



# Walsall Council

## Planning Committee – 24 April 2025

Report of Head of Planning and Building Control

### Plans list item number

Item number: 2

### Reason for reporting to the planning committee.

- 1) Called in by a Councillor.

Called in by a Councillor Wilson on the grounds that the design of the proposal requires wider consideration. There will be no significant harm to the amenities of the surrounding area from parking/traffic/noise/disturbance/odour/loss of TPO trees and no detrimental impact on the character/siting of a Listed Building/Conservation Area.

### Application details.

**Application reference:** 25/0159

**Site location:** 41, WALTON ROAD, ALDRIDGE, WALSALL, WS9 8HN

**Application proposal:** Full planning application for the removal of existing storage yard/garages and the construction of a new three-bedroom dwelling. (Resubmission of 23/1271)

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

**Link to application documents:** <https://go.walsall.gov.uk/planningapps?id=25/0159>

**Applicant:** Mr Craig Matthews 41, WALTON ROAD, ALDRIDGE, WALSALL, WS9 8HN

**Planning agent:** Mark Hawkins, MidlandsBuilding ConsultancyLtd Midlands Building Consultancy, Office 4 Trinity Suite, Hawkesyard Hall, Armitage Park, Rugeley, WS15 1PU

**Ward:** Aldridge Central And South

## **Red line location**



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## **Recommendation**

Refuse permission.

## **Site and surroundings**

A site visit was carried out on 21-Feb-2024 and 03-Apr-2025.

The applicant seeks full planning permission of a new dwelling house at the end of the rear garden of number 41 Walton Road, this amended proposal has been submitted for consideration following previous refused application 23/1271 and following pre-application advice. Number 41 fronts Walton Road and has a large rear garden which borders Northgate. The frontage of the proposed new dwelling will face towards Northgate with access from Northgate, and adjacent to Alrewych Court. At the rear of the proposed

dwelling are residential dwellings of Walton Road to the south-east and Walsall Wood Road to the north-east. The application site faces onto Northgate, where there are large industrial units.

## Relevant planning history

### Application site:

- **BC28712P** Two Storey Rear Extension Refused 04-Apr-1990 (There is no further details such as reasons for refusal available at this time).
- **BC31770P** Two Storey Side Extension. Granted Subject to Conditions 15-Aug-1991
- **23/1271** Existing Storage Yard/Garages to be removed and replaced with a new 3 Bedroom Dwelling for a Family Member. Refused 25-Mar-2024.

### Reasons for refusal:

1: The proposal by reason of its poor design, scale and size, is visually incongruous and over dominant, failing to harmonise with the established character of the surrounding area. Thus, the proposal is contrary to Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, DW3 Character. Together with the design advice in Chapter 12, paragraph 131 of the NPPF Achieving well-designed places.

2: The design of the proposal new dwelling with distance of 20 metres between the habitable windows of the proposed dwelling and rear properties of Walton Road and 5.6m high and 14.18m long wall hard up against the side garden boundary with No 39 Walton Road would create a perceived mass of brick wall visible from particularly the rear of 35-39 Walton Road, and their private rear amenity space and would have a detrimental impact on the amenity and outlook of these neighbours and is overbearing, oppressive and incongruous due to the size, scale, mass and bulk of the proposal along the shared boundaries. Thus, the application fails to comply with Black Country Core Strategy policies CSP4 (Place Making) and ENV2 (Historical Character and Local Distinctiveness), saved UDP policies GP2 (Environmental Protection) and ENV32 (Design and Development

Proposals), DW3 (Character) and Appendix D of the Designing Walsall SPD and the design advice in Chapter 12, paragraph 131 of the NPPF Achieving well-designed places.

3: The design of the proposal with lack of reasonable access to the area provided for private rear amenity space, would be unusable, and would lead to poor amenities to the future occupiers of the proposed dwelling. The application fails to comply with Black Country Core Strategy policies CSP4 (Place Making) and ENV2 (Historical Character and Local Distinctiveness), saved UDP policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), DW3 (Character) and Appendix D of the Designing Walsall SPD and the design advice in Chapter 12, paragraph 131 of the NPPF Achieving well-designed places.

4: The proposed development falls within the 15km zone of influence relating to the Cannock Chase Special Area of Conservation (SAC) and has failed to provide any potential necessary mitigation measures or a mechanism for securing them. This proposal is therefore contrary to the Conservation of Habitats and Species Regulations 2017, Black Country Core Strategy Policies EQ2 (Cannock Chase Special Area of Conservation), CSP3 (Environmental Infrastructure), CSP4 (Place-Making) and ENV1 (Nature Conservation), UDP Saved Policy ENV23 (Nature Conservation), SAD Policy EN1 (Natural Environment Protection, Management and Enhancement) and the National Planning Policy Framework paragraph 181.

#### **Pre-application submission:**

ENQ/0582 Proposed three bedroom dwelling in rear garden of 41 Walton Road, with access from Northgate. Response provided 05-Nov-2024 and on 21-Jan-2025 to amended plans submitted:

Therefore, on balance, it is unlikely that the local planning authority would be able to support this proposal, due to the design impact on street scene and neighbouring amenity.

Following correspondence with the local planning authority further advice was given to the applicant/agent that they may wish to consider submitting an application for an annexe to 41 Walton Road, to provide accommodation for family members.

## **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". The NPPF is a material consideration in the determination of a planning application.

### **Human rights and reducing inequalities**

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

### **Walsall Council Development Plan**

Planning law requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Our Development Plan includes:

- Black Country Core Strategy (BCCS)
- Walsall Site Allocation Document (SAD)
- Saved policies of Walsall Unitary Development Plan (UDP)
- Walsall Town Centre Area Action Plan (AAP)

Planning guidance is published within a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment.

Public consultation has been carried out in accordance with the Development Management Procedure Order and the council's Statement of Community Involvement.

## **Consultee comments (planning officer's summary)**

### **Environmental Protection**

Concerns raised – regarding contamination, ground gas, and asbestos and the requirement of a Demolition Management Plan. *(These concerns will be discussed within the body of the report).*

Further concerns have been raised relating to air quality and solid fuel appliances; however, this relates to separate legislation. Therefore, the Local Planning Authority would be unable to include conditions relating to this concern.

### **Local Highway Authority**

Objection - The Highway Authority had previously asked for information to be provided by the developer at the pre-application stage should a planning application be submitted. This has not been provided to demonstrate safe access into the site and parking spaces are achievable. *(These concerns will be discussed within the body of the report).*

### **Natural England**

Objection – Regarding Cannock Chase SAC and Biodiversity duty contained within Annex A – Natural England general advice. *(These concerns will be discussed within the body of the report).*

### **Public Health**

No objection.

### **Severn Trent Water**

No objection/Material Consideration – with request for conditions and note regarding disposal of foul and surface water.

### **Tree Preservation Officer**

No comments received.

### **Waste Management**

No comments received.

### **West Midlands Fire Service**

No comments received.

### **Neighbour and interested parties' comments (planning officer's summary)**

None received.

### **Determining issues**

1. Principle of development
2. Cannock chase SAC and HRA
3. Design, layout, and character
4. Amenity of neighbours and future occupiers
5. Highways
6. Ecology and Biodiversity Net Gain
7. Flood risk / Drainage
8. Ground conditions and environment
9. Other key determining issues

### **Assessment of the proposal**

## **Principle of development**

The site is located to the rear garden of 41 Walton Road and is currently occupied by hard standing and outbuildings ancillary to this dwellinghouse. The site is sustainably located in an existing residential area close to local amenities and public transport.

Chapter 5. Paragraph 61 of the revised NPPF states that the use of previously developed land that is physically well-related to existing settlements, should be encouraged where suitable opportunities exist:

Paragraph 61: To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community.

The NPPF defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land, but excludes residential gardens in this definition.:

Paragraph 129. Planning policies and decisions should promote an effective use of land taking into account Paragraph d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and  
e) the importance of securing well-designed, attractive and healthy spaces.

The latest available figures show that the Council does not currently have a 5 year housing land supply and, in addition, the Council failed the Housing Delivery Test published in December 2023 based on low levels of delivery over the last 3 years. This means that the presumption in favour of sustainable development as described in the NPPF paragraph 11d) is in effect.

Policy H3 of the UDP states that the Council will encourage the provision of additional housing through the re-use of previously developed windfall sites provided that:

- I. A satisfactory residential environment can be achieved, taking into account the considerations set out in Policy ENV10.
- II. There is no overriding need for the land or buildings to be retained for employment or any other use.
- III. The proposal would have good accessibility by a choice of means of transport and be well related to schools, shops and other social and community facilities.
- IV. Residential development would not unacceptably constrain the development of any adjacent site for its allocated or identified use.
- V. The proposal is acceptable in terms of other policies of the Plan.

Whilst the proposal would add to the supply of housing on what could be considered previously developed land, on balance the principle of an independent residential unit in this location is not considered acceptable due to the proposal's impact on the amenities of the neighbouring dwellings, street scene and highway safety.

Therefore, it is considered that the proposal does not comply with Policy H3 of the UDP.

### **Cannock Chase SAC and HRA**

This proposed application is located within the 15km zone of influence of the Cannock Chase SAC and proposes a net increase of 1 dwelling(s). The Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations") place a duty on competent authorities (in this case Walsall Council) to consider the potential for effects upon sites of European importance prior to granting consent.

A mitigation payment per each net new dwelling is required in accordance with Black Country Core Strategy Policy EQ2 and the Habitat Regulations. The payment is non-negotiable.

The above relates to reason 4 of the previous application 23/1271 refusal:

*4: The proposed development falls within the 15km zone of influence relating to the Cannock Chase Special Area of Conservation (SAC) and has failed to provide any potential necessary mitigation measures or a mechanism for securing them. This proposal is therefore contrary to the Conservation of Habitats and Species Regulations 2017, Black Country Core Strategy Policies EQ2 (Cannock Chase Special Area of Conservation), CSP3 (Environmental Infrastructure), CSP4 (Place-Making) and ENV1 (Nature Conservation),*

*UDP Saved Policy ENV23 (Nature Conservation), SAD Policy EN1 (Natural Environment Protection, Management and Enhancement) and the National Planning Policy Framework paragraph 181.*

The applicant would be required to submit a Habitat Regulation Assessment with a mitigation payment per each net new dwelling in accordance with Black Country Core Strategy Policy EQ2 and the Habitat Regulations. This payment is non-negotiable, to overcome this previous reason for refusal.

Whilst a HRA form request has been sent to the applicant's agent, no response has been received therefore, it is considered that the applicant has not agreed to provide the SAC mitigation.

In the absence of this agreement and as planning permission has been recommended for refusal the lack of secured mitigation payment it is considered that the proposal has not overcome this previous reason for refusal.

### **Design, layout, and character**

Saved Policy ENV32 of the Unitary Development Plan states that poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Policy ENV32 goes on to confirm that when assessing the quality of design of any development proposal, the visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood and the effect on the local character of the area are important considerations.

Policy CSP4 of the Black Country Core Strategy states that all development will be required to demonstrate a clear understanding of the historic character and local distinctiveness of the area and show how proposals make a positive contribution to place-making and environmental improvement.

Policy ENV2 of the BCCS states that all development should aim to protect and promote the special qualities, historic character and local distinctiveness of the Black Country to help maintain its cultural identity and strong sense of place. Development proposals will be required to preserve and, where appropriate, enhance local character and those aspects of

the historic environment together with their settings which are recognised as being of special historic, archaeological, architectural, landscape or townscape quality.

Saved Policy GP2 of the Unitary Development Plan states that The Council will expect all developments to make a positive contribution to the quality of the environment and the principles of sustainable development and will not permit development which would have an unacceptable adverse impact on the environment. In assessing this impact Policy GP2 requires that consideration is given to, inter alia, visual appearance and overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

Policy DW3 of Designing Walsall SPD states that, development proposals must appraise the character of an area by assessing typical building heights, rhythms, materials as well as details and architectural solutions. There are situations when complying with these characteristics is warranted and opportunities when stepping out of line and breaking the rules can be justified to make a statement, but these circumstances must be clearly justified and boldly delivered.

Walsall Council Supplementary Planning Document Designing Walsall, Appendix D expands on expectations of good design and states: "Terracing: avoid the creation of terracing to existing developments as a result of side extensions where this is not characteristic of the area by retaining a minimum 0.9m gap to the boundary (may be increased in some circumstances), set back first floor extensions by a minimum of 1m (may be increased in some circumstances) and the use of hipped roofs where in keeping with existing character".

Appendix D: Numerical Guidelines of the Designing Walsall Supplementary Planning Document expands on this stating that 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, and provides minimum requirements for achieving this, including adherence to the '45-degree code'.

Designing Walsall Appendix D states:

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front.

- 13m separation between habitable windows and blank walls exceeding 3m in height.
- Appendix D: Numerical Guidelines for Residential Development states:
- Garden dimensions: 12m in length or a minimum area of 68sqm for houses and 20sqm of useable space per dwelling where communal provision is provided.

Saved Policy GP2 of the UDP states “...*The following considerations will be taken into account in the assessment of development proposals.... Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property...*”

This application has been submitted following a previous refusal of an application 23/1271, a pre-application enquiry and amended pre-application of a similar design, where a full response was provided by the local planning authority, which concluded that:

Therefore, on balance, it is unlikely that the local planning authority would be able to support this proposal, due to the design impact on street scene and neighbouring amenity.

Design advice in Chapter 12, paragraph 140 of the NPPF Achieving well-designed places states; *Local planning authorities should ensure that relevant planning conditions refer to clear and accurate plans and drawings which provide visual clarity about the design of the development and are clear about the approved use of materials where appropriate.*

It is noted that the plans submitted in support of the application appear to lack consistency and clarity in several key areas. There are noticeable discrepancies between the elevations, such as mismatched and conflicting details. The plans do not appear to be fully coordinated, which makes it challenging to assess the overall proposal and its alignment with the council’s development plan requirements. Additionally, certain aspects of the design are not fully developed or are inadequately detailed, leading to ambiguity in the interpretation of the proposal.

Therefore, the proposal has been assessed with the information provided, however, due to inaccuracies in the submitted plans, the Local planning authority (LPA) is unable to make the necessary full assessment of impacts on the character, and visual amenities of the area and conditions could not be attached to any planning permission to make the scheme acceptable in the absence of accurate plans.

Should planning committee members be minded to approve this application It is the LPA's opinion that these errors render the plans so inaccurate, that it is impossible to build the dwelling precisely in accordance with them.

This application is therefore contrary to the aims and objectives and the requirements of BCCS policies CSP4 and ENV2, saved UDP policies GP2 and ENV32, DW3 and Appendix D of the Designing Walsall SPD and Chapter 12, paragraph 140 of the NPPF Achieving well-designed places.

Refusal reason 1 of previous application 23/1271 was:

*1: The proposal by reason of its poor design, scale and size, is visually incongruous and over dominant, failing to harmonise with the established character of the surrounding area. Thus, the proposal is contrary to Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, DW3 Character. Together with the design advice in Chapter 12, paragraph 132 of the NPPF Achieving well-designed places.*

Design advice in Chapter 12, paragraph 139 of the NPPF Achieving well-designed places states; *Development that is not well designed should be refused, especially where it fails to reflect local design polices and government guidance on design, taking into any local design guidance and supplementary planning documents such as design guides and codes.*

The submitted amended design of the proposal compared to application 23/1271 has removed the first floor and rear high set windows and is proposing off set dormer windows on the front elevation. The street scene in the immediate area of the proposed dwelling is a mixture of commercial and residential properties. The surrounding residential dwellings are mainly two-storey semi-detached, bungalows and flats, which are of a simple overall appearance.

The proposed eaves appear to follow the previous design, being positioned beneath the roof and offset, with the roof overhang visible on the west side elevation nearest to Alrewych Court and aligned with the south side elevation facing Northgate. It is also noted that the eaves are not uniform, as they are set at varying levels and overlap. Additionally, the windows are irregularly spaced and set at different heights. The dormer window facing towards Alrewych Court appears elevated above the roof ridge, giving it a suspended, elevated look.

The roof ridge of the elevation facing towards Northgate is set at a lower level than that of the elevation that would face towards the end of the garden of number 39 Walton Road. These elements when combined with complex change of roof heights would introduce an over-complicated poor design, which fails to integrate with the existing simple design of the street scene.

Therefore, it is considered that whilst plans have been amended it remains that the overall design of the proposed dwelling has not taken into consideration the design of the surrounding dwellings and is not typical of the character of the locality.

It remains that the previous reason for refusal 1 has not been overcome due to its poor convoluted design, scale and size, which is visually incongruous and over dominant, therefore failing to harmonise with the established character of the surrounding area and has not overcome this previous reason for refusal, nor the advice provided as part of the pre-application enquiry.

Therefore, the amended proposal is contrary to Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, DW3 Character. Together with the design advice in Chapter 12, paragraph 139 of the NPPF Achieving well-designed places.

The applicant has justified their proposal with a Design and Access Statement which draws reference to planning permission 22/1601 Land between 35 and 37 Earls Road, which was granted 11-Apr-2024. However, that proposal related to the erection of a pair of 2 storey semi-detached properties, which would infill a gap between no's 35 and 37 Earls Road. The

proposed houses with a brickwork face and gable roofs would pick up on the characteristics of the properties in the immediate vicinity. Furthermore, the plot sizes were similar in size to neighbouring houses, and they are considered to be appropriate for that location.

The Design and Access Statement also draws reference to planning permission for a dwelling on First Street, however, it is presumed this relates to Furst Street, 19/0101 Land at Rear of 178, Ogle Road, for the erection of two-storey two bed dwelling. Granted subject to conditions 07-May-2019. Where it was considered that the proposed dwelling would be a brick and tile construction. The design of the proposal was considered characteristic of 27 Furst and 7 and 9 Furst Street by virtue of the front sloping roof which was designed to reduce massing in proximately to 10 and 12 Furst Street. The front dormer reflects the design of the frontage of 12 Furst Street. Furthermore, this type of development within rear gardens, was characteristic in this area, with a number of new dwellings of a similar siting and style to that which was proposed.

Furthermore, the Design and Access Statement highlights that Walsall council have allowed their rental garages to be removed across the areas of the borough and granted permissions for Housing. No locations have been specified and there are no sites within the immediate vicinity of the applicant location.

Whilst these permissions have been put forward by the applicant's agent as direct comparisons to that of the proposed, these locations are not within the immediate vicinity of the site and little weight is therefore given. Notwithstanding this each application is assessed on its own merits.

### **Amenity of neighbours and amenity of future occupiers**

Policy HC2 of the SAD states that the provision of houses will be encouraged provided that a satisfactory residential environment can be achieved. The Technical Housing Standards – Nationally Described Space Standard document sets out the required Gross Internal Area (GIA) to be provided for residential properties in order to ensure that a satisfactory standard of amenity/accommodation is provided for future residents.

Paragraph 135 f) of the NPPF (2024) states that decisions should ensure that developments create places that are safe, inclusive, and accessible and which promote

health and well-being, with a high standard of amenity for existing and future users and advocates the use of the Space Standard where appropriate.

Designing Walsall Appendix D states:

- 24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front.
- 13m separation between habitable windows and blank walls exceeding 3m in height.
- Appendix D: Numerical Guidelines for Residential Development states:
- Garden dimensions: 12m in length or a minimum area of 68sqm for houses and 20sqm of useable space per dwelling where communal provision is provided.

Saved Policy GP2 of the UDP states “...*The following considerations will be taken into account in the assessment of development proposals.... Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property...*”

Refusal reason 2 for the previous application was:

*2: The design of the proposal new dwelling with distance of 21 metres between the habitable windows of the proposed dwelling and rear properties of Walton Road and 5.6m high and 14.18m long wall hard up against the side garden boundary with No 39 Walton Road would create a perceived mass of brick wall visible from particularly the rear of 35-39 Walton Road, and their private rear amenity space and would have a detrimental impact on the amenity and outlook of these neighbours and is overbearing, oppressive and incongruous due to the size, scale, mass and bulk of the proposal along the shared boundaries. Thus, the application fails to comply with Black Country Core Strategy policies CSP4 (Place Making) and ENV2 (Historical Character and Local Distinctiveness), saved UDP policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), DW3 (Character) and Appendix D of the Designing Walsall SPD and the design advice in Chapter 12, paragraph 131 of the NPPF Achieving well-designed places.*

The dimensions of the internal living space comply with nationally described space standards. However, it is noted that on the first floor, occupants would need to pass through Bedroom 2 to access Bedroom 3. Additionally, there is one ensuite bathroom at first floor and should the occupants of bedroom 2 wish to use it, they would be required to walk through bedroom 3. To add, the LPA has concerns that the design of the proposal would

lead to an unsatisfactory living environment due to the limited head height within the first floor, where the maximum height would be approximately 2.2 metres high to the apex of the roof.

The amended proposal has removed the first-floor high-set windows at the rear. However, the rear of the proposed dwelling would still face the rear elevations and habitable windows of the homes on Walton Road. Despite the amendments, the design remains problematic, as the rear elevation would feature only a single door, which does little to break up the mass of the brick wall, and with a complex roof design positioned directly against the side garden boundary of No. 41 Walton Road. While an existing garden structure currently occupies the site, the proposed building would be significantly taller and wider than the existing structure. As a result, the proposal is considered would result in an overbearing impact on the garden of No. 41, adversely affecting the residential amenity of this neighbouring property.

Plans submitted do not show a block plan of the proposed dwelling in relation to the neighbouring dwellings. However, the Design and Access Statement states the distance of the proposal new dwelling would be increased to from the previous refusal from 20 metres to 21 metres between the habitable windows of the rear properties of Walton Road. However, it remains the perceived mass of brick wall, with convoluted roof design would have a detrimental impact on the amenity and outlook of these neighbours and is overbearing, oppressive and incongruous due to the size, scale, mass and bulk of the proposal along the shared boundaries.

Therefore, it is considered that the amended proposal has not overcome refusal reason 2 therefore is not in accordance with Black Country Core Strategy policies CSP4 (Place Making) and ENV2 (Historical Character and Local Distinctiveness), saved UDP policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), DW3 (Character) and Appendix D of the Designing Walsall SPD and the design advice in Chapter 12, paragraph 131 of the NPPF Achieving well-designed places.

Refusal reason 3 for the previous application was:

*3: The design of the proposal with lack of reasonable access to the area provided for private rear amenity space, would be unusable, and would lead to poor amenities to the future occupiers of the proposed dwelling. The application fails to comply with Black*

*Country Core Strategy policies CSP4 (Place Making) and ENV2 (Historical Character and Local Distinctiveness), saved UDP policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), DW3 (Character) and Appendix D of the Designing Walsall SPD and the design advice in Chapter 12, paragraph 131 of the NPPF Achieving well-designed places.*

The amended proposal shows a door into the rear garden for access; therefore, it is considered the amended proposal has overcome the previous refusal reason 3 in accordance with policies Black Country Core Strategy policies CSP4 (Place Making) and ENV2 (Historical Character and Local Distinctiveness), saved UDP policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), DW3 (Character) and Appendix D of the Designing Walsall SPD and the design advice in Chapter 12, paragraph 131 of the NPPF Achieving well-designed places.

## **Highways**

Walsall Unitary Development Plan Policy T4 and now SAD T4 looks to minimise direct frontage access to give priority to traffic flows for long distance and strategic traffic which would be impacted by the addition of turning movements into the access opposite a busy road junction.

National Planning Policy Framework Paragraph 116: *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”*

The UDP Policy T13 requires that for a two-bedroom property one parking space and three-bedroom property a minimum of two car parking spaces are provided.

The amended proposal has maintained a garage area, and plans show bedroom 2 and bedroom 3, it is unclear where bedroom 1 is situated within the proposed dwelling.

The proposal includes taking vehicular access from Northgate, which is a classified road (B4152) and a District Distributor. SAD T4 policy strictly regulates direct frontage access onto such roads. Due to the constrained width of the site frontage on Northgate, it is not clear whether the required 2.4m x 3.4m pedestrian inter-visibility splay, whereby any structure or planting, including adjacent boundaries, shall not exceed 600mm above

highway level can be achieved. For this reason, the Highway Authority raised concerns in relation to the pre-application proposal regarding:

- Details to demonstrate the proposed site layout has an adequate turning facility so that vehicles can turn and egress the site in a forward gear, in addition to two 2.4m x 4.8m parking spaces.
- Details to demonstrate the gates at the proposed access are set back 5m from the carriageway kerb edge to allow a vehicle to wait for the gates to open without blocking the highway.
- A 2.4m x 3.4m pedestrian visibility splay.

However, this detail has not been provided with this application.

The Design and Access Statement states there is an existing vehicular access into the site via Northgate (B4152). There is an existing gated access, but it is noted that there is no domestic vehicle crossover in this location. Thus, there is no existing vehicular access to the site via Northgate (B4152).

In light of the comments above, the Highway Authority cannot support the proposal and so object to the development proposals. As the proposed site layout is contrary to Walsall Unitary Development Plan Policy T4 and now SAD T4 which looks to minimise direct frontage access to give priority to traffic flows for long distance and strategic traffic which would be impacted by the addition of turning movements into the access opposite a busy road junction and the NPPF Paragraph 116: *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”*

### **Ecology and Biodiversity net gain.**

The application form states that the application was first made before 2 April 2024 and no impact on the environment. Application 23/1271 was made valid 10-Jan-2024 and was subsequently refused 06-March-2024. This subsequent application which was received on 12-Feb-2025 and made valid 24-Feb-2025. Therefore, this information is incorrect and as the application states that the size of the site is over 25 metres, this would then trigger the requirement for biodiversity net gain metric information which has not been submitted. Normally an application would not be made valid without the required BNG calculation tool completed, however, the application form stated it was ‘exempt’ and was registered. As the

proposal falls outside of the exemption reason given, and as stated the size of the site is over 25 metres squared, within out the required information permission could not be granted until this calculation has been received.

As the existing site is 238m from a bat landscape buffer zone, there would be no requirement for a bat report.

### **Flood risk / Drainage.**

UDP Policy ENV40 states that “Development will not be permitted if the drainage from it poses an unacceptable risk to the quality or usability of surface or ground water resources”.

Policies GP2 of the UDP; ENV5 of the Core Strategy and EN3 of the Site Allocations Document seek to ensure that new development does not increase the risk of flooding by directing proposals to areas with the lowest risk of flooding.

The application site is within Flood Zone 1 and therefore it is considered that flood risk is low.

Severn Trent have commented that they have no objections subject to a condition relating to drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers. A pre-commencement condition and note could be included in relation to this.

### **Ground conditions and environment**

Saved Policy GP2 of the Unitary Development Plan states that The Council will expect all developments to make a positive contribution to the quality of the environment and the principles of sustainable development and will not permit development which would have an unacceptable adverse impact on the environment. In assessing this impact Policy GP2 requires that consideration is given to, inter alia, visual appearance and overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property. Furthermore, saved Policy GP2 of the UDP requires that an assessment be made of the impact of the creation of, or susceptibility to, pollution of any kind.

Policy GP2 of the Walsall Unitary Development Plan states that land stability will be considered in determining any application. UDP policy ENV14 states that where a site has

been underlain by uses or activities that may have affected the stability of the site then the application should be accompanied by a site investigation report which identifies the hazards that may be present on the site and the level of risk posed by the proposed development.

Paragraph 187f of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 196 of the NPPF states that planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990;
- and c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

Paragraph 197 goes on to say where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Policy ENV14 of the UDP highlights that the Council will encourage the reclamation and development of derelict and previously developed land wherever this is technically feasible and in accordance with other policies of the Plan, but that where either the site or adjoining land is found to have been occupied or underlain by uses or activities which may have contaminated the site, affected its stability or led to the generation of landfill gas, the application must also be accompanied by a site investigation report which identifies the hazards actually present on the site, assesses the level of risk for the proposed development and sets out a strategy and timescale for dealing with them as part of the proposed development.

UDP Policy ENV10(b) states that development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution caused by

installations or activities that are a source of any form of pollution, which explicitly includes unacceptable adverse effect in terms of noise.

UDP Policy ENV10 states that the development of an industry or facility which may cause pollution will only be permitted if it would not: -

- I. Release pollutants into water, soil or air, whether on site or elsewhere, which would cause unacceptable harm to health and safety or the natural environment.
- II. Cause unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.
- III. Have an unacceptable adverse effect on nearby land uses and/or restrict the types of new development that could be permitted in the locality or impose special conditions on them.

Environmental Protection previously raised concerns on the previous application relating to ground gas conditions on site and the requirement of asbestos survey (relating to the storage yard and garages which would require demolition), and the requirement for a demolition management plan.

Therefore, due to potential land contamination and ground gas, a desk study and site reconnaissance report would be required to be submitted to the local planning authority prior to any built development commencing. Furthermore, that a demolition management plan would be required. The Design and Access Statement states that there is no asbestos on the site, however, an asbestos survey report would be required to confirm this.

Whilst this information has not been submitted, it is considered that pre-commencement conditions could be included to ensure that the relevant reports/information are submitted to the local planning officer prior to commencement of any development or demolition activities. To ensure the safeguarding of the amenities of the area and the occupiers of the neighbouring properties and in accordance with saved UDP policies GP2 (Environmental Protection), ENV10 (Pollution), ENV14 (Development of Derelict and Previously Developed Sites) and Chapter 15 (Conserving and enhancing the natural environment), paragraphs 187F, 196 and 197 of the NPPF.

## **Other key determining issues**

Design advice in Chapter 12, paragraph 140 of the NPPF Achieving well-designed places states; *Local planning authorities should ensure that relevant planning conditions refer to clear and accurate plans and drawings which provide visual clarity about the design of the development and are clear about the approved use of materials where appropriate.*

It is noted that the plans submitted in support of the application appear to lack consistency and clarity in several key areas. There are noticeable discrepancies between the elevations, such as mismatched and conflicting details. The plans do not appear to be fully coordinated, which makes it challenging to assess the overall proposal and its alignment with the council's development plan requirements. Additionally, certain aspects of the design are not fully developed or are inadequately detailed, leading to ambiguity in the interpretation of the proposal. Therefore, the proposal has been assessed with the information provided, however, due to inaccuracies in the submitted plans, the Local planning authority (LPA) is unable to make the necessary full assessment of impacts on the character, and visual amenities of the area and conditions could not be attached to any planning permission to make the scheme acceptable in the absence of accurate plans.

This application is therefore contrary to the aims and objectives and the requirements of BCCS policies CSP4 and ENV2, saved UDP policies GP2 and ENV32, DW3 and Appendix D of the Designing Walsall SPD and Chapter 12, paragraph 140 of the NPPF Achieving well-designed places.

## **Conclusion and reasons for decision**

On balance, this application is considered does not accord with local and national planning policies and guidance as set out in this report. The submitted plans have noticeable discrepancies between the elevations, such as mismatched and conflicting details which makes it challenging to assess the overall proposal and its alignment with national and local planning policies. By reason of its poor design, scale and size, is visually incongruous and over dominant, failing to harmonise with the established character of the surrounding area. The proposal would create a perceived mass of brick wall visible from particularly the rears of 35-39 Walton Road, and their private rear amenity space and would have a detrimental impact on the amenity and outlook of these neighbours and is overbearing, oppressive and

incongruous due to the size, scale, mass and bulk of the proposal along the shared boundaries.

The proposed development falls within the 15km zone of influence relating to the Cannock Chase Special Area of Conservation (SAC) and has failed to provide any potential necessary mitigation measures or a mechanism for securing them.

Fails to demonstrate that the proposed site layout has an adequate turning facility so that vehicles can turn and egress the site in a forward gear, in addition to two 2.4m x 4.8m parking spaces.

Fails to demonstrate whether a Biodiversity Gain Plan is required in respect of this proposal.

The applicant has been advised of concerns at the pre-application stage and whilst some amendments have been made that are an improvement on the pre-application proposal, the amendments have not gone far enough to achieve a supportable application.

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

## **Recommendation**

Refuse permission.

## **Reasons for refusal**

1: The submitted plans are unclear and are of insufficient quality. The Local Planning Authority has been unable to conduct a comprehensive assessment of the proposal and its alignment with these policies, and conditions could not be attached to any planning permission to make the scheme acceptable in the absence of accurate plans. This application is therefore contrary to the aims and objectives and the requirements of BCCS policies CSP4 and ENV2, saved UDP policies GP2 and ENV32, DW3 and Appendix D of the Designing Walsall SPD and Chapter 12, paragraph 140 of the NPPF Achieving well-designed places.

2: The proposal by reason of its poor design, would give rise to a substandard form of living accommodation for future occupiers, detrimental to their amenity. Thus, the proposal is contrary to Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, DW3 Character. Together with the design advice in Chapter 12, paragraphs 139-140 of the NPPF Achieving well-designed places.

3: The proposal by reason of its poor design, scale and size, is visually incongruous and over dominant, failing to harmonise with the established character of the surrounding area. Thus, the proposal is contrary to Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, DW3 Character. Together with the design advice in Chapter 12, paragraphs 139-140 of the NPPF Achieving well-designed places.

4: The complex and convoluted roof design of the dwelling, coupled with its height of 4.8 metres and separation distance of 21 metres from the rear properties of Walton Road would create a mass of brick wall visible from the rear of 35-39 Walton Road. This would result in the proposal appearing overbearing, oppressive and incongruous due to the size, scale, mass and bulk along the shared boundaries. Thus, the application fails to comply with Black Country Core Strategy policies CSP4 (Place Making) and ENV2 (Historical Character and Local Distinctiveness), saved UDP policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), DW3 (Character) and Appendix D of the Designing Walsall SPD and the design advice in Chapter 12, paragraphs 139-140 of the NPPF Achieving well-designed places.

5: The proposed development falls within the 15km zone of influence relating to the Cannock Chase Special Area of Conservation (SAC) and has failed to provide any potential necessary mitigation measures or a mechanism for securing them. This proposal is therefore contrary to the Conservation of Habitats and Species Regulations 2017, Black Country Core Strategy Policies EQ2 (Cannock Chase Special Area of Conservation), CSP3

(Environmental Infrastructure), CSP4 (Place-Making) and ENV1 (Nature Conservation), UDP Saved Policy ENV23 (Nature Conservation), SAD Policy EN1 (Natural Environment Protection, Management and Enhancement) and the National Planning Policy Framework paragraph 181.

6: The proposal includes taking vehicular access from Northgate, which is a classified road (B4152) and a District Distributor. The application fails to demonstrate safe access due to insufficient information showing the site has an adequate turning facility so that vehicles can turn and egress the site in a forward gear, in addition to providing two 2.4m x 4.8m parking spaces. This proposal is therefore contrary to SAD T4: The Highway Network and the NPPF Paragraph 116.

7: The application fails to demonstrate whether a Biodiversity Gain Plan is required in respect of this proposal. Therefore, the proposal does not comply with biodiversity net gain on site in accordance with the Environment Act and Schedule 7a of the Town and Country Planning Act 1990 and in accordance with Black Country Plan policy ENV1, saved Unitary Development policy ENV23 and Supplementary Planning Document Conserving Walsall's Natural Environment.

## **Case specific notes for applicant**

1. None.

**End of report**