



Contents Sheet

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2	17	17/1262	1, FREER STREET & 28 BRIDGE STREET, WALSALL, WS1 1QD WARD: ST MATTHEWS	PROPOSED CHANGE OF USE AND EXTERNAL CHANGES TO 1 FREER STREET TO PROVIDE 7 APARTMENTS, DEMOLITION OF EXISTING WAREHOUSE AND ERECTION OF A TWO STOREY BUILDING TO PROVIDE 2 APARTMENTS AND CHANGE OF USE OF FIRST FLOOR OF 28 BRIDGE STREET TO 3 APARTMENTS.	Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and s106 to secure contributions towards open space and waste management strategy.
3	35	19/0380	HAND CAR WASH, FORMER WARRENERS ARM, HIGH STREET, BROWNHILLS, WALSALL, WS8 6HE	TEMPORARY CHANGE OF USE TO HAND CAR WASH AND VALETING WITH ANCILLARY EQUIPMENT AND STRUCTURES (12 MONTHS TEMPORARY USE SOUGHT).	Refuse

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8	105	19/0576	72 , FURZEBANK WAY, WILLENHALL, WV12 4BG WARD: SHORT HEATH	SINGLE STOREY FRONT AND SIDE EXTENSIONS PLUS LEVEL ACCESS RAMP.	Grant Permission Subject to Conditions

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10	123	19/0224	6, THREE CROWNS CLOSE, WALSALL, WS5 3AL WARD: PHEASEY PARK FARM	FIRST FLOOR EXTENSION ABOVE GARAGE WITH GABLE ROOF.	Refuse
11	131	19/0133	190, SUTTON ROAD, WALSALL, WS5 3AH WARD: PADDOCK	TWO STOREY SIDE AND REAR EXTENSION, SINGLE STOREY FRONT EXTENSION, PORCH AND BAY WINDOW PLUS SINGLE STOREY REAR EXTENSIONS.	Refuse
12	139	17/0466	69, HIGHGATE ROAD, WALSALL, WS1 3JB WARD: ST MATTHEWS	TWO STOREY SIDE EXTENSION WITH FIRST FLOOR FRONT PROJECTION AND UNDERCROFT PARKING AND SINGLE STOREY EXTENSION TOWARDS GARDEN.	Grant Permission Subject to Conditions



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 11-Jul-2019

Plans List Item Number: 1.

Reason for bringing to committee: Called in by Councillor Burley on the grounds of significant community interest and requiring delicate judgement.

Location: THE SUBSTATION, PARK LANE, DARLASTON, WEDNESBURY, WS10 9SE

Proposal: DEMOLITION OF EXISTING BUILDING AND THE ERECTION OF A THREE STOREY APARTMENT BLOCK OF 20 NO. ONE BEDROOM DWELLINGS

Application Number: 18/0529

Applicant: Mr Stuart Reynolds

Agent: Mrs Sinead Rose

Application Type: Full Application: Major Use Class C3 (Dwellinghouses)

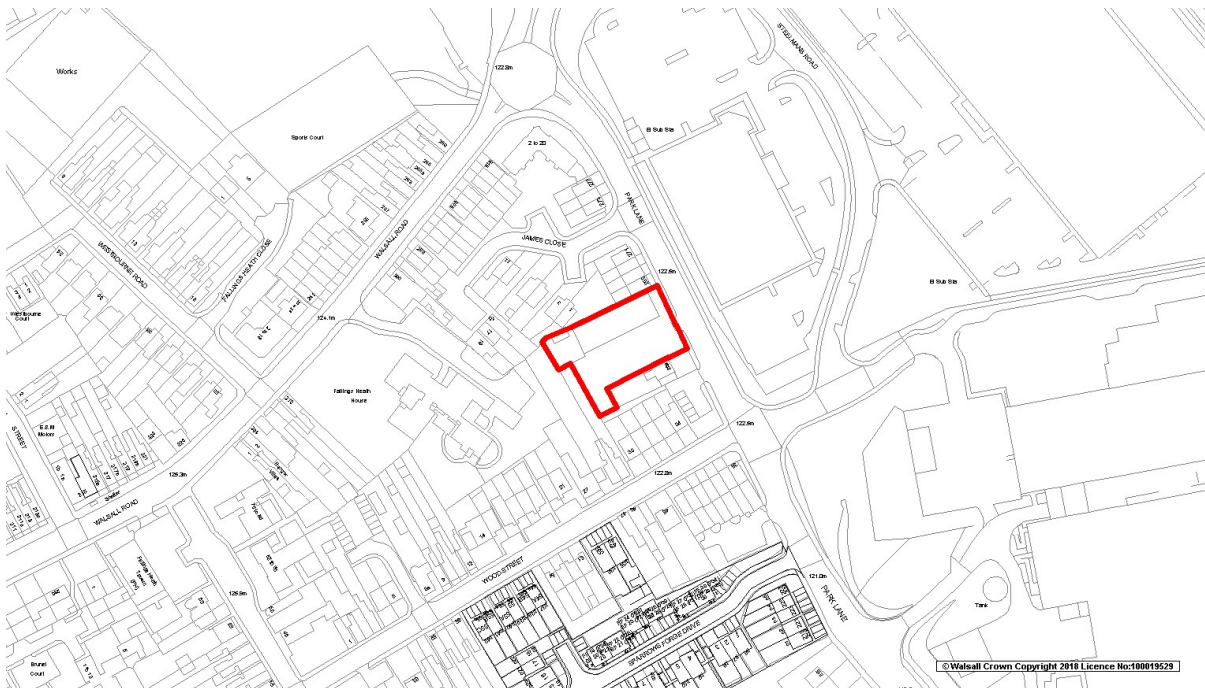
Case Officer: Paul Hinton

Ward: Bentley And Darlaston North

Expired Date: 26-Jul-2018

Time Extension Expiry: 25-Jul-2019

Recommendation Summary: Refuse



Proposal

This application seeks planning permission for the demolition of this former restaurant and takeaway with the erection of an 'L' shaped part three storey and part two storey apartment block providing 20 no. one bedroom dwellings. The existing vehicle access point would be relocated 4m further to the south leading to a car park with 20 allocated plus two visitor spaces. Cycle hoops are proposed towards the rear of the site for up to 20 cycles with a shared amenity area of 172sqm to the west of the car park.

The apartments would be accessed from three communal access doors facing the car park. The car park would be secured by vehicle and pedestrian gates. Each property would be single aspect with open plan kitchen, lounge, dining room and bathroom. Towards the front of the site an enclosed timber bin storage area is proposed. A 1.8m high boundary fence is proposed to the southern boundary running from the back of pavement to the rear of the site.

The development would be finished with a mix of red brickwork, white render and grey roof tiles. Brick arches and stone cills would provide detailing with black rainwater goods and doors. The three storey front elevation would have three front facing gables with hipped roof to the side. The majority of the rear protection would also be three storey with a number of projecting gables that include Juliet balconies facing the car park.

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

Design and Access Statement

- Site has been vacant since 2017
- New apartment block will provide much needed housing to the local area
- Will benefit existing dwellings on Park Lane by forming a better streetscene.
- A complimentary material palette has been chosen for the scheme.
- It is typical for one bedroom apartments to be offered with only one parking space
- Census data for the area indicates 79.4% of houses have either no or one car.
- Residents will have access to public transport, through regular bus services (Route 13) along Park Lane with access to Wednesbury and Dudley.

Noise Assessment

- Road traffic noise levels to the proposed front elevation are high.
- For living rooms and bedrooms fronting Park Lane acoustic glazing and acoustic ventilation will be required.

Coal Mining Risk Assessment

- Potential for shallow mine workings
- Potential for unrecorded mine entries
- Potential for ground gasses associated with the Coal Seams
- Shallow monitoring investigation and treatment exercises is recommended.
- Gas protection measures are recommended.

Geo-Environmental Assessment Report

- Soils are not generally considered to represent a significant hazard to the construction workers or the end users of the site.
- Recommended that ground gas measure are installed.

Permanent and Transient Overshadowing Report

- In regard to permanent overshadowing to 265 Park Lane of the rear, side and front garden:
 - All three of the amenity areas will receive at least 2 hours of sunlight to at least 50% of each amenity space on 21st March.
 - The reduction in sunlight enjoyed is less than 20%
 - The permanent overshadowing is consider negligible.
- In regard to transient overshadowing (21st December, 21st March, 21st June) to 265 Park Lane:
 - On 21st March – very slight increase in transient overshadowing that has fully cleared by 12 noon and considered to be negligible.
 - On 21st June – very slight increase in transient overshadowing which has fully cleared by 2pm and is considered to be negligible.
 - In December no increase in transient overshadowing is observed.

Daylight Sunlight Report

- Considers the proposed light levels at each window and within each room
- Impacts to the surrounding residential properties when compared to the existing base line condition are entirely reasonable.
- Proposed development would have no material impact on either daylight or sunlight levels in neighbouring properties.

Site and Surroundings

This rectangle building is located on the western side of Park Lane with residential houses of James Close to the north, residential of Park Lane/Wood Street to the south, and to the west across residential gardens is Fallings Heath House (accessed from Darlaston Road). To the east across the road is the rear of Gala Bingo with Ikea further to the east.

The building is currently vacant having last been used as Lloyds café, restaurant and takeaway. The building is single storey at the front and two storey to the rear with car park to the side.

Relevant Planning History

BC54194P – Change of use from substation to hot food takeaway. Allowed at appeal 3/11/99.

BC55308P – After local appeal: Change of use from sub-station to hot food takeaway. GSC 24/1/2000.

03/2395/FL/W5 (rear part of sub - station) Change of use to storage of boats and fitting of engines. Granted 2004

04/1628/FLW3 - Change of Use to Car Park Extension. GSC 28/9/04.

05/1988/FLW5 - Extension of closing hours for takeaway to 11 pm. GSC 13/12/05

11/0177/FL - Change of use from light industrial to florist shop/garden centre (A1) and addition of new door. GSC 5/5/11

16/1510 – Proposed extension and change of use to a 30 bedroom house with shared basic facilities for unrelated individuals (sui generis use) with landscaping and car parking. GSC 28/4/17

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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*".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.6 to 3.8 Environmental Improvement

- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- H4: Affordable Housing
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis
- 8.3 Urban Open Space
- LC1: Urban Open Spaces

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM5: Resource Management and New Development

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing
- HC3: Affordable Housing and Housing for People with Special Needs
- T2: Bus Services
- T3: The Rail Network
- T4: The Highway Network
- T5: Highway Improvements

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW6 Legibility
- DW10 Well Designed Sustainable Buildings

Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

Affordable Housing

- AH1: Quality of Affordable Housing
- AH2: Tenure Type and Size
- AH3: Abnormal Development Costs
- AH4: Provision Location
- AH5: Off Site Provision

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Highways – no objection subject to use of recommended conditions regarding surfacing, demarcating of parking, details of covered and illuminated cycle shelter, footway crossing and reinstatement of redundant dropped crossing and provision of visibility splay.

Coal Authority – no objection. Concurs with the recommendations of the Coal Mining Risk Assessment that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to the commencement of development.

Pollution Control – no objection subject to the use of recommended conditions in regard to provision of a Construction Management Plan, measures to deal with identified ground gas, acoustic mitigation measures, construction vibration measures, electric vehicle charging points and installations of low NOx boilers.

Community Safety – no objection subject to a management plan for any private rental properties, CCTV, lighting, defensive planting, boundary treatment and door lock standards.

Archaeology and Historic Environment – the substation itself is recorded on the Historic Environment Record. Consideration should be given to requesting the building is recorded prior to demolition.

Housing Standards – no objection.

Fire Services – no objection, Building Control approval required.

Housing Strategy – affordable housing required in the form of a commuted sum of £236,718.75.

Severn Trent Water – no objection subject to the use of recommended drainage condition.

Police Crime Prevention – no objection subject to the use of recommended security measures in regard to window and door lock standards, defensible planting, intruder alarm, self-closing gates, access control, cycle stand standards, communal letter box standards.

Representations

Surrounding occupiers notified by letter, site notice displayed and advertised in the local newspaper.

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

- Additional boundary improvements required to safeguard neighbour's property
- Wants assurance that no refuse will be discarded onto neighbour's property
- If disrupts television signals require cost of adapting equipment to be met by third party.
- Potential to diminish security.
- Overlook garden and diminish use of garden.
- Will be pushing an already strained and increasingly tense community by overpopulating.
- Potential to reduce community ethos and threaten the number of commercial businesses.

Determining Issues

- Principle of Development
- Impact upon the character and appearance of the area
- Impact upon residential amenities
- Ground conditions
- Drainage and flood risk
- Highway Safety
- Planning obligations
- Local Finance Considerations

Assessment of the Proposal

Principle of the development

The NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed. This is a previously developed site. The NPPF also says that housing applications should be considered in the context of the presumption in favour of sustainable development. In Walsall, the five year requirement of housing supply is currently being met through the allocation of housing land and granting of planning permission (which is significantly brownfield land); there is no requirement to release non-brownfield land at this time. The development of brownfield land, is encouraged and not the only way to support sustainable economic development to deliver the homes that the country needs.

This is a sustainable location within an existing residential area with shops, a primary school, open space and bus stops all within walking distance. The principle of housing in this location is acceptable, subject to impact upon the character of the area, residential amenity and parking.

Neighbours object that transient occupiers threaten commercial properties in the area. Whilst it is recognised that residents of any defined tenancy period are likely to use local shops and businesses, a condition restricting permitted development to convert the

building to an HMO would go some way to addressing neighbours' concerns. It is considered, the proposal would support the vitality and viability of local shops/ centres.

Design and Character of Area

The NPPF says that developments should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new development into the built environment. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character. BCCS Policies CPS4, HOU2, ENV2, ENV3; saved UDP policies GP2, 3.6 and ENV32 and Designing Walsall Supplementary Planning Document, require development to be informed/influenced by their context and reinforce locally distinctive elements.

The application site is to the western side of Park Lane which is characterised by two storey houses with street frontage access. The proposed three storey building would be located within the middle of this established character and by virtue of its greater height would be viewed at odds with its neighbours. The proposal would continue to be 2.5m from the side of 265 Park Lane. The proposal would have eaves height of 8.2m and roof height of 10.5m. No. 265 has an eaves height of 5.2m and ridge height of 8.65m. This sharp upwards step (3m difference between eaves) fails to reinforce the local distinctiveness.

The other prevailing character of both the street area in general are properties having front doors with direct access from the street which provides legibility, activity and social interaction with the street adding to natural surveillance of the locality. The proposed doorways are to the rear of the site. This design feature fails to integrate the building into the existing built environment and according fails to take the opportunity to improve the character of the area and contribute to improving safety and security.

The current front boundary consists of railings with landscaping. Along the boundary with no. 259 Park Lane a 1.8m high timber fence with 0.3m trellising is proposed that projects in front of the established building line to the back of pavement. Also in front of the building line a timber bin store has been proposed. These means of enclosures would be positioned in an exposed location would also have an adverse impact upon the visual amenities of the area.

On the side of the building is a stone tablet in memory to men who worked at the building and who lost their lives in the First World War. Should members choose to support the application, a safeguarding condition for the retention and reinstatement of this tablet would be required.

Amenity of Nearby Neighbours and Future Occupiers

The front of the building was last used as a café/hot food takeaway with permitted opening hours of 12pm to 11pm with a generous car park to the side. The rear of the building was last used for storage with a small yard for car sales, in recent years this area has also been used as a florist and boat repairs yard.

The proposed residential use would change the nature of people and vehicle movements. Currently visitors will attend the property for a relatively short period of time throughout the day at a regular turnover, with food continuing to be cooked at the property. The proposed use would be most noticeable during peak hours of the day with residents coming and going from the site. At the rear the existing car park would be replaced with a communal

garden area providing greater security and reducing the current impact of vehicle movements. To the boundary with 259 Park Lane an additional boundary fence with trellising above would provide further relief from noise associated with the resident's car park and would provide greater security to this property. The car park would be accessible through secure gates. It is considered the residential use within an existing residential area compared with the current commercial activities would not give rise to an unacceptable level of noise and disturbance.

The side of the building is 17m from the boundary with 259 Park Lane, including the blank side elevation of this house. The current building has one doorway to this elevation. The proposal would introduce entrance doors, bedroom, dining and kitchen windows to ground, first and second floors. Given the existing relationship the proposal limits overlooking of the garden to no. 259, as it exceeds Designing Walsall's 13m separation between habitable room windows and blank elevations exceeding 3m in height. In urban design terms this relationship would not severely diminish the value of the amenity space enjoyed by the occupier of no. 259. There would be no loss of privacy between habitable room windows.

The existing building runs adjacent to and along the entire boundary with 265 Park Lane. 265 Park Lane is to the south of the existing and proposed building. The outlook from the habitable room windows of 265 Park Lane already limited by the existing buildings blank wall with 5.3m eaves height and 8.8m ridge height. The proposal would raise the eaves by 2.9 metres to 8.2m and the ridge height by 1.7 metres to 10.5m. This increase in height would result in an over dominating mass by the new building in close proximity to the rear habitable windows of 265 Park Lane that provides an unacceptable loss of outlook for the current and future occupiers of 265 Park Lane, where it can be considered, any increase in height would be a sensitive change given the orientation of the properties.

The existing application building is to the south of no. 265, with 265 already in the shadow of the existing building. A Permanent and Transient Overshadowing Report has been provided which considers the impact from overshadowing is negligible. The report also includes transient overshadowing diagrams that clearly show areas of additional overshadowing across the rear gardens of no. 265 and 267 between early morning and early afternoon throughout the year. The applicants report considers the additional impact from the proposal, not the existing situation for the residents, which is already constrained. For properties with small areas of usable private amenity areas, a small increase in shadowing would be considered detrimentally harmful. In this case the shadow diagrams demonstrate increasing the height of the roof would reduce the amount of sunlight to the rear garden, increase shadowing, resulting in a dark, cold and uninviting amenity/garden area to the detriment of residential amenity of the adjacent houses. This is sufficient to recommend a refusal of the proposal.

The applicant looks to provide 172sqm of amenity space is provided (8.6metres per apartment) plus Juliet balconies for most of the apartments. Whilst Designing Walsall SPD seeks 20sqm per apartment, the site is within walking distance (140m) of Park Lane/Cook Street Urban Open Space to ensure residents are afforded sufficient amenity provision.

For potential occupiers each apartment has a bedroom, open plan kitchen, lounge, dining room and bathroom which are of an acceptable size.

The noise assessment confirms that due to road traffic noise acoustic glazing and acoustic ventilation would be required. This can be achieved through an appropriately worded planning condition should the rest of the development be acceptable.

There is the potential for the demolition and construction activities to impact upon neighbours given the closeness to adjacent houses. This can be mitigated by a Construction Management Plan and limiting construction vibration which can be secured by condition should the rest of the development be acceptable.

Neighbours object at the increase of developments in the area pushing already strained and tense community by cramming more people and over populating it. Consultation has been undertaken and none of the consultees have raised issues with existing capacity issues. There are local shops, bus stops and open space within walking distance of the application site. Park Lane is an existing District Distributor (connecting routes between residential and employment areas). The proposal is considered not to contribute to overpopulation of the area.

Whilst neighbour concerns about the potential to diminish security, the proposal includes full boundary treatment including access gates to the car park and front doors. Neither the Police nor Community Safety raise an objection to the application but make recommendations in regard to security measures which could be secured through a condition that meets the six tests should the rest of the development be acceptable.

Concern has been raised about impact upon television signal. There no evidence the proposal would have such an impact and would not be a sustainable reason to refuse the planning application.

One neighbour wants assurances that no refuse will be discarded onto neighbour's property. This would be outside of the control of the planning application and would be a civil matter.

Ground conditions

The site is within a high risk area as defined by the Coal Authority due to a history of coal mining in the area. The application has been supported by a Coal Mining Risk Assessment that has been considered by the Coal Authority who concur with its findings; coal mining legacy potentially poses a risk to the proposed development and an intrusive site investigation works should be undertaken prior to the commencement of development. This would be a conditional requirement should the rest of the development be acceptable.

The Geo-Environmental Assessment Report concludes that soils are not generally considered to represent a significant risk but there is the potential for ground gas which can be mitigated against by the use of ground gas protection measures. This can be secured by condition should the rest of the development be acceptable.

To address potential air quality impacts from the development and in accordance with the Air Quality SPD, conditions requiring electric vehicle charging points and low NOx boilers can be required should the rest of the development be acceptable.

Access and parking

The existing vehicle access would be relocated 4m to the south of the existing access leading to a car park with 20 allocated plus two visitor spaces. Cycle hoops are proposed towards the rear of the site for up to 20 cycles. Saved UDP policy T13 requires 1.5 spaces per unit which equates to 30 spaces + 3 disabled bays. The development looks to provide 22 spaces in total (110%). This is considered acceptable for this type of use taking into account residents of one bedroom flats are likely to have lower car ownership larger flats which . The 2011 Census data shows that for Darlaston South Ward 38% of households had no car and 41% had 1 car so levels of car ownership is relatively low in this area. The level of off-street parking is considered sufficient to meet the needs of the development. Highways raise no objection to the application subject to use of recommended conditions in regard to surfacing, demarcating of parking spaces, securing details of covered and illuminated cycle shelter, provision of new footway crossing and reinstatement of redundant dropped crossing. A visibility splay would also need to be provided. Subject to these conditions the development would not give rise to conditions prejudicial to highway safety should the rest of the development be acceptable.

Planning obligations

This development triggers the Council's policies regarding contributions towards Urban Open Space and Affordable Housing.

The applicant explains that due to viability issues, they are unable to provide a financial contribution. The applicant has submitted a viability assessment that is currently being considered by the District Valuer. For Open Space, a development of this size within this ward, a qualifying contribution (defined by Urban Open Space SPD) of £13,860 would be sought towards open space improvements in the neighbourhood. In regard to affordable housing, usually 25% of the units on site should be affordable. However housing providers avoid blocks of apartments due to the liability of shared communal areas and complications over maintenance. Therefore to ensure the delivery of affordable housing in the locality a commuted sum of £236,718.75 would be sought.

The District Valuer has confirmed that in this case seeking this contribution in full would make the scheme unviable. Sensitivity testing has been undertaken which also concludes the scheme would be unviable in the event of any contribution (taking account of a reasonable profit return for the development).

Whilst the DVS report concludes even without contributions this is an unviable development, planning case law has established that whether a development will be or is likely to be implemented is not normally a material consideration. If a proposal fulfils the normal planning tests the applicant has the right to a planning permission regardless of whether they possess the finance or ability to carry out the development.

Due to the overall objection to the scheme any refusal of the application would also need to include the absence of this contribution. In the absence of any contribution, the proposal would exacerbate the pressure on existing urban open space in this locality, given the proposals reduced private amenity space within the development, to the detriment of local urban open space and would fail to provide proportionate affordable housing to meet the diverse needs of the residents of the borough.

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 20 new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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

Conclusions and Reasons for Decision

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, it is considered that the proposed development would result in a building that fails to integrate into the character of the area. The development would result in a loss of outlook and would cast a further shadow across the private amenity area of the adjacent residential occupier resulting in an unacceptable loss of amenity.

The proposed development will lead to an unacceptable demand on urban open space and affordable housing provision within the locality.

Taking into account the above factors it is considered that the application should be recommended for refusal. The development is considered to be contrary to the aims and objectives of the National Planning Policy Framework, policies CSP4, HOU3, ENV2 and ENV3 of the Black Country Core Strategy, saved policies GP2, GP3, 3.6, ENV32 and H4 of the Walsall Unitary Development Plan and Supplementary Planning Documents Affordable Housing, Designing Walsall and Urban Open Space.

Positive and Proactive Working with the Applicant

Prior to the submission of the planning application pre-application advice was sought for this development. Officers set out a number of concerns which we not addressed as part of planning application submission. During the course of the application officers have continued to raise concerns with a number of issues the development gives rise to and have made suggestions to how these can be addressed. Despite this the applicant has requested that the application be determined as submitted.

Recommendation

Refuse

Reasons for Refusal

1. The proposed development would appear as an incongruous feature that does not adequately integrate with the street frontage. The proposal fails to provide continuity appearing unrelated to the surrounding development and as a consequence it would cause harm to the character and appearance of the area. The application fails to take account of the context that defines the character of the area to the detriment of visual amenity. Accordingly the proposal is contrary to the aims and objectives of the National Planning Policy Framework, policies ENV2 and ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6 and ENV32 the Walsall Unitary Development Plan and policies DW3 and DW4 of Supplementary Planning Document: Designing Walsall.
2. The proposed development by virtue of its height fails to retain a satisfactory residential environment for adjoining occupiers by resulting in a loss of outlook and would increase the shadowing cast across the private amenity area of the neighbouring residential occupiers. The proposal is contrary to the aims and objectives of the National Planning Policy Framework, policies CPS4 and ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6 and ENV32 of the Walsall Unitary Development Plan and appendix D of Supplementary Planning Document: Designing Walsall.
3. The proposed development will lead to an unacceptable demand on urban open space and affordable housing provision in the locality. In the absence of any off-site contribution the proposal is therefore contrary to the aims and objectives of policy Action Plan, policy HOU3 of the Black Country Core Strategy saved policies GP3 and H4 of the Walsall Unitary Development Plan and the Council's Affordable Housing and Urban Open Space Supplementary Planning Documents.

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 11-Jul-2019

Plans List Item Number: 2.

Reason for bringing to committee: Major application

Location: 1, FREER STREET & 28 BRIDGE STREET, WALSALL, WS1 1QD

Proposal: PROPOSED CHANGE OF USE AND EXTERNAL CHANGES TO 1 FREER STREET TO PROVIDE 7 APARTMENTS, DEMOLITION OF EXISTING WAREHOUSE AND ERECTION OF A TWO STOREY BUILDING TO PROVIDE 2 APARTMENTS AND CHANGE OF USE OF FIRST FLOOR OF 28 BRIDGE STREET TO 3 APARTMENTS.

Application Number: 17/1262

Applicant: Brian Trubshaw

Agent: PAUL CLIFTON

Application Type: Full Application: Major Use Class C3 (Dwellings)

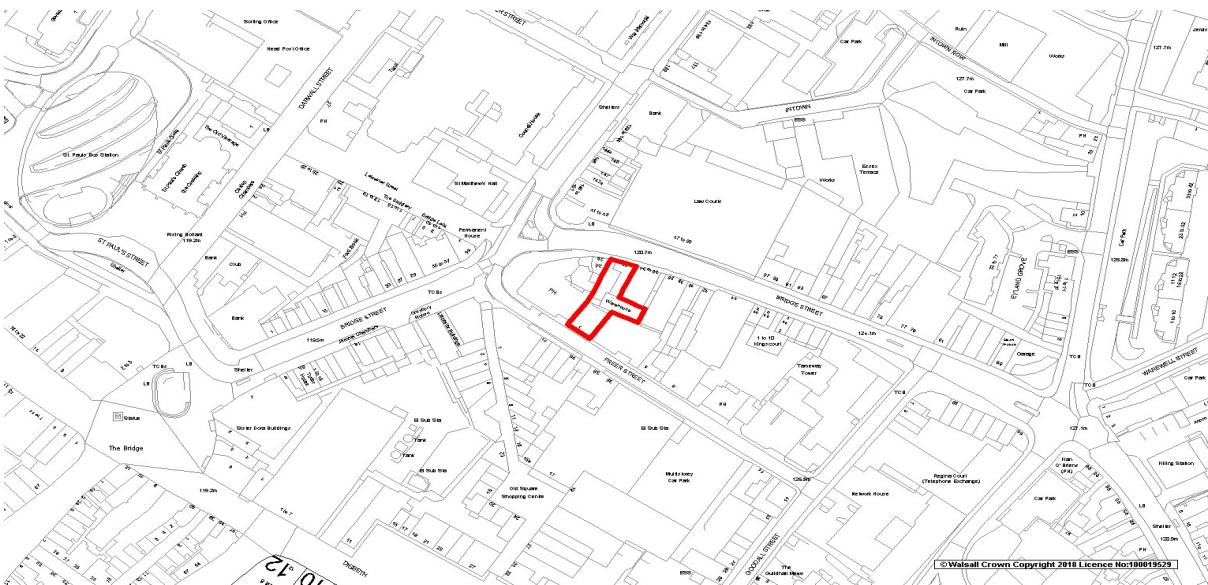
Case Officer: Paul Hinton

Ward: St Matthews

Expired Date: 31-Dec-2017

Time Extension Expiry: 12-Oct-2018

Recommendation Summary: Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and s106 to secure contributions towards open space and waste management strategy.



Proposal

This application seeks planning permission for the change of use and external changes to 1 Freer Street to provide 7 apartments, demolition of existing warehouse and erection of a two storey building to provide 2 apartments and change of use of first floor of 28 Bridge Street to 3 apartments.

A shared sunken garden is proposed in a courtyard formation within the centre of the site, including an area for bin and cycle storage. This area would be accessible to all of the apartments. An existing shared access from Bridge Street would provide level access to this area.

The external changes to 1 Freer Street are to the rear elevation of the building and consist of the insertion of an eight additional sash style windows (with brick headers and cills) and two doors.

There are no external changes to the front of 28 Bridge Street. To the rear angled windows are proposed.

The new apartment block would be two stories in height with pitched parapet roof. Mock windows are proposed to the elevation facing Freer Street. Habitable room windows face across the courtyard.

The application has been supported by the following information:

Design and Access Statement

- Buildings have been vacant for a number of years and have been difficult to let.
- Layout takes into account the significance of the façade of 1 Freer Street
- Demolition of the dilapidated warehouse gives the opportunity to provide the attractive feature of the courtyards/sunken garden which can be accessed by all the new apartments.
- Cycle storage is provided.
- Town centre car parking is available on a number of sites nearby.
- Public transport is on the doorstep and all amenities are within each reach.

Heritage Statement

- Layout and formation of a courtyard will bring back into use these attractive and important buildings.
- The original windows will be retained in both buildings and signage fascia panels on 1 Freer Street will be removed and the masonry made good.
- No evidence from the Historic Environment Record relating to the warehouse building.
- If approved the scheme would bring back into use these attracting and important buildings.

Noise Assessment

- Given the levels of environmental noise day and night measured at both street facades to achieve the good standard habitable rooms on street facades will require secondary glazed windows.

- Room ventilation would be achieved by alternative means.

Site and Surroundings

The application site is within the Town Centre and is part of Bridge Street Conservation Area.

Freer Street is mainly commercial, with A1 and A2 and A4 uses. 1 Freer Street was last used as a decorators shop. There is an open site next to no. 1 which is used as a private car park. There is a public car park further along Freer Street.

Bridge Street consists of a mix of town centre uses, A1, A2, A3, A4 and A5 with residential to the upper floors of some of the buildings. The ground floor of no. 28 is used as a solicitors. The upper floor was last in use as an office. Within Bridge Street there are a number of late night bars and night clubs.

The adjoining building on the corner of Bridge Street and Freer Street (historically known as the Black Swan) is a vacant public house.

Walsall bus station is 235m walking distance away, the train station 470m walking distance away. Church Hill Open Space is 320m walking distance away.

Relevant Planning History

07/0476/FL/W5 - Proposed change of use to licensed premises as public house, nightclub and restaurant. GSC 23/4/07

10/0472/TE - Application to extend time limit for implementation of 07/0476/FL/W5: Proposed change of use to licensed premises as public house, nightclub and restaurant (A3 and A4 uses). GSC 2/7/10.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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*".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**

- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty “PSED” on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.6 to 3.8 Environmental Improvement
- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- S8: Housing in Town Centres
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

- 8.3 Urban Open Space
- LC1: Urban Open Spaces

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2: Hierarchy of Centres
- CEN3: Growth in the Strategic Centres
- CEN4: Regeneration of Town Centres
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM5: Resource Management and New Development

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing
- EN5: Development in Conservation Areas
- T2: Bus Services
- T3: The Rail Network
- T4: The Highway Network
- T5: Highway Improvements

Walsall Town Centre Area Action Plan 2019

NOTE for case officer: Check Town Centre Area Action Plan Inset of Local Plan Policies Map for any allocations for individual sites

- AAPB1: Office Development
- AAPLV1: Residential Developments
- AAPLV5: Protecting and Enhancing Historic Character and Local Distinctiveness
- AAPLV6: Securing Good Design
- AAPT1: Pedestrian Movement, Access and Linkages
- AAPT2: Cycling
- AAPT3: Public Transport
- AAPT5: Car parking

Supplementary Planning Document

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW10 Well Designed Sustainable Buildings

Open space, sport and recreation

- OS1: Qualifying Development
- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS4: Local Standards for New Homes
- OS5: Use of Contributions
- OS6: Quality and Value
- OS7: Minimum Specifications
- OS8: Phasing of On-site Provision for Children and Young People

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

In determining any planning application, special attention shall be paid to the desirability of preserving listed buildings and preserving or enhancing the character or appearance of conservation areas as set out in sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Consultation Replies

Highways – concerns about the practicality of the waste collection arrangements.

Pollution Control – significant acoustic glazing and alternative means of ventilation would be required, a construction management plan would be required and contaminated land investigation.

Police Crime Reduction – no objections.

Housing Standards – some of the bedrooms are on the small side, should be at least 10sqm. One of the bedrooms on the first floor has its means of escape through a kitchen window.

Severn Trent Water – no objections subject to use of recommended drainage condition.

Environmental Health – no comments received.

Clean and Green – no comments received.

Representations

Surrounding occupiers notified by letter, site notice displayed and advertised in local newspaper.

No comments received.

Determining Issues

- Principle of development
- Impact upon the historic environment
- Impact upon the character and appearance of the area
- Residential and neighbouring amenity
- Highway safety
- Planning Obligations.

Assessment of the Proposal

Principle of development

1 Freer Street was last used as a decorators shop (appears to have been vacant since at least September 2014) and the upper floor of 28 Bridge Street as offices. The application seeks permission for these buildings and a new two storey block to be used as residential.

This is a Town Centre location, Saved UDP policy S8 supports housing within the Town Centre providing it supports the centre's retail, commercial and leisure functions including the growth of the evening economy.

The Town Centre Area Action Plan policy AAPLV1 supports residential use through the conversion of existing buildings where it does not jeopardise the commercial function of the centre and accords with policy AAPB1. AAPB1 encourages the use of upper floors for offices.

1 Freer Street would be an A1 use, this has been vacant for some time and is outside of the Primary Shopping Area where there are a number of vacancies. The loss of the retail use would not be prejudicial to the overall retail function of the town. Similarly given the vacancy rate for offices in the town, the loss of the upper floor of 28 Bridge Street would not be detrimental to the overall office provision in the town.

The NPPF recognises that residential development can play an important role in ensuring the vitality of centres, 12 residential units would support the evening economy. The NPPF also states that housing applications should be considered in the context of the presumption in favour of residential development. This is a highly sustainable location.

Weight is given to the vacancy of these buildings and the opportunity to bring them back into use on a comprehensive basis and the benefits active use would have upon the preservation and enhancement of the Conservation Area. On balance, the proposed use would not prejudice the function of the Town Centre.

Impact upon the historic environment

SAD policy EN5 explains developments should preserve or enhance the character and appearance of the Conservation Area.

The NPPF explains that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

The NPPF also guides that LPAs should take account of the desirability of sustaining and enhancing the significance of a heritage asset and putting them into viable uses; the positive contributions assets can make to sustainable communities including economic vitality and positive contribution to local character.

1 Freer Street is an attractive three storey building that makes a strong contribution to the historic environment. Bringing this building back into use would enhance the character of the area. In heritage terms the proposed rear windows look to match the existing used within the building.

The proposed angled rear windows to 28 Bridge Street would cause no harm.

The existing warehouse building has little heritage or architectural value and its demolition would not harm the Conservation Area. The two storey apartment building within the courtyard would have the same pitched roof parapet design to that used within 1 Freer Street and includes architectural detailing that is similar to those used within the area.

On balance the development would preserve the setting and character of the Conservation Area.

Impact upon the character and appearance of the area

Bringing the building back into use would be positive. From the street there are no physical changes to 1 Freer Street and 28 Bridge Street. The two storey apartment block is set back 30m from Freer Street and would have a smaller mass than the existing warehouse building. The roof design is the same as no. 1 and would add variety to the street. It is explained that this building would be finished out of bricks and tiles that match those used within 1 Freer Street. Subject to a condition that defines these materials the proposal would integrate into the character of the area.

Residential and neighbouring amenity

Given the constraints of the site and with the proposal endeavouring to protect the historic environment, each apartment is single aspect, with bedroom(s), separate bathroom, kitchen and lounge. Apartments either have an outlook across Freer Street, across Bridge Street or across the shared courtyard. There is a 9m separation distance between the Freer Street and Bridge Street buildings. Angled bay windows are proposed to the rear of the first floor of 28 Bridge Street, with one side obscure glazed and the other clear. This design ensures occupiers are provided reasonable outlook without resulting in significant mutual overlooking whilst protecting the historic environment. The layout ensures surveillance of the shared courtyard which provides security benefits to these shared areas. It is recognised that high density town centre living cannot always achieve the separation distances and outlook of the suburbs. Weight is given to making the most efficient use of the site. Each of these apartments would have sufficient access to natural light and acceptable outlook considering the constraints of the site

Housing Standards raise concerns about the size of some of the bedrooms and means of escape. The 1 bedroom units meet the minimum gross internal floor areas of 39sqm and 2 bedroom units meet the minimum 50sqm as prescribed in the national described space standard document. Means of escape would be a requirement of the Building Regulations and are not material to this application.

A safe and secure environment for the occupiers can be achieved through the use of crime prevention measures, such as door and window standards and access control measures which can be required by condition.

In addition to the shared amenity space the site is within walking distance of Church Hill Open Space and Bath Street public gardens and the amenities of the Town Centre. The internal layouts provide sufficient living space and appropriate level of outlook. The NPPF states that housing applications should be considered in the context of the presumption in favour of residential development. This is a sustainable location and would make effective use of the land, providing sufficient amenity provision for future occupiers while providing 12 further homes.

Bridge Street has a number of late night bars and clubs, Freer Street also has a bar and the former Black Swan on the corner of Bridge Street and Freer Street, while currently vacant, in planning terms could be brought back into use. Therefore there is a high level of background noise into the evenings and weekends. A noise survey has been submitted in support of the application that identifies that the proposed units on Bridge Street are subject to significant noise and will require significant acoustic glazing and an alternative means of ventilation to meet British Standards and World Health Organisation guidelines, as the occupiers will not be able to open their windows without being subjected to noise disturbance from pubs, clubs, restaurants/takeaways, and the general night-time social activities in the area.

It is recognised that not being able to open windows would impact upon residential amenity, however alternative means of fresh air through mechanical ventilation can be provided which would ensure an acceptable level of amenity would be provided given the context of the town centre location. In considering the wider planning balance, subject to a condition securing full details of these arrangements and their installation, this would be acceptable.

In addition to these measures Pollution Control recommend acoustic mitigation is used between the ground and first floor of 28 Bridge Street to protect potential residential occupiers from any noise from the commercial activities at ground floor.

Given the existing residential occupiers in the area a demolition and construction management plan would also be necessary to protect residential amenity during works.

Pollution Control also advise that due to the historic use of the land a site investigation report and implementation of any required mitigation measures would be necessary to safeguard future occupiers. A condition that meets the Government's six tests is recommended.

To the rear of the first floor at 36-38 Bridge Street is an existing bedroom window with an outlook of the existing warehouse. The proposed apartment block due to the hipped roof would increase outlook from this window.

Highway safety

The application does not provide any off-street parking. Bin and cycle storage areas are proposed within the courtyard that would have a level access from Bridge Street.

This is a highly sustainable location within walking distance of all Town Centre amenities and within walking distance of the both of the bus stations and the train station. There are also public car parks within close proximity. Accordingly the absence of off-street parking would not give rise to conditions prejudicial to highway safety.

Highways have concerns about the practicality of the bin store with the access being through a narrow passage onto Bridge Street. There are examples of euro bins already being stored on the pavement of Bridge Street and the restricted access to the internal bin store could encourage further storage on the highway instead. The application details explain that the bins would be collected by a private waste management company. Whilst it is recognised access for bins is contrived due to the built form of this Conservation Area there are no other options to service this development whilst protecting and enhancing the historic environment.

As discussed the development would be a positive addition to the Town Centre. A Waste Management Statement can be provided that sets out the precise steps, for example that waste will be collected by a private company (as the applicant proposes) and that other than during collection times bins are stored in the bins store. This can be secured through a S106 agreement.

A planning condition that retains the bin and cycle features would be necessary.

Planning obligations

BCCS policy DEL1 and saved UDP policies GP3 and LC1, require, where appropriate, provision and improvements to or provision of urban open space within the proximity of the application site on qualifying developments above the threshold of 10 units. Utilising the Urban Open Space SPD would seek a financial contribution of £13,319.00 from this scheme for improvements to urban open space in the locality, which the applicant has agreed to provide this contribution in full. Clean and Green strategic works have been

asked to identify some improvement projects in the locality. This contribution would be secured through a S106 agreement which forms part of the recommendation.

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 12 new homes.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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

Conclusions and Reasons for Decision

In weighing the key material considerations and consultee responses against the national and local planning policies and guidance, it is considered that the principle of development is consistent with the provisions of the development plan. The proposal would preserve the character and appearance of the Conservation Area and would not have an adverse impact upon the visual amenities of the area. The proposal would not impact up adjoining occupiers and ground conditions and drainage can be address by conditions. The development would not give rise to conditions prejudicial to highway safety. Sufficient residential amenity would be provided for potential occupiers and the amenity of nearby residents would not be affected.

Safeguarding conditions in regard to land contamination, construction management, drainage, acoustic mitigation, matching materials, cycle shelter, bin store, security measures and windows are necessary and meet the six tests. A S106 agreement in regard to open space provision is also required. Taking into account the above factors it is considered that the application should be recommended for approval. The development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP4, HOU1, HOU2, CEN4, TRAN2, TRAN5, ENV2, ENV3 and ENV5 of the Black Country Core Strategy, policies HC2 and EN5 of the Walsall Site Allocation Document; policies AAPB1, AAPLV1, AAPLV5, and AAPLV6 of the Walsall Town Centre Area Action Plan; saved policies 3.6, 3.7, GP2, ENV10, ENV14, ENV32, ENV40, S8, T7, T13 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

Positive and Proactive Working with the Applicant

Officers have worked with the applicant's agent securing amended plans and clarification over the proposal to enable support to be given.

Recommendation

Planning Committee resolve to Delegate to the Head of Planning, Engineering & Transportation to Grant Planning Permission Subject to Conditions and s106 to secure contributions towards open space and waste management strategy.

Conditions and Reasons

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- Location and site plan received 21/8/18
- Proposed development plan received 21/8/18
- Existing cellar plan received 20/9/17
- Existing ground floor plan received 20/9/17
- Existing first floor plan received 20/9/17
- Existing second floor plan received 20/9/17
- Proposed basement plan received 21/8/18
- Proposed ground floor plan received 21/8/18
- Proposed first floor plan received 21/1/19
- Proposed second received 21/8/18
- Proposed roof plan received 21/8/18
- Existing elevations Freer Street received 21/1/19
- Existing elevations Bridge Street received 20/9/17
- Existing sections received 20/9/17
- Proposed elevations Freer Street received 21/8/18
- Proposed elevations Bridge Street received 21/8/18
- Proposed elevations Bridge Street received 21/8/18
- Environmental Noise Assessment received 11/2/19

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

3a. Prior to the commencement of development a ground contamination survey having regard to current best practice shall be undertaken. (see Note for Applicant CL1).

3b. Prior to the commencement of development a copy of the findings of the ground contamination survey, together with an assessment of identified and/or potential hazards arising from any land contamination shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2).

3c. Prior to the commencement of development a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination 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).

3d. The remedial measures as set out in the 'Remediation Statement' required by part d) of this condition shall be implemented in accordance with the agreed timetable.

3e. 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 a) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part c) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

3f. 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.

4a. Prior to the commencement of any works on site, including site preparation, clearance or demolition shall not take place until a Demolition and Construction Management Plan, setting out how the demolition and construction works will be undertaken and giving details of arrangements for the control of noise, vibration, dust and debris (including site drag-out), and construction working hours, shall be submitted for written approval of the Local Planning Authority.

4b. The Construction Management Plan shall be implemented upon commencement of any works and shall be maintained until the site is completed.

Reason: In the interests of residential amenity and in accordance with saved policy ENV10 of the UDP.

5a. Prior to the commencement of development of the two storey apartment block drainage plans for the disposal of foul and surface water flows shall have first been submitted to and approved in writing by the Local Planning Authority.

5b. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

6a. Prior to the commencement of development details of acoustic mitigation and ventilation measures to be implemented to address the issues identified in the Environmental Noise Assessment Report received on 11/2/19 on shall have first been submitted for written approval of the Local Planning Authority. This shall include scale drawings of the proposed details at 1:20 scale.

6b. Prior to the first occupation of any part of the development hereby approved, the agreed acoustic mitigation measures shall have been installed and an independent written validation statement shall have been submitted to the Local Planning Authority confirming the installation of the agreed acoustic mitigation measures.

6c. The agreed acoustic mitigation measures shall thereafter be retained for the life of the development hereby approved.

Reason: To mitigate the impacts of noise from commercial premises, to protect the amenity of future occupants and to preserve the setting, appearance and character of the Conservation Area.

7a. Prior to the commencement of development a noise insulation scheme to address noise between the ground floor commercial operations, the next door commercial operations, and the proposed residential premises at the application site for the Bridge Street apartments shall be submitted for written approval of the Local Planning Authority. As a minimum, the apparent weighted sound reduction index, $R'w$, between the commercial development and the residential units shall not be less than 70dB.

7b. Prior to the first occupation of any part of the development hereby approved, the agreed acoustic mitigation measures shall have been installed and an independent written validation statement shall have been submitted to the Local Planning Authority confirming the installation of the agreed acoustic mitigation measures.

7c. The agreed acoustic mitigation measures shall thereafter be retained for the life of the development hereby approved.

Reason: To mitigate the impacts of noise from commercial premises and to protect the amenity of future occupants.

8. Prior to the development first being brought into use, rear facing apertures to 1 Freer Street shown to be blocked shall be done so with matching bricks and bonding.

Reason: To preserve the setting, appearance and character of the Conservation Area.

9a. Prior to the commencement of development details of the proposed cycle shelter which shall be covered, illuminated and secure, shall be first submitted for written approval of the Local Planning Authority.

9b. The approved details shall be implemented prior to the development hereby approved is first brought into use.

9c. The cycle shelter shall thereafter be retained for the use of the future occupiers and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and to encourage sustainable modes of travel in accordance with UDP policy GP2, T7 and T13 and Black Country Core Strategy TRAN4.

10a. Prior to the development hereby approved first coming into use the bin storage area shall be implemented and be available for use by the future occupiers of the development.

10b. The bin storage area shall thereafter be retained and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and to encourage sustainable modes of travel in accordance with UDP policy GP2, T7 and T13 and Black Country Core Strategy TRAN4.

11. The two storey apartment block hereby approved shall be finished in brick and tiles that match closely to those used within 1 Freer Street at the time of the application.

Reason: To preserve the setting, appearance and character of the Conservation Area.

12. The development shall be constructed to meet the following minimum security measures and thereafter retained as such;

-A minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond standard certification should be used on all door locks

-Where thumb turn locks are to be installed these should be those that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks.

- Communal entry to the apartments shall be fitted with an access control system. This may be a proximity access control system, a door entry phone system and electronic lock release or a combination

- Security anchor for the cycle stands must be certified to Sold Secure Silver standard or LPS 1175 issue 7:2010 SR1 and be securely fixed to the concrete foundation.

Reason: To ensure the safety and security of the development and its occupiers in accordance with BCCS policy ENV3.

13. For the avoidance of doubt none of the existing windows or doors to the front elevation of 1 Freer Street shall be replaced but shall be repaired on a like for like basis as necessary.

Reason: To preserve the setting, appearance and character of the Conservation Area.

Notes for applicant

Pollution Control

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

CL2 - When making assessments of any contaminants identified as being present upon and within 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.



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 11-Jul-2019

Plans List Item Number: 3.

Reason for bringing to committee: Call In by Councillor Wade, stating significant community interest, fear of crime and anti-social behaviour if site vacant

Location: HAND CAR WASH, FORMER WARRENERS ARM, HIGH STREET, BROWNHILLS, WALSALL, WS8 6HE

Proposal: TEMPORARY CHANGE OF USE TO HAND CAR WASH AND VALETING WITH ANCILLARY EQUIPMENT AND STRUCTURES (12 MONTHS TEMPORARY USE SOUGHT).

Application Number: 19/0380

Applicant: Super- Mart Limited

Agent: Mrs Sheila Porter

Application Type: Full Application: Change of Use

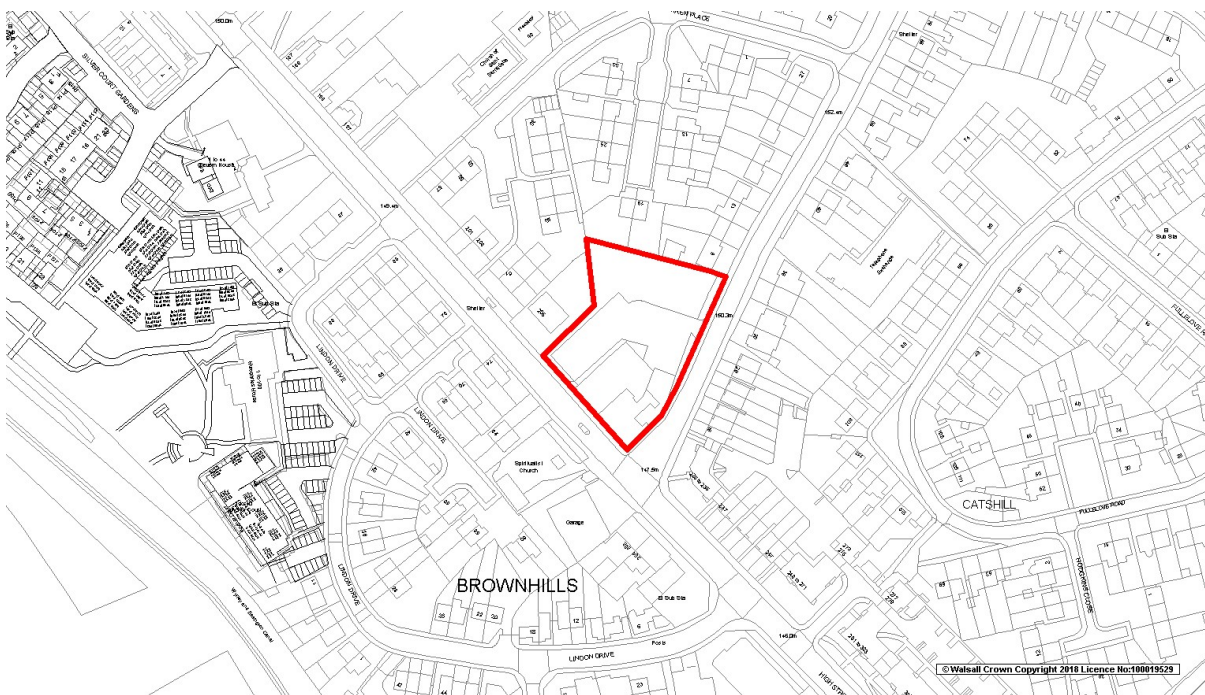
Case Officer: Barbara Toy

Ward: Brownhills

Expired Date: 03-Jun-2019

Time Extension Expiry: 19-Jul-2019

Recommendation Summary: Refuse



Proposal

This application seeks permission for the continued use of the car park of the vacant public house as a hand car wash and valeting facility with ancillary equipment and structures for a further 12 month period. This follows three previous temporary consent dating back to 2008 and the refusal of an application for permanent consent in February 2019.

The facility is accessed from an existing vehicle access off Ogleby Road. A one way system leading round two lanes within the site, with two open washing bays. Drainage exists at the site, including the use of an oil interceptor. There is an existing portable building on a grassed area used as the site office with staff parking facing Ogleby Road. The application proposes the erection of an open sided wooden structure with a plastic sheet roof over the valet bay, measuring 6.5m by 6m, with a mono pitch roof at a maximum height of 3.5m.

The car wash would operate 0900 – 1800 hours daily and would employ 3 full time and 4 part time staff.

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

Design and Access Statement

States the background and previous, now expired, planning permissions for the use. Proposes open hours of 9am to 6pm Mondays to Sundays. All the car washing equipment is removed from the site and stored inside the vacant building when the premises are closed for business.

Details of the jet washers and vacuums

Evidence of site marketing attempts

This includes a number of emails dated:

July 2008

March 2014

March 2016

April 2019

Email from Applicant

This details their attempts to find a residential developer for the site since they acquired it in 2005 and provides an argument for a further 12 month consent whilst the site is marketed by a new agent for residential development.

Site and Surroundings

The former public house is a two storey building located at the back of footway at the front corner of the site adjacent to the junction with the A452 High Street (Strategic Highway Network) and the A461 Ogleby Road, the remainder of the site is open. To the northern boundary are the side and rear gardens of residential properties in Ogleby Road and Warren Place. To the east, on the opposite side of Ogleby Road are semi-detached houses, some original and more modern properties towards the corner with High Street. To the west is a single storey building used as an accountant's office. To the south west on the opposite side of High Street is a Church and a vacant Motor garage. The character of the area is predominantly residential with commercial uses increasing to the west. The site sits

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approx. 190m to the south east of Brownhills district centre. The existing building was previously adapted for a McDonald's Restaurant, which closed a number of years ago. The site area is 0.36 hectares.

Since the previous application refusal in Feb 2019 the boundary fencing to both Ogleby Road and High Street has been repainted (Blue), the portable building on site has been painted and the old signs replaced with new signs on existing structures on both Ogleby Road and High Street frontages.

Relevant Planning History

07/1535/FL/E11- Re-development of vacant site involves the conversion and extension of the former Warreners Arms building to accommodate 58 flats with associated parking, servicing, amenity space and access. 09-10-07 Development Control Committee resolved to approve the development subject to the signing of a S106 legal agreement. The applicants failed to sign any legal agreement and withdrew the application on 10-04-17.

08/1604/FL Temporary consent for a maximum of 3 years to change use of site to hand car wash. GSC 19-12-08.

10/0982/FL Temporary three year planning approval for a hand car wash on the car park of the Warreners Arms P.H. GSC 23-12-10.

11/1306/FL - Canopy and office for use with the existing Car Valet approved under 10/0982/FL until 31 December 2013. GSC 04-01-12.

13/1535/FL - Proposed retention of hand car wash and valeting use, including ancillary equipment and structures, for further 5 years. GSC 09-01-14

18/1703 – Permanent change of use to hand car wash and valeting use, including ancillary equipment and structures. Refused 12-02-19

Reasons for refusal:

- 1. The proposed use conflicts with the Councils Site Allocation Plan which forms part of the Site Allocations Document (SAD) and allocates this site for housing, SAD Policy HC1 (reference HO317). Policy HC1 states that proposals for the development of these sites for uses other than housing should be justified against other local plan and national policies. The application fails to take account of the adopted SAD and there is no justification for the continuing use of the site as a car wash which reduces any incentive for the landowner to bring forward a residential development. For these reasons the proposal is contrary to paragraph 12 of the NPPF and SAD Policy HC1.*
- 2. The proposed continuing use of the site as a car wash will have a significant detrimental impact on the character of the area due to the deteriorating appearance of on-site structures in a prominent location on the corner of a main road into Brownhills District Centre as evidenced by the following list of on-site structures which are already having a detrimental impact:*

Public House window boarding not uniform, some unpainted, weathered, deteriorating appearance.

*The wooden elevation features of the Public House have visible rot.
Public house elevations being used for fly-posting and have graffiti on them.
The yellow/ red boundary fence paint is peeling.
Portakabin elevations deteriorating and weathered.*

For these reasons the temporary use has demonstrated that continued car wash use at the site is to the detriment to the appearance of the site and character of the area, and is contrary to the National Planning Policy Framework, the Black Country Core Strategy policies HOU2 and ENV2 and Walsall's saved Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document, Designing Walsall.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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*".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- ENV40: Conservation, Protection and Use of Water Resources
- S11: Drive-Through Facilities
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- WM1: Sustainable Waste and Resource Management

Walsall Site Allocation Document 2019

HC1: Land allocated for New Housing Development

T4: The Highway Network

Consultation Replies

Planning Policy – Objection. The site is allocated for residential development under SAD Policy HC1. As part of the examination in public of the SAD, the inspector sought confirmation that the sites to be allocated were (in general) viable. The Council therefore has up to date confirmation from the Planning Inspectorate that the allocated sites are viable. Other residential sites in the immediate Brownhills area have come forward for development and have been built out since 2005, no reasons have been provided to confirm why this site shouldn't attract similar development.

Pollution Control – No objections subject to condition to restrict opening hours of the car wash and advisory note to applicant concerning effluent and run-off.

Transportation – No objections. No condition required to ensure reinstatement of existing redundant vehicle access onto High Street, as it may be requires as part of any future development of the site.

Severn Trent Water – No objections subject to drainage condition.

Environment Agency – No objections - Car wash liquid waste is classed as trade effluent. Before discharging to a sewer you must always get a trade effluent consent or enter into a trade effluent agreement with your water or sewerage company or authority. If you are not able to discharge effluent to the foul sewer it will be classed as waste and you must then comply with your duty of care responsibilities.

West Midlands Police – No objections

Fire Officer – No objections subject to appropriate water supply and access for fire appliances, in accordance with guidelines.

Representations

Councillor Wade supports a further 12 month consent whilst the owner seeks a potential housing project.

Determining Issues

- Principle of the use
- Impact on visual amenity
- Impact on the amenities of the surrounding occupiers
- Impact on highway safety
- Drainage

Assessment of the Proposal

Principle of the Use

A temporary 3 year consent was originally granted in Dec 2008 on the basis that a housing scheme to redevelop the site was being considered and the use would give time for the housing market to recover to progress the long term plans for the site for residential development. At the time the site was not allocated in the UDP and was a vacant site following the closure of a McDonalds restaurant. A further 3 year temporary consent for the car wash use was approved in Dec 2010 as the S106 Agreement on the housing scheme had still not been signed. In Jan 2014 a further 5 year temporary consent was granted, which expired in Jan 2019.

The site is now allocated for housing in the SAD adopted in Jan 2019, Policy HC1 as site reference HO317. Policy HC1 states that proposals for the development of these sites for uses other than housing will need to be justified against other local plan and national policies, and in terms of the requirements for land for housing and these other uses assessed against current evidence.

Walsall has an emerging shortfall of land for housing. Even with the development of housing of the sites allocated in the SAD, and other smaller sites that either already have planning permission or may be expected to come forward for development, the housing land supply is only just sufficient to meet needs to 2026. Planning Policy discourages the use of allocated housing sites for other purposes. On the basis of conflict with this SAD policy, planning consent for permanent use of the site as a hand car wash facility was refused in February 2019. The current proposals for a further one year temporary consent also conflicts with this SAD policy.

Planning Committee supported an earlier application (in 2007) for residential development at the site, but the applicant never completed and signed the required S106 Agreement and the planning application was eventually withdrawn in April 2017, some 10 years later.

Paragraph 014 of Planning Practice Guidance on the use of planning conditions states that *“circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. A temporary planning permission may also be appropriate on vacant land/buildings to enable use for a temporary period prior to any longer term regeneration plans coming forward (a meanwhile use) or more generally to encourage empty property to be brought back into use. This can benefit an area by increasing activity.*

It will rarely be justifiable to grant a second temporary permission – further permissions should normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning of planning permission should be granted permanently.”

There have already been three temporary planning permissions for the car wash use of the site, allowing the car wash to operate for the last 11 years. The adoption of the SAD in January 2019 means that the allocation of the site in the development plan is now confirmed and the planning circumstances at this site have changed.

The applicant has submitted some evidence to justify a further 1 year temporary consent, providing details of their attempts over the years to market the site for residential development. However this evidence is lacking in detail, is sporadic and fails to show continued efforts to market the site. Indeed the applicant has advised that there is a new agent (Knight Frank) who are marketing the site for residential, but there is no evidence of any advertising boards on the site and no evidence has been provided of any online publicity of the site. The evidence provided is considered to be inadequate, it fails to show continued marketing of the site for residential development. It is considered that the continuation of the current temporary use reduces the incentive for the landowner to bring forward a residential development as it continues to provide an income stream from the site and a further temporary consent is not justified.

It is considered that the submission fails to overcome reason for refusal 1 on the previous application (18/1703) for permanent use of the site as a car wash facility. A further 12 month temporary use would continue to conflict with SAD Policy HC1 and the evidence submitted to justify a further temporary use whilst potential residential development is sought, lacks detail and robustness.

Impact on visual amenity

The nature of the use is transient. The jet washers, vacuum cleaners and equipment associated with the use are put away within the building overnight. Operations are contained within the former car park to the public house and located within the middle of the site, with a 2.5m grass verge between the accountants (205 High Street) and 20m landscaped area between the tarmac and the nearest house in Ogleby Road. The existing office is a temporary building of a simple design, the canopy which has previous approval but was not in situ at the time of the officer's visit, would be a light weight open structure allowing views across the site. These structures would be located to the rear of the building and set away from Ogleby Road. A 1.8m high set of railings behind a grass verge would provide a visual screen to Ogleby Road, with taller buildings located within the High Street featuring in the horizon.

The second reason for refusal on the most recent application (18/1703) in Feb 2019 for permanent consent for the car wash, referred to the significant detrimental impact on the character of the area due to the deteriorating appearance of the on-site structures for both the car wash and the former pub building in a prominent location on a main route into Brownhills District Centre. Whilst the car wash area of the site has been tidied up to some extent since the refusal in February this year, with the fencing and portable building painted and old worn signage replaced, the Public House building however remains boarded up and of poor appearance. The wood is looking tired and weathered, the wooden elevations are clearly rotting and have a poor appearance, the building is being used for fly-posting and has graffiti on it. It is recognised that the Council has separate enforcement powers to take action against untidy sites, however the proposed ongoing use of this site as a car wash is considered unacceptable in terms of visual amenity, the temporary use has demonstrated that the car wash use serves no benefit to the appearance of the site and the ongoing use is likely to result in significant impact upon the visual amenity of the area due to the deterioration of this prominent building on a corner plot on an important through route to Brownhills District Centre.

Whilst the appearance of the car wash element of the site has been improved to a certain extent since the previous refusal in Feb 2019, the appearance of the former public house building and the site generally is still considered to be detrimental to the character and appearance of the area. It is considered that the proposals fail to overcome all elements of reason for refusal 2 on the previous application (18/1703) for permanent use of the site as a car wash facility. A further 12 month temporary use would continue to be detrimental to the appearance of the site and the character of the area contrary to policies HOU2 and ENV2 of the BCCs and GP2 and ENV32 of the UDP.

Impact on the amenities of the surrounding occupiers

A key issue to be considered is the proposed layout and operation of the site to ensure there is no adverse impact on the amenities of the surrounding occupiers. The proposed layout continues to use the established access point from Ogleby Road, operating a one way system into and through the site. This would ensure maximum use of the site for waiting vehicles. The northern boundary adjacent to 9 Ogleby Road and 19 & 21 Warren Place remains as the existing situation of fence, trees and expansive soft landscaped area between the car park, vehicular circulation and the neighbours. The washing operations have the potential to generate the most noise, these are located furthest away from the houses (46m) and closest to the High Street which is a very busy Strategic Highway

generating a high level of background noise. The valet operations are located 36m from the front of the houses on the opposite side of Ogle Road, a busy District Distributor.

It is considered because of this relationship between the site and adjacent dwellings, the previous uses of the site as a public house and latterly a McDonald's restaurant, that the continued use as a hand car wash would not have a significant adverse impact on the occupiers of 9 Ogle Road, 19 and 21 Warren Place in terms of noise from vehicle movements within the site and the use of high pressure washers.

Neither Environmental Health nor Pollution Control raises an objection to the application. Adjoining residents have been consulted and have raised no objections. Weight is also given to the site being used for a hand car wash since 2008. Safeguarding conditions are again recommended by consultees to retain the area of landscaping, the location of the washing area and the position of any plant or equipment. On balance, the application is not considered to give rise to a significant level of noise and disturbance which cannot be mitigated for.

Whilst Councillor Wade has stated significant community interest and fear of crime and anti-social behaviour if the site is vacant, no comments have been received from individual surrounding occupiers.

Impact on highway safety

The layout and operation of the site utilises a one way system into and around the site that allows cars to wait/queue within the site to be washed. Highways officer have raised no objections to the continuing use of the site under the current layout.

Drainage

Severn Trent have recommended a condition requiring drainage details to be submitted. Drainage has already been installed within the site and approved as part of the condition discharge on planning permission 10/0982/FL (with Severn Trent providing written support of the drainage scheme at the time). Due to the retrospective nature of the application and the existing infrastructure it is not considered necessary for details to again be provided. A condition is recommended by Severn Trent to retain the existing drainage.

Conclusions and Reasons for Decision

The use as a hand car wash is contrary to Policy HC1 (site ref HO317) and the submission fails to demonstrate detailed or robust marketing of the site for development to justify a further 12 month temporary planning consent. The proposals fail to overcome reason for refusal 1 on the previous application for permanent use of the site as a hand car wash.

Whilst the boundary fencing and portable building relating to the car wash have been painted since the previous refusal, the former public house building remains in poor condition and of poor appearance. This is considered detrimental to the appearance and character of the area, as this is a prominent corner location on a busy Strategic Highway leading to Brownhills District Centre. The proposals fails to fully overcome reason for refusal 2 on the previous application for permanent use of the site as a hand car wash.

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

The Council has been proactively working with the applicant for some time which has resulted in the previous temporary permissions, in addition the site is subject to the recent SAD adoption the consultation process which the owners of the application site would have had the opportunity to comment on.

Recommendation

Refuse

Reasons for Refusal

1. The proposed use conflicts with the Councils Site Allocation Plan which forms part of the Site Allocations Document (SAD) and allocates this site for housing, SAD Policy HC1 (reference HO317). Policy HC1 states that proposals for the development of these sites for uses other than housing should be justified against other local plan and national policies. The application fails to take account of the adopted SAD and there is no justification for the continuing use of the site as a car wash which reduces any incentive for the landowner to bring forward a residential development. For these reasons the proposal is contrary to paragraph 12 of the NPPF and SAD Policy HC1.
2. The proposed continuing use of the site as a car wash will have a significant detrimental impact on the character of the area due to the deteriorating appearance of on-site structures in a prominent location on the corner of a main road into Brownhills District Centre as evidenced by the following list of on-site structures which are already having a detrimental impact:

Public House window boarding not uniform, some unpainted, weathered, deteriorating appearance.

The wooden elevation features of the Public House have visible rot.

Public house elevations being used for fly-posting and have graffiti on them.

For these reasons the temporary use has demonstrated that continued car wash use at the site is to the detriment to the appearance of the site and character of the area, and is contrary to the National Planning Policy Framework, the Black Country Core Strategy policies HOU2 and ENV2 and Walsall's saved Unitary Development Plan, in particular policies GP2 and ENV32, and the Supplementary Planning Document, Designing Walsall.



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 11-Jul-2019

Plans List Item Number: 4.

Reason for bringing to committee: Significant community interest

Location: 2, DANEWAYS CLOSE, STREETLY, SUTTON COLDFIELD, B74 3NL

Proposal: CONSTRUCTION OF ONE FIVE BED DETACHED DWELLING.

Application Number: 19/0484

Applicant: Mr David Flower

Agent: Williams Architectural

Application Type: Full Application: Minor
Use Class C3 (Dwellinghouses)

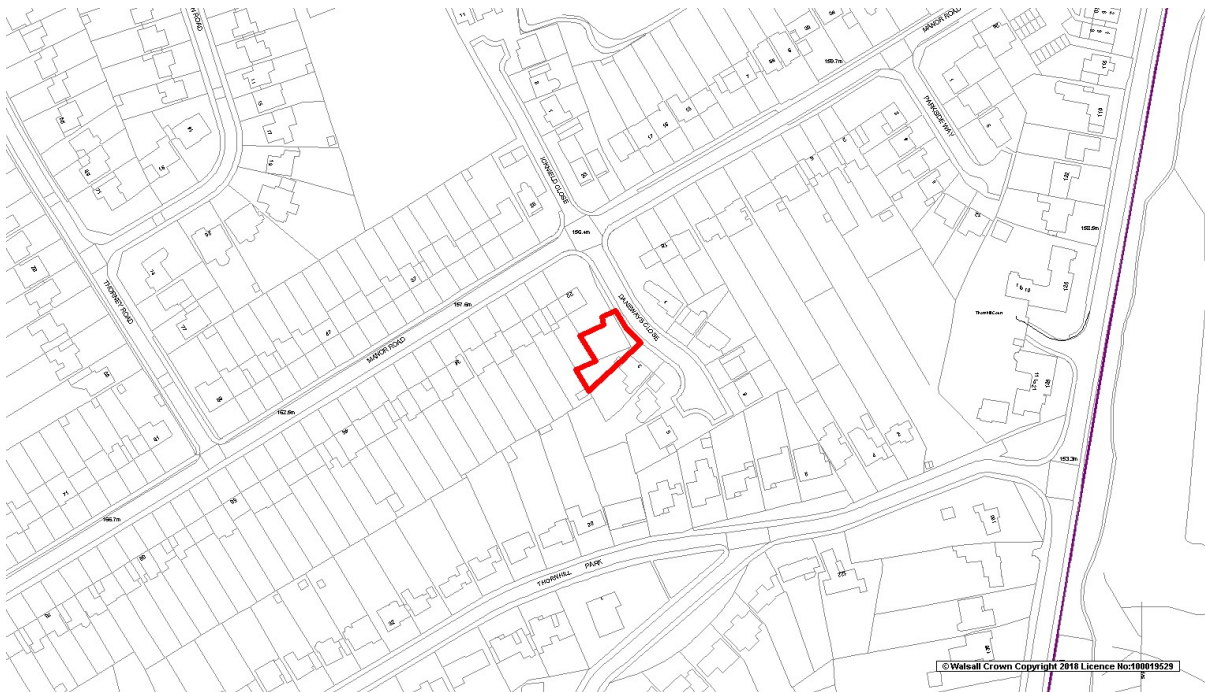
Case Officer: Paul Hinton

Ward: Streetly

Expired Date: 28-May-2019

Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Proposal

This application follows previous planning approvals at the site, with application 15/0832/FL (Four bedroom house) approved by September 2015 committee and application 16/0786 subsequently approved in August 2016. The 2016 approval was for the erection of a four bedroom dwelling (now including an integral garage, ground floor front and rear projecting and increase in the height of the house). The current application proposes the following changes compared to the latest approval:

- Replacement of the integral garage with a study
- Increase in the height of the front canopy
- Two rear facing flat roof casement dormer windows to provide for a store and bedroom within the roof.
- Proposed roof lights to the front facing roof plane.
- Additional ensuite bathroom with first floor side facing obscure glazed window.
- Larger drive to the front

The height, width, depth and appearance of the proposal is the same at the previously approved.

The house would have study, utility room, kitchen/breakfast room, toilet and lounge on the ground floor, on the first floor would be 4 bedrooms, two en-suite bathrooms and a family bathroom, with store a fifth bedroom within the roof.

The following has been submitted in support of the application:

Design and Access Statement

- Design incorporates much of the current vernacular
- Proposal positively integrates into its surroundings in terms of scale, massing and height.
- Will provide much needed housing for the local community.

Site and Surroundings

Daneways Close is a cul-de-sac of modern simply designed detached houses with ground floor front projections with mono-pitched roofs. The density of housing in this cul-de-sac is approximately 26dph, the proposal would be part of this street and would have a density of 20dph.

Number 2 is the nearest house and the proposal would be approximately built in line with this house which has a side gable roof and no main habitable room side elevation windows.

The rear of number 22 Manor Road faces the side of the proposal 16 metres away on ground which is 350mm higher than the application house. The side of the application house would meet the rear garden boundary of number 22.

The rear of number 24 Manor Road would face the side garden boundary to the rear garden of the application house and is 17 metres away from the proposal.

Relevant Planning History

15/0832/FL – Land adj 2 Daneways Close - New build four bedroom dwelling adjacent to 2 Daneways Close. GSC 04/09/16

16/0786 - New build four bedroom dwelling adjacent to 2 Daneways Close. GSC 26/8/16

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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*".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 5 – Delivering a sufficient supply of homes**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Reducing Inequalities

The Equality Act 2010 (the '2010 Act') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age

- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty “PSED” on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life. Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- CSP5: Transport Strategy
- DEL1: Infrastructure Provision
- HOU1: Delivering Sustainable Housing Growth

- HOU2: Housing Density, Type and Accessibility
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing

Supplementary Planning Documents

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW6 Legibility
- DW7 Diversity

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Highways – no objection. Recommended note for applicant in regard to debris, water discharge and road opening permit.

Pollution Control – no objection subject to use of recommended conditions in regard to installation of electric vehicle charging points and low NOx boilers and a Construction Management Plan.

Police Design Out Crime Officer – no objection subject to use of recommended security measures in regard to door and window standards.

Severn Trent Water – no objection and do not require a drainage condition.

Fire Services – no objection.

Representations

Surrounding occupiers notified by letter.

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

- Existing parking issues in the road, greater stress on the parking of vehicles in the narrow entrance.
- Out of character with other properties in the close.
- Proposal has no garage.
- Taller than approval (*the proposal is the same height as that approved under planning decision 16/0786*)
- Extends further back by 2.9m (*the proposal occupies the same footprint as that approved under planning decision 16/0786*)
- No guarantee that current foliage screening would conceal view of dwelling (*planning legislation cannot protect a view*)
- Parked vehicles would be in direct view.
- Loss of privacy
- Loss of outlook
- Proposed side facing windows would be 15m closer to neighbours.
- New access would result in loss of on-street parking.
- Removal of mature trees and hedges.

Determining Issues

- Principle of development
- Impact on the character and appearance of the area
- Impact upon residential amenity
- Ecology
- Access and Parking
- Local Finance Considerations

Assessment of the Proposal

Principle of development

The principle of residential development has been found acceptable through the two previous planning approvals and continues to be acceptable in this instance.

Design and Character of the Area

The absence of the garage from the front elevation is balanced by windows and brick work in proportion with the rest of the house. The neighbour directly across the road has converted the garage. The proposal would be viewed in the context of this emerging character.

The proposed three front facing roof lights would be equally spaced within the roof offering balance. The roof lights are considered to be modest features, examples of which appear to the front of a number of houses along Manor Road. It is considered the roof lights would not cause any material harm.

The proposed two rear dormer windows would be away from the street with limited public vantage points. They are set within the middle of the roof plane and include a flat roof. There are examples of rear facing dormers within the locality. The design would not have an adverse impact upon the visual amenities of the evolving character of the area.

A condition to provide a materials schedule is considered necessary to ensure the development integrates.

Whilst there have been concerns about the loss of mature trees and hedges, none of these are subject to a tree preservation order. Whilst there would be a loss of landscaping, this was considered not to be harmful previously and would not be a justified reason to refuse this planning application.

Neighbouring Amenity

Whilst there have been objections of the loss of privacy and outlook, with the exception of the study (previously the garage) and the rear dormers the proposal is identical to planning approval 16/0786 which found privacy and outlook to be acceptable.

The proposed study window would be to the front of the house, with a 20m window to window separation to the front windows to no. 1 Daneways Close with the pavement and road between, reflecting the window to window separation distance of the previously approved 16/0786 approval. Whilst the Council's Designing Walsall SPD appendix 4 requires a minimum 24 metres for the window to windows, it continues by stating; *'this standard will be applied more robustly at the rear than across roads at the front'*. It is considered, the proposed study window would not give rise to a material loss of privacy or outlook.

The proposed rear facing dormer windows would potentially give rise to some overlooking of neighbours rear gardens. It is considered this is in the same way as the approved first floor windows of the previous planning permissions, having a similar relationship with the other neighbour's upper floor windows which already have a mutual element of overlooking of each other's gardens. It is considered, this relationship would not be harmful to the amenity of neighbours as it reflects the existing character of the area.

Permitted development rights for roof extensions were removed from the previous planning approval on the grounds that a permitted development box dormer could impact upon outlook of the Manor Road houses. The dormer closest to the rear of the Manor road houses would be set 2m away from the side elevation of the proposed house and set back from the rear elevation by 1.5m. It is considered, that the rear dormers would be seen in the context of the wider roof, given the modest scale of the rear dormers and it is considered there would not be a loss of outlook.

The house continues to be at least 50 metres from the Thornhill Park houses, limiting any potential impact on the amenities enjoyed by occupiers of these houses.

As with the previous planning approval due to the unusual plot shape some permitted development extensions to the house could impact on neighbouring amenity for this reason permitted development rights for extensions should be removed by condition.

The proposed side facing non-habitable ensuite windows are considered to not cause harm. A condition that ensures they remain obscure glazed are necessary in the interests of protecting neighbours amenity. The proposed ground floor side facing lounge and breakfast area windows were previously found acceptable.

Neighbours have concerns about parked vehicles on the driveway being in direct view from the Manor Road house rear windows. The previously approved house, allowed for vehicles to be parked on the driveway. The driveway would be screened in part by the boundary fence and the front driveway reflects the existing street scene and character of the area. It is considered this relationship would not result in a loss of residential amenity.

The adopted Black Country Air Quality SPD sets out guidance on minimising air quality impacts. The proposed new house could assist with reducing potential air quality impacts by providing an electric vehicle charging point so that future occupiers are encouraged to use electric vehicles and also the use of a low emission boiler. This would be relevant and necessary and can be secured by condition.

Due to the proximity of nearby residential occupiers Pollution Control have recommended that a Construction Management Plan is provided. A relevant condition is recommended to safeguard neighbours.

The Police raise no objection to the application subject to the use of recommended door and window standards. The NPPF says decision should aim to achieve safe places, BCCS policy ENV3 require development to consider security and referencing Secured by Design principles. These policies would be addressed by use of a condition that requires the above security measures.

On balance it is considered that the development would not have a significant impact upon the amenity of surrounding occupiers and there is sufficient amenity provision for potential occupiers

Access and parking

The Council has received an objection concerned there is insufficient parking and there are existing parking issues in the street. Three off-street parking spaces are proposed to the front of the house which accords with saved UDP policy T13 for a five bedroom house. Highways have no objection to the proposal, as the house provides sufficient off road parking, visibility splays plus the amount of vehicle movements would not give rise to capacity issues on the highway network.

Conditions for the retention of the parking spaces and provision of a dropped crossing are necessary and are recommended.

An objection was received about the new access resulting in loss of on-street parking. Whilst the proposed access would reduce the potential to park one or two vehicles in this residential street, where the existing houses benefit from off-street parking. The site is away from local businesses and shops, therefore the loss of this space would not lead to severe cumulative impacts to the highway network.

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 one new home.

The Government has indicated that, for 2018-19, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2018-19 the total payments, taking account of completions over the last 4 years, are expected to amount to £3,637,301.

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

Conclusions and Reasons for Decision

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, it is considered that the principle of development is consistent with the provisions of the development plan. The design of the house would cause no further harm to the character or appearance of the area. The proposal would not result in a material loss of amenity to neighbouring occupiers. The proposal would also provide sufficient amenity for potential occupiers. Sufficient off-street parking is provided to meet the needs of the development.

Safeguarding conditions in regard to Construction Management Plan, materials, electric charging points, low NOx boilers, no further openings, removal of permitted development rights for extensions, security and parking provision are necessary and meet the six tests. Taking into account the above factors it is considered that the application should be recommended for approval. The development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP4, HOU2, TRAN2,

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ENV2, and ENV3 of the Black Country Core Strategy, policy HC2 of the Walsall Site Allocation Document and saved policies GP2, 3.6, ENV10, ENV32 and T13 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

Positive and Proactive Working with the Applicant

Officers have liaised with the applicant's agent securing amended plans that addressed the highway officer's earlier concerns.

Recommendation

Grant permission subject to conditions

Conditions and Reasons

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

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- Topographical survey (WAD0666/01 Rev B) received 1/5/19
- Proposed site plan (WAD0666/02 Rev E) received 23/5/19
- Proposed Site plan & Street Scene (WAD0666/03 Rev D) received 2/4/19

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

3a. Prior to the commencement of any part of the development hereby approved including site clearance or site preparation, a Construction Management Plan, setting out how the works will be undertaken and giving details of arrangements for the control of noise, vibration, dust and debris (including site drag-out), and construction working hours, shall be submitted for written approval of the Local Planning Authority.

3b. The Construction Management Plan shall be implemented upon the commencement of any works and shall be maintained until the site is completed.

Reason: In the interests of residential amenity.

4a. Prior to the commencement of development hereby approved above damp proof course a schedule of facing materials to be used in the external walls, roofs, windows, doors and rainwater goods shall have first been submitted for written approval of the Local Planning Authority.

4b. The approved scheme shall be implemented in accordance with the approved details.

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

5a. Prior to the commencement of development hereby approved above damp proof course, details for an electric vehicle charging point, to be provided for the dwelling shall have first been submitted to and approved in writing by the Local Planning Authority.

5b. Prior to first occupation of the development the electric vehicle charging point shall be installed in accordance with the approved details and shall be retained and maintained for the life of the development.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.

6. The development hereby approved shall have been constructed to meet the following minimum security measures and thereafter retained as such;

-All ground floor windows and any accessible windows should be fitted with BS EN 356 grade P1A glass this includes French doors and patio doors

-PAS 24:2016 doors should be on all entrance and exit doors.

-A minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond standard certification should be used on all door locks

-Where thumb turn locks are to be installed these should be those that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks.

-No Lead or metal should be used on the ground floor, this includes outside taps to the front of properties as the West Midlands is suffering high levels of metal theft where possible lead substitute products should be used.

- Suitable intruder alarm, with a siren box front and back, and should have dual or quad technology sensors and auto dialler function.

- All gates should have access control measures, be self-closing with hinges mounted to the rear of the public side and located to the front building line.

Reason: To ensure the safety and security of the development and its occupiers in accordance with BCCS policy ENV3.

7a. Prior to the first occupation of the dwelling hereby approved the driveway and parking areas to accommodate three vehicular parking spaces shown on the approved plan shall be consolidated, hard surfaced and drained to ensure surface water from the driveway and parking area does not discharge onto the public highway.

7b. The three vehicular parking spaces shall thereafter be retained for the life of the development and used for no other purpose.

Reason: To ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2, T7 and T13.

8. Prior to the first occupation of the new dwelling, a new vehicle footway crossing to align with the new driveway access point shall have been installed with the new vehicular footway crossing not exceeding five 900mm flat kerbs and two 900mm taper kerbs. The vehicular footway crossing shall thereafter be retained for the life of the development.

Reason: To ensure the satisfactory completion and operation of the access, in accordance with UDP Policy GP2, the Council's footway crossing procedure and in the interests of highway safety.

9. Notwithstanding the details as submitted, the proposed first floor side facing windows as shown on the approve plans shall be top opening only and shall have obscure glazing to Pilkington level 4 privacy glass standard or equivalent and shall be retained.

Reason: To safeguard the amenity of adjoining occupiers.

10. Notwithstanding the details as submitted, no boilers shall have been installed and used in the development hereby approved, save for boilers which have maximum NOx emissions no greater than 56 mg/kWh for gas and liquefied petroleum gas (LPG) boilers and a maximum of 120 mg/kWh for oil-fired boilers.

Reason: To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1.

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

Reason: To retain sufficient amenity space and in the interests of the amenity of occupiers of adjacent dwellings.

Notes to Applicant:

1. The Applicant must ensure that no soil or other debris is washed or placed within the highway. Failure to prevent this incident could result in an offence and a notice being served on the Applicant under Section 151 of the Highways Act 1980.

2. The Applicant must ensure that no water is discharged onto the highway. Failure to prevent this discharge could result in an offence and a notice being served on the Applicant under Section 163 of the Highways Act 1980.

3. The Applicant will be expected to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the dropped kerb footway crossing within the public highway. For further information please contact the Traffic Management Team on 01922 654675.



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 11-Jul-2019

Plans List Item Number: 5.

Reason for bringing to committee: Significant Community Interest

Location: 12, SKIP LANE, WALSALL, WS5 3LL

Proposal: REPLACEMENT DWELLING.

Application Number: 18/1288

Applicant: Mr Surinder Grewal

Agent: Mr G Johal

Application Type: Full Application: Minor
Use Class C3 (Dwellinghouses)

Case Officer: Karon Hulse

Ward: Paddock

Expired Date: 21-Nov-2018

Time Extension Expiry: 18-Jun-2019

Recommendation Summary: Grant Permission Subject to Conditions



Status

The Chair of the 17/6/19 Planning Committee agreed to a request from Valerie Vaz MP to defer this planning application for one cycle to allow time for one of the adjacent neighbours to make representations to planning committee. At the time of publishing this report, no comments had been received from that neighbour. Should the Council receive any comments after the committee agenda has been published, they will be summarised and presented in the supplementary paper. Comments received from another resident after the publishing of the last committee agenda have now been incorporated within the report.

Proposal

This application seeks to demolish the existing three bedroom, two storey house at no 12 Skip Lane, replacing with a four bedroom, two and half storey house. The amended application and now propose the following details:

The proposed house

The proposed house will provide; at ground floor a large front porch, gallery, lounge, great room, children's play room / dining room, snug and kitchen. On the first floor there will be four bedrooms (one master en-suite, two double bedrooms each with an en-suite and a double bedroom), family bathroom with a Pyjama lounge within the two storey front gable feature)

There are no windows or openings proposed for the roof space.

The proposed replacement house measurements are:

- 4.3 mts to the eaves along the boundary with no 10 Skip Lane
- 4.9 mts to the eaves along the boundary with no 14 Skip Lane
- 8.0 mts to the ridge which is hipped along each side
- 8.4 mts to the top of the chimney
- 16.3 mts wide
- 18.25 mts deep (including the front two storey gable feature with porch below and a rear two storey gable feature)
- gap of 3.5 metres to the eastern boundary (with no 14 Skip Lane) which also has a gap of 7.5 metres, in total 11mts between the side elevations (at ground and first floor) of the existing application house and no 14 Skip Lane.
- gap of between 1.4 mts and 1.9 mts to no. 10

It is proposed to use the following schedule of materials in the construction of the new house:

- Taylor Maxwell Gormeley Grey facing brickwork,
- Marley Hawkins plain grey clay roof tiles,
- Granny bonnet hip ridge tile
- Aluminium black casement window with stanchion & saddle bars
- Oak framed gable end
- Oak framed mullion and transom
- Plain clay vertical tiles
- Soldier course with one dental course
- Stepped semi-circular arched brick detail surround to oak framed door.

- Herringbone feature brick details

Supporting Documents

Preliminary bat roost assessment

It concludes that there are some features identified that could potentially be used by bats, including:

- warped wooden cladding on porch;
- dislodged/missing roof tiles;
- gaps under ridge tiles;
- lifted lead flashing around base of chimney; and,
- poorly fitted lead flashing on dormer windows.

The proposed works have the potential to disturb or destroy a bat roost if bats are found to be roosting within the building. Further survey, in the form of a nocturnal emergence or dawn re-entry bat survey, is required to establish the presence/absence of roosting bats within the building.

There is also the potential for any new lighting, either temporary or permanent, at the site to impact foraging and commuting bats. Therefore, a recommendation regarding sensitive lighting is made.

It is understood that the majority of existing trees are to be retained, and therefore the impact on foraging and commuting habitat is likely to be temporary. To increase the value of the site for bats it is recommended that suitable plant species be incorporated into the soft landscaping to attract night flying insects.

Heritage Statement

Concludes that the proposals will replace an existing building with another building whose bulk is of the same order of magnitude. The proposed building being of brick construction will be less dominant than the existing white colour rendered house. The importance and significance of Walsall Lodge will remain the same. The same is also true of both the historic park and the Merrions Wood local nature reserve, Great Barr Conservation Area Conservation Area.

Visibility analysis has been used to establish the extent to which the current and proposed buildings can or cannot be seen due to the topography and the presence of buildings and protected trees. It can be seen the current and proposed buildings are not visible from the vast majority, 99%, of the Conservation Area including the top of Barr Beacon. Within an area of under 4Ha in some locations glimpses of the proposed building's upper storey and roof will be seen through gaps in the tree and leaf cover. The same is true for the historic park with the current and proposed buildings not being visible over 94% of the area. When the true boundary of the park is considered the impact is even less. It is thus suggested that there will be no harm to the way the historic assets are experienced. Indeed it can be argued that the proposals are a conservation positive as the proposed building will not be painted white. The purpose of consulting Historic England and the Gardens Trust is stated on the following Historic England website (<https://historicengland.org.uk/listing/what-isdesignation/registered-parks-and-gardens/pag-faqs/>)

To make sure that local planning authorities have the appropriate professional advice when considering such applications, they are required to consult us where the application affects a Grade I or II* registered site, and the Gardens Trust on all applications affecting registered sites, regardless of the grade of the site. In the case of Walsall Metropolitan Council they have that expertise in the form of external consultants - Jacobs. It has been stated by the case officer WMC "The Council's Conservation Officer has not objected to the application and has stated that the proposal will have negligible setting impact on the two heritage assets and the proposed style of the new building will not jar with the existing character of the building stock in the area." While the comments of consultees should be considered in relation to their expertise they should follow accepted methodologies. It is noted that external consultees do not have the power of veto over democratically elected Councils.

Site and Surroundings

The existing site/house

The application house (No.12 Skip Lane) is a medium size "Arts and Craft" house of white render finish and roof tiles that have aged to a brown colour.

It is set back from Skip Lane highway edge by 13 metres.

The application plot measures 21.6mts wide by 48 mts long (23.5mt rear garden). There is in excess of 30 mts to the rear elevations of houses along Beacon Road.

This existing main dwelling comprises of three bedrooms and a bathroom at first floor, with ground floor Lounge/dining room, Kitchen, large hall, utility and an integrated double garage. It has a single access/egress point on to Skip Lane. It is of a traditional design incorporating dormer windows in the roof with a cat slide roof in part at the front to create the first floor.

The existing house measurements are:

- 7.0 metres high to the roof ridge
- 4.5 metres high to the eaves
- 2.2mts to the eaves of the cat slide roof above part of the ground floor
- 16 metres wide (including the garage)
- between 6.5mts and 9.3 metres deep
- set 1.5mts in from the boundary with no 10 (to the west)
- set 4.2mts in from the boundary with no 14 (to the east)

The frontage of properties is open with no defining boundary treatment. There is a 2mt high brick wall and gate across the boundary to no 14 which indicates the extent of the ownership of the applicant to that side. There is a levels difference of approximately 2 metres between the application site and no 12 skip lane (east) and one metre between the application site and no 10 (west).

14, Skip Lane – is a two storey detached 'Arts and Crafts' style design dwelling incorporating dormer windows in the roof, set back from the main highway (Skip Lane) by 13 metres, the plot measures 24mts wide by 40 mts long. From the existing application house there is a gap of 4.2 metres to the shared boundary between the application house and 14 Skip Lane. In addition, there is an existing gap of 7.5 metres from the shared

boundary to the house at 14 Skip Lane, which creates a total of 11.7 mts between the side elevations (at ground and first floor) of the existing application house and no 14 skip lane.

10, Skip Lane –is a bungalow situated at a lower ground level 1metre at the boundary. The front of number 10 is positioned in a similar position to the front elevation of the existing house at the application site. There is a gap of 1.5mts from the side elevation of the existing application house to the shared boundary with number 10. Plus there is a 1.8 metre high close boarded fence defining the shared boundary with number 10 also benefitting from a single storey side extension up to the shared boundary with the application site.

The area/streetscene

The application site is at the edge of a large suburban estate and faces open fields and parkland opposite, known as Merrions Wood local nature reserve (LNR), part of the Great Barr Conservation Area, Great Barr Hall Park, a grade II Registered Park and Garden and further to the south east is the Great Barr golf club.

The immediate area benefits from a mixed character of individually designed detached houses and bungalows many with individual features, with gaps between the houses to create a spacious character.

Skip Lane and nearby streets are generally characterised by large, two-storey detached dwellings, many of which occupy significant proportions of their plot widths, with gaps between their two-storey building frontages.

Most of the houses along Skip Lane are set along a similar building line with mature front gardens and being set in large plots in width and depth. The houses on this part of Skip Lane are also generally laid out with open space or planting to the side of the buildings, or with lower, single storey projections between the two storey parts of the buildings and their side boundaries. This layout maintains the impression of gaps between the individual buildings as they step gradually uphill along this section of Skip Lane. It also allows views between the houses and into their large, landscaped rear gardens. Combined with the soft landscaping and, in some cases, the absence of hard enclosure to front gardens, creating a spacious character to this part of Skip Lane, distinctive from the more regularly-aligned and closely-spaced two-storey building frontages which characterise much of the wider area.

Skip Lane rises from Birmingham Road towards its junction with Woodlands Avenue. The junction with Birmingham Road sits at 138.7mts above sea level whereas at its junction with Woodlands Avenue it is at 155.5 mts above sea level. The rise of Skip Lane over approximately 275 metres is 17 metres.

Relevant Planning History

The application site:

18/0513 – Replacement house. Withdrawn 26/6/18

Planning history at 14 Skip Lane:

17/1638 – Replacement dwelling. Refused 26/1/18 for the following reasons:

1. Proposed house would infill almost the entire width of the house plot, not in keeping with neighbouring properties which are characterised by gaps at first floor level...have a harmful visual appearance on Skip Lane and fails to integrate into the character of the area
2. By virtue of its excessive size, length, height, massing and proximity to neighbouring properties at no. 12 and no.16 Skip Lane, would have an overbearing and dominant impact on their outlook and result in loss of light to those properties. Furthermore, would appear cramped, at odds with the immediate spacious character of Skip Lane... the proposed modern and incongruous design does not reflect any other traditional styled and proportioned houses in Skip Lane.... prominent elevated position above no.10 and 12 Skip Lane, would have a significant impact on the street scene.
3. Unduly prominent development resulting in significant harm to the character of the area, including the local nature reserve and green belt opposite

An appeal was lodged and subsequently dismissed on the 16/1/19 by the planning inspector for the following reasons:

“....The proposed dwelling would be significantly wider than the existing house at No 14 and the immediate neighbours to either side, and would fill almost the full width of the plot. It would extend significantly further back into the site than the existing building...overall ridge height would be taller...width the house would be a full two-storeys high and third floor of accommodation evident in the top of the front gable.... As a result of its width, depth and height, the proposed house would have a significant scale, mass and bulk, which would not reflect the more modest scale and proportions of the existing building and its neighbours. It would therefore appear as a highly discordant and unduly dominant feature in its context, and would significantly erode the sense of openness and space which characterises this small part of the Skip Lane street scene. Furthermore, the proposed house would appear as an unduly prominent feature in the wider street scene due to the site’s elevated position on this part of the Skip Lane road frontage.

The site is adjacent to Great Barr Conservation Area (the CA) and Great Barr Hall Park, a grade II Registered Park and Garden (the RPG). The open land opposite the site is also within the Green Belt. Merrions Wood Local Nature Reserve (LNR) is within part of the Park close to the site, although its boundary is further from Skip Lane....houses on Skip Lane are visible from nearby public footpaths within the RPG and the LNR. However, the stretch of Skip Lane forms a very small part of the extensive boundary of the RPG and CA, and the proposed development would only be seen from a limited range of vantage points within those wider landscapes.... the site is separated from nearby public vantage points to some degree and are screened to some degree by trees and hedges

the larger building proposed would harm its immediate surroundings and the Skip Lane street scene. However, it would not encroach into the adjacent open land, or beyond the existing residential frontage of which it forms a part. Therefore, and as views of the building from the wider RPG and CA would be very limited, the proposed development would not detract from the way in which the RPG parkland

landscape or the CA were experienced as a whole...in conclusion the proposed development would not cause harm to the character or appearance of the adjacent CA, or the setting of the RPG. Nor, for the same reasons, would it harm the character and appearance of the LNR. The site is not within the Green Belt and, for the reasons given, the development would not harm the character of that adjacent open land. Consequently, I also conclude that the proposal would not result in harm to the openness of the Green Belt.

The decision also concluded that the proposed development would not harm the character or appearance of the CA or the RPG which form the setting for those listed buildings identified and given the degree of separation between the site and those buildings, and as views of the site from those buildings would be limited, I conclude that the proposed development would not result in harm to those nearby listed buildings, their settings, or any features of special architectural or historic interest which they possess.

The proposed house would be significantly closer to the boundary with No 12 ...as a result of its height in relation to this neighbouring property, its depth, and its proximity to the boundary, it would appear as an unduly dominant and overbearing feature when viewed from the rear garden of that neighbouring property, even if the existing boundary vegetation was retained...would also result in an unacceptable reduction in the amount of sunlight and daylight reaching that neighbouring garden at certain times...In conclusion the proposed development would cause significant harm to the living conditions of existing and future occupants, and to their enjoyment of their private garden area.

The proposed house would be slightly further from the boundary with No 16 than the existing. However, the part closest to No 16 would be two storeys high, with further accommodation in its roof space. Its roof would slope away from the boundary with No 16....Given its height, its proximity to the boundary, and the depth of its projection alongside the front garden of No 16, the proposed dwelling would appear as an unduly dominant feature when viewed from the front windows and front garden of that neighbouring house.... result in a reduction in light to the front windows and front garden area of No 16 at certain times of the day. The proposed development would therefore detract significantly from the enjoyment of those spaces by neighbouring occupants.

In conclusion the proposed development would have a significant adverse effect on the living conditions of the occupants of 12 Skip Lane and 16 Skip Lane with regard to outlook and light.”

16/1911 – Construction of a new dwelling. Withdrawn 19/6/17

Relevant Policies

National Planning Policy Framework (NPPF) www.gov.uk

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

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environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions**, the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Reducing Inequalities

The Equality Act 2010 (the ‘2010 Act’) sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty “PSED” on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Walsall Site Allocation Document (SAD) was adopted in January 2019. The policies detailed below have not been replaced by the SAD and full weight can be given to these policies.

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV8: Great Barr Hall and Estate and St. Margaret's Hospital
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- ENV23: Nature Conservation and New Development
- ENV29: Conservation Areas
- ENV30: Registered Parks and Gardens
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- T13: Parking Provision for Cars, Cycles and Taxis

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall SAD, Walsall's saved UDP policies and Designing Walsall SPD are consistent with the NPPF.

Policies are available to view online: http://cms.walsall.gov.uk/planning_policy

Consultation Replies

Transportation – no objections

Pollution Control – no objections

Seven Trent Water – no objections

Police Architectural Liaison Officer – recommends Secure by Design initiatives

Gardens Trust – objects for the following reasons:

- We still have difficulty relating the heights of Nos 10, 12 & 14 Skip Lane as shown in the amended 'Existing and Proposed Street Scene' dated 14.3.19
- height of the bottom of the roof at No 12 in relation to No 14 comes up a short way from the bottom window of No 14. In the amended drawing this comes almost to the top of the same window. Equally, the roof height of No 12 is pretty much level with the bottom of the dormer window in No 14. In the amended drawing it comes halfway up the pointed roof of the dormer.
- clear discrepancy and the amended drawing still exaggerate the height of No 12 compared to No 14.
- scale of amended drawing is also incorrect... new building would be approx. 4m tall and somewhere over 8m wide. That cannot be correct as the amended 'Front and Side Elevations of No 12' clearly shows the height of the new No 12 as being 8m. Using the scale from this drawing the width of the new building will be pretty nearly 16.3m (53') wide, which is extremely large and does not seem to tally with the size of the existing building as seen on Google Street View.
- the footprint of the proposed new house is much larger than the present building in relation to No 10, and especially to the rear of the property, towers over the bungalow at No 10 Skip Lane in height and floor area.
- Appeal decision - concluded that 'the proposed development would not cause harm to ... the setting of the RPG' or the setting of the listed buildings and that a proposed new larger house in this part of Skip Lane, cannot be refused solely on heritage grounds – the Gardens Trust disagree with this.
- appeal refusal reasons should be applied to current application: 'significant adverse effect on the character and appearance of the appeal site and its surroundings', 'the proposed house would result in an unacceptable reduction in the amount of sunlight and daylight reaching neighbouring garden' and '...cause significant harm to living conditions of existing and future occupants, and to their enjoyment of their private garden area.'
- Despite the appeal decision quoted above, the GT maintains its objections to application on heritage grounds

Tree Officer - a TPO was made on the semi mature Oak tree at the front of the site in November 2017 (TPO title no. 13/2017). If the entrance to the proposed new dwelling is to remain the same the Oak tree can and should be retained. Adequate protection of the tree in accordance with BS 5837: 20102 can be secured by conditions.

Conservation Officer – although the proposed dwelling house is a substantial structure, in terms of heritage impacts on the Great Barr Registered Park and Garden and the Great Barr Conservation Area, replacing one dwelling house with another in this location will have a negligible setting impact on these two landscape scale heritage assets.

The existing building is sited on a large private plot which in my view can accommodate a larger building. The proposed new building is not going to be taller than the existing building and the proposed style of the new building with hipped roofs and timber framed elements will not jar with the existing character of the building stock in the area.

Strategic Planning Policy, Waste Management (Clean and Green) or Park Hall Residents Association - No comments received. (NPPG confirms; *'consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in absence of their advice'*, which is the case in this instance.

Representations

Following the publishing of the 17/6/19 planning committee agenda the following comments were received from the MP and an objector. Officer comments are in italics and brackets;

Valerie Vaz MP (13/6/19) reporting being contacted by constituents regarding the timing of the application to planning committee, residents not having time to consider the report, in particular the residents directly adjacent to the application site due to age and health who are not in a position to make effective representations.

(The Chair of 17/6/19 planning committee deferred the application for one committee cycle to allow time for the directly adjacent neighbour to make comments)

They are concerned there are inaccuracies which may influence committee, leading to an overbearing 3 storey house being built next door to their bungalow, exacerbated by the sloping topography, makes the ground level of 12 Skip Lane 1.5metres higher than 10 skip lane.

(This is noted and discussed in the body of the report below)

These concerns are shared by other residents of Skip lane and beacon Road, The Friends of Merrions Wood, Merrions Wood Trustees and Historic England's Consultees- The Garden Trust

(Concerned raised by other residents of Skip lane and beacon Road, The Friends of Merrions Wood, Merrions Wood Trustees and Historic England's Consultees- The Garden Trust have been considered and weighed in the overall planning balance in the body of the report)

Objection received following the publishing of the 17/6/19 committee agenda stating; The Officer's recommendation to approve this application is contrary to the consultation response given by Historic England in their expert and considered detailed response. *(Council's are required to weigh all of the material planning considerations of an application against national and local planning policies and guidance, including any relevant appeal decisions, which may lead to a conclusion that does not always accord with a consultee, as is the case here)*

The application site is immediately opposite a Registered Park and Garden, the park is designated Grade II Listed, of equal heritage asset status to Walsall Arboretum, and cited for its Seventeenth Century 'contemporary' Landscape and for providing the setting for Great Barr Hall.

(Whilst these comments are noted, the planning inspector in determining the appeal at 14 Skip Lane stated;

'The site is adjacent to Great Barr Conservation Area (the CA) and Great Barr Hall Park, a grade II Registered Park and Garden (the RPG). The open land opposite the site is also within the Green Belt. Merrions Wood Local Nature Reserve (LNR) is within part of the Park close to the site, although its boundary is further from Skip Lane....houses on Skip Lane are visible from nearby public footpaths within the RPG and the LNR. However, the stretch of Skip Lane forms a very small part of the extensive boundary of the RPG and CA, and the proposed development would only be seen from a limited range of vantage points within those wider landscapes.... the site is separated from nearby public vantage points to some degree and are screened to some degree by trees and hedges... views of the building from the wider RPG and CA would be very limited, the proposed development would not detract from the way in which the RPG parkland landscape or the CA were experienced as a whole...in conclusion the proposed development would not cause harm to the character or appearance of the adjacent CA, or the setting of the RPG. Nor, for the same reasons, would it harm the character and appearance of the LNR').

This undervalued heritage asset was designed by Humphry Repton, the last great English landscape designer of the eighteenth century, the successor to Capability Brown and Walsall should protect and publicise this heritage jewel – not harm or be ignorant of it.

(Noted, the local planning authority is aware of the heritage asset. The current planning application does not encroach on this heritage asset and as noted above, the planning inspectorate's recent decision at 14 Skip Lane [a material consideration], concluded there was no impact. The matter of publicising the heritage asset is outside the scope of the planning application process)

The Site is also opposite Merrions Lodge also Grade II Listed, attributed to George Gilbert Scott, now buried in Westminster Abbey and who also designed The Foreign and Commonwealth Office, The Albert Memorial and St Pancras Station in London. Again Walsall Council should preserve and benefit from such unique heritage assets, not harm them.

(Noted, the local planning authority is aware of the heritage asset. The current planning application does not encroach on this heritage asset and as noted above, the planning inspectorate's recent decision at 14 Skip Lane [a material consideration], concluded there was no impact)

In view of the above Walsall Council should have undertaken steps to preserve these heritage assets, but for years they have never conducted a Conservation Area Appraisal and therefore are in breach of the Planning (Listed Buildings and Conservation Areas) Act 1990. The significance of these heritage assets is also mysteriously absent in the supplementary planning documentation Designing Walsall. It's scandalous and steps should be taken immediately to rectify this! "without these statutorily required heritage appraisals how can an accurate and appropriate judgement be made that this application does not harm the heritage assets? It can't! and therefore shouldn't!"

(Whilst the comments are noted, the Local Planning Authority does not create planning policies, guidance or carry out conservation appraisals, it is responsible for determining planning applications based on the national and local planning policies and guidance available at the time of the determination of the planning application. This objection has been forwarded to the Council's regeneration service who manage and create the Council's policies, guidance and undertake conservation appraisals).

The Gardens Trust who are Historic England's statutory consultees have considered the application in detail and have confirmed their strong objection to the proposal. They state:-

1. "The footprint of the proposed new house is much larger than the present building in relation to no.10, and especially to the rear of the property, towers over the bungalow at 10 Skip Lane in height and floor area."

2. "Should this application be permitted, there is a danger of a precedent being set and all the houses becoming increasingly inflated in scale which would very much alter the character of the boundary".

3. The Gardens Trust Conservation Officer agrees with a most recent Planning Inspectors Report at no.14 Skip Lane (January 2019) which dismissed the Applicant's appeal and suggests the same mistakes have been repeated by the architect; "significant adverse effect on the living conditions of the occupants (here for the single storey No 10 Skip Lane)...with regard to outlook and light'. The Inspectors comments regarding the 'undesirability of the proposed house (having) a significantly greater presence than the existing building (para 29) and 'the proposed dwelling (appearing) as an unduly dominant feature when viewed from the front windows and garden of...neighbouring house' (para 30) are also relevant here."

4. "The Gardens Trust maintains its objection on heritage grounds as set out in our letter 21.11.18. We also believe there are other grounds for refusal."

(The proposed replacement house is larger than the one it replaces. Notwithstanding the Gardens Trust comments and the fact that the Gardens Trust have not issued a direction preventing the Council from determining the planning application, the local planning authority has assessed the current scheme against the material considerations [including the planning inspectors decision for 14 Skip Lane], resulting with a recommendation to planning committee as set out in the body of the report)

The Gardens Trust (GT) Conservation Officer wrote to the Case Officer on 4th January 2019 highlighting that the GT expected an arboricultural report detailing how the root protection zone for a mature oak tree (protected by TPO) in line with BS 5837: 2012. This has not been done!! The root protection area for this tree will fall in the excavation area for the footings especially as the proposal sites the building 2 metres further forward than the existing porch closer to the road and altering the building line.

(Notwithstanding the Gardens Trust comments, the Council's arboriculturist has inspected both the tree and the proposed plans and concluded that the tree can be protected via imposing condition 3 to implement tree protection measures. Consequently, there is no need for the applicant to provide a tree report).

The Gardens Trust Conservation Officer wrote to the Case officer 4.1.19 outlining concerns regarding comments by Elli Winterburn, the Council's Historic Buildings Specialist, because she had mistakenly believed the, 'proposed building is not going to be any taller than the existing building...I have no objections to these proposals on heritage grounds'. The proposed building remains 1 metre taller than the existing property!!

(Whilst these comments are noted, this part of Skip Lane is not part of a conservation area and none of the houses are listed. The planning inspectorate's comments confirmed there were no impacts to the adjacent heritage asset from the proposal at 14 Skip Lane notwithstanding the fact that the proposal at 14 was for a larger house than currently being considered)

The case officer's report highlights the use of a mansard roof in the proposed design (this is basically a flat roof), "which planning committee have accepted on other properties in the area." What the Case Officer fails to mention in her report is that the Planning Committee accepted this type of roof in a previous application against Case Officer Helen Smith's recommendations and against the concerns raised by a Planning Inspector on previous applications. This is because this style of roof is considered a poor design as it often results in a new dwelling that is considerably wider and deeper than the existing house and the adjacent houses. To put it into context the flat roof area on the proposed property would be equivalent to the size of half a tennis court.

(Each application has to be considered on its own planning merits assessed and weighed against all of the material planning considerations as set out in the body of the report)

The Case Officer's report states that there is 15m separation between the rear habitable room windows (bedrooms) of the bungalow and the proposed new house. The architect has attempted to mitigate this by installing obscured glazing but this is in contravention of Supplementary Planning Document, Designing Walsall Section 7, which clearly states a minimum of 24 metres separation between habitable room windows and that this will be more robustly applied at the rear of a property. Clearly Not in this case! The use of obscure glass should not mitigate for, and in fact highlights, poor design and leaves the elderly occupants of the bungalow fearful that the glass can be changed in the future and destroy the peaceful enjoyment of their home and garden.

(This is noted and discussed in the body of the report below)

The Gardens Trust's Historic Landscape Consultant, has prepared a composite plan view taken from the architects drawings to enable the Planning Committee to easily visualise the extent of the alteration in the building line and the incongruous overdeveloped footprint of the proposed dwelling. The existing building (pale red wash) superimposed onto the proposed building. *(Each application has to be considered on its own planning merits assessed and weighed against all of the material planning considerations as set out in the body of the report)*

The failure by the Case Officer to fully consider and accept the consultation response of Historic England, given through the Gardens Trust's experts, is unacceptable and Members should question how an application of this poor quality could be considered acceptable in harming this part of Walsall's heritage. We therefore request that Members seek to require the Council to respect, preserve and publicise its connections to world famous landscape designers and architects and in doing so that they vote to refuse this application.

(Notwithstanding the objectors comment and the Gardens Trust comments including the fact, the Gardens Trust have not issued a direction preventing the Council from determining the planning application. Having weighed the overall planning balance, taking into account the material considerations [including the planning inspectors decision for 14 Skip Lane], has resulted in a recommendation to planning committee as set out in the body of the report)

Five letters of objection following re-consultation based on the following grounds:

- new building be visually overbearing and too large for the plot,
- over-massing of site due to excessive length, depth, height and proximity to the neighbouring properties.
- dominant impact on the neighbouring properties in Skip Lane and Beacon Road.
- Massive flat roof area (11m x 9.5m), significant increase of 1.0 metre in height.
- Plans are inaccurate: proposed building – written height of 8000mm, plans are not to scale, as proposed dwelling 7.7 metres. There's a window missing west elevation but shown on plan, all very misleading.
- 4.0 metres in front of the existing building line causing overshadowing and loss of light to no. 10 Skip Lane.
- loss of character to the street scene
- impact on root system of oak tree in front garden protected by a TPO (13/2017),
- impact on the provision for six car parking spaces
- trees root system need to be excavated for a driveway and footings for the large structure of the building
- Root Protection Area required by tree is a minimum of 15 metres... any change to building line would involve excavation for footings in root protection area
- The crown/mansard roof design is out of character with existing properties
- building appears bulky and too large
- flat roof would be size of half a tennis court
- design is incongruous and impacts on street scene and Registered Park and Garden and Merrions Lodge... would have a significant harm to the character of the area, namely the Registered Park and Garden, Green Belt and the nearby Merrions Lodge.
- The site can clearly be seen from both Merrions Lodge and the RPG
- infill almost entire width of house plot... not in keeping with neighbouring properties which are characterised by spacing at first floor level
- harmful visual impact on the appearance of Skip Lane
- fail to integrate into the special character of the area
- increase height have overbearing effect on bungalow (no.10)
- jarring effect of roof lines
- woodland and parkland opposite are important habitats to rare species of bat, birds and other wildlife.
- Planning Appeal Decision APP/V4630/W/18/3207169 at 14 Skip Lane: reasons given by Inspector in dismissing the appeal apply to this application.
- no planting of any new trees and shrubs, existing ones removed contrary to policy ENV17 of the Walsall's saved Unitary Development Plan - *planting scheme could be conditioned*
- discrepancy in council's conservation consultant who wrote "proposed building is not going to be any taller than the existing building, hipped roofs and timber framed will not jar with existing character of the area" –the proposed height is not the same as existing and therefore at odds with the conservation recommendations...roof different to hipped being a large flat or crown which is very untypical of this area

Determining Issues

- Principle
- Green belt/conservation area/ heritage asset
- Design, Character and appearance of the Area and Streetscene
- Neighbouring Amenity
- Protected species / ecology
- Parking
- Inaccuracy of the drawings

Assessment of the Proposal

Principle

The site is situated within an established residential area within walking distance (maximum of 1000m defined in paragraph 7.51 of the UDP) of shops on Birmingham Road to the south (within Birmingham City Council area) and (Park Hall local centre approximately 1km to the north). There are also regular bus services along Birmingham Road. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP.

The principle of a replacement dwelling is considered appropriate in this location, subject to design, character, amenity, ecology, heritage assets and parking.

Green Belt / Conservation Area / Heritage Asset

Great Barr Hall Park (the Registered Parks and Gardens - RPG) is an 18th century landscape park which is associated with the listed Great Barr Hall. The Great Barr Conservation Area includes the RPG, and both draw their character and significance principally from the open parkland landscape, which is distinct from the residential estates and other developed areas surrounding it.

The Council refused a replacement house at 14 Skip Lane on the 26/1/18 with a subsequent appeal being dismissed on the 16/1/19. This forms a material consideration in the determination of this current planning application. In the summing up the 14 Skip Lane appeal (directly adjacent to the current planning application) the planning inspector made the following comments;

“...the appeal site and other houses on Skip Lane are visible from nearby public footpaths within the RPG and the LNR. However, the stretch of Skip Lane which includes the appeal site forms a very small part of the extensive boundary of the RPG and CA, and the proposed development would only be seen from a limited range of vantage points within those wider landscapes.

Even from the parts of the CA, RPG, Green Belt and LNR closest to Skip Lane, the site is separated from nearby public vantage points to some degree.... public views towards Skip Lane from those points are screened to some degree by trees and hedges within the RPG, even when many of those trees are not in leaf... From those nearby public vantage points, the site is viewed within the context of other suburban houses on Skip Lane, which is one of a number of areas of housing which surround the boundaries of this large, open parkland landscape.”

Whilst the planning inspector found that the proposed replacement house at no 14 would harm its immediate surroundings and generally the Skip Lane street scene the inspector also concluded that it would not encroach into the adjacent open land, or beyond the existing residential frontage of which it would have formed part of.

In this instance the current proposed dwelling is considered would not appear as dominant, being smaller and a similar width to the existing house compared to 14 Skip Lane proposed house dismissed at appeal. It is considered, the current proposal reflects the character (Arts and Craft) and design of other nearby houses along Skip Lane.

Based on the Council's assessment of the currently proposed house against the material planning comments of the planning inspectorate, views of the proposed building from the wider RPG and CA would be limited, the proposed development would not detract from the way in which the RPG parkland landscape or the CA would be experienced as a whole.

On balance it is concluded that the proposed development would not cause harm to the character or appearance of the adjacent CA, or the setting of the RPG. Nor, for the same reasons, would it harm the character and appearance of the Merrions Wood LNR or the heritage assets.

The site is not within the Green Belt and would not result in harm to the openness of the Green Belt or harm the character of the adjacent open land. Weighing the proposal against the material planning considerations, it is considered in this instance, to recommend a resolution to approve for the proposed replacement house.

Design, Character and Appearance of the Area and Streetscene

The NPPF says that decisions should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new development into the built environment. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character. Policies CPS4, HOU2, ENV2, ENV3 of the BCCS; GP2, 3,6 and ENV32 of the UDP and Supplementary Planning Document Designing Walsall, require development to be informed/influenced by their context and reinforce locally distinctive elements.

A common characteristic of the houses on Skip Lane is that they are traditionally styled with feature gables and other architectural elements. The applicant's interpretation of the "arts and craft" design is considered reflects the character of the existing street scene, provides an opportunity to reinforce the overall street scene subject to material finishes.

The applicant has suggested the use of high quality materials which will be sympathetic to its surroundings. Whilst the proposed schedule of materials could be supported the details of the material, texture and colours will be required by a safeguarding condition.

The overall height to the ridge, whilst being one metre higher than the ridge of the existing dwelling, will continue to provide a stepped decrease in height along Skip Lane towards Birmingham Road.

The application proposes a smaller replacement house than that was subject of the appeal at no. 14. The width of the proposed house (16 mts) also reflects a similar width of the existing house (16mts including the ground floor side bay).

Taking on board the planning inspector's comments regarding the larger proposed house at 14 Skip Lane, it is considered the currently proposed replacement house will not cause harm to the character or appearance of the adjacent CA, the setting of the RPG, or harm the character and appearance of the LNR. Based on the scale and mass of the currently proposed house, it is also considered it would have no greater impact on the street scene that would be sufficient to warrant a refusal.

In weighing the material planning consideration, for the above reasons the proposal would not result in significant harm to the character of the area, street scene or local area and as such is considered in accordance with both local and national policy.

Neighbouring Amenity

The rear of the proposed house extends 3.5mts beyond the existing rear elevation of no 10. This part of no 10 consists of a covered entry to the front with what appears to be a utility room with a door to the rear area along the shared boundary with the number 12.

The footprint and layout of the proposed house has been designed so as to comply with the council's 45 degree guidance to both adjacent houses, whilst according with Designing Walsall SPD appendix D.

There will be 11 metres in total between the side elevations of the proposed application house and the existing side elevations of no's 14 and between 1.4mt and 1.9mts to the side of no. 10. The gap to no 10 from the proposal is also assisted by the difference in ground levels (no 10 being approx. 1 to 1.5mts lower). It is considered sufficient to safeguard against future potential adjacent developments which could result in a terracing design being created subject to the gaps being retained.

The proposed rear central two storey projection of the proposed dwelling has full height, side facing windows to habitable rooms (snug and master bedroom). These face towards the side facing habitable room windows of number 10's rear wing with a 15 metre window to window separation. The applicant proposes to obscurely glaze the side facing windows of the proposed two storey rear projection facing no. 10. Given the application house habitable rooms would also be served by rear facing windows, it is considered this is a reasonable compromise which can be secured via a safeguarding condition, requiring the proposed two storey rear projection side facing windows, facing no. 10 to be obscure glazed to Pilkington (or equivalent) privacy level 4 and no opening parts lower than 1.7 metres from the floor level of the rooms they serve at the time of installation. In addition, the land levels and the existing 1.8 mts high boundary fence all serve to assist in protecting the privacy of the neighbour and the occupiers of the replacement house.

The proposed gap of 11 metres facing east towards 14 Skip Lane, is considered does not create any detrimental impact on the amenities of number 14's occupiers, notwithstanding the existing side facing secondary first floor window as side facing windows are one of the characteristics of the locality.

Objectors are concerned the new building will be visually overbearing, over-massing of site due to excessive length, depth, height and proximity to the neighbouring properties and have a dominant impact on the neighbouring properties in Skip Lane and Beacon Road. As set out above the replacement house will occupy a similar footprint to the existing house in terms of width and whilst being higher by approximately one metre at the central ridge, the use of lower hipped roofs either side of the central ridge further reduces any potential impact on the street scene.

Whilst the proposed dwelling includes a mansard roof (with an element of flat roof), it is a design which allows the potential use of the roof space without visually creating a third floor. In this instance, there will be limited views of the flat roof from the street scene, limiting any visual impacts to the detriment of the street scene. The existing dwelling is a part dormer property, using some of the roof space currently as is the case for some of the other properties in the street. The current application proposal reflects this feature and is considered would reflect the street scene and its local characteristics.

Whilst the depth of the proposed house increases compared to the existing house, the plot depth can sustain the increased depth in this instance whilst according with the 45 degree guidance.

The objectors have commented on the proposed house being 4.0mts in front of the existing house which would cause overshadowing and loss of light to no. 10 Skip Lane. The proposed application house extends forward 2.5 metres of the front elevation of number 10, when measuring from the front elevation of number 10 nearest to the application house. The council utilises the 45 degree code to consider impact to light from nearest habitable room windows. In this instance, the new house complies with the 45 degree code when measured from the nearest front habitable room window of number 10. Whilst number 10 is directly to the west of the application house, it is considered the early morning shadow potentially generated from the application house would have a limited impact on number 10, which would not sustain a refusal.

The proposed house would come forward of the existing front elevation of 14 Skip lane by 5 metres including the front projecting two storey front bay window. From the proposed house to the side of number 14 Skip Lane, there is a gap of 11 metres. The proposed house would be to the west of 14 Skip Lane. It is considered, the gap and the orientation of the houses limits potential overshadowing of the front of 14 Skip Lane, which would not sustain a refusal. Based on the positioning, mass and orientation of the proposed house frontage, it is considered the house will not impact on the amenities of either neighbours.

A two storey feature entrance porch will be forward of the proposed principle front elevation by a further 2 metres, this being centrally located within the plot, it is considered limits any potential detrimental impact on residential amenity of properties on either side given the orientation and the distances to both numbers 10 and 14.

The window to window distance between the rear windows of Beacon Road and those in the proposed house, will exceed 25 metres, which would accord with the Council's Designing Walsall SPD. Consequently, it is considered there are no impacts to the amenity and privacy of the Beacon Road occupiers.

Protected Species / Ecology

A Preliminary bat roost assessment has been carried out, it concludes that whilst no evidence of bats and/or bat usage was found it recommends conditions to be imposed on any planning permission requiring at least three dusk emergence and/or dawn re-entry surveys to be undertaken during the bat emergence/re-entry survey season. This will then confirm whether there is a presence/absence of bats at the application site. It is also recommended that at least two of the surveys to be undertaken between May and August.

An updated bat report required the provision of bat boxes being installed in the building, furthermore, conditions in respect of controlling lighting should also be included. These can be secured by way of appropriate planning conditions should an approval be given.

The semi mature oak tree at the front of the application site benefits from a tree preservation order (TPO title no. 13/2017). It is considered that the oak tree can and should be retained. Adequate protection of the tree in accordance with BS 5837: 2012 can be secured by conditions.

The rear garden has been cleared of existing trees. Whilst this is unfortunate, these were not protected and as such the applicant can remove trees without requiring any consent from the Council. Should the tree removal have displaced any protected species or nesting birds, this would be a separate matter for Natural England to consider whether enforcement action or prosecution is warranted. Details of the boundary treatment to the frontage of the site will be required as a condition of any planning permission, although in this location, it should be either a low wall (no more than 450mm and without gates) or a hedgerow to reflect the local characteristics.

Access and Parking

UDP policy T13 requires three off-street parking spaces for a four bedroom dwelling. The proposals will provide a double width garage and there is ample space at the front of the house to accommodate this level of off road parking. Any frontage boundary treatment would need to be low and provide a pedestrian visibility splay, gates set back 5m from the highway edge, surfacing of drive and retention of the garage are requested to be conditioned. Any planning permission should include conditions requiring details of front boundary and surfacing of the drive. Unless the driveway is proposed to be replaced, then the council would be unable to condition the driveway to be surfaced. The remaining elements can be secured by way of a safeguarding condition.

Inaccuracy of the drawings

Neighbours have objected to the accuracy of the plans and provided annotated measurements on photographs. As part of the Council's ongoing negotiation to amend the proposal, the applicant employed an independent surveyor to carry out measurements of the heights of the existing property. The overall height of the proposed house has been reduced and better reflects the rise along Skip Lane and the relationship with neighbouring houses. Notwithstanding this, objectors are still concerned that this does not accurately portray the existing levels along this part of Skip Lane and in particular the levels and relationship between the application site and the two houses either side. The Gardens Trust has also raised concerns regarding the inaccuracies in the street view plans.

The plans when printed at A3 size show the existing house as being 7 mts to the ridge and the proposed house at the central ridge to be 8 mts.. Based on the Council's assessment of the latest submitted plans, it is considered the accuracy of the drawings is sufficient to be able to determine the application as it reflects the street scene.

Comments on objections

- new building be visually overbearing and too large for the plot. *This has been addressed above*
- over-massing of site due to excessive length, depth, height and proximity to the neighbouring properties. *This has been addressed above*
- dominant impact on the neighbouring properties in Skip Lane and Beacon Road. *This has been addressed above*
- Massive flat roof area (11m x 9.5m), significant increase of 1.0 metre in height. *This has been addressed above*
- Plans are inaccurate: proposed building – written height of 8000mm, plans are not to scale, as proposed dwelling 7.7 metres. There's a window missing west elevation but shown on plan, all very misleading. *This has been addressed in the paragraph above*
- 4.0 metres in front of the existing building line causing overshadowing and loss of light to no. 10 Skip Lane. *This has been addressed above*
- loss of character to the street scene *This has been addressed above*
- impact on the provision for six car parking spaces *The Unitary Development Plan policy T13 requires 3 off road parking spaces for this proposed house, not 6 as suggested by the objectors.*
- Impact on root system of oak tree in front garden protected by a TPO (13/2017), trees root system need to be excavated for a driveway and footings for the large structure of the building, Root Protection Area (RPA) required by tree is a minimum of 15 metres... any change to building line would involve excavation for footings in root protection area. *The Council's Arboriculturist is satisfied the tree can be protected and retained. A condition requiring protection measures as part of any planning approval.*
- The crown/mansard roof design is out of character with existing properties. *Whilst this is noted, each proposal is considered on its own merits. In this instance, it is considered the mansard roof has limited impacts on the street scene as there are limited views of the flat roof element*
- building appears bulky and too large, flat roof would be size of half a tennis court. *Whilst this is noted, each proposal is considered on its own merits. In this instance, it is considered the mansard roof has limited impacts on the street scene as there are limited views of the flat roof element*
- design is incongruous and impacts on street scene and Registered Park and Garden and Merrions Lodge... would have a significant harm to the character of the area, namely the Registered Park and Garden, Green Belt and the nearby Merrions Lodge. *This has been addressed above*
- The site can clearly be seen from both Merrions Lodge and the RPG *This is addressed above*
- infill almost entire width of house plot... not in keeping with neighbouring properties which are characterised by spacing at first floor level. *This is addressed above*
- harmful visual impact on the appearance of Skip Lane *This has been addressed above*

- fail to integrate into the special character of the area *This has been addressed above*
- increase height have overbearing effect on bungalow (no.10) *This has been addressed above*
- jarring effect of roof lines *This has been addressed above*
- woodland and parkland opposite are important habitats to rare species of bat, birds and other wildlife. *Whilst this is noted, the application site is across Skip lane and the proposal does not impact on any habitat within the woodland or parkland. A condition requiring further bat surveys will be required.*
- Planning Appeal Decision APP/V4630/W/18/3207169 at 14 Skip Lane: reasons given by Inspector in dismissing the appeal apply to this application. *The assessment of this planning application has weighed in the overall planning balance the planning inspector's conclusions resulting in a resolution to approve being presented to the planning committee.*
- no planting of any new trees and shrubs, existing ones removed contrary to policy ENV17 of the Walsall's saved Unitary Development Plan – *This has been addressed above*
- discrepancy in council's conservation consultant who wrote "proposed building is not going to be any taller than the existing building, hipped roofs and timber framed will not jar with existing character of the area" –the proposed height is not the same as existing and therefore at odds with the conservation recommendations...roof different to hipped being a large flat or crown which is very untypical of this area. *This has been addressed above*

Conclusions and Reasons for Decision

The key material planning considerations, neighbour comments and consultee responses have been weighed in assessing the planning application and it is considered that the proposed development accords with the aims and objectives of the National Planning Policy Framework, BCCS policies CSP4, ENV2 and ENV3, Saved Unitary Development Plan policies GP2, ENV8, ENV18, ENV23, ENV29, ENV30, ENV32, ENV33, T13 and Air Quality SPD and Designing Walsall SPD and on balance is considered to be acceptable.

It is considered that the proposals will not cause harm or adversely impact on the character, appearance and identity of the local area, adjacent CA, or the setting of the RPG or LNR. The site is not within the Green Belt and consequently it is also concluded that the proposal would not result in harm to the openness of the Green Belt or character of the adjacent open land. The proposal is considered to be consistent with advice in the NPPF. An appropriate level of private amenity will be retained for all neighbouring occupiers, the development is in accordance with the 45 degree guidance and will continue the character of the street frontage along Skip Lane.

The use of safeguarding conditions in respect of the materials, protected species, construction works and hours, glazing, car parking, security and boundary treatments will ensure that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

Taking into account the above factors, the objections from consultees and the community, it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Following discussions with the applicant amendments have been made to accommodate the following issues;

- Reduction in front gable feature to be reduced in line with the proposed ridge height
- chimney reduced so that the main body is at the same height as the proposed ridge.
- Removal of gable above the right hand side two storey height bay
- The roof hips on either side need to be straight (no upwards kicks)

Officers have confirmed to the applicant's agent that the substantially amended details that have been submitted are now acceptable and no further changes have been requested.

Recommendation

Grant Permission Subject to Conditions

Conditions and Reasons

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- Location plan & Site plan (P100) received 26/9/18
- Proposed site plan (PP101 Rev A) received 14/3/19
- Existing elevation1 (PP300 Rev A) received 14/3/19
- Existing elevation2 (PP301 Rev A) received 14/3/19
- Existing GA plans (P200 Rev) received 26/9/18
- Proposed Front & Side elevation (PP302 Rev C) received 14/3/19
- Proposed Rear & Side elevation (PP302 Rev C) received 14/3/19
- Proposed GA Floor Plans (PP201 Rev A) received 14/3/19
- Proposed Roof Plan (PP202 Rev C) received 14/3/19
- Streetscene (PP304 Rev C) received 14/3/19

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

3a. Prior to the commencement of any building, engineering operations including demolition of the existing house, site clearance or site preparation for the house hereby approved, until tree protection fencing in accordance with '*BS 5837: 2012 Trees in relation to design, demolition and construction – Recommendations*' shall be erected around the Oak tree at the front of the site and maintained throughout the site preparation, site clearance, demolition and construction periods until completion of the works.

3b. The area enclosed by the fencing shall be kept clear of contractors materials, machinery and be a no dig area at all times.

Reason: To safeguard the semi mature Oak tree at the front of the site adjacent Skip Lane.

4a. Prior to the commencement of any building, engineering operations including demolition of the existing house, site clearance or site preparation for the house hereby approved, until at least three dusk emergence and dawn re-entry surveys be undertaken during the bat emergence/re-entry survey season to determine the presence/absence of roosting bats within the building in accordance with a building that has been identified as having high potential to support roosting bats. Bat Surveys: Good Practice Guidelines published by the Bat Conservation Trust (Collins, 2016) recommends that for buildings with high bat roosting potential. The bat emergence/re-entry survey season extends from May to September. At least two of the surveys should be undertaken during the peak season for emergence/re-entry surveys between May and August and one of the three surveys should be a dawn re-entry survey. The results of the three dusk emergence and dawn re-entry surveys and proposed bat mitigation including the positions of at least two bat boxes to be installed in the new building and timings for the redevelopment of the house shall have been submitted to and agreed in writing by the local planning authority.

4b. Prior to the commencement of the demolition/construct works shall be carried out in accordance with the agreed timings and bat mitigation as agreed in writing. If a roost is discovered during these surveys, a Natural England licence application may be required.

- i) Contractors undertaking demolition works shall be made aware that bats may be present and the steps to be taken if bats are discovered.
- ii) All cracks and crevices on the building, under roof tiles, behind stonework etc. shall be dismantled carefully using hand tools.
- iii) If development does not commence within 12 months of the agreed three dusk emergence and dawn re-entry surveys and proposed bat mitigation and timings the submission of an updated bat survey report for approval in writing by the Local Planning Authority before any part of the development commences including site clearance, site preparation and demolition.

4c. If bats or evidence of bats are found once physical work commences on site:

- i) bats should not be handled or touched and the vicinity of any bat 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 and in accordance with Conserving Walsall's Natural Environment SPD.

5. Prior to the first occupation of any part of the development hereby approved the two bat roosting boxes shall have been incorporated within the built fabric of the dwelling in accordance with the locations agreed as part of condition 4 and thereafter be retained for the life of the development with access openings maintained free of obstructions at all times, without direct illumination from any artificial light and at least 4-5 metres above the natural ground level.

Reason: To conserve local bat populations and in accordance with UDP saved policy GP2 and ENV23.

6a. Notwithstanding the details submitted and prior to the commencement of any building works above the damp proof course until details of any proposed frontage boundary treatment including any proposed gates shall be submitted to and approved in writing by the local planning authority. Any boundary frontage treatment shall be no more than 450mm high and any gates set back 5 metres from the edge of the public highway.

6b. Prior to the first occupation of any part of the development hereby approved, the agreed front boundary treatment shall have been and thereafter retained for the life of the development.

Reason: To ensure the satisfactory appearance, functioning of the development and in accordance with UDP saved policy ENV 32.

7a. Notwithstanding the details as submitted and prior to the commencement of any works being carried out above ground level, full details of facing materials, including texture, size and colours to be used in the external walls, roofs, windows, doors, rainwater goods and surfacing shall have been submitted to and approved in writing by the local planning authority.

7b. The development shall be carried out in accordance with the approved details and thereafter retained for the life of the development.

Reason: To ensure the satisfactory appearance, functioning of the development and in accordance with UDP saved policy GP2 and ENV32.

8a. Prior to the commencement of any part of the building works above the damp proof course of the dwellings hereby approved details of an electric vehicle charging point, shall have first been submitted to and agreed in writing of the Local Planning Authority.

8b. Prior to first occupation of any part of the development hereby approved the agreed electric vehicle charging points shall have been installed in accordance with the approved details and shall thereafter be retained and maintained for the life of the development.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 and DEL1 of the Black Country Core Strategy

9a. Prior to commencement of any part of the development hereby approved above the damp proof course until details of all of the means of enclosure to be erected in or around the development (excluding the front boundaries in the street scene) shall be submitted to and approved in writing by the Local Planning Authority.

9b. Prior to the first occupation of any part of the development hereby approved, until all of the means of enclosure have been erected in accordance with the approved details and shall thereafter be retained.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan

10a. Prior to the first occupation of any part of the development hereby approved, the frontage parking and vehicle manoeuvring area shall be consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain.

10b. The parking and manoeuvring areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with UDP saved policy GP2, T7 and T13.

11a. Notwithstanding the details as submitted, the development shall be constructed to meet the following minimum security measures and thereafter retained as such;

- 2m high close boarded fence to boundary, constructed so that the smooth face faces outwards, shall include 0.3m high anti-climb (Criss Cross) trellis topping. Where concrete post and panels are to be used the fence panels shall be secured together using galvanised metal straps, so that the panels cannot be lifted. The fencing shall be treated wood with a guaranteed life span of 25yrs;
- All fencing/gates shall be flush with frontages;
- Side access gates shall be self-closing and lockable on both sides;
- A minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond standard certification should be used on all door locks;
- Where thumb turn locks are to be installed these should be those that cannot be 'by passed' such as the ASB Thumb turn 3 star cylinders or the Ultion Locks; and

- The houses shall have a suitable intruder alarm, with a siren box front and back, with dual or quad technology sensors and auto dialler function.

11b. Prior to first occupation of the hereby approved development, a written independent validation report confirming the security measures have been installed throughout the development shall be submitted for the written approval of the Council. The security measures shall thereafter be retained for the life of the development.

Reason: To ensure the safety and security of the development and its occupiers and compliance with saved policy ENV32 of Walsall's Unitary Development Plan.

12. Notwithstanding the details as submitted, the proposed windows facing 10 Skip Lane, including the ground floor snug, first floor master suite, bathroom (adjacent to bedroom 2 and bedroom 3 en-suite, shown on the approved plan (Job no. 1709, drawing no. PP201, rev A, date 2/2018) shall be top opening only and shall have obscure glazing to Pilkington (or equivalent) level 4 privacy glass standard and shall thereafter be retained for the life of the development.

Reason: To safeguard the amenity of adjoining occupiers.

13. No external lighting scheme shall be installed other than in accordance with the requirements set out below:

- There shall be no direct illumination of the new bat roosts installed or other potential bat access points.
- Any lighting installed shall be low wattage down lights to provide security and safety lighting which will be set no higher than head height.
- Any security lighting shall use PIRs to ensure they turn off automatically once movement has ceased
- Any lighting, either temporary or permanent, along the site boundaries should be kept to a minimum and directed away from the boundary features to maintain dark areas and corridors.
- Lighting should be designed in accordance with the principles of 'Landscape and urban design for bats and biodiversity' as published by the Bat Conservation Trust (Gunnell *et al*, 2012).
- Materials used under lights, such as floor surfaces, should be materials that have a minimum reflective quality to prevent light reflecting upwards into the sky.

Reason: To conserve local bat populations, ensure bats using the site and surrounding area to roost/forage/commute are not affected by illumination and to limit the impact of light pollution on bats through the careful use of lighting in critical areas only and at a low level with minimum spillage.

14. No boilers shall be installed and used in the dwelling hereby approved, save For:

- Gas and liquefied petroleum gas (LPG) boilers with maximum NOx emissions no greater than 56 mg/kWh
- Oil-fired boilers with maximum NOx emissions no greater than 120 mg/kWh.

Reason: To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1

Reason: To conserve and enhance the natural environment.

15. The disposal of surface water and foul sewage shall be to the main drainage system only.

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

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

Reason: In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

Notes for Applicant

Air Quality SPD - The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),
- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

Bats - In general, bats seek warm places and for this reason boxes should be located where they will receive full/partial sun, although installing boxes in a variety of orientations will provide a range of climatic conditions. Position boxes at least 3 m above ground to prevent disturbance from people and/or predators. The planting of species which attract night flying insects is encouraged as this will be of value to foraging bats, for example: evening primrose *Oenothera biennis*, goldenrod *Solidago virgaurea*, honeysuckle *Lonicera periclymenum* and fleabane *Pulicaria dysenterica*

Hours of operation - No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08:00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

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

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 11-Jul-2019

Plans List Item Number: 6.

Reason for bringing to committee: Significant Community Interest

Location: FIRST FLOOR, 43 ROOKERY PARADE, ALDRIDGE, WS9 8QR

Proposal: USE OF FIRST FLOOR AS A GYM (USE CLASS D2) INCLUDING EXTERNAL ALTERATIONS, ALTERATIONS AND ADDITIONAL WINDOWS AND EXTERNAL CLADDING.

Application Number: 19/0433

Applicant: L.C.P Securities Limited

Agent: Miss Stacey Hartrey

Application Type: Full Application: Change of Use

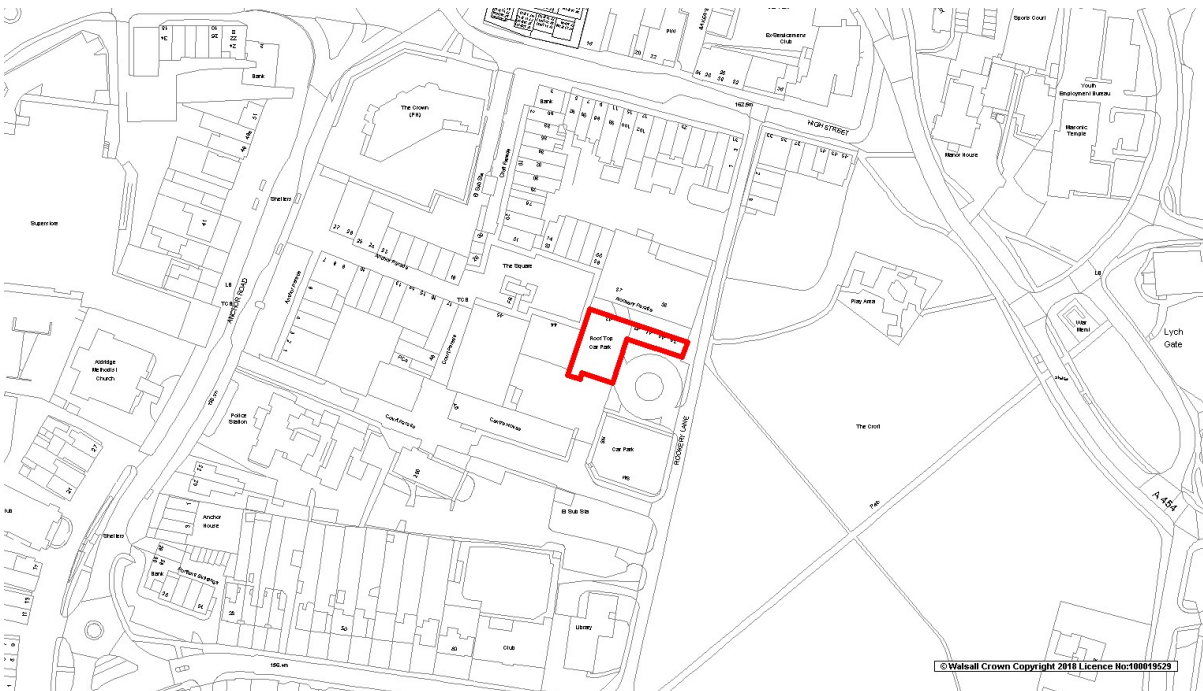
Case Officer: Barbara Toy

Ward: Aldridge Central And South

Expired Date: 04-Jul-2019

Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Proposal

This application proposes the change of use of the first floor of the premises to a 24 hour gym (Use Class D2), together with external alterations to the building to include additional windows and external cladding.

The gym access is situated on the corner of Rookery Lane and Rookery Parade, outside of the large roller shutter that closes The Square shopping centre off at night. The gym would be open 24 hours but would be staffed 0800 – 2000hrs daily. The proposals look to employ 4 full time and 2 part time staff. It is proposed to add a lift to the premises to allow access for all to the first floor gym from both the ground floor and the rooftop car park. An internal layout has been provided that indicates the various uses of the different areas of the gym and includes a small studio suitable for classes as well as cardio areas, strengthening areas, free weights etc as well as changing facilities.

The application also proposes external alterations to the building to include the provision of new windows at first floor level along the Rookery Parade elevation, replacement windows to The Square elevation as well as replacement windows and bricking up of 2 windows on the service yard elevation. The proposals also include new cladding in a mid-grey colour (RAL 7037) to the first floor level along Rookery Parade, The Square, Rookery Lane and to the ramped access to the rooftop car park. The works would provide general refurbishments to the exterior of the building.

The following have been submitted in support of the proposals:

- Anytime Fitness Operations
This provides information about the company and its operation relating to noise abatement measures, Health and Safety, Personal Health and Safety, Entry procedure, Controlled Studio Use (Group Classes), Gym Usage, Emergency Equipment and Members
- Proposed Floor Plan
- Example of Fitness Class Timetable

Site and Surroundings

The application premises was previously occupied by a snooker hall for a number of years (without the benefit of planning consent), but has been vacant for some time.

The site is within The Square shopping centre within the Aldridge district centre and comprises first floor accommodation above existing shops and the management offices for the centre situated in the southern side of Rookery Parade. The former Market Hall (currently vacant) is situated at ground floor fronting The Square shopping centre, with further retail premises around the pedestrianised shopping precinct. Two storey residential flats sit above retail units 32-36 (consecutive) within The Square with access into the service yard to the north. The northern side of Rookery Parade comprises Home Bargains on the ground floor with access to The Gym @ Aldridge on the corner of Rookery Lane, the gym situated at first floor.

Access to a roof top car park for customers to the shopping precinct is situated off Rookery Lane immediately to the south of the application site, with a lift down into the centre of The Square precinct. The Croft open space is situated to the east. Further public car parks are situated off Rookery Lane to the north and south of the application premises.

Relevant Planning History

BC59081P, change of use to night club, refused 04-08-99.

19/0434, installation of 3 internally illuminated fascia signs and 1 internally illuminated projecting sign, current application awaiting outcome of this change of use application.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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*".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV14: Development of Derelict and Previously Developed Sites
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- S6: Meeting Local Needs
- S8: Housing in Town Centres
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis
- LC7: Indoor Sport including Health and Fitness Centres
- AL4: The Precinct

Black Country Core Strategy

- CEN6: Meeting Local Needs for Shopping and Services
- ENV3: Design Quality
- ENV6: Open Space, Sport and Recreation

Supplementary Planning Document

Designing Walsall

- DW2 Safe and Welcoming Places
- DW9 High Quality Public Realm

Consultation Replies

Pollution Control – No objections

Transportation – No objections subject to note to applicant re keeping highway clear during any works being undertaken.

West Midlands Police – No comments. Happy to support the applicant with any physical security advice required.

Environmental Health – No objection subject to condition to ensure a noise assessment is carried out and any mitigation measures required are implemented prior to first occupation.

Representations

Six objections received including Councillor Wilson (Case officer comments in italics)

Objections:

- Already an excellent independent gym in close proximity
- Will put existing independent gym out of business (*Competition is not a material planning consideration*)
- 4 gyms already in the Aldridge district centre, demonstrating a lack of need for another one
- Neon signs will make shopping centre tacky (*The signage will be considered under a separate advertisement application*)
- 24 hour operation will disturb local residents, gyms have music, machines and noisy equipment
- Venue previously refused an extended licence application due to potential disturbance, objected to by the Police at the time
- 24 hour venues known for anti-social behaviour
- Any new jobs at the new gym could be negated by losses at existing gyms.

Determining Issues

- **Principle of the Use**
- **Impact on the amenities of the surrounding occupiers**
- **Impact on the visual amenity of the shopping centre.**
- **Access and Parking**

Assessment of the Proposal

Principle of the Use

The proposed use as a gym falls within Use Class D2 (Assembly and Leisure) which is defined in Policy S1 of the UDP as a town centre use, sports health and fitness centres are specifically detailed under part (V) of the policy. The site is situated within the Aldridge district centre and comprises a vacant first floor premises that sits above the shopping precinct. The proposed use therefore complies with Policy S1 of the UDP and would bring a vacant premises back into use also in compliance with Policy ENV14 of the UDP.

The objectors have indicated that a further gym is not required within the centre and that a 24 hour gym is likely to put the existing gym out of business. It should be noted that competition is not a planning reason for refusal and there is no planning policy to restrict introduction of further uses if they accord with policy S1.

The existing gym is situated at first floor above 38 Rookery Parade immediately to the north of the application premises. The Gym @ Aldridge (formally Colossus) advertises its opening hours as 0800 – 2100 hours Mon – Fri and 0800-1400 Sat and Sun and previously advertised that it was a leading gym for bodybuilders, powerlifter, sportsmen and women etc.

The applicant has been operating since 2002 and has 160 no. 24 hour gyms within the UK, including 14 in the West Midlands and therefore have significant experience in running such premises. As well as cardio, weight and strengthening areas within the gym a small studio would be provided for classes. The gym would provide facilities on a 24 hour basis allowing members to use the facilities around shift working etc. The existing gym at 38 Rookery Parade has restricted hours. Whilst an all ladies gym previously operated (with restricted hours) from 1 Rookery Lane, this use no longer operates.

Impact on the amenities of the surrounding occupiers

Concerns have been raised by objectors about noise and disturbance from 24 hour use to residents in the immediate vicinity (above the shops in The Square).

The applicants have provided information to show that between midnight and 0600 hours on average only 5% of members utilise their gyms and mostly this is individuals. Classes in the studio only take place during staffed hours 0800 -2000 hours. The extended opening hours of the gym spreads the usage of the premises throughout the day and often reduces numbers at peak times.

The applicants have provided details of noise abatement measures including no loud bass beats, low volume background music and all cardio machines have individual TV screens and members use their own headphones to listen to the sound. High impact resilient flooring would be used under the free weights area to absorb the impact of dropping weights and mitigate potential noise. Noise from comings and goings of members is considered to be limited due to automatic closing doors and outside staffed hours access to the premises is restricted to members only. All window in the premises would be non opening and fixed shut with air conditioning provided. Environmental Health have recommended a condition to ensure that an assessment of noise emanating from the premises shall be undertaken and any resulting mitigation measures required be implemented prior to first use of the premises.

Policy S8 of the UDP advises that "...the acceptable level of residential amenity may not be the same as that expected in suburban locations" The district centre already has a large number of late night uses that include liquor licences. The proposed gym would not provide any refreshment facilities and no liquor licence and members are unlikely to leave in large numbers after 2000 hours when any classes would finish. It is considered that the proposed use would have no adverse impact on the amenities of the surrounding residential occupiers over that of the previous use of the premises as a snooker hall (previously open until midnight) or the existing late night uses within the centre.

The premises would have monitored CCTV incorporated and a restricted entry control system for members to ensure both the safety of the members and allow for monitoring of activity at the premises. West Midlands Police have raised no objections to the proposals.

Objectors have also raised concerns about possible anti-social behaviour due to the 24 hour opening. West Midlands Police have confirmed that there is already 3 gyms run by the applicant in the West Midlands region, (2 in Birmingham and 1 in Halesowen) that they have very few issues associated with them and none relating to anti-social behaviour.

Impact on the visual amenity of the shopping centre.

The proposals include a general refurbishment of the external elevations of the premises including new windows, additional windows and new grey cladding. New signage is proposed under a separate advertisement application that will be considered following the outcome of this application. It is considered that the proposals would improve the visual appearance of the premises and the shopping precinct as a whole in compliance with Policy ENV35 of the UDP.

A separate advertisement application relates to the proposed new signage at the premises and will be considered following the determination of this application for the use and refurbishment of the premises.

Access/Parking

The site is situated in the district centre where there is good access to public transport. There is a rooftop car park above the premises together with a number of other public car parks within very close proximity.

The proposals look to introduce a new lift within the premises to allow access for all into the gym from both the ground floor and the rooftop car park.

Conclusions and Reasons for Decision

The site is situated within the Aldridge district centre and the proposed use falls within use class D2 which is identified in Policy S1 of the UDP as an appropriate use within a district centre.

The proposed use would bring a vacant premises within the district centre back into use in compliance with Policy ENV14 of the UDP.

The proposed new windows and external cladding would improve the overall external appearance of the building within the shopping precinct in compliance with Policy ENV35 of the UDP.

The proposed new lift will ensure DDA compliance allowing access for all to the first floor premises and allow use of the rooftop car park, in compliance with Policies GP5 and GP6 of the UDP.

Whilst there is an existing gym in close proximity to the application site, this gym operates restricted hours and competition is not a material planning consideration.

Environmental Health have raised no objections subject to the submission of a noise assessment and any mitigation measures identified being implemented prior to the first occupation of the premises. West Midlands Police have also advised that they have no records of any anti-social behaviour attributed to existing 24 hour gyms run by the applicants within their region. It is considered that the proposed use would have no adverse impact on the amenities of the surrounding residential occupiers over that of the previous use of the premises as a snooker hall (previously open until midnight) or the existing late night uses within the centre.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

During the course of the application the applicant has provided additional information about the applicant and the operation of the proposed gym to enable support from officers.

Recommendation

Grant permission subject to conditions

Conditions and Reasons

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

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

2. The development hereby approved shall not be built otherwise than in accordance with the following plans:

Site Location Plan submitted 27th March 2019

Shopping Centre and Unit Demise Drawing 725 submitted 9th May 2019

Existing Plans and Elevations Drawing 18040/3A submitted 9th May 2019

Proposed Plans and Elevations Drawing 18040/4H submitted 9th May 2019

Planning Statement submitted 3rd April 2019

Anytime Fitness Operations Statement submitted 13th June 2019

Typical Class Timetable – Anytime Fitness submitted 13th June 2019

General Arrangement Plan – Aldridge Drawing D13843-E submitted 13th June 2019

Reason: To define the permission.

3a. Prior to the first occupation of the premises for the use hereby approved an assessment of noise emanating from the building arising from amplified music/voices produced from within the building including proposals to prevent the breakout of this noise from the building and the audibility of this noise at neighbouring residential properties shall be undertaken as agreed in writing with the Local Planning Authority. A report detailing the findings and any recommendations for mitigation measures shall be forwarded to the Local Planning Authority.

3b. Any mitigation measures shall be agreed in writing with the Local Planning Authority and shall be fully implemented prior to the first occupation of the premises.

Reason: In order to protect the amenities of the surrounding occupiers, in compliance with Policies GP2, ENV10 and ENV32.

4. All windows within the premises shall be fixed and non-opening.

Reason: In order to protect the amenities of the surrounding occupiers, in compliance with Policies GP2, ENV10 and ENV32.

Notes for Applicant

Transportation

1. The Applicant must ensure that no soil or other debris is washed or placed within the highway. Failure to prevent this incident could result in an offence and a notice being served on the Applicant under Section 151 of the Highways Act 1980.



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 11-Jul-2019

Plans List Item Number: 7.

Reason for bringing to committee: Called In by Councillor Douglas-Maul, stating significant community interest.

Location: LIVING AREA ABOVE, 317, CHESTER ROAD, ALDRIDGE, WALSALL, WS9 0PH

Proposal: RETENTION OF NEW DOORWAY, WINDOW AND EXTERNAL STAIRCASE TO FIRST FLOOR FLAT

Application Number: 19/0468

Applicant: Simon Khera

Agent: Mr Doug Somerfield

Application Type: Full Application: Minor Use Class C2 (Residential Institutions)

Case Officer: Barbara Toy

Ward: Streetly

Expired Date: 26-Jun-2019

Time Extension Expiry:

Recommendation Summary: Refuse



Proposal

This application proposes the retention of a new entrance door and window on the side elevation of the two storey wing of this building and an external metal staircase to the rear of the premises which provides independent access to the first floor residential accommodation. Independent access has been sought to overcome security issues associated with the ground floor post office use.

The staircase is situated towards the right hand side of the property and the design includes a landing across the width of the property, across an existing single storey flat roofed structure below, leading to a short run of stairs, a further landing and a further longer run of stairs into the back yard area of the premises.

The works were completed in March 2019 and since then a bamboo screen approx. 2m in height has been added to the outer side of the staircase which sits approx. 1m above the height of the staircase handrail. The bamboo is attached to the staircase with wooden posts and cable ties. The handrail of the staircase measures 1m in height. The staircase sits within 1m of the angled boundary with 317a Chester Road and sits approx. 2.7m beyond the existing extensions to the rear of the shop.

The total length of the staircase including the top landing area is 8.7m and the maximum height of the handrail is 4.6m and the overall maximum height with the screening 5.6m.

This application has been submitted following a complaint and subsequent investigations by an enforcement officer.

Site and Surroundings

The site comprises a retail shop at ground floor with a flat above. A single storey flat roofed extension is set to the side of the two storey wing with further single storey flats roofed elements to the rear which includes an access door to the rear elevation. A gated yard area is situated to the rear and is used to park a single vehicle. A large beech tree protected under TPO 25 of 1976 is situated to the rear on the boundary between the site and 315.

It is understood that the first floor flat was previously accessed internally via the shop unit.

The shop is situated within a block of 6 retail units situated on the corner of Chester Road and Hardwick Road, with a parking area on the frontage around the highway junction. A service yard is situated to the rear of the shops. It appears that the shops all have accommodation at first floor.

315 has an external staircase to the rear that is angled across the rear of the property.

317a is a semi-detached house immediately adjacent to the boundary with the site with an angled boundary. The house has a single storey side flat roofed garage and a small triangular rear garden. The occupier has added 0.8m of trellis with plastic foliage to the top of the original 1.8m high boundary fencing, since the installation of the staircase, giving a total height of 2.6m.

Relevant Planning History

None other than tree applications.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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*".

Key provisions of the NPPF relevant in this case:

- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

Reducing Inequalities

The Equality Act 2010 (the '2010 Act') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Supplementary Planning Documents

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW3 Character
- DW9 High Quality Public Realm
- Appendix D

Consultation Replies

Tree Officer – Objection. Further information is required of the foundation and installation method for the staircase in order to accurately assess the long-term health and condition of the protected Beech tree.

Representations

One objection received

- The staircase that has been erected causes a privacy issue and a security risk

Determining Issues

- Impact on the amenities of the surrounding occupiers
- Impact on the visual amenity of the area
- Impact on a protected tree

Assessment of the Proposal

Impact on the amenities of the surrounding occupiers

The staircase sits at a high level adjacent to the angled boundary with 317a, a semi-detached house.

A bamboo screen has been attached to the outer side of the staircase since the installation (projecting 1m above the handrail height) to try and prevent loss of privacy to the occupiers of 317a. The occupiers of 317a have also added 0.8m high trellis with plastic foliage attached to the top of their original 1.8m high fence to provide further screening along the boundary.

317a has a very small triangular rear garden and the staircase sits alongside the angled boundary. The two landing areas within the staircase provide a high level platform for users to overlook the rear garden of 317a. The top landing sits at a height of 3.1m and the middle landing at 2.3m. Whilst the bamboo currently provides some screening, this is not considered a suitable permanent solution to the overlooking and loss of privacy that the staircase creates as it is likely to deteriorate over time, or be damaged by severe weather. The method of fixing the bamboo (cable ties) represents a temporary fix, not a permanent one, but any structure in this location would be obtrusive.

317a has a large first floor bedroom window on the rear elevation, the staircase conflicts the 45 degree code with a separation distance of 7m from the centre of the window to the staircase.

Due to its height and proximity it is considered that the staircase and platform and bamboo screen has an adverse impact on the amenities of the occupiers of 317a, having an overbearing impact on the living conditions of the bedroom through loss of outlook and privacy.

Impact on the visual amenity of the area

The height and location of the bamboo screen means that it is visible from Chester Road over the flat roofed garage of 317a, providing an obtrusive, alien feature with poor visual appearance out of character with the surrounding pattern of development.

It is considered that the bamboo screen is likely to deteriorate over time and could be damaged by severe weather exacerbating the poor appearance.

Impact on a protected tree

The mature protected Beech tree at the site sits on the boundary between 317 and 315 and has a radial root protection distance of between 9.6 and 10.8m. The new staircase therefore sits within the root protection area of the tree. The foundations and method of construction will determine whether the staircase will be detrimental to the long term health and condition of the tree, but no significant dieback is noted to date. Objections raised by the tree officer subject to the submission of the foundations and installation method of the staircase to accurately access the long term health and condition of the tree.

Conclusions and Reasons for Decision

The staircase has been installed without the benefit of planning consent in order to provide independent access to the first floor flat above the shop.

The staircase sits immediately adjacent to the angled boundary with 317a Chester Road and given the two landing areas in particular has resulted in overlooking and loss of privacy to the residential occupiers at No 317a. The bamboo screening has been added to the outside of the staircase since installation to address overlooking issues, but this is considered a temporary solution not a permanent one. The occupiers of 317a have also found it necessary to add additional 0.8m high trellis (with foliage) to the top of their fencing to improve their privacy. This too has been installed without the benefit of planning consent.

The proposals fails to demonstrate that the development has no detrimental impact on the long term health and condition of the protected mature Beech tree.

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal and enforcement action taken to secure the removal of the staircase.

Positive and Proactive Working with the Applicant

The case officer has spoken with the applicant and their agent to advice that the retention of the staircase cannot be supported and discussed alternative proposals for the provision of a staircase to allow for independent access to the first floor flat. No amended plans have been received.

Recommendation

Refuse

Reasons for Refusal

1. The external staircase as installed has an adverse impact on the amenities of the occupiers of 317a Chester Road having an overbearing impact on their living conditions through loss of outlook and privacy. The bamboo screening attached to the staircase is also visible from Chester Road and results in an obtrusive, alien feature with poor visual appearance, out of character with the surrounding pattern of development. As such the proposals are contrary to the aims and objectives of the National Planning Policy Framework, policies ENV2, ENV3 and CSP4 of the Black

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Country Core Strategy, saved policies GP2 and ENV32 of Walsall Unitary Development Plan.

2. The application fails to accurately demonstrate that the staircase installation will not be detrimental to the long term health and condition of the mature Beech tree protected under Tree Preservation Order 25/1976. As such the proposals are contrary to the aims and objectives of the National Planning Policy Framework, policy ENV3 of the Black Country Core Strategy, saved policies GP2, ENV18, ENV32 of Walsall Unitary Development Plan and policies NE7 and NE8 of Supplementary Planning Document Conserving Walsall's Natural Environment.



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 11-Jul-2019

Plans List Item Number: 8.

Reason for bringing to committee: Significant community interest

Location: 72 , FURZEBANK WAY, WILLENHALL, WV12 4BG

Proposal: SINGLE STOREY FRONT AND SIDE EXTENSIONS PLUS LEVEL ACCESS RAMP.

Application Number: 19/0576

Applicant: Mr Majid

Agent: Mr Lee Mitchell

Application Type: Full Application:
Householder

Case Officer: Jenny Townsend

Ward: Short Heath

Expired Date: 24-Jun-2019

Time Extension Expiry: 15-Jul-2019

Recommendation Summary: Grant Permission Subject to Conditions



Proposal

This application proposes single storey extensions to the front and side of a semi-detached house which would provide a large porch, shower room and lobby. An access ramp is proposed to the side of the shower room and lobby on the side of the house which would allow access into and out of the existing ground floor bedroom.

The front extension would lie alongside the existing two storey part of the house and would measure:

- 3.2 metres deep

- 4.3 metres wide

- Have a lean-to roof between 2.7 and 3.8 metres high

- Double doors on the front elevation

- A window in the side elevation facing onto the street.

The side extension would be alongside an existing two storey extension that has already been added to the side of the house and would be:

- 2.5 metres wide

- 4.7 metres deep

- Have a gable roof between 2.7 and 4.4 metres high

- Have a window to the shower room on the front elevation

- Have a window to the lobby in the side elevation and a door on the rear.

The access ramp would be:

- Set back 1.3 metres from the front of the proposed side extension and wrap around the rear corner of the extension for a length of 5.3 metres

- 1.4 metres wide

- Rise from ground level to 0.4 metres (at the corner of the building)

- Have a handrail 0.8 metres high.

Site and Surroundings

The application site is on a residential estate which is a mix of semi-detached houses that vary in design, including bungalows and modern terraced houses. The application house is at the end of a line of houses and on a bend in the road. The plot is larger than most of the nearby properties.

The house has a bow window on the front with the main door on the side elevation. There is a gable roof over the main house and a lower gable roof over the two storey side extension. The side garden is enclosed by a 2 metre high timber fence which is set back approximately 2 metres beyond a grass verge from the back of the pavement.

Number 74 is around the bend to the west of the application house and has a garage adjacent to the rear boundary of the application house. There is a driveway and detached garage belonging to the application house adjacent to that of number 74.

A block paved area has been created in front of the application house which appears to be used for parking. There is no dropped kerb in front of the paving to allow access for vehicles.

Relevant Planning History

09/0123/FL Erection of a two-storey side extension. GSC 07/04/09.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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*".

Key provisions of the NPPF relevant in this case:

- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race

- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty “PSED” on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- ENV3: Design Quality

Designing Walsall

DW3 Character

Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall’s saved UDP policies and Designing Walsall SPD are consistent with the NPPF.

Consultation Replies

Pollution Control – No objections.

Representations

Three emails from neighbours objecting on the following grounds:

Potential of parking more vehicles on dangerous corner

A paved area has been created which has no vehicular access (dropped kerb) but is used for parking

Frequently taxi's parked half on and half off the footpath on blind corner

Extension will be an eyesore and will take away privacy

Cars belonging to occupiers of property already obstruct pathway on both sides of the road

Extension will close the street in

Visibility will be excessively reduced as building is on the corner.

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

Assessment of the Proposal

Design of Extension and Character of Area

The design of the extensions, with a sloping roof to the front and a pitched gable roof to the side, would be compatible with the existing house.

The proposed front extension would infill in front of the two storey extension that has been added to the side of the house and is considered would not harm the appearance of the house or the area as it would be similar in appearance to the single storey garages to the side of some of the nearby houses.

The side extension would step down from the existing house, would not project beyond the front of number 74 to the rear and would be partly screened by the existing tall timber fence which is to remain to the side garden.

The proposed ramp would not be seen from the road as it would be screened by the fence to the side boundary.

Amenity of Nearby Residents

The front extension would not project beyond the front of the existing house and is considered would have little impact on the light, outlook or privacy of the occupiers of number 70, the other half of the pair.

The front doors and side window in the extension would face onto the street but the extension would be a porch which is a non-habitable area of the house. The larger than average size is to accommodate the needs of the occupier and allow for wheelchair access.

The side extension would not project beyond the front or rear of the existing house and the front window visible in the street would be to a non-habitable room (shower room). It is recommended that this window is obscurely glazed with top opening only to safeguard the amenity of the occupiers of the house.

The side window to the lobby would be screened from the street by the tall boundary fence.

With regard to neighbour's concerns raised, the extensions would reflect the design of the existing house and are considered would be in keeping with the character of the area, the new doors and windows all serve non-habitable rooms so would not affect privacy of neighbours

Highway Safety

The Highway Authority has assessed the potential impact of the extensions on motorists inter -visibility around the bend in the road. Based upon the road geometry and likely speeds at this location, it is considered that the proposed extension does not significantly impact on visibility over and above the existing situation with the present fence line.

The on street parking and pavement parking issues raised by residents fall outside the scope of the planning application and are issues that would be dealt without under separate legislation. These are to be referred to the Council's Traffic Management Team for investigation. The development does not increase bedroom numbers so there is no requirement for additional off road parking.

The Highway Authority considers the development will not have unacceptable road safety or severe transportation implications and is acceptable in accordance with NPPF 2018 para 109.

Conclusions and Reasons for Decision

The design of the proposed extension is considered in keeping with the character of the area and would comply with saved polices GP2 and ENV32 of Walsall's UDP and DW3 of Designing Walsall SPD.

The proposal is considered would have little impact on the light, outlook or privacy of neighbours and would comply with saved policy ENV32 of Walsall's UDP and Designing Walsall SPD, Appendix D.

The Highway Authority considers the development will not have unacceptable road safety or severe transportation implications and is acceptable in accordance with NPPF 2018 para 109.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

Grant Permission Subject to Conditions

Conditions and Reasons

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2: This development shall not be carried out otherwise than in conformity with the following approved plans: -

Location plan, block plan and existing elevations and layout plans drawing 606/15-01 deposited 29 April 2019;
Proposed block plan, proposed elevations and floor layout plans drawing 606/15-02 deposited 29 April 2019.

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

3: The front window to the shower room is to be obscurely glazed to at least Pilkington privacy level 4 and have a top opening section only. Once installed the frame and glazing are to be retained 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.

4: The walls and roof of the extension shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building 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.

5: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

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

6: Notwithstanding the submitted plans, this permission does not imply any consent for the paving area to the front of the house to be used for parking.

Reason: To define the permission and for highway safety in accordance with saved policy T7 of Walsall's UDP.

Notes for Applicant

Highways

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.
 2. It is noted that a hardstanding area has been created on the property frontage. If this area is to be utilised for the parking of a vehicle, subject to the parking area meeting the Council's Footway Crossing Procedure, the applicant is advised to obtain the necessary Road Opening Permit from the Highway Authority for the installation of a properly constructed vehicle footway crossing to align with the parking area.
- For further information please contact the Traffic Management Team on 01922 654675.

Coal - Informative Note

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property-specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

Informative Note valid from 1st January 2019 until 31st December 2020



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 11-Jul-2019

Plans List Item Number: 9.

Reason for bringing to committee: Significant Community Interest

Location: 119, COLLINGWOOD DRIVE, GREAT BARR, BIRMINGHAM, B43 7JW

Proposal: SINGLE STOREY FLAT ROOFED REAR EXTENSION.

Application Number: 19/0466

Applicant: Mr Amrik Jhinger

Agent:

Application Type: Full Application:
Householder

Case Officer: Baljinder Kaur

Ward: Pheasey Park Farm

Expired Date: 28-May-2019

Time Extension Expiry: 24-Jun-2019

Recommendation Summary: Grant Permission Subject to Conditions



Proposal

The planning application seeks approval for the following additions and alterations:

- Single storey flat roofed rear extension
- 3.25m deep
- 2.7m wide at the widest point
- 1.9m wide at the narrowest point
- 2.9m high with flat roof over
- Window to rear elevation

Site and Surroundings

The application address already has a single storey rear dining room extension with a flat roof over. The street scene consists of similar styles of semi-detached properties.

The neighbouring properties include:

121 Collingwood Drive

No.121 sits to the west of the application address with 1m gap to the boundary. No.121 consists of a single storey rear conservatory extension. The single storey rear extension is located adjacent to the application address conservatory.

117 Collingwood Drive

No.117 sits to the east of the application property and is the adjoining semi-detached property. No. 117 consists of a single storey rear conservatory extension.

52 Raeburn Road

No.52 sits to the north of the application address and is located to the rear of the application address with a separation distance of 44m

54 Raeburn Road

No.54 sits to the north of the application address and is located to the rear with a separation distance of 44m

56 Raeburn Road

No.56 sits to the north of the application address and is located to the rear with a separation distance of 44m.

140 Collingwood Drive

No.140 sits to the south and located opposite the application address with a separation distance of 28m

Relevant Planning History

13/0366/MA – Non-material amendment to planning approval 12/1413/FL to reposition rear double doors and install windows either side. Approved -17/04/13.

12/1413/FL- Proposed single storey rear extension- Granted with conditions – 11/12/12.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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*".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability

- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty “PSED” on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Designing Walsall

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall’s saved UDP policies and Designing Walsall SPD’s are consistent with the NPPF.

Consultation Replies

None received.

Representations

3 Objections received main concerns being:

- The impact on privacy and noise levels. It would be considered that noise levels would be limited due to the distance between neighbouring properties No.117 and No.121 and not considered to have any further harm than already existing
- The extension being longer than the existing house and the loss of light. – *the amended proposal has reduced the size and scale of the proposed single storey flat roofed extension and would be considered to have addressed the concerns regarding loss of light and would now be considered in accordance with the Council's 45 degree code.*
- The proposed extension making you feel boxed in and the extension being an eyesore. – *The proposed single storey flat roof extension has been reduced therefore no longer considered to have a harmful impact and the amended proposal is considered to address concerns.*
- The extension devaluing neighbouring properties. (*Devaluation is not a material planning consideration*)
- Concerns regarding the size of the extension. *The proposed single storey rear extension with a flat roof has been reduced a considerable amount in accordance with the Council's 45 degree code and therefore considered to have a limited impact on neighbour amenity.*

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
-

Assessment of the Proposal

Design of extension and Character of Area

The proposed single storey extension would be to the rear of the property and would not be visible from the street. It is considered it would not impact the character and appearance of the local area.

Neighbour Amenity

The proposed extension would be 2.3m deep and set away 3m from the boundary adjacent to No.117 and would be 3.2m deep and set 3m away from the side boundary adjacent to No.121. It would be in accordance with the Council's 45-degree code. When taking into consideration the existing single storey rear extensions at adjacent properties No.117 and No.121, the currently proposed single storey extension and its position in relation to neighbour properties, it would not have a harmful impact.

Therefore, the proposed single storey flat roofed rear extension is considered not to have a detrimental impact on residential amenities of neighbours in regards to outlook, privacy or daylight.

Conclusions and Reasons for Decision

When assessing the material planning consideration and taking into account the local and national planning guidance, it is considered the proposed single storey flat roofed rear extension would integrate with the existing host dwelling. The proposed extension would also be considered in keep with neighbouring properties and the wider street scene.

It is considered that the proposal would have a limited impact on neighbour amenity when taking into consideration the size of the proposed extension and the position it is located and therefore would in accordance with the Councils 45 degree code.

The use of safeguarding conditions in respect of the materials to maintain its appearance will further ensure that the neighbours amenity is protected and that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met. As such the development is considered to meet the aims and objectives of the National Planning Policy Framework (para 127), policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

Taking into account the above factors it is considered that the application should be recommended for approval.

The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment.

Positive and Proactive Working with the Applicant

Amendments requested for proposed single storey extension to be reduced in accordance with the Council's 45 degree code have been submitted and the proposal can now be supported.

Recommendation

Grant permission subject to conditions.

Conditions and Reasons

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Location and site plan

Existing & proposed ground floor plans (Drawing No. A101 Rev A) deposited 28/05/19.

Existing elevations (Drawing No. A102) deposited 28/05/19.

Proposed elevations (Drawing No. A103 Rev A) deposited 28/05/19.

Existing & proposed perspectives (Drawing No. A104 Rev A) deposited 28/05/19.

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

3: The walls and roof of the extension shall comprise facing materials that match, in size, colour and texture as those which are used in the existing building and shall be retained as such after completion of the extension.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no 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.



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 11-Jul-2019

Plans List Item Number: 10.

Reason for bringing to committee: Public interest –and to support as development rights removed from site.

Location: 6, THREE CROWNS CLOSE, WALSALL, WS5 3AL

Proposal: FIRST FLOOR EXTENSION ABOVE GARAGE WITH GABLE ROOF.

Application Number: 19/0224

Applicant: Steve Nar

Agent: Mistry Deisgn Services

Application Type: Full Application:
Householder

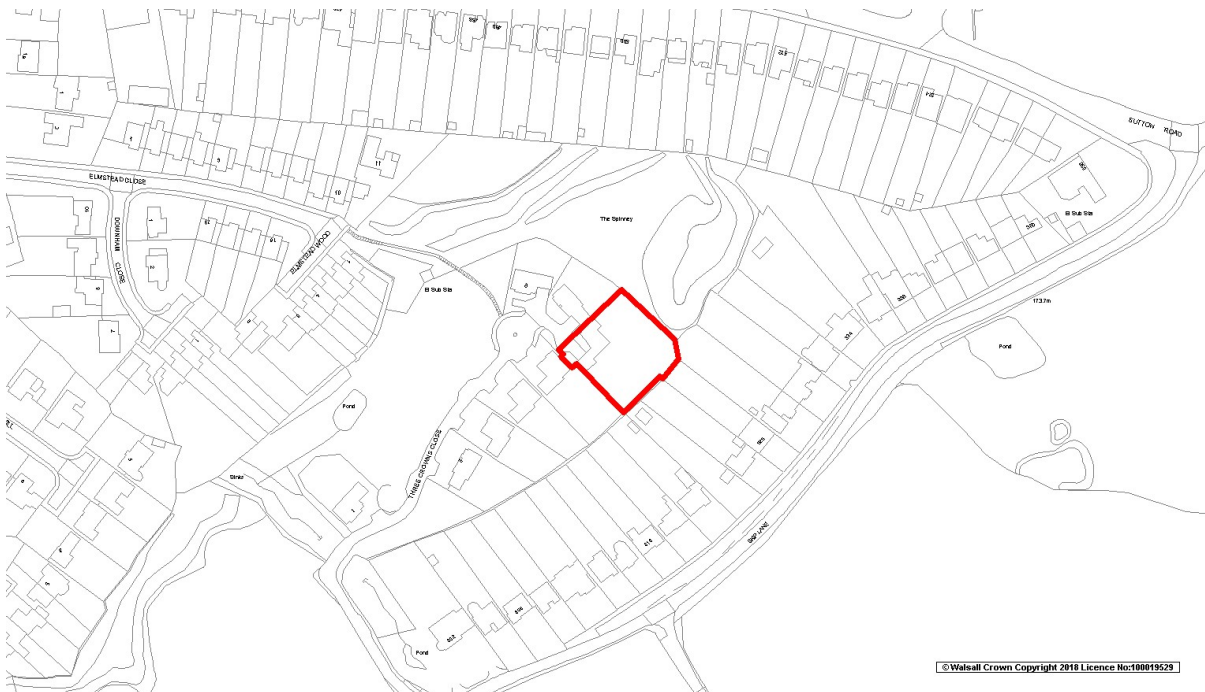
Case Officer: Baljinder Kaur

Ward: Pheasey Park Farm

Expired Date: 12-Jun-2019

Time Extension Expiry:

Recommendation Summary: Refuse



Proposal

The application seeks the following additions and alterations:

- First floor extension above existing ground floor garage.
- 5.6m deep
- 5.3m wide
- With a hipped to gable roof and a gable feature to the front elevation
- Proposed first floor extension would be for a walk in wardrobe
- 1.2m below the existing roof of the host dwelling

Site and Surroundings

The application property is a detached property located at the end of a gated cul-de-sac. The property is a detached two storey dwelling located within the Green Belt and within the Great Barr Conservation Area. The Spinney is a site of Local Important Nature Conservation (SLINC) and is located north east and shares the boundary of the application site. The property consists of a driveway to the front of the property which provides parking for 3 to 4 cars. The application site is located in a residential area with similar styles of detached properties located on relatively large plots. The properties on Three Crowns Close do not benefit from permitted development as they were removed due to the green belt and conservation area.

Relevant Planning History

16/1217- Single storey rear extension- GSC 09/01/17. (Approved via committee).
17/0141- Resubmission of single storey rear extension- GSC 23/03/17. (Resubmission of 16/1217).
17/0322- Out building for Hydro pool and gym- GSC 21/06/17. (Approved via committee).
17/0776- Proposed hard and soft landscaping for rear garden including external boundary fence GSC – 28/07/17.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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*".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 13 – Protecting Green Belt land**

- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to

climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.2 to 3.5 The Countryside and Green Belt
- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- ENV7: Countryside Character
- ENV29: Conservation Areas- NOTE for case officer: *Replaced by SAD Policy EN5 and AAP Policy AAPLV5-7 unless within the district centres (Aldridge, Bloxwich, Brownhills, Darlaston, Willenhall)*
- ENV32: Design and Development Proposals

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

Consultation Replies

Ecology- no comments received.
Park Hall Association- no comments received.
Beacon Action Group – no comments received.

Representations

None representations received.

Determining Issues

- Whether the development is appropriate development in the Green Belt
- Impact upon the character and appearance of the area.
- Amenity of nearby residents
- Impact on the Site of Local Importance for Nature Conservation

Assessment of the Proposal

Whether the development is appropriate development within the Green Belt

The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Green Belt serves five purposes:

- a) to check the unrestricted sprawl of large built-up areas;*
 - b) to prevent neighbouring towns merging into one another;*
 - c) to assist in safeguarding the countryside from encroachment;*
 - d) to preserve the setting and special character of historic towns;*
- and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;*
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- e) limited infilling in villages;*
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and*
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development; or – not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*

Based on the current proposed extension to form a large first floor walk in wardrobe is considered to not meet the green belt exceptions listed above especially parts a, b, d, e, f and g. The proposed extension for a large first floor walk in wardrobe does not meet green belt exception. The current extension footprint of 30.2sqm's when added to the existing extensions footprint of 106.6sqm's would essentially add more than 50% footprint over and above of the original two storey house of 230 sqm's. It is considered, adding more than 50% footprint to the existing house is inappropriate disproportionate addition that would be harmful to the green belts openness and character.

Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- a) *mineral extraction;*
- b) *engineering operations;*
- c) *local transport infrastructure which can demonstrate a requirement for a Green Belt location;*
- d) *the re-use of buildings provided that the buildings are of permanent and substantial construction;*
- e) *material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds);*
- and
- f) *development brought forward under a Community Right to Build Order or Neighbourhood Development Order.*

Based on the current proposal for a large first floor walk in wardrobe extension to be added to the house is considered, not to meet any of the above green belt exceptions. Consequently, the proposed extension is considered to be inappropriate development that would be harmful to the green belt.

Given the proposed first floor walk in wardrobe does not meet any of the green belt exceptions, very special circumstances would need to be demonstrated to overcome the harm to the green belt. The applicant stated their very special circumstances are 'a need for storage as the property lacks storage space'. It is considered that this is a personal need and not a very special circumstance to overcome the harm to the green belt openness and character. The Governments National Planning Policy Guidance document states; *planning is concerned with land use in the public interest, so that the protection of purely private interests, could not be material considerations.* Consequently, the applicant's very special circumstances would not meet the tests or scrutiny of Government policy for overcoming harm to the green belt. Should members of planning committee wish to support the applicant's proposal, they would have to provide very special circumstances to overcome the harm to the green belt based on land use in the public interest. Limited views within of the site or from within the green belt, are not very special circumstances or material considerations to overcome the harm to the green belt and again would not sustain scrutiny against the Governments national planning green belt policy. Consequently, in this instance, the recommendation based on national green belt policy would be to refuse the planning application.

Impact upon the character and appearance of the area

The application site is located within the Great Barr Conservation Area. The proposed first floor extension would need to be assessed in accordance with relevant planning policies as to whether the proposed extension would preserve or enhance the character or appearance of the conservation area. The existing character of Three Crowns Close consists of 8 recently built detached houses, located within large plots, designed to preserve and enhance the appearance of the conservation area. It is considered on balance, the proposed first floor extension, with additional of the rear single storey extension and the creation of a linked outbuilding to form a Hydro pool and gym would not result in additional harm or appearance of the character and appearance of the Conservation Area sufficient to warrant a refusal.

Amenity of nearby residents

The proposed first floor extension would be set 4m away from No.5 and would be located above the existing single storey garage with a hipped roof over. The proposed extension would be in accordance with the Council's 45 degree code and would therefore be considered to not have a detrimental impact on neighbour amenity.

Impact on the Site of Importance for Nature Conservation

The application site backs onto The Spinney which is a Site of Local Importance for Nature Conservation. The proposed first floor extension due to size, scale and location is not considered to have a harmful impact.

Taking the above comments into consideration the proposed first floor extension would be considered to have a harmful impact on the openness of the Green Belt and would further demonstrate inappropriate development, with VSC that fail to overcome the reasons for the harm. It is considered that the extension would result in a disproportionate addition over and above the size of the original building when combined with previously approved extensions at the house.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance, it is considered that the proposed first floor extension would create inappropriate development that would be considered to detrimentally harm the openness and character of the Green Belt.

As such the development is considered fails to meet the aims and objectives of the National Planning Policy Framework (paras 133-147), policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

Taking into account the above factors, it is considered that the application should be recommended for refusal.

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Requests have been made to the applicant to amend the proposal in accordance with the national and local planning policies and requested for proposed first floor extension to be in accordance with the Councils 45 degree code. It was also requested that the applicant provide 'Very Special Circumstances' to address the harm from the development within the Green Belt.

Recommendation

Refuse

Reasons for Refusal

The circumstances that justified the quantum of development of this residential development were based on the footprint of the previous school and were maximised in the delivery of the eight houses. This house has since gained planning approval to extend and combined with the current proposed extension would result in disproportionate additions over and above the size of the original building. The proposal is inappropriate development in the Green Belt for which no very special circumstances, sufficient to outweigh the harm to the openness of the Green Belt have been demonstrated. Accordingly the proposal is contrary to the aims and objectives of the National Planning Policy Framework, policy CSP2 of the Black Country Core Strategy and policies 3.3 and ENV2 of the Walsall Unitary Development Plan.



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 11-Jul-2019

Plans List Item Number: 11.

Reason for bringing to committee: Called to committee by Councillor Hussain as character of area – the proposed development could be detrimental to the character and/or visual amenities of the area and he wants it to be assessed by the planning committee

Location: 190, SUTTON ROAD, WALSALL, WS5 3AH

Proposal: TWO STOREY SIDE AND REAR EXTENSION, SINGLE STOREY FRONT EXTENSION, PORCH AND BAY WINDOW PLUS SINGLE STOREY REAR EXTENSIONS.

Application Number: 19/0133

Applicant: Mr Dar

Agent:

Application Type: Full Application:
Householder

Case Officer: Rebecca Allen

Ward: Paddock

Expired Date: 21-Mar-2019

Time Extension Expiry: 31-Jul-2019

Recommendation Summary: Refuse



Proposal

This full planning application would include:

- Two-storey side extension to replace the original garage with a study.
- The first floor extension which forms part of the two-storey extension would be 3.5 metres deep (flush with the front elevation), 5.5 metres wide 4 metres high from the single storey extension
- The full depth of the two-storey extension will be 14.5 metres which will run along the full length of the existing property and includes a previous rear extension built pre-2004
- The height of the two-storey side and rear extension would be 8 metres high, meeting the original roof line of the property with a hipped roof
- The first-floor rear extension which will extend further from the pre-2004 extension to the right-hand side of the property would be 2 metres deep (5.5 metres deep in total from the previous single storey extension) and 5.5 metres wide. The height would be 7 metres from ground level with a hipped roof
- The proposed single storey front extension would be 2.5 metres wide, 1 metre deeper than the original garage depth at 6 metres and 3.5 metres high with a sloping roof
- The single storey rear extension located to the left-hand side would be 3.5 metres wide, 3.5 metres deep and 3.7 metres high with a sloping roof
- Replacement of the existing porch would be 2 metres wide, 0.9 metres deep and 3.5 metres high with a sloping roof
- Replacement bay window to the left-hand side of the property would be 2 metres wide, 1 metre deep and 3.7 metres high with a pitched roof
- Habitable windows to be incorporated into the first floor extension at the front and rear
- Habitable windows located to the front and rear ground floor extensions, along with bi-fold doors to the rear ground floor rear extension
- 2 roof lights to be incorporated into the existing roof at the first floor facing towards the rear garden – loft conversion not included
- No side facing windows to be included within the proposed extensions
- Proposed facing materials to match existing colour and texture of the existing property

Site and Surroundings

This property is a semi-detached two-storey house, located next to no. 188 Sutton Road and attached to no.192 Sutton Road. The application property is located within a residential area, consisting mainly of detached and semi-detached properties of a similar age with varying designs.

The application property consists of a distinctive 1930/50's design including a focal two storey front bay window. There is a single storey garage located to right-hand side of the application property with a decorative front parapet wall located above.

There are similar extensions located in close proximity to 190 Sutton Road, however, there are comparable extensions situated along Sutton Road, however, there are no similar extensions located in close proximity to 190 Sutton Road.

Relevant Planning History

No history recorded

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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*".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability

- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty “PSED” on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking NOTE for case officer: *(Also see AAP Policy AAPT5)*
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Supplementary Planning Document

- DW3 Character
- Appendix D

Consultation Replies

None

Representations

There was one neighbour response on the following grounds:

1. Proposed drawings show roof lights but if they are dormer windows they would look directly into the neighbouring property (*the Council has to determine the application before it. The plans illustrate roof lights and not dormers*)
2. Roof appears to be higher than the original roof on the proposed drawings (*Based on the drawings submitted, the two storey side extension appears to follow the existing roof ridge height*)

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

Assessment of the Proposal

Design of Extension

The overall scale and design of the proposed extension is considered would result in creating the appearance of terracing to no. 188 and 190 Sutton Road, because the extension is flush with the front elevation of the original house and up to the boundary with the neighbouring house, number 188. The proposal does not comply with Appendix D of Designing Walsall's SPD by not including a minimum of 0.9 metres gap to the boundary, not setting the first floor extension back by a minimum of 1 metre and not setting down the roof ridge of the extension. All of these elements combine to create the appearance of terracing, introducing an incongruous addition to the street scene resulting in a loss of an existing distinctive features of first floor gaps between the houses to the detriment of the character of the area and the amenity of local residents.

Given the scale and mass of the proposed two storey side extensions, combined with the front extensions, it is considered the proposal would unbalance the pair of semi-detached houses, further adding to the incongruous addition detrimental to the appearance of the pair of semi-detached houses, the overall street scene and the amenity of local residents. It is considered the Councillors call in reason reflects the Local Planning Authorities concerns.

The proposed single storey rear extension located to the left-hand side adjacent to number 192 Sutton Road would be 3.5 metres wide, 3.5 metres deep and 3.7 metres high with a sloping roof. This would be within the scope of the 45 degree code referred to in the Designing Walsall SPD. It is considered would not cause any significant harm to the residential amenities of neighbouring properties in terms of outlook, privacy or daylight, should the rest of the proposal meet the Council's policies and guidance.

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The single storey rear extension will replace an existing extension adjacent to number 188, creating a 5.5 metres deep in total extension from the original rear elevation and 5.5 metres wide. The height would be 3.2 metres with a sloping roof. The proposed single storey would be in line with the neighbouring property at no. 188 Sutton Road and be in accordance with the Council's 45 degree code.

Above the rear single storey extension, is a first floor rear extension (part of the two storey side extension) which extends 3.5metres from the original house rear wall. This would be within the scope of the 45 degree code referred to in the Designing Walsall SPD. It is considered would not cause any significant harm to the residential amenities of neighbouring properties in terms of outlook, privacy or daylight, should the rest of the proposal meet the Council's policies and guidance.

The single storey front mono pitched roof extension forming part of the ground floor study and porch, would be 4.7 metres wide and 1.2 metre deep meets the 45 degree code to 192 Sutton Road in regard to outlook of habitable windows. 192 Sutton Road is currently set forward from the application property and the proposed front mono pitched roof extension would extend by less than 1 metre in front, therefore, it would not be detrimentally harmful to the neighbouring property at no. 192 Sutton Road.

The existing front two storey bay, includes a ground floor front bay window extension, extending forward by 0.3metres from the existing bay window, for the width of the existing bay window adding a pitched roof over. The proposed front ground floor pitched roof bay extension is considered to be detrimental to the appearance, character whilst detracting from the key focal feature of the original house further contributing to unbalancing the pair of semi-detached houses, further exacerbating the overall harmful detrimental impact of the proposal on the character and appearance of the street scene and the amenity of local residents.

The Council has requested an internal roof plan for the proposals from the applicant and agent to allow the council to fully assess the proposal. Whilst the applicant has said the proposed roof lights are to add light to the loft, to date, no plans have been received. If the applicant is converting the loft and extending into the roof space of the proposed extension, as part of the overall scene, they may not benefit from permitted development, leading to potential future enforcement action. Roof lights in the rear roof plain on there own don't create an incongruous feature. There may be overlooking issues, although without the floor plan, the planning authority cannot make a full assessment. Should all other aspects of the application be acceptable, a condition preventing the complete roof replacement could be imposed.

The applicant suggests the finished materials would be brick and render reflecting the original dwelling and could be conditioned plus a condition confirming this permission doesn't give approval to the replacement of the whole roof or the removal of the roof tiles as part of this application.

Amenity of nearby residents

The habitable window to window separation distance from neighbouring properties located to the rear in Gloucester Road is 40 metres. The proposed rear extensions of the application dwelling meet or exceed the window to window separation distances to Gloucester Road houses as recommended in Appendix D of Designing Walsall SPD. Weighing the planning balance of the rear proposals, it is considered would not cause any significant harm to the residential amenities of neighbouring properties in terms of outlook, privacy or daylight.

The habitable window to window separation distance from adjoining neighbours at 147 to 151 Sutton Road is between 55 and 58 metres. It is considered the proposed front extension would not cause any significant harm to the residential amenities of neighbouring properties in terms of outlook, privacy or daylight and would meet the aims of the Council's recommended separation distances, as referred to in Appendix D of Designing Walsall SPD in respect of habitable room windows

As stated earlier in the report, the proposed front extension would not maintain a subservient design and therefore would introduce an incongruous addition to the street scene, creating a detrimental amenity impact to nearby residents within the street scene and does not comply with Appendix D of Designing Walsall's SPD in regards to creating the appearance of terracing to no. 188 and 190 Sutton Road. The extension is flush with the front elevation of the original house and up to the boundary with the neighbouring house, number 188. The proposal does not comply with Appendix D of Designing Walsall's SPD by not including a minimum of 0.9 metres gap to the boundary, not setting the first floor extension back by a minimum of 1 metre and not setting down the roof ridge of the extension.

Parking

As the garage will be converted internally, the proposal must establish whether sufficient parking is available. For the application property, the number of bedrooms will increase to 5 based on the plans currently available to the Council. Therefore, a requirement for 3 off road parking spaces (saved UDP T13) as it is a 5 bedroom house. Saved Unitary Development Plan Policy T13 states; the development will provide adequate on-site car parking to meet its own needs, and that there will be no adverse effect on highway safety and the environment. The standard car parking space should be 4.8m by 2.5m.

Whilst the driveway to the property is 12 metres long and the site visit confirmed that 3 off road parking spaces could be accommodated within the application property frontage. Therefore a condition for the retention of 3 off road parking spaces would be required, which includes surfacing and being drained to prevent surface water runoff to the public highway or a public highway drain.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance, it is considered that the erection of a two-storey side and rear extension, single storey front extension, single storey rear extension and replacement of

porch and bay window would not be compatible with the existing dwelling and neighbouring properties or the street scene because of its design.

As such the development is considered fails to meet the aims and objectives of the National Planning Policy Framework (paras 127), policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2 and ENV32 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and agent on numerous occasions to make positive amendments to the proposal asking to reduce the two-storey side extension so it would comply with Appendix D of Designing Walsall's SPD in regards to creating the appearance of terracing. However, in this instance the changes have not been made and the Council are unable to support the proposal.

Recommendation

Refuse

Reasons for Refusal

- The proposed two storey side extension would not be in accordance with the Councils SPD, the proposal would fail to maintain a 0.9m gap to the boundary and 1m set back at first floor in order to maintain a subservient design and avoid the creation of terracing. Therefore, would introduce an incongruous addition to the street scene which is detrimental to the character of the area and the amenity of the local residents. In addition, the scale of the proposed extensions further exacerbate the incongruous appearance in the street scene by unbalancing the pair of semi detached dwellings to the detriment of the amenities of the locality, local residents and the street scene
The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no. 127; The Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular saved policies GP2, ENV32 and Designing Walsall SPD.
- The proposed ground floor pitched roof bay window extension would detract from the original focal two storey front gable bay feature of the dwelling to the detriment of the original dwelling exacerbating the harmful detrimental impact on the character and appearance of the street scene and the amenities of local residents. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no. 127; The Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular saved policies GP2, ENV32 and Designing Walsall SPD.

Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 11-Jul-2019

Plans List Item Number: 12.

Reason for bringing to committee: Applicant related to an elected member and significant community interest.

Location: 69, HIGHGATE ROAD, WALSALL, WS1 3JB

Proposal: TWO STOREY SIDE EXTENSION WITH FIRST FLOOR FRONT PROJECTION AND UNDERCROFT PARKING AND SINGLE STOREY EXTENSION TOWARDS GARDEN.

Application Number: 17/0466
Applicant: Mr M. Hussain
Agent: Maurice Cotton
Application Type: Full Application

Case Officer: Paul Hinton
Ward: St Matthews
Expired Date: 01-Jun-2017
Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Proposal

This application seeks planning permission for the demolition of an existing double garage to the side of this four bedroom semi-detached house and the erection of a two storey side extension. The extension includes a first floor front projection over the existing drive (facing Fairfield Mount) and a single storey projection towards the garden (facing Highgate Road). External changes are proposed to the existing Fairfield Mount elevation including the relocation of the existing entrance door, which would be replaced with a window, and the insertion of two other windows.

The two storey extension would have a width of 4.9m, matching eaves height of 5.9m and double valley roof with matching ridge height of 7.8m (existing roof height is 8.2m). The front extension would project 5m further than the existing Fairfield Mount elevation.

To Highgate Road the two storey element would be set back 2.1m from this elevation, the single storey element set back 0.8m.

The extension would provide a bedroom, living area and wet room at ground floor and a carers bedroom at first floor. It has been explained that the extension is required to provide care for a family member. Habitable room windows are proposed to both front and rear elevations. No side facing windows are proposed.

Two parking spaces proposed to beneath the first floor projection and a third space on the front drive.

The following has been submitted in support of the application:

Bat Survey

- Buildings are generally tightly sealed and with no identified access points for bats or birds.
- No evidence of bats.

The application has been amended since its original submission to that as described above.

Site and Surroundings

The application site is part of Highgate Conservation Area and is also subject to an Article 4 direction that removes most domestic permitted development rights.

Fairfield Mount is a single track access leading from Highgate Road to 11 properties. The application property has is parking area facing Fairfield Mount and access door.

The application property is set back 30m from Highgate Road behind the garden. The Highgate Road elevation is the original front elevation of the property, that includes the main architectural detailing, original front door way, double bay windows and casement dormer windows.

The character of the area is defined by a mix of Victorian terraced detached and semidetached houses, modern, traditional styled detached house and cottage style houses.

Relevant Planning History

BC25759P/C – Erection of double garage. GSC 19/6/1989.

71 Highgate Road

14/0576/FL – Proposed two storey and single storey rear extension. GSC 16/6/14

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

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*".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 55) says:

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Reducing Inequalities

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Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.13 to 3.15 Building Conservation & Archaeology

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Walsall Site Allocation Document 2019

EN5: Development in Conservation Areas

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW3 Character
- Appendix D

Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

In determining any planning application, special attention shall be paid to the desirability of preserving listed buildings and preserving or enhancing the character or appearance of conservation areas as set out in sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Consultation Replies

Highways – no objection. Has been demonstrated that vehicles can manoeuvre in and out of the proposed parking spaces. Fairfield Mount is not a publically maintainable highway and is effectively a private street.

Conservation Officer – no objection. Amendments to the drawings have progressed that from a building conservation/historic environment point of view there are no longer grounds to object to the application.

Representations

Surrounding occupiers notified by letter, site notice displayed and advertised in the local newspaper.

Consultation April 2017

Four letters received objecting to the application on the following grounds:

- Will extend across and onto neighbours land (*plans have been amended to ensure proposal is within the boundary of the property*)
- Loss of light to bedroom, patio and garden.
- Result in removal of boundary hedge, fence and wall (*revised drawings have set the extension away from the boundary*)
- Impact on neighbours cellar (*this would be a matter for Building Regulations and the Party Wall Act and outside the scope of the planning legislation*)
- Not clear how drainage will be dealt with along the boundary (*not a material planning consideration*)
- Loss of property values (*not a material planning consideration*)
- No measurements on the drawings. (*drawings have been provided to a recognised scale sufficient to assess the planning application*)
- Existing parking issues.
- Issues with construction vehicles due to single track roadway.
- Wall has been demolished without permission
- Over development

May 2018 (amended design of proposed extension and proposed separate access onto Highgate Road was proposed)

Eight letters received objecting to the application on the following additional grounds:

- Would not enhance the character of this Conservation Area.
- Contrary to Article 4 directive. (*Article 4 direction removes permitted development rights, it does not preclude land owners submitting planning applications*)
- Overshadow neighbouring garden
- Access would open up security and privacy issues.
- Access would spoil aesthetic appearance of Highgate Road (*Removed from the application*)
- Access would be dangerous (*Removed from the application*)

- Design must consider neighbours existing structures above and beneath ground (*this would be a matter for Building Regulations and the Party Wall Act*)
- Proposed columns restricts parking on drive and vehicles driving over neighbours drives.
- Closing of the space between properties.
- Proposed drawings suggest roof height of no. 71 higher than proposal which is not the case.
- Extension excessive, overbearing and overdominant.
- Single storey extension would be better (*application must be considered based on details of submission*).
- Ground floor extension to Fairfield Mount would result in car overhanging the road.
- Overlooking and loss of privacy
- Issues with construction vehicles due to single track roadway.

March 2019 (amended design of extension)

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

- Vehicle access would change character of the road
- Highgate conservation area is being continually eroded with large extensions
- Proposed parking spaces would overhang the road.
- Reduction in the amount of parking spaces.
- Site boundaries are not correct.

June 2019

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

- No significant changes to the proposal
- Issues could easily be dispatched by a site visit (*the application site has been visited as part of the processing of the planning application*)
- Pleased to see removal of ground floor extension to Fairfield Mount
- Five vehicles park at the site, only three spaces are shown, will lead to parking problems
- Manoeuvring area on the plan suggests double width access, road is single width
- Increasing the bedrooms will lead to more traffic and congestion up and already overcrowded close
- Due to pitch roofline will be higher than shown.
- Garage altered to domestic use without permission.
- Further parts of the wall have been removed without permission.

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

Assessment of the Proposal

Design and Impact on Character of Area

SAD policy EN5 explains developments should preserve or enhance the character and appearance of the Conservation Area.

The NPPF explains that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

Fairfield Mount was historically four pairs of semi-detached villas built in the Victorian era with large gaps between, three detached infill properties have been built later on that infill some of these gaps. No. 71 has a two storey side extension to the boundary with the application property that has been modernised through planning approval 14/0576/FL which also includes a contemporary rear extension. The front of this side extension has been rendered and includes aluminium framed windows.

The side extension to no. 71 is set back 4m from the Fairfield Mount elevation, the proposed extension to no. 69 would project 5m further forward than no. 69 but would be broadly level with the extension to no. 71. The height of the extension would be lower than the existing roof due to the double pitch design.

The Fairfield Mount elevation is brick finished with timber windows that include brick headers and stone cills. The proposed extension would have a modern design on pillars above the proposed car port with a render finish and elongated aluminium framed windows.

Traditionally side extensions are set behind the front elevation of the property to ensure they appear subservient and do not disrupt the rhythm of the street. In this case due to no. 71 stepping further forward, the front extension would be viewed in this context, it would continue this step without disrupting the rhythm of the street. The different roof height, front projection and use of render would ensure it appears subservient. Conservation policies seek to preserve or enhance the appearance of a conservation area. The additional windows and relocated doors to the existing Fairfield Mount elevation seek to preserve the existing features and would cause less than substantial harm. The first floor front projecting extension would be similar in appearance to the extension at no. 71 and while of a modern design would also cause less than substantial harm.

To the Highgate Road elevation is the more detailed architectural features of the building. The proposed side extension is set back at both ground and first floor and alongside the lower roof height would appear as a subservient addition. The proposed windows and doors match those currently used to this elevation. The extension would be finished in render and tiles which are the materials used to this elevation.

The Conservation Officer is concerned about the overall built quality and character of this part of the Highgate Conservation Area. The amendments to the drawings have progressed from a building conservation/historic environment point of view there are no longer grounds to object to the application.

The Conservation Officer is concerned that the extension could be used as a separate house. The application is presented as an extension and must be determined accordingly, however for the avoidance of doubt a condition that defines this extension can be imposed.

The Conservation Officer comments that there are no details of existing or proposed materials. A condition is recommended that requires full material details to be provided.

The Conservation Officer notes reference to a carer's bedroom and raises questions about ambulance access. As noted below Highway Authority has no objection on access grounds. The Conservation Officer questions whether the wet room would meet building regulations for disabled users and whether a disabled user can get their vehicle close enough to the entrance door. Whilst the application makes reference to a carers room, it is not presented as an extension for a disabled occupier. Therefore these concerns are not material to the determination of this application.

Concerns about the original front wall has been removed. In 2014 it appears a 1.5m high brick wall ran for the length of the property (with the exception of the double garage opening), by 2017 75% of the wall had been removed without the required planning permission.

There are very few walls that enclose the Fairfield Mount frontages and the prevailing character is largely open plan. The loss of the wall does cause harm to the heritage value of the area, this is not substantial to warrant enforcement action to replace. The existing parking issues are noted and the removal of the wall does assist to some degree to resolve this.

On balance, the proposal would cause less than substantial harm to the character and appearance of the Conservation Area.

Amenity of Nearby Residents

Number 71 is the neighbouring house adjacent to the side where the extension is proposed. Number 71 has more recently been extended. The two storey element of the proposal would project a further 2.2m to the rear than the rear of no. 71 with the single storey element projecting a further 1.5m to the rear. No. 71 has a bedroom window at first floor and habitable dormer windows in the roof, at ground floor there is a door to the garage. At first floor the proposal accords with the 45 degree code to ensure there is no harmful loss of outlook. At ground floor the rear doors are non-habitable and therefore there would be no harm.

No. 71 is to the north of the proposed extension. There would be no changes to natural light as a result of the extension during between morning and mid-afternoon. From mid-afternoon there would be additional shadowing cast across part of the patio area to no. 71 which would be most noticeable during the winter months. This impact would be short in duration. In considering the size of the neighbouring garden the overall impact on amenity would not be harmful and would not be a sustainable reason to refuse the application on these grounds only.

The proposal would not project any further to the front than the front of no. 71 and therefore cause no loss of amenity. The front facing windows would face the street and would not result in a harmful loss of privacy to the properties across the road. To the rear the first floor bedroom window would overlook the rear garden of no. 71 resulting in a loss of privacy to the users of the garden of no. 71 in the same way as the first floor bedroom

window to 71 overlooks the rear garden of the application site. Consequently, this relationship would not be detrimentally harmful to sustain a reason to refuse.

Taking into account the design and size of the extension, it is considered the proposal would not result in a loss of amenity to neighbouring properties.

Parking

The property is currently served by a double garage and a driveway that can accommodate three vehicles. The access road is single width which provides no opportunities for on-street parking with tight vehicle manoeuvring areas.

The proposal would result in the loss of the double garage and would provide three off-street parking spaces that meet the required 2.4m by 4.8m size criteria. Objectors are concerned about the submitted drawings being accurate and question whether the required sized bays can be accommodated within the land available. Due to the removal of the existing garage the length of part of the drive would be increased by 0.8m. Measurements taken on site confirm that taking account of this increase two parking spaces of the required 2.4m by 4.8m bays can be accommodated within the existing frontage of the site and beneath the projecting extension. Based on the site visit and the proposal it can be confirmed the proposed third space would also fit within the land available.

Objectors explain that the applicant has five cars and therefore two vehicles could be displaced elsewhere within an already constrained area. In addition objectors make reference to the total amount of bedrooms that would be provided. Saved UDP policy T13, requires three off-street parking spaces for four bedroom developments and above. The application would result in a six bedroom property supported by three parking spaces. The proposal accords with UDP policy T13. Highway Authority have no objection. Subject to a condition that requires the parking spaces to be provided and retained the proposal would not give rise to severe cumulative transportation impacts.

Objectors concerns about construction vehicles due to single track roadway. Whilst it is recognised the access may make access for construction vehicles difficult, this would not be a valid reason to refuse the planning application.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance, consultee and neighbour comments, the design of the extension would cause less than substantial harm to the character and appearance of the Conservation Area. The extension would not result in a significant loss of amenity to the adjoining neighbours. Sufficient off-street parking has been provided to meet the needs of the development.

Safeguarding conditions in regard to materials, parking, defined to not be a separate dwelling are necessary and meet the six test. Taking into account the above factors it is considered that the application should be recommended for approval. The development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP4, ENV1, ENV2 and ENV3 of the Black Country Core Strategy, policy EN5 of

the Walsall Site Allocations Document and saved policies GP2, ENV23, ENV32, T7 and T13 of Walsall Unitary Development Plan.

Positive and Proactive Working with the Applicant

Officers have worked with the applicant's agent securing amended plans to enable a positive recommendation to be made.

Recommendation

Grant permission subject to conditions

Conditions and Reasons

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- Location plan received 18/4/18
- Site plan received 28/5/19
- Existing ground floor plan received 18/4/18
- Existing first floor plan received 18/4/18
- Existing elevations received 18/4/18
- Proposed ground floor plan received 28/5/19
- Proposed first floor plan received 28/5/19
- Proposed elevations received 28/5/19
- Existing and proposed side elevations received 28/5/19
- Internal/External Bat Survey received 11/9/18

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

3a. Prior to the commencement of development a schedule of facing materials including 1:20 sections illustrating profile and detail of material and finish for external walls, roofs, windows, cill and headers, doors, rainwater goods and surfacing shall have been submitted for written approval of the Local Planning Authority. The windows to Highgate Road shall be wooden sash windows, the windows to the original Fairfield Mount elevation shall be wooden sash windows, the windows within the extension facing Fairfield Mount shall be aluminium.

3b. The approved scheme shall be implemented in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the development would have a positive impact on and enhance the character of the conservation area in accordance with saved policy ENV32 of Walsall's Unitary Development Plan and policy EN5 of the Walsall Site Allocation Document.

4a. Prior to the first occupation of the extension hereby approved the three parking spaces measuring 4.8m by 2.4m as shown on the approved ground floor plan received on 28/5/19 shall have been provided. The parking spaces shall be drained to ensure surface water from the parking area does not discharge onto the public highway.

4b. The parking areas shall thereafter be retained and used for no other purposes.

Reason: To ensure the satisfactory completion and operation of the development and in accordance with UDP Policy GP2, T7 and T13.

5. For the avoidance of doubt the development hereby approved shall only be used for purposes incidental to the enjoyment of the main dwellinghouse and at no point shall be used as a separate dwellinghouse.

Reason: To define the planning permission, safeguard the amenities of adjoining dwellings and to comply with the NPPF, Walsall's Unitary Development Plan saved policy GP2 and Designing Walsall SPD appendix D.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development.

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