



Walsall Council

Development Management

PLANNING COMMITTEE

Report to the Head of Planning and Building Control

09 March 2023

Plans List Supplementary Paper

Since preparation of the planning committee agenda, the following supplemental information has been received. Officer comments are provided in response to the supplemental information along with any necessary amendments to the recommendation.

Plans list item number: 1	
Application site address: FORMER GALA BINGO, PARK LANE, WALSALL, WS10 9SB	
Supplemental Information	Officer Comments
The applicant requested the formal withdrawal of the planning application on 6 th March 2023. No decision will now be made on this application.	Item 1 is withdrawn from the agenda. Withdrawal decision notice sent to applicant on 6 th March 2023.
Recommendation: n/a	

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<p>Based on the plans submitted, Natural England considers the proposed development will not have significant adverse impacts on designated sites and has no objection.</p>	
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<p>The Ecologist has confirmed that in light of Natural England's removal of an objection in relation to the impact on Jockey Fields SSSI it is considered the concerns have been addressed in relation to the SSSI.</p> <p>Concerns still remain in relation to the extent of the tress loss. Revised plans show all existing trees on site will be lost however tree planting will be created on the western buffer to create a wider native tree and shrub belt compensating for the loss. Some existing trees being of a size that would not be replicated within the new proposals, as such would not reach a similar ecological level of importance.</p> <p>In addition, the Jockey Fields SLINC is designated for its grassland, both semi-improved and marshy, and wetland habitats. Although it is agreed that the tree planting will occur within the modified grassland habitat the tree belt will be in close proximity to the fen and marshy grassland and has the potential to adversely impact these habitats, through drying out. As such although previous plans did show tree planting along the western edge, which could be supported as it will create a linear ecological corridor, the level of the planting now proposed raises concerns in relation to the appropriateness for the SLINC site and potential adverse impact to the features designated, which would contravene Policy ENV1 Nature Conservation.</p> <p>As such at this current time, level of tree loss and the location of the compensation tree planting proposed within the application is not supported.</p>	<p>Noted the removal of concerns in relation to the Jockey Fields SSSI.</p> <p>Noted concerns remain regarding the tree loss.</p> <p>Additional concerns noted in relation to Jockey Fields SLINC in relation to the potential adverse impact to the features designated. An additional refusal reason is considered necessary to reflect this objection in relation to the location of the compensation planting. The recommendation has been updated to reflect delegation back to officers to amend and finalise the reasons for refusal.</p>
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The applicant has submitted additional/amended information on 6th March 2023 in response to the Tree Officer comments.

- Further response to Arboricultural Comments, prepared by Rapleys;
- Updated Arboricultural Impact Assessment – prepared by RPS and dated 3 March 2023; and
- Landscape Details – Ref. R/2591/1C.

Tree Officer final comments: Objection maintained that the proposed development is unacceptable from an arboricultural perspective. Concerns summarised in relation to the latest details submitted:

1. The findings of the Arboricultural Impact Assessment are inaccurate and inappropriate;
2. The site has been assessed for the making of a Tree Protection Order, although it has been delayed by inaccurate location plans;
3. The proposed tree planting is considered inappropriate and does not address the removal of the existing high amenity value trees, particularly along the north and east boundaries;
4. The applicant now acknowledges that all trees must be removed from the site;
5. The proposed development will deliver some replacement planting to the rear of the site, out view from the general public but this does not replace, in amenity terms, the overall tree losses as a result of the development.

Noted an objection still remains in relation to the loss of the trees on site.

Therefore, the information contained in the recently submitted documents above does not overcome concerns and an objection as set out in refusal reason 2.

The Tree Officer has provided the following comments in addition to those of 15th Feb 2023:

Document 4680 AIA 030323 BW Walsall Lidl 760 (hereafter referred to as “the Tree Report”) refers to the following drawings/documents of which none appear to have been submitted either separately or included in the Tree Report:

- _1590_TOPO.dwg - Topographical Survey
- 190033 SK-18 - Proposed Site Plan - Topo Overlay – Proposed Site Plan
- Landscaping Levels Overlay - For Review Only.dwg
- 13307_100_Proposed Levels Plan.dwg

It is now acknowledged in both the Tree Report and the “Response to Arboricultural Comments” (hereafter referred to as “the Response”) that due to the difference between the existing and proposed site levels, all on-site trees will now have to be removed. As mentioned previously, this amounts to at least 97.

Previous comments also stated that the vast majority of the trees should have been classified, in accordance with British Standard 5837:2012, as B2 not C2. However, upon reflection, there is a strong argument to classify the trees as A2 - A2 – trees in groups of particular visual importance as arboricultural and/or landscape features.

Given that the trees fulfil the criteria for inclusion in a Tree Preservation Order (TPO), which assesses trees based on their

amenity value and any threat posed to them, it would seem more appropriate to classify the groups of trees as A2.

The subjective nature of tree inspections and assessments has resulted in conflicting opinions between the applicants Arboricultural Consultants and the Council's Tree Officers, it considered the trees have been unfairly downgraded and the applicant's argument that they are in poor condition is severely skewed.

The Response acknowledges the location of the proposed store will block part of the planting site to the rear from views of the main public viewpoint of Walsall Road. However, it downgrades the importance of the view from Walsall Road, stating "this view [from Jockey Fields] is more important, as the proposed development clearly needs to avoid significant adverse impact on the visual amenity to and from the open countryside to the west". I agree that the impact on the open space/green belt/SSSI/SLINC is important, but it doesn't preclude the importance of the view from Walsall Road. In any event, screening to the west can be achieved without removing all the trees and by amending the site layout or providing significantly more soft landscaped areas around the periphery and at strategic locations within the site. All of which have largely been ignored with the only responses being to mitigate the amount of tree losses through inappropriate planting.

On this note, the Response acknowledges the amount of tree removals has increased (to virtually clear fell the whole site) but justifies this with "significant replacement mature tree planting" of 111 trees. However, the submitted Landscape Plan (R-2591-1C) indicates that the tree planting to the west and southwest are 'standard trees' of 2.5-3m in height with a stem diameter of 2.5-3.0cm. These are not mature trees as stated in

<p>the Response and no different from the previous landscape submissions. So, the only amendment to the landscape proposals in this respect is the number of trees planted. Also, the addition of two extra trees to the front of the site, increasing the total number to 5, is not sufficient to increase the overall amenity value of the site although it is a slight improvement to the frontage area. As a slight aside, the choice of species requires amending and reconsideration should be given to mixing the species for greater biodiversity.</p>	
<p>Due to the amenity value of the trees on site and to the immediately surrounding area, a TPO is in the process of being made for all trees on site. Due to inaccuracies in the submitted plans, the TPO has not yet been finalised.</p>	<p>The trees have been assessed in line with a nationally recognised system, which states the trees definitely merit protection under a formal Tree Preservation Order (TPO). All TPOs are provisionally made for an initial period of 6 months in which time the Council must decide whether to confirm it or not.</p>
<p>The applicant submitted a supplementary letter for the consideration of members on 08/03/23. This is a 6 page document with key points summarised as follows:</p> <p><u>Investment in Walsall</u></p> <p>.Foodstore would deliver numerous substantial benefits to the local area</p> <ul style="list-style-type: none"> • A new discount retailer for Walsall Wood, to save residents money on their grocery shopping. • Up to 40 new well-paid jobs for local residents, which offer potential for career progression. • A sustainable store with rooftop solar panels and EV charging points. • Significant tree planting and landscaping, including the replacement of all trees lost on site as a result of the development. • Substantial ecological enhancements and significant biodiversity net gains, which will be protected under a 30-year Habitat Management Plan. 	<p>Noted, no additional material planning considerations raised.</p>

- Appropriate parking facilities.

Key material considerations

Support for the proposal from officers in relation to retail policy, highway safety and parking, design and layout of the development.

Proposed reasons for refusal

Refusal reason: Loss of trees - Additional tree planting proposed, in response to Tree Officer comments, to mitigate against loss. A total of 111 mature trees will be planted, representing a like-for-like replacement. An additional 132 immature trees will also be planted as part of the native buffer.

Refusal reason: Green Belt - Impact is considered to be negligible, as only 0.21 ha of the development area and approximately 20% of the proposed building falls within the Green Belt. The significant economic, environmental and social benefits of the development are considered to outweigh any perceived harm to the Green Belt.

Details on Ecology and Biodiversity Improvements

- The introduction of a native scrub buffer to the rear of the development, which will act as a natural defensible barrier between the development and the open countryside; and create new habitat for local wildlife.
- The replacement of the 'modified grassland' to the rear of the site with new enhanced 'natural grassland', which will improve the ecological value of this area.
- Improvements to the existing drainage ditch, which will provide more opportunity for river habitats.
- The introduction of urban trees (a total of 111 new mature trees, providing a like-for-like replacement of trees), hedgerows and other landscaping on the development area.

Notwithstanding the applicant's assertion, the tree officer retains their objection in relation to the loss of the existing trees on the site.

Notwithstanding the applicant's assertion, part of the site, regardless of the portion is within the Green Belt. The proposal has been assessed against National and Local Green Belt Policy and is considered the benefits claimed by the applicant are not considered very special circumstances for justification of appropriate development in the Green Belt.

Green Belt:

- The site is substantially previously developed.
- Only a small proportion of the foodstore (approximately 20% of the building lies within the Green Belt) with the rest of the foodstore curtilage being occupied by car parking which is low intensity.
- The site is bounded by development on both sides (significant commercial buildings to the east and residential to the west). The impact of the development in terms of the harm to the openness of the Green Belt must be considered in this surrounding context.
- The rear of proposed foodstore, with the significant landscape and tree buffer will form a strongly defensible boundary.
- The extensive landscaping and wider ecological habitat improvement will screen and soften the development over time limiting any visual impacts and any harm to the Green Belt in this location

Furthermore, the numerous significant economic, social and environmental benefits outlined above are considered to more than outweigh the perceived impacts on the Green Belt.

Conclusion

Overall it is considered:

- Any perceived harm to the Green Belt will be offset by the significant economic, environmental and social benefits of the development. In particular, the significant tree planting and ecological improvements will result in a positive environmental impact on the site and the surrounding the area (including open land within the Green Belt).
- The additional tree planting, proposed in response to the Tree Officer's comments, addresses the concerns raised by the Tree Officer. The proposed tree planting will result in like-for-like replacement of mature trees, with the potential for additional

immature trees (which will be managed under the 30-year Habitat Management Plan) to grow into maturity over the lifetime of the development.	
An EIA Screening opinion was been submitted (22/0484) in relation to the proposed development: <i>Environmental Impact Assessment (EIA) Screening Opinion for the proposed discount foodstore.</i>	Screening Opinion decision issued: <i>Environmental Impact Assessment not required</i> in line Town and Country Planning (Environmental Impact Assessment) (England) Regulations 2017
<p>Discrepancies within officer report:</p> <ul style="list-style-type: none"> • Policy LC8 of UDP within principle of development paragraphs not within policy section • Policies ENV1 of BBCS and ENV7 of UDP in refusal reason 1 not in polices section. <p>Application type is listed as “Use Class E(b) (Sale of Food and Drink)” but this should be “Use Class E(a) Display or retail sale of goods, other than hot food</p>	<p>Noted.</p> <p>This is due to a technical error in the Council’s system and has now been changed.</p>
<p>Recommendation: 1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Refuse Planning Permission subject to:</p> <ul style="list-style-type: none"> • The amendment and finalising of reasons for refusal 	

<p>Plans list Item number: 3 Application site address: MORRIS CAR AND COMMERCIAL VEHICLE REPAIRS, ROLLINGMILL STREET, WALSALL, WS2 9EG</p>	
<p style="text-align: center;">Supplemental Information</p>	<p style="text-align: center;">Officer Comments</p>
<p>Tree Preservation Officer comments: Object as the proposed building is too close to the neighbouring trees,</p>	<p>Recommend a further tree related reason for refusal.</p>

possibly resulting in severe root severance and consequent tree failures.	
Recommendation: 1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Refuse Planning Permission subject to:	
• The amendment and finalising of reasons for refusal	

Plans list Item number: 5	
Application site address: The Crown, 6 Leamore Lane, Walsall, WS3 2BH	
Supplemental Information	Officer Comments
<p>The applicant has provided the following comments contained within the Committee Report:</p> <ol style="list-style-type: none"> Noise Reduction – The applicant has proposed noise reduction measures to alleviate concerns, including installing sound insulation boards on a 100mm thick timber stud to improve sound environment by 23db. Cannock Chase SAC – The applicant has confirmed they are not against paying the SAC mitigation costs and has requested clarity on how the proposal impacts the SAC. 	<ol style="list-style-type: none"> Noise Reduction – The measures suggested are not acceptable to the Environmental Protection team as the unit adjacent to the premises is not the only source of noise emissions that could have an impact on the amenities of future occupants. This is the reason a noise survey was requested. Cannock Chase SAC – The mitigation payments apply to all decisions issued after 1 April 2022. Whilst this could be agreed, it is included as a reason for refusal as if any alternative decision is reached by committee or a Planning Inspector on appeal then the decision maker needs to ensure this is addressed or the decision would be unlawful. With regards to impacts on the SAC, any

3. **Ground Report** – The applicant has stated this this issue was not brought up previously and could be dealt with by condition.
4. **Storage Yard** – The applicant has stated that the unit adjacent to the site is used by the shop owner once a day to store goods for the shop.
5. **Housing Standards** – The applicant has stated that bedroom windows can be amended to meet Housing Standard’s criteria and highlight that West Midlands Fire Service have raised no objections in this regard.
6. **Noise Concerns** – The applicant has stated that there are already flats and houses near sources of noise at the site and ask if this has been considered within the assessment process.

application within 15km of the Cannock Chase SAC zone of influence that proposes a net gain of new dwellings is considered harmful to the SAC and requires mitigation measures or payments.

3. **Ground Report** – As the site is potential contaminated and satisfactory information has not been supplied at the current time this forms a reason for refusal.
4. **Storage Yard** – As mentioned in the noise reduction reply (1) above there is insufficient information to demonstrate a satisfactory residential environment can be achieved.
5. **Housing Standards** – It is accepted that the applicant has amended the floorplans so that the bedrooms have escape windows, as per Housing Standards comments. Housing Standards were reconsulted on the amended plans, with no comments received. However, as the plans have been amended in line with their comments this issue has been resolved.
6. **Noise Concerns** - Each application is assessed on their own merits, and we have to consider the information before us including consultation responses for this application. In our view the presence of existing residential uses doesn’t mean we don’t need to consider the noise environment at the application site, and we therefore maintain that a noise survey is required.

With regards to the above comments, please also note that it is accepted that there may be solutions to the above matters but given the one amendment policy and the need to progress cases – this application has not addressed all outstanding

	matters in the amendments provided so far and has therefore been brought to committee as a recommendation to refuse.
Recommendation: Refuse Permission	

Plans list Item number: 6	
Application site address: 124 Great Charles Street, Brownhills, Walsall, WS8 6AF	
Supplemental Information	Officer Comments
Police Designing Out Crime Officer has no objections and recommends the principles of Secured by Design. This can be included as an informative note, if approved.	No change to officer recommendation
Recommendation: 1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission subject to:	
<ul style="list-style-type: none"> • The amendment and finalising of conditions; • No further comments from a statutory consultee raising material planning considerations not previously addressed 	