring residents have all commented about existing parking problems at the application house but the applicants are only required to provide three spaces to serve this proposal.

### **Recommendation: Refuse**

1. The proposed single storey extension would have an overbearing and unacceptable impact on the rear ground floor habitable room window at 56 Buchanan Road, because of its length, when added to the existing rear extension, and its position in relation to this property. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document, Designing Walsall.
  2. The application has failed to include evidence about the possible presence of bats, which are a protected species, or the impact on their roosts or habitats. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policy ENV23, and the Supplementary Planning Document Conserving Walsall's Natural Environment
  3. The amended plans deposited on 1 February 2010 contains inaccuracies by showing a garage door rather than semi-glazed windows and the proposed front roof slope which appears as a flat roof on the proposed elevation drawing but a pitched roof on the roof plan. It is not possible to fully determine this application with any certainty. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document, Designing Walsall.
-



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010

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

**Application Number:** 09/1439/FL

**Application Type:** Full application

**Applicant:** Mr L. Prasher

**Proposal:** Rear ground and first floor extensions and loft conversion to bedroom including roof converted from hip to gable at rear.

**Ward:** Paddock

**Recommendation Summary:** Refuse

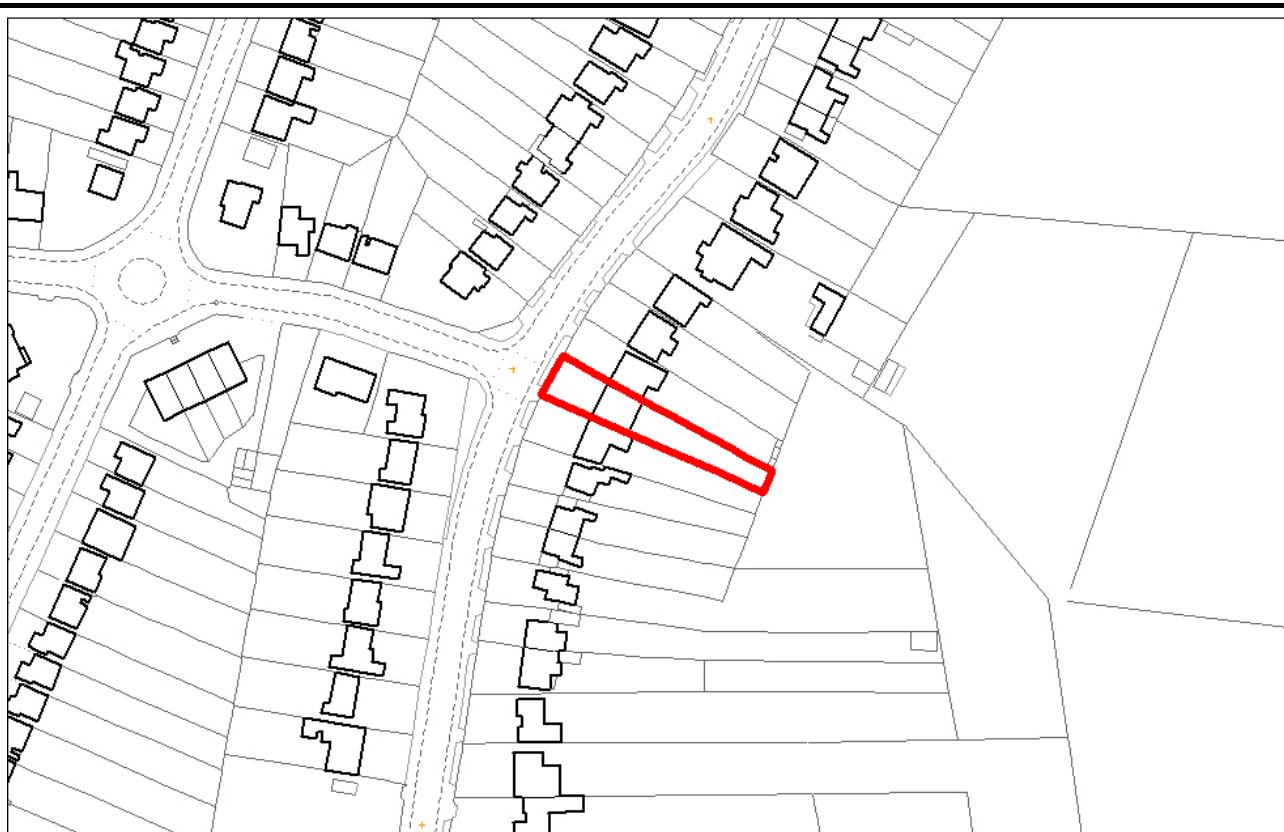
**Case Officer:** Stuart Crossen

**Telephone Number:** 01922 652420

**Agent:** Mr P.S. Virdi

**Location:** 97 SKIP  
LANE, WALSALL, WS5 3LP

**Expired:** 29/03/2010



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## **Application and Site Details**

The character of Skip Lane is defined by large detached houses of various modern and traditional styles. The neighbouring house number 99 is prominent in the street scene due to the very large side dormers with flat roofs, built with permitted development rights, which dominate the property but are out of character with the area. A pitched roof similar to the existing one is proposed. There would be a 1 metre increase in overall roof height.

This application is a resubmission for additions to a detached house, to enlarge the existing kitchen and dining room on the ground floor and one of the bedrooms on the first floor to the rear, and provide a 5<sup>th</sup> bedroom in the roof space. The existing apex roof is to be rebuilt and enlarged to cover a previous first floor flat roof extension to the side with a side gable projection.

The kitchen is to project 3.6 metres along the boundary with the adjoining house number 95 and is to replace an existing verandah that projects 700mm further. The extension will project approximately 500mm beyond the end of the adjoining ground floor projection at number 95. Number 95 has a two-storey flat roof extension along the boundary with number 97 which is defined by 1.8m fencing.

The dining room extension and bedroom above would project 2.7 metres along the boundary with the adjoining house number 99, which is defined by 1.8 metre fencing, and would project approximately 0.7 metres beyond the rear of the two-storey part of number 99. The roof would be hipped and be 1.5 metres lower than the main roof. None of the extensions would have side elevation windows.

The rear garden is over 60 metres long and has established planting.

The frontage of the property is hard surfaced and can accommodate 3 cars.

## **Relevant Planning History**

02/0952/FL/H2. Extensions to roof to create 2 bedrooms and bathroom in roof space. Refused August 2002 on the grounds of the impact on the character of the property and surrounding area.

03/2401/FL/H4. Retrospective open verandah to rear. Refused January 2004 on the grounds of the impact on number 99, but allowed on appeal.

06/1268/FL/H4. Ground Floor and Two-Storey Rear Extension, and Enlarged Roof with Rooms in Roofspace Granted subject to conditions September 2006.

09/0637/FL. Ground Floor and First Floor Extensions to Rear, Roof Extensions to Front, Sides and Rear. Refused July 2009

## **Relevant Planning Policy Summary**

***(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website: [www.walsall.gov.uk](http://www.walsall.gov.uk))***

## Unitary Development Plan Policies

### GP2: Environmental Protection

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

### ENV32: Design and Development Proposals.

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

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

- The appearance of the proposed development.
- The height, proportion, scale, and mass of proposed buildings / structures.
- The materials proposed for buildings, external spaces and means of enclosure.
- The integration and co-ordination of buildings and external space.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.
- The integration of existing natural and built features of value.
- The maintenance requirements of the development.

### H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Documents relating to residential design.

### T7 – Car Parking

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

### T13: Parking Provision

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

## **Supplementary Planning Document**

### **Designing Walsall**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

### **National Policies**

#### **PLANNING POLICY STATEMENT 1**

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

### **Consultations**

None.

### **Public Participation Response**

A collective response was received from six residents. All objected on the grounds that the roof is too large, would create a terracing effect, give the appearance of a three storey property where there are none and would result in a loss of spaciousness, loss of trees and sky space.

### **Determining Issues**

- Design of Extension and Impact on Character of Area
- Impact on Amenity of Nearby Residents
- Parking.
- Impact on protected species

### **Observations**

#### **Design of Extension and Impact on Character of Area**

The removal of the existing flat roof section would improve the appearance of the application property. The new roof would be 1 metre higher to the ridge than the existing apex, a false pitch is proposed to replace an existing flat roof extension meeting a similar false pitch to the side of number 95. On the other side is a large flat roof dormer extension at number 99. No change is proposed to the eaves height, and the ridge would lie in the centre of the building away from the boundaries to either side.

The objections quote the previous refusal reason as a reason for refusing the current application due to the increase in roof height, "over dominant and incongruous within the

street scene to the detriment of the character of the area". However this refusal reason was specifically in relation to the proposed dormers. Although the roof would be higher, it would be no higher than the roof at number 99 and would be in character with the original house, the proposed false pitch is also considered an improvement.

Objections were raised about the potential terracing effect. However, number 95 is built up to the application house and number 99 is located very close. It is considered that the proposal would not worsen the appearance which already exists.

Objections were raised about the increase in roof height having a detrimental impact on the spaciousness of the area. However the small increase in height and space between the roof apex and neighbouring houses is considered to have little impact on this spaciousness.

### **Impact on Amenity of Nearby Residents**

Number 95 lies to the south and the ground floor part of the extension would only project 400mm beyond the adjoining ground floor part of number 95 and would have little impact on amenity in relation to this property.

Although number 99 lies to the north, the bedroom extension would project less than 1 metre beyond the rear of number 99 and the ground floor extension less than 2.5 metres from the rear elevation of number 99. The extension near to this boundary would comply with the 45 degree code in relation to number 99. The hipped roof shown on the plans would further reduce any impact on the rear of 99.

The owner of number 70 has also objected to the loss of trees and sky space as a result of the proposal. However the application proposes no loss of trees and the small increase in roof height is unlikely to have any significant loss of light or an overbearing impact in respect of this property.

### **Parking**

The UDP parking standards would not require any additional parking to serve the additional bedroom. The front drive has room for at least 5 parking spaces in addition to the existing garage which is to be retained.

### **Impact on protected species**

The council's adopted SPD 'Conserving Walsall's Natural Environment' requires a detailed bat survey to be submitted if certain criteria are met. This application meets four of the criteria.

No information has been submitted. The impact of the proposal on important species and habitants can not be assessed and the proposal is therefore unacceptable.

### **Recommendation: Refuse**

1. The application has failed to include evidence about the possible presence of bats, which are a protected species, or the impact on their roosts or habitats. The application is therefore contrary to Walsall's Unitary Development Plan, in particular policy ENV23, and the Supplementary Planning Document "Conserving Walsall's Natural Environment".

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010

**REASON FOR BRINGING TO COMMITTEE:** Deferred at previous meeting in order  
that officers can negotiate an amended scheme.

**Application Number:** 09/1782/FL

**Application Type:** Full application

**Applicant:** Mrs L Dixon

**Proposal:** Two storey side extension and  
single storey rear extension to dwelling

**Ward:** Streetly

**Recommendation Summary:** Refuse

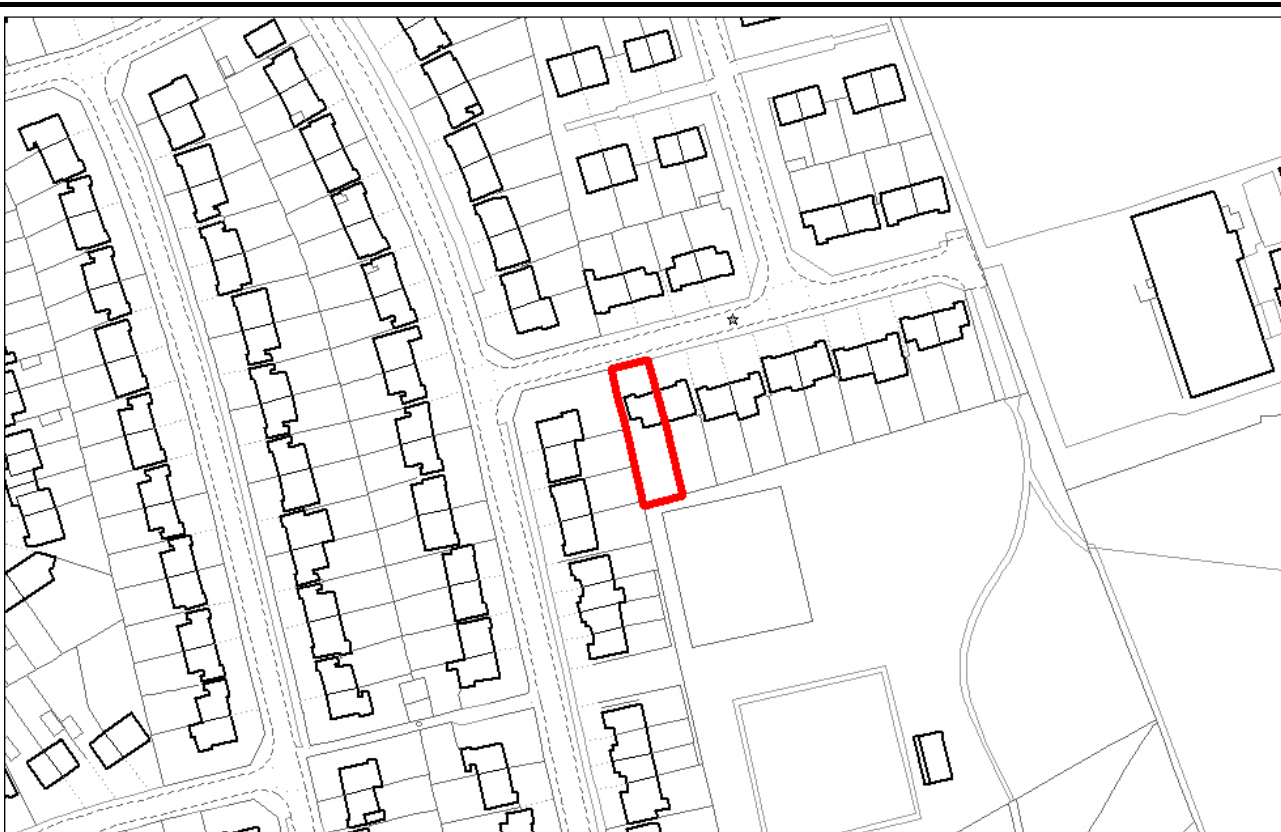
**Case Officer:** Jenny Townsend

**Telephone Number:** 01922 652420

**Agent:** Jesson Sewell & Swadkins

**Location:** 3 CEDAR  
DRIVE, STREETLY, WALSALL, B74 3RJ

**Expired:** 08/03/2010



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## **Status**

At their meeting on the 4 March Committee resolved to defer determination of the application to enable revised proposals to be explored.

Two alternative schemes have been discussed with the applicant's representative.

The first was for the rear part of the extension to be set in approximately 1.3 metres from the boundary with number 1 and the first floor part of the extension to be continued above the proposed ground floor section and project 1.2 metres beyond the existing rear two storey part of the house. The roof section to the wider part would have high eaves at the rear whilst the longer rear section would have a lower gable roof.

The second proposed the side of the rear part of the extension to be set in the same distance (1.3 metres) but the extension would remain in line at the rear with the existing two storey part of the house. This would provide a small room to the rear which would be smaller than the existing box room however it could be used as the family bathroom with the 3<sup>rd</sup> bedroom relocated to the front of the house, where the family bathroom is currently proposed.

A 3-D drawing has been provided which shows the view of the side elevation of the house as seen from the ground floor double doors of the neighbour number 1 Cedar Drive. The applicant's representative thinks that the first scheme would be the most unsightly and have the most visual impact when viewed from number 1 and states that this option would be very costly for the applicant and would result in a poorly designed addition to the house.

He doesn't think that the set-in section on the second scheme results in much of an improvement in the outlook from number 1 and points out that this would be as expensive to build as the original scheme but the design would not be as compatible with the existing house. Also the size of the room at the rear would not really provide the much needed space for the family and even if the bedroom and bathroom were to be 'swapped over', this would be impractical for the two younger children as the bathroom would be furthest away from their bedroom.

Therefore on balance and after very careful consideration of all aspects, the applicant wishes the committee to re-consider the original scheme as, in his opinion, this is the best design which best meets the needs of the family and does not, in his view, significantly worsen the existing outlook from the rear of number 1.

As no amended drawings have been submitted. The impact on the neighbouring property remains the same as previously considered, hence my recommendation remains the same and the report which follows is unchanged.

## **Application and Site Details**

This application is for extensions to the side and rear of a semi detached house which would add a covered passage way and enlarged kitchen at ground floor with 2 new bedrooms above at first floor level.

Internal alterations are proposed so that an en-suite bathroom can be provided to the existing rear bedroom to meet the needs of the applicant's disabled son. A grant has been awarded to assist with this. The new bedrooms are needed as one of the existing bedrooms has to be converted to a bathroom.

The extension would be in line at the front and rear with the existing two storey part of the house and would fill the whole of the area between the side wall of the house and the boundary with numbers 1 Cedar Drive and 53 Hazelwood Road. The extension would follow the angle of the boundary and would be approximately 3.8 metres wide at the front and 4.1 metres wide at the rear. The gable roof would be a continuation of the existing roof.

The single storey part of the extension would project 1.2 metres from the existing rear wall and would be 5.1 metres wide and have a lean-to roof between 2.5 and 3.4 metres high. The side of the extension nearest to the boundary with number 5, the other half of the pair would be set in approximately 3.5 metres from the boundary whilst the other side would be set in approximately 1.3 metres from the side of the proposed first floor extension.

The application house is at the end of the line of houses with the side wall of the house at right angles to the rear of numbers 1 Cedar Drive and 53 Hazelwood Road. Currently the distance between the rear of the single storey part of number 1 (which has double doors serving the kitchen) and the boundary with the application house is approximately 11.5 metres. The first floor windows at number 1 are obscure glazed and serve non habitable rooms.

Numbers 1 and 53 are approximately 0.5 metres higher in level than the application house with the 1.8 metre high fence to the boundary stepped up in level to match this. The windows in the rear of number 53 would face the two storey part of the extension.

Number 5 is in line at the rear with the application house and has a lounge window adjacent the 1.8 metre high boundary fence.

The rear garden of the house backs onto recreational land at the rear and has trees and shrubs on the boundary which are approximately 3 metres high.

### **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)***

#### **PLANNING POLICY STATEMENT 1**

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

## Unitary Development Plan Policies

### GP2: Environmental Protection

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

### Policy ENV22: Protected Species

Development of sites used by species protected by European law and /or British legislation, or a species which is the subject of a national Biodiversity Action Plan, will not be permitted unless it can be demonstrated that the proposed development will not have an adverse impact on local populations of the species.

### ENV23: Nature Conservation and New Development.

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

### ENV32: Design and Development Proposals.

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

### H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

### T7 – Car Parking

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

### T13: Parking Provision

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

## **Supplementary Planning Documents**

### **Designing Walsall**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

13m separation between habitable windows and blank walls exceeding 3m in height.

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

Provides guidance on development which may adversely affect trees, important species and habitats.

### **Consultations**

**Natural Environment, Ecology Officer** – The council's adopted SPD 'Conserving Walsall's Natural Environment' requires a detailed bat survey to be submitted if certain criteria are met. This application meets one and possibly two of the criteria (set out below):

- If any part of the application site lies within 50 metres of open land. This includes parks, golf courses, cemeteries, agricultural land, Green Belt, river valley or other open land.
- If any part of the application site lies within 50 metres of the following habitats or features: woodland, **mature trees**, wetlands, water-courses, canals and all designated wildlife sites.

It is questionable whether the trees to the rear of the application site can be described as 'mature'. However, the line of vegetation to the rear may be used by foraging bats.

- Not all developments meeting the above criteria will necessarily have an adverse impact on bats. Householder applications which result in building works to places where bats may be roosting can be as damaging as much larger developments.

In this case the application involves extension works which would involve works to the existing gable and roof. It is likely that that disturbance or destruction to any bat roosts present could occur if bats were present in the building. A bat survey is required.

### **Public Participation Response**

The occupier of number 4 Cedar Drive has considerable concerns that the proposal would:

- worsen the already chronic traffic and parking problems in the Drive which is very narrow and parents (dropping off and collecting children to the school at the end of

the road) regularly park illegally, half on the pavements and across access driveways;

- the occupiers of number 3 already park half on the pavement opposite his drive causing him problems reversing off his driveway;
- the existing integral garage is not used and the plans include a floor mounted boiler which would reduce the space available inside for parking;
- he has mobility problems which mean his car has to be parked on his own driveway and the parking problems mean that doctors and visitors to his house have to park some distance away;
- these parking problems may one day claim the health or life of a small child;
- a better option maybe to find a house elsewhere which could better meet the space and parking requirements for the family.

### **Determining Issues**

- Design of Extension and Impact on Character of Area
- Impact on Bats
- Impact on Amenity of Nearby Residents
- Parking

### **Observations**

#### **Design of Extension and Impact on Character of Area**

The design of the extension is compatible with the existing house.

The area is characterised by pairs of semi detached houses with gaps between them. There is a flat roofed extension to the side of number 11 but this is the only one on this side of the road. Although the side extension would completely fill the space up to the boundary this would not harm the appearance of the house or the street because the application house lies at the end of the line of houses and the rear garden of 1 Cedar Drive would provide space to the side of the application house, which would be in keeping with the character of the area.

#### **Impact on Bats**

A bat survey has now been submitted.

#### **Comments on Bat Survey from Ecology officer:**

There are no ecological reasons why this application should be refused, subject to the inclusion of conditions to accommodate any protected species which may be present.

#### **Impact on Amenity of Nearby Residents**

The new side gable wall of the extension would measure between 4.6 and 7.5 metres high and would be approximately 11.5 metres from the doors serving the kitchen of number 1 Cedar Drive. This would be 1.5 metres less than the minimum separation distance and would have an over-bearing impact on the kitchen of number 1 which would be detrimental to the amenity of the occupiers of number 1.

The impact of the extension would be worsened because it would lie to the east of the rear of number 1 and would cause shading and loss of light to the rear of number 1 which would be detrimental to the amenity of the occupiers of 1.

The new first floor window proposed at the rear would serve a bedroom and although it would be in line with the existing first floor bedroom windows, it would be closer to the boundary with numbers 1 and 53 Hazelwood Road. However the angle between the houses means that the window would not directly face towards any habitable room windows at these properties and although the window would overlook the rear gardens, this would not significantly worsen the existing situation sufficient to refuse the application for this reason alone.

Amendments to the proposal have been discussed which would involve setting the rear part of the extension in approximately 1 metre from the boundary (so that it would be built above the existing side kitchen wall of the house) and continuing the extension beyond the existing rear wall above part of the proposed single storey section to the rear. This would result in a room whose floor area would be very similar to that which has been proposed however the applicant did not consider that the resulting room at the rear would be large enough and that the extension would look ugly. He wishes the proposal to be determined on the submitted plans.

The side extension would not project beyond the existing house at either the front or rear and would therefore have little impact on number 45, the other half of the pair. The single storey part of the extension would lie over 3 metres from the boundary with 45 and the modest length (1.2 metres) means that there would be little impact on the rear window of number 45 from the proposal.

The existing fence on the boundary with numbers 1 and 53 Hazelwood Road would screen the ground floor part of the extension from the rear of these houses and because there is no windows proposed in the side there would be no overlooking to the rear of these properties from the ground floor part of the extension.

The recreational land at the rear is screened from the rear of the house by the trees and shrubs on the boundary and this would continue to be the case for the single storey part of the extension. The first floor part of the extension would be in line with the existing house and would not worsen the existing situation.

### **Parking**

The proposal would increase the number of bedrooms to 4 which means that 3 off-road parking spaces would be required. The internal dimensions of the existing garage do not meet Council's standards to accommodate a car and the installation of the boiler would further reduce this. However there is space within the front garden to enlarge the existing driveway to provide 3 spaces.

The neighbours concerns regarding the parking problems in the road caused by illegal parking are covered by separate legislation and are not material planning issues that can be taken into account when determining this application.



### **Recommendation: Refuse**

1. The proposal would, because of the height and the lack of separation with the ground floor kitchen doors at number 1 Cedar Drive have an over-bearing impact which would be detrimental to the amenity of the occupiers of number 1. Also the orientation of the application site and the position of the extension and the nearness to the boundary would cause a loss of light to the rear of number 1 which would further erode the amenity of the occupiers of this property. As such the proposal would be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32, H10 and the Supplementary Planning Document Designing Walsall.

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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010

**REASON FOR BRINGING TO COMMITTEE: Significant neighbour objections**

**Application Number:** 10/0172/FL

**Application Type:** Full application

**Applicant:** Mr B Singh-Bal

**Proposal:** Rear two storey extension  
(amendment to 09/1264/FL)

**Ward:** Paddock

**Recommendation Summary:** Grant Subject to conditions

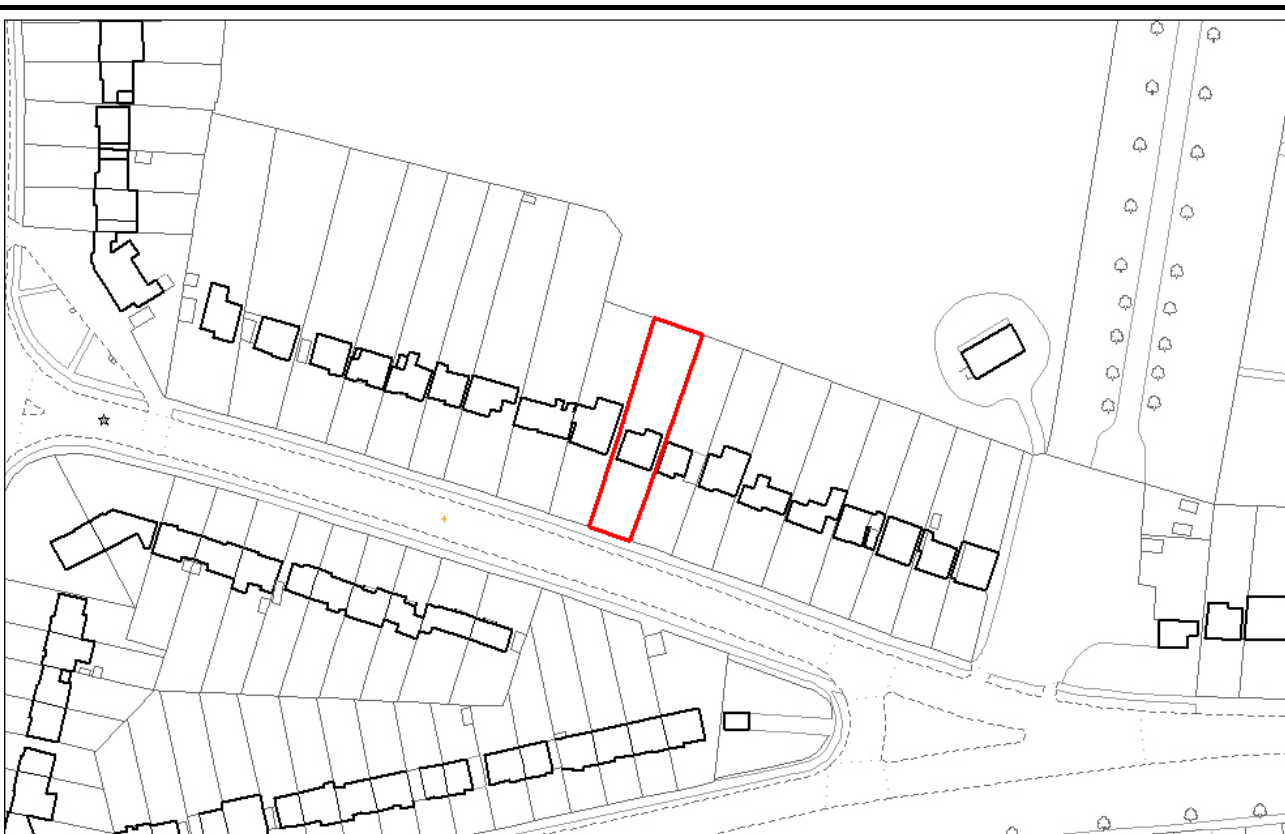
**Case Officer:** Claire Murphy

**Telephone Number:** 01922 652403

**Agent:** MCJ Solutions

**Location:** 161 THE  
CRESCENT, WALSALL, WS1 2DD

**Expired:** 20/04/2010



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The application proposes part two storey and part single storey rear extensions to a large traditionally styled detached house to provide an extended lounge and kitchen on the ground floor and to extend 2 of the existing four bedrooms on the first floor, with the creation of an en-suite within one of the enlarged rooms. Also proposed is a fifth bedroom and en-suite in the roof space with a rear facing dormer.

The application house has a ground floor bay window with a hipped main roof. At ground floor level to the side of the gable is a front garage projection and porch with mono pitched roof. The character of the area is defined by traditionally styled detached houses set back from the road.

The rear extension proposes a stepped two storey rear extension, the deeper part would have a large rear facing gable which would project 5.6 metres from the original rear elevation at two storey level and 6.6 metres at ground floor level extending half the width of the house in line with the existing side elevation adjacent the shared side boundary with number 159. The single storey extension would have a flat roof above at 2.5 metres high. The remaining two storey rear extension would project 3.5 metres from the original rear elevation at first floor level in line with the existing side elevation adjacent the shared side boundary with number 163, with the existing hipped roof above the main house to extend above.

Number 159 has a rear extension which projects approximately 5.5 metres further than the rear elevation of the application house at ground floor level, and 3 metres further back at first floor level. There are no side elevation windows here and the boundary is defined by approximately 1.5 metre fencing. There is a gap to the side of number 159 which is 0.87 metres wide and a gap to the side of the application house measuring 1.67 metres wide.

Number 163 is the neighbouring house to the other side of the application house. There are no extensions to the rear of their property adjacent the shared side boundary with the application house. The boundary here is defined by a 1.8 metre close boarded fence with some planting along the shared boundary. There is a gap to the side of number adjacent the application house measuring 0.77 metres, with a gap to the side of the application house measuring 0.95 metres.

The rear garden is over 25 metres long, beyond which is the Arboretum.

### **Relevant Planning History**

09/1264/FL: Ground floor and first floor front, and rear extension and rear loft conversion. Refused 10<sup>th</sup> November 2009 on the grounds that;

1. The proposed front gable would have a poor relationship with the original design of the house due its size, offset window and garage door, and fails to take into account the context and surroundings of the area. The proposed front extension would, due to the poor visual relationship of the proposal with the original house, have a detrimental impact on the street scene and character of the area;
2. The rear ground floor element of the proposal would have a detrimental impact on neighbouring amenity due to the excessive length near to the boundary with number 161;
3. The application has failed to include evidence about the possible presence of bats, which are a protected species, or the impact on their roosts or habitats.

(That application proposed larger extensions including a two storey extension to the front, and a further single storey extension to the rear, all now removed from this application.)

### **Relevant Policies**

***(note the full text version of the UDP is available from First Stop Shop in the Civic Centre and on the Council's web site)***

### **Unitary Development Plan Policies**

#### **GP2: Environmental Protection**

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

I. Visual appearance.

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

VII. The adequacy of the access, and parking.

#### **ENV23: Nature Conservation and New Development.**

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

#### **ENV32: Design and Development Proposals.**

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

- Areas with a special character arising from the homogeneity of existing development in the neighbourhood.
- In the vicinity of a Listed Building, Building of Local Interest or Registered Parks and Gardens.
- Within or adjacent to Local Nature Reserves, Sites of Special Scientific Interest, Sites of Importance for Nature Conservation, parks, cemeteries or public open spaces.
- Within or adjacent to Green Belt, agricultural or open land.

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

- The appearance of the proposed development.
- The height, proportion, scale, and mass of proposed buildings / structures.
- The materials proposed for buildings, external spaces and means of enclosure.
- The integration and co-ordination of buildings and external space.

- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.
- The integration of existing natural and built features of value.
- The maintenance requirements of the development.

#### H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Documents relating to residential design.

#### T7 – Car Parking

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

#### T13: Parking Provision

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

### **Supplementary Planning Documents**

#### **DESIGNING WALSHALL**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

These include guidelines concerning the length of extensions in relation to nearby residents.

#### **CONSERVING WALSHALL'S NATURAL ENVIRONMENT**

Provides guidance on development which may adversely affect trees, important species and habitats.

### **National Policies**

#### **PLANNING POLICY STATEMENT 1**

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

## **Consultation Replies**

**Regeneration, Natural Environment:** The report submitted with the application was not carried out at a time of the year when bats are likely to be present. However, no evidence of bats was found and the report concludes that while there is a risk that roosting bats may be present, the proposed work will have a limited risk of destroying or disturbing such roosts. It recommends a precautionary approach to building works to reduce the risk to bats in the event they may be present. The report writers propose that the roof tiles and barge boarding to be removed are removed carefully. This is a pragmatic and proportional way of dealing with a relatively low risk that bats may be present. This approach requires great caution and is only applicable where an inconclusive bay survey has been carried out and where there is a relatively low risk that bats are likely to be affected by the proposed development. Conditions are recommended.

## **Public Participation Responses**

There have been 4 objections:-

- Reduction in size of extension is very modest
- Damages visual amenity
- Loss of light
- Rear of houses faces north, aggravating the impact
- Removal of front extension affects no-one
- Bats still need to be considered
- Threatens sale of house
- Construction nuisance
- Loss of privacy / overlooking
- North point on plans is incorrect
- These are big houses – there is no reason to extend them
- Will impact on mains services
- View from Arboretum will be spoiled

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

## **Determining Issues**

- Design of Extension and Impact on Character of Area
- Impact on Amenity of Nearby Residents
- Nature conservation
- Parking

## **Observations**

### **Design of Extension and Impact on Character of Area**

The previous application, reference number 09/1264/FL, proposed a two storey extension to the front of the property, which was considered to have a poor relationship with the original design of the house. It has now been removed from the application overcoming the first refusal reason.



The extensions proposed to the rear of the house would have both hipped and gable roofs above, which reflect the existing roof shapes above the original property and are considered to be in keeping with the existing appearance to the house, and being to the rear would not be clearly visible from the front of the house, or cause any detrimental impact upon the original character of the wider area.

### **Impact on Amenity of Nearby Residents**

Number 159 has a part single part two storey rear extension along the boundary with the application house. The occupiers of 159 have objected on the grounds that the proposal would not allow light into their dining room to the rear, however the proposal would only project approximately 3 metres further at first floor level and less than 2 metres at ground floor level. The proposal is also to the east of this property, the rear of which faces north, and in this instance it is considered that the proposal would not cause any significant detrimental impact on their amenity. The gap between the properties and boundary treatment would further ensure that the proposal would have little impact.

The occupier at number 159 has also objected on the grounds that the proposal would affect the sale of their property. This is not a material planning consideration.

In relation to neighbouring property number 163, the 45 degree assessment done by the applicants is incorrect. However, officers have tested the situation, and are satisfied that the scheme would meet the Council's 45 degree code.

The previous application proposed a further single storey extension to project beyond the rear, which breached the 45 degree code. However, this element has been removed from the current application, and therefore overcomes that reason for refusal.

### **Nature conservation**

The assessment carried out is acceptable, subject to conditions.

### **Summary of Reasons for Granting Planning Permission**

The appearance of the proposal is acceptable and takes account of its surroundings. The position of the extension in relation to the adjoining dwellings means that it will cause little additional overlooking, loss of privacy, or loss of daylight or sunlight to these properties, and it will comply with the numerical guidelines in the SPD. There is space to the front and side of the property to accommodate three vehicles to meet policy requirements. Adequate measures to control the impact of the scheme on a protected species can be achieved through the conditions.

The application is therefore considered to comply with Walsall's Unitary Development Plan, in particular policies GP2, ENV32, H10, and T7 and T13 and the Supplementary Planning Documents "Designing Walsall" and other material planning considerations.

### **Recommendation: Grant Subject to conditions**

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

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

2: The walls and roof of the extension shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise previously agreed in writing by the local planning authority.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 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 as 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 GP2 of Walsall's Unitary Development Plan.

4. Before any development commences, the barge boarding and necessary roof tiles shall be removed by hand in a manner that will allow their reinstatement if bats are found. This work shall be carried out only under the supervision of a suitably qualified ecologist, preferably between October and mid-April. If bats or evidence of bats are found during these operations, the building shall be reinstated and no further destructive works recommenced until a license has been obtained. Within one month of the commencement of the works described in this condition a report by the supervising ecologist shall be submitted in writing for approval by the Local Planning Authority.

*Reason:* To conserve local bat populations.

5. No development shall commence until proposals to incorporate bat roosting features into the proposed building have been approved in writing by the Local Planning Authority. The approved scheme shall be incorporated into the development before any part is brought into use, and shall be retained thereafter.

*Reason:* To conserve local bat populations.



**To: DEVELOPMENT CONTROL  
COMMITTEE**

**Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010**

**REASON FOR BRINGING TO COMMITTEE: Major application and called in by  
Councillor Creaney**

**Application Number:** 10/0073/FL

**Application Type:** Full application

**Applicant:** Mr Narendra Kalon

**Proposal:** Conversion of an existing car  
garage to carpet and furniture showroom  
including new shutters

**Ward:** Willenhall South

**Recommendation Summary:** Refuse

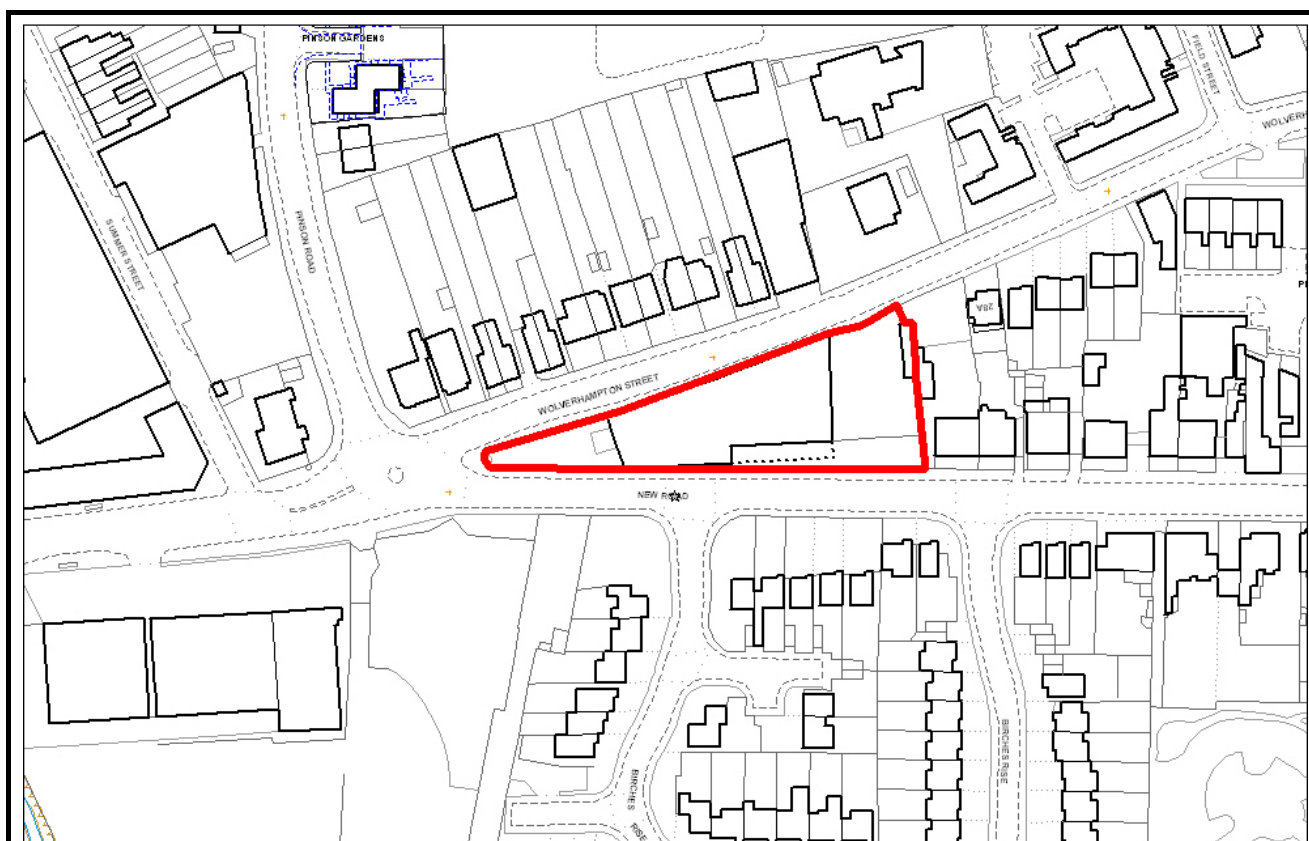
**Case Officer:** Jan Scrivens

**Telephone Number:** 01922 652436

**Agent:**

**Location:** NEW ROAD, WILLENHALL,  
WV13 2AO

**Expired:** 26/04/2010



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## **Application and Site Details**

This application relates to a vacant car showroom/repair garage on the junction of New Road and Wolverhampton Street, Willenhall. The site has three vehicular access points to Wolverhampton Street, two close to the junction with New Road and Pinson Road and one to the east which provides access to a rear yard. This latter also has access to New Road. There are houses opposite the site in Wolverhampton Street and New Road.

The application proposes the conversion of the site into a shop with the addition of roller shutters to the showroom windows on both frontages. The applicant states his intention to sell carpets and furniture. The first floor of the building, which has windows facing both frontages, would be used for offices.

The small triangular car park on the western end of the site, adjacent to the New Road/Pinson Road junction, would be used to provide disabled car parking and motorcycle parking. The yard at the eastern end of the site would provide delivery space and parking for staff and customers. A one way system for deliveries is shown with access from Wolverhampton Street.

The premises would be open 09.00 to 18.00 Mondays to Saturdays and 09.00 to 16.00 on Sundays. Deliveries are loosely stated to be "a.m". Four people are described as existing employees (but as the site is vacant, this must be elsewhere).

A Flood Risk Assessment has been submitted with the application.

The site lies outside Willenhall District Centre. In support of the application the applicant states that there are only two empty properties in Willenhall which might have been suitable for the proposed use which requires the height to store rolls of carpet and sufficient floor area to display the furniture.

The units which he looked at were considered to be too small and deliveries would be impossible, particularly on market days; one of the sites fronts a pedestrian zone and deliveries could not be made without causing highway problems and health and safety problems.

He considers that the proposal would improve the appearance of the site and deter anti social behaviour; it would create employment. He refers to other retail units which are operating outside the district centre and which would find it difficult to provide their services within it.

## **Relevant Planning History**

09/1354/FL Conversion of an existing car garage to carpet showroom/retail including new shutters. Withdrawn 8.2.10.

## **Relevant Planning Policy Summary**

### **Development Plan**

GP1 directs new development to sustainable locations to make the best use of derelict,

vacant and underused urban land.

GP2 and 3.6 expect all development to make a positive contribution to the improvement of the quality of the environment.

ENV32 requires development to take account of its context or surroundings. The appearance of development, the visual relationship of the development with adjacent areas, the street and the character of the surrounding neighbourhood are important considerations, particularly on prominent sites.

ENV35 states that the design of commercial premises should be appropriate to their setting and sympathetic to the building on which they are situated.

S7 States that proposals for the establishment of retailing in out of centre or edge of centre locations will only be permitted where it can be demonstrated that all of the following tests are fulfilled:

- there must be evidence to demonstrate the need for the facility
- the development must be shown to accord with the sequential approach, there being no more centrally located sites, buildings or opportunities which could be used to serve the catchment area of the proposal
- the proposal must not, individually or in combination with other schemes, be likely to have an adverse economic impact upon the vitality and viability of any town, district or local centre
- the proposal must not have an adverse economic impact on existing or planned provision to meet local needs
- the proposal must be accessible by public transport, walking and cycling by all sections of the community
- the proposal should not be designed and located to be reliant primarily on access by the private car
- the proposal must not have an adverse traffic impact on the local highway network
- the proposal must not conflict with policies for the protection of employment land

Where out of centre developments are approved the Council will impose appropriate planning conditions to ensure that such development will not change their character in such a way as to have an adverse impact in terms of the policies of the development plan. The following principles are of relevancy:

- maximum and minimum size of units will be controlled
- sub-division of units will be restricted
- the goods to be sold will be restricted to those which led to the development being justified

T7 and T13 relate to car parking.

### National Policy

PPS4 replaces PPS6. It continues to direct shopping uses to shopping centres, subject to certain tests.

### Consultations

**Transportation:** no objection

**Pollution Control:**

Scientific Team - no objection.

Contaminated Land Team - no objection.

**Environment Agency:** No objection

**Police Architectural Liaison Officer:** No objection. Recommends additional security measures for the premises.

**Planning Policy, Regeneration Strategy:** Object to the development as contrary to policy GP1, S7 and PPS4.

**Representations**

One letter has been received in support of the proposal. The writer considers that it would tidy up an eyesore site.

Two letters, on behalf of six neighbours, have been written objecting to the proposal on the following grounds:

- the building is a complete eyesore and in a dilapidated state. It would take more than roller shutters to make it safe; it should be demolished due to its condition
- the immediate area is heavily trafficked and the additional congestion from this use would not be welcomed
- the previous use caused parking problems with staff and customers parking on Wolverhampton Street for convenience, despite the car parking on site.
- there is little residential parking available for residents who have no parking within their own curtilage. This situation has worsened with the double yellow lines which have been put down in Wolverhampton Street; residents cannot park outside their own homes
- there would be insufficient space for delivery vehicles in Wolverhampton Street which is narrow
- the car park on the western side is very close to a busy roundabout and traffic visiting the site will back up, increasing the risk of accidents which are already frequent. This is a major concern as Wolverhampton Street is a busy through road to Willenhall Centre particularly on market days.
- delivery times are an issue, with deliveries potentially being made early in the morning or late at night
- staff coming in early may cause a disturbance
- outdoor display of goods will devalue the properties opposite
- lights left on all night would be a nuisance to homes opposite
- previously there was little activity from the car showroom; this will have customers and activity seven days a week

Councillor Creaney supports the use, rejecting the argument about shopping policy.

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



## **Determining Issues**

- The principle of the use
- Amenity
- Parking and Access

## **Observations**

### **The principle of the use**

The application site is in an out of centre location and is not allocated for retail development in the Unitary Development Plan, therefore the tests set out in policy S7 and recent government guidance in PPS4 apply.

Policy S7 sets out a number of tests for new out of centre development. The first test is a needs test, which is not compliant with the current policy set out in PPS4. The remaining tests are relevant and broadly in accordance with new national policy.

In terms of the sequential test PPS4 and S7 require a flexible approach to site selection. The applicant states that the sites considered in Willenhall are not suitable because they are too small and there are problems with deliveries in a pedestrianised area and on market days. However, the applicant appears to have considered only two sites and has not considered those flexibly. There is scope for disaggregating the business i.e. a separate carpet shop, furniture shop and warehouse for both has not been considered. Given that the proposal shows an arrangement that is effectively two shops and storage for both this is a possibility which should have been considered. The applicant also considers that the building needs to be of a height to store rolls of carpet vertically. If this is an absolute essential then the Victorian buildings in Willenhall should be able to provide this; however rolls of carpet could be displayed horizontally ( and are surely easier and safer to manoeuvre and store in this way) and the layout on the submitted plan appears to show them in this way.

Other businesses fronting the pedestrianised area in Willenhall appear to operate successfully and on four days a week there is no market.

The application fails to demonstrate that sites on the edge of the district centre have been considered or other sites in or on the edge of other centres. Given the size of the proposal and its potential catchment area sites in Darlaston or Walsall should have been considered.

The application also fails to provide any information about the impact on existing trade or investment in Willenhall District Centre. The Black Country Centre Study 2009 describes Willenhall as a centre in decline with several units that would benefit from refurbishment or redevelopment. Further out of centre development is likely to make this situation worse.

Following the recent replacement of PPS6 by PPS4 local authorities are now required to assess planning applications for economic development against the impact considerations set out in PPS4 policy EC10.2. The application fails to provide details of any additional jobs that would be created by the proposal.

The application premises are in the area covered by the Willenhall Area Action Plan. This document is in draft form so has limited weight but the principles for the area do not include large retail development.

The harm to Willenhall District centre, including future investment in the regeneration of the centre, would outweigh any (unquantified) economic development benefits of the proposal.

The site is surrounded by residential properties and housing offers a clear alternative to the proposed use.

### **Amenity**

One neighbour has written in support of the proposal on the grounds that the site is an eyesore. It is true that the building and the yard area are in poor condition but this could be rectified by maintenance or by a notice served by the Local Planning Authority, or by re-occupation for an acceptable use.

The condition of the premises does not, of itself, warrant granting permission for a development which is otherwise unacceptable. There is also an unauthorised advert hoarding on the front of the building which the application indicates will be removed. Again this could be removed with action by the Local Planning Authority.

The proposed alterations to the premises are not necessarily acceptable. The site is currently boarded up with corrugated sheeting. The application proposes to replace the majority of this with roller shutters. Details of the proposed shutter type have not been provided although the application forms indicate that they are to be galvanised. When the premises are closed this will potentially give much the same or a worse appearance, and with the addition of advertisements on the shutter boxes.

The remainder of the corrugated sheeting would be retained, giving the premises a boarded up appearance.

The proposed alterations to the exterior of the premises would not all be an improvement to the visual amenity of the area.

Neighbours are concerned that there would be an increase in activity at the site from its previous use as a car showroom/ garage, with deliveries occurring at unsocial hours. It is not necessarily the case that the site would be busier, particularly for a carpet/ furniture shop which will rely on fewer, more expensive purchases than for example a newsagents; and in these terms, the type of merchandise could be controlled by condition, if the scheme were to be approved. The opening hours are reasonable and delivery hours could be controlled by condition.

### **Parking and access**

A shop of this size would require 54 car parking spaces to meet Council standards; 20 are proposed, six of which are outside the boundary fence on the New Road frontage of the site. A comparison between this shortfall of 34 spaces and the previous use, which had a shortfall of 27 parking spaces is considered not to significantly worsen the impact of the site on the highway network. Transportation has also undertaken a trip analysis based on the existing and proposed use and has concluded that during the morning peak period

(08.00 -09.00) the garage/showroom would generate 24 two way trips and the proposed use would generate only one. Transportation has raised no objection to the change of use.

Neighbours are concerned that visitors to the shop would occupy the few on-street parking spaces available to them in Wolverhampton Street. There is however no entitlement to park on the public highway and the operating hours proposed for the use would not preclude residents using the spaces in the evening or overnight when they are most likely to be in demand.

It would be preferable that the area to the west of the building was not used for parking because of the proximity of the access points to the junction but these are existing.

### **Recommendation: Refuse**

1. The application site is in an out of centre location which is not allocated for retail use. The application fails to demonstrate that the business could not be carried out in a more flexible manner within Willenhall District Centre or that sites on the edge of the district centre or in other centres or on the edge of other centres have been considered. The application also fails to provide any information about the impact of the proposal on trade or investment in Willenhall District Centre or of any additional jobs that would be created by the proposal. The harm to Willenhall District Centre , including future investment in its regeneration would outweigh any economic development benefits of the proposal and the approval of this application would therefore be contrary to policies GP1 and S7 of the Unitary development Plan and to national policy set out in Planning Policy Statement 4.

2. The proposed building works would not improve the appearance of the building. The majority of the existing, temporary, boarding would be replaced by roller shutters giving the same general effect but in a galvanised finish, and the remainder of the boarding would be retained, giving the premises a vacant and derelict air when closed. The approval of this application would fail to improve the appearance of the building, the visual amenity of the area and the quality of the environment. The approval of this application would be contrary to policies GP2, 3.6, ENV32 and ENV35 of Walsall's adopted Unitary Development Plan.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration  
Directorate on  
01 Apr 2010

## REASON FOR BRINGING TO COMMITTEE: Major Application

**Application Number:** 08/1856/FL

**Application Type:** Full application

**Applicant:** Mr T. Dawkins

**Proposal:** Conversion of existing industrial buildings and new construction work to form 73 houses and apartments and associated car parking (amendment to existing permission under 07/1650/FL/W7).

**Ward:** Willenhall South

**Recommendation Summary:** Grant with conditions, subject to no new information raising new material issues

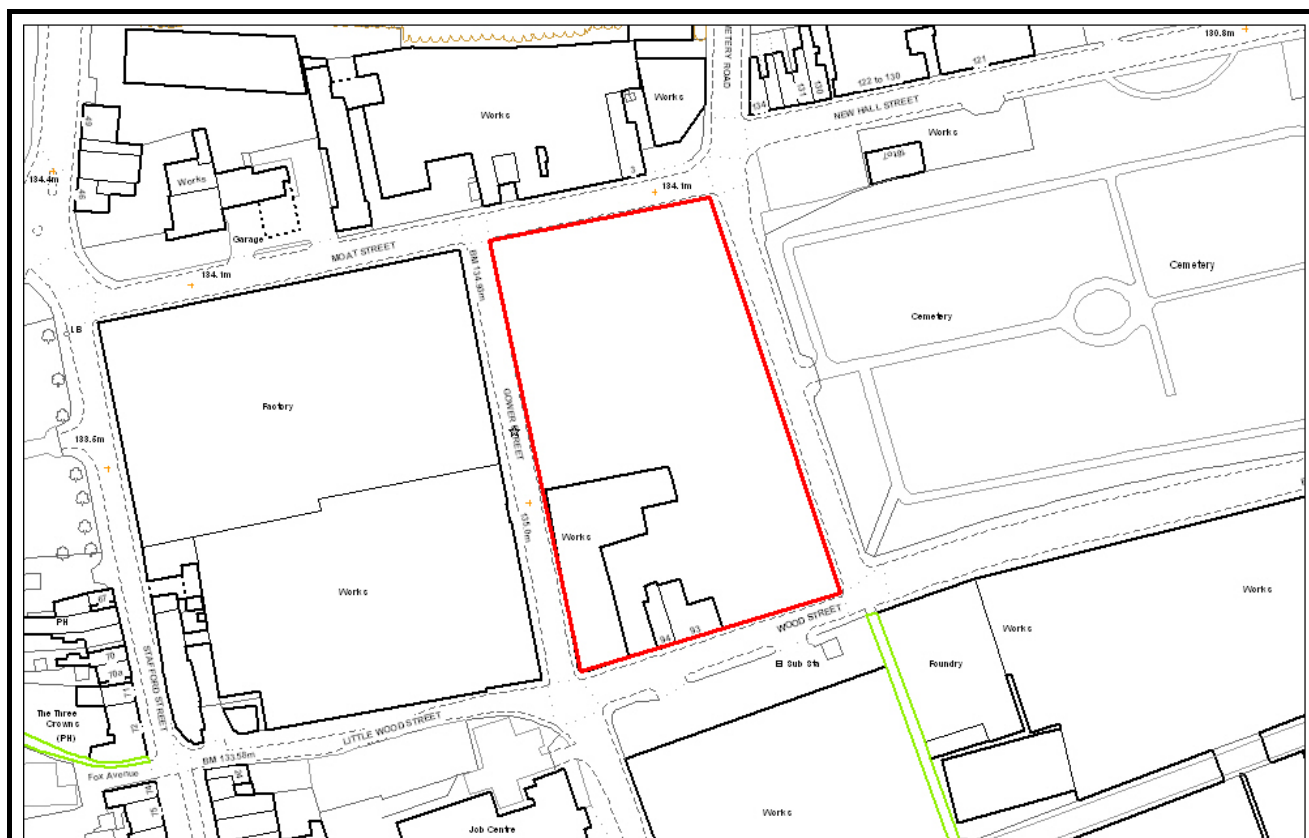
**Case Officer:** Andrew Thompson

**Telephone Number:** 01922 652403

**Agent:** Mr Robert Bamford

**Location:** The Keys (Former Union Locks site), Wood Street, Willenhall, WV13 1JY

**Expired:** 02/03/2009



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This application was reported to Committee on 1<sup>st</sup> April and 17<sup>th</sup> February 2009 and it was resolved to approve the application subject to conditions and a S106 Agreement.

This is an important and high quality development in the regeneration of Willenhall but due to the economic downturn was unable to be delivered under normal means.

The applicant therefore approached the Housing and Communities Agency (HCA) and has successfully secured approximately £3m under the Kickstart Housing Scheme. In turn this will ensure early delivery of the scheme. However, this means changes to the arrangements previously approved, such that the scheme will now deliver 67 units (91.7%) of the scheme for affordable housing including 25 units for social rent and 47 units to provide affordable housing under the HomeBuy Direct scheme. The scheme would continue to deliver a high level of sustainable construction and also create the opportunity for apprenticeship working during the construction, but no open space contribution can now be made (for the reasons set out below).

#### Revised Affordable Housing Offer and additional Planning Condition 15

Previously the applicant had agreed with a Housing Association for the provision of affordable housing, 42 units (57%) (comprising four 2-bedroom houses; thirty 3-bedroom houses and eight 4-bedroom houses for social rent).

In addition the applicant offered £54,747 towards open space contributions which would be directed towards the neighbouring cemetery in line with the aspirations of the Willenhall regeneration programme.

The applicant also previously submitted a financial appraisal to the District Valuers Service, which concluded that taking into account the abnormal costs and the gross development value the scheme, due to the conversion of the locally listed building and ground contamination costs there would be no opportunity to seek additional contributions without compromising the viability.

Instructions have been sent to the District Valuers Service to update their records and assessment, taking into account the period of time since their last appraisal and the revised affordable housing offer. It is anticipated, given the previous viability assessment and the HCA involvement that no S106 contribution would be viable.

The applicant also notes that

*“Having now defined the mix and funding of tenure types in the project, it is felt necessary to revisit the details of the draft Sc.106 Agreement so it can be signed and implemented. On the basis the HCA will not fund financial contributions to Council objectives such as public art or open space provision, and the District Valuer’s Report of 28 January 2009 stating that in his opinion, the proposed development would not seem viable – even if the Sc.106 contributions were to be excluded (page 9), then we are proposing the Sc.106 is amended to reflect a nil financial contribution.*

*This change is mitigated to a significant degree by the social housing element increasing from the originally proposed 57% to 92% now, as only 6 units are for Open Market sale. The proportion of Social units cannot of course be referred to in the Sc.106, as this will*

*void HCA funding. However, the units will be delivered as Social housing under the Kickstart programme”*

The applicant also highlights that due to the timescales of the HCA that a decision is required by 26<sup>th</sup> April 2010.

Officers conclude that the proposed delivery of affordable housing can be secured through a planning condition (as has been done elsewhere in the Borough on HCA schemes) and a condition in this regard has been added to the recommendation. Members are asked to subscribe to this view.

The remainder of this report is otherwise unchanged from the February 2009 committee, though I have crossed out the section 106 information as no longer relevant.

The policy base continues to evolve beyond that in the report, particularly the new sustainable economic development national planning policy statement, but these changes are not of significance that would alter Officers recommendation.

### **Status at 17<sup>th</sup> February 2009**

This report considers the detailed submission for development under application reference 08/1856/FL and the Conservation Area Consent for the demolition of Phoenix Works on Wood Street (application reference 09/0052/CC).

The site is located to the northeast of Willenhall Town Centre opposite Willenhall Cemetery bounded by Wood Street, Gower Street, Moat Street and Cemetery Road South. The site was previously used for the lock manufacturing industry and there are a mix of styles and designs. The principal building, the Union Lock building is an Art Deco building (3 storeys). It is Locally Listed and is located within the Willenhall Conservation Area.

There have been previous approvals on the site under planning permission references 04/1304/OL/W2 and 07/1650/FL/W7 granted in March 2005 and November 2007 respectively for similar schemes.

The application previously proposed to develop the site for an apartment led scheme, including the retention and conversion of the Union Locks building, of 111 units. The accommodation proposed previously comprised the following:

- 4, one bedroom flats
- 66, two bedroom flats
- 4, three bedroom flats
- 6, two bedroom houses
- 18, three bedroom houses
- 13, four bedroom houses

The revised application is for a housing led scheme comprising 73 units, also including the retention and conversion of the Union Locks building, to the following schedule of accommodation:

- 19, two bedroom flats
- 4, two bedroom houses
- 37, three bedroom houses



- 13, four bedroom houses

The proposed density would be reduced from approximately 168dph on the previously approved scheme to 108dph on the proposed and include 73 car parking spaces (100% provision). The parking provision on the approved scheme was 115 spaces (105%)

The applicant is offering 42 units (57% of the total) to be offered for affordable housing and a contribution of £54,747 towards open space provision in the area.

The access points to the car parking remain unchanged in terms of position (i.e. from Gower Street and Cemetery Road South), however the underground car parking from the approved scheme has been altered to solely surface level car parking.

The proposals also include a bespoke “Key” railing detail at the entrance from Cemetery Road South.

As per the approved application, the proposals have been supported by the following documents:

- A Design and Access Statement indicating the design led approach and the respect for the historic environment;
- A Transport Statement assessing the impact on the surrounding highway network;
- A Protected Species Report demonstrating that there would be no impact from the proposals on protected species;
- An Air Quality Assessment assessing the relationship of neighbouring industrial premises on residential amenity;
- Archaeological Assessments detailing the historic and archaeological brief for the site;
- A Drainage and Flood Risk Statement demonstrating that the proposals would have no impact on the flood risk and appropriate drainage methods would be employed;
- A Noise Assessment assessing the relationship of neighbouring industrial premises on residential amenity in terms of noise; and
- A Geotechnical Assessment assessing ground contamination on the site resulting from former industrial operations.

In addition the proposals are now also supported by additional information relating to the financial viability of the proposals and an Environment, Community and Privacy Report which shows how the proposals use multi-level outdoor space within the development and communal areas with the aim of creating high quality, community led areas of amenity space and high quality residential environments with examples and artist interpretations of how this has worked elsewhere in the country.

### **Relevant Planning History**

04/1304/OL/W2 - OUTLINE: Residential Development involving the retention and conversion of some factory units and demolition of other factory units. Granted 9<sup>th</sup> March 2005.

05/2355/CA/W2 – Demolition of the Union Lock Building, Gower Street, and Phoenix Works, Wood Street, Willenhall. Refused – 15<sup>th</sup> February 2006

07/1650/FL/W7 - Proposed Development of 74 no. 1, 2 and 3 bedroom flats and 37 no. 2, 3 and 4 bedroom houses and associated car parking, landscaping and external works, including conversion of existing Union Locks Building. Granted 26<sup>th</sup> November 2007.

#### **Site opposite side of Wood Street**

07/0639/FL/W2 - Outline: Demolition of existing buildings and provision of retail (use class A1), residential (use class C3), premises for retail, service or office use (use classes A1, A2, A3, A4, A5 or B1), link road, car parking and other associated works. Granted 13<sup>th</sup> March 2008

08/1827/RM - Demolition of existing buildings & provision of retail (use class A1), residential (use class C3), premises for retail, service or office use (use classes A1, A2, A3, A4, A5, or B1), link road, car parking & other associated works. Pending Determination.

#### **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

### **Walsall Unitary Development Plan**

The relevant planning policies include the General Principles for Development (Chapter 2 of the UDP) which encourage sustainable regeneration and seek to maximise the development of previously developed land in sustainable locations and promote high quality development. High quality design is at the core of the Principles for Development. The application site has no specific designation within the UDP therefore policy JP7 applies (seeks to protect employment land unless it would be more appropriate to consider alternative uses).

The application site is in an Industrial Regeneration Area, which is covered by UDP policy 4.1. This policy was introduced to support a programme of environmental and security improvements to help create and safeguard employment, which drew on European Union funding. This funding has not been available for some years, so the means for implementing this policy has been withdrawn. It should therefore be given little weight in comparison to other policies and proposals to regenerate the area in other ways.

H3: Encourages provision of additional housing on previously-developed land, subject to (among other things) satisfactory residential environment, and no unacceptable constraint on the development of any adjacent site for its allocated or identified use. Policy H4 seeks to provide a level of affordable housing at 25% of the total dwellings proposed on the application sites. Policy H9 and H10 seek to encourage appropriate densities on developments with the proposed layout, design and mix.

Policy Env10 seeks to ensure that proposals take account of pollution, including air quality, noise and smell, for example, and also to ensure that proposals do not have an unacceptable adverse effect on nearby land users and/or restrict the types of new development that could be permitted in the locality, or impose special conditions on them.

Policy Env14 specifically encourages the development of previously developed land. Policy Env32 sets out design criteria and Policy Env33 seeks good landscape design. Policy Env39 seeks to ensure renewable energy and energy efficiency is encouraged as part of development

Policy S8 encourages housing in town and district centres to promote sustainable patterns of development

Chapter 7 of the UDP (Transportation) seeks to encourage alternative modes of transport to the public car. Policies T7 and T13 seek a well designed scheme in relation to car parking provision and policies T8 and T9 seek to promote walking and cycling respectively. Accessibility for all members of the community is reflected in policy T10.

The site is located within Willenhall District Centre and in particular in the area designated for redevelopment opportunity under Policy WH4(VI).

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

### **Designing Walsall SPD**

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

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

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

DW4- Continuity -attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

DW5 Ease of movement- create places that are easily connected, safe to move through;

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

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

DBW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

The approved scheme is featured in the Council's Design Guide.

### **Urban Open Space SPD**

Sets out the thresholds and contributions sought towards urban open space from residential developments.

### **Healthcare SPD**

Sets out the thresholds and contributions sought towards healthcare from residential developments.

### **Education SPD**

Sets out the thresholds and contributions sought towards education from residential developments.

### **Affordable Housing SPD**

Sets out the thresholds, tenure, mix and type of affordable housing sought from residential developments.

### **Regional Spatial Strategy for the West Midlands (RSS11)**

Promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

There is no need for this application to be considered under the Conformity Protocol. A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

Policies UR1 and UR3 which seek to regenerate urban areas and in particular centres;

Policies CF1, CF3, CF4 and CF5 seek to encourage housing in sustainable locations;

Policies QE1, QE2, QE3, QE4 and QE5 which seeks to improve the quality of the environment whilst preserving quality and historic buildings and locations. The policies also aim to enhance public spaces and urban green space. Policy EN2 seeks to conserve energy.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

### **National policy**

Planning Policy Statement (PPS)1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. In paragraph 13 (indent four) PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted." Paragraphs 33 to 39 also state the importance of good design.

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes. PPS3 indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. This includes high quality housing that is well-designed and built to a high standard; a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas; a sufficient quantity of housing taking into account need and demand and seeking to improve choice; and housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

PPS6 seeks to promote strong and diverse town centres whilst being accessible to all and promoting the need for high quality design.

PPG13 promotes development accessible transport locations, reducing the need to travel by car and promoting walking, cycling and public transport. This is supported by Manual for Streets (published May 2007) which promotes a flexible approach to design and materials that build a high quality environment

Circular 05/2005 (Planning Obligations) is of relevance in this instance with regard to the appropriate level of planning contributions that will be sought.

## **Consultations**

**Transportation** – No objection subject to conditions

**Pollution Control (Scientific Team)** – No objection

**Pollution Control (Contaminated Land)** – No objection subject to works being implemented to carry out additional investigation and to remediate any localised ground contamination and ground gas issues associated with the former works. Conditions to address these concerns have been provided.

**Built Environment Team (Urban Design and Conservation)** – No objection subject to appropriate conditions on materials and boundary treatment. Conservation Area application for demolition has been received and is satisfactory to Officers.

**Land Drainage** – No objection

**Public rights of way** - No objection to this development.

**Walsall Children Services – Serco** – In this case the level of surplus places is above 10% for both primary and secondary schools. No contribution is therefore sought.

**Green Spaces** - Seek £144,837 towards open space improvements in the area in line with the Council's Adopted Supplementary Planning Document and the Willenhall Strategic Regeneration Framework.

**Healthcare:** Seek £80,318.70 towards healthcare facilities and improvements in the area in line with the Council's Adopted Supplementary Planning Document.

**Public Art:** Seek £25,550 towards strategic public art provision in the area in line with the Council's Adopted Supplementary Planning Document

**District Valuer Service** – Taking into account the abnormal costs and the gross development value the scheme is not considered to be capable of accommodating S106 contributions beyond those offered.

## **Public Participation Responses**

None

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

### **Determining Issues**

- Changes in the layout from the previous permission
- Car parking provision
- Access to the site
- Amenity Space and landscaping
- Industrial context and heritage
- Relationship to existing industrial buildings
- Demolition of Phoenix Works
- Affordable Housing, Education, Open Space, Healthcare and Public Art provision

### **Observations**

#### **Changes in the layout from the previous permission**

The proposed layout has been designed to respect the principles and detail built into the previous application whilst reflecting the altered position of a family housing led scheme as opposed to an apartment led scheme.

The proposed accommodation relates more closely to housing need and reduces the quantum of development from 111 units to 73.

The proposals will continue with the concepts progressed in the previous permission which the Council, by virtue of including it in the Council's Designing Walsall SPD, consider to be an exemplar for town centre development in Willenhall.

#### **Car parking provision and access to the site**

The approved scheme included 115 car parking spaces (105% provision), 67 spaces located above ground in a courtyard, with the remainder underground. The access to the underground car park would have been from Gower Street with the above ground parking access from Cemetery Road South

The scheme now removes the need to include an underground car parking element and continues to utilise car parking around a central courtyard with 73spaces being proposed (100%)

Considering the highly sustainable location, in relation to Willenhall Town Centre, including the proposed supermarket on the neighbouring site, the need for high levels of car parking is reduced significantly. In addition the proposed level of car parking is not significantly different from the approved scheme.

A Residential Travel Plan will be conditioned.

#### **Amenity Space and landscaping**

The innovative approach to providing useable private space for both individual houses and apartments and community recreation areas is a positive and attractive feature of the proposals. It allows for a sense of place and high quality to permeate through the development.



The multi-level approach to amenity space ensures that a significant amount of amenity space is provided whilst not impacting on density and making best use of the land.

A full landscaping scheme, of high quality and detail has been submitted as part of the application. It contributes to high quality proposals.

### **Industrial Context and Heritage**

Retention of the locally listed industrial building and reflection of the modern and art deco styles is welcomed. The proposals have paid careful attention to the character and local distinctiveness of Willenhall and the locally listed 1930s factory building that sets the tone for the design of the new build part of the site.

The proposals create a back-of-pavement design, common to this area of Willenhall with strong links to industrial heritage which is considered to be a welcome design feature of significant benefit to the locality.

### **Relationship to existing industrial buildings**

The application site is neighboured by a number of industrial uses in the town centre which have noise and air quality implications. These were considered as part of the original outline and detailed planning permissions.

The area is designated within the Adopted UDP as a Development Opportunity (Policy WH4 (VI)) and together with the nearby proposals for a new supermarket led, mixed use development (outline planning permission reference 07/0639/FL/W2) will start to transform and regenerate this area of Willenhall. As such whilst the relationship to existing industrial uses should be noted and acknowledged in the consideration of the application, the longer term objectives of regeneration and change to the character of this area in terms of promoting a more attractive and viable centre for Willenhall are considered to be the driving influence in this instance.

The proposals have been designed to create an active frontage and secure boundary around the outside of the site whilst creating private central space. The proposals have therefore created a capability to mitigate against neighbouring uses as they exist whilst creating a high quality residential environment that would act as a catalyst for regeneration.

### **Demolition of Phoenix Works**

The buildings to be demolished consist of a Victorian terrace. It is intended that demolition of this property is justified in order to deliver the development proposed under 08/1856/FL which includes the conversion of the former Art Deco styled 1930s Union Locks Building, Wood Street which includes some demolition of the building towards the rear.

PPG15 paragraph 4.27 states that detailed plans for redevelopment must be submitted before demolition can be contemplated. Officers are satisfied that detailed plans have been submitted under 08/1856/FL where the main principles of redevelopment have been agreed under previously submitted application and are repeated under application 08/1856/FL.

Therefore subject to a Building Recording Survey Assessment, a Historical Building Survey and archaeological observation being carried out the proposals are considered to be acceptable. .

### **Conclusion**

Overall, taking into account the previous planning permissions, the high quality of the design proposed, including the retention of the Union Locks Building, the proposals are an excellent example of providing family housing in the town centre with a design-led approach to amenity and housing provision.

The proposals will define and aid the regeneration of Willenhall and are welcomed by Officers.

The application for Conservation Area Consent (09/0052/CC) has not yet completed its consultation period however, Conservation Officers have responded favourably to the application. Therefore subject to no further material planning objections being received within the consultation period it is requested that Delegated Authority be given to the Head of Planning and Building Control to determine the application, subject to appropriate conditions set out.

### **Summary of Reasons for Granting Planning Permission**

The proposals have been considered with the aims and objectives of the Development Plan (as set out by Section 38(6) of the Planning and Compulsory Purchase Act (2004). These are Regional Spatial Strategy for the West Midlands (RSS11) and the Unitary Development Plan (March 2005).

The Local Planning Authority have considered the proposals against extant planning permissions, the design of the proposals, the impact of the proposals on the character of the area, the density and amenity space to be provided as part of the proposals and found in this regard the proposals are acceptable. In addition the impact on the amenities of nearby residents and businesses has been considered and found to be acceptable.

A high level of affordable housing will be delivered on the site (92%) and this is secured through condition and grant funding from Central Government. Having considered this high level and the viability of the scheme, it is considered that the delivery of other S106 contributions is not considered appropriate or reasonable in this instance.

As such, the proposed development, having considered all relevant extant planning permissions and consultation comments is considered to comply with the relevant policies of the Development Plan (namely Walsall Unitary Development Plan and the Regional Spatial Strategy for the West Midlands) and national planning guidance and best practice guidance. The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP1, GP2, GP3, GP7, T7, T12 T13, ENV10, ENV14, ENV18, ENV29, ENV32, ENV33, JP7(d), H3, H4, H9 and H10 of Walsall Unitary

Development Plan (March 2005) and Policies QE3, QE4 and QE5 of the Regional Spatial Strategy for the West Midlands (RSS11), on balance, having taken into account all material planning considerations, the proposal is acceptable.

**Recommendation: Grant with conditions, subject to no new information raising new material issues**

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

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

2. Prior to any commencement of any works a waste management strategy shall be submitted to and agreed in writing with the Local Planning Authority and Walsall Waste Management. The strategy shall be implemented in accordance with the agreed details.

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

3. Prior to built development commencing additional site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice and approved in writing by the Local Planning Authority shall be undertaken. A copy of the findings of the additional site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority within 1 month of completion.

*Reason:* To safeguard the amenities of the occupants and to evaluate and overcome any ground contamination that might be present on the site.

4. Prior to built development commencing details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site (identified under condition 3) and a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority.

*Reason:* To safeguard the amenities of the occupants and to evaluate and overcome any ground contamination that might be present on the site.

5. Agreed remedial measures (agreed under conditions 3 and 4) shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use.

*Reason:* To safeguard the amenities of the occupants and to overcome any ground contamination that might be present on the site.

6. This development shall not be carried out until samples of the facing materials to be used have been approved in writing by the Local Planning Authority. The external highway facing walls and window materials used in the development shall be of the same type, texture and colour as those used in the existing Union Locks building unless otherwise agreed in writing with the Local Planning Authority.

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

7. The boundary treatment shown on the approved plans shall be carried out before this development is brought into use.

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

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding orders, no gates, fences, walls or other means of enclosure, except those included on the approved plans, shall be moved or erected without the prior approval of a planning application relating to that work.

*Reason:* To safeguard the amenities of the occupants and to ensure the satisfactory appearance of the development.

9. The development shall be carried out in accordance with the submitted details for the conservation and efficient use of energy and natural resources and sustainable development, to meet the 3 stars standard as amplified by the Code for Sustainable Homes (January 2007) or subsequent document.

*Reason:* To ensure the development meets sustainable development objectives in accordance with Policy Env39, Env40 of Walsall Unitary Development Plan and PPS1.

10. Prior to the occupation of the building, the location of a communal satellite dish to serve the apartments units and, wherever practicable, the family housing hereby approved, shall be submitted to and agreed by the Local Planning Authority. The dish(es) shall be installed prior to the first occupation of the development in accordance with the agreed details.

*Reason:* To ensure the satisfactory appearance of the building, to ensure amenities of future residential occupiers, to prevent a proliferation of satellite dishes on the building and to ensure satisfactory functioning of the development.

11. Prior to the commencement of development a Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be developed in partnership with this Council's Travel Wise co-ordinator. This shall identify a package of proposed measures consistent with the aim of reducing reliance on the car, and should include details on:

- a) Public transport information and ticket details;
- b) Cycle provision and associated infrastructure; and
- c) Walking initiatives.

Prior to the first dwelling being occupied on the development hereby approved, the agreed Residential Travel Plan developed in partnership with this Council's Travel Wise co-ordinator shall be submitted to the Local Planning Authority. The approved measures shall

be implemented in accordance with the details written in the approved Travel Plan. A review of the approved Travel Plan shall be submitted to, and agreed in writing by, the Local Planning Authority in accordance with the approved Travel Plan. This will identify any refinements and clarifications deemed necessary to the Plan. The approved, revised plan shall thereafter be implemented in conjunction with the development approved under this permission, unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory functioning of the development and to promote sustainable modes of transport.

12. Before this development is brought into use, the accessways, vehicle parking and manoeuvring areas shown on the approved plans shall be hardsurfaced in materials to be agreed in writing by the Local Planning Authority. The areas shall thereafter be retained and used for no other purpose. The parking spaces shall have been clearly marked out.

*Reason:* To ensure the satisfactory provision of off-street parking, the satisfactory appearance of the development and to ensure the satisfactory functioning of the development.

13. A full historical building survey to be undertaken (to a Level prescribed within the accompanying Brief) prior to any demolition of the Phoenix Works, Wood Street and the rear of the former Union Locks building to be completed to the satisfaction and standard set out by the Black Country Archaeologist. Copies are to be submitted to the Local History Centre, Walsall Council's Conservation Officer and the Black Country Archaeologist prior to the commencement of demolition. The Historical Building Survey to comply with the Brief (attached) set out by the Black Country Archaeologist and the Conservation Officer.

*Reason:* To preserve a record of historic buildings and features of interest that may be lost as a result of the development.

14. No development shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological observation and recording during development in accordance with a brief written by the Council's archaeologist or other agreed expert, and a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority. Any works or observation shall be carried out in accordance with the agreed brief.

*Reason:* To ensure that archaeological remains and historic structures are observed and recorded during development.

15. The development shall not begin until a scheme for the provision of the submitted level of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of PPS3 or any future guidance that replaces it. The scheme shall include:

- i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 92% of housing units;
- ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii. the arrangements for the transfer of the affordable housing to an affordable housing provider;
- iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: In order to secure the appropriate level of affordable housing.

## NOTES FOR APPLICANT

A) Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings(Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

B) When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.