



## Planning Committee

Report of Head of Planning and Building Control on 10 December 2020

Plans List Item Number: 1.

### Reason for bringing to committee

#### Major Application

#### Application Details

**Location:** FORMER ALLOTMENTS REAR OF 1 TO 9, CRICKET CLOSE, WALSALL

**Proposal:** PROPOSED ERECTION OF 29 DWELLINGS (COMPRISING 22 OPEN MARKET DWELLINGS AND 7 AFFORDABLE UNITS) WITH LANDSCAPING, ACCESS ROADS, CAR PARKING AND ASSOCIATED INFRASTRUCTURE

**Application Number:** 20/0522

**Case Officer:** Helen Smith

**Applicant:** Cricket Close LLP

**Ward:** Paddock, Palfrey

**Agent:** Natasa Vlahovic

**Expired Date:** 06-Aug-2020

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

**Time Extension Expiry:**



## Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and S106 to secure urban open space contribution, affordable housing and landscape management company to manage landscaping subject to;

- Securing comments from the Council's Arboriculturist and Highways Officers
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Address Pollution Control concerns once they have secured further soil samples
- Finalising the District Valuer's Advice

## Proposal

Proposed construction of 29 dwellings with associated landscaping, access roads, car parking and infrastructure.

The proposed site includes 2 new dwellings to the north east of the site fronting Broadway and are served by a separate shared vehicle access from Broadway. A total of 27 dwellings are proposed for the southern element of the application site and would be accessed from Birmingham Road (A34) via Cricket Close.

The proposed house type comprises a mix of type and size including 2, 3, 4 and 5 bedroom properties. Houses include both two and two and a half storey dwelling with a mix of designs including detached and semi-detached properties. Of the proposed 29 new dwellings the submitted plans indicate that seven x 2 bedroom, affordable houses are proposed, located on plot no's 5, 6, 7, 24, 25, 26 and 27.

71 parking spaces are proposed plus 2 parking spaces proposed for 11 Cricket Close, an existing dwelling with a limited frontage for off-street parking. Plot no's 2, 3, 4, 5, 7, 26 and 27 would have one off-street parking space provided and the plans detail four further visitor spaces near to plots 14 and 16.

New trees and soft landscaping are proposed around car parking which is positioned to the front and sides of the proposed dwellings. Separate garages with utilities are proposed for plot no's 10, 11, 12, 13, 14, 16, 28 and 29.

A combination of 1.8 metre high walls and 1.8 metres high close boarded timber fencing topped with 300mm trellis are proposed as boundary treatment for the site

along with 450mm knee high timber railings along the southern boundary of plot no. 28.

Plot 29 is located approximately 36 metres from the boundary of Metro Inn Hotel located near to the corner of the Broadway and Birmingham Road junction.

A green buffer is proposed around the periphery of the site to the east, south and west along with a green corridor separating the proposed development from properties on Ravensdale Gardens and Ravensdale Close.

This application is supported by the following documents;

Planning Statement Incorporating a Statement of Community Involvement, prepared by Planning and Development Ltd, dated May 2020

This statement concludes that the proposal have a number of significant benefits and should be supported by the Local Planning Authority for the following reasons;

- Proposals are squarely aligned to the Development Plan strategy to encourage housing development at sustainable locations
- Walsall Council has identified the site as an opportunity for residential development and is land allocated for housing by Policy HC1 of the adopted Site Allocations Development Plan.
- Proposals constitute sustainable development and will place homes in a location which is very accessible to public transport and the services and facilities within the local neighbourhood. NPPF makes it clear that
- Proposals will make a contribution to the Council's public purse through payment of New Homes Bonus.
- Development will provide a high quality development that is sensitive to the sites location and its surroundings
- Proposals avoid developing on Green Belt designated land.

In summary the statement concludes the proposals are in accordance with national and local planning policy. They will deliver material planning benefits which weigh in favour of Planning permission being granted.

Transport Statement prepared by Hydrock on 30/03/2020 which states;

- Sustainability assessment shows that the site is accessible by non-car modes and provides an alternative to car travel (e.g. journeys to work) and as such promotes the aim of reducing car travel
- The traffic impact assessment shows the development would generate 15 vehicles in the AM peak, and 14 vehicles in the PM peak, which equates to approximately 1 vehicle trip joining the local highway network every 4 minutes during both the morning and evening peak hours.
- No additional 'NET' trip assessments have been undertaken to take into account what the existing site i.e. the Tennis Club could generate

Framework Travel Plan prepared by Hydrock on 30/03/2020

The document states;

- The proposed development site is located in an accessible location within Walsall and is well located to make use of the existing public transport links and pedestrian/cycle routes
- Proposal complies with both the local and national policies summarised in the document (section 2)

Document aims to develop and deliver a framework residential travel plan for annual review and an annual action plan prepared and agreed. The aim is to introduce a package of measures for the site to promote sustainable travel choices and reduce reliance on the car.

Design and Access Statement Rev 1 by BM3

This document comments upon the design of the proposed development in terms of the site, local character and context, environmental impact, accommodation mix, scale, materials, car parking, outdoor space and the public realm.

Preliminary Ecological Assessment prepared by Dr. Stefan Bodnar, February 2020 (updated)

The report states that;

- The value of the site in ecological value to wildlife is generally low with the woodland and riparian stream habitats of moderate value
- Retention and protection of mature trees, woodland and enhancement of boundary features are important in terms of maintaining connective features of the site and screening of the development.

In conclusion the report states;

- Further surveys and reports are recommended in order to fully determine the presence of any protected species and the implications of the proposed development on these species
- Bird nesting season; clearance will have to be outside mid-March to mid-July
- No Statutory or Non Statutory Designated Nature Conservation Sites within the site or that will be impacted upon
- Habitats within the site indicate the area is used for bat foraging and commuting

#### Dusk and Dawn Emergent Bat Survey prepared by Dr Stefan Bodnar in July 2017

This report concludes that bat activity was present on both visits however the survey confirmed there were no bat roosts associated with the site. Part of the site is extremely well-lit from street lighting which splays and may account for the lack of bat activity in habitats that might otherwise be suitable. No mitigation is required although enhancement with bat boxes could be undertaken.

#### Dusk and Dawn Emergent Bat Survey prepared by Dr Stefan Bodnar in June 2020

The updated bat activity survey revealed 4 bats present on the first occasion and 3 bats on the second visit with low activity. The conclusions were the same as in July 2017 in that part of the site is extremely well-lit from street lighting which splays and may account for the lack of bat activity in habitats that might otherwise be suitable. No mitigation is required although enhancement with bat boxes could be undertaken.

#### Reptile Survey prepared by Dr Stefan Bodnar & Dr Louise Sutherland, June 2017 states that;

No reptiles or great crested newts were discovered during the survey but there is still a small possibility these species may be on site in very small numbers or could move into the habitats within the site at some point in the future and the appropriate safeguards will need to be employed.

#### Manual Reptile Survey by Dr Stefan Bodnar & Dr Louise Sutherland, May 2020 states that;

No reptiles were recorded during this survey and it is assumed that it is likely that reptiles are absent from this site or are at a very low population density. In addition there were no great crested newts recorded on site during the survey and it is considered the lack of reptiles and amphibians is likely to be a result of the site's relative isolation for these species. Safeguarding conditions are recommended during the development works, if approved.

#### Construction Traffic Management Plan prepared by Hydrock dated 23/03/2020

This report documents the systems and controls to be adopted to minimise any adverse environmental effects associated with construction traffic during the construction of the proposed development.

#### Site Investigation prepared by ASL, February 2020

This report provides foundation construction advice for the proposed development and advises that the disposal of surface water to soakaways or other infiltration systems is unlikely to be suitable for the proposed development. Contamination assessment has resulted in recommended mitigation measures.

#### Desk Study Report prepared by ASL, February 2020

This report considers the site, geology, hydrology, and hydro-geology and site history. The report recommends an intrusive ground investigation ahead of any development works to determine the founding properties of the underlying ground conditions and to determine the actual contaminative ground conditions, along with an assessment of hazardous ground gas, although the risk to identified receptors is generally considered to be very low.

#### Flood Risk Assessment and Drainage Strategy by Hydrock dated 26/03/2020

The report states that provided an approved SUDs is employed the proposed scheme will;

- Be safe and resilient to flooding in the critical design flood event with an acceptable level of residual risk
- Not increase flood risk through loss of floodplain storage, impedance of flood flows or increase in surface water run-off

And the proposed development is concluded in the report to meet the flood risk requirements of the NPPF.

#### Energy Statement prepared by Focus Consultants, April 2020

Report identifies potential options for meeting Policy ENV7

- Through the use of solar photovoltaics
- Through the use of an enhanced fabric and services specification

#### Noise Report prepared by John Waring Acoustic Consultant dated 9/6/2017

The report concludes the following;

- Gardens should be fenced with a 2 metre high close boarded fence of surface density 7.0kg/m<sup>2</sup>. If preferred a brick wall would be equally effective
- Double glazing would be sufficient to bring noise levels within the dwellings to below the maximum design noise levels provided specialist ventilation units are used
- This should be considered to be a minimum standard of glazing and so be more certain of achieving the average noise levels and peak night time noise level.
- Assessment of the noise impact of the nearby Metro Hotel has concluded that following guidance given in BS4142 there is likely to be a low impact on the surrounding residents

#### Arboricultural Assessment by Dr Stefan Bodnar, February 2020

- During constructions works the root protection areas (RPA), 'Construction Exclusion Zones' are to be protected by barriers and ground protection
- Hard surfacing within the RPA shall be designed to avoid root loss
- Hard surfacing in these areas shall be permeable and gas porous and edge supports such as kerbs or edgings on foundations and haunchings shall not be use within the RPA

### **Site and Surroundings**

This irregular shaped piece of land is located to the south east and approximately 1.6 miles from Walsall Town Centre measuring 1.42 hectares. Walsall Golf Course lies to the south of the application site within designated Green Belt. This site was Urban Open Space within the UDP however was subsequently allocated for housing by Walsall's Site Allocation Document adopted in 2019. The southernmost tip of the application site lies within designated Green Belt.

The site includes an un-used patch of land to the north with abandoned allotments to the south. This site falls within Flood Zone 1. To the western and eastern edges of the development there are two streams, the Full Brook and its tributary. The Full Brook is designated as part of a Wildlife Corridor.

Adjacent to the site lies 5 tennis courts which were previously used by Walsall Tennis Club. The highest point of the site is to the north-west corner of the site and the site slopes down to the south and west.

The site is heavily overgrown with scrub vegetation and there are a number of protected trees to the northern element of the application site fronting Broadway.

There are residential dwellings located to the north, east and west of the application site along with Metro Inns Hotel to the north, accessed separately from Birmingham Road. The A34 between Walsall and Birmingham benefits from access to public transport links including a bus stop close to the entrance of Cricket Close.

## **Relevant Planning History**

Former Allotments R/O 1-9, Cricket Close, Land At & Including Walsall Tennis Club, Birmingham Road & Land To The East Of Broadway, Walsall

17/0845 – Proposed erection of 50 dwellings with car parking, access roads, public open space and associated infrastructure – withdrawn 16/5/19 at the applicant's request as mitigation for the loss of the tennis club could not be identified and secured at that time

Land Between 1 & 3 and Between 9 & 11 Cricket Close, Walsall, WS5 3PU

11/0017/FL - Construction of a two storey detached dwelling with ancillary on site car parking for 2 vehicles, and a new access to the allotment gardens – Granted subject to conditions 31/03/11 but not implemented.

## **Relevant Policies**

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

[www.gov.uk/guidance/national-planning-policy-framework](http://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**
- **NPPF 13 – Protecting Green Belt land**
- **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.

### **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](http://www.go.walsall.gov.uk/planning_policy)

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

- 3.2 to 3.5 The Countryside and Green Belt
- 3.6 to 3.8 Environmental Improvement
- 3.11 Forestry and Trees
- GP2: Environmental Protection
- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- H4: Affordable Housing
- 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
- T13: Parking Provision for Cars, Cycles and Taxis
- LC1: Urban Open Space
- LC4: Allotment Gardens

## **Black Country Core Strategy**

- CSP4: Place Making
- CSP5: Transport Strategy
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- HOU3: Delivering Affordable Housing
- 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
- ENV6: Open Space, Sport and Recreation
- ENV7: Renewable Energy
- ENV8: Air Quality

## **Walsall Site Allocation Document 2019**

HC1: Land allocated for New Housing Development

HC3: Affordable Housing and Housing for People with Special Needs

GB1: Green Belt Boundary and Control of Development in the Green Belt

EN1: Natural Environment Protection, Management and Enhancement

EN3: Flood Risk

T4: The Highway Network

T5: Highway Improvements

## **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
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Appendix D: Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. The requirement to design longer rear gardens to reflect an area's character is applicable and the guidelines should not mean to be the maximum achievable distances.

Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above (this standard will be applied more robustly at the rear than across roads at the front), 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20 sq. metres useable space per dwelling where communal provision is provided.

## **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 England** – No objections

**Transportation** – To be updated at planning committee

**Planning Policy** – No objections and advise a S106 agreement will be required in respect of affordable housing and off-site open space.

**Pollution Control** –To be updated at planning committee

**Tree Preservation Officer** –To be updated at planning committee

**Ecology** – No objections subject to additional survey work being undertaken.

**Flood Risk Manager** – No objections subject to the inclusion of a planning condition in order to secure implementation of the scheme in accordance with the submitted documents if approved.

**Historic England** – No objections

**Housing Strategy** – To be updated at planning committee

**Severn Trent Water** – No objections subject to the inclusion of a planning condition and informative note in respect of sewage

**Natural England** – No objections as there are no significant impacts on statutory designated conservation sites or landscapes

**Public Health** – No objections

**Police Architectural Liaison Officer** – No objections and recommend Secured by Design principles

**Rail Infrastructure Manager** – No objections

**Sport England** – No objections

**West Midlands Fire Service** – No objections and require the inclusion of an informative note

**Archaeology** - No objections subject to the inclusion of a planning condition to include a watching brief on ground works.

## **Representations**

*(Officer comments in italics)*

Objections have been received from 13 neighbours on the following grounds;

- Entrance and exit points via Cricket Close are not practical and potentially hazardous
- Turning right onto Birmingham Road (A34) from Cricket Close will become increasingly more difficult due to an increase in traffic volume
- No right hand filter on the A34 to speed up the traffic flow
- Safety of children and residents. Roads are typically narrow with cars parked
- Misled as the letter states 29 dwellings but it has come to light that this relates to Phase 1 and that Phase 2 will follow shortly *(The local planning authority can only consider the application before it. If phase 2 comes forward at a later date, that would be as a separate planning application)*
- Additional traffic re-routed from M6 after an incident always causes significant disruption to Birmingham Road *(This a separate matter to the determination of the current planning application)*
- Existing problems with the sewage system causes problems *(The development would have to comply with the requirements of Building Control legislation and the requirements of Severn Trent Water)*
- Disruption from construction traffic *(A construction management plan would form part of an approval)*
- Parked cars obstruct emergency vehicles and the refuse lorry *(This is outside the scope of the planning application and would be managed by third party agencies)*

- University overflow parking (*This is outside the scope of the planning application and the University has increased on-site parking to the front*)
- Parking will worsen if the Government stops people parking on the kerb (*not a material planning consideration to the determination of this planning application*)
- Devalue house prices (*not a material planning consideration*)
- Increased traffic volume because of new Sprint bus to Birmingham and what impact will this have on local traffic? (*Sprint route changes are not a material planning consideration*)
- Existing parking is difficult with around 30 houses and without extra housing and tradesmen's vehicles. (*not a material planning consideration, the development has to demonstrate it has its own parking provision*)
- Need to protect this green land (*This land has been designated for housing development in Walsall's SAD, Policy HC1 and site reference HO305*)
- With Covid-19 there should not be increased dwellings in the area and furthermore controlling the region population numbers. (*This is not a material planning consideration and Government policy is to increase the numbers of houses available*)
- Loss of trees detrimental to the area
- Will Cricket Close become a 'Park and Ride' for the Sprint bus? (*not a material planning consideration and the Council is processing an application for new housing at this location*)
- Pollution of the stream from further housing (*no evidence to substantiate this claim*)
- Reversing out of drive will become more hazardous (*This is outside the scope of the planning application*)
- Safest access would be via the Broadway (*There is no evidence put forward to substantiate this claim, the Local Planning Authority can only determine the planning proposal before them*)
- Loss of wildlife and the buffering and screening between new and existing developments from woodland (*a green buffer around the east, south and west boundaries of the site would be maintained and protected species are considered in the body of the report*)
- Extra load on the stream during storm conditions (*no evidence to substantiate this claim. All developments must demonstrate they do not exacerbate flooding*)
- Some existing houses only have space to park one vehicle and on-street parking is vital to current residents (*The parking of current residents is outside the scope of the planning application. The proposed development is weighed against the Council's policies*)
- Increased traffic congestion with close proximity to Lake Avenue, Ravensdale Gardens and Springvale Avenue (*Birmingham Road is part of the Strategic Highway Network and it is considered that the addition of 29 further houses, if approved would have a nominal increase in traffic volume*)
- Potential Phase 2 of the development on the former Tennis Club would put further pressure will be placed on the road network in the area (*The local planning authority can only consider the application before it. If phase 2 comes forward at a later date, that would be as a separate planning*)

- *application and residents would be notified in accordance with the national planning requirements at that time)*
- Unresolved issue with the drainage into the brook at the head of the close and this should be resolved before any planning permission is approved. *(All developments must demonstrate they do not exacerbate flooding and cannot be required to overcome existing issues off site)*
- Boundary Treatment Document and Transport Statement have inaccurate drawings which suggest 11 Cricket Close has a longer private drive than exists. No. 11 has been extended and the proposal would remove any useable frontage parking for no. 11
- Not enough junction spacing on Birmingham Road (A34) and this would not be an issue if access was taken from Broadway
- The controlled pedestrian crossing on Broadway is ideally located for pedestrian and permeability purpose *(This is outside the scope of the application and the Local Planning Authority can only determine the planning proposal before them)*
- Birmingham Road already over capacity with extensive queuing *(Birmingham Road is part of the Strategic Highway Network and it is considered that the addition of 29 further houses, if approved would have a nominal increase in traffic volume)*
- Sprint bus will result in the loss of pavement on the Birmingham Road (A34) Walsall direction and not enough consideration given to the upcoming future of the Cricket Close and Birmingham Road junction *(Sprint route changes are not a material planning considerations for this application)*
- Danger of a rat-run being created *(The proposal does not show a through route from Birmingham Road to Broadway)*
- Object to 2 car parking spaces being allocated to 11 Cricket Close around the corner from their property as the front of the house is covered by CCTV and this is would not have adequate crime prevention
- No submission of bat surveys, reptile surveys and noise report *(bat surveys, reptile surveys and noise reports have been provided in support of the application)*
- Lack of consideration of school places in the area for phase 1 and 2 of the proposed development *(no adverse comments received from Education Walsall)*
- No available spaces for any reception to Year 6 places *(no adverse comments received from Education Walsall)*
- Drainage problems with the brook and allotments *(All developments must demonstrate they do not exacerbate flooding)*
- Two blind corners and parked cars. The Council puts money before safety and should any type of accident occur the Council will be taken to court as being complicit as they knew full well the dangers that this proposal will cause. *(No evidence provided to substantiate the claims. The local highway authority is advising the local planning authority regarding highway safety matters)*
- As no details of subsequent phases are given residents are unable to adequately comment on the full implications if additional housing is still proposed on the former Tennis Club Site particularly how this part of the site would be accessed rendering the application process undemocratic and



- fundamentally flawed (*The local planning authority can only consider the application before it. If phase 2 comes forward at a later date, that would be as a separate planning application and residents would be notified and would be able to comment on it*)
- Proposal has again failed to meet Walsall's planning parking provision contained in TG13 which is a minimum standard that should be fulfilled
- Application relies heavily on garage parking space which will be under-utilised (*The local planning authority can only consider the application before it*)
- Several properties only have 1 space per property which is below minimum requirements and it is insufficient to offset these deficiencies against increased parking at larger properties and rely on average densities
- Transport and access survey does not consider the implication of additional traffic travelling at speed along Cricket Close and the impact on residents. Survey indicates more than a third of all vehicles on the surrounding network are above the speed limit yet there is no mention of how this will be alleviated to make the junctions safer or reduce speed. (*Birmingham Road is part of the Strategic Highway Network and it is considered that the addition of 29 further houses, if approved would have a nominal increase in traffic volume*)
- The Transport Statement makes no mention of the lack of parking
- The report suggests that cyclists will be able to use the surrounding road network because of the width of the carriageways but neglects to point out that excessive speeding and frequent accidents already prevent keen cyclists using this form of transport (*Traffic violations are dealt with by different legislation*)
- Phased development yet application frequently refers to the reduced number of properties (*The local planning authority can only consider the application before it. If further phases come forward at a later date, that would be as a separate planning application and residents would be notified and would be able to comment on it*)
- Not clear how the Tennis Club part of the site would be accessed (*The local planning authority can only consider the application before it. The tennis club does not operate from the site currently. If a future proposal comes forward at the tennis club and it requires planning approval, neighbours will be notified in accordance with the national legislation and would be able to comment on it*)
- Outline proposals for subsequent phases must be released even if they will not be pursued until the Tennis Club has formally relocated (*The local planning authority can only consider the application before it. If further phases come forward at a later date, that would be as a separate planning application and residents would be notified and would be able to comment on it*)
- No space to install a single electric vehicle charging point in a communal area, these should be provided for every property in the proposal (*The Council's Air Quality SPD includes for all new houses to have electric charging points for vehicles and there is no requirement to deliver a communal electric point*)
- Travel plan is tokenistic and only directed at initial occupants with no long term or sustainable impact on travel behaviours (*Highways do not require a Travel Plan for 29 dwellings*)
- No mention in the report of the Sprint bus development and will have a huge impact on traffic along Birmingham Road resulting in the survey results

- included in the report being void (*Sprint route changes are not a material planning consideration*)
- The sections on the report on biodiversity results have been redacted and the resident is aware that bats, owls, parakeets, foxes, hedgehogs as well as a large population of birds and insects all nest within the site. There is no mention of this broad biodiversity and the mitigation to be taken to protect it. (*GDPR legislation requires the council to redact sensitive data when publishing on the website*)
- Developer should be required to utilise non-gas heating methods such as ground source heating within the design and build stage (*This would require the Government to change legislation. The councils Air Quality SPD encourages the use of low NOx boilers*)

## Determining Issues

- Principle of Development
- Impact on the Character and Appearance of the Area
- Impact on Residential Amenities
- Green Belt
- Noise
- Air Quality
- Drainage and Flood Risk
- Ground Conditions
- Coal
- Ecology
- Trees
- Archaeology
- Access and Parking
- Planning Obligations
- Local Finance Considerations

## Assessment of the Proposal

### Principle of the Development

The site is allocated for new housing development as site reference HO305 in SAD Policy HC1: Land Allocated for New Housing Development. Policy HC1 considers that each site should achieve a density of at least 35 dwellings per hectare and in this instance the proposal would have a density of 41 houses per hectare. Notwithstanding UDP Policy LC1: Urban Open Spaces, the later SAD policy supersedes the UDP policy for the delivery of housing. The former allotments on this site are decommissioned and have not been in use for a long time and the Council has re-designated this site for a housing scheme.

The proposal is supported in principle for housing on strategic planning policy grounds subject to a Section 106 agreement to secure the provision of affordable housing in accordance with SAD policy HC3 and BCCS policy HOU3.

The proposal involves the redevelopment of an open area of land adjacent to former Walsall Tennis Club site. The tennis club is shown edged in blue on the proposed site layout plan, and whilst in the same ownership, the tennis club site is not included in this planning application to be redeveloped.

This is a sustainable location within an existing residential area with access to shops in Walsall Town Centre, schools and with bus stops within walking distance. The principle of housing in this location is considered acceptable, subject to impact upon the character of the area, ecology, flood risk, residential amenity, access and parking.

A previous application for the redevelopment of the site, including the tennis club land was withdrawn as mitigation for the loss of the tennis club could not be identified and secured at that time. The application site sits on land contained outside of the tennis club and there will be no loss of sports facilities requiring mitigation. In this case, proposed housing is comparable to the proximity of the tennis courts to the existing housing and Sports England consider the proposed relationship would be acceptable. The proposal does not prevent access to the tennis courts ensuring the existing sports facility is not adversely affected by this current proposal.

The principle of 29 dwellings on an identified site for residential use within an existing sustainable residential area is considered would be acceptable and accords with the aims of local and national planning policies.

### **Impact on the Character and Appearance of the Area**

This application proposes a two and two and a half storey dwellings which are a mix of detached and semi-detached houses. Plot numbers 28 and 29 would have a separate vehicular access from Broadway with plots 1 to 27 accessed from Birmingham Road (A34) and Cricket Close.

The application site is surrounded by a mix of residential properties of varying age and design along with Metro Inn Hotel to the north of the application site. It is considered that the introduction of additional infill housing on this unused former allotment site would integrate with the existing character of the area and urban form. The proposed buildings, whilst of their own style and character, are considered on balance to contribute to the existing mixed architectural character of the area. The stand-off buffer adjacent to the water course would retain a green corridor through the site.

The current proposal would have a higher housing density of 41 houses per hectare than existing houses on Cricket Close at 22 houses per hectare. This proposed

density would be in accordance with the requirements of SAD Policy HC1 which considers that each site should achieve a density of at least 35 dwellings per hectare

The proposed green buffer around the development would be considered would soften the appearance of the proposed development and it is considered that this proposal would reflect the overall urban pattern of the existing development. This proposal is an infill development which would sit within the existing urban landscape and its density is considered appropriate and in accordance with SAD Policy HC1. This level of density is considered would not constitute overdevelopment of the site when considering neighbouring housing densities.

The proposed 7 affordable units would be of similar design and scale to a number of properties identified for market sale and their appearance are considered tenure blind which helps social integration.

The proposed two storey houses range between 7.7 and 8.9 metres high whilst the two and a half storey properties would be between 9.4 and 9.7 metres high. House types are mixed across the site which is considered would assist with providing a stronger neighbourhood.

The Police Architectural Liaison Officer has recommended that the rear and sides of properties bordering accessible areas will be more vulnerable and trellis to the top of fencing in these areas is a recommended security measure, which can be secured via a planning condition. In addition external LED lights with daylight sensors to the external front, rear and side walls of the houses is recommended to provide security for residents particularly when entering and leaving, and parking areas, which can be secured via a planning condition. In addition, the security of windows and doors, plus burglar alarms can also be secured via conditions.

Whilst a materials schedule has been provided, it is considered that there is insufficient details on specific materials types and colours. However a safeguarding condition can require further details, if approved.

Planning conditions can be included in respect of the provision of details of the proposed facing materials to be used in the development along with details of the proposed finished floor levels and ridge and eaves heights of the buildings

## **Impact on Residential Amenities**

The Cricket Close residents' comments have been weighed in the overall assessment of the proposal. The nearest housing to the proposal is located along Cricket Close, Broadway, Ravensdale Close and Ravensdale Gardens. It is considered there's sufficient separation distance between the proposed new dwellings and existing housing. Consequently it is considered that the proposal would have a limited impact on the outlook or privacy of existing occupiers.

The proposed development would provide secure private amenity spaces for new residents. Private gardens serving new houses vary in size. The Council's recommended minimum rear garden size is 12 metres in length or have an area of 68 square metres, as referred to in Appendix D of Designing Walsall SPD. Plot numbers 10 and 24 would have rear gardens at 46 square metres, whilst the remaining plots would be 60 square metres or greater. Whilst the private amenity space for some dwellings is less than recommended it is considered on balance acceptable as the site has a green buffer surrounding the site and the overall provision for the development is considered meets Designing Walsall.

Some separation distances between rear facing habitable room windows in this development would be a minimum of 22.1 metres across private gardens. There is a recommended minimum separation distance of 24 metres between facing habitable room, rear, windows referred to in Appendix D of Designing Walsall. However the majority of proposed new dwellings in this instance would exceed the 24 metres separation distance. Overall the proposal is considered on balance to accord with the aims and objectives of council guidance taking into account the small shortfall of separation distances limiting any impact on residents' amenity.

This cul de sac development would provide passive surveillance for both existing residents of Cricket Close and those on the proposed development, if approved. People passing and re-passing along the public highway contribute to natural surveillance for neighbours and locality, including the proposed two additional parking spaces proposed for 11 Cricket Close. Furthermore the proposed cul-de-sac layout of the proposal would prevent Cricket Close becoming a rat-run.

The Planning agents have confirmed they own the parcel of land adjacent to 11 Cricket Close and recognise there is a right of access to no. 11. The applicants recognise that access cannot be prevented or restricted and the area cannot be built upon. It must remain as an access to the applicants land beyond (the development site) and no. 11. The occupiers of 11 Cricket Close are unable to rely on this part of the applicant's land for parking. The planning agents have confirmed, the only proposed works to be undertaken in this area are to bring it up to adoptable highway status, if approved.

The applicants boundary information matches the red outline shown on the location plan submitted for 2017 planning application (*reference no. 17/0799*) submitted by the occupiers of 11 Cricket Close. Number 11 have been utilising the applicants land for parking and this will now become highway, if approved.

The 2017 planning application at 11 Cricket Close concluded, this proposal would enlarge existing bedrooms rather than add additional bedrooms and whilst there was limited off-street parking on the frontage, the Local Planning Authority was unable to request any additional parking as the existing garage would be retained and the parking situation would not significantly worsen as a result of their proposed domestic extension.

The site no longer being vacant land is considered would contribute to the safety and security of adjacent residents as there is currently no natural surveillance of the land. This land currently allows for unauthorised access or egress for third party individuals who may wish to carry out anti-social behaviour. The proposed new development is considered would allow for natural surveillance and increasing safety and security of the space.

Planning conditions which meet the 6 tests can be included in respect of the provision of details of the proposed facing materials to be used in the development along with details of the proposed finished floor levels and ridge and eaves heights of the buildings.

On balance the proposal is considered acceptable and would have a limited impact on residential amenity for existing and proposed new residents.

### **Green Belt**

The area to the south of the application site, along with Walsall Golf Club, are within land which is designated Green Belt. No development is proposed within designated Green Belt as part of this proposal and consequently the application does not have to carry out a green belt assessment. The application site is surrounded by 20<sup>th</sup> Century housing to the north, east and west boundaries and as this is an infill proposal it is considered it would have a limited impact upon the existing openness of the Green Belt. Furthermore it is considered that the management of the wildlife corridor would enhance the area.

### **Noise**

To be updated at planning committee

### **Air Quality**

To be updated at planning committee

The applicant will need to install electric vehicle charging points and low NOx boilers in the development and these elements can be addressed via a safeguarding planning condition that meets the 6 tests.

### **Drainage and Flood Risk**

This site is located within Flood Zone 1. Hydraulic modelling of the watercourses on two sides of the site, confirming flooding affecting areas of the proposed development site. The Lead Local Flood Agency (LLFA) has commented that the updated Flood Map for Surface Water shows significant ponding towards the eastern, western and southern sections of the site associated to watercourses in this location and their confluence. The unnamed watercourses converge to the south to form Full Brook. The flooding is expected to be from the watercourses in these locations and not surface water run-off.

The LLFA has reviewed the updated information submitted in support of the planning application and have no objection to the LPA granting permission subject to a planning condition, to ensure the development is implemented in accordance with the requirements of the approved drainage scheme shown in the Flood Risk Assessment and Drainage Strategy, Hydrock, 26<sup>th</sup> March 2020 and Technical Design Note, Hydrock, 18 September 2020. A safeguarding condition meeting the 6 tests can be imposed.

### **Ground Conditions**

Pollution control have asked for further soil sampling before offering commentary regarding ground conditions.

### **Coal**

This site is in a coal development low risk area and standing advice from the Coal Authority will be provided, if approved.

### **Ecology**

The Council's Ecologist has advised that an EcoRecord data search has revealed that the site is a Potential Site of Importance (PSI) and that the Full Brook is designated as part of a Wildlife Corridor. Consequently it is recommended that an assessment of the habitat quality and whether this is likely to be of value at a local level. The survey date for the habitat survey falls just outside the optimum survey time and it will be necessary to re-survey the site during the optimum survey time for vegetation surveys to ensure a robust assessment of the sites importance, in accordance with the timing requirements of Conserving Walsall's Natural Environment SPD.

The Ecologist has advised that the Full Brook and the watercourse buffer should be protected during construction and consideration to lighting must be made to ensure the wildlife corridor is not lit. These measures can be included within a Construction Environmental Management Plan and conditioned.

It is recommended that a pre-construction badger survey is undertaken as the submitted survey found evidence of foraging badger on the site with no evidence of setts within 30 metres of the site boundary. The Ecologist recommends that pre-construction badger, reptile and bat surveys are undertaken as recommended in the reports. The reptile survey should consider the presence of slow worms. These can be secured as part of the determination of the application.

The ecologist has advised that the initial bat, reptile and habitat reports provided have been updated to address their concerns. However the submitted reports acknowledge that there is a need for additional surveys prior to the commencement of construction, if approved.

Planning conditions are recommended to require an invasive plant survey to consider the presence of plant species including Japanese Knotweed and Giant Hogweed prior to commencement of works, if approved.

Site clearance and dismantling works should be undertaken outside the bird nesting season. The bird nesting season extends between mid-February and September inclusive and this can be conditioned, if approved.

The applicant's Ecologist has confirmed that current landscaping plan is indicative only and require revision to meet the needs of the site's ecology. A revised landscape plan should be submitted which safeguards the semi-natural broadleaved woodland to the south of the site and adjacent to the streams and which shows adequate enhancements in areas of open space to compensate for the impacts of the proposed development. The requirement for a revised landscape plan can be conditioned.

Further enhancements could include bat and bird boxes along with wildlife friendly planting which can be conditioned. Overall, in weighing the planning balance of the proposal, it is considered the development and the proposed natural environment enhancements would bring a positive benefit to the local ecology, flora and fauna of the location.

## **Trees**

Comments to be updated once received from the Council's Arboriculturist.



## **Archaeology**

The Council's Archaeologist has advised there are no heritage assets recorded within the development site area, and whilst there is evidence of medieval agricultural activity in the golf course and fields to the south (ridge and furrow, and earthworks), the potential for unknown archaeological remains of Roman, medieval, or post-medieval date are low. However they have advised that the proximity of the watercourses means that this may have been an attractive area or focus for prehistoric activity (such as Bronze Age burnt mounds), with the additional potential for waterlogged environmental remains, which would be very significant if present. As the area has always been fields and then allotments, below-ground truncation here may be fairly minimal.

It is therefore recommended that a condition be placed on planning consent requiring a program of archaeological work comprising a watching brief on ground works. This would ensure that any archaeological remains exposed/truncated are preserved by record.

## **Access and Parking**

To be updated at planning committee.

A planning condition can be included to ensure that that this development, if approved, is constructed in accordance with the access road, parking and vehicle manoeuvring areas being 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, together with the clear demarcation of all parking bays.

The Local Highway Authority is working on public transport improvements to the A34 carriageway. This fall outside the scope of the current planning application and a matter for the Local Highways Authority to ensure these works are Highway safe.

## **Planning Obligations**

This development triggers the Council's policies regarding contributions towards Urban Open Space and 25% Affordable Housing.

Open Space contributions for a development of this size, within this ward, requires a contribution of £93,799.00 (defined by Urban Open Space SPD) towards open space improvements in the neighbourhood. Within a 0.85 km radius of the application site are the following designated Urban Open Space; New College Close (145 metres from the application site), Greenslade Road (0.56km from the application site), and Highgate Drive (0.58 km from the application site). The LPA advise any open space contributions could be spent to improve and maintain these locations and are considered to be related to the proposed development and can be an off set for any private amenity shortfalls in the development.

To comply with the Council's affordable housing policy, 25% of the units on site should be for affordable social rent. Housing Strategy have advised they are supportive of the over provision of affordable housing on this site (48%) but considers that both tenures do not match the requirements for the East of the borough, where it should be 100% 'social rent' (not the affordable rent or shared ownership offered).

The applicant has submitted a viability assessment which considers that both schemes (social rent or affordable rent) are not viable largely due to the significant amount of infrastructure works compared to the relatively low number of units. The report comments that the applicant is supportive of delivering affordable units at this site however on the alternative basis that the affordable units are for shared ownership. Furthermore the report considers that the impacts of the current pandemic on the residential market over the coming months could impact upon funding and finance which would most likely increase the cost of development.

The Council's independent assessor, has reviewed the applicant's financial viability assessment and concluded there are no viability issues in respect of the proposed scheme to justify the requested change the affordable housing tenure of the 7 dwellings from social rent to shared ownership. The applicants have advised that Shared Ownership homes would be their preferred tenure in the required delivery of affordable homes on this site.

The applicant has accepted the findings of the Council's independent assessor, and asks, if the applicant provides 7 shared ownership properties rather than social rent would the Council accept the difference in value between the social rent and shared ownership tenures (£377,300) as a commuted sum payment, for the Council to invest in social rent elsewhere in the borough. Whilst the LPA confirms the development is viable and can secure social rent as policy compliant housing tenure, it would be a decision for planning committee to confirm whether they would prefer to offer the applicants alternative affordable housing offer of shared ownership and offsite payment of £377,300.00.

The applicants have advised that by way of demonstrating their commitment to the borough, they would include the seven Shared Ownership properties, but with an additional contribution of £100,000 (one hundred thousand pounds) towards the provision of social housing or other community related projects elsewhere in the borough.

In addition to the contributions, the S106 will include a landscape management company clause for the developer and future occupants to be party to the company for the management of land in perpetuity within the redline, that's not part of the individual dwelling curtilages to save the council having the future burden of maintaining the remaining land around the development.

## **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 29 new homes.

The Government has indicated that, for 2019-20, 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 2019-20 the total payments, taking account of completions over the last 4 years, are expected to amount to £2,911,601.

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 material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the proposed development would integrate with the character of the area. The proposed buildings whilst of their own style and character are considered to contribute to the existing mixed architectural character of this area and this development would be appropriate. The proposal is considered would have a limited impact on the amenity for neighbouring occupiers and subject to no statutory consultee raising material planning considerations not previously addressed.

As such the development is considered to meet the aims and objectives of the National Planning Policy Framework (para 127), policies CSP4, CSP5, HOU1, HOU2, TRAN2, TRAN4, TRAN5, ENV1, ENV2, ENV3, ENV5, ENV6, ENV7 and ENV8 of the Black Country Core Strategy and saved policies 3.6 to 3.8, GP2, GP3, GP5, GP6, ENV10, ENV11, , ENV18, ENV23, ENV32, ENV33, H4, T1, T7, T8, T9, T10, T11, T12, and T13 of Walsall Unitary Development Plan, policies HC1, HC3, GB1, EN1, EN3, T4 and T5 of Walsall's Site Allocation Document and Supplementary Planning Documents Designing Walsall, Conserving Walsall's Natural Environment, Open Space, Affordable Housing and Air Quality. 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 with the inclusion of safeguarding conditions.

## **Positive and Proactive Working with the Applicant**

Officers have worked with the applicant and their agent and in response to concerns raised amended plans and additional ecological information have been submitted which enable a positive recommendation to be made.

## **Recommendation**

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and S106 to secure urban open space contribution, affordable housing and landscape management company to manage landscaping subject to;

- Securing comments from the Council's Arboriculturist, Highways Officers
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Address Pollution Control concerns once they have secured further soil samples
- Finalising the District Valuer's Advice

## **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: -

- Planning Application form dated 7/5/2020
- Location Plan, drawing no. D000, deposited 7/5/2020
- Site Layout Plan, drawing no. D01 Revision AA, deposited 27/11/2020
- Planning Statement incorporating Statement of Community Involvement by Planning & Development Ltd, dated May 2020, deposited 7/5/2020
- 20yr Baseline Flood Extent, 14378-XX-XX-FR-DR-0001 Revision P01, deposited 7/5/2020
- 100yr Baseline Flood Extent, 14378-XX-XX-FR-DR-0002 Revision P01, deposited 7/5/2020
- 100yr+35 Baseline Flood Extent, 14378-XX-XX-FR-DR-0003 Revision P01, deposited 7/5/2020
- 100yr+75 Baseline Flood Extent, 14378-XX-XX-FR-DR-0004 Revision P01, deposited 7/5/2020

- 1000yr Baseline Flood Extent, drawing no. 14378-XX-XX-FR-DR-0005 Revision P01, deposited 7/5/2020
- 20yr Post Development Flood Extent, 14378-XX-XX-FR-DR-0006 Revision P01, deposited 7/5/2020
- 100yr Post Development Flood Extent, 14378-XX-XX-FR-DR-0007 Revision P01, deposited 7/5/2020
- 100yr+35 Post Development Flood Extent, 14378-XX-XX-FR-DR-0008 Revision P01, deposited 7/5/2020
- 100yr+75 Post Development Flood Extent, 14378-XX-XX-FR-DR-0009 Revision P01, deposited 7/5/2020
- 1000yr Post Development Flood Extent, drawing no. 14378-XX-XX-FR-DR-0010 Revision P01, deposited 7/5/2020
- Garage and Utility Plan, drawing no. D10 Rev. B, deposited 7/5/2020
- House Type 2B A AF Plans and Elevations drawing no. D09 Rev. F, deposited 7/5/2020
- House Type 2B N OM Plans and Elevations drawing no. D02 Rev. G, deposited 7/5/2020
- House Type 3B N2 SO Plans and Elevations drawing no. D04 Rev. F, deposited 7/5/2020
- House Type 3B WN OM Plans and Elevations drawing no. D06 Rev. F, deposited 14/8/2020
- House Type 4B 2.5S OM Plans and Elevations drawing no. D12 Rev. G, deposited 14/8/2020
- House Type 4B 2S OM Plans and Elevations drawing no. D07 Rev. G, deposited 14/8/2020
- House Type 5B 2.5S OM Plans and Elevations drawing no. D08 Rev. F, deposited 14/8/2020
- ICP SUDS Mean Annual Flood Data, deposited 07/05/2020
- Landscape Plan, drawing no. D900 Rev B, deposited 7/5/2020
- Severn Trent Water Sewer Record, issued 12/06/14 and deposited 07/05/2020
- Hydrock Consultants Ltd Storm Sewer Design, East, deposited 7/5/2020
- Hydrock Consultants Ltd Storm Sewer Design, West, deposited 7/5/2020
- Street Elevations 1, 2 & 3, drawing no. D20, deposited 14/8/2020
- Street Elevations 4 & 5, drawing no. D21, deposited 14/8/2020
- Street Elevations 6 & 7, drawing no. D22, deposited 7/5/2020
- Topographical Survey, drawing no. 0001, Rev 1, deposited 7/5/2020
- Tree Survey prepared by Dr Stefan Bodnar, February 2020, deposited 7/5/2020
- Hydrock Construction Traffic Management Plan, dated 23/3/2020, document reference 14378-HYD-XX-XX-TS-TP-7001.P1, deposited 7/5/2020
- ASL Desk Study Report Land Off Cricket Close, ASL Report no. 116-14-067-11Rev. 2, February 2020, deposited 7/5/2020
- Drainage Strategy by Hydrock, document reference 14378-HYD-XX-XX-DR-D-2200 Rev. P01, deposited 7/5/2020
- Energy Statement by Focus, April 2020, deposited 7/5/2020
- Flood Risk Assessment and Drainage Strategy by Hydrock, dated 26/3/2020, document reference 14378-HYD-XX-XX-RP-FR-0001, deposited 7/5/2020

- Framework Travel Plan by Hydrock, dated 30/3/2020, document reference 14378-HYD-XX-XX-FTP-TP-6001.P2, deposited 7/5/2020
- Traffic Noise and Industrial Noise Assessment by John Waring, Issue 1, dated 9/6/2017, deposited 7/5/2020
- ASL Site Investigation, Land off Cricket Close, ASL Report no. 116-14-067-09Rev. 1, February 2020, deposited 7/5/2020
- Hydrock SUDS mitigation, drawing no. 14378-HYD-XX-XX-CA-D-5100 Rev. P01, deposited 7/5/2020
- Hydrock Transport Statement dated 30/3/2020, Document Reference 14378-HYD-XX-XX-TS-TP-4001.P2, deposited 7/5/2020
- Design and Access Statement, Rev 1, deposited 10/09/2020
- Dawn/Dusk Emergent Bat Survey by Dr Stefan Bodnar, June 2020 and deposited 18/11/2020
- Boundary Treatment, drawing D14 Rev. N, deposited 30/11/2020
- Hydrock Technical Design Note, dated 9/11/2020, document reference C-14378-HYD-XX-XX-TN-TP-1001.P01.01, deposited 18/11/2020
- Materials Schedule, drawing no. D30, deposited 27/11/2020
- Preliminary Ecological Assessment (Extended Phase 1 Ecological Survey) by Dr Stefan Bodnar February 2020, revised November 2020 deposited 18/11/2020
- Manual Reptile Survey by Dr Stefan Bodnar, May 2020 Revised November 2020 deposited 18/11/2020

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: a) Prior to commencement of the development hereby permitted and notwithstanding the information provided, a bat survey shall be undertaken by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy to determine the presence or absence of roosting or hibernating bats. Details of mitigation measures and contingency plans shall be submitted in writing to and agreed in writing by the Local Planning Authority.

3: b) Should bats be found on site during the course of construction the approved mitigation measures and contingency plans shall be implemented

3: c). The development shall not be carried out otherwise than in accordance with the approved details.

Reason: To conserve local bat populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

4: a) Prior to commencement of the development hereby permitted and notwithstanding the information provided, a badger survey shall be undertaken by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy to determine the presence or absence of badgers and their setts. Details of mitigation measures and contingency plans shall be submitted in writing to and agreed in writing by the Local Planning Authority.

4: b) Should badgers be found on site during the course of construction the approved mitigation measures and contingency plans shall be implemented

4: c) The development shall not be carried out otherwise than in accordance with the approved details.

Reason: To conserve local badger populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

5: a) Prior to commencement of the development hereby permitted and notwithstanding the information provided, a habitat survey shall be undertaken at the optimum time as prescribed by Table 2: Optimum Survey Times for Vegetation Surveys, page 33 of Conserving Walsall's Natural Environment, by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy to assess the plant species and plant communities present. Details of mitigation measures and contingency plans shall be submitted in writing to and agreed in writing by the Local Planning Authority.

5: b) Should important or rare plant species be found on site during the course of construction the approved mitigation measures and contingency plans shall be implemented

5: c) The development shall not be carried out otherwise than in accordance with the approved details.

Reason: To conserve local important habitats and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

6: a) Prior to commencement of the development hereby permitted and notwithstanding the information provided, a reptile survey shall be undertaken by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy to determine the presence or absence of reptiles including slow worms. Details of mitigation measures and contingency plans shall be submitted in writing to and agreed in writing by the Local Planning Authority.

6: b) Should reptiles be found on site during the course of construction the approved mitigation measures and contingency plans shall be implemented

6: c) The development shall not be carried out otherwise than in accordance with the approved details.

Reason: To conserve local reptile populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

7: a) Prior to commencement of the development hereby permitted, drainage plans for the discharge of surface water and disposal of foul sewerage shall be submitted to and approved in writing by the Local Planning Authority.

7: b) The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

8: a) Prior to the commencement of development a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary portacabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)



- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures
- xiii. Re- covering of holes, escape from holes, tree/hedgerow protection, newts, bats etc.
- xiv. Scheme for the ecological protection of the Full Brook Wildlife Corridor and watercourse buffer from site preparation, clearance, and during construction.

8: b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

9: a) Prior to commencement of the development hereby permitted a survey shall establish whether there are any invasive species such as Japanese Knotweed and Giant Hogweed on the site and shall be submitted in writing to the Local Planning Authority for approval.

9: b) If any invasive species are identified in the survey report a detailed method statement for the long term eradication and management of any invasive species on the site shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall include proposed measures to prevent the spread of any invasive species and measures to ensure that any soils brought to the site or used from within the site are free of seeds, roots or stems of any invasive plant covered by the Wildlife and Countryside Act 1981. Any Japanese Knotweed to be removed utilising "dig and dump" methods shall only be to a landfill site under licence.

9: c) No further works shall be commenced until the agreed details shall be fully implemented and thereafter retained.

Reason: To ensure the effective removal of and to prevent the spread of any invasive species in the interests of avoiding harm to the environment and in accordance with UDP policy GP2 and ENV23 of Walsall's Unitary Development Plan

10: a) Prior to the commencement of any building or engineering operations of the development hereby approved details of the proposed finished floor levels, ridge and eaves heights of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be measures against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding properties.

10: b) The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

Reason: In the interests of the amenities of the area in accordance with saved polices GP2 and ENV32 of Walsall's Unitary Development Plan.

11: a) Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces [that match the existing materials] [including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits]] shall be submitted in writing to and approved in writing by the Local Planning Authority.

11: b) The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 Walsall's Unitary Development Plan.

12: a) Prior to commencement of the development hereby permitted details of landscaping including both hard and soft landscape works and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority.

12: b) Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

12: c) If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.

Reason: In the interests of the visual amenities of the area in accordance with saved policies ENV17 and ENV33 of Walsall's Unitary Development Plan.

13: a) Prior to commencement of the development hereby permitted details of a programme of site investigations and archaeological work, to include a watching brief, shall be submitted in writing to and approved in writing by the Local Planning Authority.

13: b) No development shall be carried out on site otherwise than in accordance with the approved details.

Reason: In order to secure an adequate record of the site's archaeology in accordance with saved policy ENV25 of Walsall's Unitary Development Plan.

14: a) The development hereby permitted shall not be brought into use until The approved drainage scheme shown in the Flood Risk Assessment and Drainage Strategy, Hydrock, 26th March 2020 and Technical Design Note, Hydrock, 18<sup>th</sup> September 2020, have been implemented.

14: b). The development shall not be carried out otherwise than in accordance with the approved details included in the Management and Maintenance Schedule outlined in the Technical Design Note.

Reason: To reduce the risk of surface water flooding to the development and surrounding properties for the lifetime of the development to comply with Walsall's Unitary Development Plan saved policies GP2 and ENV40.

15: a) Prior to the first occupation of any dwelling of the development, the development shall not be constructed otherwise than in accordance with the access road, parking and vehicle manoeuvring areas being 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, together with the clear demarcation of all parking bays.

15: b) These 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 policy GP2, T7 and T13.

16: a) Prior to the first occupation of the development hereby permitted, a scheme of bat and bird boxes to be incorporated into the development site shall be submitted to and approved in writing by the Local Planning Authority to provide ecological and biodiversity enhancements.

16: b) The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

16: c) The entrances to bat and bird boxes shall be kept clear from obstructions at all times.

Reason: To conserve local bat and bird populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

17: a) Prior to the commencement of the hereby approved development above damp-proof course, details of the number, type and location of the proposed electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority.

17: b) Prior to the first occupation of any dwelling of the development, the development shall not be constructed otherwise than in accordance with the agreed electric vehicle charging points and thereafter retained and available for the use of future occupiers of the development and used for no other purpose.

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

18: Site clearance and dismantling works should be undertaken outside the bird nesting season. The bird nesting season extends between mid-February and September inclusive but is weather dependant and nesting may take place outside this period. If this is not possible no site clearance works should be undertaken until the site has been surveyed for nesting birds by a qualified and experienced ecologist. If nesting birds are discovered, clearance works should be delayed until the young have fledged. (Please note that feral pigeons are protected and destruction of nests could only take place on the grounds of public health or public safety.)

Reason: To conserve local bird populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

19: No boilers shall be installed in any of the units hereby permitted, 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.

20: Notwithstanding the information shown on submitted plans, the development hereby permitted shall not be carried out otherwise than to meet the following minimum security measures and thereafter the security measures shall be retained;

- All external doors to individual dwellings to be PAS24; 2016
- All ground floor windows and over accessible roofs to be PAS24; 2016
- All ground floor windows and over accessible roofs including French doors and patio doors to have not less than one pane of 6.4mm laminated glass.
- Dusk until dawn lights (white light source) to be installed adjacent to each door including either side of garage doors
- Recycling and refuse areas to be secured at the rear of the properties in a lockable storage facility
- 1.8m high closed board fencing with 0.3m trellis topper to be erected around the perimeter (inside of the boundary hedging) of each dwelling.
- All access gates shall be of the same construction of the perimeter fencing, self-closing, facing the street, lockable with a key front and rear, designed to not create any climbing aids
- No Lead or metal shall be used on the ground floor.
- All the dwellings shall be suitably with an intruder alarm by a registered SSAIB or NSI engineer to British Standard (BS EN 50131 Grade 2)
- All energy meters shall be placed at the front of the dwellings

Reason: To ensure the safety and security of the development and its occupiers in compliance with NPPF 12 and saved policy ENV32 of Walsall's Unitary Development Plan.

21: a) No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted to and approved in writing by the Local Planning Authority.

21: b) No external lighting shall be installed on the site otherwise than in accordance with the approved details.

Reason: In the interests of the visual amenities of the area in accordance with saved policies GP2, ENV11 and ENV32 of Walsall's Unitary Development Plan.

22: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no additional side facing windows, doors, or other openings other than those shown on the approved 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 the Walsall's Unitary Development Plan.

23: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no extensions or additions as defined by Schedule 2, Part 1 development within the curtilage of a dwelling house;

-Class A (enlargement, improvement or other alterations),

-Class B (additions to the roof),

-Class E (building incidental to the enjoyment of a dwelling house), shall be installed in any part of this development.

Reason: To safeguard the openness of the Green Belt, ecology and amenities of the occupiers of adjoining premises and to comply with saved UDP policies 3.2 to 3.5, GP2, ENV23 and ENV32 of the Walsall Unitary Development Plan and Policy GB1 of Walsall SITE Allocation Document.

### **Notes for Applicant**

#### **Police Architectural Officer**

Below is a link to Secured by Design guides, including Housing, police approved crime reduction information.

<https://www.securedbydesign.com/guidance/design-guides>

The applicant to refer to crime prevention and home security advice contained within SBD New Homes.

Please see:

[https://www.securedbydesign.com/images/downloads/HOMES\\_BROCHURE\\_2019\\_NEW\\_version\\_2.pdf](https://www.securedbydesign.com/images/downloads/HOMES_BROCHURE_2019_NEW_version_2.pdf)

Secured by Design security standards are explained.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

#### **Severn Trent Water**

Severn Trent Water advise that there are public sewers located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building

Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent. Please contact [Planning.apwest@severntrent.co.uk](mailto:Planning.apwest@severntrent.co.uk) where we will look to respond within 10 working days. Alternately you can call our office on 0345 266 7930

## **West Midlands Fire Service**

### **Approved Document B, Volume 1, Dwelling-houses, 2019.**

Requirement B5: Access and facilities for the fire service

These sections deal with the following requirement from Part B of Schedule 1 to the Building Regulations 2010.

#### **Requirement**

Limits on application Access and facilities for the fire service B5.

(1) The building shall be designed and constructed so as to provide reasonable facilities to assist fire fighters in the protection of life.

(2) Reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building.

#### **Intention**

Provisions covering access and facilities for the fire service are to safeguard the health and safety of people in and around the building. Their extent depends on the size and use of the building. Most firefighting is carried out within the building. In the Secretary of State's view, requirement B5 is met by achieving all of the following.

- a. External access enabling fire appliances to be used near the building.
- b. Access into and within the building for firefighting personnel to both:
  - i. search for and rescue people

- ii. Fight fire.
- c. Provision for internal fire facilities for firefighters to complete their tasks.
- d. Ventilation of heat and smoke from a fire in a basement.

If an alternative approach is taken to providing the means of escape, outside the scope of this approved document, additional provisions for firefighting access may be required. Where deviating from the general guidance, it is advisable to seek advice from the fire and rescue service as early as possible (even if there is no statutory duty to consult)

### **Section 13: Vehicle access**

Provision and design of access routes and hard-standings

13.1 For dwelling-houses, access for a pumping appliance should be provided to within 45m of all points inside the dwelling-house.

13.3 Access routes and hard-standings should comply with the guidance in Table 13.1.

13.4 Dead-end access routes longer than 20m require turning facilities, as in Diagram 13.1. Turning facilities should comply with the guidance in Table 13.1.

### ***Overall***

Access routes should have a minimum width of 3.7m between kerbs, noting that **WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes** (ADB Vol 1, Table 13.1)

### **Water**

Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 16 and “National Guidance Document on the Provision for Fire Fighting” published by Local Government Association and WaterUK:

<https://www.water.org.uk/wp-content/uploads/2018/11/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the WMFS Water Office at the address given above or by email on [Water.Officer@wmfs.net](mailto:Water.Officer@wmfs.net)

### **Sprinklers**

Where sprinklers in accordance with BS 9251:2014 or BS EN 12845:2015 are fitted throughout a house or block of flats:



a) The distance between a fire appliance and any point within the house (in houses having no floor more than 4.5m above ground level) may be up to 90m:

b) the distance between the fire and rescue service pumping appliance and any point within the house or flat may be up to 75m (in houses or flats having one floor more than 4.5m above ground level) (BS 9991:2015 50.1.2).

Blocks of flats with a floor more than 30m above ground level should be fitted with a sprinkler system, throughout the building (ADB Vol 1, Section 7)

The approval of Building Control will be required to Part B of the Building Regulations 2010

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 1, Section 7)

The external access provisions for a building should be planned to complement the internal access requirements for a fire attack plan. (CIBSE Guide E, Fire Safety Engineering 2010, p. 13-14)

### **Knotweed**

Wildlife and Countryside Act 1981 section 114 (2) states that it is illegal to allow Japanese knotweed to spread in the wild. If knotweed is discovered on the property it should be dealt with in accordance with the act





## Planning Committee

Report of Head of Planning and Building Control on 10 December 2020

Plans List Item Number: 2.

### Reason for bringing to committee

### Major Application

#### Application Details

**Location:** WEST MIDLANDS CONSTABULARY, DARLASTON POLICE STATION, CRESCENT ROAD, DARLASTON, WEDNESBURY, WS10 8AE

**Proposal:** ERECTION OF REAR EXTENSIONS, ROOFLIGHTS AND ALTERATIONS TO THE BUILDINGS INCLUDING CHANGE OF USE TO 12 FLATS

**Application Number:** 20/0564

**Case Officer:** Jasmine Kaur

**Applicant:** The Bloomfield Group Ltd

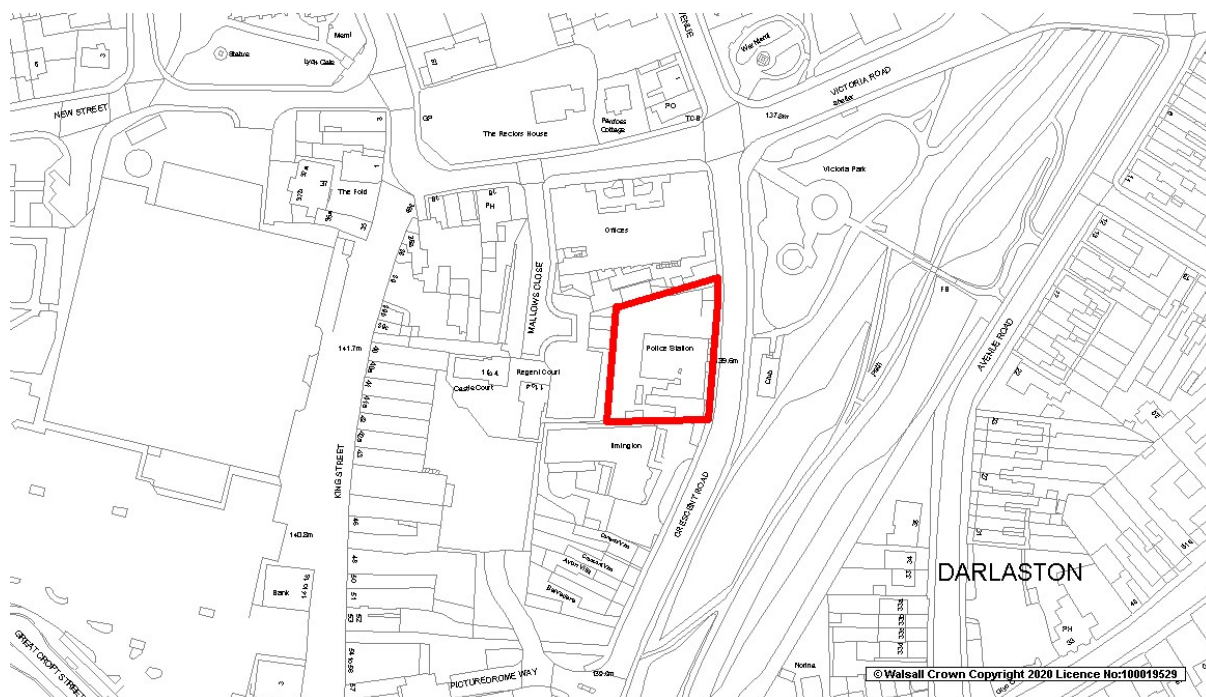
**Ward:** Bentley And Darlaston North

**Agent:** Adam Design

**Expired Date:** 21-Oct-2020

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

**Time Extension Expiry:**



## Recommendation

**Recommendation:** Planning Committee resolve to delegate to Head of Planning & Building Control to grant planning permission subject to conditions and a s106 to secure open space contributions and subject to ...

- i. No new material considerations being received within the consultation period;
- ii. The amendment and finalising of conditions;
- iii. Receipt of amended plans to retain the existing front pedestrian access into the original building to serve two flats;

## Proposal

The application seeks planning consent for the conversion of the existing building with some alterations and to extend it to form 12 flats. The flats will be divided into 4 one-bedroom flats, which also include *hallway, kitchen, living area and bathroom facilities*. *Plus 8 two-bedroom flats which also include hallway, kitchen, living area and bathroom facilities*.

The proposal does not involve any physical alterations in the front elevation and alteration only the rooflights would be added to provide additional natural light into the habitable area. The internal changes to the layout has been proposed to facilitate the change of use into residential use. The existing front doors would be retained as this will make positive contribution to the safety and security of the street scene also the historic character.

At the rear and the side there are significant changes introduced by adding the extensions, merging the structures and introduction pitch roofs which would unify the appearance of the buildings.

### Rear elevations

The two-storey rear extension to the rear measures 5.8m wide, 8.9m high (max) with pitch roof and 6.1m at eaves level. This extension merges with the existing rear structure to create two storey addition.

The second rear extension would measure 14m in depth, 14m wide, maximum height 7.3m and 3.9m at eaves level.

### Side Elevation (R.H.S) inner facing wing as shown on the plans:

The existing side addition is single storey and height of the roof would be raised to three dormer windows would be added; measuring 6.1m high with pitch roof and 6.9m at eaves level.

**Side elevation (L.H.S facing) as shown on the plans**

Includes extension to the side 3.70m depth and 9.2m high

**Side elevation (L.H.S) inner facing**

The extension will measure 6.3m in depth and 9.2m high. The pitch roof will be added over the existing flat roof.

**Side elevation (R.H.S) facing as shown on the plans**

The dormer windows would be added to the existing roof and existing flat roof building would be incorporated into existing structure to create additional dormer.

**External Materials**

The proposed materials for the extensions would match the existing details of the building such as tiles, brick work, timber window frames and doors.

**Existing retained development feature on site**

Existing facilities to be retained on site existing cycle store within the rear yard, retention of the existing electric entry gates, retention of the existing rear parking area not individually marked on the plans. The site layout plan indicates 18 car parking spaces including the position of the cycle store and bin store.

**Site and Surroundings**

The application site was formerly Police Darlaston on Crescent Road. The existing building is three-storey property which has offices and meeting rooms on the ground floor, including the original custody suite. There are more offices on the first and second floors, storage space in the basement, and a gated rear yard with around 25 secure car parking spaces. The site is located within the Darlaston Conservation Area; the application site is not locally listed building and it does have archaeological of interest. However there are locally listed buildings to the north and south. The site is located opposite the Victoria Park. The centre of Darlaston has a long history of settlement and includes both land of archaeological significance and a conservation area. The area of archaeological interest, as recorded. The Darlaston Conservation Area is focussed upon the northern end of King Street, the Town Hall and St. Lawrence's Church. The area includes some of Darlaston's most attractive buildings and is an area with a distinct character.

No Relevant planning history

## Relevant Policies

### National Planning Policy Framework (NPPF)

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

**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 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](http://www.go.walsall.gov.uk/planning_policy)

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

- GP2: Environmental Protection
- GP3: Planning Obligations

- GP5: Equal Opportunities
- GP6: Disabled People
- ENV25: Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV28: The 'Local List' of Buildings of Historic or Architectural Interest
- ENV29: Conservation Areas-
- 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
- 8.3 Urban Open Space
- 8.7 to 8.9 Strategic Policy Statement
- LC1: Urban Open Spaces

### **Black Country Core Strategy**

- Vision, Sustainability Principles and Spatial Objectives
- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- CEN5: District and Local Centres
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

### **Walsall Site Allocation Document 2019**

- HC2: Development of Other Land for Housing
- OS1: Open Space, Sport and Recreation
- LC5: Greenways
- EN5: Development in Conservation Areas

○

### **Walsall Town Centre Area Action Plan 2019**

- AAPLV1: Residential Developments
- AAPLV5: Protecting and Enhancing Historic Character and Local Distinctiveness
- AAPLV6: Securing Good Design
- AAPLV7: Enhancing Public Realm
- AAPT1: Pedestrian Movement, Access and Linkages
- AAPT2: Cycling
- AAPT3: Public Transport
- AAPT5: Car parking



- AAPINV1: Regeneration Strategy

## Supplementary Planning Document

### Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

### Open space, sport and recreation

- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS5: Use of Contributions

### 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

**Planning Policy:** The proposed use can be supported on planning policy grounds by NPPF paragraph and SAD policy HC2. However, as the building lies in a conservation area, and there are locally listed buildings to the north and south, regard should be had to whether the proposal will preserve or enhance the character of the conservation area and the potential impact on the setting of these buildings, under saved UDP policies ENV28 and ENV29. The proposal indicates parking to be provided on site but it is unclear whether this will require the demolition of any boundary walls. A contribution to off-site open space provision will be required by BCCS policy DEL1, UDP policies GP3 and LC1, and the open space SPD.

**Archaeology and Historic Environment Officer:** While the site is located on the edge of the medieval/early post-medieval settlement of Darlaston, the proposal to extend the upper floors of the building and change its use means there are no below-ground archaeological implications for this proposal. Any groundworks for services etc are likely to have minimal impact and be in areas already truncated or disturbed.

**Highways:** Planning Conditions recommended for waste collection

**Pollution Control:** In respect of air quality, Pollution Control has no concerns regarding relevant pollutant levels at the proposed site but, with reference to the adopted Black Country Air Quality Supplementary Planning Document (SPD), we are of the opinion that this is a type 1 application. The applicant therefore needs to install electric vehicle charging points and low NOx boilers in the development. Conditions to address this matter are provided below along with conditions to prevent or minimise environmental impact during the course of building works. Please incorporate them into any permission granted.

**Historic England** No Objection

**Natural England** No Objection

**Housing Standards:** No Comments

**Highways England:** No objection

**Sports England:** No objection

**Severn Trent:** No objection and Condition recommended

**Coal Authority:** The proposals and confirm that the application site falls within the defined Development High Risk Area.

**Community Safety:** The site is sound for the most part, the fact that it is not overlooked from any direction is a concern. This leaves the site susceptible to attack in particular from the rear where it is advised that additional height be given to the boundary to prevent access being gained. The access to the front is set back and offers the opportunity for a potential hiding place and/or anyone entering the site to be compromised. I would recommend that a CCTV entry system be fitted to all residences as well as adequate lighting to the entrance and car parking area. All doors and windows should be upgraded to SBD standards with anti-snap/bump/drill locks fitted to each flat in addition to composite doors at all entry points. The open space opposite the building has been known historically as suffering from ASb with good egress points to a number of locations within Darlaston town. It is with this in mind that security for the building should form a major consideration to ensure the safety and security of it's residents.

**Fire Safety:** No objection

## Representations

No letters of representation received

## Determining Issues

- Principle of development
- Sustainability Assessment of the Proposal
- Impact upon the character and appearance of the area
- Residential Amenity
- Coal Authority
- Highways
- S106 Obligation Requirements

## Assessment of the Proposal

### Principle of Development

The application site is located within the Darlaston district centre.

The proposed use can be supported on planning policy grounds by NPPF paragraph and SAD policy HC2.

The National Planning Policy Framework sets out a clear presumption in favour of sustainable development referring (at paragraph 14) to this being a 'golden thread running through both plan-making and decision-taking'. It notes that, for decision takers, this means approving development proposals that accord with the development plan. Section 6 of the National Planning Policy Framework for housing specifically states in para 49 that housing applications should be considered in the context of the presumption in favour of sustainable development. Walsall's Unitary Development Plan reconfirms the guidance as contained in the National Planning Policy Framework on sustainable development. This site is allocated for housing in the SAD as site. No representations have been received against this allocation, so the policy has substantial weight. The site is also listed as a potential housing site in the Brownfield Land Register.

Whilst the SAD policy indicates a capacity up to 24 dwellings, BCCS Policy HOU2 states that all developments will aim to achieve a minimum net density of 35 dwellings per hectare. The provision of 12 dwellings in the current proposal would equate to a density of 37 dwellings per hectare so would remain acceptable under this policy.

The principle of development is therefore acceptable.

### Sustainability Assessment of the Proposal

The National Planning Policy Framework provides (para 187) that 'Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the

area.' The location of the application is inside of the designated settlement boundary and being adheres to saved policies. It is clear on reviewing the guidance in the National Planning Policy Framework.

The application site has not been in use for the last 5 years; the proposed change of use and extension would allow the building to be brought back into the residential use. The site could therefore be viewed as an ideal opportunity to create additional housing, strengthening the local community by making use of what is, a brownfield site in an established community.

Therefore, in terms of paragraph 55 of the National Planning Policy Framework, this proposal is considered to promote a sustainable development in line the requirements of the National Planning Policy Framework.

The proximity of the site to local facilities contributes to supporting the existing infrastructure and businesses.

In relation to paragraph 7 of the National Planning Policy Framework, the proposal would be likely to contribute to a strong, responsive and economy through the creation of construction and related jobs and ongoing contribution to the local economy from the creation of additional households in the area. UDP policies also support the development of local and district centres in this case specifically Darlaston.

The proposal would contribute towards providing the supply of housing required to meet the needs of the present and the future generations in the area and by having to utilise the existing buildings to create high quality-built environment.

### **Impact upon the character and appearance of the area**

The NPPF 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. It also states that where a development will lead to less than substantial harm the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use

This change of use of the existing building does not include any physical alterations to the front elevation of the building. However rooflights would be erected to provide natural light into habitable areas. The roof lights are set within the roof profile and do not protrude beyond the roof profile. The proposed extensions and alterations to the side and rear of the building would have limited views from the public domain. It is noticed that the proposed extension and alterations would help to improve the visual aesthetics of the building because there is clutter of structure varied in design and scale. The proposed changes to the structure will enhance the visual appearance; moreover the scale, massing and bulk would be well incorporated within the fabric of the building. The extension and alterations would not appear to be odd in appearance and proposal is designed appropriately to blend in within the existing

architectural features of the original building. The front elevation remains unchanged and proposal alterations to rear and side would not have impact on the settings of adjoining listed locally buildings.

Overall proposed the extensions, alterations, materials and design is considered to be acceptable and would not harm the host building nor the historic character of the area. Therefore proposal is considered to be in compliance with the adopted planning policies.

### **Residential Amenities**

Pollution Control raise no objection to a residential use in terms of noise and disturbance.

The internal living area exceeds the acceptable total habitable floor area of 19.5 m<sup>2</sup> is required for a self-contained flat with a bedroom, kitchen and living area. All the proposed flats are ventilated and have access to natural light; also, the flats are isolated do not encourage any overlooking or invasion of privacy.

There is requirement for 20sqm amenity space per flat and as this site is located in the local centre less amenity space is acceptable; and Victoria Park is walking distance from the application site. Accordingly there would be sufficient access to amenity areas to mitigate the lack of on-site open space.

In regards safety and security of the site, Crime Prevention Officer raised concerns; planning conditions has been attached to ensure that the site is secured and safe for local neighbourhood. The vacant or abandoned sites stipulate more crime in comparison to sites which are developed and occupied. In the interests of security, it will be necessary for the windows and access doors (including improved locks) to meet appropriate security standards, and use of intruder alarm per flat, all external doors have a door entry phone system and electronic release, entrances well lit internally and externally using PIR sensors, include CCTV, mail boxes for the flats located at the primary entrance/exit. On balance the positive elements of the proposal, in these circumstances, outweigh the negative elements.

### **Coal Authority**

The coal authority objected to the proposal the proposals and confirm that the application site falls within the defined Development High Risk Area.

The Coal Authority records indicate that within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application, specifically both actual and probable shallow coal mine workings.

The large part of this proposal constitutes the change of use of the existing building and there are few extension and alterations to the structure. Most of the development does include utilising the existing buildings and alterations to the roof

profiles to facilitate habitable areas. The Coal Mining Risk assessment has been submitted by the applicant.

## Highways

The highways do not object to the principle of the development. The highways did request to seek more information and clarification on the following points:

**The bin storage area for the residents will be located at the front of the yard on the right hand side of the site (viewed from the Front), near to the side pedestrian gate. (See Amended Drawing 5 of 9, showing bin storage area)**

The proposed storage area for the residents will be located at the front of the yard on near the pedestrian entrance gates (amended drawings have been submitted) following the highways comments. Consultation is recommended with Walsall Waste Management if this is acceptable or details of how the bins will be delivered to the access point on collection days will be required. Perhaps the bin store could be relocated to a more accessible location.

Whilst not necessarily a highway requirement and notwithstanding it is existing, the vehicle access to the parking area looks particularly narrow, possibly for security reasons relating to the former use or may be heritage reasons, and would not appear to be conducive to easy vehicular access and egress. Certainly there is no element of pedestrian/vehicle inter-visibility so vehicles would simply emerge blind to passing pedestrians and vice-versa. Preferably the Highway Authority would look for improvements to the access in the form of widening together with the introduction of an element of pedestrian inter-visibility by reducing the existing wall and pillars to 600mm in height and perhaps adding railings on top within a 2.4m x 3.4m pedestrian visibility splay measured from the centre of the access. However the planning agent has confirmed that the existing access is in situ which was used previously by the police cars and vans throughout the day and access road does not need any further widening at this stage. The Highways officers agree with the clarification that existing access would suffice the requirement.

Overall parking spaces are available for more than 12 cars on the existing car park with existing access. The Highway Authority considers the development will 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 2018 paragraph 109.

## S106 Obligation Requirements

The development of 12 flats falls below the size threshold to require affordable housing. A contribution to off-site open space would be required in accordance with BCCS Policy DEL1, UDP Policies GP3 and LC1, and the Open Space SPD. Based on the proposed development and the Council's ready reckoner, the urban open space contribution would be £12,474.00. The nearest Urban Open Spaces are the

Victoria Park open space which is 200 metres away. Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the 3 following statutory tests to make the development acceptable in planning terms:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

These tests are set out in The Community Infrastructure Levy Regulations 2010 (as amended) Regulation 122 and National Planning Policy Framework paragraph 56.

Based on the three tests in the legislation, it is considered that an urban open space contribution is considered necessary to make the development acceptable in planning terms. For the monies to be spent and meet the second test, the local planning authority advises planning committee to direct the £12,474.00 contribution towards the Victoria Park urban open space. This urban open space would be considered directly related to the development as it is within a reasonable walking distance of the development site and given there is no private amenity space on site, it is considered future occupiers of the development are likely to use Victoria Park urban open space consequently any improvements are a positive outcome for the wider community, but also for the future occupiers of the development.

The applicant has agreed to sign up to a S106 legal agreement.

## **Local Finance Considerations**

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

This application proposes 12 new homes.

The Government has indicated that, for 2019-20, 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 2019-20 the total payments, taking account of completions over the last 4 years, are expected to amount to £2,911,601.

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 material planning considerations, taking into account the national and local planning guidance and neighbour comments, it is considered the proposed retention and refurbishment of the premises as offices would reflect the use and design of the other properties in the locality. The proposal is considered acceptable in land use planning terms, to have a limited impact on the character of the wider area and the amenity for neighbouring occupiers.

The development is considered to meet the aims and objectives of the National Planning Policy Framework (paras 47, 85, 124, 192 and 193), policies CSP4, EMP1, EMP3, CEN5, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2, ENV29, ENV32, S8, T7 and T10 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

The proposals would have a low or minimal impact on the neighbouring buildings in the locality with no overlooking and there are no objections to the proposed scheme.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above. 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

Recommendation: Planning Committee resolve to delegate to Head of Planning & Building Control to grant planning permission subject to conditions and a s106 to secure open space contributions and subject to ...

- i. No new material considerations being received within the consultation period;
- ii. The amendment and finalising of conditions;
- iii. Receipt of amended plans to retain the existing front pedestrian access into the original building to serve two flats;

## Conditions and Reasons

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



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

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

**Proposed Elevations Drawing No – 6 of 9 – Proposed elevations**

**Propose First Floor Plan Drawing No-8 of 9 –PROPSD. 1<sup>st</sup>. FLOOR LYT**

**Proposed ground floor layout: Drawing No 7 of 9 - PROPSD. GROUND FLOOR LYT**

**Proposed second floor layout Drawing No 9 of 9 - PROPSD. LOFT LAYOUT**

**Block Plan: Un-numbered drawing**

**Proposed Site Plan: Drawing No 5 of 9 -Proposed site plan**

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

3.a. Notwithstanding any of the details submitted, the hereby approved development applicant shall install full infrastructure for electric vehicle charging facilities for the new dwelling and a plan shall be submitted in writing to the Local Planning Authority that provides details of the proposed electric vehicle charging point.

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

4b. Prior to the first occupation the agreed scheme shall be fully implemented in accordance with the approved details before the development is first brought into use.

4c. Notwithstanding any of the details submitted, the hereby approved development no boilers shall be installed and used in the unit 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.

5 Notwithstanding any of the details submitted, the hereby approved development shall not be constructed otherwise than to meet the following minimum security measures and thereafter the security measures shall be retained;

- All external doors shall have a door entry phone system and electronic lock release
- Entrances shall be well lit both internally and externally and include CCTV coverage.

- All Entrance, exit doors and frames including any within shared corridors and lobbies shall be of a robust vandal resistant material, with vandal resistant viewing panels to meet PAS 24:2012 doors should be on all external entrance and exit doors and any within shared corridors, lobbies.

- A minimum standard of TS-007 3 star rated cylinders with Secure By Design and Sold Secure Diamond standard certification shall 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 shall be used on the ground floor as the West Midlands is suffering high levels of metal theft. Where possible lead substitute products should be used (except for window frames, doors, door frames plus door and window furniture).

- All ground floor windows and any accessible windows shall comply with BS7950 or WCL4 standards and have at least one pane of 6.4mm laminated glass. This includes French doors and patio doors.

- Paths to and from the street to doors shall be direct and not create hiding places - The building shall be fitted with an intruder alarm.

- Mail boxes shall be located at the primary entrance/exit lobby point of the building, covered by CCTV, 1.5mm steel letterboxes of robust construction, lockable individual letterboxes, secure, anti-identity theft proof and wall mounted

- lighting within internal communal areas shall be PIR activated

5b. 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.

Reason: To ensure the safety and security of the development and its occupiers in compliance with saved UDP policy ENV32 and H1.

6, Prior to the first occupation of the development a waste management strategy and details of the refuse storage shall be submitted to and approved in writing by the Local Planning Authority in consultation with Walsall Waste Management and the strategy shall thereafter be fully implemented in accordance with the approved details.

Reason: To ensure satisfactory arrangements are in place for the collection of waste and recycled materials from the development'.

7. a. Prior to the commencement of development a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary portacabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

7 b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

#### Notes for Applicant

No construction, demolition, 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 otherwise 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; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday).

## Highways

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.

## Fire Services

Approved Document B Vol 1

### Section 13: Vehicle access

#### Provision and design of access routes and hard-standings

13.1 For dwelling-houses, access for a pumping appliance should be provided to within 45m of all points inside the dwelling-house.

13.2 For flats, either of the following provisions should be made.

- a. Provide access for a pumping appliance to within 45m of all points inside each flat of a block, measured along the route of the hose.
- b. Provide fire mains in accordance with paragraphs 13.5 and 13.6.

13.3 Access routes and hard-standings should comply with the guidance in Table 13.1.

13.4 Dead-end access routes longer than 20m require turning facilities, as in Diagram 13.1. Turning facilities should comply with the guidance in Table 13.1.

#### Blocks of flats fitted with fire mains

13.5 For buildings fitted with dry fire mains, both of the following apply.

- a. Access should be provided for a pumping appliance to within 18m of each fire main inlet connection point. Inlets should be on the face of the building.
- b. The fire main inlet connection point should be visible from the parking position of the appliance, and satisfy paragraph 14.10.

13.6 For buildings fitted with wet fire mains, access for a pumping appliance should comply with both of the following.

- a. Within 18m, and within sight, of an entrance giving access to the fire main.

b. Within sight of the inlet to replenish the suction tank for the fire main in an emergency

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 2, Table 15.2)

## Section 14: Fire mains and hydrants – flats

### Provision of private hydrants

14.8 A building requires additional fire hydrants if both of the following apply.

- a. It has a compartment with an area of more than 280m<sup>2</sup>.
- b. It is being erected more than 100m from an existing fire hydrant.

14.9 If additional hydrants are required, these should be provided in accordance with the following.

- a. For buildings provided with fire mains – within 90m of dry fire main inlets.
- b. For buildings not provided with fire mains – hydrants should be both of the following.
  - i. Within 90m of an entrance to the building.
  - ii. A maximum of 90m apart.

14.10 Each fire hydrant should be clearly indicated by a plate, fixed nearby in a conspicuous position, in accordance with BS 3251.

14.11 Guidance on aspects of the provision and siting of private fire hydrants is given in BS 9990.

Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 16 and “National Guidance Document on the Provision for Fire Fighting” published by Local Government Association and WaterUK:

<https://www.water.org.uk/wp-content/uploads/2018/11/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the WMFS Water Office at the address given above or by email on [Water.Officer@wmfs.net](mailto:Water.Officer@wmfs.net)

### Sprinklers

Where sprinklers in accordance with BS 9251:2014 or BS EN 12845:2015 are fitted throughout a house or block of flats:

a) the distance between a fire appliance and any point within the house (in houses having no floor more than 4.5m above ground level) may be up to 90m:

b) the distance between the fire and rescue service pumping appliance and any point within the house or flat may be up to 75m (in houses or flats having one floor more than 4.5m above ground level) (BS 9991:2015 50.1.2).

The approval of Building Control will be required to Part B of the Building Regulations 2010

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 2, Section 7)

The external access provisions for a building should be planned to complement the internal access requirements for a fire attack plan. (CIBSE Guide E, Fire Safety Engineering 2010, p. 13-14)

There is evidence of an electronic gate to the side of the premises to gain access to the rear. What provision will be made for fire service access?



## Planning Committee

Report of Head of Planning and Building Control on 10 December 2020

Plans List Item Number: 3.

### Reason for bringing to committee

### Major Application

#### Application Details

**Location:** 1-17, HEATH VIEW, WILKES AVENUE, BENTLEY, WALSALL, WS2 0JF

**Proposal:** INTERNAL ALTERATIONS AND EXTENSIONS TO FORMER RESIDENTIAL CARE HOME TO PROVIDE 10 NO. STUDIO APARTMENTS, 2 NO. SPLIT LEVEL STUDIO APARTMENTS AND 1 NO. 3 BEDROOM APARTMENT.

**Application Number:** 18/1561

**Case Officer:** Jasmine Kaur

**Applicant:** Parminder Singh

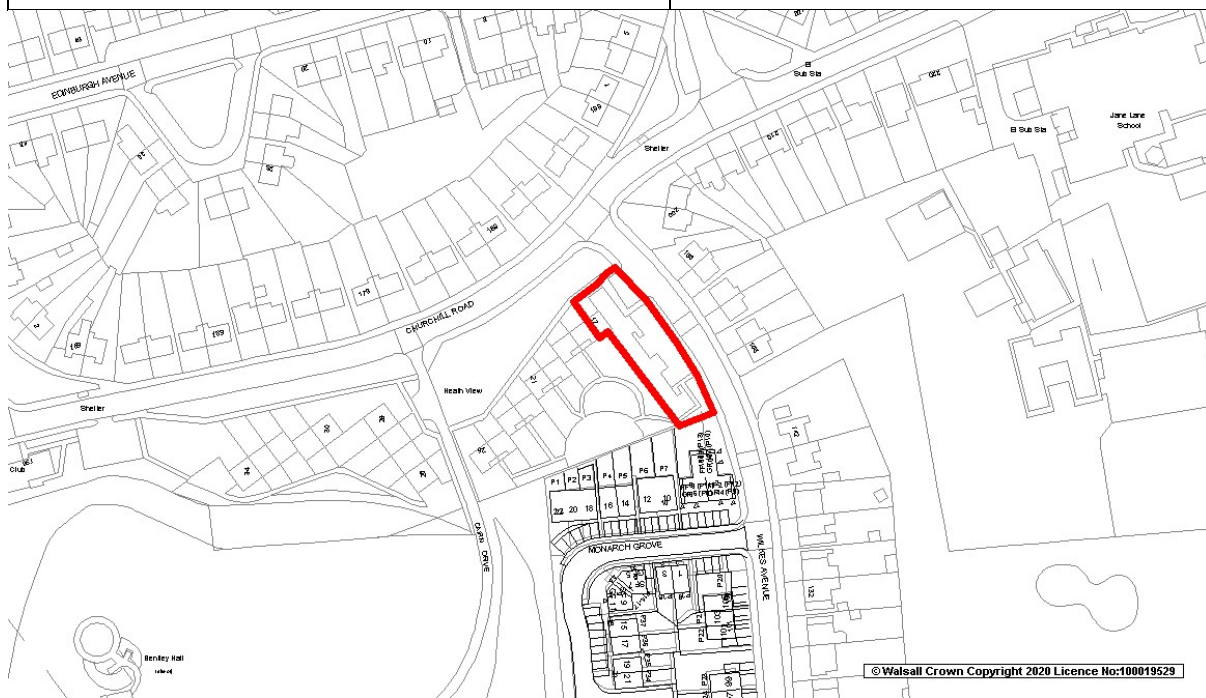
**Ward:** Bentley And Darlaston North

**Agent:** WB Limited

**Expired Date:** 09-Mar-2020

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

**Time Extension Expiry:** 25-Jul-2020



## Recommendation

**Recommendation:** Planning Committee resolve to delegate to Head of Planning & Building Control to grant planning permission subject to conditions and Section106 to secure and urban open space contribution and subject to;

- i. No new material considerations being received within the consultation period;
- ii. The amendment and finalising of conditions;

## Proposal

The application seeks planning consent for extensions fronting Wilkes Avenue and the conversion of the building to provide a total of 12 No. Studio Apartments and 1 No. 3 bedroom Apartment, plus an additional staircase at the end of the building, 9 off road parking spaces and landscaping, plus the relocation of speed pillows in Wilkes Avenue.

The current building is set out as a single two storey building stretching from the corner of the site junction with Churchill Road along Wilkes Avenue to the boundary with the adjacent new build development. To the rear is an open communal lawned garden area related to adjacent housing whilst to the Wilkes Avenue frontage the building is set back behind a 5m – 10m deep strip of general amenity space.

The building itself is of traditional brick and tile construction with steel windows. Towards the corner of Wilkes Avenue and Churchill Road adjacent the existing main entrance into the building are five car parking spaces. The site itself slopes away from the junction of Churchill Road with a visible mid split in floor levels dropping along Wilkes Avenue.

The proposed changes include two front flat roofed extensions towards Wilkes Avenue by approximately 2m to accommodate 2 No. new split level Studio Apartments, with their own pedestrian access to the frontage of the building. The proposed extensions would measure 6.2 metres high, 2.3m wide and 3m in depth. The other changes to the external building envelope involve the addition of a staircase enclosure to one end of the building and a small dormer within the existing roof to the Churchill Road elevation.

The internal layout of the existing building, converts the space to 8 Studio Apartments, positioned along the side of building adjacent to the neighbouring communal garden area, with a spine corridor the length of building facing Wilkes Avenue. Nine of the studio apartments and one 3 bedroom flat have shared access to the street, with one further ground floor studio flat have direct access to the street.



The internal layout includes a secure cycle store and a shared bin store on the Wilkes Avenue frontage.

## Site and Surroundings

The site is located in a predominantly residential area with a varied mix of housing, the majority of which comprise two storey dwellings. Directly adjacent to the site in Wilkes Avenue, there are new residential development. The site is located within the sustainable location with access to various amenities such shops, bus stops and leisure facilities. Bentley Local Centre is 143metres from the application site. Opposite and 12.5 metres from the application site is the Wilkes Avenue urban open space, with Bentley Recreation Ground being approximately 70 metres from the application site.

## Relevant Planning History

BC50008P: Change of use in part and extensions and alterations creating daycare facility: Permission Granted 04-Dec-1997

08/1262/FL: Change of use from 16 warden controlled units for elderly persons to 8 self contained units in supported accommodation for vulnerable young persons aged 16-25: Permission Granted 28-Oct-2008

## Relevant Policies

### National Planning Policy Framework (NPPF)

[www.gov.uk/guidance/national-planning-policy-framework](http://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

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](http://www.go.walsall.gov.uk/planning_policy)

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

GP2: Environmental Protection

- GP3: Planning Obligations
- GP5: Equal Opportunities
- GP6: Disabled People
- 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
- LC1: Urban Open Spaces

#### **Black Country Core Strategy**

- Vision, Sustainability Principles and Spatial Objectives
- CSP4: Place Making
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- CEN5: District and Local Centres
- ENV3: Design Quality

#### **Walsall Site Allocation Document 2019**

- HC2: Development of Other Land for Housing

- OS1: Open Space, Sport and Recreation
- LC5: Greenways

○

## **Walsall Town Centre Area Action Plan 2019**

- AAPLV1: Residential Developments
- AAPLV6: Securing Good Design
- AAPLV7: Enhancing Public Realm
- 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
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

### **Open space, sport and recreation**

- OS2: Planning Obligations
- OS3: Scale of Contribution
- OS5: Use of Contributions

### **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:** Conditions recommended

**Pollution Control:** Conditions recommended

**Planning Policy:** Support

**Fire Services:** No objection

**Crime Prevention Officer:** No objection

## **Representations**

Three objection letters of representation received from the members of the public  
(*Local planning authority comments in italics and brackets*):

- Parking issues and safety concerns
- There is no sufficient parking to facilitate visitors
- There are already number of housing developments in the areas (*Noted, the property is within a predominately residential location*)

## **Determining Issues**

- Principle of Development
- Impact upon the character and appearance of the area
- Residential Amenity
- Highways, Access and Parking
- Section 106 obligations
- Local Finance Considerations

## **Assessment of the Proposal**

### **Principle of Development**

In 2008 planning permission was granted for change of use from 16 warden controlled units for elderly persons to 8 self-contained units in supported accommodation for vulnerable young persons aged 16-25: Permission Granted 28-Oct-2008. The principle for the residential use has already been established. The proposed development for conversion in 13 units is supported by the planning policy and contributes towards the housing needs and mix of the borough. The proposed use can be supported on planning policy grounds by NPPF paragraph and SAD policy HC2.

## **Impact upon the character and appearance of the area**

The adopted planning policies Policy of the saved UDP policy 'H10 Layout, Design and Dwelling Mix' the Council will expect the design of residential developments, including residential extensions to create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32 'Design and Development Proposals.' Supplementary Planning Guidance 'Designing Walsall' also states that the development proposals must appraise the character of an area by assessing typical building heights, rhythms, materials as well as details and architectural solutions.

The proposed extensions forming 2 additional apartments and the enclosed end stair with a painted render finish, to the Wilkes Avenue façade. The existing rear facing brickwork adjacent communal lawned area, is to be cleaned and retained, especially to the rear of the building where the existing development forms part of an overall stepped layout around the building again should improve the buildings appearance. In addition, the proposal includes timber cladding between the upper and lower bands of glazing. The introduction of the cladding is considered to lift the front elevation from a very simple and utilitarian appearance of the existing building and on balance the proposed refurbishment will enhance the visual appearance. The frontage landscaping and the overall refurbishment and alterations would contribute to improving visual appearance of the street scene.

## **Residential amenity**

Wilkes Avenue is situated on the busy route and there is a level of background noise that needs to be considered. Pollution Control raise no objection to a residential use subject to a detailed noise survey being undertaken to establish precise noise levels and whether detailed mitigation measures are required. This can be secured by a pre-commencement condition.

The internal living area exceeds the acceptable total habitable floor area of 19.5 m<sup>2</sup> is required for a self-contained flat with a bedroom, kitchen and living area. All the proposed flats are ventilated and have access to natural light.

The proposal illustrates communal amenity space at the front of the building along the Wilkes Avenue frontage. Whilst the areas would be enclosed by boundary hedges, the spaces cannot be considered as private amenity space as they are part of the street scene. They can only be considered as landscaping. The proposal should provide up to 20sqm's of private amenity per flat. There is no scope for private amenity within the proposal however, with Wilkes Avenue Urban Open Space 12.5 metres to the east and Bentley Recreation Ground approximately 70 metres to the west from the application site, it is considered the future occupiers will be well catered for in lieu of having private amenity on site.

Given the building has limited space around it, especially at the rear of building adjacent to the neighbouring shared amenity, plus the use of shared corridors to serve the majority of the flats, raise concerns about the future safety and security of the buildings occupiers. Given the close proximity of ground floor habitable room windows to the adjacent rear shared amenity space, there is no scope to include landscaping to create a stand off from the windows of the flats to provide privacy. There is also a concern that this gives access to the windows from third parties. In this instance, it recommended the windows and doors of the development meet the minimum security levels set out by the secure by design documents published by the police. This can be secured via the planning conditions. In addition, it is recommended alarms are included for each flat and a CCTV door entry system linked to each flat is also included, plus secure letter boxes, all of which can be secured by conditions. In addition to further improve security of the future occupiers, it is reasonable to include a lighting scheme and improve the security of the proposed bin store. Whilst there is limited natural surveillance from the future occupiers of the flats over the frontage parking, it is considered as the parking is in the street scene, a degree of natural surveillance would be afforded from the street itself.

### **Highways, Access and Parking**

There are 14 parking spaces are proposed on site, 5 of which are existing and 9 new spaces which equates to a 100% provision. This is considered an acceptable level of provision in this locality taking into account the fairly low levels of households in this Ward with 2 or more cars, at below 30% based upon 2011 Census data and that Wilkes Avenue is a reasonably wide traffic calmed street where on-street parking should not present a road safety issue.

In respect of the proposed accesses, whilst the parking arrangement will result in what would usually be considered an excessively long dropped kerb to spaces 4 to 14, it is accepted that the constraints of the site limit any other workable arrangement. Taking into account pedestrian movements are unlikely to be excessively high at this location, the access arrangement is considered acceptable.

The proposed parking arrangement will require the repositioning of the existing speed hump on Wilkes Avenue to a location to be agreed with the Highway Authority. A Grampian style condition can be imposed to require the speed humps are moved, notwithstanding the applicant will need to secure a separate legal agreement with the local highway authority to enter and work in the public highway, whilst securing the technical details of the speed hump positions and designs.

With respect to refuse collection provision, it is intended that facilities be included within the scheme by means of a centrally located bin enclosure with dwarf brick walls. Accessible from the new hard paved forecourt area, and a network of footpaths serving all dwellings, the size of the store will be such as to accommodate

3 no. standard commercial paladins. The application site is located bus routes and well connected with the public transport.

The Highway Authority considers the development will 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 2018 paragraph 109.

### **S106 Obligation Requirements**

The development of 13 flats falls below the size threshold to require affordable housing. A contribution to off-site open space would be required in accordance with BCCS Policy DEL1, UDP Policies GP3 and LC1, and the Open Space SPD. Based on the proposed development and the Council's ready reckoner, the urban open space contribution would be £10,395.00. The nearest Urban Open Spaces are the Victoria Park open space which is 200 metres away. Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the 3 following statutory tests to make the development acceptable in planning terms:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

These tests are set out in The Community Infrastructure Levy Regulations 2010 (as amended) Regulation 122 and National Planning Policy Framework paragraph 56.

Based on the three tests in the legislation, it is considered that an urban open space contribution is considered necessary to make the development acceptable in planning terms. Taking into account the proposal does not provide any private secure amenity space for the future occupiers of the development and that Wilkes Avenue Urban Open Space is only 12.5metres from the application site, the local planning authority advises the monies be spent to meet the second test, the £10,395 contribution is spent towards maintaining and improving Wilkes Avenue urban open space. This urban open space would be considered directly related to the development as it is within a reasonable walking distance of the development site, it is considered future occupiers of the development are likely to use urban open space consequently any improvements are a positive outcome for the wider community, but also for the future occupiers of the development.

The applicant has agreed to sign up to a S106 legal agreement.



## **Local Finance Considerations**

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

This application proposes 13 new homes.

The Government has indicated that, for 2019-20, 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 2019-20 the total payments, taking account of completions over the last 4 years, are expected to amount to £2,911,601.

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 material planning considerations, taking into account the national and local planning guidance and neighbour comments, it is considered the proposed retention and refurbishment of the premises as offices would reflect the use and design of the other properties in the locality. The proposal is considered acceptable in land use planning terms, to have a limited impact on the character of the wider area and the amenity for neighbouring occupiers.

The development is considered to meet the aims and objectives of the National Planning Policy Framework (paras 47, 85, 124, 192 and 193), policies CSP4, EMP1, EMP3, CEN5, ENV2 and ENV3 of the Black Country Core Strategy and saved policies GP2, ENV29, ENV32, S8, T7 and T10 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall.

The proposals would have a low or minimal impact on the neighbouring buildings in the locality with no overlooking and there are no objections to the proposed scheme.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above. 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 further amended plans were requested for the parking layout.

## Recommendation

Planning Committee resolve to delegate to Head of Planning & Building Control to grant planning permission subject to conditions and Section 106 to secure and urban open space contribution and subject to;

- i. No new material considerations being received within the consultation period;
- ii. The amendment and finalising of conditions;

## Conditions

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. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

Location and Site plan: Drawing No 300

Proposed Elevations: Drawing No 142

Proposed first floor plan: Drawing No 141

Proposed Ground floor plan: Drawing No 140

Design and Access Statement

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: Notwithstanding the details submitted, prior to the commencement of the development hereby permitted shall not take place until;

-the Wilkes Avenue traffic calming measures in front of the application site have been repositioned to an adoptable highway standard.

-The reconstruction of the existing public footway crossing fronting parking spaces 10 to 14 to provide a full width footway consistent with the footway either side

The repositioned traffic calming measures shall thereafter be retained for the lifetime of the development.

Reason: To improve accessibility to the site in accordance with saved UDP Policies GP2, T8 and T10

4a. Prior to the commencement of the development hereby permitted until an Air Quality Low Emission Scheme shall be submitted to and approved in writing by the Local Planning Authority, to install two electric-vehicle charging points and Ultra-Low NOx boilers.

4b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

4c. Prior to the first occupation of the development hereby permitted, until a written Low Emission Scheme Validation Statement shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the agreed Air Quality Low Emission Scheme has been installed and operational.

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.

5a. Prior to the first occupation of the development hereby permitted, the vehicular parking areas shall not be carried out otherwise than in accordance with being;

- consolidated, hard surfaced and drained so that surface water run-off from these vehicular parking areas does not discharge onto the public highway or into any public highway drain,

- the vehicular parking areas shall be clear demarcation of the parking bays at a minimum of 2.4metres wide and 4.8metres deep.

- The installation of a vehicular footway crossing(s) to align with all proposed parking spaces

- The installation of a demarcation kerb between the public footway and the highway carriage

b) The vehicular parking areas, repositioned vehicular footway crossing(s) and installation of the demarcation kerb shall thereafter be retained for the lifetime of the development and used for no other purpose.

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

6. Prior to the first occupation of the development hereby permitted, shall not be carried out otherwise than in accordance with the internal cycle storage area being installed and being available to the future occupiers of the flats and thereafter be retained for the lifetime of the development and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

7a. Prior to the commencement of development hereby permitted until an

Acoustic Assessment shall be submitted to and approved in writing by the Local Planning Authority. The acoustic assessment shall include an Acoustic Mitigation scheme to protect residential amenity of the future occupiers of the building.

7b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved acoustic mitigation and the approved acoustic mitigation shall thereafter be retained for the lifetime of the development.

7c. Prior to the first occupation of the development hereby permitted until an

Independent validation report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the agreed acoustic mitigation measures have been implemented

Reason: In order to protect the amenities of the future occupiers of the premises.in compliance with Policies GP2 and ENV32 of the UDP

8. Notwithstanding the information shown on submitted plans, the development hereby permitted shall not be carried out otherwise than to meet the following minimum security measures and thereafter the security measures shall be retained;

- All external doors to individual dwellings to be PAS24; 2016

- All shared external doors shall have a door entry phone system and electronic lock release linked to each flat

- All ground floor windows and over accessible roofs to be PAS24; 2016

- All ground floor windows and over accessible roofs including French doors and patio doors to have not less than one pane of 6.4mm laminated glass.

- Dusk until dawn lights (white light source) to be installed adjacent to each external door

- Recycling and refuse areas to be secured at the rear of the properties in a lockable storage facility

- All access gates shall be of the same construction of the perimeter fencing, self-closing, facing the street, lockable with a key front and rear, designed to not create any climbing aids

- No Lead or metal shall be used on the ground floor.

- All the dwellings shall be suitably with an intruder alarm by a registered SSAIB or NSI engineer to British Standard (BS EN 50131 Grade 2)

-Mail boxes shall be constructed of a minimum 1.5 metre steel construction, being lockable individual letter boxes, secure anti-theft proof and wall mounted located at the primary entrance/exit lobby point of the building, covered by CCTV

-lighting within internal communal areas shall be PIR activated

-All energy meters shall be placed at the front of the dwellings

Reason: To ensure the safety and security of the development and its occupiers in compliance with NPPF 12 and saved policy ENV32 of Walsall's Unitary Development Plan.

#### Notes for the 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. The applicant will be expected to either enter into an agreement under S278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for all works within the existing public highway. For further advice please contact Highway Development Control Team at [Stephen.Pittaway@walsall.gov.uk](mailto:Stephen.Pittaway@walsall.gov.uk)

3. The works in the public highway to reposition the traffic calming in front of the application site within Wilkes Avenue, plus the repositioning/creation of the dropped kerbs will require a legal agreement to be agreed with the local highway authority prior to any works taking place in the public highway

### **Pollution Control**

Acoustic surveys will be required to follow the guidance within 'Professional Practice Guidance (ProPG) on Planning and Noise', May 2017. The aim of the survey will be to inform on the need for implementing mitigation measures such that the requirements of

British Standard BS 8233: 2014 'Guidance on sound insulation and noise reduction for buildings' and '*Guidelines for Community Noise*', World Health Organisation 2009 will be achieved. The following has general relevance:

Internal noise levels within bedrooms of residential development shall not exceed a

Continuous Equivalent Noise Level,  $L_{Aeq}$  8 hours, of 30 dB together with a maximum instantaneous level# of 45 dB  $L_{AFmax}$ , between the hours 23.00 to 07.00;

# Not to be exceeded for more than 10 instances.

Internal noise levels within habitable rooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq}$  16 hours, of 35 dB, between the hours 07.00 to 23.00.

Sound reduction from a partially open window shall be 10 dB(A).

Typically, noise surveys need to be conducted over a number of days (and nights) and where possible needs to be supported with some attended monitoring, which records the source of some of the noises that the sound level meter is detecting.

Resistance to sound: Approved Document E considers internal noise impacts between residential premises.

## **Air Quality**

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

The electric vehicle charging point provision for residential premises is a charging point per residential premise or Units with unallocated parking e.g. apartments – 1 charging point per 10 spaces, complying with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw. 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.

Ultra-low NO<sub>x</sub> boilers discharge NO<sub>x</sub> at or below 40mg/kWh.

In order to minimise the impact of the development on local air quality any gas boilers provided must meet a dry NO<sub>x</sub> emission concentration rate of <40mg/kWh. The specification of the gas boiler(s) shall be submitted to and approved in writing by the Local Planning Authority before they are fitted and the approved specification shall be implemented prior to the first occupation of the development and shall be maintained for the lifetime of the development.







## Planning Committee

Report of Head of Planning and Building Control on 10 December 2020

Plans List Item Number: 4.

### Reason for bringing to committee

### Significant Community Interest

#### Application Details

**Location:** SNEYD COTTAGE, SNEYD LANE, WALSALL, WS3 2LT

**Proposal:** RETROSPECTIVE APPLICATION FOR USE OF THE SITE AS A CONTRACTOR'S YARD INCLUDING STORAGE BAYS, USE OF THE BUILDING AS A WELDING WORKSHOP, STORAGE AND VEHICLE MAINTENANCE AND USE OF SNEYD COTTAGE AS OFFICES ASSOCIATED WITH THE YARD. USE OF GRASS VERGE IN CHEPSTOW ROAD FOR PARKING OF 20 CARS. PROPOSED ROOF EXTENSION AND WINDOWS TO FRONT AND REAR OF THE FORMER DETACHED GARAGE TO ALLOW FOR USE OF THE FIRST FLOOR AS OFFICES AND USE OF THE GROUND FLOOR AS A MESS ROOM.

**Application Number:** 14/0634/FL

**Case Officer:** Mike Brereton

**Applicant:** Hilton Main Construction Ltd

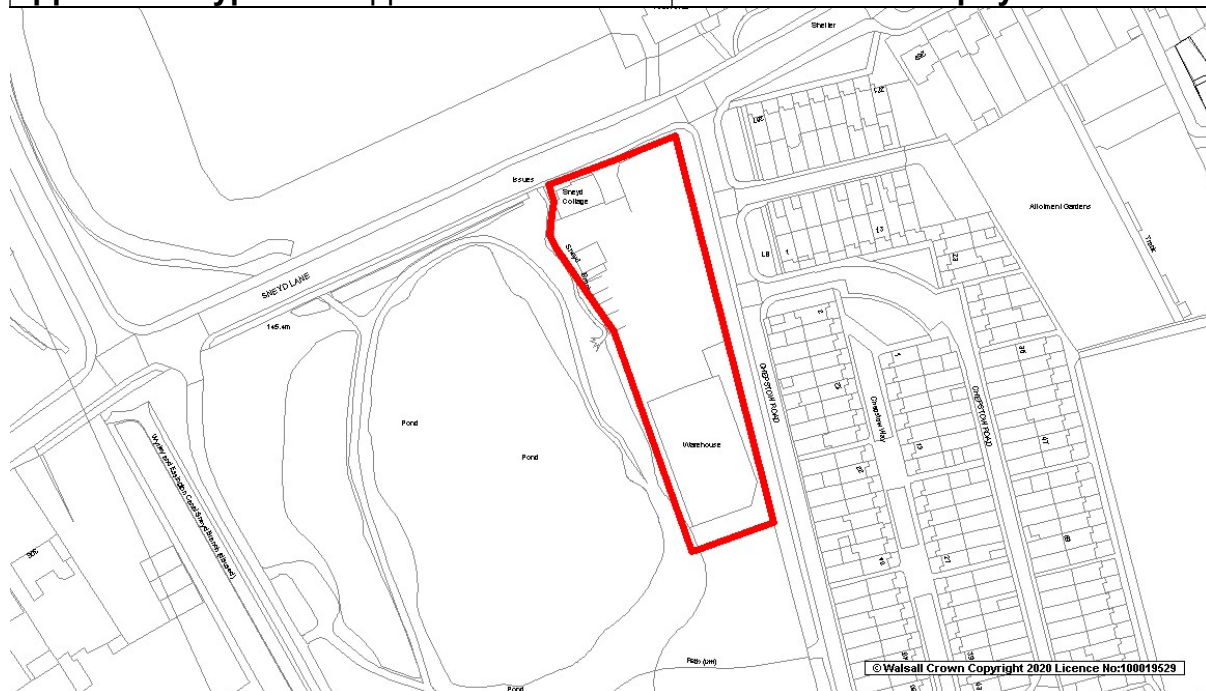
**Ward:** Bloxwich West

**Agent:** Alvaston Loft Conversions Ltd

**Expired Date:** 23-Jun-2014

**Application Type:** Full Application

**Time Extension Expiry:** 31-Dec-2020



## Recommendations

### Recommendation:

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:
  - The amendment and finalising of conditions; and
  - Overcoming the outstanding objection raised by the Environment Agency.

## Proposal

This retrospective application seeks continued use of the site as a contractor's yard including storage bays, use of the building as a welding workshop, storage and vehicle maintenance and use of Sneyd Cottage as offices associated with the yard.

This application also proposed the creation of 20 parking spaces along the grass verge in Chepstow Road and front and rear roof extensions and windows to the former detached garage to allow for use of the first floor as offices and use of the ground floor as a mess room.

The proposed roof extensions would measure 8.7m wide and 3.7m deep each and would be at the same ridge height as existing (5.3m from existing ground level).

## Site and Surroundings

The application site is accessed off Sneyd Lane, Bloxwich with Sneyd Cottage fronting Sneyd Lane and existing warehouse buildings to the rear of the site which have been in situ since at least 2009. Sneyd Cottage is a locally listed building.

The application site is not currently allocated for employment related uses in the Council's adopted Development Plan but does fall within the Green Belt, and within Flood Zones 2 and 3.

A number of protected trees are present along the site's western boundary, with Sneyd Brook and Baileys Pool also adjacent to the western boundary. Nearest residential properties are present to the east along Chepstow Way at a distance of between 19m and 23m.

## Relevant Planning History

Ref	Proposal	Decision	Date
BC57529P	Conversion of existing house into three flats.	Grant Permission Subject to Conditions	28/01/1999
03/0200/FL/ H1	Ground Floor Extensions & Detached Garage & Wall and Railings	Grant Permission Subject to Conditions	11/08/2004
05/0548/OL/ E4	Erection Of 28 No. Apartments; Demolition Of Existing Warehouse; Formation Of New Vehicular Access And Associated Works.	Refuse Permission	14/06/2005
09/1233/FL	Change of use of the ground floor from residential to hair and beauty salon	Refuse Permission	11/06/2010

## Relevant Policies

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

[www.gov.uk/guidance/national-planning-policy-framework](http://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 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**

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](http://www.go.walsall.gov.uk/planning_policy)

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

- GP2: Environmental Protection
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- JP8: Bad Neighbour Industrial Uses
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- CSP4: Place Making
- EMP1: Providing for Economic Growth
- TRAN2: Managing Transport Impacts of New Development

- 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**

GB1: Green Belt Boundary and Control of Development in the Green Belt  
 EN1: Natural Environment Protection, Management and Enhancement  
 EN3: Flood Risk

### **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

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

#### **Air Quality SPD**

- ***Section 5 – Mitigation and Compensation:***
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures

### **Consultation Replies**

**Strategic Planning Policy:** Object to harm to visual amenity of area arising from works to grassed verge (26<sup>th</sup> November 2018)

#### **Local Highway Authority:**

- No objection subject to conditions to secure parking spaces, bollards, Travel Plan measures and cycle shelter (14<sup>th</sup> January 2019).

- No objection subject to conditions to ensure offices remain ancillary and to secure parking spaces (28<sup>th</sup> May 2014).

#### **Pollution Control:**

- No objection subject to inclusion of 2.5m acoustic fence and potential requirement for electric vehicle charging points (30<sup>th</sup> November 2018).
- No objections from Scientific Team (22<sup>nd</sup> May 2014).
- No contaminated land requirements (9<sup>th</sup> May 2014).

**Environment Agency:** Object to lack of necessary Flood Risk Assessment (23<sup>rd</sup> November 2018).

**Fire Authority:** No comments to make (3<sup>rd</sup> June 2014).

#### **Representations (*Officer comments in italics*)**

A petition including 44 signatures has been lodged objecting to this planning application on the following grounds:

- Lack of car parking and highways impacts along Chepstow Road; and
- Noise from lorries and heavy machinery.

2 x objections have also been received from neighbours on the following grounds:

- Existing parking on grass verge results in mud everywhere;
- Existing parking issues and highways safety along Chepstow Road;
- Noise reducing fence not yet installed;
- Need for a tree survey (*recommendations of the applicant's arboriculturalist have been submitted and published on the Council's website*);
- Additional noise impacts from operation;
- Dust from storage bays; and
- Works are unauthorised (*this current retrospective planning application seeks to regularise the position*).

#### **Determining Issues**

- Principal of Development
- Impacts on Heritage Asset
- Impacts on Green Belt
- Design and Appearance
- Impacts on Residential Amenity
- Ecology
- Trees
- Highways

- Flooding
- Air Quality

## **Assessment of the Proposal**

### **Principle of Development**

Prior to the applicant acquiring the site in 2011 the site was formerly used as a haulage contractors (Bailey Brothers). The application site has therefore been in commercial use for more than 10 years, and likely to already benefit from a lawful Sui Generis use.

The proposed ancillary offices are considered acceptable, subject to condition to ensure they are only used in connection with the contractor's yard.

The current use of the site as a contractor's yard (Hilton Main Construction Ltd) is therefore considered acceptable in principle subject to all other material planning considerations as set out in this report.

### **Impacts on Heritage Asset**

Sneyd Cottage is a locally listed building. NPPF Paragraph 197 requires an assessment to be made of the impacts arising to a non-designated heritage asset as part of development proposals, having regard to the scale of harm and significance of the asset.

Whilst the proposed roof extensions to the detached building at rear (former garage) would alter its overall appearance, it would still appear as a subservient building to Sneyd Cottage and is therefore considered would not cause any significant harm to the non-designated heritage asset. A condition would be included to secure the use of appropriate external materials to safeguard the heritage asset.

Furthermore, it is considered that the continued commercial use of the site as a contractor's yard would not result in any significant additional harm to the non-designated heritage asset over and above any arising from the lawful Sui Generis use as a haulage contractors.

Whilst the addition of roller shutters to Sneyd Cottage would usually be considered as inappropriate additions to such a building, these appear to have been in situ since at least 2012 and have therefore become lawful over time. In any case, the roller shutters do not form part of this current planning application and are not therefore a material planning consideration in the determination of this application.



### **Impacts on Green Belt**

NPPF Paragraph 145(c) allows extensions to buildings in the Green Belt providing they do not result in disproportionate additions to the original building. The roof extension whilst adding bulk, would not exceed the existing ridge height and is considered would not result in a disproportionate addition.

The grassed verge along the eastern boundary falls outside of the Green Belt.

Overall, the extensions to the former garage, and use as a contractor's yard is considered would not result in any additional harm to the character and openness of the Green Belt over and above the lawful Sui Generis use as a Haulage Contractors.

### **Design and Appearance**

Views of the extensions to the former garage building would be limited in the wider street scene, and are considered would not result in any significant additional harm to the character of the area and are acceptable subject to condition to secure the use of appropriate external materials.

### **Impacts on Residential Amenity**

Neighbours objections regarding increased noise are noted. However, the submitted noise assessment concludes that such impacts could be minimised through the introduction of a 2.5m high acoustic fence to the eastern boundary along Chepstow Road. The applicant has agreed to this fence which would be secured by condition. Pollution Control accept this mitigation.

It is also understood that the concrete crusher which has been the main source of complaints from residential occupiers has now been removed from the site in October 2020 following negotiations with the Council's Pollution Control team.

On balance, and taking account of the lawful use of the site as a haulage contractors, the proposal is considered acceptable subject to a condition to secure the acoustic fence.

Neighbours also object to dust arising from the storage bays on the site. Whilst it is understood that some dust may become airborne during the transportation of materials from the storage bays, the bays are located on the western boundary at 46m from nearest residential gardens along Chepstow Road and when combined with the proposed 2.5m high fence, this may help to further minimise this issue. Pollution Control have not recommended any further mitigation measures for this purpose.

## **Ecology**

The applicant has been operating on this site since 2011, and there are limited opportunities within the site for protected or important species to be present with the exception of the roof of the former garage building which may have the potential to support roosting bats due to its location next to mature trees and open space to the west.

Conditions would be included to require that roof tiles of the former garage building are removed by hand and to require the installation of a bat box within the site to provide biodiversity enhancement.

## **Trees**

The applicant's arboriculturalist explains the proposed creation of parking spaces to the existing grassed verge would require the removal of trees T2 to T8 and crown raising of T13, T14 and T16. These trees are not protected and appear to be relatively young species. The submitted layout plan proposes a replacement hedge along this section of the boundary and this would help to provide a level of compensatory planting whilst accommodating the required parking spaces to serve the site.

Conditions would be included to require the submission of tree protection measures to safeguard existing trees during construction of the boundary fence, parking spaces and roof extension to former garage building and to require the submission of appropriate surface material and construction methods of the parking bays along the grassed verge to safeguard retained trees.

## **Highways**

10 Van and 12 lorry spaces are provided on-site within the yard area and a further 20 proposed new car parking bays are proposed alongside Chepstow Road to address some of the current indiscriminate parking issues associated with the current operations.

There are enforceable double yellow junction protection parking restrictions at the junction of Chepstow Road and Sneyd Lane.

Whilst the proposed parking arrangement in Chepstow Road would create one long footway crossing, this footway is not extensively used by pedestrians due to residents being located on the opposite side of Chepstow Road. On balance, the benefits of formalising the current indiscriminate verge parking and resultant minimisation of pavement parking outweighs the potential issues around the excessive dropped kerb access points.

Conditions would be included to secure the parking spaces, bollards, Travel Plan measures and cycle shelter in line with the recommendations of the Local Highway Authority.

Neighbours objections regarding parking and highways issues have been considered above, and found to be acceptable subject to the conditions as set out.

Overall, the retention of the current site operations and associated uses will not result in any unacceptable impacts on highways safety or severe impacts on the operation of the highway network.

### **Flooding**

The application site falls within Flood Zones 2 and 3, areas which are most likely to result in flooding. A flood report has been submitted by the applicant which has been shared with the Environment Agency to review.

Given the commercial nature of the operation, this is considered to be a less sensitive use and conditions could be attached to any planning permission to secure any necessary flood mitigation or resilience measures.

The recommendation set out in this report is to seek resolution from members to delegate the issuing of permission to the Head of Planning and Building Control to allow sufficient time to conclude this outstanding matter, to aim to address the Environment Agency objection, and to impose any necessary conditions to secure any required mitigation or resilience measures.

### **Air Quality**

Whilst the creation of parking spaces would now be required to provide a number of electric vehicle charging points in line with the aims of the Council's Air Quality SPD adopted in 2017, due to the nature of this retrospective application and the potential conflict with any necessary underground cabling and root protection areas of retained trees along the eastern boundary it is not considered reasonable or appropriate to secure these in this instance.

## **Conclusions and Reasons for Decision**

It has been demonstrated that the proposed retention of the existing operation, and works associated with the extensions and car parking spaces are acceptable and would not result in any significant additional harm to the non-designated heritage asset, to neighbours amenity, to highways safety, to protected or important species or to highways safety. Overall, the proposal is considered to meet the local and national planning policies and guidance set out in this report.

Taking into account the above factors it is considered that the application should be recommended for approval subject to the conditions as set out, and subject to addressing the Environment Agency objection.

### **Positive and Proactive Working with the Applicant**

#### **Approve**

Officers have spoken with the applicant's agent and in response to concerns raised regarding noise and flooding amended plans and information has been submitted which enables full support to be given to the scheme, subject to addressing the Environment Agency's objection.

### **Recommendation**

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:

- The amendment and finalising of conditions; and
- Overcoming the outstanding objection raised by the Environment Agency.

### **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. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

- Existing and Proposed Plans '14-002-01'. Received 27<sup>th</sup> January 2016
- Location and Layout Plan '72-0114-01' Rev D. Received 10<sup>th</sup> March 2016
- Site Plan '14-002-04'. Received 27<sup>th</sup> January 2016
- Staff Travel Plan. Received 27<sup>th</sup> January 2016
- Noise Assessment (Sanctuary Acoustics dated September 2014). Received 27<sup>th</sup> January 2016

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 development:

- i. Details of protective fencing and ground protection to be installed around all retained trees shall be submitted in writing to and approved in writing by the Local Planning Authority
- ii. Details of appropriate surfacing and construction methods of car parking spaces to the existing grassed verge along Chepstow Road
- iii. The approved protective fencing and ground protection shall be installed
- iv. One month's written notice of the intention to commence development shall be given to the Local Planning Authority to allow the Council's Arboricultural Officer to fully inspect the installation of the protective fencing and ground protection

3b: The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved details before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

3c: Nothing shall be stored or placed nor any fires started, any tipping, refuelling, disposal of solvents or cement mixing carried out inside the protective fencing or on the ground protection referred to in part a to this condition. Ground levels within protective fencing and on ground protection areas shall not be altered nor shall any excavation or vehicular access or drainage routes be made.

3d: The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Saved Policy ENV18 of the UDP and Conserving Walsall's Natural Environment SPD.

4a: Prior to the commencement of the hereby permitted extensions to the former garage building as shown on 'Existing and Proposed Plans 14-002-01', received on 27<sup>th</sup> January 2016, a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of bricks, roof tiles, windows, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.

4b: The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the development, to safeguard the non-designated heritage asset Sneyd Cottage and to comply with saved policies GP2 and ENV32 Walsall's Unitary Development Plan, Policy ENV2 of the Black Country Core Strategy and the NPPF.

5: Within six months the date of this permission the commitments, measures and targets to encourage sustainable travel modes to reduce car based trips to the site contained within the hereby approved Travel Plan shall be carried out in accordance with the terms of the approved Travel Plan.

Reason: To encourage sustainable travel modes and to accommodate the additional nursery provision to mitigate any potential impacts of caused by any increase in school gate parking issues on the local highway network in accordance with BCCS policy TRAN2 and saved policy T10 of Walsall Unitary Development Plan.

6: Within six months the date of this permission the designated internal parking spaces for the various types of vehicles utilised by the site operations as shown on 'Location and Layout Plan 72-0114-01 Rev D', received on 10th March 2016, shall be clearly demarcated thereafter be retained and used for no other purpose for the lifetime of the development.

Reason: To ensure the safe and satisfactory operation of the development, to ensure on-site parking is maximised to prevent over-spill onto the highway and in accordance with Saved UDP Policies GP2, T7 and T13.

7: Within six months the date of this permission details of a covered and illuminated cycle shelter for the use of staff shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

8: Notwithstanding the details shown on 'Location and Layout Plan 72-0114-01 Rev D', received on 10th March 2016, a 2.5m high acoustic timber fence shall be installed along the eastern site boundary with Chepstow Road within six months of the date of this permission and thereafter retained for the lifetime of the development.

Reason: In order to protect the amenities of neighbours in compliance with Saved Policies GP2 and ENV32 of Walsall's Unitary Development Plan.

9: Within 6 six months of the date of this permission a bat box shall be fixed to a mature tree within the site and shall thereafter be retained. The bat box shall be located at a point not lower than 4metres from ground where there are no branches below the box that would impede the direct flight of bats into and out of the bat box. The bat box shall be made of timber or woodcrete.

Reason: To conserve local bat populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

10a: Within six months of the date of this permission a plan shall be submitted to and approved in writing by the Local Planning Authority showing the design and location of bollards along the retained sections of grass verge to prevent indiscriminate parking on the remaining verge areas. The bollards shall be installed prior to the car parking spaces first coming into use along Chepstow Road as shown on 'Location and Layout Plan 72-0114-01 Rev D', received on 10th March 2016, and in accordance with the approved details and thereafter retained for the lifetime of the development.

10b: Within 12 months of the date of this permission the staff parking spaces fronting Chepstow Road as shown on 'Location and Layout Plan 72-0114-01 Rev D', received on 10th March 2016, shall be implemented and brought into use. The spaces shall be suitably drained so that surface water does not discharge onto the public highway.

10c: Prior to the parking spaces set out above first coming into use, vehicular footway crossings shall be installed to align with the new parking spaces and thereafter retained for the lifetime of the development.

Reason: To ensure the satisfactory completion and operation of the parking spaces and accesses and in the interests of highway safety in accordance with Saved UDP Policy GP2 and the NPPF.

11a: All workers on the site shall be made aware that bats may be present and shall not undertake demolition works including the dismantling of roofs, soffits, gables or in the vicinity of cracks and crevices otherwise that with the use of hand tools. All roof tiles, flashing and ridge tiles shall be listed carefully (and not dragged or slid) and the undersides examined for bats or bat droppings.

11b: If during the construction period bats or evidence of bats or their roosts are found:

- i. bats shall not be handled or touched
- ii. the vicinity of the roost shall be immediately reinstated

- iii. no further destructive works shall be carried out until the need for Natural England licence has been established
- iv. Within one week of finding bats or evidence of bats or their roosts, a written report by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy shall be submitted in writing to and approved in writing by the Local Planning Authority. The report shall record what was found, and propose appropriate mitigation measures, including a timetable for their implementation
- v. Work shall not continue otherwise than in accordance with the approved mitigation measures and the approved timetable

Reason: To conserve local bat populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

12: Notwithstanding the details submitted the hereby permitted offices shall not be used otherwise than for an ancillary purpose in connection with the hereby approved Sui Generis use as a contractor's yard.

Reason: To define the planning permission, to ensure adequate parking provision and to safeguard the amenities of adjacent dwellings and to comply with Walsall's Unitary Development Plan saved policies GP2, T7 and T13 and the NPPF.

### **Notes for Applicant**

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. The applicant will be expected to obtain a Road Opening Permit from the Highway Authority for the dropped kerb works within the existing public highway. For further advice please contact Highway Development Control Team on 01922 655927.
3. Works should be carried out in accordance with the Council's footway crossing specification SD11/8 dated January 2008 and all works within the public highway should be in accordance with all statutory requirements.



## Extract of Petition for 14/0634/FL

### RESIDENCE OF CHEPSTOW ESTATE

14/0634/FL  
Walsall  
WS1 2SD



19 May 2014

Planning and Building Control  
The Civic Centre  
Walsall  
WS1 1DG  
Application number: 14/0634/FL  
Case Officer : Barbara Toy

Dear Sir/Madam,

We the undersigned wish to object to this application because of the over crowding / lack of employers car parking spaces within this compound, we also have to put up with noise from lorries & heavy machinery at all times of the day & night.

There employers park on Chepstow road & adjoining roads, and also in residents parking bays , and blocking garages of residents of Chepstow way. This is an accident waiting to happen.

How many more vehicles will be parking on our estate if you allow this extension to go ahead?

Sincerely, Residence of Chepstow estate (G4) S. G. G. G. G.





## Planning Committee

Report of Head of Planning and Building Control on 10 December 2020

Plans List Item Number: 5.

### Reason for bringing to committee

Statutory Consultee Objection

### Application Details

**Location:** CHRIST CHURCH C OF E PRIMARY SCHOOL, HARDEN ROAD, BLOXWICH, WALSALL, WALSALL, WS3 1EN

**Proposal:** SINGLE STOREY, FIVE CLASSROOM EXTENSION AND REMODEL OF ONE EXISTING CLASSROOM WITH ASSOCIATED EXTERNAL LANDSCAPING WORKS.

**Application Number:** 20/0192

**Case Officer:** Gemma Meaton

**Applicant:** Walsall Metropolitan Borough Council

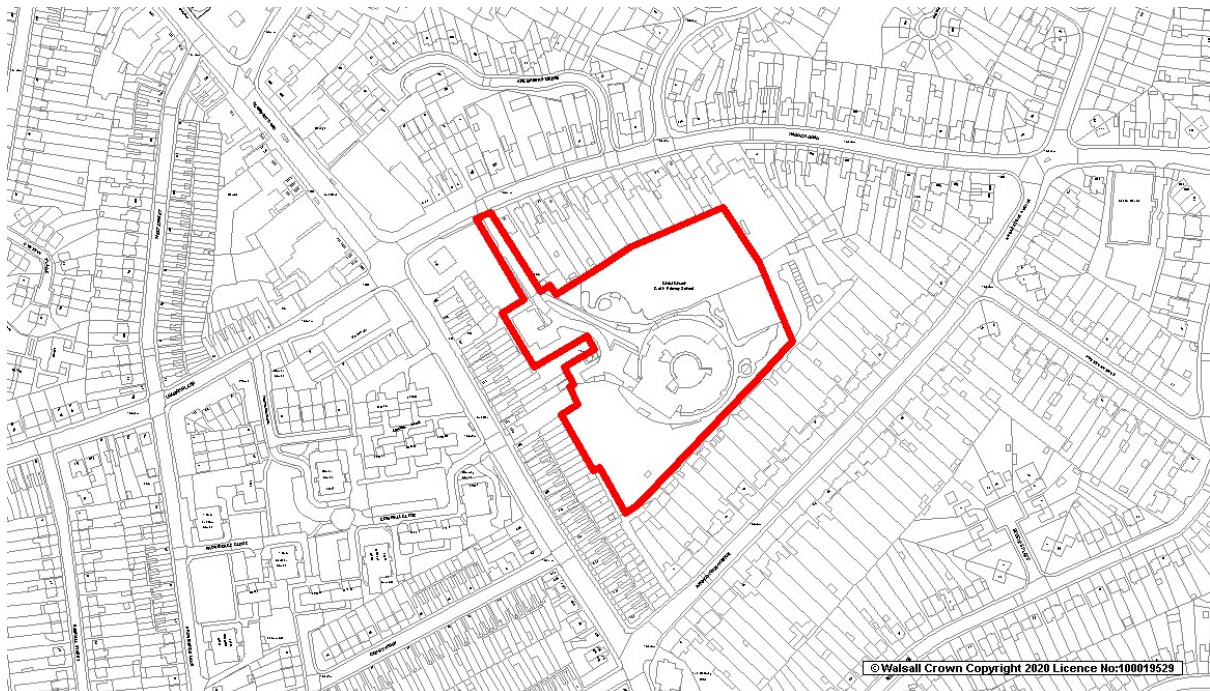
**Ward:** Blakenall

**Agent:** Seymour Harris Architecture

**Expired Date:** 04-May-2020

**Application Type:** Full Application: Minor Use Class D1 (Non-Residential Institutions)

**Time Extension Expiry:** 17-Dec-2020



## Recommendation

### Recommendation:

Planning Committee resolve to delegate to Head of Planning & Building Control to grant planning permission subject to conditions and subject to ...

- i. No new material considerations being received within the consultation period;
- ii. The amendment and finalising of conditions;

## Proposal

It is proposed to construct a single storey classroom extension projecting from the existing main school building in the south of the site, this would expand the school from 1.5 form entry to 2 form entry. The extension would allow for the construction of five new classrooms, two group/meeting rooms storage and ablution facilities.

The site of the extension would be within an area known as the Milenium Woodland at the school, which is currently used as an outdoor recreation and learning space. The proposal includes the removal of 10 trees in the area of the extension, with replacement planting proposed within the woodland to create a more formalised landscape area to the south west of the existing school which feeds into the more natural area of woodland in the west of the site. Replacement planting is also proposed along the south west boundary of the site behind the extension, and around the new parking area in the north west.

The extension would project to the south west of the existig structure along the southern boundary of the site, connected by a link corridor to the main building, with external access via a ramp at this point. The reorganisation of space associated with the link corridor will lead to the loss of one classroom meaning a nett gain of four classrooms as a result of the development. The clsrooms would be organised facing north and into the remaining wooded area along a single step-free corridor wich slopes down to the southern extent of the extension at a maximum gradient of 1:40. An external walkway would be provided along the outside of the classrooms with full length windows and doors opening out onto it.

The classrooms would be covered by a flat roof with overhanging canopy in a similar style to the existing building, and would be single storey in height with high level windows in the north facing rooflope. It is proposed to use red multistock brickwork in lbstock Northumbria Cottage to face the elevations and grey membrane warmdeck roof covering to match the existing building, as well as grey fittings and finishes with

ccent coloured treated timber panel walling on the North West elevation facing the Millenium Woodland.

The existing vehicular and pedestrian accesses from Harden Road will be retained, with the existing parking maintained. A new parking area is proposed in addition to the existing, which could accommodate 8 vehicles and would make use of the existing access and turning area minimising the amount of new hard surfacing required.

The application is accompanied by a Design and Access Statement which explains the need and formulation of the design of the proposal. Provides insight into the architectural objectives and decisions taken throughout the design process including mitigation of the loss of trees and impact on the ecology of the area. A Planning Statement is included in the document that includes motivation as to how the proposal complies with national, regional and local planning policy.

An Arboricultural Report has been provided which concludes that of the 26 tree features on site at the time of the survey, six B grade tree features and three C grade trees will require removal in order to facilitate the development proposals. One U grade tree will be removed for reasons of sound arboricultural management. The report finds that providing the tree protection measures recommended are implemented the proposed development of the site can be successfully achieved without causing undue harm to those trees identified for retention, and that the proposed tree losses will not have a significant negative impact on the tree scape of the area.

A phase 1 and phase 2 ground investigation report was submitted with the application. No significantly elevated concentrations of contaminants were recorded by the investigation and a discovery approach is recommended. Given the recorded presence of underground coal seams that have been shown to have been worked on the adjacent site, supplementary boreholes are recommended. Consideration of soakaway design to account for the presence of an anticipated low permeability clay bound gravel layer will be required along with trial pits soakaways if required. Additional ground gas monitoring is recommended before finalising any ground gas protection measures for the site.

Ecological Appraisal was included with the application which found that site was mostly considered to be of low ecological value, comprised predominantly plantation woodland, which was considered to be of local value. The development proposal includes the loss of an area of this site, which should be replanted within the boundary and connected to the retained woodland. Several mitigation strategies were recommended including:

- Protecting retained trees within the woodland during construction

- Any lighting for the development should be designed sensitively to avoid light spill onto the woodland.
- No vegetation removal should be carried out during the breeding season (March to August inclusive).
- The small wooden building within the woodland was assessed as having 'low' potential to support roosting bats, a single dusk emergence/dawn re-entry survey will be required.
- Post-development enhancements include the provision of bat and bird boxes, a hedgehog house and native fruit/seed bearing landscape planting. These enhancements will increase the likelihood of net gain in biodiversity in line with the NPPF and the Black Country Core Strategy.

A Travel Plan has been submitted which shows the initiatives that are being undertaken to minimise congestion and emissions on the local area and highway network, updated in line with the proposal. The plan comits to the aim of achieving Gold Level as part of the A\*STARS programme.

A Sustainable Drainage Assessment was submitted with the application to meet the requirements of 'Sustainable Drainage: Guide to Design, Adoption and Maintenance Manual'. The report incicates attenuation will be provided through the provision of a 30m<sup>3</sup> storage tank with a pumped discharge not exceeding 5l/s. the assessment concludes that The drainage design ensures that there is no increase in flooding from the system to downstream property or access routes for storm events up to the 1 in 100 year return period plus 40% climate change. The use of sustainable drainage (SuDS) has been considered and can be incorporated within the design. The proposed systems comply with the legislation introduced with regards to SuDS as of the 6th April 2015. The report demonstrates the surface water drainage strategy for this site is in compliance with the National Planning Policy Guidance and Non-Statutory Technical Standards.

## **Site and Surroundings**

The existing primary school premises are located off Harden Road to the east of the junction with Bloxwich Road, just outside Leamore Local Centre. Access to the school is via a driveway leading off an access road adjacent 28 Harden Road and also serving the Black Horse PH car park, which is now a used car sales establishment. The school buildings lie to the rear of residential properties fronting Broadstone Avenue with a multi-use games area and playing fields at the rear of properties on Harden Road and a wooded area to the south west of the site.

There are no tree preservation orders on the trees on the site, but there are some protected trees on the adjacent former PH property. These trees will not be affected by the proposal. The development area is not defined as sports play ground or sports pitch

The existing school was recently fully redeveloped. The main building is circular and approximately 54m in diameter and has a maximum height of 6m. The roof projects beyond the walls of the building to create a canopy over the pedestrian path around the perimeter of the building. The two storey part of the building (kitchen, hall and store) is approximately 29m X 10.5m and has a maximum height of 8m.

The school has been designed as a 1.5 Form Entry with 354 pupil intake. There are 37 full and part time staff.

### **Relevant Planning History**

10/0074/FL Erection of replacement primary school building including 26 place nursery, replacement boundary fence, parking, new access road and landscaping. GSC - 2010-07-09

10/0897/PD Prior Notification - Demolition of 2 storey caretakers school house. Approved - 2010-09-22

10/1100/FL Amendment to approval 10/0074/FL for erection of replacement school building including 26 place nursery (amendments to car park, access road, service & landscaping). GSC - 2010-11-12

14/1209/FL Minor material amendment to permission 10/0074/FL to amend nursery entrance, fenestration details to key stage 1 classrooms and practical room, internal amendments and change to roof line. GSC - 2014-10-23

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

[www.gov.uk/guidance/national-planning-policy-framework](http://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 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **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.

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

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

- GP2: Environmental Protection
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- T7: Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- HOU5: Education and Health Care Facilities
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV6: Open Space, Sport and Recreation

### **Walsall Site Allocation Document 2019**

OS1: Open Space, Sport and Recreation  
T4: The Highway Network



## 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

## Consultation Replies

*(LPA comments in italics and brackets):*

**Pollution Control** – No objection, subject to ground gas measures being required by condition

**Arboricultural Officer** – Objection, as set out during the 4th September 2020 site meeting and the 1st July 2020 email comments. Whilst no objection to the principle of development although the layout is not supported in its current form. Should the report be minded to recommend approval, conditions are recommended in relation to soft landscaping, maintenance of planting for 5 years and tree protection measures.

**Transportation** – No objection subject to conditions regarding the completion of staff parking and Travel Plan

**Strategic Planning Policy** - The site of the proposal lies within an area of open space which is identified on the Policies Map and the Technical Appendix attached to the SAD as site reference OS2046. SAD Policy OS1 states that proposals that would result in the loss of or would otherwise adversely affect the open space

network will be assessed in accordance with the relevant policies in the NPPF, BCCS and UDP, including UDP saved policies LC1, LC3, LC4, LC6 and SAD Policy LC5.

*(These comments were provided to the applicant and a response received which was provided to Strategic Planning Policy for review, the response was received as follows)*

The note responding to our previous comments does not address why the applicant considers the area is surplus to requirements. The proposal therefore would not appear to have addressed the requirements of the NPPF. However, it will be for the decision maker to balance this loss against other material considerations including the need for the additional accommodation.

**West Midlands Police** – No objection, recommend following secured by design principles. Concern regarding rear access to the building creating additional hiding and access points which could be a security concern.

**Coal Authority** – no objection, subject to the imposition of conditions in relation to intrusive site investigations and submission of remediation and validation report as necessary.

**West Midlands Fire** – No objection subject to compliance with building regulations.

## **Representations**

Two letters of objection were received in relation to the application with the following concerns *(LPA comments in italics and brackets)*:

- Impact on air pollution and increase in traffic
- Decrease in road safety and increase in nuisance parking
- Negative impact on property values of homes within the immediate vicinity of an expanded school *(This is not a material planning consideration)*
- Impact that the construction will have on Covid-19 infection in the area  
Concerns that Japanese Knotweed has been surveyed on site boundary (document 69364-209426 page 17) *(The Ecological report indicates that Japanese Knotweed has been discovered in the last 10 years within 2km of the site. It is recommended that a note to the applicant is included to ensure that, if discovered on the property knotweed is dealt with in terms of the controlling legislation)*

## Determining Issues

- Principle of development
- Trees
- Design and Layout
- Impact upon neighbouring residential occupiers
- Access and Parking

## Assessment of the Proposal

### Principle of development

The proposal would result in the loss of an area designated as open space in the Site Allocation Document Policy OS1 (OS2046).

SAD Policy OS1 states that proposals that would result in the loss of or would otherwise adversely affect the open space network will be assessed in accordance with the relevant policies in the NPPF, BCCS and UDP, including UDP saved policies LC1, LC3.

Paragraph 97 of the NPPF states that *“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.*

Saved Policy LC1 of the UDP states *“... (a) The Council will seek to retain and enhance existing urban open spaces and redress any deficiencies in the provision or accessibility of these....”*

Saved Policy LC3 of the UDP states *“...Proposals which would involve the loss of children's play areas will only be considered favourably where it is demonstrated that this would not cause or exacerbate any deficiency...”*

Policy ENV6 of the BCCS states: *“...Development that would reduce the overall value of the open space, sport and recreation network in the Black Country will be resisted. Development that would increase the overall value of the open space, sport and recreation network will be encouraged, especially in areas of deficiency...”*

The area to be built upon is currently within the site boundary of the school and is not open to the public, meaning that the proposal will not impact on the provision or accessibility of open space. According to the design and access statement provided the area to be built upon is surplus to the requirements of the school in terms of use as a woodland area for learning, it is therefore considered that the application has adequately demonstrated that the open space is surplus to requirements.

Policy HOU5 of the Black Country Core Strategy states that “the existing network of education and health care facilities will be protected and enhanced”. The proposal to provide an extension to the existing school within the grounds would therefore be supported in accordance with this policy.

It is therefore considered that principle of development is acceptable and accords with the aims and objectives of the development plan.

## **Trees**

An arboricultural statement has been submitted with the application which indicates that a total of 10 trees will require removal as part of the proposal, these include those directly under the footprint of the proposed extension and hard surfacing, and those that would be removed as a result of being within the construction site compound. The proposal indicates that these would be replaced with replanted with whips or feathered whips of Common Alder, Field Maple, and Silver Birch. An additional ‘U grade’ tree is proposed for removal due to its low quality and limited life expectancy, and according to the arboricultural report, would be recommended to be removed irrespective of the proposed development.

The tree officer has indicated that although the proposal is supported in principle, the siting of the extension is not supported in its current form. The proposal includes the removal of a linear stand of trees along the southern boundary of the site, which can be considered to form a landscape feature of the property and has been identified by the tree officer as worthy of retention. According to the arboricultural report these trees are ‘category-B’ and ‘category-C’ trees. As a result of a site visit it became clear that some of the detail contained in the arboricultural report is likely to be inaccurate, like the exact location, crown and species of the trees in this area. The tree officer agrees that these trees are a mix of category B and C trees that, according to BS5837:2012 are ‘trees of moderate quality’ and ‘trees of low quality’.

If these trees on the southern boundary were to be retained, the extension would have to be shifted to the north. The effect of moving the extension would be to decrease the retained area of Millennium Woodland used by the school for play and teaching, causing the loss of other trees as well as increase the ‘dead space’ to the rear of the site. The applicant has indicated that the Millennium Woodland area

currently lacks surveillance and easy access and is underutilised as a result. The proposal would introduce a more structured area closer to the existing school building and allow access from the new classrooms while creating surveillance from them, which would act to rationalise the woodland area and improve its functionality within the school setting.

Although the loss of trees is considered unfortunate, in weighing the planning balance, the relative harm of removing the trees on the southern boundary compared to those in the heart of the site is considered to have a similar impact. The additional loss of functional space weighs against an amended site location.

On balance it is considered that the need for the expansion of the school and the community benefit that this would allow as well as the rationalisation of the Millennium Woodland area into a more usable space mean that the proposal is supported despite the loss of trees on the site. The tree officer has provided a list of conditions that would assist in the mitigation of the loss of trees and it is recommended that these be applied to the decision notice.

## **Design and Layout**

The design of the proposed extension would be in a similar style to the existing school buildings, with an increase in glazed area to provide good light penetration onto the new rooms, and multiple access points into and out of the building increasing its permeability and functionality as a flexible learning space. The use of ramped transitions between the classrooms assists in their integration while ensuring their step-free accessibility. The proposal is supported from a design perspective.

Concerns about the access to the rear of the new extension and how this could impact on safety and security. There is an access from the link-corridor to the existing covered walkway which surrounds the existing school which is a feature of the extant design. This means that the area to the rear of the new classrooms would be subject to natural surveillance as a result of the comings and goings associated with this access through the school. There are also several windows on the south elevation which would look out onto this area between the extension and the close boarded fence on the southern boundary meaning that the area would be subject to increased activity as a result of the extension, rather than less, therefore it is unlikely that the design would lead to an increase in crime. It is recommended that a condition to ensure appropriate safety measures including lighting are installed so as to improve security to the building.

The proposed extension would be towards the rear of the school grounds and would not be visible from the public realm due to their being surrounded by residential development and obscured by the trees on the site. Although the circular design of the existing school building makes any extension difficult to incorporate, it is considered that the proposal succeeds in integrating well through the use of a curved addition and similar materials and building techniques.

In general the layout is considered practical and conducive to a positive environment for the children and teachers and integrates into its surroundings and the character of the wider area.

### **Impact upon neighbouring residential occupiers**

The proposed extensions would be set to the rear of the school grounds and close to the end of the rear gardens of the properties on Broadstone Avenue, being 4 metres from the rear boundary of No 11 at the closest point. The properties on Broadstone Avenue are characterised by long mature gardens, with garages and outbuildings constructed along a narrow access road that runs to the rear. This means that the addition of the extension would be set against this backdrop, along with the retained trees and new planting proposed, the addition would not likely be an imposing feature in the rear gardens on Broadstone Avenue. The height of the proposed addition at a single storey at a maximum of 6m and the proposed natural coloured materials would work to effectively blend the building into the wooded area beyond. The height and separation of the building from surrounding properties is such that impacts in terms of light, overlooking, noise and disturbance are considered to minimise impacts on surrounding properties.

### **Access and Parking**

The school looks to expand from 1.5FE to 2.0FE. The school is currently undergoing an expansion in pupil intake and the proposed extension to the existing building is designed to cater for this increase in pupil numbers over the coming years. Across the school there will be a total increase of 120 pupils, and an increase in staff of 8 number in total. The proposal includes the provision of 8 new staff parking spaces, which would accommodate the increase in staff with one space provided for each new employee. The provision of parking is considered acceptable.

To mitigate the traffic impact of the additional pupils, the School Travel Plan is to be updated and modified in consultation with the Council's Road Safety Team to encourage sustainable travel modes and road safety around the vicinity of the school.

Notwithstanding the data contained with the submitted Travel Plan, the Council's latest travel survey data in 2019 shows that 36% of children travelled to the school by car.

One of the aims of the Travel Plan will be to reduce this level of car borne trips further and encourage sustainable travel modes as the school's enrolment increases.

On balance, the Highway Authority considers the development will 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 paragraph 109.

## **Conclusions and Reasons for Decision**

The principle of development and the design are considered acceptable. The proposal would not unduly harm the amenities of neighbouring residential occupiers. Although there would be some loss of trees replacement planting has been proposed. Parking arrangements would be upgraded commensurate with the increase in staff numbers as a result of the extension. The proposal complies with the policies as set out in the policy section of this report.

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**

Planning Committee resolve to delegate to Head of Planning & Building Control to grant planning permission subject to conditions and subject to ...

- i. No new material considerations being received within the consultation period;
- ii. The amendment and finalising of 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. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents,

- Site Location Plan, AP:00-01 Rev. P4, submitted 07-04-2020
- Existing Site Layout, AP:00-01 Rev. P2, submitted 07-04-2020
- Existing Elevations AP:36-01 Rev. P2, submitted 07-04-2020
  - Existing and proposed Site Sections sheet 1 of 2 AP:38-01 Rev. P2, submitted 07-04-2020
  - Existing and proposed Site Sections sheet 2 of 2 AP:38-02 Rev. P2, submitted 07-04-2020
- Proposed Site Layout AP:20-01 Rev. P3, submitted 07-04-2020
- Proposed Landscaping Plan, AP:20-02 Rev. P3, submitted 07-04-2020
- Site Hoarding / Compound Plan, AP:20-03 Rev. P2, submitted 07-04-2020
- Proposed Ground Floor Plan , AP:30-01 Rev. P2, submitted 07-04-2020
- Proposed First Floor Plan , AP:30-02 Rev. P2, submitted 07-04-2020
- Proposed Roof Plan , AP:30-03 Rev. P2, submitted 07-04-2020
- Proposed Elevations , AP:36-02 Rev. P2, submitted 07-04-2020
- Detailed Typical Elevation / Section AP:37-01 submitted 07-04-20
- Tree Protection Plan, PIC-CCS-2001, Rev. B, submitted 02-07-2020
  - D-17 – Curtain Wall Base Detail, drawing number AA 41-08 dated February 2020
  - D-18 – External Door Threshold, drawing number AA 41-09 dated February 2020
  - D-19 – Brickwork Base Detail, drawing number AA 41-10 dated February 2020
  - D-20 – Timber Rainscreen Base Detail, drawing number AA 41-11 dated February 2020
- D-21 - Slab Junction Detail, drawing number AA 41-12 dated February 2020
  - D-22 – Classbase Wet Area Opening, drawing number AA 41-13 dated February 2020
  - Design and Access Statement prepared by Seymour Harris Architecture with reference 19.031 dated December 2019
  - Preliminary Ecological Appraisal prepared by RSK ADAS Ltd, Rev. 2, , submitted 07-04-2020
  - Ground Investigation report prepared by Listers Geo, reference 19.10.017, submitted 07-04-2020
  - Arboricultural Impact Statement prepared by RSK ADAS Ltd, submitted 07-04-2020



- Sustainable Drainage Assessment and Sustainable Drainage Operation & Maintenance Plan, Prepared by CWA, reference CWA-19-267, submitted 07-04-2020

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 commencement of the development hereby permitted until:

- I. Details of intrusive site investigations for past coal mining activity shall be submitted to and approved in writing by the Local Planning Authority. The findings of the intrusive site investigations, including any monitoring results, plus details of remedial works shall also be included
- II. the approved details of intrusive site investigations shall be undertaken and a report of findings arising from the intrusive site investigations including the results of any monitoring shall be submitted in writing to the Local Planning Authority;
- III. details of remedial works shall be submitted to and approved in writing by the Local Planning Authority;

3b. Prior to the carrying out of building operations of the development hereby permitted the approved details of remedial works shall be carried out

3c. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To ensure the safety and stability of the development, to safeguard the amenities of occupants and to comply with NPPF Paragraph 109 and saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

4a. Notwithstanding the details as submitted, following the completion of the Arboricultural works associated with the classroom development and prior to the commencement of the built development hereby permitted, including any equipment, materials or machinery are brought onto the site in connection with the development, protective fencing and ground protection as detailed in the Tree Protection Plan submitted as part of the Arboricultural Impact Assessment by ADAS on 14th February 2020 shall be installed around all retained trees.

4b. Prior to the commencement of the built development hereby permitted and after the installation of the tree protection in accordance with part a above the measures shall be inspected by and approved in writing by the Local Planning Authority.

4c. The tree protective measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition nor shall any fires be started, no tipping, refuelling, disposal of solvents or cement mixing carried out and ground levels within those areas shall not be altered, nor shall any excavation or vehicular access be made

Reason: To preserve and enhance the visual amenities of the locality in accordance with Saved Policy ENV18 of the Walsall UDP 2005.

5a. Notwithstanding the landscape proposals submitted, prior to commencement of the built development hereby permitted details of soft landscaping works, including the planting of native tree species or species with known benefits to wildlife shall be submitted to and approved in writing by the Local Planning Authority

5b. Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

5c. If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period, another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Saved Policy ENV18 of the Walsall UDP 2005.

6a. Prior to the demolition of any of the existing buildings on site, bat surveys shall be undertaken by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy to determine the presence or absence of bats. Details of mitigation measures and contingency plans shall be submitted in writing to and agreed in writing by the Local Planning Authority.

6b. Should bats be found on site during the course of construction the approved mitigation measures and contingency plans shall be implemented

6c. The development shall not be carried out otherwise than in accordance with the approved details.

Reason: To conserve local bat populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

7a. Prior to the development hereby permitted first coming into use details of the lighting including the specification of lights, intensity of illumination and predicted lighting contours shall be submitted to and approved in writing by the Local Planning Authority.

7b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

Reason: In the interests of the visual amenities of the area, to maintain safety and security and to conserve local bat populations and the local environment around the Millennium Woodland and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD in accordance with saved policies GP2, ENV11 and ENV32 of Walsall's Unitary Development Plan.

8a. Prior to the development hereby permitted first coming into use details of the proposed measures for the maintenance of safety and security of the development shall be submitted in writing to and approved in writing by the Local Planning Authority.

8b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

Reason: To ensure the safety and security of the development and its occupiers in compliance with NPPF 12 and saved policy ENV32 of Walsall's Unitary Development Plan.

9a Prior to the occupation of the development hereby permitted, the development shall not be implemented otherwise than in accordance with the 8 additional staff car parking spaces as shown on drawing AP:20-02 Rev. P3 and be available for use, with the parking bays clearly demarcated on the ground. The parking spaces shall thereafter be retained for the purposes of parking vehicles and for no other purpose for the lifetime of the development.

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

10a. Prior to the development hereby permitted first coming into use the School Travel Plan shall be modified and updated and shall be submitted to and approved in writing by the Local Planning Authority.

10b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development

Reason: To encourage sustainable travel modes, in accordance with BCCS policy TRAN2 and UDP Policy T10.

11. The development hereby permitted shall not be constructed otherwise than in accordance with the Construction Methodology Statement contained within the Design and Access Statement prepared by Seymour Harris Architecture with reference 19.031 dated December 2019 and retained throughout the period of site preparation and construction.

Reason: In order to minimise on street parking by site operatives, conflicts between construction traffic and staff and pupils, the potential disruption to the free flow of traffic along the public highway, in accordance with saved UDP policy GP2, T7 and T13, in the interests of highway safety.

12a. Prior to occupation of the development hereby permitted, shall not be constructed otherwise than in accordance with the enhancement opportunities described in section 6.3 of the Preliminary Ecological Appraisal prepared by RSK ADAS Ltd, Rev. 2, dated December 2019 shall be undertaken. The enhancement opportunities shall thereafter be retained for the lifetime of the development

Reason: To conserve local bat, bird and hedgehog populations and the health of the Millennium Woodland and to comply with NPPF15, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

13 Prior to occupation of the development hereby permitted, until a validation report confirming that the approved ground gas protection shown on Drawings AA 41-08 D-17 –AA 41-09 D-18, AA 41-10 D-19, AA 41-11 D-20, AA 41-12 D-21, AA 41-13 D-22 has been installed, has been submitted to and approved in writing by the Local Planning Authority

Reason: In the interest of the safety of current and future occupants in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

14 Notwithstanding the details as submitted, no clearance of vegetation shall be undertaken during the bird-nesting season (1st March to 31st August inclusive)

Reason: To conserve local bird populations and to comply with NPPF15, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

15a. None of the trees on the site shown on the approved plans as retained trees shall be lopped, topped, felled, root pruned, cut down or uprooted.

15b If any retained tree is removed, uprooted or destroyed or dies within 5 years of the date of this decision, details of a replacement tree including the location, size, species and planting window shall be submitted in writing to and approved in writing by the local planning authority.

15c Any replacement trees provided in terms of part b of this condition should be planted in accordance with the approved details

Reason: To safeguard the existing trees on the site in accordance with saved policy ENV18 of Walsall's Unitary Development Plan

X. Notwithstanding the information shown on submitted plans, the development hereby permitted shall not be carried out otherwise than to meet the following minimum security measures and thereafter the security measures shall be retained;

- All external doors to individual dwellings to be PAS24; 2016

- All ground floor windows and over accessible roofs including French doors and patio doors to have not less than one pane of 6.4mm laminated glass.

- Dusk until dawn lights (white light source) to be installed adjacent to each door including either side of garage doors

- All access gates shall be of the same construction of the perimeter fencing, self-closing, facing the street, lockable with a key front and rear, designed to not create any climbing aids

- No Lead or metal shall be used on the ground floor.

Reason: To ensure the safety and security of the development and its occupiers in compliance with NPPF 12 and saved policy ENV32 of Walsall's Unitary Development Plan.

### **Notes for Applicant**

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. Advice on basic ground gas ingress protection requirements can be found by reference to the following publication; 'Protective measures for housing on gas-contaminated land', BRE Report 414, ISBN 1 86081460 3 (contact CRC Ltd 020 7505 6622 for order information).

3. Wildlife and Countryside Act 1981 section 114 (2) states that it is illegal to allow Japanese knotweed to spread in the wild. If knotweed is discovered on the property it should be dealt with in accordance with the act.



### Planning Committee

Report of Head of Planning and Building Control on 10 December 2020

Plans List Item Number: 6.

#### Reason for bringing to committee

An appeal has been made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.

#### Application Details

**Location:** 252, CHESTER ROAD, STREETLY, SUTTON COLDFIELD, B74 3NB

**Proposal:** DEMOLITION OF 252 CHESTER ROAD AND ERECTION OF 4 RESIDENTIAL DWELLINGS (2 HOUSES AND 2 BUNGALOWS), WITH ASSOCIATED ACCESS, PARKING AND LANDSCAPING.

**Application Number:** 20/0485

**Case Officer:** Sally Wagstaff

**Applicant:** Richmond Planning Ltd

**Ward:** Streetly

**Agent:** Gemma Jenkinson

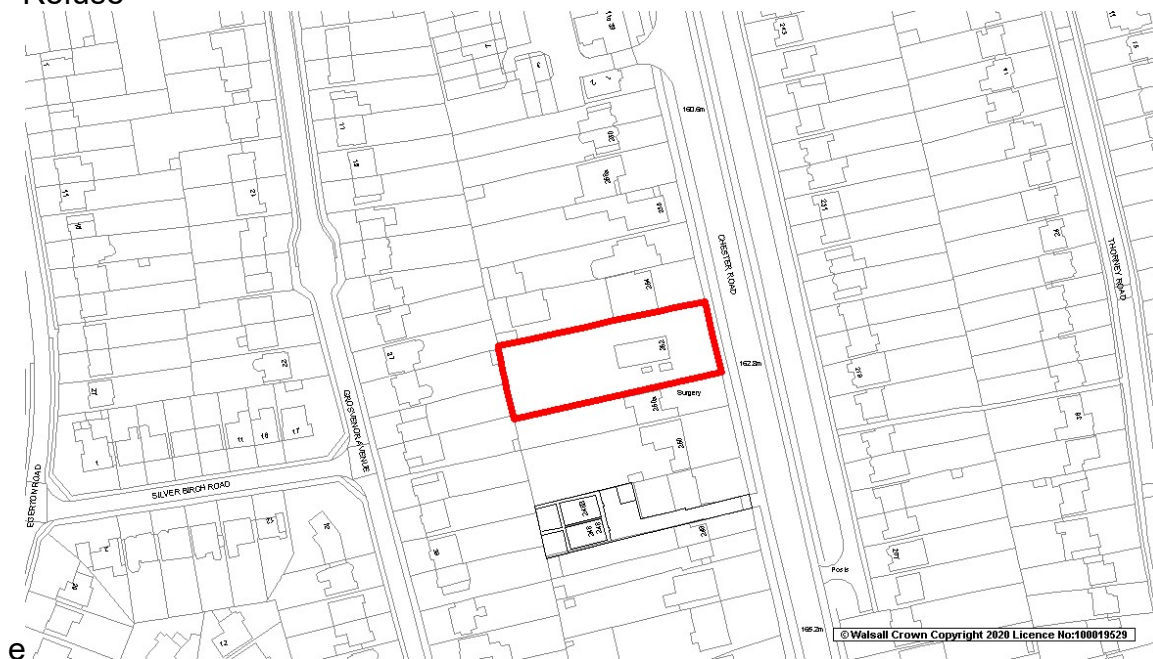
**Expired Date:** 30-Jun-2020

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

**Time Extension Expiry:**

#### Recommendation

Refuse



## Proposal

This application relates to the demolition of 252 Chester Road and erection of 4 residential dwellings, 2 houses consisting of 5 bedrooms each and 2 bungalows consisting of 3 bedrooms each, with associated access, parking and landscaping.

The scheme includes, two detached 2.5 storey dwellings fronting Chester Road set back from the highway with an access created from Chester Road to serve two detached dormer bungalows to the rear.

Plots 1 and 2 facing Chester Road have three car parking spaces to the front elevation, a front garden and a rear garden. They also have detached garages to the rear boundary. A 2.1 metre wall is proposed around the perimeter of the rear garden.

Plots 3 and 4 face onto the access road with a front garden and area of hardstanding for car parking. The rear gardens are back to back with the rear gardens of properties no. 29 and 31 Grosvenor Avenue.

The properties are of modern design with gable features, the palette of materials include brick and render.

The officer raised concerns with the agent regarding overdevelopment of the site and the layout of the site. The officer recommended removing either plots 3 or 4 as two bungalows to the rear would not be acceptable. This scheme has been amended, the changes include:

- Adjustment to position of the front to properties by a marginal setting them further into the site
- Layout and design of plot 3 changed to reflect the layout of plot 4

The site is 0.18 Ha. Development in the vicinity currently is at a density of 13 dwellings per hectare. As a result of the proposal this would increase to 14.6 dwellings per hectare.

The following have been submitted in support of the application:

- Design and Access Statement
- Planning Statement
- Transport Statement
- Bat Survey

## Site and Surroundings

Chester Road (A452) forms part of the Strategic Highway Network (SHN) and comprises a predominantly residential area characterised by large detached houses,



and bungalows with traditional front gardens/driveways and large rear gardens with primarily similar plot lengths. Properties are not uniform in character, size and age.

To the rear of this section of Chester Road is Grosvenor Avenue, the properties benefit from generous rear gardens. The houses on the opposite side of Chester Road are accessed via a slip road with a landscaped buffer fronting the highway.

The site currently comprises a detached bungalow within a long plot. The bungalow is set back from the highway and side boundaries with neighbouring properties. The property is well screened from the highway by a mature hedge and trees. The property is accessed by an 'in/out' driveway with a large area for off street parking. The rear garden is approximately 880 sqm. The land slopes up from east to west, resulting the rear garden approximately 1 metre higher than the level of the dwelling.

The site lies approximately 300 m from the edge of Streetly Local Centre which is roughly a 4 minute walk from the application site. There are bus stops along both sides of Chester Road serving the borough of Walsall and surrounding areas.

Neighbouring property no. 250 Chester Road is also a bungalow set within a smaller plot, it has gable features to the front and rear elevations including an integral garage which projects beyond the principle elevation. The rear garden is smaller in width than the application site.

Neighbouring property no. 254 Chester Road is a large detached two storey property with two hipped gables to the front elevation and single storey rear extension and conservation. The plot is narrower than the application site. The property has a detached outbuilding to the rear of the site.

To the rear of the application site are no's. 29-31 Grosvenor Avenue, two detached properties traditional in design with rear gardens approximately 28 metres in length.

Within the vicinity of the application site are examples of rear outbuildings which can only be accessed through the site they sit within. The building line is primarily fronting Chester Road with deviations from this found at Foley Court approx. 100 m from the application site which is a development consisting of a three storey apartment block fronting Chester Road and two storey properties either side of this and to the rear; and a development of two bungalows behind 248a Chester Road following the demolition of a commercial premises on the site.

## **Relevant Planning History**

19/0494 - A two storey house to the front of the site with 2 bungalows to the rear with access off Chester Road. Withdrawn 5th November 2019

## Relevant Policies

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

[www.gov.uk/guidance/national-planning-policy-framework](http://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 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](http://www.go.walsall.gov.uk/planning_policy)

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

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

### **Black Country Core Strategy**

- Vision, Sustainability Principles and Spatial Objectives
- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness

- ENV3: Design Quality

## Supplementary Planning Document

### Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW9 High Quality Public Realm

## Consultation Replies

**Highway Authority** – No objection subject to planning conditions regarding parking and access.

**Planning Policy – No objection** - The proposal is potentially supported on strategic planning policy grounds, subject to the impact on trees, bats and residential amenity. The planning statement refers to SAD Policy HC2, however this only refers to housing development on previously developed land: this doesn't include garden land. Nevertheless, the NPPF is supportive of making more effective use of land.

**Severn Trent Water** – No objection

**West Midlands Fire Service** – No objection

**West Midlands Police, Architectural Liaison Officer** – No objection, observations relate to potential security and crime concerns due to proposed site layout. Measures and recommendations for applicant to refer to crime prevention and home security advice contained with Secured By Design New Homes.

## Representations

9 objections and comments have been received from 6 local residents to scheme. Due to technical difficulties one neighbouring resident submitted their letter three times. The concerns relate to:

### *Officer's comments in italics*

- The scale and number of properties would be overdevelopment of the site
- Backland development out is of keeping with the character of the area
- Loss of privacy to properties on Grosvenor Avenue from overlooking due to the proposed dormer bungalows at the rear of the application site
- Lack of screening proposed to the rear of the application site

- Loss of privacy to rear gardens on Grosvenor Avenue
- Impact upon the quality of life for residents of Grosvenor Avenue
- The two properties fronting Chester Road are forward of properties on Chester Road, would lead to a loss of light and overshadowing
- Light, noise and pollution due to vehicle movements in proximity to neighbouring properties and gardens
- Increase in number of bedrooms on the site from 3 to 16 would increase the amount of traffic generated
- Highway safety concerns when turning into the site
- Number of car parking spaces provided and space around dwellings to park vehicles would be significant and excessive.
- Increased pressure on water utilities in the area (*Severn Trent Water have not raised this as an issue within their comments*)
- An unwarranted burden on the provision of services and facilities to residential properties
- Increased risk of flooding if drains were to fail (*Application site is within Flood Zone 1 a Flood Risk Assessment is not statutorily required for development of this size within Flood Zone 1. Severn Trent have no objections to proposal with no drainage condition required*)
- Emergency vehicle access and refuse access to the plots insufficient
- Plans incorrectly describe development at plot 248 Chester Road 12/1429/FL as being two dormer bungalows at the rear rather than one (*For clarification application 12/1429/FL and subsequent approval 16/1823 relate to 2 no. 3 bedroom dormer bungalows to the rear of 248a Chester Road*)
- Some of the objections received by residents on Grosvenor Avenue note that they do not object to the two properties fronting Chester Road.

## Determining Issues

- Principle of the development
- Design and layout
- Impact on the amenities of the adjoining residential occupiers
- Protected Species
- Access and parking

## Assessment of the Proposal

### Principle of development

The proposed development consists of the demolition of a single bungalow at 252 Chester Road and erection of 4 dwellings. The layout consists of two properties fronting Chester Road and two properties behind this on land used as a rear garden for 252 served by one access resulting in a tandem development.

The proposals will result in the development of a residential garden which is not defined as previously developed land in the NPPF. Whilst the submission makes reference to SAD policy HC2, the policy relates to housing on previously developed sites, residential garden is not included. It is considered the proposal would not comply with the policy for this reason.

The area is predominantly characterised by detached dwellings with street frontages and large private rear gardens. The proposals would create a tandem development with the two rear properties set back a minimum of 50m from the road in a tandem formation. The rear tandem part of the development would fail to integrate with the existing form of development and street frontage, by the introduction of primary residential development in the rear garden of the existing house.

It is acknowledged that within the wider streetscene there is evidence of development which does not have an active street frontage. Whilst a development was approved for two dormer bungalows at the rear of 248a Chester Road (12/1429/FUL and 16/1823), the circumstances of this development alter from the application proposals. The site consisted of a vacant existing builders premises located at the rear of 248a Chester Road with an existing access from Chester Road via a driveway between numbers 248a and 246. The land was not an existing rear garden as referenced within the application submission and was already in a commercial use which was considered as non-conforming in the predominately residential area. To add, Foley Court approx. 100m from the site is also referenced as backland development within the area. This development is a comprehensive redevelopment of a previous garage site to include apartments fronting Chester Road with dwellings to the rear. Whilst the redevelopment of the whole site has some elements of tandem development, it was part of a larger redevelopment and a poor example to justify the current poor form of development as presented within this application.

It is considered the two sites mentioned above are not comparable to the current proposal and each case needs to be considered on its individual merits.

The proposal is not previously developed land as such is considered the introduction of two properties in a backland tandem location would be out of keeping with the established pattern of development. It is considered that this failure to respond to local character would cause harm to the area and would set an unwanted precedent for future backland development which may spread along the rear of properties facing Chester Road. Notwithstanding the introduction of 3 additional houses, it is considered the harm they would bring to the character of the area and to neighbours, does not justify supporting the 3 additional houses.

## **Design and Layout**

The NPPF states that decisions should be sympathetic to local character and history. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character.

Policies CPS4, ENV2, ENV3 of the BCCS; GP2 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. Plot sizes and built density will relate to their local context.

The development would result in plot sizes for which do not reflect surrounding pattern of development, currently characterised by houses with large rear gardens. Whilst the total area of the amenity area would be in accordance with Appendix D of the SPD in so far as it would meet the requirement to provide a minimum of 68 sq metres, the garden lengths at less than 11 metres reduce the rear amenity to a minimum which does not reflect the character of the area. It is considered to be over development of the site resulting in plots sizes and density which would be out of keeping with the pattern of development on Chester Road.

The introduction of an access through the site to serve the two bungalows would lead the rear gardens of plots 1 and 2 exposed to public access. Whilst the compliance plan indicates that a 2.1 metre wall would be erected around the rear gardens, the layout of the site means the properties will potentially become less secure. To add, the rear gardens of both 250a and 254 Chester Road would also be exposed to public access due to their relationship with the turning areas on site. Both properties fronting Chester Road have blank side elevations removing added natural surveillance of the access. The NPPF states development should create safe places, it is considered in this instance that the development increases the risk of anti-social behaviour and criminality.

The proposal would result in additional new traffic into an area of what is considered private amenity raising issues of noise and light disturbance from people coming and going, where currently the garden is considered to be private amenity. Neighbours have a reasonable expectation that the private amenity would not be exposed to levels of noise and disturbance by a development of this nature. In addition, the loss of mature green amenity and poor quality public realm on the main street frontage would also be detrimental to the visual amenity of the locality. The layout considered unsatisfactory and would not comply with the aims of Walsall Council Development Plan Policies and supplementary guidance. It is considered the benefit of adding 3 additional houses, would not be sufficient to outweigh the harm the backland tandem development would bring.

### **Impact on the amenities of the adjoining residential occupiers**

The distance between the rear wall of the application dormer bungalows and the main rear wall to dwellings within Grosvenor Avenue at 38 metres and 39 metres respectively would significantly exceed the recommendations in Appendix D of Designing Walsall SPD for a separation distance of some 24m. At these distances the proposed development is considered as unlikely to have significant adverse implications for the residential amenities of properties through such matters as a loss of daylight, sunlight or overlooking of habitable room windows.

Notwithstanding that, the layout would result in the dormer windows within close proximity to the rear gardens of properties on Chester Road and Grosvenor Avenue, this uncharacteristic of the surrounding pattern of development.

Whilst Plot 3 has been substituted for the same layout and design as Plot 4, to relocate the nearest habitable room window further away from the boundary, plot 3 falls short of the minimum separations distances in relation to the windows within the front elevation of the dormer window and rear elevation of 250a Chester Road increasing the potential for overlooking and perceived overlooking of neighbouring habitable room windows. It is reasonable for the surrounding residents to expect less overlooking and greater separation distances given the character of the area.

The three proposed additional dwellings would introduce built form, vehicle activity and disturbance to 240a and 254 Chester Road in an area where neighbours would expect a level of limited noise and disturbance from private rear amenity. The access would bring the vehicle activity in very close proximity to the existing houses due to the garages and turning areas adjacent to the neighbouring garden boundaries. . It is considered the benefit of adding 3 additional houses, would not be sufficient to outweigh the harm the backland tandem development would bring.

### **Access and Parking**

Parking for at least 3 cars per dwelling is proposed which accords with T7, T13 parking policy. The Highway Authority consider adequate visibility is provided at the access point in both directions along Chester Road .The Highway Authority considers the development will 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 2018 paragraph 109.



## **Protected Species**

The application site is within 5km of Sutton Park, which has the potential to be used by bat populations. There are known roosts within the vicinity of the application site. Due to the proposal including demolition of the existing property and redevelopment of the site, a daytime bat assessment carried out on 25<sup>th</sup> May 2019 has been submitted by AMPA Associates Ltd.

Conclusions indicate the site as being of negligible potential for roosting bats. There is no predicted adverse impact on local bat populations as the result of the proposed redevelopment of the site.

The survey is valid for one year. The survey would require to be updated to provide reassurances from the ecologist that site conditions have not significantly altered. The officer is not aware of any further surveys carried out after the expiration date.

## **Conclusions and Reasons for Decision**

The proposed layout would be out of keeping with the established pattern of development and would fail to respond to local character, or reinforce the existing urban structure in terms of plot size and density, massing and tandem development would be unacceptable in this location.

The proposed site comprising mature rear gardens represents completely different circumstances to the existing development at the rear of 248a Chester Road, which had an established vehicle access drive to an authorised commercial yard, with a large building and areas of hardstanding. On this basis, it is considered no weight can be attributed to this site to support the proposed development.

On balance therefore, whilst weight can be attributed to the delivery of new housing, the scale of development outweighs the introduction of three additional properties the scheme cannot be supported and is therefore recommended for refusal.

## **Positive and Proactive Working with the Applicant**

### **Refuse**

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 proposed back land tandem layout would be out of keeping with the established pattern, layout and general character of the area which is defined by properties with a direct street frontage and large mature rear gardens. The proposed layout fails to respond to local character, reinforce local distinctiveness or reinforce the existing urban structure. It is considered the benefit of adding three additional dwellings at this location would not be sufficient to overcome the harm a back land tandem development would bring to the vicinity or the detrimental impact to local amenities. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies CPS4, ENV2, ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6 and ENV32 of the Walsall Unitary Development Plan and Supplementary Planning Document: Designing Walsall.
2. The back land tandem design and layout of the development would be out of character with the surrounding pattern of development in terms of density and plot size and would expose the private rear gardens of the existing houses to the public realm, with the introduction of dwellings, driveways and the resulting noise, disturbance and privacy, whilst exposing neighbouring private amenity, plus the two front plots to public access and the risk of anti-social behaviour. It is considered the benefit of adding three additional dwellings at this location would not be sufficient to overcome the harm a back land tandem development would bring to the vicinity or the detrimental impact to local amenities. The development would therefore be 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 and ENV32 of Walsall's Unitary Development Plan and the Supplementary Planning Document, Designing Walsall.



## Planning Committee

Report of Head of Planning and Building Control on 10 December 2020

Plans List Item Number: 7.

### Reason for bringing to committee

Significant Community Interest

### Application Details

**Location:** LAND ADJACENT TO 16, BENTLEY LANE, WILLENHALL

**Proposal:** ERECTION OF A 6NO BEDROOM DWELLING

**Application Number:** 20/0253

**Case Officer:** Devinder Matharu

**Applicant:** Mr Katerina Gyngova

**Ward:** Short Heath

**Agent:** Dr A Al-Sohaini

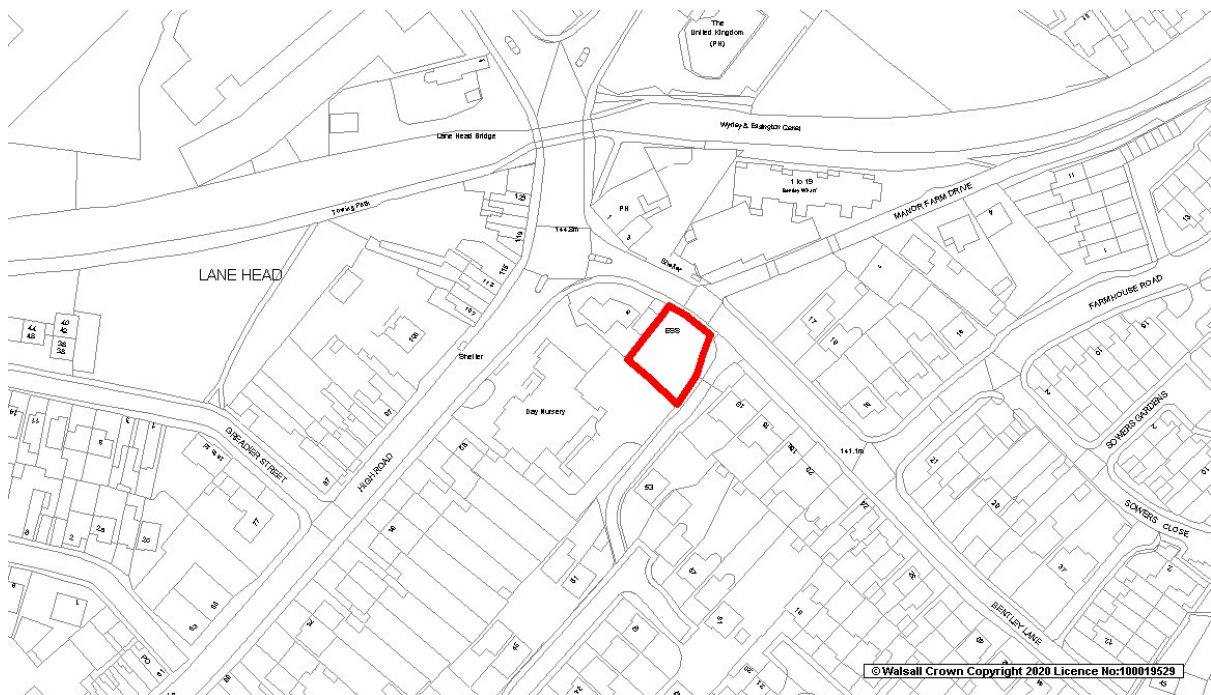
**Expired Date:** 15-May-2020

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

**Time Extension Expiry:** 30-Dec-2020

### Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to the amendment and finalising of conditions



## Proposal

The proposal seeks the erection of a large detached 6 bedroom property.

The proposed dwelling would be approximately square shaped with a small projection on one side measuring 11m in width, 12m in length on one side and 10.4m in length on the other side. The proposed dwelling would be 10.7m high to the pitch and 5.3m to the eaves.

The front elevation would be designed with a gable feature and on the rear elevation a flat roof dormer.

The first floor would have a large L shaped kitchen, dining and living room with a separate reception room. The first floor plan would include five bedrooms and a bathroom with the roof space accommodating a bedroom and office.

The proposed dwelling would be located towards the southern part of the site set 7m away from the boundary with the sub station and 1m at the closest point with the boundary to south of the site. The dwelling would have a rear garden amenity area of 105 square metres.

## Site and Surroundings

The application site is a large irregular shaped parcel of land located on the western side of Bentley Lane adjacent number 16 to the south east and number 8 to the north west.

Immediately south east of the site is a public footpath that provides pedestrian access from Bentley Lane to Sherlock Close, a cul de sac serving 53 dwellings to the rear of numbers 16 to 22 Bentley Lane.

Immediately to the north west is an electrical substation beyond which is number 8 Bentley Lane. Number 8 Bentley Lane has a number of habitable room windows that face towards the application site. The property is also set at a higher level than the application site. Towards the rear of the site is the playground belonging to the day nursery fronting High Road.

Number 16 Bentley Lane is a bungalow which is adjacent a two storey dwelling, number 18 Bentley Lane.

Immediately opposite the application site is Manor Farm Drive.

The site is enclosed by a boundary wall in excess of 2m high.

The Wyrley and Essington Canal is located some 50m north of the application site to the rear of Bentley Court, a residential development of flats that front the canal.

The site is located some 25m from the junction with High Road and 9m from the edge of Lane Head local centre.

Bentley Lane slopes upwards towards the junction with High Road.

The area is mixed in character with residential properties along Bentley Lane, opposite and adjacent and commercial properties within the local centre.

## **Relevant Planning History**

19/0455 Outline application for the erection of a two storey detached house, with access and layout for determination. Granted subject to conditions 2019.

## **Relevant Policies**

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

[www.gov.uk/guidance/national-planning-policy-framework](http://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 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.

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

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

- GP2: Environmental Protection
- ENV10: Pollution
- ENV11: Light Pollution
- ENV13: Development Near Power Lines, Substations and Transformers
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- 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**

- DEL1: Infrastructure Provision
- OU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- ENV2: Historic Character and Local Distinctiveness

- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

## **Walsall Site Allocation Document 2019**

HC2: Development of Other Land for Housing

EN4: Canals

T4: The Highway Network

## **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
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- 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

**Coal Authority-** No objection subject to planning conditions to seek a coal mining risk assessment to fully address the land stability of the site.

**Transportation** – No objection to planning conditions relating to parking, access, boundary treatments and construction management plan.

**Canal and River Trust** – No objection

**Severn Trent Water** – No objection subject to note for applicant re drainage.

**Pollution Control** – No objection subject to planning conditions on noise, contaminated land, construction management plan and air quality.

**Fire Service** – No objection subject to compliance with Building Regulations.

**Police** - No comments received.

**Waste Management** – No comments received.

**Western Power** – No comments received.

## Representations

Five letters have been received from three neighbours objecting to the proposal on the following grounds:

- Neighbours have been deliberately not consulted on the application.
- Description incorrect it is a three storey house
- Description for a seven bedroom incorrect as only 6 bedrooms
- Proposal should only be a family home and not HMO
- Design issues including height, three storey dwelling, property too large for the plot



- Loss of daylight
- Boundary issues including requiring a new wall and no details of proposed fencing
- Maintenance issues
- Reassurance proposal not affect third party land
- Parking and access issues including no off street parking, more parking spaces will be required, extra traffic, bus stop which impacts on traffic flow, lack of vehicle manoeuvring space on site

## **Determining Issues**

- Principle of development
- Design
- Impact upon neighbouring occupiers
- Access and parking
- Local Finance Considerations

## **Assessment of the Proposal**

### **Principle of development**

Policy HC2 of the SAD seeks to support housing on other land in the Borough, provided a satisfactory level of amenity can be achieved. The detailed merits of the case will be discussed below. Furthermore, the principle of residential development has been established on this site through the granting of outline planning permission in 2019.

Neighbouring occupiers have raised concerns that the dwelling should be a family home. A planning condition has been attached to ensure the proposed dwelling is only maintained as a family home.

### **Design**

Along Bentley Lane, there are a number of different house types and designs. There is no one dominate house design that is reflective of the street. It is considered that the proposed design with a gable projecting feature and large windows are not unduly harmful to the character of the existing street scene. The plans were amended to remove unsightly flat roofs on the front elevation. The facing materials will be sought by planning condition.

Despite neighbours raising concerns that the proposal is a three storey dwelling, it is in fact a two and a half storey dwelling with habitable rooms within the roof space.

The plot is a large site in both width and length, as such there is ample space on the plot to accommodate a large house such as the one proposed whilst providing space around the dwelling. The height of the proposed dwelling would be similar to other two storey properties along Bentley Lane.

Pollution Control (PC) have advised that the Noise Assessment by Walnut Acoustics (WA/620/NA-391 dated 28th June 2020) identifies noise from road traffic and other sources that will have a detrimental impact on the amenity of the future occupiers. The report recommends an acoustic fence of 2.3m height surrounding the site and acoustic glazing to all windows. Surrounding the site with a high acoustic fence will reduce the adverse impact of noise. However, the highway officer has advised that the boundary wall fronting Bentley Lane shall be reduced to 0.6m high to secure pedestrian and vehicular visibility in terms of highway safety. A solution would be to set the boundary wall back to achieve the necessary visibility splay and to re-locate the on-site parking spaces adjacent the proposed house. This can be sought by planning condition.

This would require the proposed internal boundary treatment on the northern side elevation to be repositioned to allow three parking spaces to be provided adjacent the dwelling. This can be sought by planning condition.

The Coal Authority had principally objected to the proposal but have withdrawn their objection subject to the submission of a coal mining impact statement to ensure the land is stable for development. This has been secured by way of a planning conditions.

### **Impact upon neighbouring occupiers**

Neighbouring occupiers are concerned over maintenance issues. Any maintenance issue is a matter between neighbouring occupiers. Neighbours also require reassurances the proposal would not affect third party land. The planning authority is unable to offer these reassurances as it is outside the scope of the legislation. The planning process considers amenity impacts on neighbouring occupiers and property. Neighbouring occupiers will need to reassure themselves whether the development proposals affect their property and or land.

Neighbours concerns the proposed dwelling is for six bedrooms and not seven. The amended proposal shows six bedrooms reflecting the description of development.

All neighbours who share a boundary with the application site were notified in accordance with the planning legislation.

Due to the orientation of the sun, it is unlikely the proposed dwelling would result in loss of light to either number 8 or 16 Bentley Lane sufficiently to warrant refusal of the scheme, when taking into account the proposed height of the house and the separation distances to the adjacent properties.

The Council's residential standards requires a minimum of 24m between habitable rooms. There are no habitable rooms proposed on the side elevations that would face either 8 or 16 Bentley Lane.

The residential standards also state a minimum of 13m separation distance between habitable rooms and blank walls should be maintained. In this case, the separation distance from the rear of number 8 Bentley Lane to the side of the proposed dwelling is 12.9m. It is considered that this marginal shortfall would not unduly harm the amenities of these neighbouring occupiers. Between number 8 and the proposal there is also a sub station, maintaining an open vista between the two sites.

The separation distance between the side elevation of the proposed dwelling and number 16 Bentley Lane is 12.5m; again, this marginal shortfall would not unduly harm the amenities of these neighbouring occupiers. Between number 12 and the proposal there is also a pedestrian path maintaining an open vista between the two sites.

Pollution Control have recommended construction management conditions to minimise the impact upon neighbouring occupiers.

All the neighbours who share a boundary with the site have been consulted.

On balance, the proposed dwelling would not unduly harm the amenities of neighbouring occupiers to warrant refusal of the proposed scheme.

### **Access and parking**

The proposal has sufficient space to provide three off road parking in line with policy T13 of the UDP, which requires three off spaces for dwellings with 3 more bedrooms. The applicant cannot be required to provide more parking than is required by policy.

Neighbour's have objected to the proposal that no off street parking, more parking spaces will be required, extra traffic, bus stop which impacts on traffic flow, lack of vehicle manoeuvring space on site.

The development would utilise the existing vehicle access point and provide reversing aisle space to enable cars to egress in a forward gear. There is no evidence to suggest that the proposal will result in on street parking when there is adequate parking on site.

Whilst it is accepted the access is close to the signalised junction where queuing frequently occurs, it is recognised that the access is existing and could be brought back into use at any time without any controls.

The front boundary wall would be set in by a metre to improve inter-visibility and is a betterment over the existing situation.

On balance, the Highway Authority considers the development will not have severe road safety or transportation implications and is acceptable in accordance with NPPF.

### **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 a new home.

The Government has indicated that, for 2019-20, 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 2019-20 the total payments, taking account of completions over the last 4 years, are expected to amount to £2,911,601.

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**

The principle of residential development and the design are considered acceptable.

The proposed dwelling would not unduly harm the amenities of neighbouring occupiers to warrant refusal of the proposed scheme.

The development will not have severe road safety or transportation implications and is acceptable in accordance with NPPF.

The proposal complies with the policies in the policy section of this report.

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**

Amended plans have been submitted to address issues with design and the overall scheme.

### **Recommendation**

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning 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. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

- Location plan 20-03-2020
- Proposed elevation part 1 016P011 submitted 02-11-2020
- proposed elevation part 2 016P011 submitted 02-11-2020
- Proposed elevation part 3 016P011 submitted 02-11-2020
- First floor plan submitted 24-08-2020
- Front elevation submitted 24-08-2020
- Ground floor plan submitted 24-08-2020
- Loft floor plan submitted 24-08-2020
- Rear elevation submitted 24-08-2020
- Roof plan submitted 24-08-2020
- Side elevation 1 submitted 24-08-2020
- Side elevation 2 submitted 24-08-2020
- Site plan submitted 24-08-2020
- Noise Assessment submitted 30-06-2020

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 development a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

1. Construction working hours
2. Parking and turning facilities for vehicles of site operatives and visitors
3. Loading and unloading of materials
4. Storage of plant and materials used in constructing the development
5. Temporary portacabins and welfare facilities for site operatives
6. Site security arrangements including hoardings
7. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway

3b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

4a. Prior to the commencement of development including any engineering, site clearance/preparation, and/or construction works 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 the management of any materials arising from the works, shall be submitted in writing to and approved in writing by the Local Planning Authority.

4b. The agreed Construction Management Plan shall be implemented prior to commencement of development and shall be maintained throughout the period of construction.

4c. Where stabilisation/piling works are included in the agreed Construction Management Plan, the level of structure-borne vibration transmitted to occupied buildings from the stabilisation/piling works shall not exceed the specified criteria for low probability of adverse *comment*, as prescribed within British Standard BS6472-1:2008 Guide to evaluation of human exposure to vibration in buildings – vibration sources other than blasting as may be amended or replaced from time to time.

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

5ai. Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

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

iii. Prior to built development commencing a Remediation Statement setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

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

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

vi. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with Policy ENV10 of the UDP.

6a. Prior to commencement of the development hereby permitted:

i. Details of a scheme of intrusive site investigations to be carried out on site to establish the risks posed to the development by past coal mining activity shall be submitted in writing to and approved in writing by the Local Planning Authority.

ii. Details of any remediation works and/or mitigation measures to address land instability arising from coal mining legacy shall be submitted in writing to and approved in writing by the Local Planning Authority.

iii. The development shall not be carried out otherwise than in accordance with the approved remedial/mitigation measures to ensure that the site is made safe and stable for the development proposed and shall thereafter be retained for the lifetime of the development.

v. Prior to the occupation of the development, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted in writing to and approved in writing by the Local Planning Authority. The document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure the safety and stability of the development, to safeguard the amenities of occupants and to comply with NPPF Paragraph 109 and saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

7. The development shall not be carried out otherwise than in accordance with the acoustic glazing and measures set out within the hereby approved Noise Assessment submitted 30-06-2020 and thereafter retained and maintained for the lifetime of the development.

Reason: In order to protect the amenities of the future occupiers of the premises in accordance with Policies ENV10 and ENV32 of the UDP.

8i. Prior to built development an Air Quality Low Emission Scheme shall be submitted in writing to and approved in writing by the Local Planning Authority. The scheme shall include details to install electric-vehicle charging points.

ii. The development shall not be carried out otherwise than in accordance with the approved scheme and maintained for the lifetime of the development.

iii. Prior to occupancy, a written Low Emission Scheme Validation Statement shall be submitted in writing to and approved in writing by the Local Planning Authority.

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.

9a. Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits) shall be submitted in writing to and approved in writing by the Local Planning Authority.



9b. The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 Walsall's Unitary Development Plan.

10a. Prior to the commencement of building operations above damp proof course of the development hereby permitted details of the proposed boundary treatment at the side of the proposed dwelling adjacent the sub station the site, including heights, positions and extents, materials and finishes of the fence shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments

10b. No gates shall be installed at any time to the main vehicle access.

10c. The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

10d. The development hereby permitted shall not be occupied until all boundary treatments have been erected in accordance with the approved schedule.

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 and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

11a. Notwithstanding the details shown on 'Site plan' submitted 24-08-2020, prior to the commencement of building operations above damp proof course, details of a 2.3m high acoustic boundary treatment to the site's perimeter shall be submitted in writing and approved in writing by the Local Planning Authority. The boundary treatment along the entire length of the boundary fronting Bentley Lane shall be set in the site by a metre.

11b. The boundary fronting Bentley Lane shall be kept free of any structure or planting exceeding 600mm in height above carriageway level.

11c. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To ensure adequate vehicle and pedestrian inter-visibility at the access point within close proximity to a busy signalised junction, in accordance with UDP Policy GP2 and in the interests of highway safety.

12a. Notwithstanding the details shown on 'Site plan' submitted 24-08-2020, prior to the commencement of building operations above damp proof course a plan shall be submitted to and approved in writing to show the relocated parking spaces adjacent to the northern elevation of the hereby permitted dwelling.

12b. Prior to first occupation of the development hereby permitted, the vehicular parking and manoeuvring area shall be consolidated, hard surfaced and drained so that surface water run-off from this area does not discharge onto the highway or into any highway drain. The vehicular parking and manoeuvring area shall thereafter be retained for the lifetime of the development.

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

13. At no time shall gates be installed at the vehicle access point as shown on site plan submitted 24-08-2020.

Reason: To allow accessing vehicles to manoeuvre quickly off the main carriageway onto the property to avoid waiting on the highway, in the interests of the free flow of traffic along the public highway close to a busy signalised junction.

14. No boilers shall be installed in any of the units hereby permitted, 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.

15. Notwithstanding the information shown on submitted plans, the development hereby permitted shall not be carried out otherwise than to meet the following minimum security measures and thereafter the security measures shall be retained;

-All external doors of the dwelling to be PAS24; 2016

-All ground floor windows and over accessible roofs to be PAS24; 2016

-All ground floor windows and over accessible roofs including French doors and patio doors to have not less than one pane of 6.4mm laminated glass.

-Dusk until dawn lights (white light source) to be installed adjacent to each door including either side of garage doors

-All access gates shall be of the same construction of the perimeter fencing, self-closing, facing the street, lockable with a key front and rear, designed to not create any climbing aids

-No Lead or metal shall be used on the ground floor.

-The dwelling shall be suitably with an intruder alarm by a registered SSAIB or NSI engineer to British Standard (BS EN 50131 Grade 2)

-All energy meters shall be placed at the front of the dwelling

Reason: To ensure the safety and security of the development and its occupiers in compliance with NPPF 12 and saved policy ENV32 of Walsall's Unitary Development Plan.

16. The development hereby permitted shall not be used otherwise than for the purposes of Class C3 of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Order revising, revoking or succeeding that Order with or without modification.

Reason: To define the permission and to protect the amenities of the area/prevent unauthorised use that would be contrary to policies GP2 and ENV32 of the UDP.

17. Notwithstanding the details submitted the development hereby permitted the office as shown on Loft floor plan submitted 24-08-2020 shall not be used otherwise than by the occupiers of the dwelling house known as land adjacent to 16, Bentley Lane, Willenhall for purposes incidental to that dwelling house and the development hereby permitted shall not be occupied separately from that dwelling house.

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.

### **Notes for the Applicant: Planning conditions**

Condition 3a shall be discharged in consultation with highway Authority.

Conditions 4a, 5a, 7a and 8a 6a shall be discharged in consultation with pollution control.

Condition 6a shall be discharged in consultation with Coal Authority. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Condition 9a shall be discharged in consultation with case officer.

Condition 10a shall be discharged in consultation with pollution control, highways and case officer.

### **Notes for the Applicant: Coal Authority**

Instances Coal Mining Risk Assessments are able to conclude, based upon a desk-based review of relevant information, that coal mining legacy does not pose a risk to a particular development site. Such a conclusion would negate the need for potentially costly ground investigation works. Nevertheless, we acknowledge that appropriate intrusive investigations will provide a definitive picture of shallow ground conditions at the site.

The applicant should be advised that the intrusive investigations should be designed by a competent person to properly assess ground conditions and to establish the exact situation regarding shallow coal mining legacy which could pose a risk to the proposed development. The investigations should establish the depth, thickness and condition of shallow coal seams/workings. Boreholes drilled as part of these investigations would typically extend to a depth of 30.0m bgl.

The findings of the intrusive site investigations should be interpreted by a competent person and should be used to inform any mitigation measures, such as grouting stabilisation works and foundation solutions, which may be required in order to remediate mining legacy affecting the site and to ensure the safety and stability of the proposed development.

The applicant is requested to note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb Coal Authority property, i.e. coal seams and associated workings.

### **Notes for the 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.

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

#### **CL1**

Ground investigation surveys should have regard to current Best Practice and the advice and guidance contained in the National Planning Policy Framework 2018; British Standard BS10175: 2011 +A2:2017 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.

## **Note to Applicant Air Quality SPD**

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

The electric vehicle charging point provision for residential premises is a charging point per residential premise or Units with unallocated parking e.g. apartments – 1 charging point per 10 spaces, complying with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw. 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. Ultra-low NOx boilers discharge NOx at or below 40mg/kWh. The latest models are futureproofed to the European Union's Energy-related Products Directive 2018 NOx levels. At the same time, they meet the EU standard EN15502 Pt 1 2015 Class 6 for NOx, and may be eligible for maximum BREEAM credits, helping contribute to a higher environmental building rating.

### **Note to Applicant Severn Trent Water**

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

Please note if you wish to respond to this email please send it to [Planning.apwest@severntrent.co.uk](mailto:Planning.apwest@severntrent.co.uk) where we will look to respond within 10 working days. Alternately you can call the office on 0345 266 7930

## Planning Committee

Report of Head of Planning and Building Control on 10 December 2020

Plans List Item Number: 8.

### Reason for bringing to committee

Call in by Councillor A Nazir to obtain a comprehensive decision, whereas a planning officer may be constrained by narrower guidelines and a previous lack of enforcement. Such that, if the application was considered without the illegal window having been installed - it would have been approved. However, this was rejected only by virtue of an illegally installed window (which remains, due to a previous lack of enforcement), then the public message being sent out is that it is better not to apply for planning permission. By observation, the neighbours' window is in contravention of the Party Wall Act and the Building Regulations (Fire). Therefore, cannot comply with the Planning Act 2008 and neither with Walsall's local window position guidelines. Additionally, the applicant has taken reasonable steps to accommodate the neighbours' original objective in a safe and legal way. To make a fair, just and transparent decision then the said contravention must not be overlooked.

### Application Details

**Location:** 15D EMERY STREET, WALSALL, WS1 3AJ

**Proposal:** FIRST FLOOR REAR EXTENSION TO FLAT FOR USE AS LOUNGE/KITCHEN AREA (RE-SUBMISSION OF 17/1557).

**Application Number:** 19/0209

**Case Officer:** Helen Smith

**Applicant:** Mr Tahir Mahmoud

**Ward:** St Matthews

**Agent:** Mr Maurice Cotton

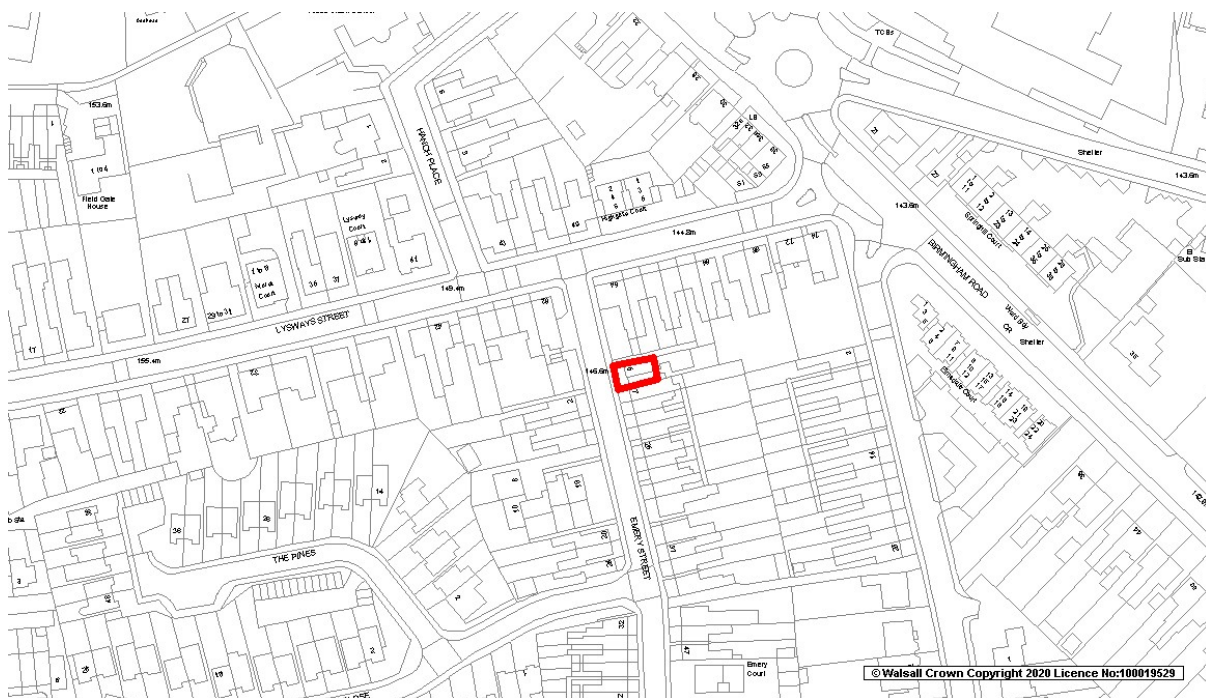
**Expired Date:** 26-Apr-2019

**Application Type:** Full Application: Minor Use Class Sui Generis

**Time Extension Expiry:** 18-Jun-2019

### Recommendation

Refuse





## Proposal

This is a re-submission of a previous planning application which was refused permission in February 2018 (planning reference no. 17/1557)

### **This proposal is for an extension as follows;**

- Infill extension between 15D and 17 Emery Street at first floor
- To extend existing lounge/kitchen area
- 4 metres deep
- 2.8 metres wide
- Pitched roof with eaves that would match the existing rear eaves height of the property
- Set in 0.3 metres from the existing first floor rear elevations of 15D and 17 Emery Street
- Rear facing habitable room window and door accessed from an existing external fire escape staircase

## Site and Surroundings

This is an end-terraced property that has been extended and converted into 5 flats prior to February 2013. The flats addresses are 15, 15A, B, C and D.

This property is located with the Highgate Conservation area.

The neighbouring properties include;

### 17 Emery Street

This is the adjoining terraced house to the application property and sits to the south of no. 15D. No. 17 has a first floor side facing obscurely glazed sole bedroom window on the common boundary with 15D Emery Street. The neighbours' window has been in situ since at least 2004 when the same planning case officer visited the site regarding an enforcement matter.

The applicant or their tenant(s) have blocked this window with a metal panel which is resting against the brickwork of no. 17 from the applicant's side and is an area that the neighbour does not have access to.

The window in the side elevation of 17 Emery Street is lawful in the eyes of the planning legislation. In 2004, there was no requirement to enforce against this window, as it was also considered lawful at this time.

This neighbouring house has a single storey rear extension with a first floor bathroom window near to no. 15D.

### 56, 58 and 60 Lysways Street

These terraced houses sit to the north of the application property and have rear facing habitable room windows which are separated by a distance of 11 metres from the side garden boundary with no. 15D.

There are private gardens to the rear of the application plot.

## **Relevant Planning History**

The 5 flats have been in situ since at least February 2013 according to Council Tax records and as 4 years has passed are now immune from enforcement action.

The side facing window in 17 Emery Street has been in situ for in excess of 4 years and is considered to be lawful (*noted in situ by case officer in 2004 following a complaint*).

### Planning Applications

19/0203 - The addition of two side facing dormers to an existing bedsit – granted subject to conditions 9/11/2020

17/1557 - First Floor rear extension to flat for use as lounge/kitchen area of flat 15D Emery Street – Refused permission on 15/2/18 on the following grounds;

*1. The lack of a separation distance between the proposed first floor extension and the sole, first floor, bedroom window in the side of 17 Emery Street is considered would result in this extension having an overbearing and unacceptable detrimental impact on the existing visual amenity, outlook and light currently available to the occupiers of this neighbouring house.*

17/1556 – Four proposed side facing dormer windows to enlarge existing bedsit at 15B Emery Street – Refused permission 15/2/18

04/2124/FL/W1 - Proposed change of use from retail shop to 2 bedroom flat dwelling at ground floor and side bedroom extension to existing first floor flat - Permission granted subject to conditions 26/11/04

04/1412/FL/W1 - Proposed 2 bedroom dwelling with dormer roof to replace existing second storey unlawful development to be demolished – Permission granted subject to conditions 13/08/04.

02/2040/FL/W4 - First floor extension to flat forming bedroom, change of use of shop to two bedroom flat and retrospective application for retention of two storey extension to rear of property, conversion of loft space to living accommodation – Permission refused 7/4/03 on the grounds that this would be an unduly prominent feature, poor design and lack of parking. A subsequent appeal to a Planning Representations Hearings Panel was dismissed on 18/9/03.

02/0482/FL/W4 - Change of use of part of ground floor to hot food takeaway (A3) – permission refused 21/7/02

BC58414P/C - Proposed single storey rear extension to provide new 1 bedroom dwelling with access from the rear & retrospective erection of external steel staircase to existing rear first floor flat & side extension (Re-submission to BC57756P/C) - Permission granted subject to conditions 25/2/02

BC57756P/C - Proposed 2 storey rear extension to provide new 2 bedroom dwelling with access from the rear and retrospective extension of external steel staircase to existing rear first floor flat – Permission refused 18/9/01

#### Planning Enforcement History

E06/0112 – Construction of wall in front of side-facing window at no. 17 Emery Street – Enforcement Notice sent out on 22/07/2007. This notice was for the removal of a fence panel and concrete block structure constructed on the boundary of 15 Emery Street with 17 Emery Street directly adjacent to a side facing window at the property 17 Emery Street. The unlawful structure was considered to have a detrimental impact by virtue of preventing any use of the window to light the room, look out of it or to ventilate the room. The Council's Planning Enforcement Register does not confirm whether this notice was complied with however there is no longer a fence or concrete block structure next to the window. This is now a metal panel over the neighbours' window.

#### **Relevant Policies**

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

[www.gov.uk/guidance/national-planning-policy-framework](http://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 12 – Achieving well-designed places**
- **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.

### **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](http://www.go.walsall.gov.uk/planning_policy)

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

- GP2: Environmental Protection
- ENV32: Design and Development Proposals

### **Black Country Core Strategy**

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

### **Walsall Site Allocation Document 2019**

- EN5: Development in Conservation Areas

## Supplementary Planning Documents

### Designing Walsall

- DW3 Character
- Appendix D

### Consultation Replies

West Midlands Fire Authority has commented that the neighbour should not use their bedroom window as a fire escape without a wayleave agreement

### Representations

One neighbour has objected on the following grounds;

- The proposal is out of character for the area
- The development would be overbearing
- Over-development
- The proposal would have a detrimental impact on their privacy and would result in the overlooking into their rear bedroom
- Loss of light and fresh air to bedroom window

One neighbour on Lysways Street with a rental property on Emery Street supports the proposal on the following grounds;

- The current rear of the building looks unfinished and is considered an 'eye sore'. The proposal would complete the appearance which would improve the appearance of the area

### Determining Issues

- Whether the application has addressed the reasons for refusal of the previous application or raises any new issues

### Assessment of the Proposal

**Whether the application has addressed the reasons for refusal of the previous application or raises any new issues**

## **Refusal Reason**

1. The lack of a separation distance between the proposed first floor extension and the sole, first floor, bedroom window in the side of 17 Emery Street is considered would result in this extension having an overbearing and unacceptable detrimental impact on the existing visual amenity, outlook and light currently available to the occupiers of this neighbouring house.

Based on the current proposal, there remains a lack of a separation distance between the proposed first floor extension and the sole, first floor bedroom window in the side of 17 Emery Street. It is considered the construction of this extension would have an overbearing and unacceptable detrimental impact on the existing visual amenity, outlook and light currently available to the occupiers of this neighbouring house.

The planning agent has proposed the removal of the bedroom window at no. 17 and the installation of two sun tubes. It is considered that the introduction of these would fail to provide adequate natural light, ventilation for this primary habitable room in the neighbouring property. In addition, the proposed works to number 17 are outside the planning application boundary and on third party land, which the applicant does not have control over. If the neighbour was agreeable to the changes, the works would have to be secured via a Section 106 legal agreement with both parties signing up to it.

Legislative changes are being made to the General Permitted Development Order through the Coronavirus Bill 2020 (25 June 2020) from 1st August 2020 in response to concerns raised about the quality of homes delivered in some developments under existing permitted development rights. This now requires local planning authorities to ensure 'adequate natural light' is provided in all habitable rooms.

Whilst the side facing bedroom window in 17 Emery Street is in an existing house rather than a new house it is considered that the need for adequate natural light, ventilation for this room are material determining factors when considering this proposal. Furthermore, blocking the sole habitable room window at no. 17 is likely to breach the 2007 planning enforcement notice and this matter will be referred to planning enforcement officers to investigate this matter.

It is possible that the blocking of this window to the only light and ventilation source to a habitable room could be a breach of the Human Rights Act and the neighbours' may also have a Right to Light. However, these issues are not material planning considerations.

The bedroom window in no. 17 currently has obscure glazing and a metal board has been placed over the window from the applicant's land. It is considered, to block this window permanently by the side wall of an extension would fail to provide adequate natural light and ventilation and would be unacceptable.

Regarding the reasons for calling the application before planning committee, the local planning authority does provide a comprehensive assessment of all material planning considerations, taking into account the development plan and the national planning policies, legislation and guidance. These are exactly the same requirements for the planning committee. Regarding the number 17's side facing window, as set out earlier in the report, it is considered to be lawful in the eyes of the planning legislation. As the window serves a habitable room, it is a key material consideration in the determination of the current planning application, as it was previously when the former planning application was refused. Circumstances have not changed, other than the Government reinforcing the need to ensure adequate natural light is now considered for homes and habitable rooms. Reference to the window not being there, the application would have been approved, unfortunately is not a genuine planning position to take.

Walsall Council does not have local window position guidelines other than the 45 degree code referred to in Appendix D of Designing Walsall Supplementary Planning Guidance. It is likely that the side facing, obscurely glazed, window in 17 Emery Street was installed using the Government's historical permitted development rights. Permitted developments set out in permitted development legislation is the Government giving planning approval without local planning authorities being involved. This would not form part of any enforcement action if the permitted development criteria has been met, as in this instance.

All planning applications must consider the current circumstances at the time of the decision. In this instance, there is a lawful side facing window serving a habitable room which has been in situ since at least 2004. Consequently, the application cannot be supported for approval.

The Party Wall Act is private legislation and is not a material planning consideration. Reference to Building Regulations must also be discounted from any planning assessment as it is separate third party legislation.

To ensure a just and transparent decision in this instance, the application would be refused as the construction of the extension would block the sole light source to a habitable room window in the neighbour's house.



The proposal would be above an existing extension and if all other aspects of the proposal were considered acceptable, it is considered to not constitute over development.

The proposed rear facing habitable room window would face the rear garden of the host dwelling and would not significantly worsen neighbours' existing privacy.

As this would be an infill extension located between two existing buildings it is considered this proposal would have little additional impact on neighbours existing light available to houses and gardens on Lysways Street including no. 66.

The proposal is considered to have not overcome the previous reasons for refusal and is recommended for refusal.

### **Conclusions and Reasons for Decision**

The proposal would block all natural light and ventilation available to the side facing bedroom window at 17 Emery Street which is considered to have an unacceptable impact as this sole window for a habitable room. The proposed removal of the neighbours' window and the installation of two sun tubes is considered an unacceptable alternative to provide primary natural light and ventilation to a habitable room. The proposal would be contrary to the Black Country Core Strategy policies CSP4, and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and Appendix D of Designing Walsall SPD.

The proposal would benefit the applicant and his tenants by providing additional living accommodation. Weighing the planning balance, it is considered that this would be a wholly private benefit that would not be sufficient to outweigh the harm that has been identified or the resultant development plan conflict.

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 planning agent has made alternative suggestions to overcome the previous refusal reason, but it is considered that the impacts on the neighbours' window is unacceptable and cannot be supported.

### **Recommendation**

Refuse permission

## Reasons for Refusal

1. The lack of a separation distance between the proposed first floor extension and the sole, first floor, bedroom window in the side of 17 Emery Street is considered would result in this extension having an overbearing and unacceptable detrimental impact on the existing visual amenity, outlook and light currently available to the occupiers of this neighbouring house. The proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; The Black Country Core Strategy policies CSP4 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and Appendix D of Designing Walsall SPD.



## Planning Committee

Report of Head of Planning and Building Control on 10 December 2020

Plans List Item Number: 9.

### Reason for bringing to committee

Application is for a Local Councillors property

### Application Details

**Location:** 44, MELLISH ROAD, WALSALL, WS4 2ED

**Proposal:** VARIATION OF CONDITION 2 FOR APPLICATION 19/0277 - FIRST FLOOR SIDE EXTENSION INCLUDING NEW FRONT GABLE FEATURE AND ALTERATING TO MAIN ROOF, FIRST FLOOR REAR EXTENSION, PLUS LOFT CONVERSION.

**Application Number:** 20/1119

**Case Officer:** Jasmine Kaur

**Applicant:** Mrs Kaur

**Ward:** St Matthews

**Agent:** Mr James Brookes

**Expired Date:** 18-Nov-2020

**Application Type:** Section 73: Removal or Variation of Conditions

**Time Extension Expiry:** 31-Jan-2021

### Recommendation

Planning Committee resolve to delegate to Head of Planning & Building Control to Grant planning permission subject to conditions



## Proposal

This application seeks planning consent for the variation of planning condition 2 for application 19/0277 which was granted for first floor side extension including new front gable feature and alterations to main roof, first floor rear extension, plus loft conversion. The dimensions of the extensions approved under 19/0277 are front elevation measures 7.1m high and 5.3m at eaves level. The height from the side wall facing Rushwood Close measures 7.5m at highest level. The extension would encompass hipped roof with gables in the front and rear elevation. The width of the side extension is 4.5m wide. The first-floor rear extension adjacent to No 40 Mellish road measures 5m in depth along the boundary, total width of the extension including the en-suite is 8.4m, the height is 7.5m and 5.6m at eaves level.

Proposed changes to the rear elevation for this application includes the gable would be incorporate into the existing first floor extension. The pitch from the edge of the boundary would be shifted marginally and increase in height from 7.5m to 7.6m (max height as shown on the drawings).

## Site and Surroundings

The application site is a 2-storey detached dwelling which is located on the Mellish Road, with the side of the property adjacent to Rushwood Close. The locality is characterised by detached dwellings with a mix of large and small plots which come together to form an area of established residential character.

Application site shares a boundary with the rear gardens of Rushwood Close particularly No 2-4. The proposed extension to the rear is located adjacent to boundary with No 40. The planning permission which was granted 19/0277 has already been implemented.

## Relevant Planning History

07/1523/FL/H1: First floor side and rear extension and lean-to roof over single storey rear extension: Permission Refused 5 October 2007  
Appeal dismissed 11 September 2008 Ref APP/V4630/A/08/2071559

08/1440/FL: Proposed first floor side extension over garage and retention of ground floor extension to rear: Permission Refused 9 December 2008

09/0011/FL: Proposed first floor side extension over garage. Permission refused 8 April 2009

19/0277: First floor side extension including new front gable feature and alterations to main roof, first floor rear extension, plus loft conversion. Granted subject to conditions 06-Aug-2020

## Relevant Policies

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

[www.gov.uk/guidance/national-planning-policy-framework](http://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 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.

### **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](http://www.go.walsall.gov.uk/planning_policy)

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

## **Local Policy**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Black Country Core Strategy**

- ENV3: Design Quality

### **Saved Unitary Development Plan**

- GP2: Environmental Protection
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- H10: Layout, Design and Dwelling Mix
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

### **Supplementary Planning Document**

Designing Walsall  
DW3 Character

- Appendix D

## **Consultation Replies**

Pollution Control: No comments

## **Representations**

2 objection letters received

Work already in progress

The development is not built in accordance with approved plans and it does not comply with planning conditions (*The current application is to vary condition 2 the plans to regularise this. There is an open enforcement investigation regarding the other matters such as breach of planning conditions for materials, working hours and development not carried out in accordance with approved plans*)

## **Determining Issues**

- Design and Character of Area
- Amenity of Nearby Residents

## **Assessment of the Proposal**

## **Design and Character of Area**

This application is varying planning application 19/0277 decision proposing changes next to 40 Mellish Road boundary. As this was a material consideration in the determination of planning application 19/0277, the applicant has submitted the section 73 application. The proposed changes to the rear include gable would incorporate the existing first floor extension. The pitch from the edge of the boundary would be shifted marginally and increase in height from 7.5m to 7.6m (max height as shown on the drawings). The extension is located at the rear of the property with limited visibility from the street scene, consequently on balance not having a greater impact on the character of the area over and above the previous approval.

## **Impact on the Residential Amenity**

The assessment of the current planning application, takes into account July's planning committee decision to approve planning application 19/0277.

The current application varies the approved plans to alter the shape of the extension adjacent to 40 Mellish Road. The proposed extension is only 0.1m closer to no 40 Mellish Road. Taking into account the previous planning approval, it is considered on balance, the current proposal has no greater impact on this neighbour than what is currently being lawfully implemented under planning approval 19/0277, and the proposed changes have no greater impact sufficient to warrant a recommendation to refuse.

## **Conclusions and Reasons for Decision**

In weighing the material planning considerations and taking into account that the previous approval granted by Planning Committee, the proposed changes have no greater impact sufficient to warrant a recommendation to refuse.

## **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 2 years 7 months and 20 days 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: The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

Proposed Site & Block plan: 01-REV A

Proposed elevations: 04 REV C

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. 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)

Reason: To protect the amenity of adjoining residential occupiers.

4. No pruning works shall be undertaken on the protected Sycamore tree to the rear of 2 Rushwood Close without the written consent of the Local Planning Authority through the formal application process.

Reasons: To comply with the Town and Country Planning (Tree Preservation) (England) Regulations 2012 and to ensure a good standard of work.

5. Bat report was submitted by the applicant; As no bats or evidence of bats or nesting birds were found on the property at the time of the survey on 8/5/2019 the survey does not request further work through emergence surveys; The only exception to this would be if any part of the buildings surveyed have drastically changed in the year since the survey was carried out; applicants to contact their ecology consultants to get their bat survey updated to reflect any changes.

The following precaution shall be taken when implementing the planning permission:

- 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 there is more than a 12 month time period between chase ecology bat report and works taking place, a site check by a suitably qualified and licensed ecologist will be necessary to determine that any bat utilisation of the buildings has not substantially changed

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

If bats or evidence of bats are found during these operations:

- i) bats should not be handled or touched and the vicinity of the roost shall be immediately reinstated.
- ii) no further destructive works shall be carried out to the building until the need for Natural England licence has been established.
- iii) within one week of finding bats or evidence of bats, a written report by the supervising ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation
- iv) work on the building shall only continue in accordance with the approved mitigation measures and on the approved timetable and/or in accordance with the terms of any Natural England licence issued.

Reason: To conserve local bat populations.

5. The extension hereby permitted must be carried out in external materials to match those of the existing building in colour and texture.

Reason: To ensure a satisfactory external appearance.