



### Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 4<sup>th</sup> July 2013

### Planning Committee Content Sheet

Item No	Page No	Application Number	Site Address	Proposal	Recommendation
1	1	13/0564/FL	LAND REAR OF 39 TO 51, VICTORIA AVENUE,, WALSALL,	Substitution of house types on plots 5-8 and 11-26 (material amendment to permission 11/0516/FL relating to erection of a total of 44 dwellings) including amended parking and garage provision and addition of conservatories to plots 7 & 8, 11-14, 18 & 19 and 23-26.	Grant Permission subject to Conditions and a Deed of Variation
2	17	13/0575/FL	Former Beechdale School, Remington Road/Stephenson Avenue, Beechdale	Residential development of 40 houses	Grant permission subject to conditions and a S106 Agreement to secure urban open space and education provision unless viability is demonstrated to justify otherwise and subject to resolving the Environment Agency and ecological objections

3	35	13/0495/FL	FORMER SNEYD COMMUNITY COLLEGE, VERNON WAY, WALSALL, WS3 2LU	Demolition, remodelling to existing school buildings with new buildings with boundary works, landscaping and associated works to facilitate the use of the site for the Black Country University Technical College (UTC) (Phase 1) and West Midlands Construction UTC (Phase 2) for 1,200 students.	
4	57	13/0394/FL	240 WEDNESBURY ROAD, WALSALL, WS2 9QN	Change of use of first floor from residential flat to 24 hour private hire booking office.	Grant Permission Subject to Conditions
5	67	13/0192/FL	87 WHETSTONE LANE, ALDRIDGE, WALSALL, WS9 0EU	Demolition of 87 Whetstone Lane and erection of 4 no. additional dwellings at the rear.	Grant Permission Subject to Conditions
6	87	12/1138/FL	90-92 SALTERS ROAD, WALSALL,	Change of use from A1 (retail) to A5 (hot food takeaways) with new brick built riser containing new extraction ductwork, and formation of new car parking spaces	Refuse
7	97	13/0640/FL	176 BLOXWICH ROAD, WALSALL, WS2 7BQ	Variation of condition 2B to allow the flue to be terminated 1 metre above the eaves.	Refuse
8	105	13/0554/AD	BANKS STADIUM, BESCOT CRESCENT, WALSALL, WS1 4SA	Two LED illuminated advertisements (35m x 12m, and 30m x 12m) with changing displays on existing 'V' form structure.	Grant Advert 5 years

9	129	13/0546/FL	THE BROWN JUG PH, 52 SANDBEDS ROAD, WILLENHALL, WV12 4EY	Replace part of existing facade with a shop front.	Grant Permission Subject to Conditions
10	137	13/0125/FL	3 GREENSLADE ROAD, WALSALL, WS 5 3QH	Two storey side extension, part two storey part single storey rear extensions and front porch.	Grant Permission Subject to Conditions
11	155	13/0549/FL	36 OLD OAK CLOSE, WALSALL, W S9 8SE	Two storey side extension and front canopy	Grant Permission Subject to Conditions



# Walsall Council

Regeneration Directorate – Planning and Building Control

## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 04/07/2013

**Plans list item no: 1.**

### Reason for bringing to committee: Major application

**Application Number:** 13/0564/FL

**Application Type:** Full application

**Applicant:** Andrew Cockayne

**Proposal:** Substitution of house types on plots 5-8 and 11-26 (material amendment to permission 11/0516/FL relating to erection of a total of 44 dwellings) including amended parking and garage provision and addition of conservatories to plots 7 & 8, 11-14, 18 & 19 and 23-26.

**Location:** LAND REAR OF 39 TO 51, VICTORIA AVENUE,, WALSALL,

**Ward:** Bloxwich East

**Case Officer:** Alison Ives

**Telephone Number:** 01922 652604

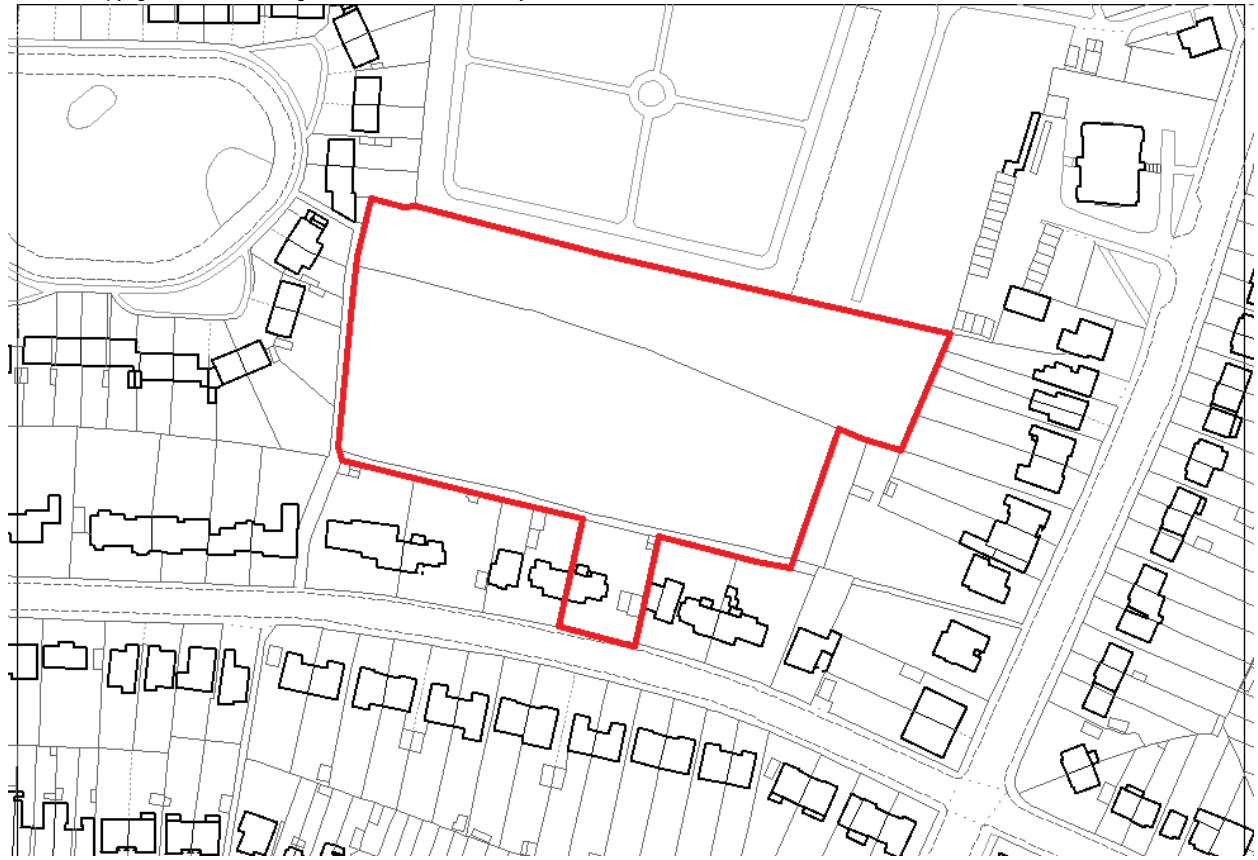
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:**

**Expired Date:** 29/07/2013

**Recommendation Summary:** Grant Permission subject to Conditions and a Deed of Variation

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## **Application and Site Details**

The proposal is a substitution of house types on a development of 44 dwellings at the rear of Victoria Avenue, Bloxwich. The site is currently under construction. The proposal is to substitute plots 5-8 and 11-26 amending permission 11/0516/FL by the addition of conservatories to plots 7, 8, 11-14, 18, 19 and 23-26 and revised parking and garage provision.

The proposed amended house types are two and three storey properties. The conservatories are 3.3m long and 3.8m wide with a brick base and glazed walls and mono-pitch roof. The conservatories lead from the living room at the rear of the various houses. On plots 18, 19, 23, 24, 25 & 26 this does not project beyond the rear of the attached garages.

House types on plots 15-17 have been revised to allow for a reconfiguration of the head of the private drive and inclusion of a detached double garage for plot 15. Plots 16 & 17 both have integral garages and garages that were previously attached to plots 17 and 20 have been reallocated for plots 18 & 19. Off street parking is provided for all plots. Plots 5 & 6 have been amended from 2.5 storey dwellings with dormer windows in the loft and integral garages to full height three storey building where plot 5 has a gable front and first floor bay window on the side elevation. These plots also have detached garages at the rear instead of parking in front of the houses.

The site is located at the rear of established housing in Victoria Avenue and there is a cemetery beyond the northern boundary. Public footpath (WAL15) adjoins the western boundary of the site emerging between 37 and 39 Victoria Avenue and 47 and 66 Drake Road. This has been closed off with gates at both ends. The remaining boundaries adjoin gardens of houses surrounding the site. Construction of houses approved under permission 11/0516/FL has commenced.

## **Relevant Planning History**

11/0516/FL – Erection of 43 houses and 1 flat (44 dwellings) with parking, garages, landscaping and access – Granted subject to conditions and a S106 Agreement in April 2012. The S106 Agreement secured 7 social rented units on site and a commuted sum of £83,570.00 for provision towards urban open space. The open space contribution has been received.

On 2<sup>nd</sup> May 2013 Planning Committee agreed to vary the S106 Agreement by accepting a commuted sum of £250,000 in lieu of the previously agreed on-site affordable housing provision. This was to be collected in staged payments. This Deed of Variation has not yet been completed.

12/1007/DOC - Request for discharge of planning conditions 2, 3, 4, 7, 8 and 9 of 11/0516/FL – Decision issued February 2013.

## **Relevant Planning Policy Summary**

### **National Planning Policy Framework (NPPF)**

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

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

- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

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

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

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

## The Black Country Core Strategy (BCCS) (2011)

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall’s UDP) the NPPF advises that “... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council’s Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

- 1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.
- 2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country’s natural and built environment.
- 3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

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

The above are supported by the following policies:

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

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

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

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness.

HOU3: Will seek to secure 25% affordable housing on all sites of 15 dwellings or DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

ENV1: Seeks to safeguard nature conservation.

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

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

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

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

3.116 & ENV32: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

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

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

T1: Seeks to improve access and help people get around

T7 – Car Parking

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

1, 2 & 3 bedroom houses: 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

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

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

#### **Designing Walsall SPD**

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

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

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

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

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

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

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

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

It is considered in this case that the relevant provisions of SPD Conserving Walsall's Natural Environment are consistent with the NPPF.

### **Supplementary Planning Document for Affordable Housing**

Guides delivery of affordable housing to appropriate locations in the Borough and provides for balanced, mixed communities.

### **Supplementary Planning Document Urban Open Space**

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.

### **Consultations**

**Transportation** – No objection subject to provision of visibility splays, parking areas, and engineered details of the adopted highway. Conditions are recommended to secure this. The parking is 200% which is acceptable.

**Pollution Control (Scientific Team)** – No objections. Original recommendations for 11/0516/FL should be carried forward.

**Pollution Control (Contaminated Land)** – No objections subject to imposition of conditions to address contaminated land issues as on the previous permission.

**Environmental Health** – No comments.

**Access Officer** – No objections.

**Landscape** – No objections subject to implementation of the approved landscaping scheme.

**Environment Agency** – No comments.

**Natural England** – No objections – original comments on 11/0516/FL apply.

**Local Access Forum (Walsall Ramblers)** – No objections.

**Police Architectural Liaison Officer** – No objections but the garage for plots 5 & 6 lacks natural surveillance.

**Severn Trent Water** – No objections subject to provision of drainage.

**Fire Service** – No objections subject to a suitable water supply being available.

### **Public Participation Response**

One letter of objection has been received which are summarised as follows:

- Plots 5 & 6 (house types J&K) are replacing 2.5 storey properties with full 3 storey dwellings
- Significant increase in height of proposed dwellings
- 3 storey dwellings are out of keeping

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

### **Determining Issues**

- Principle of residential development
- Layout and design
- Relationship to surrounding properties
- Means of access & parking
- Provision for affordable housing
- Provision for Urban Open Space
- Local Finance Considerations

### **Observations**

#### **Principle of residential development**

The principle of residential development of the site for 44 dwellings was granted under permission 11/0516/FL. The current proposal is to substitute some of the house types and amend the parking and garage arrangements. The number of units remains the same. The principle of the housing development is already established and is acceptable.

#### **Layout and design**

The layout of the site is broadly the same as before with the exception of plots 15-17 which have been revised to allow for a reconfiguration of the head of the private drive to include a detached double garage for plot 15 and amended house types on plots 16 & 17 so both have integral garages. This is in the far corner of the development site and despite the inclusion of the detached double garage is no closer to surrounding properties than the approved layout.

The garages previously attached to plots 17 & 20 have been reallocated for plots 18 & 19 and appropriate off street parking provided for all plots.

Plots 5 & 6 have been amended from 2.5 storey dwellings with dormer windows in the loft and integral garages to full height three storey building where plot 5 has a gable front and first floor bay window on the side elevation. These plots also have detached garages at the rear instead of

parking in front of the houses so the house positions have moved forward. This is within the centre of the site and does not adversely affect the appearance within the street scene or amenities of existing or future occupiers. There remains adequate distance between dwellings.

The addition of conservatories to the 12 plots identified does not have any significant impact on the amenities of surrounding occupiers as there remains adequate distance between dwellings.

The layout and design are considered acceptable.

### **Relationship to surrounding properties**

The proposed amendments to the house types maintain adequate distance between dwellings to preserve the outlook, daylight and privacy of surrounding occupiers. The changes to the design are in keeping with the remainder of the development and so do not harm the visual amenities of the area.

The objector considers the changes to plots 5 & 6 significantly increase the height of the dwellings and are out of keeping with the surrounding area. The dwellings have been increased from 9.5m to 10.1m in height, a difference of 0.6m which is not significant and given that the properties are masked by other plots on this site from existing properties surrounding the site the increase in height is considered acceptable.

The relationship to surrounding housing does not cause significant potential for overlooking, loss of privacy or loss of daylight and is acceptable.

### **Means of access & parking**

The means of access to the site remains the same as approved. The changes to the private drive serving plots 15-17 maintain adequate parking and manoeuvring space. Transportation has no objections to the proposals. Incorporation of garages for plots 5 & 6 is acceptable subject to provision of visibility splays which is recommended to be secured by condition.

The means of access and parking is acceptable.

### **Provision for affordable housing**

Policy HOU3 of the BCCS requires provision of 25% affordable housing on qualifying sites of 15 units or over. Planning Committee resolved to accept a commuted sum for provision of off-site affordable housing equivalent to provision of 7 units on site. A figure of £250,000 was agreed. A Deed of Variation to the original S106 Agreement is required to secure this commuted sum. As the Deed of Variation has not yet been completed it is recommended that the agreement should also now relate to this amended application.

In the circumstances provision for affordable housing will be secured by the Deed of Variation to the S106 Agreement.

## **Provision for Urban Open Space**

In accordance with policies GP3 and LC1 of the UDP, policy DEL1 of the BCCS and Supplementary Planning Document: Urban Open Space the proposal triggers the need for urban open space provision. An urban open space contribution of £83,570.00 has already been paid by the developer so does not need to be included in the Deed of Variation to the S106 Agreement.

## **Local Finance Considerations**

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes 44 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

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

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

## **Recommendation**

Grant permission subject to conditions and a Deed of Variation to the S106 Agreement to secure a commuted sum for affordable housing provision.

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

The principle of residential development has already been agreed by granting permission 11/0516/FL. The current proposal does not alter the number of approved plots and is acceptable.

The proposed amended house types maintain adequate distance between dwellings and are an appropriate design in keeping with the surrounding plots. Reallocation of garages and changes to parking configuration also has minimal impact on the layout. Changes to plots 5 & 6 to a 3 storey gabled property does not have any significant impact on the height of the building and the design is acceptable. The conservatories at the rear of the plots are acceptable.

The proposed amendments to the house types maintain adequate distance between dwellings to preserve the outlook, daylight and privacy of surrounding occupiers. The changes to the design are in keeping with the remainder of the development and so do not harm the visual amenities of the area. The increase in height of plots 5 & 6 is 0.6m and does not have a significant impact on outlook for surrounding occupiers.

The means of access to the site remains the same as approved. The changes to the private drive serving plots 15-17 maintain adequate parking and manoeuvring space. Transportation has no objections to the proposals. Incorporation of garages for plots 5 & 6 is acceptable subject to provision of visibility splays which is recommended to be secured by condition.

A commuted sum for provision of off-site affordable housing will be secured with a Deed of Variation to the original S106 Agreement to comply with Council policy. An urban open space contribution has already been paid by the developer so does not need to be included in the Deed of Variation to the S106 Agreement.

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing. This application proposes 44 new homes.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

**Recommendation:** Grant Permission subject to Conditions and a Deed of Variation

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

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

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

- i) Prior to built development commencing a further ground investigation shall be undertaken to address the issues of potential contamination arising from allotment activities having regard to current best practice. (see Note for Applicant CL1)
- ii.) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii.) Prior to built development commencing a "Remediation Statement" setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- iv.) The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.

- v.) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the "Remediation Statement" required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- vi.) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3). Reason: To ensure safe development of the site and to protect human health and the environment.

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

3. The precautionary measures for protected species shall be implemented in accordance with the details agreed under the terms of the discharge of conditions application 12/1007/DOC.

*Reason:* To protect local wildlife.

4a. The visibility splay at the access point to the development onto Victoria Avenue shall be completed in accordance with the details agreed under the terms of the discharge of conditions application 12/1007/DOC.

4b. The visibility splay shall at all times be kept clear of planting and structures between 600mm and 2000mm in height above ground level.

*Reason:* In the interests of highway safety.

5. No future direct frontage vehicle access to no. 45 Victoria Avenue shall be permitted at any time.

*Reason:* Garaging and parking to no.45 has been provided to the rear off the new access road to replace the existing garaging and driveway parking lost as a result of the development. Direct vehicle access to the frontage will be too close to the new junction and would be detrimental to highway safety.

6a. Prior to the occupation of any dwelling, all private vehicle manoeuvring, hard standing and parking areas serving that dwelling shall be fully consolidated, hard surfaced and drained and the parking bays clearly demarcated on the ground.

6b. These areas shall thereafter be retained and used for no other purpose.

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

7. The development shall be carried out in accordance with the construction method statement agreed under the terms of the discharge of conditions application 12/1007/DOC during the construction period of the development.

*Reason:* To minimise the potential of indiscriminate parking by contractor

and delivery vehicles on the public highway during the period of construction and in the interests of highway safety and the free flow of traffic.

8. The development shall be implemented in accordance with the surface water drainage scheme agreed under the terms of the discharge of conditions application 12/1007/DOC.

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

9. The development shall be carried out in accordance with the details of facing and roofing materials, hard landscaping, boundary treatments and surface materials as agreed under the terms of the discharge of conditions application 12/1007/DOC.

*Reason:* To preserve the visual amenities of the area.

10. The landscaping scheme approved under the terms of permission 11/0516/FL shall be implemented within 12 months of the development completed. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs or plants which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted, unless otherwise agreed in writing with the Local Planning Authority.

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

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

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

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

- Location Plan & Site Layout (304-01-01B) received 29/4/13
- House Types J & K (Plots 5&6) (304-01-40) received 29/4/13
- House Type C (Plots 11&12, 18&19) (304-01-41) received 29/4/13
- House Type C (Plots 23&24) (304-01-42) received 29/4/13
- House Type C (Plots 25&26) (304-01-43) received 29/4/13
- House Types C&D (Plots 13&14) (304-01044) received 29/4/13
- House Type D (Plots 7&8) (304-01-45) received 29/4/13
- House Type A (Plot 15) (304-01-46) received 29/4/13
- House Type B (Plots 16&17 – Plot 16 handed) (304-01-47) received 29/4/13
- House Types E & F (Plots 20-22) (304-01-48) received 29/4/13

- Dbl Single Garage (Plots 14&15) (304-01-49) received 29/4/13

Plans approved under permission 11/0516/FL

- House Type A – Plots 17 & 44 (304-01-10) received 23/09/11
- House Type B – Plots 15 & 16 (304-01-11) received 23/09/11
- House Type C – Plots 11&12, 23&24 (304-01-12) received 23/09/11
- House Type C – Plots 25&26 rendered version (304-01-13) received 23/09/11
- House Type D – Plots 5&6, 7&8, 18&19 (304-01-14) received 23/09/11
- House Type C&D – Plots 13&14 (304-01-15) received 23/09/11
- House Type E&F – Plots 39-41 and 20-22 handed (304-01-16) received 23/09/11
- House Type E – Plots 32-34 (304-01-17) received 23/09/11
- House Type F – Plots 27-29 (304-01-18) received 23/09/11
- House Type F – Plots 30&31 (304-01-19) received 23/09/11
- House Type F – Plots 35-37 (304-01-20) received 23/09/11
- House Type G – Plots 42&43 (304-01-21) received 23/09/11
- House Type H – Plot 38 (304-01-22) received 23/09/11
- House Type E&I – Plots 1&2 and 3&4 to be handed (304-01-23) received 23/09/11
- House Type B – Plots 9&10 (304-01-24) received 23/09/11
- Street Scenes (304-01-30A) received 23/09/11
- Finished Floor Levels (304-01-31A) received 23/09/11
- Single Garage - Plots 4, 11, 12, 17, 23 & 43 (304-01-25) received 23/09/11
- Double Singles Garage – Plots 1, 2&3, 24&25, 26&27, 43&44 (304-01-26) received 23/09/11
- Refuse Vehicle Swept Path (304-01-03A) received 13/07/11
- Trees Removed (304-01-02A) received 23/09/11
- Landscape Proposals (11-39-01 Rev A) received 23/09/11

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

### **Notes for Applicant – Contaminated Land**

**CL1:** Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gases to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

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

Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

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

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





# Walsall Council

Regeneration Directorate – Planning and Building Control

## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 04/07/2013

**Plans list item no: 2.**

### Reason for bringing to committee: Major application

**Application Number:** 13/0575/FL  
**Application Type:** Full application

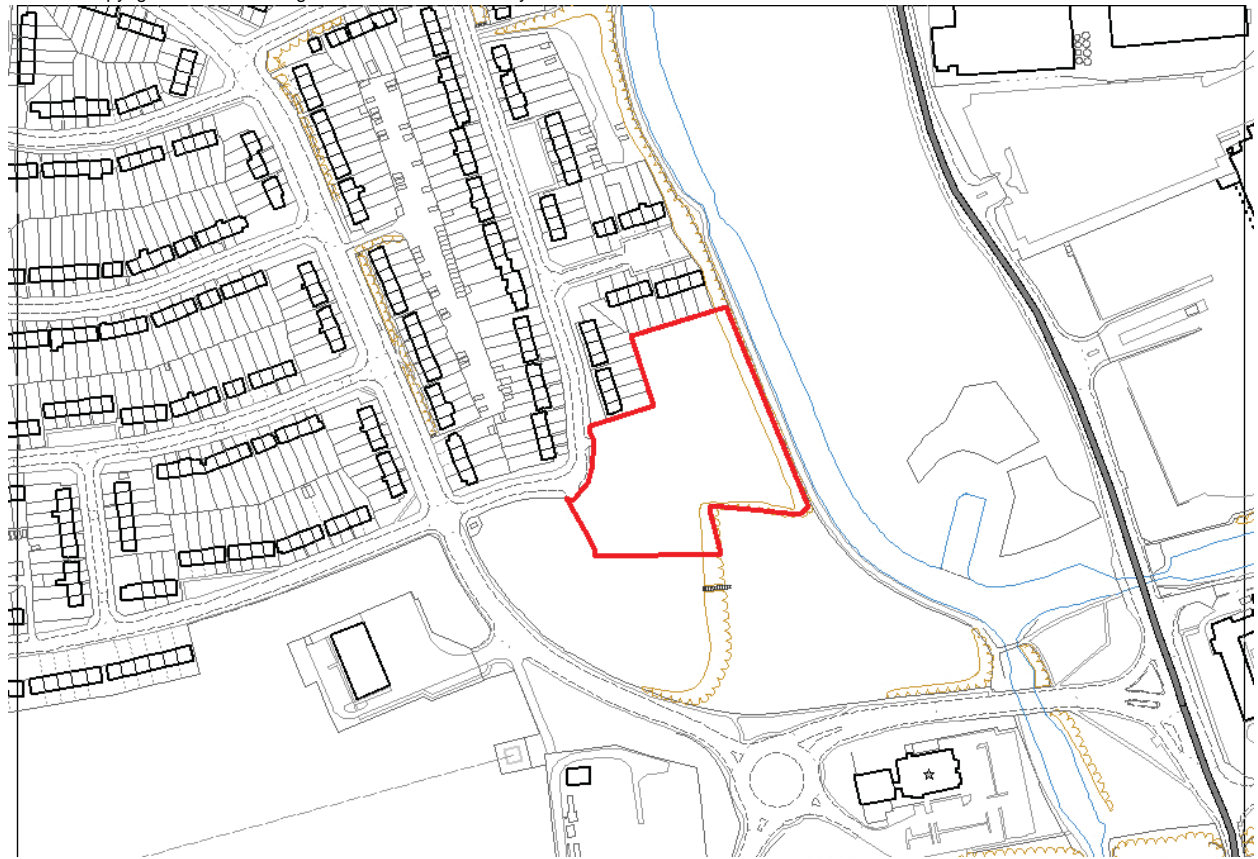
**Case Officer:** Alison Ives  
**Telephone Number:** 01922 652604  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Mr Kumaraguru Muniandy

**Applicant:** Alan Yates  
**Proposal:** Residential development of 40 houses  
**Location:** Former Beechdale School, Remington Road/Stephenson Avenue, Beechdale  
**Ward:** Birchills Leamore

**Expired Date:** 01/08/2013

**Recommendation Summary:** Grant permission subject to conditions and a S106 Agreement to secure urban open space and education provision unless viability is demonstrated to justify otherwise and subject to resolving the Environment Agency and ecological objections.

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## **Application and Site Details**

The proposal is to erect 40 houses on part of the site of the former Beechdale School, Remington Road. The applicant is Accord Housing Association and the proposed houses are all affordable social rented units. The proposed mix is 10 x 2 bedroom, 20 x 3 bedroom and 10 x 4 bedroom houses. All housing will be designed and constructed to level 4 of the Code for Sustainable Homes.

The school has been demolished and the site comprises mainly scrub vegetation with mature trees in the south-eastern corner and mature trees and a dense hedge around the perimeter. The Wyrley & Essington Canal borders the eastern boundary and Stephenson Avenue forms the southern boundary of the former school site. Properties to the north of the site in Remington Road are two storey houses. Accord Group occupies a factory site opposite the application site where they manufacture timber panels for housing construction. Reedswood Way Retail Park and the George Stephenson public house are located in the vicinity and there are bus stops immediately adjacent to the site. Remington Road bends at a 90 degree angle in the location of the site. There are two existing vehicle accesses to the site from Remington Road.

The proposal is to develop only part of the former school site as phase 1 of a larger development and this phase is located on the part of the site formerly occupied by the school buildings. The site was declared surplus to requirements by the Council.

The proposed housing faces the two streets created off the existing accesses and incorporates a homezone where pedestrian and vehicles share the space with a range of different paving materials. There are 66 allocated parking spaces.

The scheme includes semi-detached and terraced houses constructed with timber framing which is manufactured by Accord at their factory opposite the site on Stephenson Avenue. A mix of two and three storey houses of modern design are proposed and some split level housing located along the boundary to the canal. Features include gables, balconies, Juliet balconies, timber louvre panels and photovoltaic panels on the roofs. The split level housing has undercroft parking.

The site is 1.09 hectares giving a density of 37 dwellings per hectare. The surrounding housing has a density of 35 dwellings per hectare.

The developer states that as the scheme provides 100% affordable units they are unable to provide for any other required obligations.

The sale of the site will generate a capital receipt for the Council.

**The Design & Access Statement** – Describes the site and location, gives an analysis of the site and explains the access and movement, constraints and opportunities and how the proposed design has evolved, the scale and massing, homezone principles, appearance, landscaping and planting.

**The Transport Statement** - Considers the impact of the proposed redevelopment proposals on parking, trip generation, traffic impact, highway safety and sustainable access. The Statement concludes that there will be a reduction in trips generated compared to the former school use during the AM peak and negligible trips during the PM peak and that due to the minimal impact in terms of additional traffic no junction assessments of the local network have been carried out. The

local highway network has a very good safety record. The site also has potential to generate trips by sustainable modes.

The Flood Risk Assessment & Drainage Strategy – Describes the site noting it within Flood Zone 1 and not at risk of flooding from rivers for storm events of less than 1:1000 year event or from any other source. The surface water has been calculated to greenfield run off rates. Infiltration drainage is not suitable for the site and no local suitable watercourse so surface water will be discharged to Severn Trent Water systems. An additional 30% modelled rainfall has been modelled. Foul water will be discharged into a combined sewer in Remington Road. Severn Trent Water indicated that there is additional capacity in the adopted network.

The Arboricultural Site Appraisal – Recommends an arboricultural impact assessment and method statement. The survey identifies 16 individual trees, 6 groups of trees and 1 woodland area throughout the site.

The Ground Investigation & Factual Report – Identifies testing methods and ground conditions.

The Phase 1 Desk Study – Describes the site and its history, examines the geology and hydrogeology and mining implications and potential contamination issues which range between moderate and high. The high risk is the sensitivity of the proposed residential end use. Pile foundations and rafts are likely to be required.

### **Relevant Planning History**

None.

### **Relevant Planning Policy Summary**

#### **National Planning Policy Framework (NPPF)**

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

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

- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

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

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

Paragraph 120 seeks to prevent unacceptable risks from pollution and land stability.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

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

### **The Black Country Core Strategy (BCCS) (2011)**

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "decision-takers may continue to give full weight to relevant policies. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there

is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

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

The above are supported by the following policies:

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

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

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

HOU2: Density and form of new housing should be informed by the need for a range of types and sizes of accommodation, level of accessibility and need to achieve a high quality design and minimise amenity impacts. Developments should achieve a minimum density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness.

HOU3: Will seek to secure 25% affordable housing on all sites of 15 dwellings or DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN2: Proposals likely to have significant transport implications should provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development.

ENV1: Seeks to safeguard nature conservation.

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

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

ENV4: All development proposals likely to affect the canal network must: safeguard the operation of a navigable and functional waterway; protect and enhance its special historic, architectural, archaeological and cultural interest protect and enhance its nature conservation value; protect and enhance its visual amenity; protect and enhance water quality in the canal.

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

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

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

ENV24: New development which would sever or unacceptably harm the integrity of linear features such as canals will not normally be permitted.

3.116 & ENV32: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be

permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

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

8.8: Residential developments will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved educational facilities or other forms of social and community infrastructure the Council will require developers to make a financial contribution to the costs of providing these facilities

8.9: On housing sites of 1 hectare (or 30 dwellings) or more accessible community healthcare facilities should be provided to serve the development. The Council may require a contribution from developers towards such provision.

LC1: Residential developments will be required to make financial or other contributions which will enable the provision of new, or the improvement of existing urban open spaces.

T1: Seeks to improve access and help people get around

T7 – Car Parking

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

T8: Encourages walking and provision in development to enhance this.

T10 (a): Refers to accessibility standards.

T11: Seeks to improve access for pedestrians, cyclists and wheelchair users.

T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

1, 2 & 3 bedroom houses: 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

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

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

#### **Designing Walsall SPD**

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

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

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

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;  
DW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

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

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

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

It is considered in this case that the relevant provisions of SPD Conserving Walsall's Natural Environment are consistent with the NPPF.

### **Supplementary Planning Document for Affordable Housing**

Guides delivery of affordable housing to appropriate locations in the Borough and provides for balanced, mixed communities.

### **Supplementary Planning Document Urban Open Space**

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.

### **Consultations**

**Transportation** – No objections. There are no severe highway impacts but conditions are recommended to secure engineering details, a Traffic Regulation Order, surface parking areas and provide a site operatives method statement.

**Pollution Control (Scientific Team)** – To be updated at Committee.

**Pollution Control (Contaminated Land)** – To be updated at Committee.

**Environmental Health** – No comments.

**Ecology** – Objects. The development encroaches unacceptably on the Walsall Canal SINC, protected trees are being removed, no bat survey has been provided and the landscaping has no value as exotic species are proposed.

**Housing Strategy** – Fully supports the proposals. It provides eco-friendly housing using timber framed housing panels manufactured in the Accord factory opposite the site.

**Environment Agency** – Objects. The Flood Risk Assessment does not provide a suitable basis for assessment to be made of the flood risks arising from the development. The inadequacies include drainage details, surface water limitation rates, supporting calculations and water quality improvements.

**Education Asset Management** – A contribution of £88,250.40 is required towards the Primary sector. The development will generate 8.4 Primary pupils across the 7 primary year groups and will place significant pressure on Primary places within a 2 mile travel distance. The Department for Education expect Local Authorities to operate a 5% surplus but the projected available surplus is 0%. There are plans to increase capacity in 1 school in the locality. The development will generate 6 Primary pupils across the 5 secondary year groups but there is adequate surplus capacity so a contribution is not requested for this sector.

**Asset Management** - The former Beechdale School closed in July 2007 and the buildings were demolished in November 2008. The site is surplus to the Council's requirements. The Department for Education granted consent under Schedule 1 of the Academies Act 2010 in October 2013 to the disposal of the non playing field elements of the site.

**Sport England** – No objections. The application site excludes the playing field area and maintains access to it so does not prejudice potential future use.

**Canal & River Trust** – No object subject to conditions to protect the integrity of the canal.

**Police Architectural Liaison Officer** – No comments other than Secure by Design specifications should be met.

**Fire Service** – No objections.

**Severn Trent Water** – No objections subject to securing drainage details by condition.

### **Public Participation Response**

Three letters of objection have been received which are summarised as follows:

- Increased congestion and highway safety hazard
- Potential pedestrian safety hazard
- The site entrances should be moved from Remington Road as they are on a dangerous corner
- The road is narrow and a sharp bend/blind spot
- More pedestrian crossings are required
- Disruption to residents during construction
- Overlooking, particularly from 3 storey housing
- Schools are over subscribed in the area
- Environmental impact on wildlife
- No more housing is needed in the area
- Social housing in Beechdale is already fulfilled

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

## **Determining Issues**

- Principle of residential development
- Layout and design
- Relationship to surrounding properties
- Means of access & parking
- Relationship to the canal
- Provision for affordable housing
- Provision for Urban Open Space and Education
- Local Finance Considerations

## **Observations**

### **Principle of residential development**

The site was previously developed as a school and associated playing fields. The school closed in 2007 and was declared surplus to requirements by the Council. The proposals are for part of the site where the school buildings were formerly located. The Department for Education granted consent under Schedule 1 of the Academies Act 2010 in October 2013 to the disposal of the non playing field elements of the site.

The principle of new housing development on a previously developed site in a sustainable urban location is in accordance with development plan policies.

An objector considers there is no need for more housing in the area. The NPPF and the BCCS supports sustainable development and encourage provision of sufficient land to provide for sustainable housing growth. In particular policy CSP2 of the BCCS states that outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided. This previously developed site is in an established residential area in a sustainable location close to local amenities and bus routes and is considered suitable for housing purposes.

The principle of new housing on the site is considered acceptable.

### **Layout and design**

The proposed layout has perimeter block housing facing the public realm with clearly defined routes and secure private gardens. There is at least 17m between rear and gable elevations of proposed new housing and over 40m between back to back relationships on site. All gardens are at least 12m long. This is acceptable and accords with supplementary guidance.

The design of the houses is modern timber framed construction and although different from the surrounding housing it does reflect the scale and massing of the surrounding properties and building heights are considered acceptable. The appearance of the houses within the surrounding area is considered acceptable.

A mix of 2 and 3 storey properties are proposed including split level properties along the boundary with the canal with undercroft parking. The split level properties take advantage of views over the canal improving surveillance. The modern design includes gables, balconies and timber louvre panels and is considered acceptable. Corner plots also include secondary windows to improve surveillance of the street.

A high quality public realm is proposed with a variety of paving materials and street planting. A homezone area is created on the eastern side of the site which will provide a shared parking and amenity area for housing surrounding this space.

The Environment Agency has objected due to inadequacies of the Flood Risk Assessment and need for further drainage details. The developer has been made aware of the shortfalls and is seeking to address these issues. The responses will be updated at Committee. It is recommended that the proposals are acceptable subject to resolving this matter.

The Ecology officer objects on the basis that the development encroaches on the Walsall Canal Site of Importance for Nature Conservation, protected trees are being removed, no bat survey has been provided and the landscaping is inadequate. Again the developer has been made aware of these objections and is seeking to address all matters. The gardens of the split level houses that back on to the canal are at least 9.4m long and there is a 3m wide buffer of existing trees beyond this and 2.2m wide canal towpath beyond. The Canal & River Trust do not object to the proposals subject to conditions to protect the integrity of the waterway. It is recommended that permission is granted subject to addressing the ecology issues.

The layout and design are considered acceptable subject to addressing the Environment Agency and Ecologist objections.

### **Relationship to surrounding properties**

The nearest houses are in Remington Place and Remington Road to the north of the site. These properties have gardens between 14-16m long backing onto the site. The proposed housing that backs on to Remington Place has rear gardens between 17-21m long giving a distance of at least 31m between facing elevations which accords with Council policy. There is over 35m between the rear elevation of houses in Remington Road and the gable of the nearest new house which also exceeds Council guidelines. Although an objector considers they will be overlooked, particularly by 3 storey properties, the distance between dwellings is acceptable and does not cause significant overlooking.

The relationship to surrounding housing does not cause significant potential for overlooking, loss of privacy or loss of daylight and is acceptable.

### **Means of access & parking**

The proposals utilise the existing school accesses off Remington Road to create two roads linked to a "homezone" area. Communal frontage parking areas are proposed throughout the site which is observed by the houses.

Objectors are concerned the proposed access is dangerous on the 90 degree bend and proposals will result in increased congestion and potential pedestrian and highway safety hazards. The proposals utilise the existing access points for the school premises. Transportation are satisfied that the proposals will not cause severe highway impacts and have recommended conditions be attached to any permission to secure full engineering details of the access points, new pedestrian crossings, removal of guard railing, resurfacing of the footway and a Traffic Regulation Order for no waiting on Remington Road. No further pedestrian crossings are recommended. The recommended conditions will ensure highway and pedestrian safety is maintained thus addressing objector's concerns.

A condition is recommended to secure a method statement for construction traffic which will address objector's concerns about disruption from construction traffic.

There are 75 parking spaces proposed (including undercroft garages) which equates to 1.8 spaces per dwelling. Although below the maximum parking requirement for 2 spaces per dwelling this site is in a highly sustainable location and all houses have at least 1 parking space which is considered adequate given the proximity to shops and amenities and local bus stops that will encourage occupiers to consider alternative means of travel.

The means of access and parking is acceptable.

### **Relationship to the canal**

The proposed houses nearest to the canal are plots 9-18. Plot 9 has a gable facing and plots 10-18 have rear gardens facing. The buildings are set back from the existing buffer of trees along the canal boundary. The gardens of the split level houses that back on to the canal (plots 9-18) are at least 9.4m long and there is a 3m wide buffer of existing trees beyond this and 2.2m wide canal towpath beyond. The Canal & River Trust do not object to the proposals subject to conditions to protect the integrity of the waterway. The houses are considered adequate distance away from the trees to allow for their retention.

The Ecologist objects to the proposals as they encroach within the Walsall Canal Site of Importance for Nature Conservation and objectors are also concerned about loss of wildlife. The new housing encroaches closer to the canal than the previous school buildings but the design has sought to provide a soft landscape buffer (i.e. gardens) along the canal boundary and to retain existing trees. The developer has been made aware of the Ecologist concerns and is seeking to address them. Comments will be updated at Committee.

The Canal & River Trust are satisfied the proposals can be supported subject to provision of details to secure the integrity of the canal which are recommended conditions.

Subject to resolving the Ecologist objections the relationship to the canal is considered acceptable.

### **Provision for affordable housing**

Policy HOU3 of the BCCS requires provision of 25% affordable housing on qualifying sites of 15 units or over. This scheme proposes 100% affordable social rented properties to be managed by Accord Housing. This exceeds the required provision and is supported by the Housing Strategy officer and can be secured by a planning condition on any permission.

An objector considers that social housing in Beechdale area is already fulfilled but policy HOU3 of the BCCS requires provision of social housing on all qualifying sites. Provision at this site is proposed at 100% and the developer Accord Housing, a Registered Provider, is proposing this as a flagship site where they can utilise their timber framed houses manufactured opposite the site. In the circumstances the proposals for affordable housing are acceptable.

### **Provision for Urban Open Space and Education**

In accordance with policies GP3, LC1 and 8.8 of the UDP, policies DEL1 and HOU3 of the BCCS and Supplementary Planning Document: Urban Open Space the proposal triggers the need for urban open space and education provision. In accordance with the policies an urban open space

contribution of £84,120.00 is required and a contribution of £88,250.40 towards Primary sector education.

The developer is offering nil contributions towards either of these as they are providing 100% affordable housing on the site. The developer will be providing a Financial Assessment to demonstrate the viability of the scheme and justify this request. This matter will be updated at Committee.

Objectors consider the local schools in the area are already oversubscribed. Education Asset Management confirms that the projected available surplus of places in the Primary sector when the proposed properties are occupied is 0%. The Department for Education recommend local authorities operate a 5% surplus. On this basis a contribution has been requested to secure appropriate provision but this will depend on whether the viability of the development allows for this.

### **Local Finance Considerations**

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes 40 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the 'formula grant' the Council will receive from Government.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

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

Officers have discussed the significance of the proposals with the applicant's agent and discussed the process for determining this application. In response to this advice relevant supporting information has been submitted to enable full support to be given to the scheme.

### **Recommendation**

Grant permission subject to conditions and a S106 Agreement to secure urban open space and education provision unless viability is demonstrated to justify otherwise and subject to resolving the Environment Agency and ecological objections.

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

The site was previously developed as a school and associated playing fields and has been declared surplus to requirements by the Council. The principle of new housing development on a previously developed site in a sustainable urban location is in accordance with development plan policies and is encouraged by policies in the development plan despite the objector's concerns that there is no need for more housing in the area.

The proposed layout and design of the houses and appearance of the site is considered acceptable in the surrounding context. An appropriate mix of housing is proposed with high quality public realm.

The developer is seeking to provide the additional information to address the Environment Agency objection regarding the inadequacies of the Flood Risk Assessment and need for further drainage details. Subject to resolving this issue the proposals are acceptable. The Ecology officer objections are also being addressed by the developer. The proposals can be supported subject to resolving these matters.

The nearest houses are in Remington Place and Remington Road to the north of the site. There is adequate distance between existing and proposed properties to protect residential amenities in accordance with Council guidelines.

The proposals utilise the existing school accesses off Remington Road to create two roads linked to a "homezone" area. This is acceptable to Transportation subject to provision of full engineering details. There are no anticipated severe highway impacts. The highway measures will ensure highway and pedestrian safety are maintained to address objector's concerns. The parking provision is adequate given the proximity of the site to shops and amenities and local bus stops that will encourage occupiers to consider alternative means of travel.

The proposed houses are set back from the boundary with the canal and separated from it by an existing buffer of trees. The Canal & River Trust do not object to the proposals subject to conditions to protect the integrity of the waterway. The Ecologist objects to the proposals as they encroach within the Walsall Canal Site of Importance for Nature Conservation and objectors are also concerned about loss of wildlife. The developer is seeking to address these concerns. Subject to resolving the Ecologist objections the relationship to the canal is considered acceptable.

Policy HOU3 of the BCCS requires provision of 25% affordable housing on qualifying sites of 15 units or over. This scheme proposes 100% affordable social rented properties to be managed by Accord Housing. This exceeds the required provision and is supported by the Housing Strategy officer and can be secured by a planning condition on any permission. Although the objector considers that social housing in Beechdale area is already fulfilled policy HOU3 of the BCCS requires provision of social housing on all qualifying sites.

In accordance with policies GP3, LC1 and 8.8 of the UDP, policies DEL1 and HOU3 of the BCCS and Supplementary Planning Document: Urban Open Space the proposal triggers the need for urban open space and education provision. In accordance with the policies an urban open space contribution of £84,120.00 is required and a contribution of £88,250.40 towards Primary sector education. The developer is offering nil contributions towards either of these as they are providing 100% affordable housing on the site. A Financial Assessment to demonstrate the viability of the scheme and justify this request will be provided for consideration to address this requirement.

Objectors consider the local schools in the area are already oversubscribed. Education Asset Management confirms that the projected available surplus of places in the Primary sector when the proposed properties are occupied is 0%. The Department for Education recommend local authorities operate a 5% surplus. On this basis a contribution has been requested to secure appropriate provision but this will depend on whether the viability of the development allows for this.

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing. This application proposes 40 new homes. The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

**Recommendation: Grant permission subject to conditions and a S106 Agreement to secure urban open space and education provision unless viability is demonstrated to justify otherwise and subject to resolving the Environment Agency and ecological objections.**

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

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

2a. Prior to the commencement of the development drainage plans for the disposal of surface water and foul sewage shall be submitted to and approved in writing by the local planning authority.

2b. The scheme shall be implemented in accordance with the agreed details before the development is first brought into use 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 and protect the integrity of the waterway structure.

3a. No development shall take place until details of the proposed method statement for the works to the canal embankment and details of the retaining structures for the spilt level properties have first been submitted to and agreed in writing by the Local Planning Authority in consultation with the Canal & River Trust.

3b. The development hereby approved shall thereafter only be carried out in accordance with the agreed method statement and details.

*Reason:* To protect the structural stability of the canal embankment which could be adversely affected by the development in accordance with policy ENV4 Canals of the adopted Black Country Joint Core Strategy and paragraph 120 of the National Planning Policy Framework.

4a. Prior to the commencement of any development, the following details shall be submitted for approval in writing by the Local Planning Authority and in conjunction with the Highway Authority and Walsall Council's Street Lighting partner Amey;

- i. Full engineering details of the access points off Remington Road.
- ii. Full engineering details of the proposed new pedestrian crossings at the site accesses and on the Remington Road approach to the existing mini roundabout at the junction with Stephenson Avenue.

- iii. Full engineering details of the removal of the existing Guard railing along the whole frontage of the site.
  - iv. Full engineering details of the resurfacing to the existing footway along the extent of the site fronting onto Remington Road.
- 4b. Prior to the occupation of the development, all highway infrastructure works detailed and agreed, shall be fully implemented, completed and brought into use to the satisfaction of the Highway Authority.

*Reason:* In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development and in accordance with UDP Policies T1, T8 & T11.

5. Prior to the commencement of the development, a Traffic Regulation Order (TRO) shall be made to introduce a section of No Waiting at Any Time restriction on Remington Road to be agreed in writing with the Local Planning Authority in consultation with the Local Highway Authority. The TRO shall be confirmed and fully implemented to the satisfaction of the Highway Authority prior to the first occupation of any residential unit on the development, the full costs of which shall be borne by the applicant.

*Reason:* In the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development and in accordance with UDP Policy T6.

6a. Prior to the first occupation of any dwelling to which this permission relates an area for car parking shall be laid out in accordance with the approved plans which shall be properly consolidated, surfaced and drained, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

6b. These areas shall not thereafter be used for any other purpose than the parking of vehicles.

*Reason:* In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and in accordance with UDP Policies T7 & T13.

7a. Prior to the commencement of development details shall be submitted to the Local Planning Authority setting out where the location of parking for site operatives and visitors has been provided within the application site.

7b. The approved details shall be fully implemented prior to the commencement of the development and thereafter retained, maintained and kept available during construction of the development.

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

8a. Notwithstanding the plans submitted prior to the commencement of development, details of the proposed boundary treatments shall be submitted to and agreed in writing by the Local Planning Authority

8b. The development shall be implemented in accordance with the agreed details thereafter.

*Reason:* To prevent a detrimental impact on the appearance of the waterway corridor from the erection of poorly designed barrier and boundary treatments and to ensure the integrity of the waterway infrastructure is not compromised in accordance with policies ENV3 Design Quality and ENV4 Canals of the adopted Black Country Joint Core Strategy.

9. The development shall be completed in accordance with the facing and roofing materials indicated on the approved drawings listed in condition 13 and retained as such.

*Reason:* To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

10a. Prior to the commencement of the development a revised landscaping scheme shall be submitted and approved in writing by the local planning authority.

10b. The approved landscaping shall be implemented within 12 months of the completion of the development.

10c. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs or plants which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

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

11. No more than 25 dwellings shall be built on the application site, unless the applicant has made appropriate on-site provision towards affordable housing in accordance with policies HOU3 of the Black Country Core Strategy and GP3 of the Walsall Unitary Development Plan and the Affordable Housing Supplementary Planning Document unless otherwise agreed in writing by the Local Planning Authority. The affordable housing shall be retained thereafter.

*Reason:* To ensure that affordable housing needs are met in accordance with policy HOU3 of the BCCS and policy GP3 of the Unitary Development Plan and SPD: Affordable Housing.

12. 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.

(\* Bank and Public holidays for this purpose shall be: Christmas Day;

Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring

Bank Holiday Monday and August Bank Holiday Monday)

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

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

- Location Plan (10-1236-100) received 2/5/13
- Topographical Survey (10-1236-101) received 2/5/13
- Proposed Site Plan - Phase 1 (10-1236-102) received 2/5/13
- House Type Bv/A4 (Double Fronted) – Plans & Elevations (10-1236-103) received 2/5/13
- House Type Bv/B3 (Split Level) – Plans & Elevations (10-1236-104) received 2/5/13
- House Type b.A2 – Proposed Floor Plans & Elevations (10-1236-105) received 2/5/13

- House Type b-B1 – Proposed Floor Plans & Elevations (10-1236-106) received 2/5/13
- House Type w-C1 – Proposed Floor Plans & Elevations (10-1236-107 Rev A) received 31/5/13
- Proposed Indicative Street Scene Elevations (10-1236-108A) received 10/6/13
- Design & Access Statement prepared by Accord InDesign received 31/5/13
- Transport Statement prepared by Phil Jones Associates Ltd (1021 – April 2013) received 2/5/13
- Flood Risk Assessment & Drainage Strategy prepared by Rodgers Leask (D12-214) received 2/5/13
- Phase 1 Desk Study prepared by Rodgers Leask Environmental ((E12/071) received 2/5/13
- Ground Investigation & Factual Report prepared by GIP (DPS/20741) received 2/5/13
- Arboricultural Site Appraisal prepared by Betts Ecology (6154/4081/1) received 2/5/13
- Planting Strategy (21304-001) received 2.5.13
- 

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

### **Notes to applicant concerning highway matters**

#### **Mud on Highway**

The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

#### **Section 278 Agreement**

No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into.

#### **Section 38 Agreement**

If it is the developers intention to request the Walsall Council, as the Highways Authority, to adopt the proposed roadwork's as maintainable at the public expense, then details of the layout and alignment, widths and levels of the proposed road works, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all the necessary drainage arrangements and run off calculations shall be submitted to Walsall Council. No works on the site of the development shall be commenced until these details have been approved and an agreement under Section 38 of the Highways Act, 1980 entered into.

#### **No Drainage to Discharge to Highway**

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.



Regeneration Directorate – Planning and Building Control

## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 04/07/2013

**Plans list item no: 3.**

### **Reason for bringing to committee: Departure from the Development Plan**

**Application Number:** 13/0495/FL  
**Application Type:** Full application

**Case Officer:** Andrew Thompson  
**Telephone Number:** 01922 652603  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Seymour Harris Architecture

**Applicant:** Walsall Property Services

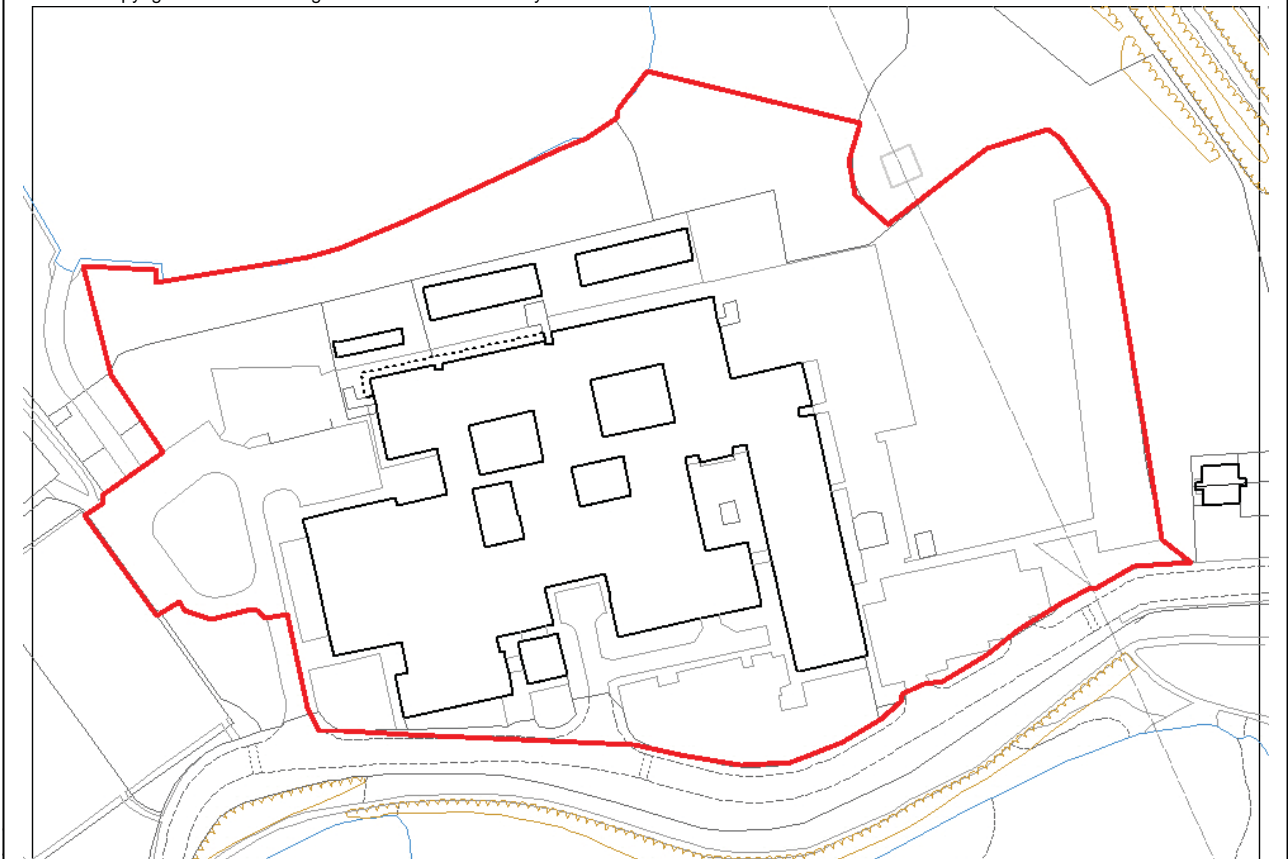
**Proposal:** Demolition, remodelling to existing school buildings with new buildings with boundary works, landscaping and associated works to facilitate the use of the site for the Black Country University Technical College (UTC) (Phase 1) and West Midlands Construction UTC (Phase 2) for 1,200 students.

**Location:** FORMER SNEYD COMMUNITY COLLEGE, VERNON WAY, WALSALL, WS3 2LU  
**Ward:** Bloxwich West

**Expired Date:** 19/07/2013

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

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## Application and Site Details

The application is for both the Black Country and West Midlands Construction University Technical College's (UTC). The Black Country UTC currently occupies part of the former Sneyd Community School buildings on Sneyd Lane, Bloxwich, Walsall and these development proposals seek to provide suitable facilities for both co-located UTC's within the existing and redeveloped facilities of the existing school buildings. The development is being funded through the Education Funding Agency (EFA) programme of investment in schools.

The site is located at Vernon Way, Walsall and was used by Sneyd Comprehensive School that accommodated 1350 students [11-16 yrs old] plus some 100 staff members. It has an extant planning permission and is currently being used by BCUTC whilst undergoing refurbishment and new build to accommodate the new UTC's which would be occupied by:

BCUTC - up to 600 students [14 – 19 yrs old] plus 40 members of staff; and

WMCUTC - up to 600 students [14 – 19 yrs old] plus 50 members of staff.

The planning application is based on a single detailed application for the whole of the campus and identifies two phased developments within the submitted proposals. Phase 1 encompasses the internal and external works to BCUTC and Phase 2 comprises both the internal and external works to WMCUTC. The target for a start on site date for Phase 1 is 29 July 2013, followed by a Phase 2 commencement date a month later in August 2013.

University Technical Colleges are a new concept in education, offering 14-19 year olds the opportunity to take a highly regarded, full time, technically-oriented course of study. They are equipped to the highest standard and sponsored by a university or college.

The students combine hand and mind to learn in a very practical way, integrating national curriculum requirements with the technical and vocational elements. The UTC ethos and curriculum is heavily influenced by local and national employers who also provide support and work experience for students.

A fundamental principle of University Technical Colleges is that they do not judge students on their past performance. Students are given new opportunities and new ways of learning which allow them to achieve to a higher level than they may have done before

The proposals comprise a mix of demolition, remodel and refurbishment, together with new-build facilities to form two co-located UTC's accommodating 1200 students and 90FTE staff across the facilities. In addition the existing Sport and Community facilities are retained and further opportunities are afforded the community offer with the redevelopment. This will enable the UTC to host additional and alternative third party facilities.

The proposal comprises both single and two-storey elements of accommodation with large volume single storey spaces, comprising the existing Halls, Drama Studio and Sports Hall and the new-build Circulation Street and Technical Workshops. The remaining facilities including teaching spaces, the technical centres, and support spaces for each of the UTC's are contained within the existing buildings within either single or two-storey accommodation. The two UTC's share the main entrance into the building which is now focused onto Vernon Way, rather than tucked around the rear of the Sports Hall; set within a new main entrance piazza.

The application is supported by the following documents:

*Design and Access Statement* - Serves to summarise the conclusions from reports, designs and discussions with reference to the buildings; master planning for the site; the car parking provision and associated landscape works and sustainability targets and ethos.

The design of the UTC's has involved the preparation of a large number of supporting documents, relating to educational needs within Walsall and the West Midlands for the creation of these technical skills centres, the ethos and aims of the colleges, community needs and extended services, urban design, landscaping, design, ecology, trees, and highways. These aspects have been discussed within stakeholder consultations.

*Transport Statement* - The proposed development meets all safety and Planning Policy requirements and will have no material impact onto the highway network and as such, there are no transport / highways reasons for refusal of planning permission. The proposed development site is accessible by walking, cycling and public transport. The catchment area for the UTC's would be the 'West Midlands' and will have dedicated mini bus(es) that would be used for the collection and drop off of students. The development proposals are in line with the relevant national, regional and local transport policies. There are no new committed developments or transport network changes in the vicinity of the site that may have an impact on the findings of this Transport Statement. It is anticipated that the development would attract the usual servicing requirements. The design and layout allows for all movements and turning points to be accommodated within the site. Parking would be provided in line with Walsall Metropolitan Borough Council [WMBC] Unitary Development Plan [UDP] car and cycle parking guidelines.

*Flood Risk Assessment* - Below ground storage will be provided for surface water attenuation in order to comply with the maximum permitted discharge rate from the development in liaison with the relevant authority, i.e. water company and/or Environment Agency. The discharge rate will be based on Greenfield runoff rate or downstream existing drainage capacity depending upon stakeholder's requirement.

*Phase 1 Habitat Survey* - recommends that the development design incorporates features to enhance the biodiversity value of the site, in keeping with requirements of National Guidance and suggests ecological enhancements that could be considered

*Bat Survey* - Due to the bat evidence found, the site has been classified as having 'moderate to high' bat potential. Construction activities to the buildings on site have the potential to directly impact bats using the buildings to roost in. Potential impacts include loss of roosts and disturbance. Other potential impacts include loss of foraging habitat and disturbance due to additional lighting.

It is recommended that further survey work in the form of presence / absence surveys is undertaken. The Bat Conservation Trust produced new guidelines for bat surveying in 2012, stating that for a building with moderate to high bat potential at least three surveys should be undertaken.

*Great Crested Newt Survey* - There were several water bodies located within the 500m of the site, which were subject to screening and presence and absence surveys. A reservoir was located within the site and another just south of the site which were found to be unsuitable to support GCNs. Ponds within the wider area were however found to support GCN. Further work and mitigation would be necessary should the development be progressed.

*Ground Investigation Reports* - The ground risks at this site are varied, including problems from historical underground mining, open cast workings and potential contamination. It is therefore recommended that the Bidders' undertake a follow on study from the factual ground investigation data to make an assessment of the ground risks, provide advice on measures that may be required to address the key risks and to inform the cost plan.

*Travel Plan Framework* - A Travel Plan (TP) promotes sustainable travel awareness and encourages sustainable travel choices by staff and students of the UTCs. An effective and efficient TP is the mechanism for achieving the sustainable transport access strategy to the site. This document provides the framework for operating the TP.

*Tree Report* - There are a number of trees, tree groups and wider woodland areas across this site. Some of the wider woodland is significant silvicultural assets requiring formal woodland management plans to be drawn up to assisting the development of these areas. Many exhibit significant visual amenity either within their locality or within the wider landscape. Recommendations are provided in contemplation of development and also represent our recommendations for the current management of trees in order that the landowners discharge his/her duty of care.

*Acoustic Assessment* - The acoustic specification of the glazing and ventilation will need to be determined at detailed design stage to demonstrate that the design proposals are compatible with the requirements of BB93.

### **Relevant Planning History**

There have been extensions and alterations on the site as part of the former use of the site as Sneyd school. The most recent permission (05/0083/FL/E4) approved an extension to a classroom.

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

#### **National Planning Policy Framework (NPPF) and associated Technical Guidance**

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

It is based on 12 **core planning principles**; the relevant principles in this case are to:

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Reuse land that has been previously developed
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth and

- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

**Key provisions** of the NPPF relevant in this case and are detailed, where appropriate in the main body of the report.

17 Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking

- take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;

- support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);

- contribute to conserving and enhancing the natural environment and reducing pollution.

58 –Planning policies and decisions should aim to ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;

- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;

- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;

- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and

- are visually attractive as a result of good architecture and appropriate landscaping.

80 – sets out the purposes of the Green Belt

81 – seeks to bring Green Belt land into beneficial use for appropriate development

89 – sets out appropriate buildings and use of land including the limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

103 - When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.

109. The planning system should contribute to and enhance the natural and local environment protecting and enhancing valued landscapes, geological conservation interests and soils;

- recognising the wider benefits of ecosystem services;

- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

123 – Planning decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development

128 - In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary.

129. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

130. Where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision.

### ***Technical Guidance to the National Planning Policy Framework***

In relation to flooding and the sequential test, the guidance as set out in the National Planning Policy Framework, inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. For these purposes:

“areas at risk of flooding” means land within Flood Zones 2 and 3; or land within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency;

“flood risk” means risk from all sources of flooding - including from rivers and the sea, directly from rainfall on the ground surface and rising groundwater, overwhelmed sewers and drainage systems, and from reservoirs, canals and lakes and other artificial sources.

### **Local Plan Policy – The Development Plan**

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should

not be considered out-of-date simply because they were adopted prior to the publication of the framework.

### **Black Country Core Strategy**

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework “*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*”.

CSP3 – seeks to protect, enhance and expand environmental infrastructure

CSP4 – seeks high quality design and place making development

DEL1 - All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

TRAN1 - All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2 - Planning permission will not be granted for development proposals that are likely to have significant transport implications unless applications are accompanied by proposals to provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development including, in particular, access by walking, cycling, public transport and car sharing.

ENV1 - Adequate information must be submitted with planning applications for proposals which may affect any designated site or any important habitat, species or geological feature to ensure that the likely impacts of the proposal can be fully assessed. Without this there will be a presumption against granting permission.

ENV2 - All development should aim to protect and promote the special qualities, historic character and local distinctiveness of the Black Country in order to help maintain its cultural identity and strong sense of place. Development proposals will be required to preserve and, where appropriate, enhance local character and those aspects of the historic environment together with their settings which are recognised as being of special historic, archaeological, architectural, landscape or townscape quality.

ENV3 - Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits

ENV5 - The Black Country Authorities will seek to minimize the probability and consequences of flood risk by adopting a strong risk-based approach in line with PPS25. [*superseded by the NPPF*] Development will be steered to areas with a low probability of flooding first through the application of the sequential test. The Exception test will then be required for certain vulnerable uses in medium and high probability flood areas. No development will be permitted within a groundwater Source Protection Zone 1 which would physically disturb an aquifer, and no permission will be granted without a risk assessment demonstrating there would be no adverse effect on water resources.

ENV7 - Proposals involving the development of renewable energy sources will be permitted where the proposal accords with local, regional and national guidance and would not significantly harm the natural, historic or built environment or have a significant adverse effect on the amenity of those living or working nearby, in terms of visual, noise, odour, air pollution or other effects.

### **Saved Policies of the Unitary Development Plan**

GP2 expects all developments to make a positive contribution to the quality of the environment and the principles of sustainable development, and will not permit development which would have an unacceptable adverse impact on the environment. The policy highlights criteria that deal with impact. Part I (visual appearance), II (pollution), III (contamination), VII (transport), VIII (impact on Green Belt), IX (archaeology), X (protected species), XIII (effect on landscape), XIV (impact on open space), and XV (impact on water resources).

GP3 – seeks appropriate planning obligations (including highway improvement)

GP5 - When considering development proposals care will be taken to ensure that the needs of all sections of the community are properly taken into account and that there is no discrimination against any individual or group on the basis of race, gender, age, poor mobility, disability, poverty, or any other factor.

ENV1 – Defines the boundary of the Green Belt

ENV2 – Control of Green Belt development. Part III. Cemeteries or other uses which preserve the openness of the Green Belt and do not conflict with its purposes.

ENV3 – Detailed evaluation of Green Belt development

I. The detailed layout of the site.

II. The siting, design, grouping, height and scale of buildings, structures and associated outdoor equipment.

III. The colour and suitability of building materials, having regard for local styles and materials.

IV. The opportunities to use redundant land and buildings for suitable alternative uses.

V. The quality of new landscape schemes.

VI. The impact on significant views, viewpoints and topographical features.

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

VIII. The implications for local facilities, particularly public services and infrastructure.

IX. Any other relevant considerations identified in Policy GP2.

ENV9a) Environmental improvement initiatives will be concentrated in the following general locations:

II. Prominent transport routes which create an important impression on travellers to the Borough.

VI. Future development sites requiring advance landscaping.

ENV10 - The development of an industry or facility which may cause pollution will only be permitted if it would not:-

I. Release pollutants into water, soil or air, whether on site or elsewhere, which would cause unacceptable harm to health and safety or the natural environment.

II. Cause unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

III. Have an unacceptable adverse effect on nearby land uses and/or restrict the types of new development that could be permitted in the locality, or impose special conditions on them.

ENV14 seeks to promote the use of previously developed land.

ENV17 Planting will be promoted particularly in the following areas:- IV (Transport corridors) and XI (As part of landscape design around new developments)

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

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

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

ENV24 - (a) New development which would sever, or unacceptably harm the integrity of a wildlife corridor will not be permitted. The Council will expect development proposals within wildlife corridors to maintain the integrity of the wildlife corridor concerned and enhance its value for wildlife.

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

ENV25 - Proposals for development which affect archaeological sites will normally need to be accompanied by an evaluation of the archaeological resource. An evaluation will normally comprise a desk-based assessment and fieldwork. The scope of the work will be set out in a brief prepared on behalf of the Council. It should be carried out by a suitably qualified archaeologist or professional organisation. Development adversely affecting monuments of national importance, whether scheduled or not, or their setting, will not normally be permitted.

ENV32 - 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:

(a) III. On a visually prominent site.

IV. Within or adjacent to transport corridors, including canals, railways, motorways and major roads.

VIII. Within or adjacent to Local Nature Reserves, Sites of Special Scientific Interest, Sites of Importance for Nature Conservation, parks, cemeteries or public open spaces.

IX. 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:-

I. The appearance of the proposed development.

II. The height, proportion, scale, and mass of proposed buildings/structures.

III. The materials proposed for buildings, external spaces and means of enclosure.

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

V. Community safety and security.

VI. The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

VII. The effect on the local character of the area.

VIII. The proposed vehicular and pedestrian circulation patterns.

IX. The integration of existing natural and built features of value.

X. The maintenance requirements of the development.

ENV33 - (a) Good landscape design is an integral part of urban design and the

Council will require, where appropriate, planning applications proposing development in the locations described in policy ENV32 to be supported by full details of external layout and landscape proposals.

(b) In addition, development proposals meeting any of the following criteria will also be required to be supported by full details of external layout and landscape proposals:-

II. Development sites containing natural and built features the Council requires to be retained or enhanced.

ENV40 seeks to conserve, protect and manage water resources including lakes and rivers.

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

T4 – On Local Distributor roads. Traffic restraint measures will be used to deter through traffic and reduce traffic speeds. Frontage access will be allowed in principle, subject to local circumstances. Development proposals must, where there are significant transport implications, be accompanied by a Transport Assessment which considers the accessibility of the development by all modes of transport, including impact on the highway network in the surrounding area.

T5 - highway improvement schemes should be designed to minimise any adverse impact on the environment or the amenity of residents.

T7 - 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.

T8 - seeks to promote walking

T9 seeks to promote cycling

T13 – seeks an appropriate level of car parking for each development. There is a standard 1 car park space per 2 staff and 1 space per 15 students, 1 bike locker for every car park space and the inclusion of taxi facilities.

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

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with NPPF policy. The SPDs are due for consultation on revisions and amendments following the BCCS adoption in March 2013. The relevant SPDs are:

#### **Designing Walsall SPD**

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

#### **Natural Environment SPD**

Policies NE1, NE2, NE3, NE4, NE5, NE8, NE9 & NE10 deal with the need to fully assess protected species, assess, protect and secure compensatory planting for trees. Protection is proposed for protected animals, plants etc.

### **Consultations**

**Transportation** - No objection subject to conditions relating to the implementation of access points, method statement, visibility splay and mud on the highway

**Highways agency** – No objection

**Centro** – No objection - recommend upgrade to bus shelters and bus facilities and development of a Travel Plan

#### **Pollution Control**

*Scientific Team* - No objections to the application in regard to air quality and noise. Recommend the applicant addresses noise concerns via appropriate planning conditions.

*Contaminated Land Team* - No objection subject to the completion of further works to characterise the site to determine the extent of any remedial measures required to attain satisfactory development. Conditions to accomplish this have been provided.

**Environment Agency** – No objection

**Coal Authority** – No objection subject to a condition to require the further investigation/assessment works recommended within the Summary of Intrusive Site Investigation Report to be undertaken and submitted for approval prior to commencement of development.

**South Staffordshire Borough Council** – No objection - The site is within the Green Belt where replacement buildings are acceptable providing there is no greater impact on openness. The proposed scheme appears to be designed in a sympathetic way, to help reduce the bulk and massing of the building and reduce the impact on the Green Belt.

**Rights of Way Officer** – No objection

**Local Access Forum (including Ramblers Association)** – No objection - There are several ROWs that run from the edges of this site including WAL 3 (Vernon Way to Glastonbury Crescent), WAL 4 ( Wyrley and Essington Canal to Glastonbury Crescent) and ESS13 (which runs from the Wyrley and Essington Canal to the rear of the Sneyd School). As far as we can tell from the plans submitted these routes would not be affected by the planned changes.

Natural Environment Team

*Ecology* - No objection to the development in principle. Further ecological information on bats is required before determination of this application in accordance with advice given to the applicant when the application was submitted. No further information is required in relation to breeding great crested-newts. The absence of a detailed landscape scheme can be dealt with by imposing a planning condition.

*Landscape Team* – No objection subject to a condition for the submission of a detailed hard and soft landscape scheme.

**Wildlife Trust** – No objection however urges that habitat creation noted in the application is incorporated into the design.

## **Representations**

None received

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

## **Determining Issues**

- Principle of the development
- Impact on the openness of the Green Belt
- Visual impact of the proposals
- Car parking, highways and servicing

## **Observations**

**Principle of the development**

The application site is the former Sneyd School with education facilities and associated infrastructure, including playing fields, car parking and landscape features, including the lake.

The existing buildings are being utilised by the Black Country UTC but the buildings are largely tired and in need of improvement. The proposals seek to enhance the existing buildings and are largely within the existing wider boundaries of existing buildings.

Community facilities that are also present on the site and are unaffected by the proposals.

Green Belt guidance suggests that limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development are appropriate development.

It is considered that the proposals fall within the scope of this criterion and are acceptable in principle.

### **Impact on the openness of the Green Belt**

The proposed physical alterations use the existing structure of the building as a backdrop and the proposals include the removal of fences and boundary treatment to Vernon Way to improve the entrance and frontage to the UTC.

The removal of fencing and the introduction of the plaza feature will improve the openness as viewed from Vernon Way and is balanced against the increased physical extensions to the buildings.

Officers consider that the proposed scheme has been designed in a sympathetic way, to help reduce the bulk and massing of the building and reduce the impact on the Green Belt.

The proposals are acceptable and would not have an adverse impact on the openness of the Green Belt or the purposes of including the land in it.

### **Visual impact of the proposals**

The proposals would modernise and enhance otherwise tired buildings and introduce a feature development into the area with clear and positive entrances to the site. The proposed improvements also include a number of internal courtyards and a "street" and communal areas through the development. The proposals would have a positive impact on the area and uplift otherwise tired buildings.

### **Impact on trees and protected species**

The comments of the Wildlife Trust are noted and the proposals would have no impact on trees and would be designed in a manner to enhance the local environment. The proposals are considered acceptable.

The Council's own Ecologists note that an old bat roost was found within the buildings and the building was assessed as having moderate to high potential in the first bat survey report. Bat activity surveys were subsequently carried out between 19<sup>th</sup> and 29<sup>th</sup> September 2013. The survey concentrated on whether the building was used by bats and made no comment on how the bats observed were using the surrounding area. The survey report argued that the high lighting levels

around the school throughout the night probably made it unattractive for bats. It also stated that there were other potential roosting sites in nearby buildings and trees.

There is concern that the site has been downgraded from having moderate/ high potential for bats without adequate justification, the survey work was right at the end of the recommended field season and well after any maternity roosts are likely to have dispersed. The Council's ecologist considers the school is the best sited building in the immediate neighbourhood for access by foraging bats to Sneyd Reservoir, Sneyd Lake and the belt of vegetation on the motorway embankment. There is no evidence provided that bats would be roosting in nearby properties or trees. The bat survey was carried out without knowledge of the proposals for development. It is possible that none of the features with high potential for bats would be affected and it is difficult to establish the impact on the bats.

There are some flaws in the bat survey reports were the main reasons for requesting the following information:

- a revised series of recommendations formulated on the basis of the actual development proposed;
- method statements for the implementation of the development;
- consider the need for any further bat survey work at a more optimal time of the year than late September.

Whilst there is some further information that is required prior to the commencement of works on the site, there is a reasoned assessment of the existing situation which forms a basis for a sound planning permission. Whilst further information is being sought to overcome the concerns raised, it would be appropriate condition is therefore proposed to carry out further work.

### **Car parking, highways and servicing**

Whilst the proposals are over 400m walking distance from the nearest bus service provision on Lichfield Road/Sneyd Lane. The applicant is seeking to enhance provision of buses (through their own requirements) and as part of their sustainable travel plan.

The proposals would not have an adverse impact on the highway network and would promote sustainable transport.

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

The application is for both the Black Country and West Midlands Construction University Technical College's (UTC). The Black Country UTC currently occupies part of the former Sneyd Community School buildings on Sneyd Lane, Bloxwich, Walsall and these development proposals seek to provide suitable facilities for both co-located UTC's within the existing and redeveloped facilities of the existing school buildings. The development is being funded through the Education Funding Agency (EFA) programme of investment in schools.

The site is located at Vernon Way, Walsall and was used by Sneyd Comprehensive School that accommodated 1350 students [11-16 yrs old] plus some 100 staff members.

The existing buildings are being utilised by the Black Country UTC but the buildings are largely tired and in need of improvement. The proposals seek to enhance the existing buildings and are largely within the existing wider boundaries of existing buildings.

Community facilities that are also present on the site and are unaffected by the proposals.

Green Belt guidance suggests that limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development are appropriate development.

It is considered that the proposals fall within the scope of this criterion and are acceptable in principle.

The proposed physical alterations use the existing structure of the building as a backdrop and the proposals include the removal of fences and boundary treatment to Vernon Way to improve the entrance and frontage to the UTC. The removal of fencing and the introduction of the plaza feature will improve the openness as viewed from Vernon Way and is balanced against the increased physical extensions to the buildings.

The proposals are acceptable and would not have an adverse impact on the openness of the Green Belt or the purposes of including the land in it. The proposals would modernise and enhance otherwise tired buildings and introduce a feature development into the area with clear and positive entrances to the site. The proposed improvements also include a number of internal courtyards and a "street" and communal areas through the development. The proposals would have a positive impact on the area and uplift otherwise tired buildings.

Whilst the proposals are over 400m walking distance from the nearest bus service provision on Lichfield Road/Sneyd Lane. The applicant is seeking to enhance provision of buses (through their own requirements) and as part of their sustainable travel plan.

The proposals would not have an adverse impact on the highway network and would promote sustainable transport.

Having considered all consultation comments received and material planning considerations and the Development Plan, including policies CSP3, CSP4, DEL1, TRAN1, TRAN2, ENV1, ENV2, ENV3, ENV5, and ENV7 of the Black Country Core Strategy; saved policies GP2, GP5, ENV1, ENV2, ENV3, ENV9a), ENV10, ENV14,

ENV17, ENV23, ENV24, ENV25, ENV32, ENV33, ENV40, LC1, T4, T5, T7, T8, T9 and T13 and the Council's Adopted Supplementary Planning Documents and national guidance the proposals are considered to be acceptable.

**Recommendation:** Grant Permission Subject to Conditions

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

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

2a) Prior to the commencement of built development details of the following landscape details shall be submitted to and agreed in writing by the Local Planning Authority.

Full details shall be provided of:

- Preparation of land for planting including need for decompaction.
- Specification and depths of topsoil/ subsoil/ growing medium and any mulches.
- Locations of all planting.
- Density of planting/ sowing.
- Specifications for all planting to include: full details of sizes/ container volumes/ seed mixes/ plant numbers/ provenance/ botanical and English names and methods of planting.
- Specifications and locations for bird and bat boxes.
- Locations and full specifications of all hard landscaping/ lighting.
- Any phasing.

b) Prior to the commencement of the use of the site, under the development hereby approved, a 5 year management plan shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall be carried out to an accepted methodology and provide full details of:

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

c) The proposals shall be fully implemented in accordance with the submitted details. Soft landscaping shall be retained for a period of 5 years and hard landscaping retained thereafter.

*Reason:* To ensure satisfactory development of the application site and to ensure that appropriate landscaping is delivered to provide an attractive and functional setting for the proposed development and contribute to the ecological diversity of the site in linked green infrastructure in the neighbourhood.

3a) Bat survey work has found a moderate to high potential that bats may be present in the buildings. Within the site but bats may still be found and the following precaution shall be taken when implementing the development hereby permitted:

i) Contractors undertaking demolition works shall be made aware that bats may be roosting and undertake demolition works in the expectation that bats may be present.

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

(b) If bats or evidence of bats are found during these operations:

i) bats should not be handled or touched and the vicinity of the roost shall be immediately reinstated.

ii) no further destructive works shall be carried out to the building until the need for Natural England licence has been established.

iii) within one week of finding bats or evidence of bats, a written report by the supervising ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation

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

*Reason:* to conserve local bat populations.

4i) Prior to built development commencing further gas monitoring as recommended by the document 'Black Country UTC – Summary of Intrusive Ground Investigation', reference 301445BC01 dated 31 October 2012, by Mott Macdonald; to determine the ground gas regime on site shall be undertaken.

ii) Prior to built development commencing a review of the factual ground contamination report, reference G12137, dated December 2012, by Nicholls Colton Geotechnical and the results of the further gas monitoring exercise as required by part i; shall be undertaken to assess the hazards arising from any land contamination and/or ground gas and shall be submitted to the satisfaction of the Local Planning Authority. (See Note for Applicant CL1)

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 CL1)

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 ii) 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 CL2)

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

5a) Prior to commencement of the development full engineering details of any new vehicular access shall be submitted to and approved in writing by the Local Planning Authority

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

*Reason:* In the interest of Highway safety.

6a) Prior to the commencement of the development, a Construction Method Statement and plan including details of a turning and parking facility for site operatives, the siting of portakabins and materials etc, shall be submitted to and approved in writing by the Local Planning Authority.

b) This provision to be implemented and retained during the period of construction in accordance with the approved details.

*Reason:* To ensure the safe and satisfactory operation of the development during construction due to the sensitive nature of the sites near to a school.

7a) Prior to the commencement of development a schedule of the facing materials shall be approved in writing by the Local Planning Authority.

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

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

8a) Prior to the commencement of development, drainage plans, including details of proposed sustainable drainage systems, including the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority.

b) The scheme shall be implemented in accordance with the approved details prior to the first occupation of the development.

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

9a) Prior to the commencement of development details of the proposed lighting for the development including details of foundations, luminance in candelas, light spillage details and hours of operation shall be submitted to and approved in writing by the Local Planning Authority.

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

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

10a) Prior to the commencement of development details of a waste storage, collection and litter management plan for the site shall be submitted to and agreed in writing by the Local Planning Authority

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

*Reason:* To spillage of waste products and materials into the wider area and to ensure a satisfactory functioning of the development

11a) Within 6 months of the development hereby approved being brought into use, a full Travel Plan shall be developed in partnership with the Highway Authority and submitted to and approved by the Local Planning Authority in consultation with the Highway Authority. This shall identify a package of proposed measures consistent with the aim of reducing reliance on the car, and encouraging the use of sustainable transport.

b) A Travel Plan Co-ordinator shall be nominated (this may not be their only role). They will manage the Travel Plan and co-ordinate the annual survey and review, which will be submitted to, and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

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

12a) During construction of the development details shall be submitted to and agreed in writing by the Local Planning Authority to demonstrate steps to be taken to ensure that vehicles do not deposit mud or other material onto the public highway, and prompt measures will be taken to remove any material that is so deposited in accordance with details previously agreed in writing by the Local Planning Authority.

b) The agreed details shall be fully implemented in accordance with the agreed details and retained throughout demolition and construction.

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

13. All vehicle access points shall provide 2.4m x 3.4m pedestrian visibility splays, within which no structure or planting shall at any time exceed 600mm in height above ground level.

*Reason:* To ensure adequate pedestrian/vehicle inter-visibility in the interests of highway safety.

14. Prior to the commencement of any educational teaching written confirmation shall be supplied that confirms compliance with the requirements of BB93.

*Reason:* In order to ensure a satisfactory noise environment.

15. Unless amendment is sought through planning conditions, the development hereby permitted shall be undertaken in accordance with the details shown on following drawings and documents submitted to the Local Planning Authority:

Plans:

AP(0)001 Location Plan

AP(0)002 Existing Siteplan sheet 1-2

AP(0)003 Existing Siteplan sheet 2-2

AP(0)004 Existing Ground floor Plan

AP(0)005 Existing 1 First Floor Plan  
AP(0)006 Existing 2 Roof Plan  
AP(0)007 Existing Elevations  
AP(0)008 Existing Sections Sheet 1-2  
AP(0)009 Existing Sections Sheet 2-2  
AP(0)010 Existing Site Sections  
AP(0)011 Ground Floor  
AP(0)012 Frist Floor  
AP(0)013 Roof Plan  
AP(0)014 Main South and East Elevation  
AP(0)015 Main West and North Elevation  
AP(0)016 Sections A,B,C  
AP(0)017 Sections D,E,F  
AP(0)018 Sections G,H,I  
AP(0)019 Sections J,K,L  
AP(0)020 Proposed Site Sections  
AP(0)021 Phasing Plan  
AP(0)022 3D views  
Phase 1&2-200 Rev A Landscape plan

Documents:

Design and Access Statement prepared by Seymour Harris

Transport Statement - prepared by iPRT Group [Europe] Ltd (ref: 130412-166-TS V0)

Travel Plan Framework – prepared by iPRT Group [Europe] Ltd (ref: 130412-166-TP V0)

Preliminary tree constraints survey and report prepared by Amenity Tree Care Ltd (ref: Kier –

Preliminary tree constraints survey and report - Version 1 – 16 04 13 – SB)

Extended Phase 1 Habitat Survey – prepared by Mott MacDonald (ref: 301455BC07/BNI/MNS/1/A)

Bat Survey Report – prepared by Mott MacDonald (ref: 301445/WTD/MID/02/A)

Great Crested newt survey Costs prepared by Mott MacDonald (ref: 301445/WTN/BNI/001/A)

Ground Investigation Scope and Costs prepared by Mott MacDonald (ref: 301445/HTB/EU  
COR01)

Phase 1 Geo-Environmental Assessment – prepared by Mott MacDonald (ref: 301445/BNI/MNS/001/A)

Qualitative Risk Assessment for Mining Considerations prepared by Mott MacDonald (ref: 301445/BNI/MNS/002/A)

Flood Risk Assessment prepared by Arup (dated 15 April 2013)

Acoustic Assessment prepared by Mott MacDonald (ref: 301445/HWA/HDS/005/A)

### **Notes for Applicant – Contaminated Land**

CL1) When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 “Model Procedures for the Management of Land Contamination”, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 “Updated technical background to the CLEA model” and Science Report – SC050021/SR2 “Human health toxicological assessment of contaminants in soil” or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL2) Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

A) Approved Document E “Resistance to the passage of sound” 2003 (As Amended) Building Bulletin 93, Acoustic design of schools – a design guide, Department for Education and Skills





Regeneration Directorate – Planning and Building Control

## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 04/07/2013

**Plans list item no: 4.**

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

**Application Number:** 13/0394/FL  
**Application Type:** Full application

**Case Officer:** Barbara Toy  
**Telephone Number:** 01922 652615  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Mr M. Aqbal

**Applicant:**

**Proposal:** Change of use of first floor from residential flat to 24 hour private hire booking office.

**Location:** 240 WEDNESBURY ROAD, WALSALL, WS2 9QN

**Ward:** Pleck

**Expired Date:** 15/05/2013

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

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## **Application and Site Details**

The site is situated on the north western side of Wednesbury Road (district distributor) and comprises a first floor one bedroom flat above an A1 retail shop. The premises sits within a block of 11 similar properties within the Pleck local centre and has its own pedestrian access door on the frontage and external staircase to the rear.

Immediately to the rear of the block is a small gated car park for use by the immediate properties (approx 6 spaces) and a public car park is situated approx 50m to the north east of the site on the opposite side of Wednesbury Road.

Immediately adjoining at 238 are A2 offices at both ground and first floor and at 242 A1 retail (post Office) at ground floor and a flat at first floor. The remainder of the block and on the opposite side of the road are similar A1 and A2 uses.

Zig zags either side of a pedestrian crossing prevents parking immediately outside the site on Wednesbury Road. On street parking bays are located to the south west on both sides of the road. A Council public car park for the local centre, of approx 30 spaces is located on the corner of Ford Street on the opposite side of Wednesbury Road.

To the south west of the site is Oxford Street, a predominantly residential street with double yellow lines both sides for most of its length. Pleck health centre is located in Oxford Street with its own car park.

The application proposes the change of use of the first floor one bedroom flat to a 24 hour taxi booking office. The front room would be used as an office and the back room as a staff room. It is envisaged that the use would operate with 6 part time staff with up to 5 taxis operating at any one time. The use would operate as a booking office only, with jobs distributed to drivers by radio and PDA's reducing the need for drivers to call at the office.

The proposals would allow an existing taxi business operating from premises in Pleck Road to expand.

A supporting statement has been submitted with the application which discusses the site and surroundings, the proposal, the principle of the proposed use in relation to the impact on the local centre, residential amenity and parking.

## **Relevant Planning History**

### **197 Wednesbury Road**

BC23096P, change of use to offices for private hire taxi business including use of car park for vehicles, granted subject to conditions 25-07-88.

## **Relevant Planning Policy Summary**

### **National Planning Policy Framework (NPPF)**

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

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

- Proactively drive and support sustainable economic development to deliver business
- Always seek a high quality design and a good standard of amenity for all existing and future occupants
- Take account of different roles and character of different areas;

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

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

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

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

20. Meet development needs of businesses

#### 4: Promoting Sustainable Transport

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

#### 7. Requiring good design

56. The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

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

### **The Black Country Core Strategy (BCCS) (2011)**

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that

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“... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).” To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a ‘Compatibility Self-Assessment Checklist’ (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council’s Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The key planning policies include:

#### CSP4: Place Making

States that the hierarchy of centres will provide a focus and concentration for essential local services and activities with easy access by walking, cycling and public transport.

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

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says “*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*”.

The relevant policies are:

#### GP2: Environmental Protection

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

II. The creation of, or susceptibility to, pollution of any kind

VII. The adequacy of the access, and parking.

XIX. The hours of operation of any activities proposed.

3.7 looks at protecting people from unacceptable noise, pollution and other environmental problems.

#### ENV10: Pollution

Facilities which may cause pollution will only be permitted if it would not cause unacceptable adverse effect in terms of noise etc,

#### S1: Definition of Town Centre Uses

Includes A2 offices and sui generis uses which attract a significant number of trips

## S2: Hierarchy of Centres

### (c) Local Centres

The main function is to meet the day to day convenience shopping and local service needs of their communities.

### S4: Town and District Centres

The Council will seek to sustain and enhance the range and quality of shopping, leisure and other town centre uses to maintain the vitality and viability of the centre.

### S8: Housing in Town Centres

It should be recognised that the particular benefits of living in a centre could mean the acceptable level of residential amenity may not be the same as that expected in suburban locations. Residential development must support and not prejudice a centre's retail, commercial and leisure functions.

### T4: The Highway Network

(b) District Distributors are important routes connecting the main residential and employment areas of the Borough.

### T13 – Parking Standards

A1 advises that developers must demonstrate that the development will provide adequate on site parking to meet its needs and there will be no adverse impact on highway safety or the environment.

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

## **Consultations**

**Transportation** – No objections.

**Environmental Health** – No objections subject to safeguarding conditions to prevent disturbance to adjoining occupiers.

**Licensing Enforcement Officer** – A1 Pleck Cars currently operate from a site on Pleck Road and have 12 cars affiliated to the booking office. There is an existing registered taxi office at 197 Wednesbury Road.

**West Midlands Police** – No objections

## **Public Participation Responses**

Thirteen letters of objection have been received (one anonymous), including a letter from Valeries Vaz MP on behalf of a competing taxi operator concerned that a new business would bring additional parking in the area causing congestion, is it possible to attach a condition to prevent taxis parking in the area?

## Objections:

- Lack of parking already a problem in the immediate vicinity particularly for local residents and visitors to local businesses
- Already a taxi firm in Pleck
- Traffic problems
- Large numbers of booking offices in Walsall
- Impact on local economy if another taxi office opens
- Disruption to neighbours
- Impact on neighbouring business from congestion
- Noise pollution at night
- Taxi drivers from existing booking office block driveways and park on double yellow lines causing access problems for Ring & Ride vehicles and inconvenience to residents
- Local residential streets already affected by school and business traffic

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

## **Determining Issues**

- Principle of the Use
- Parking and Highway Safety
- Impact on the amenities of the surrounding occupiers

## **Observations**

### **Principle of the use**

The site is situated within a defined local centre, where the main function is to meet the day to day convenience shopping and local service needs of the community and where increased activity is considered appropriate and encouraged. Wednesbury Road is a district distributor route that by its very nature is busy with through traffic and visitors to the business in the local centre.

Whilst objectors have raised the issue of an existing taxi booking office in the immediate vicinity (197 Wednesbury Road), a local centre is the right location for such uses and competition is not a planning matter.

The use would bring vacant upper floor accommodation back into use.

It is considered that the proposed sui generis service use would be an appropriate use to be located within a local centre.

### **Parking and Highway Safety**

The proposed use would provide a taxi booking office only, with 6 part time staff on a rota basis to operate the switch. Jobs would be dispatched to the drivers through car radios and PDA's so reducing the need for drivers to call at the office. Whilst the proposals provide no off street parking provision the site is situated within a local centre that has good public transport links and has a public car park on the opposite side of the road. Parking restrictions operate in the immediate vicinity (Wednesbury Road and Oxford Street) which would limit the potential for unauthorised parking or impact on the free flow of traffic or highway safety.

Whilst objectors have raised concerns about existing parking issues in the vicinity, there is an existing 30 spaces council car park and on street bay parking for approx 9 cars which provide parking for the local centre as a whole. If drivers park illegally this is a matter that should be controlled by the Council through the Civil Enforcement Officers. Transportation consider that the parking in the vicinity would be sufficient for occasional visits by drivers to the office as the majority of the time they would work from their vehicles. It is outside of the scope of planning legislation to prevent taxis' parking in public parking areas within the vicinity of the application site.

### **Impact on the amenity of the surrounding occupiers**

The site is situated in an existing local centre where there is existing late night opening premises and where residents can reasonably expect a higher level of background noise than that found in a residential area. There is a residential flat on the first floor at 242 Wednesbury Road (next door). The use would provide an office where bookings will be received by telephone and distributed to drivers via radio or PDA's and the taxi drivers will spend the majority of their time on the road, with little need to visit the office.

Although it is not anticipated that the use of the business as a taxi base will generate excessive amounts of noise, the use of the base throughout the night has the potential to create disturbance to the occupiers of the adjacent flat through noise from telephones, voices, vehicular movement and taxi drivers coming and going. It is considered however that any potential disturbance could be overcome by noise insulation measures and appropriate conditions recommended.

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

During the course of the application the agent has provided additional information regarding the operation of the proposed taxi office at the request of the case officer.

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

The site is located within a local centre where such a use is considered acceptable and where there is existing late night opening premises and where residents can reasonably expect a higher level of background noise than that found in a residential area. The proposal would bring a vacant premises back into use.

Transportation have raised no objections as the use would provide an office base with drivers only calling occasionally and sufficient parking is provided within the local centre (council car park and on street parking). Objectors are concerned at existing parking issues and illegal parking in the vicinity, but illegal parking is a matter that should be controlled by the Council's Civil Enforcement Officers. It is outside of the scope of planning legislation to prevent taxis' parking in public parking areas within the vicinity of the application site.

Whilst objectors have raised the issue of an existing taxi booking office in the immediate vicinity (197 Wednesbury Road), a local centre is the right location for such uses and competition is not a planning matter.

It is considered that the use will have no additional adverse impact on the amenities of the surrounding occupiers providing noise insulation measures are implemented and access to drivers is restricted to prevent any disturbance through the night.

In light of the above the proposals are considered to be consistent with the NPPF and accord with the aims and objectives of the Black Country Core Strategy (2011) policy CSP4 and Walsall Unitary Development Plan (2005) in particular saved policies GP2, 3.7, ENV10, S1, S2, S4, S8, T4 and T13.

**Recommendation:** Grant Permission Subject to Conditions

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

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

2a. No development shall commence until details of noise insulation measures to achieve a sound reduction of 63dB have been submitted to and approved in writing by the Local Planning Authority.

2b. The approved details shall be fully installed prior to the first use of the premises for the use hereby approved and retained thereafter.

*Reason:* In order to prevent noise transmission between the proposed use and the adjacent residential flat.

3. The premises shall not be open to access by customers or members of the public at any time and all bookings shall be taken over the telephone.

*Reason:* To define the permission and ensure no adverse impact on the amenities of the surrounding occupiers.

4. No public address facility, tannoy system, radio, telephone, electrical or electronic sound production or amplification system or similar device, which could be audible outside of the building, shall be installed internal or external to any building or structure.

*Reason:* To define the permission and ensure no adverse impact on the amenities of the surrounding occupiers.

5. No taxi car horns should be sounded (except for emergency purposes).

*Reason:* To define the permission and ensure no adverse impact on the amenities of the surrounding occupiers.

6. No powered equipment should be used to clean cars (including vacuum cleaners/ powered jet wash machines).

*Reason:* To define the permission and ensure no adverse impact on the amenities of the surrounding occupiers.

7. No car repairs (other than short duration emergency repairs) should take place.

*Reason:* To define the permission and ensure no adverse impact on the amenities of the surrounding occupiers.

8. This permission relates to:

Site Location Plan submitted 20<sup>th</sup> March 2013

Block Plan submitted 20<sup>th</sup> March 2013

Existing and Proposed Ground Floor Layout Plan submitted 20<sup>th</sup> March 2013

Existing First Floor Layout Plan submitted 20<sup>th</sup> March 2013

Proposed First Floor Layout Pan submitted 20<sup>th</sup> March 2013

Supporting Statement submitted 20<sup>th</sup> March 2013

Email From Agent (r M Aqbal) dated 19<sup>th</sup> June 2013

*Reason:* In order to define the permission.





Regeneration Directorate – Planning and Building Control

## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 04/07/2013

**Plans list item no: 5.**

### Reason for bringing to committee: Significant public interest

**Application Number:** 13/0192/FL  
**Application Type:** Full application

**Case Officer:** Karon Hulse  
**Telephone Number:** 01922 652614  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Applicant:** Mr Kevin Shakespeare

**Agent:**

**Proposal:** Demolition of 87 Whetstone Lane and erection of 4 no. additional dwellings at the rear.

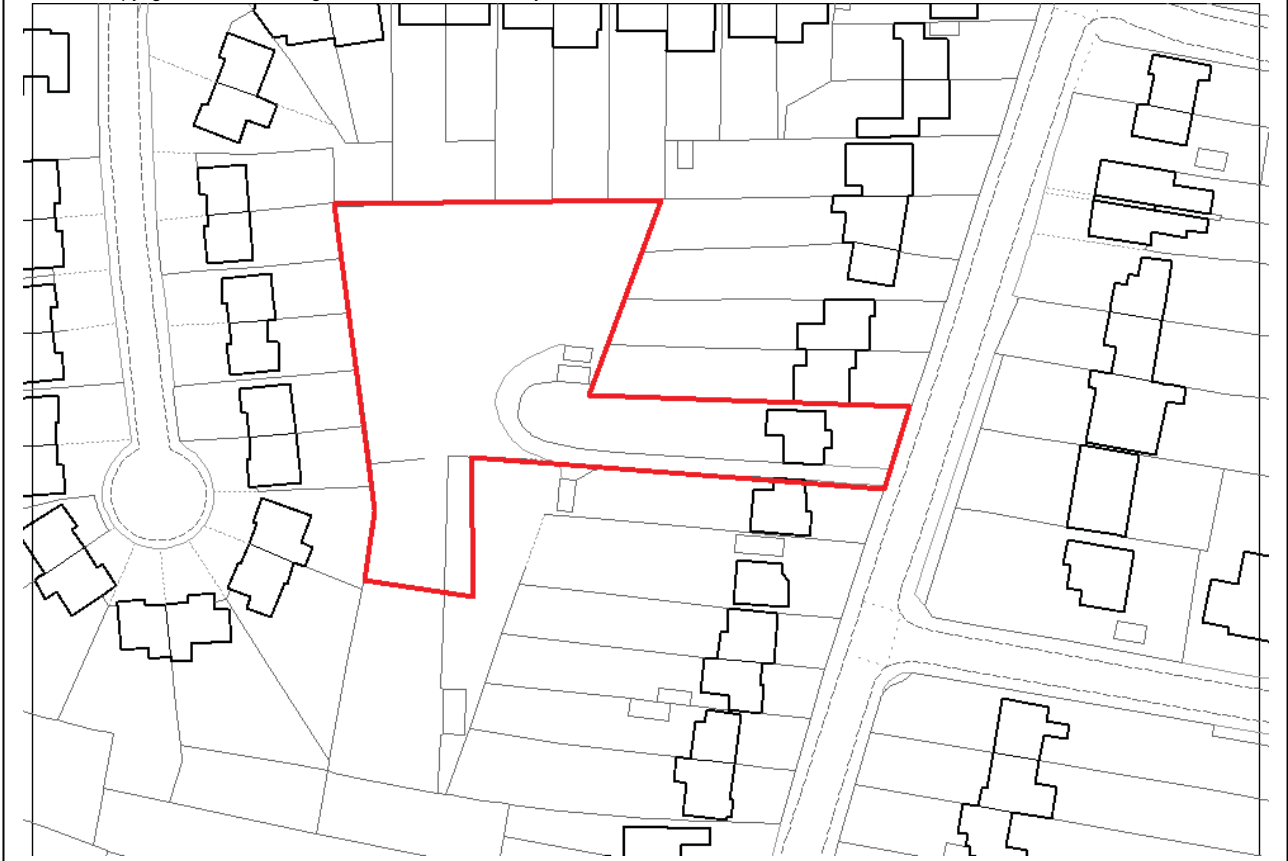
**Location:** 87 WHETSTONE LANE, ALDRIDGE, WALSALL, WS9 0EU

**Ward:** Aldridge Central & South

**Expired Date:** 11/04/2013

### Recommendation Summary: Grant Permission Subject to Conditions

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## **Application and Site Details**

The proposal is to demolish number 87 Whetstone Lane, Aldridge and to create a new access drive to the rear for the construction of 4 x four bedroom detached houses with landscaping and boundary treatment. The proposed dwellings would be sited in a horse shoe shape, all fronting onto a new access driveway. At the entrance to the private driveway a bin collection point will be created.

The proposed houses consist of two storeys between 7.3 and 8.3 mts high, with a combination of integral and detached garages with 3 or 4 spaces for parking vehicles.

The site is located in an established residential area on land to the west of Whetstone Lane, Aldridge. Access to the site is from Whetstone Lane which is a short distance from the A454 and the national road network. The site is in a well established sustainable residential area, it is within walking distance, approximately 800 metres, of Aldridge Shopping Centre containing adequate shops and facilities and within only 5 km of the major town centre of Walsall. There are a number of schools and colleges within easy reach of the site. Within the immediate vicinity are Whetstone Fields Primary School, St. Mary of the Angels Catholic Primary School and St. Francis of Assisi Catholic Technology College.

The application proposes to demolish the existing dwelling and outbuildings and erect 5 detached dwellings, associated access road, landscaping and boundary treatment. The proposed dwellings would be sited in a horse shoe shape, all fronting onto a new access driveway.

The site consists of 87 Whetstone Lane including part of the large rear garden which extends behind 81– 99 Whetstone Lane. The majority of this garden generally left unkempt and overgrown, but has since been partially cleared to allow survey work to be carried out. The site is generally flat and is surrounded by the rear gardens of two storey dwellings facing Whetstone Lane and Seven Acres.

There is a variety of styles of dwellings around the site and along Whetstone Lane. Roof designs vary, some hipped and some gable with the majority having steep pitches.

The design of the proposed houses includes features such as single and two storey bay windows, projecting gables and entrance canopies on some dwellings.

The applicant has stated that they will be embracing the most important principles of code 3 however and whilst the level will not gain full compliance, the construction specification of the properties will be significantly improved from an environmental and sustainable perspective.

### *Submitted documents*

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

Design and access statement which concludes that the site lies within easy reach of local shops, facilities and bus, rail and road links making this an ideal sustainable site for residential development.

Tree Survey and Arboricultural Impact Report - A general overview of the site reveals that there are groupings of trees on site, which are mostly located along the eastern boundary. The trees are not currently subject to a Tree Preservation Order (TPO). The proposed re-development of the site

would not result in the loss of any significant trees and would seek the retention of the native birch trees on the eastern boundary, creating amenity value. The re-development of the site will create an opportunity to plant more sustainable trees than currently exist on the site.

Ecological Appraisal - This concludes that a bat roost is unlikely in the existing building and trees and recommends conditions to ensure that demolition is undertaken under appropriate conditions to ensure no bats are affected.

Bat Emergence Survey and Mitigation proposals – This concludes that there is no evidence of bats using the buildings as a place of shelter. However it also suggests that two new roosting opportunities should be created when the dwellings are constructed in plot 4 and plot 1.

### **Relevant Planning History**

None

### **Relevant Planning Policy Summary**

#### **National Planning Policy Framework (NPPF)**

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

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

- Always seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings
- Take account of different roles and character of different areas

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

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraph 49 states that the Council's housing supply policies should be considered up to date if the Council can demonstrate a five year housing supply of 'deliverable' sites. If not, then the presumption in favour of sustainable development should be applied. The Council has a five year supply which is set out most recently in the 2010/11 Annual Monitoring Report and has been confirmed via discussions with Council Planning Policy Officers in February 2013- the current supply extends to 8/9 years. The Council's housing supply policies are therefore considered up to date.

Paragraph 50 seeks to deliver a wide choice of quality homes and states local planning authorities should plan for a mix of housing.

Para 53 states "*Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.*" It relation to the inclusion of windfall sites within the five year housing

supply, the delivery rates (past and expected) should exclude residential garden sites given the NPPFs emphasis upon detracting the development of such sites (para 48).

Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

Paragraph 58 states planning policies and decision should aim to ensure that development meet criteria including:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

Paragraph 63 attaches great weight to outstanding or innovative design which helps raise the standard of design more generally in the area.

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

Paragraph 126 states local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment.

Paragraph 128 states in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.

Paragraph 131 states in determining applications, local planning authorities should take account of:

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

Paragraph 134 states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs

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imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

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

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

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

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

This was adopted in February 2011 under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies ... even if there is a limited degree of conflict with this Framework*".

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country's natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

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

The above are supported by the following policies:

CSP1: A network of Regeneration Corridors linking the Strategic Centres will provide: high quality employment land, new homes in sustainable communities built on redundant employment land and other brownfield sites close to existing public transport routes and canal networks and locations with the best access to residential services, at moderate densities that allow for a range of house types.

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context.

HOU2: Density and type of new housing will be informed by:

- The need for a range of types and sizes of accommodation to meet sub regional and local needs
- The level of accessibility
- The need to achieve high quality design and minimise amenity impacts

ENV2: Development should preserve and enhance local character.

ENV3: Seeks to deliver urban renaissance through high quality design that stimulates economic, social and environmental benefits.

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport. Residential development will be expected to meet the accessibility standards set out in Policy HOU2.

TRAN4: Cycle parking facilities should be provided at all new developments and should be located in a convenient location with good natural surveillance

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

H3: Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

ENV10: seeks to control pollution from development – including noise

ENV14: seek to bring forward derelict, vacant or underused land and buildings for new uses.

ENV18: The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows.

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

3.116 & ENV32: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

S8: Encourages investment in housing development within district centres provided a satisfactory residential environment can be achieved.

#### T7 – Car Parking

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

T8: Development should seek to provide and improve pedestrian routes.

T11: Where pedestrian links are considered to be substandard measures must be taken to improve them.

#### T13: Parking Provision

Development will provide adequate on-site parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment.

Flats with individual parking spaces – 2 spaces per unit

Flats with communal parking – 1.5 spaces per unit

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

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

#### **Designing Walsall SPD**

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

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

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

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

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

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

### **Consultations**

**Transportation** - no objections subject to conditions regarding visibility splay, construction of the vehicular access and

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

**Fire Service** - no objections

**Regeneration (Landscaping)** - concerns over the siting of the bin collection point at the front and lack of landscaping details

**Regeneration (Trees)** - no objections

**Regeneration (Ecology)** - no objections subject to appropriate conditions in respect of bats

**Environmental Health** - no objections

**Police Architectural Liaison Officer** - no objections

**Severn Trent Water** - no objections subject to condition requiring drainage plans.

### **Public Participation Responses**

To the original planning submission and consultation there were twenty nine letters/emails of representation received and one petition with 43 signatures objecting on the following grounds:

- Backland development...overdeveloped, dwellings too large, close together and close to boundaries of other properties
- Back gardens had an open aspect
- land had mature trees chopped down, shrubs pulled out
- the habitats of wildlife destroyed
- properties in Seven Acres are small dwellings with integral garages... proposed dwellings are large, detached, 4/5 bedroom houses with double garages therefore out of keeping
- dominate the landscape
- impact on privacy, view and light.
- looking out over a huge expanse of brickwork and roof and have three bedroom windows overlooking back gardens and back of house
- type 3 house is close...it will result in the overbearing enclosure of our and our neighbours private garden space and a loss of amenity
  
- access is narrow... concerns about the amount of traffic using it
- Whetstone Lane already a busy road with two primary schools nearby, traffic congestion is bad without adding to it
- access for emergency and delivery service vehicles.
- Appletree Grove development more sympathetic development
- Noise pollution will be from motor vehicles etc. being heard from the back garden where there was previously a quiet & peaceful environment.

- The overbearing proximity and height of the dwellings will impinge on amenity of existing houses.
- height of the proposed new properties will dominate the existing properties on Seven Acres and Whetstone Lane.
- significant adverse impact on the birds/wildlife currently enjoyed by the local community.
- significant loss of amenity and degradation of outlook from the existing adjoining properties.
- adversely impact the value of the adjoining properties, many of which have attracted buyers specifically due to the pleasant rural feel of their back gardens.
- Access for emergency vehicles (fire engine) - question the measurements
- Smells/Noise - the proposed design details a 'Bin Collection Point' which would hold 10 bins and is located in front of the new proposed house on the site of 87 Whetstone Lane. These bins would be in direct view of our property, and more importantly right outside our dining room windows. This is a residential area of individual houses, not a service area for a communal block of flats, totally out of keeping with the existing residences.
- Bin collection point will exacerbate congestion already experienced at certain times of the day
- bats flying around at night & listen to the owls
- a main sewer pipe runs from 87 to the back garden in 83 and out to the main sewer in the road...problems with drainage
- during bad weather particularly rain, there will be more of a threat of excess water having to be absorbed by the gardens surrounding the plot.
- Light Pollution – artificial light to the rear of existing properties at night
- unauthorised access and disruption during the proposed work
- reduce the amount sunlight to our property and garden and to the solar PV array on the ground floor roof
- Since the clearance of the site, we have not heard the local woodpecker or owl.
- NPPF states residential garden land is regarded as greenfield land
- BCCS and UDP policies prioritise the development of brownfield sites.
- The local planning authority can demonstrate a five-year supply of deliverable housing sites therefore there is no requirement to develop greenfield sites.
- the BCCS sustainability principles is that "Brownfield First - Ensuring that previously developed land, particularly where vacant, derelict or underused, is prioritised for developments over Greenfield sites".
- It is not needed to contribute towards housing targets bearing in mind that Council's 5 year housing supply position.
- Existing properties in Whetstone Lane and Seven Acres have larger residential gardens than the proposed developments
- Transport planning proposals include reopening Walsall - Aldridge railway more sensible to develop land near to this transport link
- principle of residential development is not appropriate and the land should be retained for garden use.
- erection of four dwellings in this location will impinge upon the amenity of the surrounding properties...increased overlooking
- backing directly onto 'blank wall' elevations resulting in overbearing enclosure of private garden space and loss in general amenity
- develop the site with fewer properties and respect existing character of gardens backing onto gardens
- should only be bungalows rather than 2 storey properties and less numbers.

Following re-consultation on amended plans 15 representations have been received reiterating their previous objections and concerns as set out above as well as the following further objections:

Insufficient parking

The minimum standards of the Councils 13 metre separation policy do not reflect the developed character.

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

### **Determining Issues**

- Principle of the Development/Policy
- Design and Layout
- Impact on the character of the area and amenities of surrounding occupiers
- Ecology and Landscape
- Parking and Access
- Local Finance Considerations

### **Observations**

#### **Principle of the development/Policy**

The site is situated within a well established residential area, characterised by detached and semi detached houses and bungalows with a mix of ages, types and styles and set in a variety of plot sizes, within easy walking distance of Aldridge town centre where there are regular bus services. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP in terms of sustainable transport and reuse of previously developed land.

The National Planning Policy Framework suggests that. Local planning Authorities may make an allowance for windfall sites although it should not include residential gardens. This site does not form part of any residential gardens having previously been used for access to greenhouses and garages.

Both national and local policy guidance require efficient use of land, the provision of residential properties on this site is considered an efficient use of this windfall site.

The councils housing land supply as at April 2012 (at the end date for the 2011/12 AMR) remains sufficient for 8 to 9 years using the indicative targets set out in the BCCS. However, this supply is the result of planning permissions that have already been granted but not implemented rather than any housing supply policies. The supply requirement is contained in policy HOU1 of the BCCS: this sets a minimum figure for the amount of housing land that needs to be provided rather than a maximum.

Policy CSP2 of the BCCS sets out the Council's policy towards development in areas outside the Growth Network such as this. It states that such areas will provide, amongst other matters, "a mix of good quality residential areas" and "a constant supply of small-scale development opportunities". This therefore provides support for the application and whilst one of the objectors states that existing properties in Whetstone Lane and Seven Acres have larger residential gardens than the proposed developments which contributes to the green infrastructure and pleasant residential ambience, the dwellings per hectare density of the application site is 15 dwellings per hectare whereas the dwellings per hectare density of properties in the immediate area: Seven Acres and Whetstone Lane is 22 dwellings per hectare. On balance the application site is considered to be in accordance with BCCS Policy ENV3 by protecting and enhancing the image of the area by providing a high quality residential area which is less dense than that surrounding it.

The existing house on Whetstone Lane is of no particular architectural merit therefore its retention is considered unnecessary.

## **Design and Layout**

Policy HOU1 of the Black Country Core Strategy suggests a target for the amount of new housing on previously developed land allowing for a percentage to be provided elsewhere i.e. “residential intensification”. The proposed use (residential) corresponds with the residential use surrounding the site, this together with the sustainable nature of the site make it ideally suited for residential development. The updated Housing Needs Study demonstrates a requirement for larger dwellings, therefore the amount of development on site has been determined by how many family sized dwellings can comfortably be accommodated within the physical constraints of the site whilst respecting existing neighbouring properties and maintaining the character of the surrounding neighbourhood.

The proposed houses have been designed to relate to the existing houses on Whetstone Lane. The loss of the house on the Whetstone Lane frontage will, whilst maintaining an active street frontage, create an entrance that will relate and be recognised as the driveway to the development. It will open up this part of the frontage and allow better views into and along the driveway and development.

Houses in Seven Acres consist of pairs of two storey dwellings approximately 7.8 metres in height. The proposed ridge heights range between 7.3 and 8.3 mts which reflects the height of existing houses. It is considered that the proposed height of the houses will not detract from the character of the area.

Plots 2 and 3 have rear gardens that fall short of the 12 metre rear garden length being only 10 metres long, however they exceed the 68 square metres standard and where there is a shortfall in the length the rear separation distance to the existing houses is approximately 35 metres clearly in excess of the 24 metres between habitable room windows

Properties in Seven Acres (no.s 28-36) have short rear gardens, the proposed siting of plots 3 and 4 will be close to the rear boundaries of those properties. Following consultation with the applicants the proposed height of the ridge of plot 4 has been reduced by 0.5 metres and the overall roof shape and mass has been reduce by removing a gable at one end. No habitable room windows are proposed in the rear elevations, the Designing Walsall space distances are complied with and on balance it is considered that the proposal will be reflective of the character of the area generally.

Plots 3 & 4 will provide a focal point at end of access drive and the proposed houses have been designed to wrap around the turning facility protecting the existing rear garden boundaries from the proposed public realm.

The dwellings have either gable to gable or hipped roofs with steep roof pitches and include design features such as bay windows and entrance canopies. Short roof spans and lowered eaves, particularly on plot 4, will reduce the height of the dwelling and the potential impact on occupiers at the rear in Seven Acres. A limited amount of stone detailing will be added to provide a quality to the development.

## **Impact on the character of the area and amenities of surrounding occupiers**

The proposed development would be two storey traditional brick and tile construction. The development reflects the prevailing character of the two storey houses of the surrounding area.

Whilst the proposed scheme introduces built development at the rear of the existing properties on Seven Acres which previously overlooked an overgrown area of rear garden land to 87 Whetstone Lane, it offers an opportunity to use a site which had become unkempt and overgrown and to provide a type and scale of house

The proposal complies with the Designing Walsall's residential standard for habitable room separation distances (the habitable room window separation distance between the rear elevations of properties on Seven Acres and Whetstone Lane and the elevations of all plots on the development and in particular with regards to the separation distance of 13 metres between habitable rooms and blank walls exceeding 3m high. There are no habitable room windows in the rear elevations of the proposed houses.

With regards to the relationship between no. 34-38 Seven Acres and plot 4 the rear elevation will be 13 metres away from the rear of the existing houses, there will be no habitable room windows overlooking the rear amenity areas of time extension existing house and the eaves of the proposed house have been specifically designed so as to reduce the massing of brick work along that boundary.

With regards to the issue of drainage, subject to a condition requiring details in respect of surface water and foul sewerage Seven Trent do not object to the proposals.

The proposed bin collection point has been set into the site along the new driveway away from views of either no. 85 and 89 Whetstone Lane.

On balance, the proposals are considered acceptable

Pollution Control have recommended conditions to minimise any potential noise issues during construction works.

## **Ecology and Landscape**

*Ecology (Bats/Badgers)* - The submitted bat report identified that there was no evidence of bats found. The site has been cleared of all trees and shrubs prior to the submission of this application. Some of the vegetation appeared quite substantial. The site has been previously inspected for signs of badgers and bats. There were no signs of any badgers and none of the lightweight structures on the site are suitable for bats. 87 Whetstone Lane is more substantial and has more potential for bats. These conclusions accord with those of the ecological consultants employed by the applicant.

That a bat roost is unlikely in the existing building and trees but makes a number of recommendations regarding the demolition of the building and the provision of bat roosting sites within the development as well as restrictions on external lighting around the properties in order to ensure conservation of the local bat population. Appropriate conditions are recommended.

An ecological appraisal has been prepared by FPCR and no evidence of any protected/rare or notable species has been recorded and no suitable habitat, other than that for birds, has been recorded either.

*Impact on Trees* - The majority of trees on this site have been previously felled prior to the submission of this planning application. None of the trees were protected and the few trees which have been left standing have limited merit. The applicant has commissioned a tree report on these remaining trees and further vegetation removal (mainly hedges and 1 tree) to accommodate the proposed layout will be necessary. There are no objections to this for the reason stated above. The application intends to retain the remaining trees (mainly Birches grouped along the eastern boundary of the site) adjacent to the rear garden of plot 4, although they are unremarkable as individuals they do have some merit as a group and should be retained although they probably only have a safe useful life expectancy of around 10 years. The landscape specification indicates replacement trees including Oak, rowan, Apple etc. which would be appropriate and mitigate to some extent the loss of the trees on site. I have no objections to this application as long as the retained trees are protected as detailed in the tree report.

*Landscaping* -. On landscape grounds, the layout and design of the development appears cramped and does not relate to both the existing neighbourhood and other houses in proposed development. However the siting and design of the proposed houses makes best use of the sited constraints in terms of existing properties around the site and access to it.

The submitted appraisal suggests that in order to provide ecological enhancement within the site, preference should be given to the use of locally native woody species, with an emphasis on species bearing nectar, berries, fruit and nuts, as these enhance the foraging opportunities for local wild fauna including birds and invertebrates. The scheme should also include replacement tree and shrub planting to replace that which has been removed from the site. These recommendations will be required as part of a full landscaping scheme condition.

### **Parking and Access**

The Highway Officer has no objection to the proposal, as the proposal provides 2 parking spaces per property, in accordance with Policy T13 of the UDP. Access along the proposed driveway is acceptable and allows for access / egress to a turning area which can safely and satisfactorily accommodate a Fire Service vehicle. The proposed additional four houses is not considered to be excessive and will not impact on the existing highway network or nearby residential occupiers.

The site is within walking distance of Aldridge town centre and potentially the nearest railway station should the railway link be reopened, on balance it is therefore considered to be in a sustainable location.

The nearest school is at least 250 metres away to the south, traffic attending the school does not extend as far north as the new access drive and will have no impact on vehicles going to and from the school.

### **Local Finance Considerations**

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this

means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes 4 new homes.

The New Homes Bonus award to Walsall for 2012-2013, and for each of the 4 years after that, was published in December 2011. Future awards would be for 4 years, then 3 years, then 2 years and finally for 1 year. Based on the provision of 411 new homes during 2011-2012 the award to the Council was £576,927. Taking into account the delivery of homes in previous years, the total amount awarded this year was £2,583,252. This figure (which included a premium for affordable housing) meant that – as a rough average - each additional home generated an annual grant to the council of approximately £1,380. In future New Homes Bonus awards may be offset against reductions in the ‘formula grant’ the Council will receive from Government.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

**Positive and Proactive working with the applicant** - *Officers have contacted the applicant's agent and have indicated support to be given to the scheme.*

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

The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP in terms of sustainable transport and reuse of previously developed land. Both national and local policy guidance require efficient use of land, the provision of two residential properties to replace one is considered an efficient use of this windfall site. The existing bungalow is of no particular architectural merit and no objections are raised to its demolition.

The principle of residential development in a predominately residential area is considered acceptable.

The proposed layout is considered acceptable and offers adequate amenity space for future occupiers. The design of the proposed houses is considered appropriate and in keeping with the scale and height of surrounding houses.

The density of the proposed scheme is considered acceptable and reflects that of the surrounding properties given the sustainable location and acceptable layout.

The size, density, spacing, massing and design of the properties is considered appropriate for the location to fit with the character of the area.

The removal of the house on Whetstone Lane will continue to provide an active street frontage whilst providing a well designed entrance to the development at the rear

The proposed scheme will provide rear amenity areas of over 68 square metres for each new house. The proposal would comply with the Designing Walsall's residential standard for habitable room separation distances and the separation distance between habitable room and blank walls exceeding 3m high.

The position of the houses are at adequate distances away from existing housing surrounding the site so will not have a significant impact on outlook, privacy or daylighting for existing occupiers. On balance the proposed development is considered to offer a size and scale of houses that is sought after in a sustainable location and will respect the privacy, view and light of existing.

A landscaping plan is acceptable but requires additional information along with details of boundary treatments which can be sought and agreed at a later date.

The proposed access and parking facilities for both properties would meet policy requirements and would have no adverse impact on highway or pedestrian safety.

The proposals will have no adverse impact on any of the trees which remain within the site or the local bat population.

Devaluation of properties nearby is not a material planning consideration

The proposal is consistent with the NPPF and is considered to accord with the aims and objectives of the Regional Strategy (2008), the Black Country Core Strategy (2011), in particular policies HOU2, ENV3 and ENV2, Walsall Unitary Development Plan (2005), in particular saved policies GP2, H3, ENV32, ENV33, T7 and T13, Supplementary Planning Documents – Designing Walsall (2008) and Natural Environment (2008).

**Recommendation:** Grant Permission Subject to Conditions

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

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

2a. No development shall be carried out until a schedule of facing materials to be used in external walls and roofs has been submitted to and approved in writing by the Local Planning Authority.

2b. The scheme shall be fully implemented in accordance with the approved details before the development is first brought into use and retained thereafter.

*Reason:* To ensure the satisfactory appearance of the development and ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

3a. No development shall begin until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved in writing by the Local Planning Authority.

3b. The scheme shall be fully implemented in accordance with the approved details before the development is first brought into use and retained thereafter.

*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.

4a. Prior to the commencement of this permission, details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development shall be completed in accordance with the approved details and retained thereafter.

*Reason:* To safeguard the amenities of the adjoining residential occupiers and the visual amenities of the area.

5a. Prior to the commencement of this permission, details of any external lighting to be installed shall be submitted to and approved in writing by the Local Planning Authority.

5b. The development shall be completed with the approved details and retained and maintained at all times.

*Reason:* To prevent light pollution and to protect the amenity of surrounding residential occupiers.

6a. No development shall take place until details showing the proposed means of (i) insulating the buildings, (ii) recycling surface water and 'grey water' from the proposed dwellings, and any other measures that may be required to achieve a satisfactory sustainability standard have been submitted to and approved in writing by the Local Planning Authority.

6b. Development shall be carried out in accordance with the approved details, and the dwellings shall not be occupied before the approved facilities have been fully installed and made available for use by the occupiers of the dwellings and retained thereafter.

*Reason:* In order to secure the commitment made by the applicant to secure sustainable means of construction, to Level 3 of the Code for Sustainable Homes.

7a. Prior to development commencing measures for controlling dust, flying debris, and drag-out from the site, shall be submitted to and agreed in writing by the Local Planning Authority.

7b. All agreed measures shall be fully implemented and maintained throughout the duration of demolition operations and construction activities, as stated within the planning statement that accompanied the application.

*Reason:* To ensure that the amenities of neighbouring occupiers are not compromised.

8a. Prior to the commencement of any works on site the approved tree protection measures as detailed in the BS: 5837 Tree Survey and Arboricultural Impact Assessment by Peter Jackson of Design Construction Management Services, dated 6 February 2013 shall be fully implemented

8b. The approved details shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2012.

*Reason:* To safeguard the retained trees on the site.

9a. No development shall be carried out until full details of hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

- correct botanical names
- numbers/planting densities for each block of planting proposed

- size supplied of all proposed tree and shrubs at time of planting
- details of proposed turf/seeded areas
- topsoil and mulching depths and specifications
- staking details for proposed trees
- details of landscape establishment / maintenance proposals to be undertaken during the standard conditioned maintenance period
- Details of the future management of the landscape scheme.
- Ground preparation measures to be adopted.
- Existing and proposed levels.
- Management Plan

9b. The approved scheme shall be fully implemented before the development is brought into use and retained for 5 years and managed in accordance with the approved management details.

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

10a. Prior to the first occupation of any building to which this permission relates an area for car parking shall be laid out within the curtilage of the property, in accordance with the approved plans which shall be properly consolidated, surfaced and drained, in accordance with details to be submitted to and approved in writing by the Local Planning Authority

10b. These areas shall be retained thereafter be used only for the parking of vehicles and no other purpose.

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

11a Prior to the occupation of the buildings hereby approved, the construction of the vehicular access specification shall be submitted to and approved in writing by the Local Planning Authority, at a gradient not steeper than 1 in 12.

11b The development shall be fully implemented in accordance with the approved scheme and retained thereafter.

*Reason:* In the interest of highway safety.

12a. Bat survey work has found a low risk that bats may be present in the building (as identified in the bat report by FPCR dated January 2013) and the following precautions shall be taken when implementing the planning permission in accordance with the recommendations in paragraph 4.18 of the report:

1. Contractors undertaking demolition works shall be made aware that bats may be present and instructed on actions to be taken if bats are discovered. Demolition works shall be carried out in the expectation that bats may be found.

2. All demolition works shall be carried out to a method statement written by an ecologist qualified, licensed and experienced in bat ecology for the avoidance of adverse impacts on bats first approved in writing by the Local Planning Authority.
3. The demolition shall take place only in accordance with the approved method statement and under the supervision of an ecologist qualified, licensed and experienced in bat ecology.

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

12b. If bats or evidence of bats are found during these operations:

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

*Reason:* To conserve local bat populations.

13. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday\*, and such works shall only take place between the hours of 08.00 to 18.00; and 08.00 to 14.00 on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

*Reason:* To safeguard the amenities of the adjoining residential occupiers.

14. No ground fires shall be permitted on the demolition or construction site.

*Reason:* To ensure that the amenities of neighbouring occupiers are not compromised.

15. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Amendment) (N02) (England) Order 2008, or succeeding Orders, no works shall be carried out under Part 1, Classes A to E to plots 1 to 4.

*Reason:* To enable the Local Planning Authority to retain effective control over future development of this site.

16. The 2.4 x 43 m visibility splay shown on approved drawing WHE/101, fronting the development shall, at all times, be kept free from planting or structures exceeding 600mm in height above ground level.

*Reason:* In the interests of highway safety.

17. The provision of bat roosting sites for crevice dwelling bats shall be incorporated into the houses of the proposed development and installed before any part of the development is brought into use and retained thereafter with access openings maintained free of obstructions at all times. At least five bat roosts shall be built into the development in accordance with good ecological practice.

*Reason:* To conserve local bat populations.

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

*Reason:* To protect local bird populations.

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

- Location Plan (WHE/100) received 12/2/13
- Site Plan (WHE/101A) received 28/5/13
- Land Survey (12-496-1) received 12/2/13
- Tree survey plan (BS5837-1) received 12/2/13
- Tree removal Plan (BS5837-2) received 12/2/13
- House Type A - Plot 1 Elevations (2058/011) received 28/5/13
- House Type A - Plot 1 Floor Plans (2058/010B) received 28/5/13
- House Type B - Plot 2 Elevations (2058/013) received 3/6/13
- House Type A - Plot 2 Floor Plans (2058/012) received 28/5/13
- House Type C - Plot 3 Elevations (2058/015) received 3/6/13
- House Type C - Plot 3 Floor Plans (2058/014) received 3/6/13
- House Type D - Plot 4 Elevations (WHE/104B) received 28/5/13
- House Type D - Plot 4 Floor Plans (2058/0103C) received 28/5/13
- Double Garage - (MM) received 12/2/13
- Design & Access Statement prepared by KJS Residential Design Services received 12/2/13
- Landscaping Specification prepared by KJS Residential Design Services received 12/2/13
- Ecological Appraisal prepared by fpcr received 12/2/13
- Tree Survey & arboricultural impact received 12/2/13
- Bat Emergence Survey and Mitigation Proposals received 12/6/13

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

Note For Applicant – The Police Architectural Liaison Officer has been consulted and in view of the number of burglaries and vehicle related crimes in the area you are advised to consider Secure By Design specifications for New Homes which will significantly increase the security of the building

(doors and windows) and its boundaries. Information can be found at [http://www.securedbydesign.com/pdfs/SBD\\_New\\_Homes\\_2010.pdf](http://www.securedbydesign.com/pdfs/SBD_New_Homes_2010.pdf)



Regeneration Directorate – Planning and Building Control

## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 04/07/2013

**Plans list item no: 6.**

### Reason for bringing to committee: Significant Community Involvement

**Application Number:** 12/1138/FL  
**Application Type:** Full application

**Case Officer:** Barbara Toy  
**Telephone Number:** 01922 652615  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Tesha Ltd

**Applicant:** Mr Sarfraz Khan

**Proposal:** Change of use from A1 (retail) to A5 (hot food takeaways) with new brick built riser containing new extraction ductwork, and formation of new car parking spaces

**Location:** 90-92 SALTERS ROAD, WALSALL,

**Ward:** Aldridge North and Walsall Wood

**Expired Date:** 01/11/2012

### Recommendation Summary: Refuse

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## **Status**

This report was withdrawn from the last two Committee agendas at the request of the applicant.

## **Application and site details**

The site is situated on the western side of Salters Road (a district distributor route) and comprises two vacant retail units on the southern end of a block of 6 similar retail units with residential flats above. Three of the units in the block now form one convenience store and the one remaining unit is in use as a hot food takeaway. There are four further retail units immediately to the north of the application block.

The block has parking spaces on the frontage within a service road access and vehicle access either side of the building to a rear service area. An existing hand car wash facility operates within the rear service area which is the subject of a further report on this agenda.

The site is situated in a predominantly residential area with interwar semi detached houses immediately to the south and west in Salters Road and within Coronation Road to the east (rear gardens back onto the service area to the rear of the block). The closest residential accommodation are the flats above the shops and No 94 Salters Road a semi detached house set to the south of the access drive to the rear of the shops. There is a pedestrian crossing in front of the site within Salters Road.

The application is a resubmission following a previous refusal, and proposes the change of use from A1 retail to A5 hot food takeaway with a new brick built riser (with timber cladding) containing new extraction ductwork and formation of new car parking spaces.

It is proposed that the premises would be open to the public 1700 – 2300 hours Monday – Friday and 1200 – 2330 hours on Saturdays, with no Sunday or bank holiday opening. The use would employ 4 full time and 1 part time members of staff and 17 off street parking spaces are proposed. 12 spaces within the front service road for customers of the block as a whole, and 5 spaces within the rear service yard for use by staff and residents. A one way traffic system would operate through the rear service yard with access from the north and exit from the southern point. Two refuse storage areas are proposed to the rear either end of the parking area. An extraction system for the kitchen is proposed to the southern elevation of the building which would comprise an external flue enclosed within timber cladding projecting 1m above the roof of the building. The enclosure would measure 800mm by 1m wide and would be set back 5.6m from the front elevation of the building. Whilst details of an extraction system have been provided in support of the application no details of odour control or grease filtration have been submitted.

The submission is very similar to that previously refused under planning application 11/0973/FL, with the only differences being one additional parking space now provided to the rear and the deletion of Sunday trading.

## **Relevant planning History**

### **Application premises**

11/0973/FL - change of use from A1 (retail) to A5 (Hot Food Takeaway) with new brick built riser containing new extraction ductwork, and formation of new car parking spaces, refused 6<sup>th</sup> October 2011 for the following reason:

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*The proposed hot food takeaway would be in a local shopping parade in an otherwise predominantly residential area with residential properties immediately adjacent the application site. It would be in addition to existing retail businesses which open late into the evening, 7 days a week, and it is considered this would lead to an unacceptable cumulative adverse impact on the amenity of neighbours by virtue of increased noise, activity, and general disturbance at times of the day and week when neighbouring residential properties are most likely to be occupied.*

#### Land R/O 82-92 Salters Road

11/0452/FL – (retrospective) operation of hand car wash, and retention of canopy, report elsewhere on this agenda.

#### 88 Salters Road

BC56631P – change of use to hot food takeaway and installation of flue – refused 15<sup>th</sup> December 1998. The reasons for refusal related to the impact of increased noise, odours and general activity on the amenity of nearby residents, the impact of the proposed flue on visual amenity, and the impact on highway safety as a consequence of indiscriminate on-street parking in the absence of adequate off-street parking.

03/1437/FL/E5 – change of use from shop to pizza takeaway – refused 15<sup>th</sup> December 2003. The reasons for refusal were similar to the reasons for refusing BC62877P and BC56631P.

#### 84 Salters Road

BC62877P – change of use from general retail (A1) to hot food takeaway (A3) – refused 8<sup>th</sup> March 2001. The reasons for refusal were similar to the reasons for refusing BC56631P.

#### 82 Salters Road

BC4576 – change of use from retail grocery store to take-away hot food shop – granted subject to conditions 2<sup>nd</sup> June 1976, with no restriction on opening hours.

#### 80A Salters Road

09/0458/FL – change of use from (A1) retail outlet to (A5) hot food takeaway – refused 29<sup>th</sup> May 2009. The reasons for refusal were similar to the reasons for refusing 03/1437/FL/E5, BC62877P and BC56631P.

### **Relevant Planning Policy Summary**

#### **National Planning Policy Framework (NPPF)**

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

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

- Proactively drive and support sustainable economic development to deliver business

- Always seek a high quality design and a good standard of amenity for all existing and future occupants
- Enhance and improve the places in which people live their lives;

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

1: Building a Strong, Competitive Economy

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

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

20. Meet development needs of businesses

4: Promoting Sustainable Transport

35. Plans should protect and exploit opportunities for the use of sustainable transport modes

7. Requiring good design

56. The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

- Planning policies and decisions should aim to ensure that developments are visually attractive as a result of good architecture and appropriate landscaping.

63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

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

8: Promoting Healthy Communities

70. Ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable and retained for the benefit of the community.

11. Conserving and Enhancing the Natural Environment

123. Planning policy should aim to avoid noise from giving rise to significant adverse impact on health and quality of life as a result of new development.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

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

### **Local**

#### **The Black Country Core Strategy (BCCS) (2011)**

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The key planning policies include:

#### CSP4: Place Making

States that the hierarchy of centres will provide a focus and concentration for essential local services and activities with easy access by walking, cycling and public transport.

#### CEN6: Meeting Local Needs for Shopping & Services

Makes provision for meeting local needs for shopping and services, particularly with emphasis on providing and retaining local services within walking distance of people's homes. It requires such shops and services to be of an appropriate scale and nature to meet a specific day to day need of a population within a convenient, safe walking distance for new improved facilities.

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

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

3.7: The council will seek to protect people from unacceptable noise, pollution and other environmental problems.

#### **GP2: Environmental Protection**

All development should make a positive contribution to the quality of the environment and the principles of sustainable development

I. Visual appearance

II. The creation of, or susceptibility to, pollution of any kind

VII. The adequacy of the access, and parking.

XIX. The hours of operation of any activities proposed.

XX. Any other factor of environmental significance.

#### **ENV10: Pollution**

States that the development of a facility which may cause pollution will only be permitted if it would not cause unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

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

(a) states that poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted, particularly within a Town, District or Local Centre.

(b) requires the quality of design of any development proposal to be assessed using the following criteria:

- The appearance of the proposed development
- The height, proportion, scale, and mass of proposed buildings/structures.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.
- The proposed vehicular and pedestrian circulation patterns.

## S1: Definition of Town Centre Uses

Identifies hot food takeaway uses as town centre uses.

## S6: Meeting Local Needs

In terms of local need - out-of-centre development may be appropriate to meet such specific local needs and small-scale local facilities, or extensions to existing facilities, will be permitted if it can be shown that

- I. The proposal is of a scale and kind to meet a local need for improved facilities.
- VII. There must be no significant loss of amenity for neighbouring homes. To ensure this, the establishment of shops or other uses that attract the public in terraced properties adjoining dwellings will not normally be permitted.

## S10: Hot Food Takeaways

These uses will be appropriate in the Town, District and Local Centres subject to the following considerations:-

- I. The use proposed must not adversely affect the amenities of the existing or proposed dwellings 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 takeaways will be considered in relation to the amenities of nearby dwellings. In such locations the Council will usually impose a condition requiring the premises to close at 2300 hours Monday to Friday and 2330 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 be likely to lead to on street parking in a hazardous location.
- IV. Permission will only be granted where ventilation and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment would not be detrimental to visual amenity.

## T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13 and provide an adequate level of car parking to meet the operational needs of the development.

## T13: Parking Standards

Hot food takeaways - 4 car park spaces for establishments with a gross floor space up to 50sqm

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

## **Consultations**

**Transportation** – No objections subject to condition to ensure the access ways and parking facilities are properly marked and surfaced and drained. The existing A1 use would require 9 parking spaces and the proposed use would require 10 parking spaces. The application proposes 5 additional spaces to the rear of the site for staff and residents.

**Environmental Health** – Refusal recommended. This property is located between in a small parade of shops in a residential area. There is already an existing hot food takeaway in the parade of shops. The Environmental Health Division regularly receives complaints about odour from hot food takeaways, noise disturbance arising from vehicle deliveries, people congregating in the vicinity of commercial premises and littering/fly tipping. There is the potential that a further hot food takeaway, in a sensitive residential area, will exacerbate such incidents, particularly late at night, and lead to further complaints.

Cooking odours may also give rise to nuisance or complaints. Most ventilation systems rely on high level fume dispersion via a flue together with an odour control device to minimise odours. It is proposed to terminate the extraction ductwork above the roof level to the property: To achieve effective dispersion of such fumes into the atmosphere the extraction ductwork should terminate at least one metre above the highest point of the building and discharge at 15 m/s. Regard must be paid to the Defra guidance on Control of Odour and Noise from Commercial Kitchen Exhaust Systems: Although the cooking type generates a low score, the discharge rate generates a high score and this stipulates that a high level of odour control will be necessary, so the proposed carbon filtration system is insufficient. It is recommended that a three stage extraction system is provided, incorporating grease filtration, carbon filtration and an odour neutralisation system such as the Purified Air ON100 system.

The information provided is conflicting and insufficient so it is not possible to make a valid judgement about whether the extraction and odour control system is appropriate for the proposed use.

## **Public Participation**

A petition in support of the proposals containing 197 signatures has been submitted by the applicant as part of the application. The submission provides no reason for the support.

Eight objections received

Objections:

- Already sufficient takeaways in the Walsall Wood area
- Another takeaway will add to the cumulative adverse impact on the amenities of the neighbouring properties from increased noise, activity and general disturbance
- Another hot food use will not halt the obesity epidemic
- Already a noise problem from the car wash operating to the rear of the shops
- Existing traffic problems which will be increased by the hot food use attracting more cars to park on street which will impede pedestrian access.
- Already experience problems from the shops with rubbish thrown over into residential gardens
- Verbal abuse from residents in flats above the shops
- Existing problem with dogs kept at the site

- A hot food takeaway would exacerbate existing problems
- Likely increase in loitering, litter and vermin
- Late opening will cause more noise and smell and a nuisance to residents
- Already experience anti social behaviour which is likely to increase
- A local shopping parade in a residential area
- Property devaluation

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

### **Determining Issues**

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

Cumulative adverse impact on the amenities of surrounding occupiers in terms of noise, activity and general disturbance during the hours when neighbouring residential properties are most likely to be occupied.

### **Observations**

Policies S1 and S10 of the UDP identify hot food take-aways as town, district or local centres uses. In this case, the site lies within a predominantly residential area outside of any established centre boundary. Policy S10 requires that such uses should not adversely affect the amenity of existing dwellings or those on upper floors above commercial premises by reason of noise, smell, disturbance or traffic impact and that regard will be given to the cumulative impact on residential amenity.

There is an existing hot food take-away at No 82 Salters Road at the opposite end of the block of shops which has no opening hours restrictions but currently opens till midnight 7 days a week and an existing convenience store adjacent to the site which opens till 2200 hours 7 days a week. It is considered that the cumulative impact of an additional take-away with late night opening would adversely affect the amenities of the residential occupiers of the flats above the application premises and the remainder of the block and the occupiers of the semi detached house at No 94 immediately to the south of the site, by way of noise, general disturbance and activity, particularly during the evenings when residents are most likely to be at home.

Whilst the proposals have been amended since the previous refusal and now indicate no Sunday trading, the business would still be open until 2300 hours Monday to Friday and 2330 hours on a Saturday and would add to the general disturbance to nearby residents. The loss of Sunday trading is not considered significant to overcome the previous reason for refusal for the use and the proposals would continue to conflict with policy S10 of the UDP.

Environmental Health have also expressed concern that due to the nature of the business in that it would operate late in the evening, is likely to bring additional noise, disturbance, and nuisance to the area.

The submitted information regarding extraction equipment, odour control and grease filtration is conflicting and insufficient to make a valid judgement about whether the systems would be appropriate for the proposed use and has raised an objection from Environmental Health.

Since the previous refusal the NPPF has been adopted and paragraph 123 further supports the need to ensure that new development does not give rise to noise that significantly adversely impacts on health and quality of life, giving further weight to the policies used in the previous reason for refusal.

It is considered that this revised submission fails to overcome the previous reason for refusal.

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

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long that they safeguard the natural and built environment, highway network and the amenity of citizens. In this instance the council has not been able to support the proposed development.

### **Recommendation: Refuse**

1. It is considered that the cumulative impact of the proposed hot food take-away in addition to the existing take away use and other later night opening shops in the parade of shops would have an adverse impact on the amenity of the surrounding residential occupiers in terms of noise, activity and general disturbance particularly during times when residents are most likely to be at home and as such the proposals would be contrary to the National Planning Policy Framework (2012), policy QE3 of the Regional Spatial Strategy and saved policies 3.7, GP2, ENC10, S1, S6 and S10 of Walsall's Unitary Development Plan (2005).



# Walsall Council

Regeneration Directorate – Planning and Building Control

## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 04/07/2013

**Plans list item no: 7.**

### Reason for bringing to committee: Delicate Judgement

**Application Number:** 13/0640/FL  
**Application Type:** Full application

**Case Officer:** Stuart Crossen  
**Telephone Number:** 01922 652608  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Mr Andy Law

**Applicant:** Mr J Uppal

**Proposal:** Variation of condition 2B to allow the flue to be terminated 1 metre above the eaves.

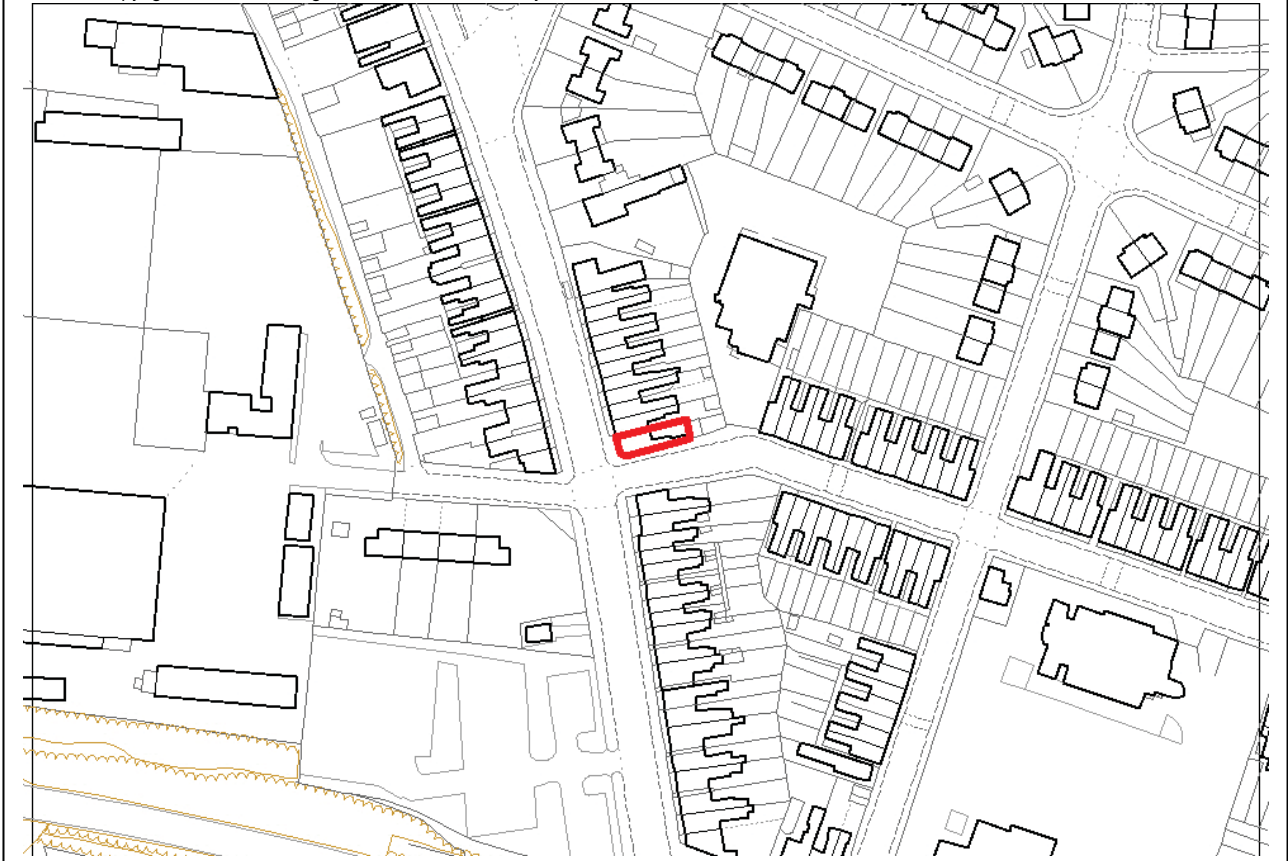
**Location:** 176 BLOXWICH ROAD, WALSALL, WS2 7BQ

**Ward:** Blakenall

**Expired Date:** 11/07/2013

### Recommendation Summary: Refuse

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## **Background**

Condition 2 of the original planning permission 10/1591/FL for the takeaway use, due to the close proximity of residential accommodation, required the flue to project 1 metre above the roof ridge to minimise adverse impacts on the amenities of the residents. The takeaway has been open since April 19<sup>th</sup> 2013 in breach of condition 2 of this planning permission. The current flue is 1 metre above the roof eaves.

A breach of condition notice was served on the 7<sup>th</sup> May 2013 which allowed up to 28 days to amend the flue to comply with condition 2 of planning permission 10/1591/FL, the 28 days expired on the 5<sup>th</sup> June. This application was received on the 16<sup>th</sup> May 2013, before the expiry date of the notice. It would be unreasonable to enforce the notice prior to determining this application.

## **Application and Site Details**

The site is situated on the eastern side of Bloxwich Road on the northern corner of the junction with Essex Street and has permission for use as a takeaway with flat above.

178 Bloxwich Road to the north comprises a terraced house attached to the application premises, with further residential properties beyond to the north and on the opposite side of Bloxwich Road to the west. To the south are terraced houses in Bloxwich Road and to the east in Essex Street. Immediately to the rear is the entrance to the former West Midlands Travel social club, set back from the street frontage.

The application proposes to retain the existing height of the flue with a different extraction and filter system to that previously approved.

## **Relevant Planning History**

Various alterations and extensions to the shop premises approved 1981 and 1992.

09/1460/FL, change of use from A1 retail to A5 hot food takeaway, refused 23-12-09.

10/0976/FL, change of use from A1 retail to A5 hot food takeaway, withdrawn 10-09-10

10/1591/FL, change of use from A1 retail to A5 hot food takeaway, granted subject to conditions 08-02-12.

12/1303/FL, Proposed shopfront with external roller shutters, granted subject to conditions 26-11-12.

## **PLANNING POLICY**

### **National Planning Policy Framework (NPPF)**

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

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

- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.
- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas
- Support the transition to a low carbon future, encouraging the reuse of existing resources including the conversion of existing buildings

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

#### 4: Promoting Sustainable Transport

35. Opportunities for the use of sustainable transport modes should be protected and exploited.

39. If setting parking standards, LPA's should take into account: accessibility, the type and mix of the use, availability of public transport, levels of car ownership and the need to reduce the use of high emission vehicles.

#### 7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

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

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

## Decision-taking

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

## The Development Plan

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

## The Black Country Core Strategy (BCCS) (2011)

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The relevant policies are:

**CSP4** The hierarchy of centres will provide a focus and concentration for essential local services and activities with easy access by walking, cycling and public transport. Its diverse, accessible, affordable and active villages, towns and neighbourhoods will encourage commercial activity, promote prosperity and support the well-being of the area's inhabitants.

The transformation will be supported by buildings providing a range of functions, tenures, facilities and services to support its diverse local communities.

**ENV2** All development should aim to protect and promote the special qualities, historic character and local distinctiveness of the Black Country in order to help maintain its cultural identity and strong sense of place.

**CEN2** To protect the identified centres and ensure the appropriate distribution of investment, a hierarchy of centres, consisting of three levels, has been identified across the Black Country: Local Centres generally have a small supermarket present and a range of mostly convenience based outlets. Most have a minimum of 10 units present and are recognised because of the important role that they perform. Local Centres provide for day-to-day convenience shopping and services which meet local needs. These centres often have special importance for sections of the community such as ethnic minorities and the elderly. In addition there is an extensive network of small parades and small local shops meeting essential day-to-day needs of communities within walking distance.

**CEN6** There are a significant number of small local shops either individually or in small parades of shops serving a very local need. Recognising this, seeks to ensure the provision and retention of local shops and other centre uses to meet essential day-to-day needs within reasonable walking distance of people's homes.

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

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

**GP2:** The Council will expect all developments to make a positive contribution to the quality of the environment and the principles of sustainable development, and will not permit development which would have an unacceptable adverse impact on the environment. The following considerations will be taken into account:-

- I. Visual appearance
- II. The creation of, or susceptibility to, pollution of any kind
- VII. Accessibility by a choice of means of transport; traffic impact, including the adequacy of the proposed access; and the adequacy of parking facilities
- XIX. The hours of operation of any activities proposed.
- XX. Any other factor of environmental significance.

**ENV10:** (a) II Cause unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

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

**ENV32:** states poorly designed development which fails to take into account the context or surroundings will not be permitted.

S1: Definition of Town Centre Uses

IV. Food and drink uses and public houses

**S6:** Outside identified centre, existing local shopping, service, leisure, community and other facilities – in the form of shopping parades, clusters, single shops etc will be encouraged to continue to meet day to day needs of the community.

**S10:** Hot Food Takeaways will be appropriate in the Town, District and Local Centres subject to the following considerations:-

- I. The use proposed must not adversely affect the amenities of the existing or proposed dwellings 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 takeaways will be considered in relation to the amenities of nearby dwellings. Conditions can be imposed on the permission stating opening and closing times
- III. Permission will not be granted where the absence of adequate off street parking would be likely to lead to on street parking in a hazardous location.
- IV. Permission will only be granted where ventilation and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment would not be detrimental to visual amenity.

**T7:** All development should satisfy the car parking standards set out in Policy T13

**T13** Hot food takeaways - 4 car park spaces for establishments with a gross floor space up to 50m<sup>2</sup>; then 1 space per 22m<sup>2</sup> of gross floor space. At least 1 bike stand for every 5 car park spaces with an absolute minimum of 2 bike stands. Taxi facilities.

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

Supplementary Planning Documents (SPD)

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

### **Designing Walsall**

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

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

DW10 – Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

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

### **Consultation Replies**

#### **Environmental Health - Objection**

Pollution Control, Contaminated Land – No objections

Pollution Control - Scientific Team - The applicant will need to demonstrate that the odour abatement system meets the high efficiency specifications as stated within the DEFRA best practice guidelines, as a minimum, if a reduced chimney height is to be considered.

Fire Safety – No objections

### **Public Participation Responses**

None – *consultation expiry date expires on the 27/06/13*

### **Determining Issues**

- Design of Extension and Impact on Character of Area
- Impact on Amenity of Nearby Residents

### **Observations**

#### **Design of Extension and Impact on Character of Area**

The brick design of the flue is the same as required by condition of the takeaway planning permission and would integrate with the existing building. The reduction in height of the flue could be considered an improvement having less impact on the character of the area.

#### **Impact on Amenity of Nearby Residents**

Environmental Health Officers comment, that Defra guidance on the control of odour and noise from commercial kitchen exhaust systems allows for a scoring process to determine the type of odour control necessary: This site requires a very high level of odour control and to disperse the cooking effluvia, the extraction stack should discharge at least 1 metre above the highest part of the roof. In view of the above comments, the Environmental Health department recommends the application is refused.

Pollution Control Officers also consider that the extraction system at the existing chimney stack height is not sufficient to disperse odours from the takeaway away from neighbouring residents.

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

The application is retrospective and the takeaway in use, advice has been provided to the agent.

**Recommendation: Refuse**

The proposed development would have an adverse impact on the amenities of the surrounding residential occupiers in terms of cooking odours, noise and disturbance, particularly during the evening. The development would therefore be contrary to the National Planning Policy Frameworks in particular paragraphs 56, 57, 58 and 64, the Black Country Joint Core Strategy in particular CSP4, ENV2, CEN2 & CEN6 and Walsall's Unitary Development Plan (2005) in particular saved policies 3.7, GP2, ENV10, ENV32, S6, S10 and T13.



# Walsall Council

Regeneration Directorate – Planning and Building Control

## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 04/07/2013

**Plans list item no: 8.**

### Reason for bringing to committee: Requiring delicate judgement

**Application Number:** 13/0554/AD

**Application Type:** Advertisements

**Applicant:** Walsall Football Club

**Proposal:** Two LED illuminated advertisements (35m x 12m, and 30m x 12m) with changing displays on existing 'V' form structure.

**Location:** BANKS STADIUM, BESCOT CRESCENT, WALSALL, WS1 4SA

**Ward:** Palfrey

**Case Officer:** Phillip Wears

**Telephone Number:** 01922 652611

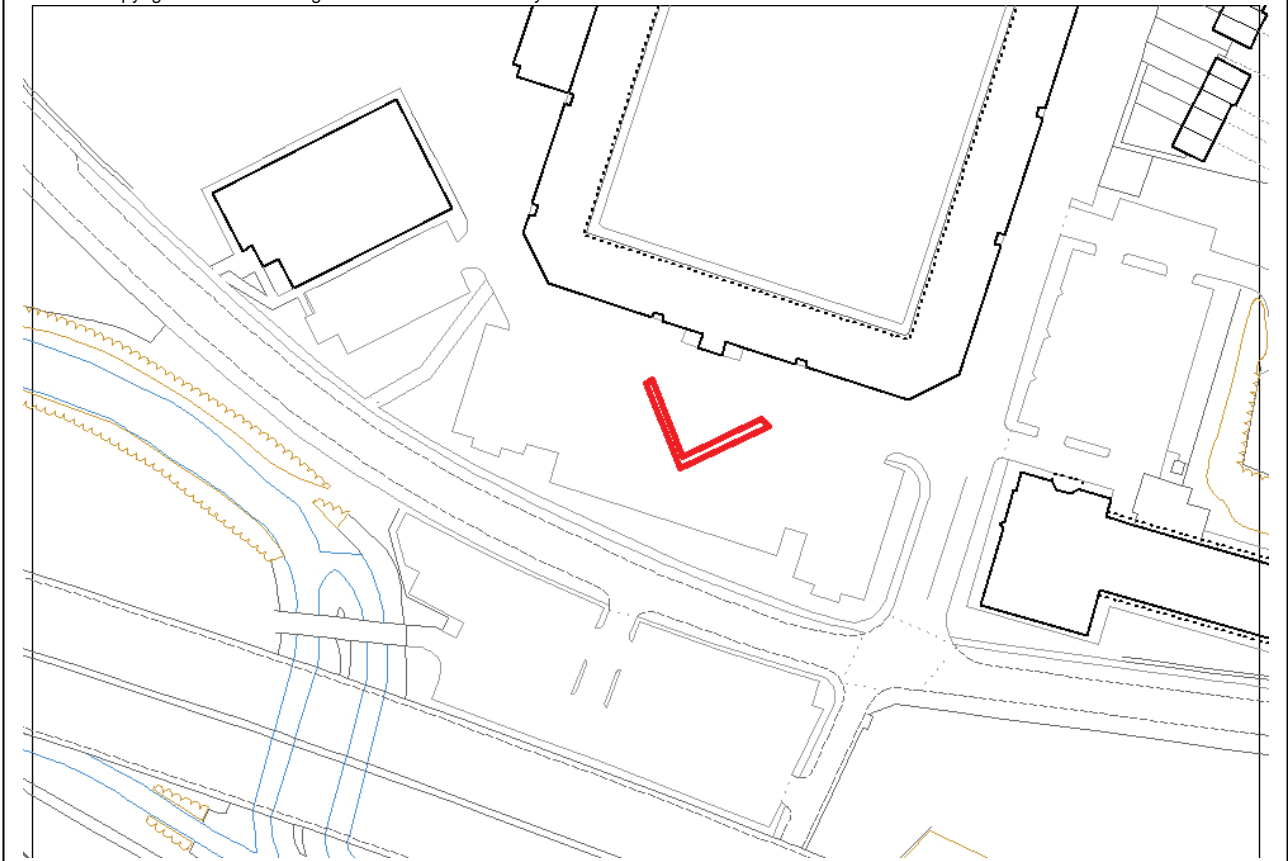
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Agent:** Walton & Co

**Expired Date:** 26/06/2013

### Recommendation Summary: Grant Advert 5 years

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## **Application and Site Details**

This application is for consent to display two LED illuminated digital advertisement screens adjacent to the M5 motorway between junctions 9 & 8 (M6/M5) in a 'V' shape. The advertisement screens are angled to face the north and south bound traffic. The screen facing the north-bound traffic measures 35 metres by 12 metres, whilst the advertisement screen facing the south bound traffic would be 30 metres by 12 metres, with both advertisement screens on the same utilitarian steel supporting structure forming the 'V' shape.

The advertisements have been in place with reduced sizes of 35m by 7m and 30m by 7m since the end of April 2013. The planning application is to retain the advertisements whilst extending them to the full sizes proposed as above. The digital screens are made up of LED modules (measuring 0.4m by 0.2m) and the additional size is obtained by adding more modules below the existing screens attached to the support structure.

The 'V' form structure is on the football club southern car park about 3 metres from Bescot Crescent pavement. The V shape advertisement screens are about 55 metres from the elevated M6 Motorway. The proposed advertisement screens would be 11 metres above ground level, giving an overall height of about 23 metres.

The LED digital screens replaced printed pvc fabric banner advertisements, measuring 35m by 12m and 30m by 12m, perforated to reduce wind loading and illuminated by external floodlights on the existing steel supporting structure.

The new LED digital screen advertisements allow for frequent changes of the advertising display image. The changes currently take place at frequencies between 10 to 25 seconds. The applicant confirms that the display period and brightness of the image can be chosen and fully controlled. The total proposed number of different advertising images used in any one day is not to exceed 8. The same advertising displays recur continually in a sequence. Within each advertising image it is proposed to avoid moving displays.

The documents submitted in support of the application include;-

- A Supporting Statement suggesting conditions as part of any grant of consent to achieve these parameters and concludes that :-

- The proposed sign is a replacement for the existing sign which is displayed on the Application Site pursuant to the 2008 Consent
- The only changes which are proposed from the existing sign are the replacement of the perforated fabric with LED panels and the removal of the floodlighting units.
- The proposed sign does not affect amenity or public safety and will actually assist in ensuring that the sign is of a high standard of design in accordance with Policy ENV36 of the UDP
- Furthermore the light output from the proposed sign will not exceed the luminance levels from the existing sign (ie 400 candelas per square metre)

- Any potentially distracting advertisements can be controlled by conditions
- There is no reason to refuse advertisement consent for the replacement sign.

The applicants have suggested the following conditions may form part of a grant of permission:-

- (i) *The intensity of the illumination of the signs permitted by this consent shall be no greater than 300 candela per square metre and no greater than 100 candelas per square metre between the hours of 2200 hours and 0600 hours on the following day.*
- (ii) *Subject to the provisions of condition [i] the intensity of the illumination of the signs permitted by this consent shall at all times be operated by an automated mechanism which:*
  - (a) *controls the level of illumination of the signs by responding to the background levels of light sampled on the site of the sign;*
  - (b) *effects adjustments of the illumination intensity in accordance with parameters to be agreed in advance in writing with the Local Planning Authority; and*
  - (c) *is designed to allow for manual operation if the automated illumination monitoring or adjustment system related to the signs shall for any reason fail to operate.*
- (iii) *The frequency of changes between images displayed on the signs permitted by this consent will not be greater than once every 15 seconds.*
- (iv) *The time period allowed for changes in images displayed on the signs permitted by this consent between one and the next shall be two seconds, being one second for the fade out of one image and one second for fade in of the next image.*
- (v) *Within any twenty four hour period between 0500 and 0500 hours on the following day no more than eight different images may be displayed on the signs permitted by this consent and no images will be displayed other than consecutively on each of the signs proposed subject to condition (iv)*
- (vi) *No images shall be displayed on the signs permitted by this consent which contain any moving graphics or moving pictures or flashing visual effects*

- A Technical Note, by consultants which reviews the 3 serious or fatal accidents which have taken place on the adjacent stretch of Motorway between 2008 and 2012. Taking account of this and another 91 accidents classified as slight, the Technical Note concludes that the accident record does not suggest any significant safety issue, nor any causation by the previous advertisements, or other advertisements nearby. The Technical Note also discusses the safety benefits of the Birmingham Box Managed Motorway scheme, which applies to the adjacent motorway and other advertisements along this stretch of motorway.

- A series of structural calculations have been received from the agent following the initial application, intended to show that with some additional bracing the 'V' form structure would be safe with advertisements of the full proposed size.

- A recent letter from the consultant authors of the Technical Note which contains more specific proposals for the operating parameters of the advertisements, following their work to calibrate and assess them. This letter proposes:-

- Lower levels of luminance, which are also automatically adjusted to suit the day-lighting conditions at the time, so that for example lower luminance is used during the hours of darkness, and lower still between 2200 hours and 0600 hours daily. This regime, involving maxima of 300cd/m<sup>2</sup> in daylight, 200cd/m<sup>2</sup> in darkness and 100cd/m<sup>2</sup> between 2200 and 0600 hours daily has been confirmed to have been operating since the first days in May.

- That the frequency of changing the displays will be every 15 seconds.

- That the changing of the displays will be effected with a one second fade out and a one second fade in.

A recent report from a Landscape Consultant which assesses the visual impacts of the advertisements at 6 residential locations in Wednesbury (across the Motorway and the Bescot Sidings). This applies a formal methodology and concludes that the overall impact in daytime ranges from 'Minor adverse' to 'Moderate to Major adverse'.

Further correspondence from the applicant reiterating the levels of luminance, conditions, display changing times and display sequencing

### **Relevant Planning History**

Walsall has a number of advertisements intended to be seen by motorists on the M6. In many cases these are relatively un-changing because they are advertising the business in the premises on which they are displayed. These are important to their surrounding environs including the M6 motorway, but more directly comparable with the current proposal are the other advertisements of the changing commercial poster or 'billboard' type, unrelated to the premises on which they stand, and often considerably closer to the motorway. This history concentrates on these, starting with the current application site.

Other LED illuminated advertisements are relevant because of their special characteristics of sharp appearance and displays able to change every 15 seconds or so.

#### **The Club site:-**

Poster hoardings on the roof of the south stand (three V-shaped pairs) were given planning consent over a period from 1992 to 1996. These have been removed (see below).

In 1995, a monopole V shaped display (BC43256P) was approved at the edge of the car park, adjacent to Bescot Crescent. This was implemented and remains.

In 1998 a second monopole with a V-shaped display was approved in the car park. It was built 2 metres higher than approved and a retrospective application made. After a representations hearing it was allowed (BC52670P) in 1998. This also remains.

Another V shaped pair, also on a monopole in the car park was approved, but not implemented.

In 2004, a hoarding 65 metres long, 12 metres tall was approved (03/2212/AD/W4) and proposed to be attached to the new south stand (approved, but not implemented).

In addition, a large commercial 'billboard' advert on the front edge of the roof of the north stand is visible from the M6.

October 2007, planning application 07/1871/AD was made for externally illuminated pvc banner advertisements, of similar size to those now proposed and on a similar structure. This was approved, contrary to the officer recommendation. That decision was challenged by the Highways Agency, via the judicial review process and reported in private session to the Development Control Committee. The Council resolved to submit to judgment and the consent was quashed. However a second identical application (07/2586/AD) made re-determination of 07/1871/AD unnecessary.

November 2007 the Club made a new but identical planning application (07/2586/AD). Their purpose in doing so was to allow the Council the opportunity of issuing a new decision, reflecting the legal challenge made. Officers recommended refusal, on grounds of harm to amenity and traffic safety in the vicinity of Bescot Crescent, owing to the extremely large scale of the adverts and also obstructing coach movements on this part of the Club car park.

*The Committee resolved to issue a consent for the pvc banner advertisements, after a section 106 Unilateral Undertaking was received for the removal of the three v-shaped pairs of hoardings approved in the 1990's and also containing a covenant not to implement the approval of a hoarding 65m by 12m on the new south stand.*

*The consent for 07/2586/AD was issued on 24<sup>th</sup> November 2008 for the standard 5 year period. Special conditions were attached, in particular relating to safety, bearing in mind the wind loading of the pvc material and also to require further details of the illumination to be approved and thereafter retained.*

*This decision was not challenged, and the advertisements and structure were erected, but the advertisements have recently been replaced as described above in Application and Site Details.*

It is appropriate to set out the relevant history of the wider area.

### **DSM Demolition, off Bescot Road**

This current display is just south of J9, on southbound side about 350m from current proposal and only several metres from the M6.

Double sided illuminated adverts on a monopole were approved in 2005 (04/2486/AD). It was amended to a portrait format (4.5 metres wide and 6.75 metres tall) on a swan-necked pole by application 05/0519/AD in 2005.

The Highways Agency objected to the first application (though not until the decision had been made). In the 2008 report they stated their concerns about the implemented display.

### **Factory on SW side of Bescot Crescent**

This current display is south of J9, on southbound side and about 110m back from M6.

02/0718/AD A three sided display on a 15 metre monopole was refused in 2001, contrary to recommendation, later allowed at a representation hearing and approved in 2002.

### **Adjacent to Centro car park, Bescot Stadium railway station**

This display is south of J9, facing southbound traffic, about 12m from M6 and 70m from current proposal.

02/0363/AD for two panels in V form on a monopole, was refused and allowed in 2002, following a representations hearing.

### **Middleton Group, Bescot Crescent**

This LED illuminated display is south of J9, approaching J8 on southbound side, about 280m from current proposal and 8m from M6. The displayed advert images change about every 15 seconds.

08/1800/AD – two illuminated digital display screens, each 7.5m by 5m in portrait style, on monopole. Consent granted by Committee, contrary to recommendation.

### **Decisions to refuse consent**

Relevant refusals by Appeal Inspectors or by the Council where the impact of advertising to Motorway users was considered adverse:-

### **Middleton Group, Bescot Crescent.**

06/1857/AD- Wall mounted, portrait format (5m by 7.5m), up-lit, close to southbound carriageway of M6.

Highways Agency objection.

Appeal dismissed May 2007

- close to J8 (M6 / M5)
- high level of merging and weaving traffic
- very prominent, would divert drivers attention
- high sided vehicles / intermittent views
- Inspector said *“I agree with the Highway Agency that this is a very busy and difficult section of motorway that requires an exceptionally high level of driver concentration and where even a moment’s hesitation or distraction could lead to an accident.”*
- would sit incongruously on building detrimental to visual amenity.

### **Showcase Cinema,**

06/0906/AD/W5

96 sheet monopole (12.2 metres by 3 metres, single sided, illuminated) adjacent the north-bound M6, north of J10.

Highways Agency objection.

Delegated Refusal May 2006.

Appeal dismissed January 2007

- police and motorway unit object
- would not have long advance views
- compelling safety reasons to resist

- also discordant in views, and unduly imposing.

**Adjacent to gasholders, Land off Darlaston Road, James Bridge.**

Adjacent to the northbound M6, north of J10.

06/0445/AD/W5

Two illuminated portrait format posters (5m wide, 7.5m tall), adjacent M6, northbound carriageway.

Highways Agency objection.

Delegated refusal May 2006.

Appeal dismissed Oct. 2006

- elevated M-way restricts space and makes dealing with any incidents more difficult
- traffic flows exceptionally high
- slowing traffic very close to proposed location
- will attract drivers attention
- Highways Agency records show cluster of collision incidents between J9 and J10 (both close to site)
- Inspector considers it is important drivers are not faced with demands on their attention over and above official highway signs
- high sided vehicles shut off some views for drivers which adds to distraction factor
- there is a risk of accidents
- on amenity, gas holders flanking site vary in height and signs will stand out on occasion, they would stand out incongruously and obtrusively.

07/0176/AD -96 sheet poster in same place as above.

Highways Agency objection

Refused April 2007, delegated, reasons follow appeal decision above

09/0006/AD - 96 sheet internally illuminated light box, adjacent the gas-holders off Darlaston Road. Appeal dismissed August 2009, on visual amenity and highway/public safety grounds. The Inspector noted a relatively long range of visibility, but did not think drivers would easily assimilate the advert because of frequent congestion and many high-sided vehicles obscuring the view, so that it would create excessive distraction for drivers. The advert would also spoil the visual effect of greenery, and notwithstanding the gas-holders would be harmful to the amenity of motorway users.

11/1430/AD – Mega illuminated light box 18.5m by 5m. Refused for competing for driver’s attention to Motorway signage in a stretch of Motorway requiring elevated concentration and visual amenity by obtrusiveness in tree lined stretch of M6.

12/0563/AD – Portrait style illuminated panel, 8m by 5.5m. No objection received from HA. Appeal dismissed on visual amenity grounds only.

**The M5 motorway in Sandwell**

There is a series of illuminated posters and light boxes, all considerably smaller than this proposal and in industrial areas.

LED digital frequently changing advertisements. An appeal decision in 2011 regarding two adverts 9m high and 6 m wide and comprising vinyl or LED digital displays on a tower to be located next to the M5 northbound carriageway near Kelvin Way, West Bromwich.

The Inspector felt that careful drivers would not be distracted owing to long range of visibility and few decisions to take on lane and direction changes. The advert tower would be prominent but not harmful to amenity in the context of other signage.

Consent was granted subject to conditions covering luminance and frequency of the display changing. The adverts were erected in LED form and it is understood that drivers subsequently complained about brightness.

Another such advertisement next to the northbound carriageway near Junction 1 is out of use at present.

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

**National Planning Policy Framework (NPPF)**

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

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

- finding ways to enhance and improve the places in which people live their lives;
- proactively drive and support sustainable economic development.
- Always seek to secure high quality design and good standards of amenity for all existing and future occupants of land and buildings
- Take account of the different roles and character of different areas

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

The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate,

Paragraphs

21. Support existing business sectors,

31. Work with neighbouring authorities and transport providers to develop strategies for the provision of viable infrastructure. The primary function of roadside facilities for motorists should be to support the safety and welfare of the road user.

56. Design of the built environment is extremely important, and should contribute positively to making places better for people.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include functioning well and add to the overall quality of the area

67. Poorly placed advertisements can have a negative impact on the

appearance of the built and natural environment. Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

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

125. By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **Circular 3/2007.**

This national Circular, issued to accompany the 2007 Control of Advertisements Regulations, also presents general guidance on exercising advertisement control.

Circular 3/2007 sets out the guiding principle that in making decisions on adverts "Local planning authorities are required to exercise their powers under the Regulations with regard to amenity and public safety, taking into account relevant development plan policies in so far as they relate to amenity and public safety, and any other relevant factors." (para 5).

On amenity, the circular advises;-

*"The definition of "amenity" in regulation 2(1) includes both visual and aural amenity. Therefore as well as visual amenity, the noise generated by advertisements should be considered. "Public safety" is not confined to road safety. Crime prevention and detection are relevant; the obstruction of highway surveillance cameras, speed cameras and security cameras by advertisements is now included."*

Appendix B sets out the relevant considerations to be taken into account with regards to the effect of advertisements on public safety. The key passages, in the context of this application are;-

## **ROADS**

### **General considerations**

1. All advertisements are intended to attract attention. But particular consideration should be given to proposals to site advertisements at points where drivers need to take more care, for instance at junctions, roundabouts, pedestrian crossings, on the approach to a low bridge or level crossing, or other places where local conditions present traffic hazards. There are less likely to be road safety problems if the advertisement is on a site within a commercial or industrial locality, if it is a shop fascia sign, name-board, trade or business sign, or a normal poster panel, and if the advertisement is not on the skyline.

2. The main types of advertisement which may cause danger to road users are: (*edited for relevance*)

(b) those which, because of their size or siting, would obstruct or confuse a road-user's view, or reduce the clarity or effectiveness of a traffic sign or signal, or would be likely to distract road-users because of their unusual nature;

(d) those illuminated signs (incorporating either flashing or static lights);

(i) where the means of illumination is directly visible from any part of the road;

(ii) which, because of their colour, could be mistaken for, or confused with,

traffic lights or any other authorised signals;

(iii) which, because of their size or brightness, could result in glare and dazzle, or distract road-users, particularly in misty or wet weather;

(e) those which incorporate moving or apparently moving elements in their display, or successive individual advertisements which do not display the whole message;

In many cases it may be possible for the hazardous traffic features of the display to be removed by, for example, re-siting the sign, or screening of floodlights, or changing the colours of lights. Such changes might be achieved by discussing a suitable alternative display with the intending advertiser.

## **MOTORWAYS**

"6. Land alongside motorways is landscaped for reasons of safety and appearance. Only prescribed or authorised traffic signs are permitted on land acquired for motorways. Advertisements may, however, be permitted within a motorway "service area". Local planning authorities should ensure that on other land alongside motorways no advertisements which could adversely affect amenity, or constitute a danger to traffic are allowed... (See also paragraphs 147 and 148 of the Annex to this Circular.)"

Para. 147 is not relevant to the present case. However, para 148 states:-

“148. As there are road safety issues in displaying advertisements alongside motorways and other trunk roads the Highways Agency should be consulted about any application for express consent. The Highways Agency is unlikely to support any application for an advertisement which could distract drivers. The road safety and amenity issues raised by these advertisements mean that it is unlikely that express consent to display them would be given.”

### **The Development Plan**

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

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

This was adopted in February 2011 under the current Local Development Framework system,

**The Vision** consists of three major directions of change and underpins the approach to the whole strategy;

**1. Sustainable Communities** - Regeneration should aim to promote and facilitate healthy living and create environments which offer opportunities for active lifestyles and healthy choices, including provision for walking, cycling and outdoor recreation within the urban fabric of the Black Country.

**2. Environmental Transformation** - Delivering high quality, liveable and distinctive places which respect and make the most of the existing diversity of the Black Country’s natural and built environment.

**3. Economic Prosperity** Attract new employment opportunities and investment in innovation and new technology, deliver a network of successful strategic, town, district and local centres and the infrastructure and raw materials needed to support the local economy, improve the wealth and image of the Black Country and support initiatives to lift educational and skills performance.

**The Spatial Objectives** include

6. A high quality environment

7. A first-class transport network providing rapid, convenient and sustainable links.

The relevant key policies are:

CSP4 – All development to make a positive contribution to place-making and environmental improvement, including high quality of design and utility of all transport proposals.

CSP5 – Objectives for the transport network include containing congestion through managing their efficiency, and improving road safety.

ENV2 – Development proposals should preserve and where possible enhance local character and special qualities.

ENV3 – High quality design to deliver urban renaissance that stimulates economic, social and environmental benefits.

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

Policy GP2 states that the Council 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.

Policy 3.6 - schemes should, as far as possible, help to improve the environment of the Borough.

Policy ENV32 states poorly designed development which fails to take into account the context or surroundings will not be permitted

ENV36: Poster Hoardings.

a) Poster hoardings will not be permitted where they have a detrimental effect on either the amenity of an area and its residents or public safety. The most appropriate locations are likely to be in areas of mainly commercial character. Hoardings are unlikely to be permitted:-

III. In residential areas

V. On sites visible from motorways and on prominent sites on classified roads

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

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

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

### **Designing Walsall (SPD)**

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

DW6 – Legibility. New development should contribute to creating a places with a clear image and identity.

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

## **Consultation Replies**

### **Highways Agency**

Given the strong objections of the HA to the previous advertisements on this structure, their current response is reproduced in full:-

*The HA understands that the application seeks retrospective consent for two LED illuminated adverts on an existing 'V' form structure. The adverts are located adjacent to the southbound carriageway of the M6 motorway.*

*We note that the current advert replaced the previous sign erected in 2008. The HA acknowledges that the previous sign cannot be evidenced as increasing accidents on the M6. However, the current advert replaces a conventional sign with a LED illumination and changing adverts. Consequently a lack of accidents under the previous sign cannot be cited to support the safety of the current advertisement.*

*The Highways Agency has concerns regarding the use of LED illumination on the current advert. Based on experience of smaller electronic adverts at other locations we understand that high levels of LED illumination can impair the visibility of motorists. In addition LED illumination can cast a glare on CCTV cameras that adversely affects the ability of Highways Agency to identify and respond to incidents.*

*Based on this experience we also have concerns regarding the number of times the displayed advertisement will change. Digital advertisements with changing displays are a relatively new occurrence on the Strategic Road Network and as such may distract motorists. In light of this the Highways Agency would encourage the number of advert changes to be restricted to a minimum. We would welcome further dialogue with the applicant and Local Authority on this issue.*

*The HA also views the nature of the change as having the potential to cause distraction through either gradual or sudden changes. We would encourage the applicant to work with the Local Planning Authority to ensure the sequence and display of advertisements will not cause a hazard to motorists.*

*We acknowledge that the Local Planning Authority will determine the application based on its view of the safety risks associated with the current advertisement. If a decision is taken to grant advertising consent we respectfully request the following conditions are attached to ensure the continued safety and free flow of the M6.*

*1 Lighting levels should be limited to a maximum of 300cd/m. The applicant should liaise with the Local Planning Authority and the Highways Agency in the event that these are identified as being unsafe, to identify a safe level of lighting.*

*2 The advertisement display changes should be restricted to a minimum as determined in consultation with the Local Planning Authority and the Highways Agency.*

*3 The nature of the changes and the sequence in which the advertisement are displayed should be arranged in such a way as to not pose a risk to drivers travelling on the M6 motorway.*

The Highways Agency have written again, reiterating their objection, restating national policy, characteristics of the M6 motorway, managed motorways, accident data, introduction of LED illumination, frequency and nature of advertisement changes and proposed conditions.

**Fire Officer** – No objection

**Network Rail** – No objection

**Building Control Safety** – Structural calculations are being assessed

**Motorway Police** - No comments received

**Transportation** - The following comments have been received in relation to the impacts on local roads;-

Taking into account the position of the signs are to remain as at present and the dimensions of the signs are to remain more or less unchanged, the Highway Authority has to consider whether the proposed change from the present static externally illuminated signs to LED displays will constitute such a significant distraction to highway users that highway safety would be compromised.

The proposed signs are located off Bescot Crescent which is a non-classified Local Distributor road. There are no priority or signalised road junctions or pedestrian crossings within the section of Bescot Crescent within sight of the signs. There are a number of access points to adjacent businesses, car parks as well as bus stops in the locality of the sign.

A survey of personal injury accident data for Bescot Crescent over the last 3 years shows that there have been 4 accidents over that period, none of which state that a causational factor was the presence of the signs.

There were Transportation objections to the original 2007 application on the basis that the stanchions to the signs were located within the football stadium coach/car parking area and it had not been demonstrated that the operation of the parking area would not be detrimentally affected. However, the sign has been in situ for a number of years and there have been no reported operational problems and hence it is considered not to sustain this objection on the present application.

On balance the Highway Authority considers that with the safeguards provided by the imposition of suggested conditions relating to the frequency and type of display, the proposed signs are unlikely to have severe detrimental impact on the safety of Walsall's highway network.

### **Public Participation Responses**

Letters and emails objecting to the advertisements have been received from 5 residents in Westmore Way:-

- Already ridiculously large (*without being implemented to full proposed size*)
- The increased light level is already noticeable and will become significantly worse if this application is granted
- The changing displays extremely distracting when sitting in rear living room, and so bright that unable to watch TV
- Excessive brightness of the advertising boards, for residents and commuters on M6.
- Not normal light pollution and making watching TV difficult.

- Surely a distraction to motorists on the M6, and a safety hazard on one of busiest stretches of motorway in the UK.
- Far more intense illumination than the previous adverts here, which did not stand out as much
- Much worse than the previous illuminated adverts here and stand out a lot more, and previous adverts were not acceptable.
- Exploiting motorway traffic has moral issues of distraction of drivers and obvious dangers, as well as impacting on quality of life for Wednesbury residents.
- An eyesore when walking to your home and the adverts face you at end of your road
- Blighting the area; a hideous monstrosity
- The adverts dominate the whole area,
- Harmful to whole area as you drive or walk into Tiffany Green estate.
- The adverts light up a rear bedroom and add to existing light pollution,
- Unsightly and lighting up a rear bedroom
- Excessive impact already and distressed at proposed increase in size

### **Determining Issues**

In legislative and policy terms, the only issues that form the basis of a decision are amenity and public safety, as set out in circular 3/2007. References to “any other relevant factors” are wider and limited.

- Public Safety
- Visual Amenity

### **Observations**

#### **Public safety**

Motorway Safety. National guidance in Circular 3/2007 makes distraction of drivers a prime consideration in relation to Motorways. The recent appeal decisions show concerns at not only the resulting accidents causing damage to life and property, but also to the serious disruption and delays which result from even small accidents on a very busy stretch of the motorway network.

The Supporting Statement argues that the safety of the advertisements is enhanced by their being on a V shaped structure, which requires drivers to turn their heads less to assimilate the adverts. It also points to the submitted Technical Note by Pell Frischmann, pointing out that the previous adverts have been there 5 years without evidence of them causing accidents. This looks at 5 years of reported accident data from Jan 2008 to Dec 2012. The details of the 3 severe and fatal accidents conclude there is no evidence of causation by the previous adverts or other adverts. In reviewing the information available regarding the 3 accidents, no conclusions can be drawn either way and the 91 reported slight accidents are not examined.

The Highways Agency point out that statistics gathered when the previous adverts were in place cannot be cited in support of the new adverts which have different properties. It is considered that the proposed adverts are a departure in terms of their ability to attract attention owing to the LED sharpness and displays changing every 15 seconds. Furthermore, if each screen displays a different advert, this may exacerbate the safety impact to drivers as their attention is drawn trying to assimilate to large separate screen displays.

In the James Bridge appeal, the Council and the HA were in agreement that the appeal should be dismissed on this issue, as part of the appeal submissions. The HA submission was the report from the Scottish Office on the effect of external distractions (such as adverts) on drivers concluding;

- Data suggests external distraction is a major factor in accidents
- Roughly 10 to 30% of accidents had driver distraction as a contributory factor
- About one third of those cases involved external distraction
- It is likely the figures are an underestimate
- Posters pose a significant risk at junctions because they create visual clutter, making it harder for drivers to perceive traffic lights and other safety devices
- While more study is called for the report concludes clear guidelines are needed on location, number and type of signs at junctions.

In 2008 the Highways Agency made strong objections against the previously proposed adverts and included this summary of the features of this stretch of the M6;

*“The M6 through Walsall ... where junctions are closely spaced, directional and instructional signage is frequent and the level of lane changing (weaving) is high. The location of the proposed sign is only a short distance from junction 9 and traffic that has joined the motorway at this point may still be weaving in order to reach its desired lane. This is then compounded by the fact that the proposed location of the sign coincides, almost exactly, with the point at which the M6 lane markings and overhead gantry signs split traffic flows into two, in advance of the fast approaching M6/M5 junction... drivers are faced with an important lane selection decision ... it is of paramount importance that their full attention is on the road / other traffic and not external distractions.*

The Highways Agency has three areas of concern regarding the currently proposed adverts. They state that elsewhere the brightness of small LED illuminated digital screens has been found to impair the visibility of motorists (this is due to the delay while their eyes adjust to the dimmer lighting on the road ahead). They also cause glare on CCTV cameras that impairs the ability of the HA to detect and respond to incidents such as debris on motorway lanes. Frequently changing digital displays are a relatively new technology on motorways and may distract drivers. They also consider that the manner

of the change, whether sudden or gradual, can cause hazards. These concerns are expressed without specific application to the proposals and it would appear the HA are unable to be definitive at present or recommend parameters for the proposed adverts which could be incorporated into conditions and would render them safe. The newness of the LED digital screen technology in this context, and the unusually large size of the proposed adverts are some of the factors involved. The HA conclude that the LPA will determine the application based on its own view of the safety risks involved.

The adverts are intended to attract the attention of drivers. In doing this they inevitably take the attention of drivers away from identifying decisions, taking decisions and carrying out decisions, for example on lane changing and avoiding merging or slower vehicles. The previous comments of the HA and Appeal Inspectors decisions in the History above, point to the difficult conditions on this stretch of the M6 and the need for full driver concentration. In attracting the attention of drivers the adverts will also be competing with the other adverts nearby. By reason of unique size, clarity and brightness they will be successful in this and be the most visually dominant feature in the locality. There will be no tendency for the LED adverts to merge into the local townscape, therefore no resulting mitigation of the level of distraction.

Neither national policies, nor Walsall UDP policy ENV36 envisage such adverts being allowed. It can be noted that the national policies do not require an objection on safety grounds to be demonstrated. For example in paragraph 6 of Appendix B, LPA's should not allow adverts adjacent to motorways which '**could**'...constitute a danger to traffic. This can be seen as a 'precautionary' approach in which the potentially serious consequences for life and property justify the strictest control, notwithstanding the uncertainties as to the exact impact of the advert on safety.

In relation to the previous pvc poster advertisements officers recommended that owing to the applicants undertaking to remove three pairs of 'V' form poster hoardings from south stand roof and not implement an approved large 'billboard' advertisement on the proposed new south stand, the pvc advertisements were unlikely to cause an overall increase in the level of driver distraction on the motorway. Consent was issued only after the signing of a Section 106 Unilateral Undertaking regarding the elimination of these other advertisements. There are no similar considerations applying to the current proposal.

It is considered that the degree of distraction to drivers will be the ability of the adverts to attract attention initially and the duration through which they then hold that attention, which will in turn depend on how easy it is for drivers to assimilate the advertised message. Pell Frischmann argue, that because the adverts will be clearer they will be easier to assimilate and less distracting. However, whilst this is a factor, more important factors are that as they are clearer and the display currently changes every 15 seconds they will be much more likely to attract attention. Once a driver assimilates the advertising display, the display will change to a different business, product or service, encouraging repetition of the assimilation process, thereby extending the period during which the driver is distracted.

Safety on local roads. Officers recommended refusal for the previous pvc poster advertisements partly on grounds of distraction to drivers on Bescot Crescent (taking into account the curved road alignment and proximity to the car park entrance) and also obstruction of the car and coach park facility.

However in the light of experience of the previous advertisements these objections are no longer put forward. This takes into account that there are no prioritised or traffic light controlled junctions in the vicinity, nor pedestrian crossings.

Transportation (Highways) officers advise that provided the impact of the advertisements is controlled by conditions, including frequency and sequencing of changes to be greater than 15 seconds, that there are no moving images, the level of candela's is controlled and that both screens display exactly the same advert at the same time, it is considered the advertisements now proposed and partly implemented would on balance not significantly worsen highway considerations.

In this instance and allowing for the scale, dominance, unique location adjacent to this part of the M6, with junctions closely spaced, frequent directional and instructional signage, the level of lane changing (weaving) is high, relationship to the point where the M6 lane markings and overhead gantry signs split traffic flows into two, in advance of the M6/M5 junction it is of paramount importance that drivers full attention is on the road / other traffic and not on external distractions. Consequently, notwithstanding the applicants suggested conditions, it is considered that suitable conditions are required to protect highway safety and these are included in the recommendation.

### **Visual amenity**

The supporting structure is the same structure that was subject of the previous consent issued in 2008 (subject to a section 106 undertaking), except that three gangways are proposed at the rear for maintenance, and additional structural bracing is proposed in view of increased wind-loading. Notwithstanding the similarities with that previously consented, the structure forms a full part of the current application and the structure itself and all related factors such as size and height, are included for the decision. If the application is refused, the supporting structure could be re-erected in accordance with the existing consent at any time up until 24/11/13 but not beyond that date.

Officers are concerned that the applicants suggested conditions are imprecise raising issues of enforceability that may give rise to significant amenity concerns. In-addition, the rate that the advertisements are intended to change may also give rise to further amenity concerns, especially from local residents. The rate of change may also raise public safety concerns which is discussed elsewhere.

Previous consents have created a group of advertisements on the southbound side of the M6 between J9 and J8 (M5/M6), all aimed at a motorway audience, and visible from both sides of the motorway.

More distant from the M6 are 4 advertising displays comprising 'V' shaped displays on tall monopoles, and the long advertisement on the north stand at the Club. Closer to the M6 are the portrait-style adverts on a swan necked pole, the wide light boxes on a monopole adjacent to Bescot station car park, the LED portrait-style adverts at Middleton Group and the adverts subject of this report.

The pole adverts at Middleton Group have some commonality with the current proposal, being LED digital screens, changing their display every 15 seconds. Although, they are smaller and seen against the background of a large building, it is still considered that the LED displays provide a particularly sharp image, ensuring they attract attention. The current proposal combining much larger size, a more exposed location and LED digital characteristics, do present a departure from

previously consented advertisements, including those permitted with the same supporting structure in 2008.

Usually both the advertisement screens carry the same advertising image simultaneously, but recently some different displays have taken place, which is considered would may add to amenity impacts and potential highway safety issues discussed elsewhere plus the suggested conditions do not touch on this.

Officers are also concerned that they should be able to monitor and enforce the stated luminance levels, because of practical difficulties in taking luminance measurements externally at high level. A condition to control luminance throughout the year to minimise significant amenity impact and harm to the locality is recommended given that throughout the year, light levels constantly adjust. In order to provide certainty to anyone, including the local community, the condition defines hours and levels of luminance rather than allowing for the electronic control system to manage the levels of luminance as the average person would not be able to judge the luminance. The risk is, that there will be days, when natural light levels will mean the luminance of the advertising screens would feel and be overly bright, causing harm to amenity. On the converse, there will be days when the luminance is subdued in comparison to the prevailing light conditions meaning the advert would appear dull. But, it is considered that this is the balance that would have to be struck in order to offer a level of certainty for the local community and offer a condition that could be enforceable.

The technology of LED advertising screens allows for regular changes of advertising image and potentially allows for moving images or graphics. It is considered in this context, moving images/graphics and very regular changes of images would prove harmful to local amenity (as well as public safety- discussed elsewhere) so the conditions of any approval would need to avoid the more extreme impacts of moving or flashing images and the frequent changing of the advertisements.

The perceived brightness of the advertisements, the displayed advertising changing to a different advertisement every 15 seconds means that the visual impact is considered significantly different from that of the printed pvc static advertisements with external illumination as previously permitted.

Visual amenity for motorway users.

Government guidance in Circular 3/2007 presented above, recognises that the level of visual amenity experienced by users of Motorways is a material consideration. Furthermore appeal decisions show that the presence of unsightly structures such as the gas-holders does not justify harm to the existing level of amenity.

The issue is whether the increased visual impacts arising from an increase in brightness and the frequently changing displays result in significant additional harm to amenity in this context. It is considered the advertisements are significant and will have some impact to visual amenities.

Visual amenity from local roads and vantage points.

The 2008 report for the previous pvc advertisements considered their scale would appear massive and would have an adverse effect on amenity in Bescot Crescent. This took into account the support structure as well as the advertisements themselves. These particular impacts are felt

mainly by users of Bescot Crescent, Bescot station (Centro) car park and the adjoining hotel. Residential amenities are not considered to be a direct factor in the immediate location of Bescot Crescent, as none face the advertisements directly.

The height of the advertisements on top of its structure, are at high level in the street scene. Upward views for people on the same side of Bescot Crescent are restricted by a row of deciduous trees in summer, but not during the darker winter nights. The advertisements are seen in the context of the motorway elevated on stilts and large buildings such as the stadium and hotel. The 2008 report considered the advertisements massive even in this context. The brighter, frequently changing and more dominant advertisements now proposed would accentuate this impact.

Objections have been received from residents on the opposite side of the motorway and the railway line and sidings at Bescot concerned about the signs impact from a distance.

The applicants Landscape Consultant has provided an assessment of the visual impacts at six separate locations in the area, considering the overall adverse impact at that location. These assessments are reviewed as part of the discussion on each location below.

Westmore Way (near access gap into railway yard). A number of residents in Westmore Way see both advertisements simultaneously from the rear of their houses and gardens, at a distance of about 250 metres. As proposed their lower edges will appear to be about 3 metres above the motorway. The houses are in a slightly elevated location with views directly at the elevated motorway, with the railway lines and marshalling yard in the foreground and at lower level. Railway sheds are not high enough to prevent direct views from rear living rooms. The view is unusual for its lack of natural features and its dominance by the large functional engineered advertisement structure. Residents have objected to the large scale and dominance of the advertisements in their outlook. Whilst residents' outlook towards the advertisements would not be called attractive in conventional terms, the advertisements are now the most dominant feature in their skyline, and could be considered harmful to residential amenities, by reason of perceived brightness and frequently changing displays.

In the applicant's report some but not all houses here are acknowledged as highly sensitive owing to direct views from living rooms as well as other windows. There are high impacts from the displays changing every 15 seconds, which, it sees as lesser at night. The overall assessment is 'moderate to major adverse' impact in daytime and 'moderate adverse' at night-time. The author of the report identifies only 4 houses as having direct living room views. This is not clear and may be questionable. A few houses have conifer screens affecting living rooms but many do not. It could be considered that the adverse impacts are more widespread.

Sussex Avenue. Towards the south-east end of Westmore Way and in neighbouring Sussex Avenue residents see the 35m by 12m advertisement only and have more oblique views. However this remains a dominant feature in the views.

In the applicant's report the houses with rear views are treated as having medium sensitivity, and the impact of the frequently changing displays, as low to medium, giving an overall 'minor to moderate' adverse impact. It is debatable that 'minor' fully estimates the prominence of the south-facing advertisement in the view from these residents houses.

Coronation Road. Coronation Road, leads to Pemberton Crescent, which in turn leads to Westmore Way. There is a length of Coronation Road of about 100 metres where the road runs directly towards the advertisements, both of which are seen simultaneously. The advertisements appear to be immediately above the roofs of four houses off Pemberton Crescent. Despite the distance from the advertisements, they also appear as a prominent feature in the street scene.

In the applicants report the sensitivity at this location is treated as low to medium, and the impact of the frequently changing displays is low, giving 'minor to moderate' impacts overall. The low to medium sensitivity reflects the road being treated as a main road where people pass in a transitory way. It is considered that the impacts may be higher because the changing of the displays every 15 seconds makes them a dominant feature in the residential setting and street scene.

Kent Road. In this location, south of Sussex Avenue, the applicant's report identifies some houses as having medium sensitivity, as ground floor windows have oblique or partly obscured views. The change is identified as negligible owing to views of the south-facing advertisement being obscured by trees, giving a 'minor adverse' to 'neutral' impact overall. Whilst trees do obscure much of the advertisement it is likely to be far more visible in winter months.

Shelton Close. A group of houses at the north-west end of this road, north-west of Westmore Way, are orientated directly towards both advertisements. In the applicants report these are treated as medium sensitive, with the frequent changing of display being treated as low to medium change, for reasons which are not clear. This results in 'minor to moderate' adverse impact overall. It can be considered that there would be amenity impacts for these residents.

End of St Paul's Road. This relates to a public footpath across lower lying land to the north. In the applicant's report its users are identified as having low and medium sensitivity. The change is treated as low in daytime and negligible at night-time, giving 'minor adverse' or 'negligible' impacts overall. It is considered that the impact to users of the footpath would not be as impacted as occupiers of local houses.

Overall, whilst there are likely to be some impact to residential amenity generally, it is considered that, on balance, the impact is reduced for residents across from the Bescot sidings allowing for the 250metre separation distance and taking into account the generally hard industrial landscape that the advertising signs are seen within. It is considered that imposing the suggested conditions to protect highway safety concerns, these conditions would also go some way in protecting local residential amenity.

**Recommendation:** Grant Advert 5 years

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission

*Reason:* It is a requirement of the Regulations that the site owners permission be obtained before any advertisement is displayed.

2. No advertisement shall be sited or displayed so as to-

- Endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
- Obscure, or hinder the ready interpretation of, any traffic sign, railway signal, or aid to navigation by water or air; or
- Hinder the operation of any device used for the purpose of securing or surveillance or for measuring the speed of any vehicle.

*Reason:* In the interest of public safety

3. Any advertisement displayed, and any site used for the displaying of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

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

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

*Reason:* In the interest of public safety and amenity

5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair on visual amenity.

*Reason:* In the interest of public safety and amenity

6. Notwithstanding the details provided no images shall be displayed on the LED advertising panels/signs that include moving elements, animation, flashing visual effects or include any assembly and dis-assembly of the image/advert or any wording upon it.

*Reason:* To safeguard highway safety and visual amenity of the locality

7. Notwithstanding the details provided the frequency of change between the images/adverts displayed on the LED advertising screens hereby approved will not be less than once every 30 seconds, with a fade from one advert/image to another advert/image over a 2 second time frame

*Reason:* To safeguard highway safety and visual amenity of the locality

8. Notwithstanding the details provided no more than 1 image/advert to be displayed on a screen at any one time.

*Reason:* To safeguard highway safety and visual amenity of the locality

9. Notwithstanding the details provided no more than 8 different images/adverts, in total, per 24-hour period, between 0500 & 0500 hours the following day, will be displayed across both LED advertising screens hereby permitted. The images/adverts of both screens shall change at the same time and at no point shall the advertisements on each screen change at separate times or fade from one screen to another.

*Reason:* To safeguard highway safety and visual amenity of the locality

10. Notwithstanding the details provided no image/advert shall be displayed on one screen without at the same time the same image/advert being displayed on the other screen and no image/advert shall change to a new image/advert on one screen without the image/advert on the other screen changing to a new image/advert at the same time. There shall be no fading from one screen to the other

*Reason:* To safeguard highway safety and visual amenity of the locality

11. Notwithstanding the details provided, the intensity of the illumination of the LED advertising panels/signs hereby permitted by this consent shall be no greater than;

100 candela per square metre between the hours of 2200 hours to 0600 hours on the following day

200 candela per square metre between the hours of 1800 hours to 2200 hours

200 candela per square metre between the hours of 0600 hours to 0800 hours

300 candela per square metre between the hours of 0800 to 1800 hours

*Reason:* To safeguard visual amenity of the locality and to local residents from excessive glare during the day and into twilight and night time, whilst providing certainty of the level of candela illumination.

12. Notwithstanding the details provided, the intensity of the illumination of the signs permitted by this consent shall at all times be operated by an automated mechanism. Should the automated mechanism fail, the signs shall be switched off until the automated mechanism is repaired and tested.

*Reason:* To safeguard visual amenity of the locality and to local residents from excessive glare during the day and into twilight and night time, whilst providing certainty of the level of candela illumination.

13. Notwithstanding the details provided on a date not more than 6 months from the issue of this advertisement consent, a print out of the level of candela/hour illumination of the LED advertising screens for the preceding 6 months shall be submitted to the Local Planning Authority and every 6 months thereafter for the life of the LED advertising screens, a print out of the level of the candela/hour illumination of the LED advertising screens for the preceding 6 months shall be submitted to the Local Planning Authority.

*Reason:* To safeguard highway safety and visual amenity of the locality





# Walsall Council

Regeneration Directorate – Planning and Building Control

## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 04/07/2013

**Plans list item no: 9.**

**Reason for bringing to committee: Called in by Councillor Doreen Shires and Councillor Barker - the proposed development could be detrimental to the viability and vitality of the neighbouring/Town Centre**

**Application Number:** 13/0546/FL  
**Application Type:** Full application

**Case Officer:** Paul Hinton  
**Telephone Number:** 01922 652607  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Applicant:** SEP Properties Limited

**Agent:** Johnson Fellows LLP

**Proposal:** Replace part of existing facade with a shop front.

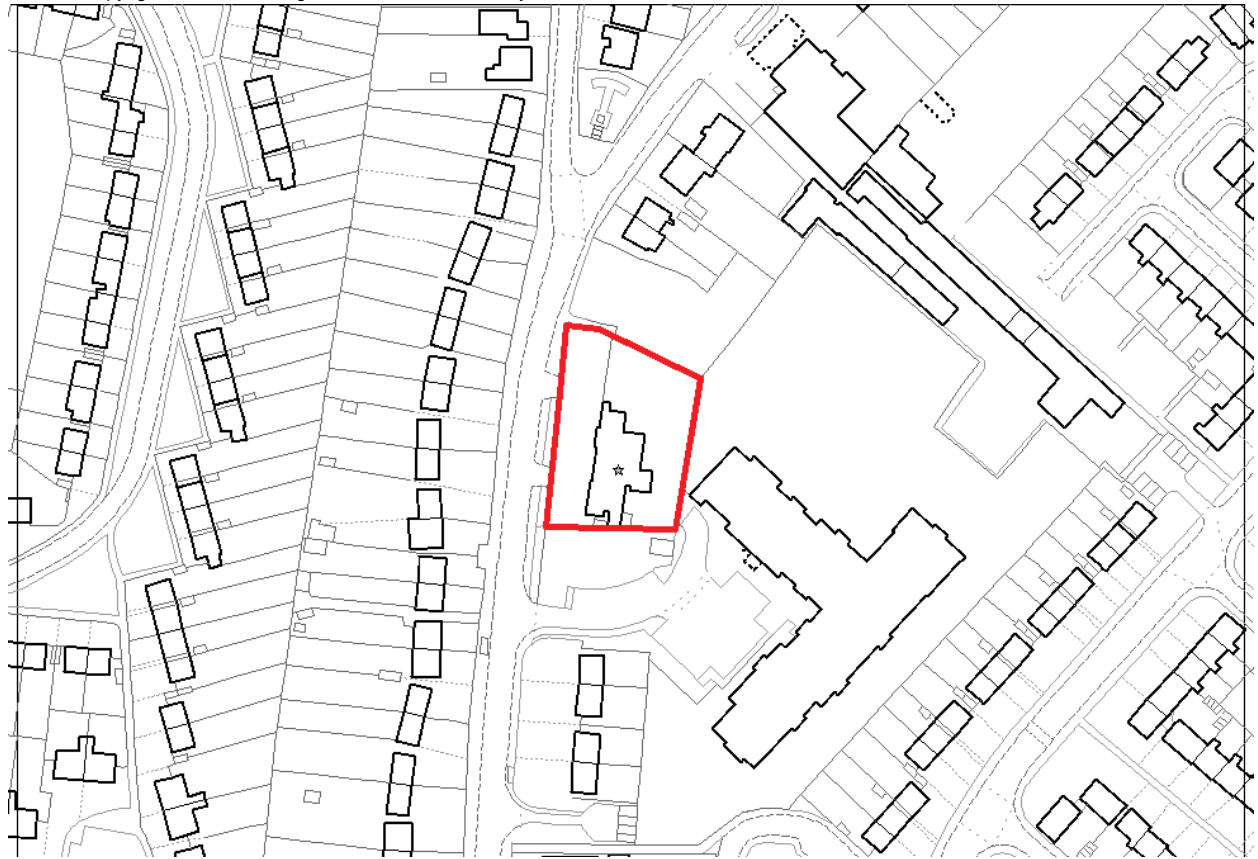
**Location:** THE BROWN JUG PH, 52 SANDBEDS ROAD, WILLENHALL, WV12 4EY

**Ward:** Short Heath

**Expired Date:** 28/06/2013

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

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## **Application and Site Details**

This application seeks planning permission for the replacement of part of the existing façade to the public house with a shop front. The public house has two front projecting gables flanking the main entrance with casement dormer windows at first floor. The existing access arrangements for the public house are an off-set single wooden door with an off-set double wooden framed window. The application proposes the removal of this arrangement with an 8m wide full length glazed frontage with double doors in the middle of the building. The replacement frontage would be aluminium powder coated in Basalt Grey.

This vacant public house stands on Sandbeds Road and is set back from the road behind its own car park. Winehala Court an extra care housing development offering accommodation with a wide range of on-site care and support services for older people is to the rear of the pub. Immediately to the north are four houses currently under construction. The surrounding area is residential. Land Head Local Centre is 200m to the north and includes a mix of Town Centre uses including, retail shops, estate agents, betting shop, dentists, tattoo shop and car sales.

The Design & Access Statement – Explains the location of the site and that the public house has been vacant for 1 year and 10 months (as of April 2013) and has been subject to vandalism. There have been unsuccessful planning applications for the provision of a large function room and an extension to the rear for use as a shop. The applicants wish to use their permitted development rights to convert the public house to a shop and in doing so wish to obtain permission to insert a new shop front into the elevation to aid in obtaining a tenant for the building. The new shop front will help rejuvenate the area by providing a community facility available to passers-by and local residents. This will also help the premises from being further targeted for vandalism.

## **Relevant Planning History**

12/0171/FL - Extension to Brown Jug P.H. to create single storey function room. Refused 23/04/13

*Reasons:*

- 1. Harm to the amenities currently enjoyed by the residents of Winehala Court from noise from speakers/music systems and events held in the function room.*
- 2. The potential to increase the number of persons using the venue at any one time as such the use of the venue by larger audiences and impact on the local highway network.*

12/1684/FL - Extensions to side and rear and alterations to former public house to facilitate change of use from public house (use class A4) to shop (use class A1). Refused 8/2013.

*Reasons:*

- 1. Proposals are in an out of centre location with suitable, available and viable alternatives in the Lane Head Local Centre. There is no demonstrated local need for the facility. The proposals unsustainable and will promote unsustainable transport use*
- 2. Increase in the level of commercial activity in this area, together with associated plant and machinery will have a detrimental impact on the amenities currently enjoyed by the residents of Winehala Court*

3. Will increase the number of persons using the application site at any onetime and will have an impact on the local highway network due to the lack of parking available at the site and would encourage the use of the private car.

## **Relevant Planning Policy Summary**

### **National Planning Policy Framework (NPPF)**

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

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

- seek to secure high quality design and good standards of amenity for all existing and future occupants
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas

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

#### 7. Requiring Good Design

Paragraph 56 states the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

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

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

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

Paragraph 68 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

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

the desirability of new development making a positive contribution to local character and distinctiveness.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

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

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

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight

The relevant policies are:

The Vision consists of three major directions of change and underpins the approach to the whole strategy which includes the delivery of Sustainable Communities, Environmental Transformation and Economic Prosperity which are supported by the following policies:

The relevant key policies are:

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

CSP4: A high quality of design of the built and natural environment is required. Design of spaces and buildings will be influenced by their context and organise the urban environment in ways that encourage people to act in a civil and responsible manner.

ENV2: Historic Character and Local Distinctiveness

States that development proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness. Development proposals will be required to preserve and, where appropriate, enhance local character and those aspects of the historic environment together with their settings which are recognised as being of special historic, archaeological, architectural, landscape or townscape quality.

ENV3: Design Quality

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits

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

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan.

However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

3.6 Development should help to improve the environment of the Borough.

GP2: The Council will expect all developments to make a positive contribution to the quality of the environment and the principles of sustainable development, and will not permit development which would have an unacceptable adverse impact on the environment.

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

ENV35: Seeks to ensure the appearance of commercial buildings should be appropriate to their setting and sympathetic to the building on which they are situated.

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

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

The SPD "Designing Walsall" provides guidance on how to achieve good urban design within Walsall, and expects high quality development that reflects the borough's local distinctiveness and character. In particular, it focuses on delivering sustainable development that is safe and welcoming and respects and enhances local identity.

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

### **The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2005**

Development consisting of a change of use of a building to a use falling within Class A1 (shops) of the Schedule to the Use Classes Order from a use falling within Class A3 (restaurants and cafes), A4 (drinking establishments) or A5 (hot food takeaways) of the Schedule is permitted development.

#### **Circular 03/2005: Changes of use of buildings and land**

Drinking establishments have a permitted change of use to A3 (restaurant and cafes), as well as to both the A1 (Shops) and A2 (Financial and Professional Services use).

#### **Consultations**

None required.

#### **Public Participation Responses**

The application has been called in on the grounds of the impact the shop would have on the local centre.

One letter has been received objecting to the application on the grounds that there are existing shops in the locality and another shop would take away the custom the existing shops require.

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

#### **Determining Issues**

- Principle of use
- Impact on the appearance of the building and the street scene

#### **Observations**

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

The applicant intends to use this vacant public house as a shop. Permitted development rights exist for the change of use of a public house to a shop and therefore separate planning permission is not required.

The consideration here is whether the installation of a shop front (classified as operational development for the purposes of the Town and Country Planning Act 1990) within the existing public house (and prior to the building being used as a shop) would be considered to facilitate a material change of use. The installation of a glazed frontage with double door would not mean that the building loses its use as a public house. For example the shop front could be installed to facilitate the continued use of the building as a public house. While it is recognised the intention is to use the building as a shop, on this basis the proposal could not be treated as a material change of use, but has to be treated on its individual merits as the installation of a shop front.

## **Impact on the appearance of the building and the street scene**

The shop front would create a central modern entrance within the middle of the building. The proposal would create a better symmetry to the building and would satisfactorily integrate into the appearance of the building. The use of aluminium in Basalt Grey would not appear out of character. The full length glazing would increase streetscene activity and surveillance to and from the building. The double door with a level threshold would ensure the building would be accessible for less able people.

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

The proposed shop front would create a symmetry to the building, increase its accessibility and would bring a fresh appearance to the building without adversely impacting upon its appearance. The proposal would not impact upon the appearance of the area. Accordingly the proposal complies with the National Planning Policy Framework, policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy, saved policies 3.6, GP2, ENV32 and ENV35 of the Walsall Unitary Development Plan.

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

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

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

2. The aluminium shop front hereby approved shall be colour powder coated in Basalt Grey (RAL 7012)

*Reason:* To define the permission.

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

- Existing floor plans (001 Rev B) received 19<sup>th</sup> April 2013
- Existing elevations (002) received 18<sup>th</sup> April 2013
- Proposed floor plans (003 Rev C) received 19<sup>th</sup> April 2013
- Proposed elevations (004 Rev B) received 18<sup>th</sup> April 2013.
- Design and access statement received 18<sup>th</sup> April 2013.

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





# Walsall Council

Regeneration Directorate – Planning and Building Control

## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 04/07/2013

**Plans list item no: 10.**

**Reason for bringing to committee: Called in by Councillors Martin**

**Application Number:** 13/0125/FL  
**Application Type:** Full application

**Case Officer:** Helen Smith  
**Telephone Number:** 01922 652606  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)

**Applicant:** Mrs P Rishi

**Agent:** Mistry Design Services

**Proposal:** Two storey side extension, part two storey part single storey rear extensions and front porch.

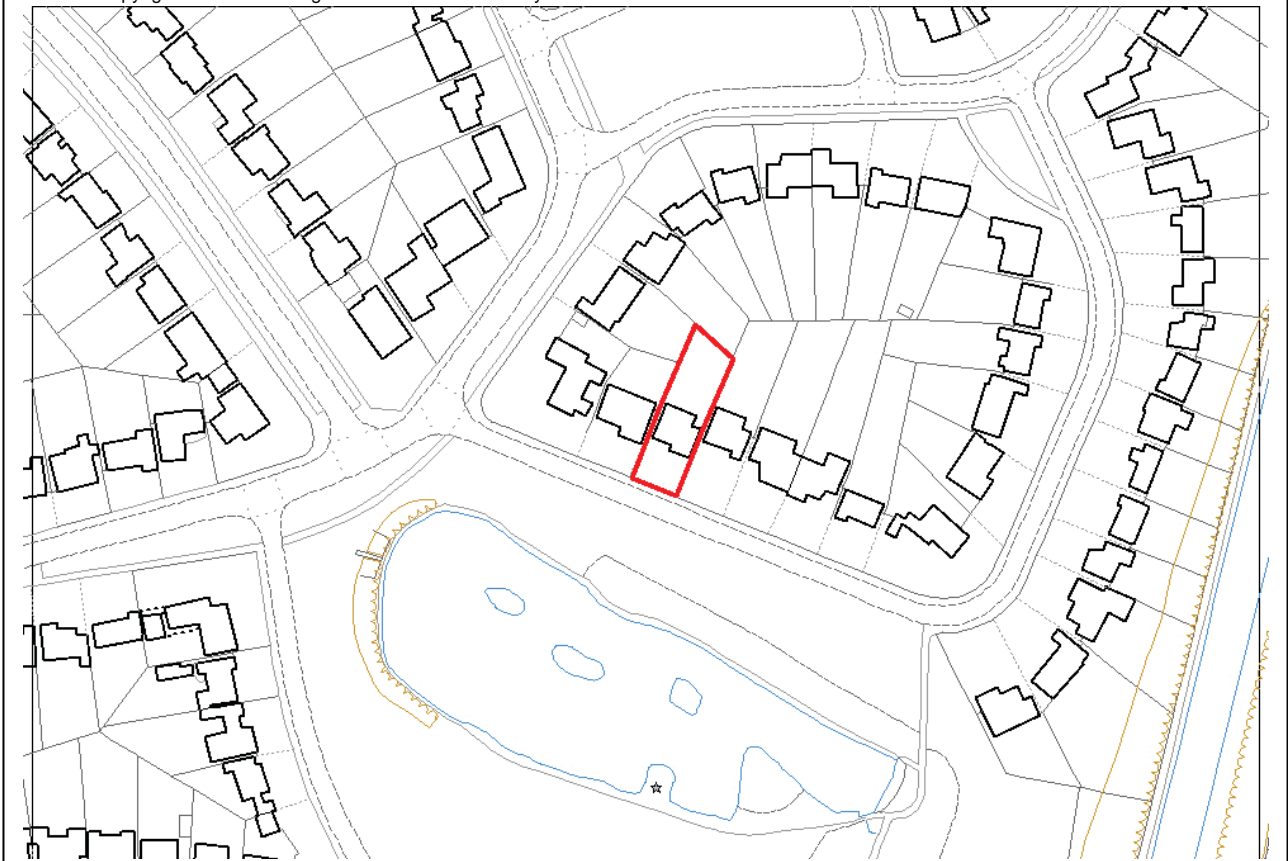
**Location:** 3 GREENSLADE ROAD, WALSALL, WS5 3QH

**Ward:** Paddock

**Expired Date:** 28/03/2013

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

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## **Background**

Councillor Martin requires this item to be considered by the Planning Committee as there is significant community interest in his proposal.

## **Application and Site Details**

The application property is a detached house located within a row of houses with stepped frontages plus an area of open space opposite. Greenslade Road benefits from a mixed character of detached houses and bungalows of varying design.

This proposal would add two storey extensions to the side and rear plus single storey rear extensions and a porch. These additions would provide an enlarged garage, kitchen and dining room plus a study and new utility area. At first floor the total number of bedrooms would increase from three to five. An existing single storey rear extension and garage would be demolished and the existing driveway extended and hard surfaced.

The proposal has been amended to reduce the scale of the development and includes the following;

### **Porch**

The porch would extend forward of the front elevation by 1.8 metres with a gable roof 3.5 metres high. The porch would be located 6.8 metres from the boundary with no. 1 Greenslade Road, a bungalow.

### **Two storey side Extension**

This extension has been amended to be set back in line with the original front elevation at first floor and the side elevation set in 0.9 metres from the side boundary with house no. 5 which has a higher ground level than no. 3.

A gable roof feature would be added to the front elevation and the extension ridge would match the existing ridge height. There would be a first floor obscure side facing bathroom window, opposite no. 5. A new door would be installed facing the side boundary with no. 5.

### **Two Storey Rear Extension**

This reduced proposal would be L-shaped with the smaller section next to no. 1 extending 2 metres from the original two storey rear elevation of the house for a width of 3.3 metres, 1.1 metres from the side boundary with no. 1. The extension would step out to an increased depth of 5.2 metres for a width of 7.6 metres 0.9 metres from the side boundary with no. 5. A third gable roof feature has been removed from the proposal.

Dual hipped roofs are proposed above the two storey rear extension with the roof nearest to no. 1 being 1 metre lower than the existing ridge height. This extension would extend 1.2 metres further than the rear elevation of no. 1.

### **Single Storey Rear Extensions**

The proposed single storey extension, next to no. 1, would enlarge an existing dining room extending 3.1 metres further than the proposed two storey extension. The roof would be pitched with an eaves height of 2.5 metres increasing to 3.8 metres high.

The proposed kitchen extension would have a central position to the rear of the property with a flat roof, 2.9 metres high. This would include a lantern roof a further 0.5 metres high. This extension would be 4.4 metres and 3.6 metres from the rear garden boundaries with no's 1 and 5 Greenslade Road respectively. Side facing windows in this extension would include obscure glazing and could be conditioned to be non-opening.

No. 1 Greenslade Road extends forward of the application house. The rear elevation of no. 1 extends 1 metre further back than the two storey rear elevation of no. 3. This bungalow has front and rear facing habitable room windows near to the shared boundary with no. 3 and side facing obscure glazed, non-habitable room windows which face the existing two storey side elevation of no. 3.

The ground level of no. 1 decreases towards the rear of this property and is lower than the application house. There is a separation gap of 2.3 metres between the two storey side elevation of the application house and the side of no. 1.

No. 5 Greenslade Road has recently been extended following planning permission granted in 2012. The front elevation of no. 5 is positioned 0.6 metres further back than the two storey part of no. 5 with front habitable room windows. The two storey rear elevation of no. 5 extends 6 metres further back than no. 3 with first floor side facing, non-habitable room windows. A gap of 2.1 metres would remain between the side elevation of the proposed extension and the side wall of no. 5

There would be a separation distance of 45 metres between the proposed rear extensions and properties on Norman Road.

The rear garden includes trees and a pond.

### **Relevant Planning History**

BC14816 – Kitchen extension, granted subject to conditions 28/02/80.

Planning permission was recently granted for extensions to no. 5 Greenslade Road (reference 12/0211/FL) and there have been recent two storey extensions to other properties along Greenslade Road including no's 8, 10 and 11.

### **PLANNING POLICY**

#### **National Planning Policy Framework (NPPF)**

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

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

- Always seek to secure high quality design and good standards of amenity for all existing and future occupants
- Contribute to conserving and enhancing the natural environment

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

#### 7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making better places for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development.

58. Planning policies and decisions should aim to ensure that developments meet criteria that include:

- Function well and add to the overall quality of the area
- Establish a strong sense of place
- Respond to local character and history and reflect the identity of local surroundings and materials

63. Great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

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

#### 11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that pre-application engagement is encouraged and

186. Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

## **The Development Plan**

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

## **The Black Country Core Strategy (BCCS) (2011)**

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

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*. However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*."

To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

The relevant policies are:

ENV1, ENV2 and ENV3 states that all development should aim to protect and promote nature conservation, the special qualities, design quality and local distinctiveness of the Black Country.

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact

on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

ENV18: Existing Woodlands, Trees and Hedgerows.

The Council will ensure the protection, positive management and, enhancement of existing woodlands, trees and hedgerows.

ENV23: Nature Conservation and New Development.

The Council will require appropriate measures to encourage the conservation of wildlife. A supplementary planning document will provide more detailed advice on the implementation of this policy.

ENV32: Design and Development Proposals.

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

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

- The appearance of the proposed development.
- The height, proportion, scale, and mass of proposed buildings / structures.
- The materials proposed for buildings, external spaces and means of enclosure.
- The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
- The effect on the local character of the area.

T7: Car Parking

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

T13: Parking Provision

1, 2 and 3 bedroom houses 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

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

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

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

### **Designing Walsall**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E (listed below) although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front
- 45 degree code: particularly where new development impacts on existing (details of this code are available on request or can be downloaded from [www.walsall.gov.uk](http://www.walsall.gov.uk)).
- Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character.

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

Provides guidance on development which may adversely affect trees, important species and habitats.

It is considered in this case that the relevant provisions of Designing Walsall and Conserving Walsall's Natural Environment are consistent with the NPPF.

### **Consultation Replies**

**Transportation** - No objections subject to conditions in respect of the extended driveway being hard-surfaced and drainage installed and in respect of any future boundary treatment to the front of the property.

**Natural Environment Team, Ecology** - No objections subject to conditions aimed to conserve local bat populations.

**Natural Environment Team, Trees** – No objections

**Canal and River Trust** - No objections

## **Public Participation Responses**

Objections have been received from two residents and a representative, acting on behalf of one of these residents, on the following grounds;

- impact on privacy and amenity
- breach of the 45 degree code although compliance with the code would be insufficient
- Q. 10 on the application form is answered incorrectly. The site is visible from Greenslade Road and surrounding areas.
- steady deterioration of neighbourhood with inappropriate building extensions, extension to no. 11 a monstrosity
- section of road an untidy building site with vehicles parked on the footpath and grass, rubbish and rubble at no. 5 Greenslade Road
- side facing windows in no. 5 overlooking garden
- over-development and will it be built in accordance with submitted plans
- impact on property value (*not material to the determination of this planning application*).
- Impact on trees
- Concerns about a future high front boundary wall and restrictive covenants
- Plans are not clear, type face lacks clarity and fails to provide adequate dimensions/measurements
- Lack of an Environmental Impact assessment as outlined in V26 of The Black Country Validation Checklist and the proximity to the open space opposite
- Landscaping and details of boundary treatment not included
- Local Planning Authority charged with ensuring neighbours do not suffer unacceptable harm and maintain the character and appearance of the area
- huge size, inappropriate and detrimental impact on surroundings
- domineering and overshadowing effect on neighbouring houses
- The application form fails V1 (Local Validation Check list) and is not fully and properly answered because.
  - No description is given for the existing property.
  - Pre-application advice should be re-visited.
  - Conservatory (*the proposal is for a kitchen extension*) doors located to the rear and side windows should be obscure and fixed.
  - At section 10 (*answered n/a*) there are no details of boundary treatment but fencing will need to be taken down for scaffolding
  - At section 12 where certifying ownership there are no deletions at "I certify/the applicant" nor at "myself/the applicant".
- The Location Plan is outdated and does not show the correct relationship between no's 1, 3 and 5 but more specifically the extensions to no. 5. (*site visits are made as part of the application assessment. The extension to no. 5 is recent and the Ordnance Survey plans would not have been updated yet*).
- The block plan (*representations incorrectly refer to section V3*) - no boundary treatment shown and the plan "must show the position and height of any building or structure outside the site but within 10 metres of the boundary". The block plan shows the wrong position and wrong shape of no. 5 and does not show no. 1 at all. The block plan states "extension" and it is impossible to tell where the existing building ends and the extensions begin. The application fails V3.

- Validation no V4 (*this reference incorrectly relates to agricultural certificates rather than materials*)-requires that existing and proposed external materials should be described on elevations. The amended plan does not describe the replacement windows and external doors for the existing house nor the proposed. The application fails V4.
- Plans show part of the new no. 5 to the right side but nothing of no. 1 at the left side or "detail the positions of the openings on each property". The application fails V4.
- Plans (existing and proposed) do not show the proposed extended building accurately in relationship to adjacent buildings and specifically the space separation from the left side of the extended building to the left side boundary and across to the side of 1 Greenslade Road. These dimensions are required to show the boundary position has been properly understood and the 45 degree lines are correct.
- V6 of the Validation checklist (*this no. refers to Location Plans not Sections*) requires site sections (existing and proposed) are submitted where levels change by more than 300mm (existing and/or proposed). The step down to no. 1 exceeds 300mm and is not shown. As no. 1 is a bungalow there is a greater risk that extensions to no. 3 will over-dominate more than if no. 1 was a house.
- The application is invalid as it fails V1, V3, V4 and V6 (*incorrectly numbered by the neighbour representative*).
- No worthwhile space separation between no. 5 and 7 Greenslade Road (*a gap has been retained between the two houses to provide a visual break and avoid any appearance of terracing*).
- Validation no. V7 (*reference refers to block/site plan*) requires roof materials, rainwater goods to be shown on plans but are not described.
- None of the existing nor proposed plans show the number of existing and proposed off-road parking spaces under V19 "Parking and Access (*incorrect number and refers to fume extraction*).
- Greenslade Road overlooks a lake surrounded by trees, shrubs and lawns with the lake giving a unique character and the environment should be respected for the design of house and bungalow extensions.
- The approach in respect of bats complies with legislation and policy (*noted*).
- Perhaps the best way to protect and encourage bats in the area would be to erect bat boxes on the mature trees which surround the lake (*noted but not material or relevant to the determination of this planning application*)
- Drawings fail to show the two storey extension would be subservient to the existing main house, no set down of the ridge or set back of 1 metre and therefore fails the Council's own numerical standards for house extensions.
- First floor plan fails to show the existing semi-circular bay to the left side at upper floor level (*the existing first floor window is a flat window and not a bay window as stated*)
- Application is invalid and should be returned. No right of appeal for against non-determination of an invalid planning application
- If another invalid application is registered maladministration would occur.
- Many older residents feel that Walsall Planning Services have greatly failed in their duty to preserve the atmosphere of their area and surely enough is enough.

### **Determining Issues**

- Design of Extension and Impact on Character of Area
- Impact on Amenity of Nearby Residents
- Impact on Protected Species
- Impact on Trees
- Parking

## **Observations**

### **Design of Extension and Impact on Character of Area**

The amended design which has removed the proposed front two storey gable extension and proposes a gable roof design is considered to reflect the existing appearance of the dwelling.

Greenslade Road benefits from a mixed character of properties including five detached houses and two bungalows located at either end of the houses. No. 5 has recently been extended and there are other examples of two storey extensions along this road, including no's 8, 10, 11, 14, 16 and 19 Greenslade Road and forms part of an emerging character of similar extensions along this road.

The current proposal is considered to reflect this emerging character and the amended design and reduction of roof volume are considered to respect the visual relationship of the adjacent area and surrounding neighbourhood and is acceptable in this instance.

The 2.1 metres wide gap between the application house and the side elevation of no. 5, plus the different design of the houses, is considered to be sufficient to avoid any appearance of terracing. The proposed design of the extension is considered would have a positive relationship with the street scene.

The numerical details included within Appendix E of Designing Walsall Supplementary Planning Document provide guidance when developers submit proposals and for the determination planning applications. Each planning application is determined on its own merits and the Appendix E guidelines are applied based on the individual context of the planning application site.

### **Impact on Amenity of Nearby Residents**

The rear of the application house faces north-east with the proposed extension, next to no. 1 Greenslade Road mostly within the shadow of the existing house.

The proposed two storey rear extension has been designed to minimise the impact of the proposal on the rear habitable room windows of no. 1 by reducing the length of the extension to give the proposal an L-shape and reducing the new roof height next to no. 1. No. 1 has a lower ground level than no. 3 and it is considered the proposed design, which takes into account the position of the bungalow to the side would provide a satisfactory relationship between the two properties.

There would be some loss of light to the rear of no. 1 in the morning due to the orientation of the properties but it is considered insufficient to harm to the living conditions of the occupiers' of no. 1 to sustain a reason for refusal in this instance.

The proposal is considered to meet the aims of the Council's 45 degree guidance in relation to no. 1. The Council's 45 degree advice is the Council's tool to guide development and planning applications in relation to neighbour's light and outlook. There is considered to be sufficient information provided on the submitted plans and following site visits to enable the application to be determined.

The front elevation of the application house and no. 5 face south-west and it is considered the proposal would not harm the existing available light to the occupiers of no. 5. The proposed first floor side window opposite no. 5 would be conditioned to be obscure glazed to protect residents' amenity.

The proposed rear extensions would not extend beyond the existing two storey rear elevations of no. 5. The scale and massing of this proposal is less than the earlier development at no. 5.

The separation distance between habitable room windows in the proposed rear extension and properties on Norman Road would exceed the minimum recommended separation distance of 24 metres by 21 metres.

The proposal is considered to observe those elements of planning policy and guidance that seek to protect residents' amenity, avoid overlooking, loss of privacy and adverse effects on light.

The Town and Country Planning (Development Management Procedure) (England) Order 2010 states that "a plan to identify the land to which the application relates" and "any other plans, drawings and information necessary to describe the development which is the subject of the application" are required. The agent is considered to have provided sufficient information to enable this proposal to be determined and the application is considered to be valid in this instance. A site visit has been carried out to view the application property in relation to the neighbouring properties as part of the assessment of this application.

The Validation Check List is primarily a tool to assist applicants in making a valid planning application. For the application to be valid basic legal requirements have to be met. The purpose of the check list is not to stall planning submissions, but to facilitate and avoid undue delay in the overall determination process. Officers can pursue additional information and further drawings during the course of the application assessment to assist in explaining a particular development. If this is done, local residents are notified. This approach, across all applications which Planning Services manage, enables delivery of an efficient business friendly service that engages with the local community, securing public representations, before any decision is made.

The existing house is not 'described' (as a house) in section 4. It clearly is a house and the absence of that confirmation on the form would not invalidate the application.

Pre-application Advice is an officer opinion and does not prejudice the Council making a decision on a planning application and does not require revisiting. The planning application is assessed on its merits.

The application form clearly states that the ownership certificate has been completed by the agent. There is no facility to delete references in relation "I certify/the applicant" etc when applying using the online application service of the Planning Portal.

Ordnance Survey have not updated their records since the extension was started to be built at no. 5 earlier this year and the location plan provided is considered to be acceptable.

The submitted block plan is acceptable to illustrate the general position of the properties which is reviewed during a site visit.

The proposed building materials for walls, roof and windows and doors are outlined in 'Section 11. Materials' on the application form. A condition would form part of any decision requiring a schedule of facing materials to be provided prior to development commencing.

No boundary treatment is proposed and the absence of such confirmation does not invalidate this application in itself. Details of rainwater goods are outlined on the proposed plans.

The proposed front elevation drawing demonstrates the relationship between the application house and no. 5 in respect of the proposed two storey side extension. No side extension is proposed next to no. 1 and this property has therefore not been included on the same drawing. Further assessment is made during the site visit in respect of neighbouring properties including openings.

Levels differences are assessed as part of the case officer's inspection of the site. The application is considered to be valid and includes the necessary information to determine this application.

A gap has been retained between no. 5 and no. 7 Greenslade Road to provide a visual break and avoid the appearance of terracing.

The Planning Agent has answered question 10 on the application form to indicate that not all of the development would be visible from the street and it would be necessary for the planning case officer to enter the rear garden when undertaking a site visit.

The submitted plans are considered to have a clear type face, accurate and drawn to a recognised scale sufficient to determine the application. Measurements are not shown on the plans as they are scale drawings with the correct scale to use detailed. The plans are available to view at the Civic Centre with officer support as outlined in the neighbour notification letters issued to residents.

There are a number of extensions being constructed in the street at the same time which does have an impact on the appearance of an area during building works. The external works to no. 5 are nearing completion and the appearance of this site should improve.

The proposal is not considered to represent over-development as the remaining rear garden length would exceed the recommended minimum garden length of 12 metres and the area of the garden would far exceed the minimum 65 sq. metres in area (189 sq. metres). The existing front garden space would remain.

This application does not include a front boundary wall but a condition is included to restrict the height to 600 mm and provide a 2.4m x 3.4m visibility splay. Parking on grass verges should be reported to Highways Enforcement by residents as this is outside the scope of planning legislation.

Environmental Impact assessments may be required for major developments which are of more than local importance; developments proposed for particularly environmentally sensitive locations or are unusually complex with potential hazardous environmental effects. House extensions would not be considered to require an Environmental Impact Assessment because their small scale is unlikely to trigger any of the parameters set out in the legislation.

Requiring details of landscaping, following the approval of an extension, to a house is considered unreasonable in this context and would not meet the tests within the legislation.

Planning applications are determined on the merits of the individual case without setting a precedent. In determining a planning application regard should not be given to land law issues including covenants.

The Council assesses planning applications against Walsall's planning policies and guidance. If there is any deviation from the approved plans the owners may become vulnerable to enforcement action. No. 11 Greenslade Road is part of an ongoing enforcement case.

The impact on property values are considered not to be a material consideration in determining this planning application.

The character of an area evolves over time and is never static as individual householders wish to make improvements and changes to their homes to meet their current needs. Whilst witnessing these changes may be difficult for some residents it is unrealistic to expect that areas will not change over time.

Side facing windows in no. 5 Greenslade Road were shown on the plans for this previous application and both serve non-habitable rooms. These windows were subject to a planning condition requiring these to be obscure glazed and any opening parts 1.7 metres higher than the floor of the room they serve.

### **Impact on Protected Species**

The Council's bat specialist visited the site and concluded that there were few possible locations for roosting bats and a low risk of bats being present. Bats are therefore unlikely to be affected by the proposed development but as there is a residual risk, it is recommended a planning condition for the conservation of local bats is included in any permission granted.

There is a pond in the rear garden but this has very little ecological value and its loss due to this development would have little ecological consequence. There are no ecological objections.

### **Impact on Trees**

There are no protected trees within the application site and the trees nearest to the development, whilst unlikely to be harmed by the proposal, are considered unexceptional and not worthy of formal protection. There are no arboricultural objections to this proposal.

### **Parking**

The increase in the total number of bedrooms from three to five will require the provision of three parking spaces. The new garage would provide one of these spaces and the extended driveway would provide at least two further spaces to meet parking requirements.

The Council's Transportation officer requires the inclusion of a condition to require the extended driveway and parking area to be fully consolidated, hard surfaced and drained and retained as such thereafter. Any front boundary wall/fence/gates will be conditioned to be no higher than 600mm and include a pedestrian visibility splay at the access point in respect of any future front boundary treatment.

The provision of a parking and access plan was not considered to be necessary as it is clearly evident from the site visit that there is sufficient space on the frontage to accommodate three parking spaces to meet policy recommendations. There is an existing dropped kerb and the lack of a parking and access plan is not considered sufficient to invalidate this application.

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

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

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

The appearance of the proposal is considered to be acceptable. The proposed design of the front elevation takes into account the context and forms part of an emerging character of similar extensions along this road.

The extension in relation to the adjoining dwellings is considered would have an acceptable level of impact on privacy, visual amenity and light available to these properties.

The proposal is considered to meet the aims of the Council's 45 degree guidance in relation to no. 1. The numerical details included within Appendix E of Designing Walsall Supplementary Planning Document provide guidance when developers submit proposals and for the determination planning applications. Each planning application is determined on its own merits and the Appendix E guidelines are applied based on the individual context of the planning application site.

The Town and Country Planning (Development Management Procedure) (England) Order 2010 states that "a plan to identify the land to which the application relates" and "any other plans, drawings and information necessary to describe the development which is the subject of the application" are required. Sufficient information to enable this proposal to be determined has been provided and the application is considered to be valid in this instance. A site visit has been carried out to view the application property in relation to the neighbouring properties as part of the assessment of this application.

The application is considered to be a valid application. The Validation Check List is primarily a tool to assist applicants in making a valid planning application. For the application to be valid basic legal requirements have to be met. The purpose of the check list is not to stall planning submissions, but to facilitate and avoid undue delay in the overall determination process.

The existing house is not 'described' (as a house) in section 4. It clearly is a house and the absence of that confirmation on the form would not invalidate the application.

Pre-application Advice does not prejudice the Council's decision on a planning application and does not require revisiting. The planning application is assessed on its merits.

The ownership certificate has clearly been completed by the agent.

Ordnance Survey have not updated their records since the extension was started to be built at no. 5 earlier this year and the location plan provided is considered to be acceptable.

The submitted block plan is acceptable to illustrate the general position of the properties which is reviewed during a site visit.

A condition would form part of any decision requiring a schedule of facing materials to be provided prior to development commencing.

No boundary treatment is proposed and the absence of such confirmation does not invalidate this application in itself. Details of rainwater goods are outlined on the proposed plans.

The proposed front elevation drawing demonstrates the relationship between the application house and no. 5 where the two storey side extension is proposed. No side extension is proposed next to no. 1 and this property has therefore not been included on the same drawing. Further assessment is made during the site visit in respect of neighbouring properties including openings.

Levels differences are assessed as part of the case officer's inspection of the site. The application is considered to be valid and includes the necessary information to determine this application.

A gap has been retained between no. 5 and no. 7 Greenslade Road to provide a visual break and avoid the appearance of terracing.

Not all of the development would be visible from the street and the agent's answer to Q. 10 is to indicate the case officer will need to enter the rear garden when undertaking a site visit.

The plans are considered to have a clear type face, accurate and drawn to a recognised scale sufficient to determine the application. The correct scale to use has been detailed. The plans are available to view at the Civic Centre with officer support if needed as outlined in the neighbour notification letters issued to residents.

There are a number of extensions being constructed in the street at the same time which does have an impact on the appearance of an area during building works. The external works to no. 5 are nearing completion and the appearance of this site should improve.

The proposal is not considered to represent over-development as the remaining rear garden length would exceed the recommended minimum garden length of 12 metres and the area of the garden would far exceed the minimum 65 sq. metres in area (189 sq. metres). The existing front garden area would remain.

This application does not include a front boundary wall but a condition is included to restrict the height to 600 mm and provide a 2.4m x 3.4m visibility splay. Parking on grass verges should be reported to Highways Enforcement by residents as this is outside the scope of planning legislation.

It is clearly evident from the site visit that there is sufficient space on the frontage to accommodate three parking spaces to meet policy recommendations. There is an existing dropped kerb and the lack of a parking and access plan does not invalidate this application.

House extensions would not be considered to require an Environmental Impact Assessment because their small scale is unlikely to trigger any of the parameters set out in the legislation.

Details of landscaping following the approval of an extension to a house are considered unreasonable in this context and would not meet the tests within the legislation.

Planning applications are determined on the merits of the individual case without setting a precedent. In determining a planning application regard should not be given to land law issues including covenants.

The Council assesses planning applications against Walsall's planning policies and guidance. Any deviation from the approved plans and the owners may become vulnerable to enforcement action. No. 11 Greenslade Road is part of an ongoing enforcement case.

The impact on property values are considered not to be a material consideration in determining this planning application.

The character of an area evolves over time as individual householders wish to make improvements and changes to their homes to meet their current needs. Whilst witnessing these changes may be difficult for some residents but it is unrealistic to expect that areas will not change over time.

Side facing windows in no. 5 Greenslade Road were subject to a planning condition requiring obscure glazing and any opening parts 1.7 metres higher than the floor of the room they serve to protect neighbours privacy.

The proposal is not considered to represent over-development as the remaining rear garden length would exceed the recommended minimum garden length and area.

The site has no protected trees and the tree nearest to the development, is considered to be unexceptional and not worthy of protection. There are no arboricultural objections to this proposal.

The existing first floor window is a flat window as shown on the plans. The erection of bat boxes on trees outside of the application site is not material to the determination of this planning application.

The proposed development is considered to be consistent with the National Planning Policy Framework including paragraphs 56, 57, 58, 63, 64 and 109 and meets the aims and objectives of the Black Country Core Strategy policies in particular ENV1, ENV2 and ENV3, the Walsall Unitary Development Plan policies in particular GP2, ENV18, ENV23, ENV32, T7 and T13, and the Supplementary Planning Documents Designing Walsall.

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

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

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

2: a) Notwithstanding the information included on the deposited plans and application form no development whatsoever shall commence until a schedule of facing materials to be used in the development has been submitted to and agreed in writing by the Local Planning Authority.

b) The development shall be fully implemented in accordance with the approved schedule of materials retained thereafter.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

3(a): An inspection by the council found a relatively low risk that bats may be present in the buildings within the site and the following precaution shall be taken when implementing the planning permission:

1. Contractors undertaking demolition works shall be made aware that bats may be present and undertake demolition works carefully using hand tools in the expectation that bats may be found. Tiles must be lifted and not slid and their undersides checked for bats or droppings. The parts of the building adjacent to any gaps must be dismantled carefully by hand. Particular care must be taken in removing ridge tiles and soffit boxes.

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

(b) If bats or evidence of bats are found during these operations:

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

Reason: to conserve local bat populations.

4: Prior to the development first coming into use, the extended driveway and parking area shown on the approved plan shall be fully consolidated, hard surfaced and drained and retained as such thereafter.

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

5: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

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

6: The proposed first floor window facing no. 5 Greenslade Road shall be obscure glazed to Pilkington Level 4 privacy or equivalent, and non-opening unless parts of the windows which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and retained thereafter.

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

7: The side facing kitchen extension windows facing no. 1 and 5 Greenslade Road shall be obscure glazed to Pilkington Privacy Level 4 or equivalent and non-opening, and retained as such thereafter.

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

8: The height of any front boundary wall, fence and/or gates shall not exceed 600 mm in height and a pedestrian visibility splay of 2.4 metres by 3.4 metres at the vehicle access point will be required and maintained at all times .

Reason: In the interest of highway safety and to comply with policies GP2 and T4 of Walsall's Unitary Development Plan.

9: This development shall not be carried out other than in conformity with the following approved plans: -

- Location Plan – deposited 30/01/13
- Amended Block Plan – deposited 28/05/13
- Existing and Proposed Roof Plan – deposited 28/05/13
- Amended Existing and Proposed Plans and Elevations, drawing no. P201230/1H – deposited 28/05/13

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



# Walsall Council

Regeneration Directorate – Planning and Building Control

## Planning Committee

Report of Head of Planning and Building Control, Regeneration Directorate on 04/07/2013

**Plans list item no: 11.**

**Reason for bringing to committee: Significant neighbour interest**

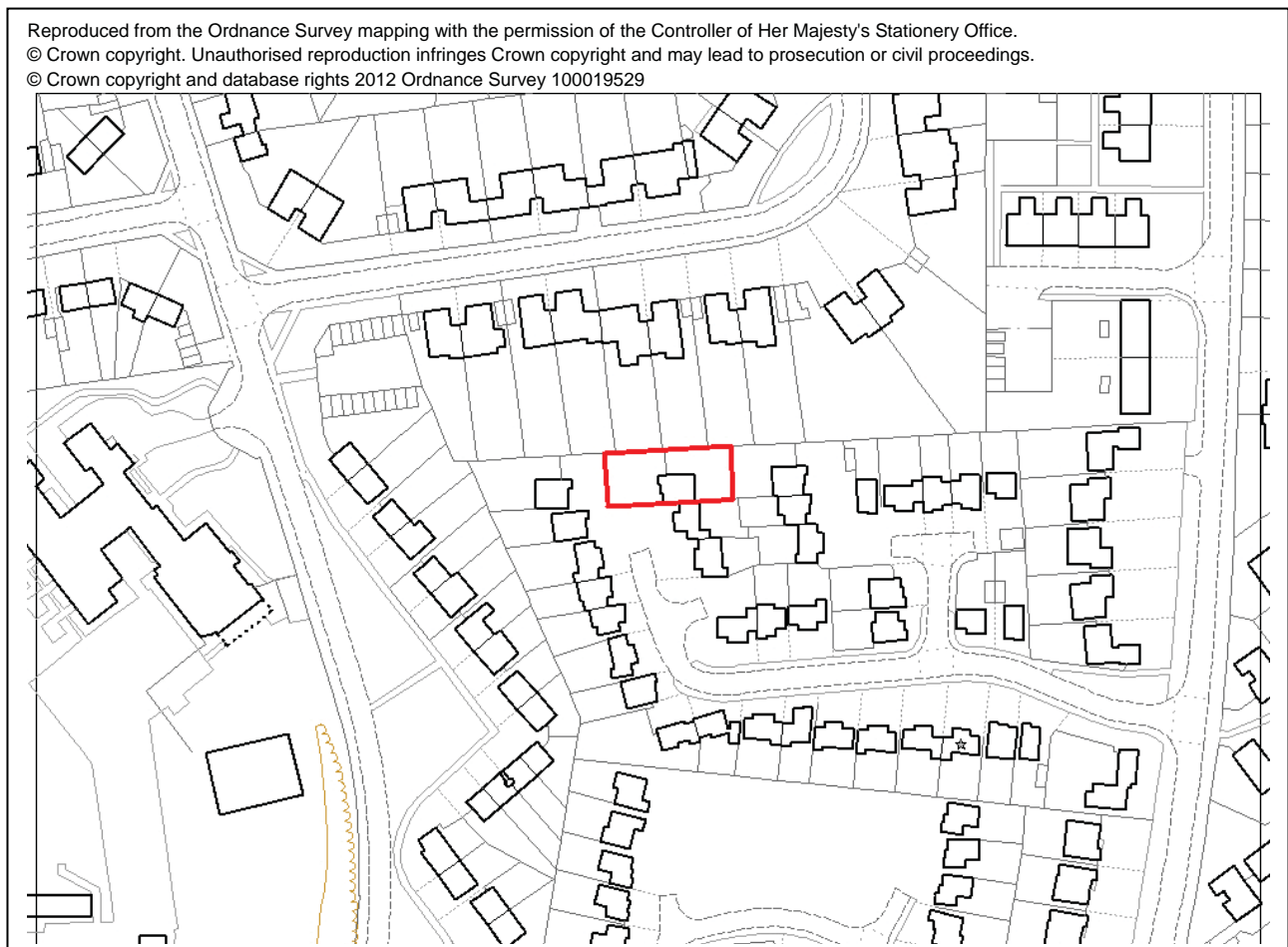
**Application Number:** 13/0549/FL  
**Application Type:** Full application

**Case Officer:** Jenny Townsend  
**Telephone Number:** 01922 652610  
**Email:** [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk)  
**Agent:** Arc Building Design Ltd

**Applicant:** Mr S. Roberts  
**Proposal:** Two storey side extension and front canopy  
**Location:** 36 OLD OAK CLOSE, WALSALL, WS9 8SE  
**Ward:** Aldridge Central & South

**Expired Date:** 21/06/2013

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



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## **Application and Site Details**

This application for a two storey extension to the side of a detached house which would add a study and lounge at ground floor with 2 new bedrooms and an en-suite bathroom built above. The internal layout of the house would be reconfigured to enlarge the existing kitchen and create a new dining room. The number of bedrooms would increase from 3 to 4.

The application house is on a residential estate at the end of a cul-de-sac and parallel to the rear gardens of numbers 10, 12 and 14 Norfolk Crescent which are bungalows. The bungalows lie to the north and there is a 2 metre high fence, 2.5 metre high hedge and a line of protected Silver Birch trees on the shared boundary between the properties. The separation between the side of the extension and the rears of 10, 12 and 14 would be approximately 26, 26.5 and 30 metres respectively.

The application house is a modern design with a main gable roof, a sloping canopy across the front with a porch on the left-hand side which has a small gable roof above. Similar two storey extensions have been added at number 33, the house directly in front and at number 16 the house to the rear.

The proposed extension would be added on the left hand side of the house nearest to the boundary with the bungalows and would be in line with the existing house at both the front and rear. Amended plans have been received which show the width of the extension reduced from 4.8 to 4 metres wide.

A canopy to match the existing is proposed to the front and the existing gable roof would be continued across the extension. A bay window to match the existing is proposed on the front elevation with windows to the lounge and bedroom on the rear. The separation between the new windows and the rear of number 16 would be approximately 20.5 metres, the same as between the existing habitable rooms windows and as the houses were built.

A first floor window to the new en-suite bathroom is proposed in the side elevation facing the rear of the bungalows in Norfolk Crescent.

Number 33 has habitable room windows on the front elevation facing the application house at a separation of approximately 24 metres.

## **Relevant Planning History**

03/0647/TR/T2 Prune back branches overhanging garden and property. Granted subject to Conditions 20/05/03.

## **Relevant Policies**

### **National Planning Policy Framework (NPPF)**

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

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

- Proactive drive and support sustainable economic development to deliver homes
- Seek to secure high quality design and good standards of amenity for all existing and future occupants

Key provisions of the NPPF relevant in this case:

#### 7: Requiring Good Design

56. The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

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

- Will function well and add to the overall quality of an area

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

#### 11: Conserving and Enhancing the Natural Environment

109. The planning system should contribute to and enhance the natural and local environment:

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

the desirability of new development making a positive contribution to local character and distinctiveness.

On planning obligations and conditions the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and

- fairly and reasonably related in scale and kind to the development.

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Costs imposed on developments should pay careful attention to viability and take account of market conditions.

On decision-taking the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **The Development Plan**

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

The Black Country Core Strategy (BCCS)

*(Note the full text version of the BCCS and UDP is available from First Stop Shop in the Civic Centre and on the Council's web site)*

*The current version of the Black Country Core Strategy and associated appendices can be accessed at;*

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

[www.walsall.gov.uk/index/environment/planning/unitary\\_development\\_plan.htm](http://www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm)

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies*". However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*." To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity. The results of this assessment are to be published on the BCCS and Council websites and it is planned to report to the Council's Cabinet to confirm this view. In the absence of evidence to the contrary it is considered that the BCCS policies should be given full weight in planning decisions.

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

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant policies are:

### **GP2: Environmental Protection**

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

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

Development will not be permitted if it would damage or destroy trees protected by a TPO unless it would be in the interests of good arboricultural practice. Developers will be required to provide appropriate replacement planting.

### **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.

### **T7 – Car Parking**

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

### **T13: Parking Provision**

1, 2 and 3 bedroom houses                      2 spaces per unit

4 bedroom houses and above                      3 spaces per unit

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

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

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

## **Designing Walsall**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix 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.

24m separation between habitable windows in two storeys (and above)

developments. This standard will be applied more robustly at the rear than across roads at the front.

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

## **Consultation Replies**

**Transportation** - No objection subject to a condition for the garage to be used solely for parking and storage of vehicles.

**Natural Environment Tree Officer** – No arboricultural objections subject to conditions. The application will result in the loss of three Birch trees however this would be acceptable subject to replacement tree and hedge planting in mitigation.

## **Public Participation Responses**

A petition with 3 signatures has been received which objects on the grounds that:

- the removal of the trees on the boundary would go back on assurances given to the neighbouring residents when the original estate was approved that the trees on the boundary would be kept as a barrier against the stark outlook and to protect their privacy;
- removal of the trees would affect wildlife;
- removal of stumps would affect neighbouring gardens causing damage and claims;
- no reason for trees to be removed just minor pruning needed to accommodate extension;
- easy to destroy the trees for convenience only.

## **Determining Issues**

- Design of Extension and Impact on Character of Area
- Impact on Amenity of Nearby Residents
- Impact on Trees
- Parking

- Positive and Proactive working with the applicant

## **Observations**

### **Design of Extension and Impact on Character of Area**

The design of the proposed extension is considered would reflect the roofshape and canopy of the existing house and would be similar to the extensions which have been added at number 33 opposite.

The extension would lie alongside the existing two storey part of the house and would be set back from the turning area of the cul-de-sac. The extension is considered would not harm the appearance of the house and would be in keeping with the character of the area.

The removal of the 3 birch trees would alter the appearance of the area but the replacement planting of a selected standard size tree to the front of the house and new hedge alongside the boundary shared with the bungalows in Norfolk Crescent is considered would mitigate for the tree loss and preserve the character of the area.

### **Impact on Amenity of Nearby Residents**

The separation between the front windows of the extension and the front habitable room windows at number 33 would comply with policy.

The separation between the rear windows of the extension and the rear habitable room windows of number 16 would be the same as currently exists between the rear habitable room windows of the houses which is as the houses were originally built. Whilst this is less than the minimum required by the Council's design guidance it is considered not to be sufficient to warrant a refusal for this reason alone allowing for the existing situation.

Whilst the proposed extension would be to the south of the bungalows, it would lie within the outline of the existing house and the side wall would be between 24 and 30 metres from the rears of the bungalows. This separation is considered would prevent any additional shading or loss of light to the rear gardens of the bungalows or create a significant impact on the outlook from the rear windows of the bungalows.

The only window in the side elevation facing the rear of the bungalows in Norfolk Crescent would be to a non habitable room and a condition for this to be obscurely glazed would protect the privacy of the occupiers of the bungalows and the application house.

With regard to the neighbour's concerns regarding the removal of the trees. The Council's tree officer considers that 2 of the trees are of poor condition with limited life expectancy; the extension is too close (even with the reduced width) to expect the trees to be retained long term and replacement planting of a hedge and tree to the front of the property would mitigate for the loss of the existing trees and provide new places for the wildlife to inhabit.

### **Impact on Trees**

There are three Birch trees protected by Tree Preservation Order ref. no.17/1979 that are situated adjacent the northern boundary of the site. Two of these trees are of poor condition with limited life expectancy (less than 10 years) and the remaining Birch is of fair condition. The proposal will result

in the loss of these three trees as the extension (even with its approximate 1.0m reduced width) will still be too close to realistically expect the trees to be retained long term. However, their removal would give valuable space to allow the planting of a mixed species hedge along this boundary (suggest Hazel, Hawthorn, Field Maple) which could be conditioned as part of any consent and would mitigate for the tree loss. In addition to this the council's tree officer considers a condition is required for a replacement tree to be planted at the front of the property.

## **Parking**

The development looks to extend the property including increasing the number of bedrooms from 3 to 4 and retaining the integral garage. The dwelling presently has 3 parking spaces including the retained garage which accords with UDP T13 parking policy provided the garage remains to be used solely for parking or storage of vehicles.

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

Officers have spoken with the applicant's agent and in response to concerns raised regarding the width of the proposal amended plans have been submitted which enable full support to be given to the scheme.

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

The design is in keeping with its surroundings.

The proposal will not cause a significant increase in overlooking, loss of privacy or loss in the daylight or sunlight enjoyed by nearby properties.

Three Birch trees would need to be removed but the Council's tree officer considers that 2 of the trees are of poor condition with limited life expectancy and replacement planting of a hedge and tree to the front of the property would mitigate for the loss of the existing trees preserving the appearance of the area.

There is sufficient off road parking space to meet Council's requirements for a house with 4 or more bedrooms providing the garage is retained solely for parking or the storage of vehicles.

With regard to the neighbour's concerns regarding the removal of the trees, the Council's tree officer considers that 2 of the trees are of poor condition with limited life expectancy; the extension is too close (even with the reduced width) to expect the trees to be retained long term and replacement planting of a hedge and tree to the front of the property would mitigate for the loss of the existing trees and provide new places for the wildlife to inhabit.

The proposed development is considered to meet the aims and objectives of the National Planning Policy Framework including paragraphs 56, 57, 58 and 64, Walsall's Saved Unitary Development Plan policies, in particular GP2, ENV18, ENV32, T7 and T13, and the Supplementary Planning Document "Designing Walsall" and other material planning considerations.

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

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

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

2: a) No development shall be carried out until details of replacement tree planting at the front of the property have been submitted to and approved in writing by the Local Planning Authority.

b) The replacement tree must be a Birch (*Betula*) species nursery grown selected standard 10 – 12cm in girth measured at 1.0m and shall be planted within one year of the commencement of this development. Should the tree die, become seriously diseased, damaged or be removed within 5 years of the planting it shall be replaced with a tree of the same size and species.

Reason: To safeguard the future of the trees on site after completion.

3: a) A hedge shall be planted between the side of the proposed extension and the boundary with the gardens in Norfolk Crescent. The hedge shall comprise a mixture of hawthorn *Crataegus monogyna*, field maple *Acer campestre* and hazel *Corylus avellana*. Details of sizes and densities at planting shall be submitted to and approved in writing by the local planning authority before the development commences.

b) The approved details shall be implemented within 12 months of the extension first being occupied.

c) All plants shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same or similar species as that originally required to be planted.

Reason: To ensure the satisfactory appearance of the development.

4: Before the development is brought into use, the first floor en-suite bathroom window in the side elevation facing the rear of numbers 10, 12 and 14 Norfolk Crescent shall be obscurely glazed to at least Pilkington privacy level 4 and once installed retained as such thereafter.

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

5: 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.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

6: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

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

7: The retained integral garage shall thereafter be used solely for the parking and storage of vehicles and shall not at any time be converted to another use.

Reason: In order to retain and maintain three off-street parking spaces within the curtilage of the site, in accordance with UDP Policy T13.

8: The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Location plan deposited 24 April 2013;

Site plan deposited 24 April 2013;

Existing floor plans drawing S1 deposited 24 April 2013;

Existing elevations drawing P2 deposited 24 April 2013;

Amended proposed floor plans drawing P3B deposited 19 June 2013;

Amended proposed elevations drawing P3B deposited 19 June 2013.

Reason: For the avoidance of doubt and in the interests of proper planning.

Case Officer: Jenny Townsend  
Walsall Council  
Regeneration –Planning and Building Control,  
Civic Centre,  
Darwall Street,  
Walsall, WS1 1DG



Application number: 13/0549/FL  
Address: 36 Old Oak Close, Walsall, WS9 8SE

We would like to contest the removal of trees on the boundary, with a conservation order on them.

When the properties ,of which 36 Old Oak Close was one, were built, residents neighbouring on to the building site were promised that these trees on the boundary would be kept as a barrier against the stark outlook and which would also give them some privacy. The removal of these trees would go back on assurances that were given at that time.

We would like to point out that the removal of the trees would affect the Crows, Magpies, Squirrels and other wild life who use it as a thoroughfare and nesting area. We and visitors have great pleasure watching during the year their various activities and the making of the trees as their homes.

If the trees were to be removed it would mean the removal of the stumps, which would affect the neighbouring gardens and cause damage which would be followed by expensive claims.

We see no reason from the plans published, that the extension to the property could be not done with minor pruning to the trees, by removing branches which come near to the property. This would not in our opinion need to be cut as to affect the life of the trees. There would also be enough space between the extension and the boundary for the trees to stay. We might suggest that it would be easy for the architect and builders to work around the trees, but it would be easier for them to destroy the trees for their convenience only.

 12 Norfolk Crescent Walsall WS9 8RF 	 14 Norfolk Crescent Walsall WS9 8RF 	 10 Norfolk Crescent Walsall WS9 8RF 
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