



Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 29 April 2021

Plans List Item Number: 3

Reason for bringing to committee

Called in by Councillor K Hussain on the grounds that delicate judgement is required and the benefits of the proposed facility outweigh the reasons for refusal and the impact on neighbouring properties is not significant enough to refuse the planning application

Application Details

Location: LAND REAR OF 14-18 MOAT ROAD, WALSALL, WS2 9PJ

Proposal: DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF A TWO-STOREY BUILDING FOR RESIDENTIAL PURPOSES WITH 13 EN-SUITE BEDROOMS AND ASSOCIATED FACILITIES INCLUDING KITCHENS, LAUNDRY AND LIVING AREAS, TRAINING ROOM AND OFFICE, CHILDREN'S PLAY ROOM, COMMUNAL GARDEN WITH ASSOCIATED ACCESS AND PARKING (SUI GENERIS).

Application Number: 20/1655

Case Officer: Helen Smith

Applicant: Mr Ramzan Sharif

Ward: Pleck

Agent: Mr Graeme Thorpe

Expired Date: 15-Feb-2021

Application Type: Full Application: Minor Use Class Sui Generis

Time Extension Expiry: 01-Mar-2021

Recommendation

Refuse



Proposal

The proposal is for the demolition of existing buildings and erection of a two-storey building for residential purposes with 13 en-suite bedrooms and associated facilities including kitchens, laundry and living areas, training room and office, children's play room, communal garden with associated access and parking (sui generis).

This would be a back land development to provide accommodation for 13 adults and 16 children. The submitted supporting details explain the proposal would be used as a women's refuge. The existing buildings on the site would be demolished to accommodate the new building and parking and landscaping provided.

The two storey building would have a gable room with a two storey front gable feature and there would be a single storey front extension with a pitched roof. Front, side and rear facing habitable room windows are proposed.

The key measurements of the proposed new building are;

- Ground floor area of 236 sq. metres
- First floor area of 216 sq. metres
- 5.3 metres high to the eaves
- 8.5 metres high to the main ridge reducing to 7.3 metres high.

The proposed development would include the following;

- 11 en-suite bedrooms to provide accommodation for one adult and one child in each room
- 1 en-suite family room to accommodate 1 adult and 3 children
- 1 en-suite room to accommodate 1 adult and 2 children
- Office
- Training room
- 2 no. shared kitchens
- Lounge area
- Laundry
- Play Room

5 off-street parking spaces are proposed along with a cycle store to the front of the new building. A gated communal amenity area of 178 sq. metres is proposed located to the rear of the building which would be 3.5 metres deep. The amenity space abuts the rear boundaries of residential gardens serving no's 68 to 76 Drayton Street.

A new 1.2 metres wide footpath is proposed for the entrance drive with a pedestrian gate along with separate vehicular access gates set back 5 metres from the highway. Pedestrian access between 12 and 14 Moat Road to the first floor flats above 14 to 18 Moat Road would be maintained. A bin storage area would be installed adjacent to the entrance gates and two seating benches next to the cycle store.

The proposal states that a maximum of 3 full time equivalent staff members and 1 children's worker would be on site at any one time. Staff hours are proposed to be 09:00hrs to 17:00hrs daily on site. The site will operate an on call system where any resident can call the on-call member of staff should it be required outside the hours of 09:00hrs to 17:00hrs.

Should there be a placement of a new resident outside of the hours of 09:00hrs to 17:00hrs a staff member will be on-site outside of these hours. The planning statement says that from the operators existing experience this will be required on minimal occasions.

The application is supported by the following documents;

- Design and Access Statement
- Planning Statement and Site Management Plan
- Phase I Site Appraisal
- Transport Statement
- Letter of Support from organisations acknowledging the need for such provision in the borough.

Pre-application advice was provided by officers in respect of a proposed 20 bedroom refuge hostel and advice provided that the site location was considered cramped and out of character with the surrounding area and was unlikely to be supported.

Site and Surroundings

The site is a vacant yard once used by a felt roofing company located to the rear of shops and houses. Access to the site is via a driveway located between 18 and 22 Moat Road. The total area of the site is approximately 0.078 ha

There is an existing part two and part single storey building in the yard with a separate single storey garage to the rear of the main building. The site is mostly hard surfaced and surrounded by brick boundary walling.

Moat Road has a mixed character of terraced residential properties facing the car park serving Walsall Manor Hospital. No's 14 to 18 Moat Road are commercial/retail units at ground floor with residential accommodation at first floor accessed from the rear via an external staircase. The application advises that these residents use on street parking as the flats do not have designated parking.

Parking along this part of Moat Road is for permit holders only and the entrance to this site has double yellow lines. The opposite side of the road has double red lines with no parking permitted.

There are residential properties to the North, East and South of the application site. Houses to the north and south of the application site have rear private gardens which share common boundaries with the application site. Habitable room window to window separation distances exceed 24 metres between existing residential dwellings and the proposal.

The site lies within Flood Zone 1 and is within a designated Coal Development Low Risk Area.

Relevant Planning History

16 Moat Road

04/1545/FL/W7 – Change of use to Café– refused permission on 30/09/04 because of a lack of off-street parking and impact of odours on residential properties.

BC33530P - Display of 1 No. Fascia & 1 No. Projecting Illuminated Sign – advert consent granted 09/08/91

14, 16, 18 Moat Road

18/0559 – Two Bed Flat – Incomplete 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 5 – Delivering a sufficient supply of homes**
- **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**

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.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.9 Derelict Land Reclamation
- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV32: Design and Development Proposals
- 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

Black Country Core Strategy

- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing
T4: The Highway Network

Supplementary Planning Documents

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW7 Diversity
- DW8 Adaptability
- DW10 Well Designed Sustainable Buildings

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

Clean and Green, Waste Management – No objections and have commented that the development would be entitled to 1 x 360ltr bin for waste and 1 x 360ltr bin for recycling and these would need to be presented for collection near the highway by occupiers.

Fire Officer – No objections subject to compliance with Approved Document B, Volume 1, Dwellings, 2019. An informative note can be included, if approved.

Housing Standards – Concerns raised in respect of the size of kitchens for 27 residents and this property will need a HMO licence and will need to comply with Walsall Council HMO Standards.

Lead Local Flood Agency – No objections and have provided their standing advice for low risk of flooding.

Local Highway Authority – No objections subject to the inclusion of planning conditions in respect of access, parking, manoeuvring areas, surfacing and construction methodology, if approved.

Police Architectural Officer – No objections and have provided details of recommended security for the proposal, if approved.

Pollution Control – No objections subject to the inclusion of planning conditions in respect of contaminated land, air quality, construction management and acoustics if approved.

Severn Trent Water – No comments received

Strategic Planning Policy – concerns raised regarding the proposed living environment for residents.

Representations

(Officers' comments in italics)

Three neighbours have objected on the following grounds;

- Overlooking
- Parking
- Disturbance from building works
- No details on the type of people living in the accommodation *(Not a material planning consideration in this instance)*
- Noise and disturbance
- Visual impact on rear gardens from overbearing building
- Increase of traffic
- Value of homes impacted *(Not a material planning consideration in this instance)*
- Dust, heavy traffic and disturbance during construction

Determining Issues

- Principle of Development
- Character, Design and Layout
- Amenity of neighbouring Residents
- Ground Conditions
- Drainage
- Air Quality
- Acoustics
- Access and Parking
- Planning Obligations

Assessment of the Proposal

Principle of Development

The application seeks consent for a residential use on a former commercial site. The site sits within a well-established area consisting of a mix of residential and commercial properties with Walsall Manor Hospital car park opposite. The site is near to a bus route, and within easy walking distance of the centre of Walsall. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP in terms of sustainable transport and reuse of previously developed land.

Whilst reference is made in submitted documents, and in the consultation response from the Council's Housing Standards Team to a House in Multiple Occupation (HMO), the Local Planning Authority considers the proposal falls outside of a HMO use due to the provision of on-site training and office facilities and daily staff presence to support a residential use and is therefore a Sui Generis use. This application has been assessed on this basis,

The proposal is not considered to raise strategic planning policy issues.

Character, Design and Layout

The awkward shaped plot and proposed back land development with a narrow entrance drive is considered fails to respond to the local character by being out of keeping with the established pattern of settlement and surrounding land uses.

The largely two storey building would occupy almost the full width and depth of the site and would reduce space to the existing neighbouring dwellings resulting in a cramped and overbearing development which would have a detrimental impact on the visual relationship of the development with neighbouring dwellings and locality.

The site layout is cramped and is considered is likely to be overcrowded with limited secure private amenity space provided for occupiers of the development which includes children. The proposed opening up of the rear amenity space to the public and vehicular access adjacent to a residential property, 22 Moat Road, is considered will bring noise and disturbance to areas of garden land that would be to the detriment of neighbouring occupiers

The proposed private amenity space of 178 sq. metres for a total of up to 29 residents, which includes children, is considered to be inadequate provision and further demonstrates the overdevelopment of this site and the resulting poor living environment for future occupiers contrary to local and national planning policy and guidance.

The proposal is considered will provide very limited facilities for residents with two small kitchens to serve 13 adults and 16 children along with a small laundry, single lounge and small playroom. The Council's Housing Standards Team has concerns with this provision. The design and layout of the current proposal is considered fails to provide an adequate level of amenity for the proposed occupiers in this instance.

The proposed vehicular entrance with gates set back into the site to provide a pedestrian visibility splay between the adjacent buildings is considered would create a hiding place and may encourage anti-social behaviour or be a security risk for occupiers.

The Police Architectural Officer has provided security recommendations for the site should the proposal receive planning consent. Their recommendation includes Secured by Design, the use of toughened/6.8mm laminated glazing, trellis on top of fencing to provide an initial warning noise of any trespass night and day and rule setting for residents to ensure safety and security.

A planning condition could be included requiring refuse bins to be presented on the highway for collection on the required day, if approved.

The proposal for the reasons stated above is considered would have an unacceptable and detrimental impact on the character and appearance of the area.

Amenity of Neighbouring Residents

The proposed development is considered would have an overbearing and shadowing impact on neighbours' private rear gardens because of its close proximity to common rear boundaries and position to the south of houses fronting Drayton Street. First floor habitable room windows would result in unacceptable overlooking of private rear gardens at 68 to 78 Drayton Street and 22 and 24 Moat Road.

The separation distances between habitable room windows in neighbouring dwellings and the proposed development is considered would meet the aims and objectives of the Council's recommended separation distance of 24 metres referred to in Appendix D of Designing Walsall SPD.

The Planning Agent has made helpful changes to the accommodation arrangements to reduce the number of residents for each bedroom, introduce a second shared kitchen, laundry, lounge and play room for the children.

No details of any plant or equipment relating to the use of the kitchens, laundry, bathrooms and office such as extraction fans, air inlet, and air conditioning systems and whether noise will affect nearby residential properties.

Furthermore it is considered that opening up the rear amenity space to the number of residents proposed and the increased use of the vehicular access and new gates between no's 18 and 22 Moat Road will result in significant additional noise and disturbance to an area of garden land that would be to the detriment of neighbouring occupiers.

Given the proximity of residential dwellings and the road infrastructure, there is the potential for local environmental impacts from engineering and construction activities. All of these issues could be addressed by planning condition, if the application is approved, via a Construction Management Plan. Some disruption to residents during a construction project is likely however this is anticipated to be for a short period and a construction management plan would aim to minimise these impacts.

The Local Planning Authority considers that this proposal should be refused permission for the reasons set out above.

Ground Conditions

The Applicant has undertaken a Phase 1 investigation which recommends that an intrusive investigation to investigate contaminated land, ground gas, and geology is undertaken prior to commencement of any development.

Pollution Control officers concur with this recommendation and subject to planning approval will require the inclusion of planning conditions in respect of contaminated land requirements.

Drainage

Severn Trent Water have not provided any comments however if the planning application receives approval a planning condition would be included to require the submission of drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers.

The Lead Local Flood Agency have advised that as the ground floor area of the residential development does not exceed 1000m², and their records show the site to be at low risk of flooding, their Standing Advice in respect of surface and ground water has been provided.

Air Quality

The applicants will be required to agree and install an electric vehicle charging point in accordance with the requirements of the Council's Air Quality Supplementary Planning Document. This can be included in a planning condition if the application is approved.

Acoustics

To minimise vehicle noise from the access road upon neighbouring residential premises, Pollution Control Officers have advised that the applicant would need to install an acoustic boundary treatment.

This can be in the form of a wall or close-boarded fence or other solid material to be agreed in writing with the Local Planning Authority of at least 1.8 metre height, with a minimum superficial density of 10kg per metre squared, which is completely solid from base to top, if the application is approved.

Access and Parking

The Local Highways Authority has commented that 7 parking spaces are provided inclusive of 1 disabled space. As residents are unlikely to be car owners it is considered that the parking provision will mainly be for staff. There are expected to be around 3 staff on site at any one time. On this basis the level of parking provision is considered acceptable. The existing access to the site would be utilised.

The Local Highway Authority considers that the development would not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF.

Planning Obligations

If Members of this Planning Committee were minded to approve this planning application any necessary limitations on occupancy to define the permission i.e. women and their dependents, would require the completion of a Section 106 agreement.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the awkward shaped plot and proposed back land development fails to respond to the local character by being out of keeping with the established pattern of settlement and surrounding land uses. The development fails to demonstrate that there would be no harm to the amenity of the occupants of neighbouring buildings or the intended occupiers of the proposed accommodation. The design and layout of the current proposal is considered would provide a very poor living environment for potential residents. In addition, the proposal is considered would have an unacceptable loss of privacy and have an overbearing outlook for neighbouring residential properties.

As such the development is considered fails to meet the aims and objectives of the National Planning Policy Framework (para 127), policies CSP4, HOU2, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2, ENV11, ENV14 and ENV32 of Walsall Unitary Development Plan, policy HC2 of Walsall's Site Allocation Document 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 in this instance are unable to support the proposal.

Recommendation

Refuse permission

Reasons for Refusal

1. The awkward shaped plot and proposed back land development with a narrow entrance drive is considered fails to respond to the local character by being out of keeping with the established pattern of settlement and surrounding land uses and fails to provide a satisfactory residential environment with limited secure amenity space for potential future occupiers of the development. The proposal is therefore contrary to the aims and objectives of policies HOU2, ENV2, ENV3 of the Black Country Core Strategy, saved policies GP2, and ENV32 of the Walsall Unitary Development Plan, policy HC2 of

2. The largely two storey building would occupy almost the full width and depth of the site on a constrained plot size when combined with the close proximity to neighbouring residential boundaries is considered would have an overbearing, overshadowing and detrimental impact on neighbours' existing privacy, amenity and outlook along with increased noise and disturbance to residents enjoyment of their private rear gardens. The proposal would be contrary to the aims and objectives of paragraph 127 of the NPPF, Policies HOU2 and ENV2 of the Black Country Core Strategy, policy HC2 of Walsall's Site Allocation Document, and saved UDP policies GP2, and ENV32 and Designing Walsall SPD.
3. The proposal fails to include information regarding plant associated with the kitchen or plant room such as extraction fans, air inlet, and air conditioning systems and whether the noise will affect the nearby residential properties. The Council is unable to assess this element of the proposal with any certainty and is contrary to the aims and objectives of policies HOU2 and ENV2 of the Black Country Core Strategy, and policy HC2 of Walsall's Site Allocation Document saved UDP policies GP2, ENV10 and ENV32.
4. The proposed first floor habitable room windows in the development are considered would result in an unacceptable loss of privacy and have a detrimental overlooking impact on existing houses at the frontage and those at the rear because of the close proximity to rear garden boundaries. The proposal would be contrary to the aims and objectives of paragraph 127 of the NPPF, Policies HOU2 and ENV2 of the Black Country Core Strategy and saved UDP policies GP2, and ENV32, policy HC2 of Walsall's Site Allocation Document, and Designing Walsall SPD.
5. This application fails to demonstrate how increased noise and disturbance to residential occupiers from vehicles entering and leaving the site would be addressed arising from the increased use of the existing vehicular access drive and new gates adjacent to 22 Moat Road including disturbance from vehicle headlights as a result of the intensified use of the site. This would be to the detriment of residents existing amenity and would be contrary to the aims and objectives of paragraph 127 of the NPPF, Policies HOU2 and ENV2 of the Black Country Core Strategy and saved UDP policies GP2, and ENV32, policy HC2 of Walsall's Site Allocation Document, and Designing Walsall SPD.
6. The development would have no staff on site between the hours of 17:00hrs and 09:00hrs most times each day to provide support, management and security. This is considered would be detrimental to the vulnerable occupiers of the development and the amenity of neighbouring residents as there is a risk of threat, jeopardy and disturbance. This would be contrary to the aims and objectives of paragraph 127 of the NPPF, Policies HOU2 and ENV2 of the Black Country Core Strategy and saved UDP policies GP2, and ENV32 and Designing Walsall SPD.

END OF OFFICERS REPORT