



Planning Committee

Thursday 8 February 2024 at 5:30pm

Meeting Venue: Council Chamber at the Council House, Lichfield Street, Walsall

[Livestream Link](#)

Membership:

Councillor M. Bird (Chair)
Councillor M. Statham (Vice-Chair)
Councillor B. Bains
Councillor H. Bashir
Councillor P. Bott
Councillor M. Follows
Councillor N. Gandham
Councillor A. Garcha
Councillor A. Harris
Councillor C. Horton
Councillor A. Hussain
Councillor I. Hussain
Councillor K. Hussain
Councillor R. Larden
Councillor R. Martin
Councillor J. Murray
Councillor A. Nawaz
Councillor S. Samra
Councillor A. Underhill
Councillor V. Waters

Quorum:

Seven Members

Democratic Services, The Council House, Walsall, WS1 1TW
Contact name: Edward Cook Telephone: 01922 653204 Email: edward.cook@walsall.gov.uk
[Walsall Council Website](#)

**If you are disabled and require help to and from the meeting room,
please contact the person above**

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 Specified pecuniary interests

The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Localism Act 2011 are the interests specified in the second column of the following:

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a member in carrying out duties as a member, or towards the election expenses of a member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Regulations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to a member's knowledge):</p> <p>(a) the landlord is the relevant authority;</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to a member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one</p>

	hundredth of the total issued share capital of that class.
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Schedule 12A to the Local Government Act, 1972 (as amended)

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
 - (a) to give any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Information being disclosed during a meeting of a Scrutiny and Performance Panel when considering flood risk management functions which:
 - (a) Constitutes a trades secret;
 - (b) Its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the risk management authority);
 - (c) It was obtained by a risk management authority from any other person and its disclosure to the public by the risk management authority would constitute a breach of confidence actionable by that other person.

Part 1 – Public Session

- 1. Apologies**
- 2. Declarations of Interest**
- 3. Deputations and Petitions**
- 4. Minutes of the Previous Meeting**

To approve and sign the minutes of the meeting held on 15 January 2024.

Copy enclosed (pp.6-17)

- 5. Local Government (Access to Information) Act, 1985 (as amended):**

To agree that the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.

- 6. Application list for permission to develop:**

- a) Items subject to public speaking;
- b) Items 'called-in' by members
- c) Items not subject to 'call-in'

Copy enclosed (pp.18-90)

- 7. Date of next meeting**

The date of the next meeting will be Thursday 7 March 2024.

Minutes of the Planning Committee held in The Council Chamber, Walsall Council House

Monday 15 January 2024 at 5:30pm

Committee Members present:

Councillor M. Bird (Chair)
Councillor M. Statham (Vice-Chair)
Councillor B. Bains
Councillor H. Bashir
Councillor P. Bott
Councillor M. Follows
Councillor N. Gandham
Councillor A. Garcha
Councillor A. Harris
Councillor A. Hussain
Councillor I. Hussain
Councillor K. Hussain
Councillor R. Larden
Councillor R. Martin
Councillor J. Murray
Councillor A. Nawaz
Councillor S. Samra
Councillor A. Underhill
Councillor V. Waters

Officers Present:

P. Venables	Director – Regeneration and Economy
A. Ives	Head of Planning and Building Control
M. Brereton	Group Manager – Planning
M. Crowton	Group Manager – Transportation and Strategy
K. Gannon	Development Control and Public Rights of Way Manager
C. Gibson	Regeneration Officer – Trees
S. Healy	Senior Environmental Protection Officer
D. Holloway	Planning Policy Manager
I. Jarrett	Principal Environmental Protection Officer
G. Meaton	Team Leader Development Management
A. Scott	Senior Planning Officer
D. Smith	Senior Legal Executive
S. Wagstaff	Principal Planning Officer
E. Cook	Democratic Services Officer
L. Cook	Assistant Democratic Services Officer

65 Apologies

There were no apologies received.

66 **Declarations of Interest and Party Whip**

Councillor Bird declared an interest in Item 8 – Development Management Performance Update in the public session.

67 **Deputations and Petitions**

There were no deputations or petitions submitted.

68 **Minutes**

A copy of the Minutes of the meeting held on the 30 November 2023 was submitted.

[annexed]

Resolved

That the minutes of the meeting held on 30 November 2023, a copy having previously been circulated to each member of the Committee, be approved and signed by the Chair as a correct record.

69 **Local Government (Access to Information) Act 1985 (as amended)**

Exclusion of the Public

Resolved

That, during consideration of the items on the agenda, the Committee considers that the relevant items for consideration are exempt information for the reasons set out therein and Section 100A of the Local Government Act 1972 and accordingly resolves to consider those items in private.

70 **South Staffordshire local plan review – Duty to Cooperate**

The Planning Policy Manager introduced the report of the Head of Planning and Building Control and information contained in the supplementary paper, providing an overview of the proposed responses to South Staffordshire District Council's local plan consultation.

[annexed]

It was **moved** by Councillor Bird and **seconded** by Councillor Nawaz and upon being put to the vote it was

Resolved (unanimously)

- 1. That the Planning Committee agree the wording set out in appendix 1 as a basis for Walsall Council's response to the letter from South**

Staffordshire District Council dated 24 October 2023 under duty to cooperate;

- 2. That the Planning Committee refer the response to the Executive Director for Economy, Environment & Communities to submit it to South Staffordshire District Council following consultation with the Portfolio Holder for Regeneration.**
- 3. That the Planning Committee delegate authority to the Head of Planning & Building Control to make amendments to the response following consultation with the Portfolio Holder for Regeneration as necessary.**

Councillor Bott entered the meeting.

71 **Local Validation Checklists**

The Group Manager (Planning) introduced the report of the Head of Planning and Building Control and the information contained in the supplementary paper.

[annexed]

It was **moved** by Councillor Bird and **seconded** by Councillor Statham and upon being put to the vote it was

Resolved (unanimously)

That the Planning Committee note the outcome of consultation and the intended implementation date of Thursday 1 February 2024.

Councillor Bird, having previously declared an interest in the next item, and Councillor Samra left the meeting. Councillor Statham took the Chair.

72 **Development Management Performance Update**

The Group Manager (Planning) introduced the report of the Head of Planning and Building Control and the information contained in the supplementary paper.

[annexed]

The Chair reminded members they were only considering information in the public session and that 'Table 3' would be considered as agenda item 10 in the private session.

Responding to questions regarding unspent Section 106 (S106) funding in Children's Services, the Head of Planning and Building Control explained that service areas were responsible for spending money collected from S106 agreements. Funds collected were restricted to specific areas and other

service areas, including Education, were represented on the Section 106 Board. The Group Manager (Planning) explained that a process had been introduced where service areas contacted ward Councillors for their preferences on S106 funding. Members discussed whether this system was sufficiently robust and was being practiced, with varying levels of satisfaction. It was noted that the report presented a snapshot of funds at the date of publication and it was possible unspent funds may have only recently been collected.

The Group Manager (Planning) explained that the historic backlog of applications was being cleared due to a combination of permanent staff and contractors. It was expected that proposed changes to the Planning service would mean that permanent staff would be sufficiently resourced to prevent the issue re-arising. Regarding scrutiny of the Cannock Chase SAC, the Head of Planning and Building Control explained that it was a statutory requirement to collect SAC contributions and officers would seek to gather and incorporate further data regarding contributions into future reports.

It was **moved** by Councillor Nawaz and **seconded** by Councillor Gandham and upon being put to the vote it was

Resolved (unanimously)

That the Committee note the outcomes of monitoring performance within the service.

Councillor Bird and Councillor Samra returned to the meeting. Councillor Bird returned to the Chair.

73 **Application List for Permission to Develop**

The application list for permission to develop (the plans list) was submitted, together with a supplementary report which provided additional information on items already on the plans list.

(annexed)

The Committee agreed to deal with the items on the agenda where members of the public had previously indicated that they wished to address the Committee first. The Chair, at the beginning of each item for which there were speakers, confirmed they had been advised of the procedure whereby each speaker would have two minutes to speak.

74 **Plans List 1 – 23/0496 – Former Gala Bingo, Park Lane, Darlaston**

The Principal Planning Officer introduced the report of the Head of Planning and Building Control, including information contained within the supplementary report.

[annexed]

The Group Manager (Planning) clarified that officers had been clear from the pre-application period onwards that the principle of the development could be supported but that highways concerns would be extremely difficult to overcome as the existing access off Steelmans Road was considered appropriate to serve the development without the requirement for an additional access onto Park Lane.

There were two speakers in support of the application, Mr Wheelwright and Mr Budd. Mr Wheelwright expressed that the proposed development had been welcomed by the public and would redevelop a vacant site providing new jobs and a useful amenity. He added that most consultees had raised no objections; issues related to trees could be overcome through additional planting; and that Lidl disagreed with the objections of the Highways officer.

Mr Budd disputed the Highways officer's objections, claiming there was no evidence that the proposal would lead to queueing, the largest forecast queue being 1.2 cars. He added that in his opinion the proposal was not in contravention of policy T4 as the policy did not prohibit street parking on key route networks. Mr Budd's opinion was that it was more appropriate to view Park Lane as a local distributor than a district distributor. He added that Steelman's Road was compromised by being one-way southbound, forcing all north-bound traffic through two congested roundabouts. Regarding insufficiency of parking, Mr Budd stated the proposal provided nine spaces short of the maximum required and that demand assessments showed only 50% of the provision was needed.

There followed a period of questioning to speakers.

Responding to questions, Mr Budd stated that the maximum legal width of Lidl's delivery vehicles was 2.5m and Park Lane was nearly 10m wide. Lidl's standard model was for approximately 120 parking spaces, if possible on the site. Mr Wheelwright stated he had never come across a store needing 142 spaces and that this requirement was the result of an outdated and inappropriate standard for this proposal. A similar store in Prestwich, Greater Manchester, had approximately 80 parking spaces and Mere Green had around 120. The proposed development benefitted from good public transport connections and would seek to improve all modes of access.

Regarding the need for a new access point, Mr Budd explained that the limitations of the existing access included that it was shielded from passing trade and that it was one-way in the southbound direction, so would be problematic for traffic entering and would impact deliveries being made to other stores. Responding to a question regarding the classification of Park Lane, Mr Budd explained that the road didn't feel like a district distributor in his opinion, with several accesses off it. In his opinion it was not important whether the road was considered a 'local' or 'district' distributor when considering policy T4 as both required 'strictly regulated' accesses, which the proposal would provide. Modelling had forecast a maximum queue of 1.3

PCUs at peak times on a Saturday. Mr Budd added that Lidl stores did not add traffic to the network but drew in existing traffic.

Regarding visual amenities and trees, Mr Wheelwright explained that the applicant would accept a condition to increase tree planting.

There followed a period of questioning of officers.

Regarding the sufficiency of car parking, the Development Control and Public Rights of Way Manager explained that the applicant's claim that a minimum standard did not exist was incorrect as policy required a development to be able to meet its needs. The proposed development would provide insufficient disabled provision and Lidl's travel plan coordinator had requested a survey of on-street parking available in the area, should staff be required to park elsewhere due to excess demands. Since the pre-application phase the area within the 'red line' of the development had been reduced significantly and no forecast vehicle usage had been provided for the area now within the 'blue line' and not subject to the present application. Evidence provided by the applicant to show that Lidl redirected journeys already existing on the highways network, was out of date and unclear.

The Development Control and Public Rights of Way Manager explained that Lidl's arguments regarding policy T4 and an access from Park Lane not being prohibited, did not consider the policy context and that the classification of the highway as a district distributor was directed by Government. Highways officers had explained that the existing access was suitable and was located away from the main district distributor. The Development Control and Public Rights of Way Manager added that the only reason to justify the proposed access from Park Lane was for the commercial benefit of the applicant.

The Development Control and Public Rights of Way Manager added that according to the Manual for Streets guidance, the minimum width required for an HGV was 3m. The addition of a central, turning lane on Park Lane, would result in the 'running lanes' of traffic being below 3m in width. Tracking showed that an HGV turning into the proposed access would cross the path of outgoing traffic, contrary to policy. No consideration had been given to whether HGVs access was required at the neighbouring restaurant and bar and traffic turning right out of James Close would be put at risk by queueing traffic and having to cross two lanes. Officers could not support a road safety audit as the proposed access was deemed unsafe.

With the Committee's permission, the Chair asked the speaker to clarify when HGV delivery times for the store may be. Mr Budd explained that it was incomprehensible deliveries would occur during peak hours and that a delivery and servicing management plan could be devised to restrict times.

Debating the application, Members raised concerns regarding traffic on Park Lane, neighbouring traffic islands and nearby streets. Several Members expressed the opinion that some reasons for the recommendation to refuse planning permission could be addressed through conditions, including the concerns regarding trees. Several Members expressed that they were

supportive of the principle of the development and encouraged the applicants to work with officers to resolve the outstanding concerns, but that any application must be deemed safe.

It was **moved** by Councillor Nawaz and **seconded** by Councillor Gandham and upon being put to the vote it was;

Resolved (unanimously)

That Planning Committee defer application 23/0496 to enable further negotiations between the applicant and planning officers to overcome the outstanding recommended reasons for refusal regarding highways concerns and that Planning Committee delegate authority to the Head of Planning and Building Control to:

- a. **Seek an extension of time for determining the application;**
- b. **Negotiate with the applicant to overcome the outstanding issues relating to highways, with vehicular access from Steelmans Road and no vehicle access from Park Lane;**
- c. **Grant planning permission subject to conditions, subject to the highways concerns being successfully addressed;**
- d. **Refuse planning permission for the reasons set out in the officer's report, should officers and the applicant be unable to satisfactorily resolve the outstanding highways reasons for refusal.**

75 **Plans List 2 – 22/0381 59-61 – Wednesbury Road, Walsall**

The Principal Planning Officer introduced the report of the Head of Planning and Building Control, including information contained within the supplementary report.

[annexed]

There were three speakers on the item: Ms Parkes and Bishop Dr Jaddoo speaking against the application and Mr Siddique speaking in support of the application.

Ms Parkes stated that residents had not been considered and there were already multiple similar properties in the area. The area had a long and widespread history of crime and was not an appropriate place to house vulnerable individuals. There were significant parking challenges which would be exacerbated by the proposed development and long-standing issues of litter and fly-tipping.

Bishop Dr Jaddoo stated that nobody had consulted the neighbouring church nor residents; that anti-social behaviour (ASB) was rife in the area and that properties managed by Aspire Supported Living CIC, the proposed providers, were consistently blighted by crime and mismanagement. Bishop Dr Jaddoo stated that he had been advised that Aspire were no longer interested in the premises.

Mr Saddique stated that the applicant's details had been on all parts of the application and residents could have contacted them with concerns throughout. The application had been amended from 17 to 11 properties through consultation with the local planning authority; planning requirements had been met and no objections had been received from statutory consultees, including the police.

Members sought clarification from Mr Saddique as to the identity of the applicant, Keystone Homes Ltd. Members noted it was important this information was clear, should the Committee be minded to approve the application and issues subsequently arose.

At this point, Councillor Bird moved and it was duly seconded, that Standing Order 9a be suspended in order to enable the remaining business to be transacted. The meeting consented.

Councillor Martin left the meeting.

Responding to questions, Mr Saddique stated that the safety of residents would be the responsibility of the provider adding that statutory consultees including the police had not raised objections regarding crime or safety issues. Mr Saddique stated it was his understanding that Aspire were still expected to be the provider. Residents would be vulnerable adults with challenges such as learning difficulties. The application was for supported living rather than HMOs. He stated that statutory consultees had not objected on safety grounds, including the police, and while residents' concerns were acknowledged by the applicant, the correct processes had been followed and the application was compliant.

Councillor Martin returned to the meeting.

Ms Parkes expanded on residents' concerns regarding issues related to similar existing properties and supported living providers in the area, including that residents being threatened; the prevalence of prostitution; a neighbour had recently found someone breaking into their shed; and one existing property had no waste management strategy and had litter on the forecourt for three years before action was taken.

In response to a question regarding whether residents objected in principle or to the specifics of the application, Bishop Dr Jaddoo explained that residents believed 11 apartments was excessive for the area and there were concerns regarding the inability of residents to contact the applicants through the application process. Mr Saddique stated that residents had been consulted through the statutory notices and consultation period undertaken by the planning authority.

Regarding questions about concerns raised by consultees, Mr Saddique explained that a fire hydrant had been provided to mitigate the fire authority's comment regarding the width of the access to the property and that the supported living providers would be required to provide a waste management strategy and sufficient bins for residents.

Responding to questions regarding parking, Mr Saddique clarified that the planning and highways authorities were satisfied only two spaces were required for use by staff. Ms Parkes stated that the area suffered from a lack of parking and residents regularly had to park elsewhere.

Responding to questions to officers, the Principal Planning Officer explained that statutory consultees had raised concerns, including the Fire Service and Police, however these were not objections in principle. Where possible, the applicant had tried to address concerns. The Police had made Secured by Design suggestions and had requested a robust safety strategy which could be secured by conditions. The highways concerns raised by the Police had not been raised by the statutory highway consultee and Police concerns regarding the conflict between cars and pedestrians had been related to an earlier design which included parking within the courtyard area. This had since been removed.

Regarding disability access arrangements, it was explained that where a building was being converted from another use it was not always possible for disabled access provision to be achieved as well as would be desired and building regulations and policy covered this. The Group Manager (Planning) confirmed that the identity or potential characteristics of future occupiers was not a material planning consideration.

The Principal Planning Officer confirmed that the statutory consultation process had been followed. The Group Manager (Planning) confirmed that all applications were subject to a validation process but the onus was on the applicant to submit accurate information and the planning authority must take all applications as submitted at face value.

Debating the application, Several Members raised concerns regarding the appropriateness of housing vulnerable adults in an area with significant crime issues and Members discussed whether the potential for vulnerable occupants of a property to be subjected to an increased risk of crime could be considered a material planning consideration. Several Members expressed the opinion that the proposal represented an HMO in all but official classification and was in an area saturated with HMOs and poorly managed private rental accommodation. Several Members raised concerns regarding three of the properties being considered below required standards and the already existing highways issues regarding traffic, parking and nearby junctions.

It was **moved** by Councillor Nawaz and **seconded** by Councillor K. Hussain and upon being put to the vote it was;

Resolved (18 in favour, 0 against)

That Planning Committee refuse Planning Permission for application 22/0381, contrary to officers' recommendations, on the grounds that:

- a. **The suitability of the development is unacceptable because three apartments are sub-standard, being below required space standards, and the amenity space provided is inadequate for the proposal;**
- b. **The application fails to provide sufficient disabled access for residents with disabilities;**
- c. **The area has a high crime rate and the increased fear of crime is a distinct possibility;**
- d. **There is a lack of adequate parking and the close proximity to Wednesbury Road junction would have a harmful effect on the amenities of existing residents and highways safety; and**
- e. **The lack of a satisfactory waste management plan.**

There followed a short adjournment to fix the live-stream camera feed in the Chamber.

Councillor A. Hussain left the meeting.

76 **Plans List 4 – 23/1097 – 89 Belvidere Road, Walsall**

The Senior Planning Officer introduced the report of the Head of Planning and Building Control, including information contained within the supplementary report.

[annexed]

There were two speakers in support of the application, Ms Hussein and Ms Khambay. Ms Hussein stated that the dwellings on Belvidere Road were of varied styles and eras, including one three-storey, rendered building. The design included gabling to provide character and the height was the same as the existing property. Ms Khambay added that walls and railings had been added to secure the property and that the development was in proportion to the area. The garage was required to accommodate two disability cars and scooters for elderly relatives; rear windows had been raised and the 24sq.m of amenity space stated in the report did not consider the overall 68sq.m of space when including areas at the front of the property.

Responding to questions, the speakers stated they had worked with two case officers but had little communication with one. The proposed garage space would enable the storage of disabled vehicles and allow the applicant's elderly parents freedom to move around. The speakers stated that the property was not in a heritage area. Within the nearby heritage area, there were similar properties to the proposed design. No protected trees had been removed from the front of the property as part of work already undertaken.

Responding to questions, the Senior Planning Officer and Team Leader (Development Management) clarified that the height of the proposed dwelling was not higher overall than the existing property but that the span of the roof at the maximum height was significantly greater, including at the section adjacent to the lower-level neighbouring property. The proposed footprint was similar to the existing building but located 1.8m further forward.

Responding to a question regarding amenity space, the officer acknowledged that there was a large space to the front of the property however it was questionable if any of this could be considered amenity space and noted that private amenity space was generally located to the rear. The Group Manager (Planning) clarified that the objection regarding 'overlooking' applied despite obscured glass, as there was a 'perception' of overlooking.

In response to questions regarding highways objections, the Development Control and Public Rights of Way Manager explained that the introduction of a second access would be expected to be set back. Tracking drawings showed insufficient detail and would be further compromised if land at the front was to be considered 'amenity space'. The proposed 1.8m high fencing would restrict visibility and given the proximity to a school, should be no higher than 600mm. The Development Control and Public Rights of Way Manager clarified that it may be contended a second access already existed but there was no dropped kerb and this would be an unauthorised access.

It was **moved** by Councillor Gandham and **seconded** by Councillor Samra and upon being put to the vote it was;

Resolved (10 in favour, 8 against)

That Planning Committee refuse planning permission for application 23/1097, for the reasons set out in the officer's report and the supplementary paper.

77 **Plans List 3 – 22/0976 & 22/0977 – 414 Bosty Lane, Aldridge**

The Committee considered the report of the Head of Planning and Building Control.

[annexed]

It was **moved** by Councillor Bird and **seconded** by Councillor Harris and upon being put to the vote it was;

Resolved (unanimously)

- 1. Planning Committee resolve to delegate to the Head of Planning & Building Control to grant planning permission for application 22/0976 subject to conditions and subject to:**
 - The amendment and finalising of conditions.
 - Minor amendments to the plans in respect of heritage details.
 - No further comments from a statutory consultee raising material planning considerations not previously addressed.

- 2. Planning Committee resolve to delegate to the Head of Planning & Building Control to grant listed building consent for application 22/0977 subject to conditions and subject to:**

- **The amendment and finalising of conditions.**
- **Minor amendments to the plans in respect of heritage details.**
- **No further comments from a statutory consultee raising material planning considerations not previously addressed.**

78 Private Session

Resolved

That during consideration of the remaining items on the agenda, the Planning Committee considers that the items for consideration are exempt information by virtue of Paragraph 3 of Part I of Schedule 12A of the Local Government Act, 1972, and accordingly resolves to consider the items in private.

79 Development Management Performance Update - Progress of Formal Enforcement Actions

Exempt information under paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)

The Committee considered the report of the Head of Planning and Building Control.

[annexed]

Resolved (by assent)

That the Committee note the outcomes of monitoring performance within the service.

64 Date of next meeting

The date of the next meeting would be 8 February 2024.

There being no further business, the meeting terminated at 21:21pm.

Signed:

Date:



Development Management Planning Committee

Report of Head of Planning and Building Control on 08/02/2024

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Item	Planning Application Number	Planning Application Site Address	Planning Application Proposal	Officer Recommendation	Page
1	22/1548	BESCOT TRIANGLE, BESCOT ROAD, WALSALL WARD: PALFREY AND PLECK WARDS	OUTLINE APPLICATION FOR PROPOSED ERECTION OF A B2 INDUSTRIAL UNIT, THE CREATION OF AN OPEN STORAGE AREA AND ASSOCIATED OFFICE (B8) AND ASSOCIATED INFRASTRUCTURE (ACCESS ONLY TO BE CONSIDERED). (AFFECTS PROW WAL107).	GRANT PERMISSION SUBJECT TO CONDITIONS	20-41
2	23/0929	GREEN LANE MOTOR SALVAGE, FRYERS ROAD, BLOXWICH WARD: BIRCHILLS LEAMORE	PROPOSED CHANGE OF USE FROM OPEN AIR STORAGE (CLASS B8 - STORAGE AND DISTRIBUTION) TO A SCRAP METAL PROCESSING AND END OF VEHICLE LIFE CENTRE (SUI GENERIS) RESUBMISSION OF 22/1386.	REFUSE PERMISSION	42-50
3	23/0613	25 AND 27 LITTLE ASTON	PROPOSED DEMOLITION OF 25 & 27 LITTLE ASTON	REFUSE PERMISSION	51-77

		ROAD, WALSALL WARD: ALDRIDGE CENTRAL AND SOUTH	ROAD AND THE ERECTION OF 2 NO. FOUR BEDROOM DETACHED TWO STOREY DWELLINGS AND 4 NO. THREE BEDROOM DETACHED BUNGALOWS, ACCESS DRIVEWAY, LANDSCAPING AND ASSOCIATED WORKS.		
4	23/1162	10, DOWNHAM CLOSE, WARD: PHEASEY PARK FARM	PROPOSED 4 BEDROOM DETACHED DWELLING WITH ASSOCIATED OFF- STREET PARKING FOR 3NO. VEHICLES.	REFUSE PERMISSION	78-90

Planning Committee

Report of Head of Planning and Building Control on 8 February 2024

Plans List Item Number: 1

Reason for bringing to committee

Departure from the Unitary Development Plan

Application Details

Location: BESCOT TRIANGLE, BESCOT ROAD, WALSALL.

Proposal: OUTLINE APPLICATION FOR PROPOSED ERECTION OF A B2 INDUSTRIAL UNIT, THE CREATION OF AN OPEN STORAGE AREA AND ASSOCIATED OFFICE (B8) AND ASSOCIATED INFRASTRUCTURE (ACCESS ONLY TO BE CONSIDERED). (AFFECTS PROW WAL107).

Application Number: 22/1548

Case Officer: Stephanie Hollands

Applicant: Corbally Group (Bescot) Limited

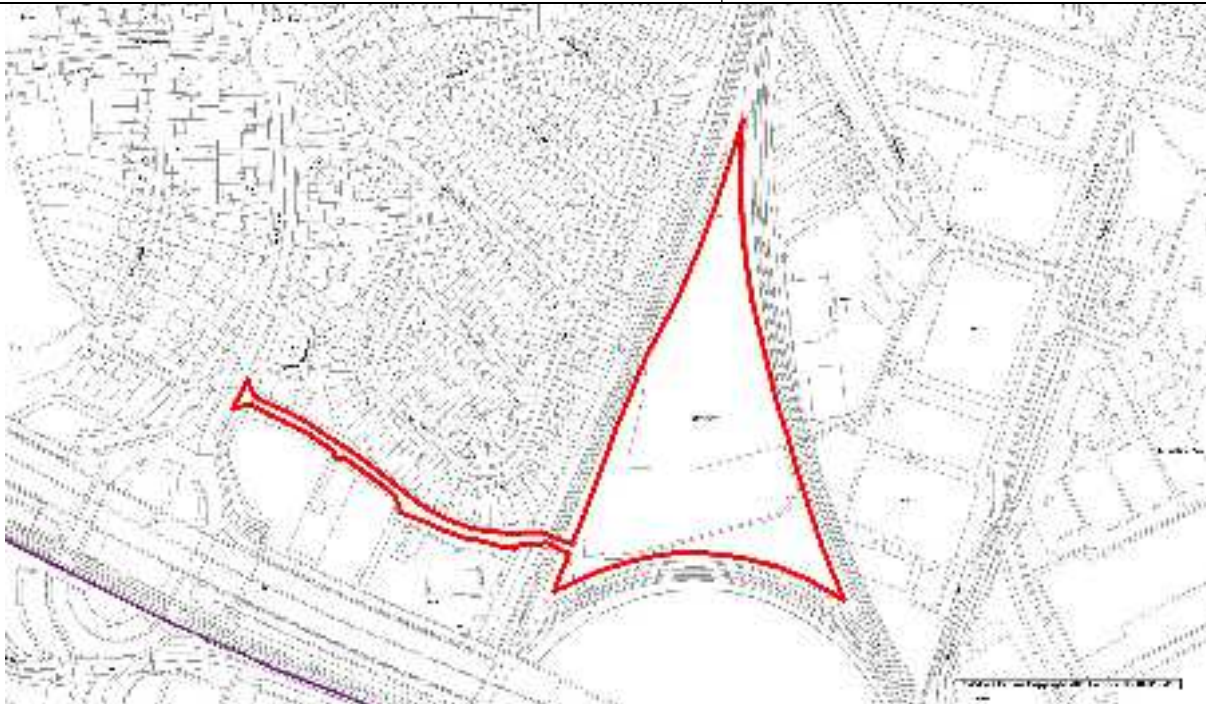
Ward: Pleck, Palfrey

Agent: Cerda Planning Limited

Expired Date: 14-Feb-2023

Application Type: Outline Permission: Major Application

Time Extension Expiry: 09-Feb-2024



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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;
- No further comments from a statutory consultee raising material planning considerations not previously addressed.

Proposal

Outline application for proposed erection of a B2 industrial unit, the creation of an open storage area and associated office (B8) and associated infrastructure (access only to be considered). (Affects PROW Wal107).

On land off Bescot Road in Walsall, the application seeks outline planning consent for the Erection of an B2 industrial unit (465sqm's gross internal floor space), the creation of an open storage area (9616sqm's gross floorspace), and an associated office (B8) (93sqms gross internal floorspace), as well as associated infrastructure. The existing site access is to be retained with a small new section of estate road within the site boundary. To provide the most optimal layout for the open storage area, the proposed buildings have been placed in the south-west corner of the site, closest to the site entry. This also allows for larger vehicles to have a direct route to the open storage area. The proposal provides 15 no. car parking spaces with additional overspill surface car parking denoted within the open storage area.

Access into the application site will be via the private unnamed road off the main road network as per the existing site configuration. The movement of vehicles, visitors and personnel within the site will be managed by site personnel.

The proposed B2 Industrial Unit and the Associated Office (B8) buildings will typically feature metal profiled cladding to the walls and roof profiles with associated metal flashing details. The proposed materials will reflect the features of typical surrounding industrial units but with a contemporary colour palette and design. Any new openings and glazed areas will be identified in the detailed design.

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

- Transport Statement
- Planning Statement, Addendum and Addendum 2
- Ecological Appraisal
- Arboricultural Statement and Tree Condition Survey
- Design and Access Statement
- Flood Risk Assessment
- Interpretative Desk Study
- Air Quality Assessment
- Site Investigation Interpretative Report
- BNG Calculation
- Ecology Technical Note – BNG Calculations and Ecology Technical Note – Additional Ecological Information
- Biodiversity Metric

Site and Surroundings

The red line application area consists of approximately 2.82 hectares (6.97 acres) of land. The site is located within Land off Bescot Road.

The existing site levels which will be retained and are generally set lower than the surrounding road levels. Level difference occur from the north woodland area to the south woodland area.

The predominant character of the buildings in the surrounding area comprises of 2 storey residential properties to the west beyond the railway line. To the east railway line are established industrial units providing a variety of use classes. To the south beyond the M6 motor way lies additional established industrial uses.

The application site, a former sewage works, comprises vacant land which has a triangular footprint. The site is heavily enlaced with woodland areas to the north and is bound by railway lines to the east & west. A former additional railway live line now disused and overgrown with trees lies to the south behind a Public Right of Way.

The primary vehicular and pedestrian access is from Bescot Road via a private unnamed road. Site access is under the bridge serving the railway line to the west of the site. This existing access is to be retained.

The site has some established existing trees along the site boundaries which are to be retained. Some trees are to be removed as part of the proposed development due to the low value amenity they are currently offering.

The site is located mostly within Flood Risk Zone 1. Land within Flood Zone 1 has been assessed as having less than 1 in 1,000 annual probability of river or sea flooding (<0.1%). However, the southern part of the site falls within Flood Risk Zone 2 with a medium probability of flooding and Zone 3 with a high probability of flooding.

The land at Bescot Road is enclosed between two active railway lines at the eastern and western boundaries. The southern boundary is enclosed by a disused railway line, by a woodland area, a small parcel of land and then the M6. The site is a short walk from Bescot railway station and Walsall FC Stadium. It is 0.4 miles from Junction 9 of the M6 motorway, providing transport links from Rugby, Birmingham, Stock-on-Trent, Liverpool, Manchester, Preston, Lancaster, and Carlisle.

The site is approximately 1.7 miles from the town of Walsall which offers a variety of shops, restaurants, cafes, and leisure activities.

The wider area comprises a mixture of residential suburban development to the west with industrial and retail units to the east and south.

Relevant Planning History

02/0116/FL/W3 - Erection of security hut and 2.4m fence and 5 parking spaces Grant Permission Subject to Conditions – 25/04/2002.

02/0115/FL/W3 - DSM Demolition, Former Sewerage Works, off Bescot Road, Walsall - Temporary variation of condition 13 of permission BC34476P to extend the hours of operation – Refused permission – 17/01/2002.

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

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

On **planning conditions**, the NPPF (para 56) 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 in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

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

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.6 to 3.8 Environmental Improvement
- 3.9 Derelict Land Reclamation
- 3.11 Forestry and Trees
- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- JP8: Bad Neighbour Industrial Uses
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High-Quality Employment Areas
- EMP4: Maintaining a Supply of Readily Available Employment Land
- EMP5: Improving Access to the Labour Market
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN3: The Efficient Movement of Freight
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

- IND3: Retained Local Quality Industry
- OS1: Open Space, Sport and Recreation
- M1: Safeguarding of Minerals Resources
- RC1: Inside a Regeneration Corridor
- RC1: Outside Regeneration Corridor
- EN3: Flood Risk - Flood Zone 3
- EN3: Flood Risk - Flood Zone 2

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands, and hedgerows

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

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- 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

Officer comments in italics

Coal Authority: Do not object and recommend an informative note.

Ecology Officer: No objection recommends conditions relating to a Construction Environment Management Plan, Landscape and Ecological Management Plan and boundary fencing.

Environment Agency: No objection.

Environmental Protection: Recommend conditions relating to hours of operation, an air quality assessment, noise assessment and contaminated land investigation and remediation.

Local Highways Authority: Supports the outline application, subject to conditions relating to access road, parking and vehicle manoeuvring areas.

Network Rail: No further comments or concerns.

Public Rights of Way: Object to the proposed development, as insufficient details are currently available, to confirm safe public access along the public right of way at all times during introduction of the proposed development.

The Public Rights of Way Officer has provided a condition to address the above concerns.

Severn Trent Water: No objection subject to the inclusion of a drainage condition.

Strategic Planning Policy: Objection due to loss of the open space.

Tree Preservation Officer: Recommend conditions.

West Midlands Police: No objection. Note for applicant.

Representations

The application was advertised by way of the display of a site and press notices and notification letters sent to surrounding properties. The public consultation time expired 31st July 2023 on the latest amended plans.

Seven comments received (some duplicates) objecting to proposal for the following reasons:

- Vibration
- Noise
- Dust
- Disruption
- Increased traffic
- Unsuitable road surface
- Impacts on health
- Increased pollution
- Effects on wildlife
- Trees act as screen for the noise
- Board description of use
- SLINCS designated area

Comments regarding devaluing properties, rights of access and damage to properties from existing uses are non-material planning considerations.

Determining Issues

- Principle of Development
- Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways
- Ecology
- Flood Risk / Drainage
- Trees / Protected Trees
- Ground Conditions and Environment

Assessment of the Proposal

Principle of Development

The loss of the open space [in principle] remains a point of contention and objection for Strategic Planning Policy, contrary to SAD policy OS1, with the premise that open space does not have to be physically accessible to the public to be of public benefit.

In terms of the impact on the SLINC designation, while recognising that landscaping will be a reserved matter should this outline be approved, there have been a number of discussions between our Ecologist and the applicants' Ecologist, with the latest revised scheme showing the maintenance of a 25 m [min.] wide wildlife corridor between the East boundary of the proposed storage area and the railway line, and, subject to there being controls on landscape and nature conservation enhancements being in place across the whole site, this make the mitigation, compensation and enhancement of that impact on balance, marginally acceptable under the existing policy framework.

While Policy holds an objection with regard to the loss of the open space, it is realised that this may need to be placed in the planning balance. At the time the land was designated as open space it was unlikely that it would be developed. The application proposal provides some benefits, including a number of jobs to be created. Finally, some of the open space is still being retained around the edges of the site in order for the development to meet the requirement stated with Policy ENV1: Nature Conservation so that development should not negatively impact Sites of Local Importance for Nature Conservation (SLINC) with the ecological benefits of this being managed.

It is considered that, on balance, the above reasons marginally outweigh the development plan allocation, and the principle of the application can be supported.

Layout and Character

The proposed industrial unit, office building and car parking spaces would be at the far western side of the site where it is accessed off Bescot Road. The proposed buildings size and scale would not be out of keeping with the surrounding area and will be screened from the wider residential area by existing trees and woodland and so would not be overly obtrusive or detrimental to residential amenities. In the event that the proposals could be supported subject to safeguarding conditions. This would accord with saved UDP policies GP2, ENV32 and JP8.

Amenity of Neighbours and Amenity of Future Occupiers

The proposed access to the development site is a service road that runs in a south-easterly direction from the entrance off Bescot Road, near to Junction 9 of the M6 motorway, to the first railway bridge. The service road is located to the rear of numbers 133 to 173 Dickinson Drive, is approximately 250 metres long with land registry identifying the initial 140 metres near Bescot Road, in the ownership of Severn Trent Water Ltd, and the remaining being owned by Highways England Company Ltd.

Historically, Walsall Council have received noise, vibration and dust complaints from Dickinson Drive residents due to a fleet of HGVs travelling along the service road to access the waste recycling activity located at the end of the service road and currently operated by AB Waste Management Ltd. Of note is that the Council does not have responsibility for maintenance of the service road and complaints are caused by vehicles, particularly HGVs, travelling at speed over an uneven road surface. An informal 10mph speed limit exists to minimise this impact, but this cannot be enforced by the Police or Council.

Whilst the site occupied by AB waste Management Ltd is regulated by the Environment Agency, there is no control over the use of the service road. Also of note is that the Environment Agency do not impose any time constraints on operations or restrict the days of the week that AB Waste Management Ltd operate and complaints have been received concerning HGV movement early morning, late evening and at weekends.

With a view to minimising the impact of the use of the service road on Dickinson Drive residents, a planning condition within BC34476P was imposed on the site currently occupied by AB Waste Management Ltd requiring that the site is not operated outside the hours of 0800 and 1700 on Mondays to Fridays; 0800 and 1200 on Saturdays; and not at all on Sundays, or Public Holidays. This limitation included the prohibition of vehicles waiting overnight on the access road outside of those hours. Only limited information has been provided concerning the activities on the proposed development site and therefore this condition should be considered.

The other main user of the service road is National Highways (formerly Highways England) and their subcontractors to access their compound off the service road along with residents of Dickinson Drive to access garages.

If there is to be vehicle parking then the applicant will be required to install electric vehicle charging points, as required by Building Control Regulations Part S. See notes for applicant.

The submitted Transport Statement does not indicate a significant number of vehicle movements that would require an air quality assessment being carried out to consider the impact of introducing further HGVs and cars to this service road. On the other hand, the applicant has not indicated what the proposed activities will be on the site. Depending on the proposed activities, the applicant may be required to undertake an air quality assessment, particularly given that the applicant is applying for a B2 planning use class (the carrying on of an industrial process other than one falling within class B1). Planning B1 class uses include; an office use, that's not A2 planning use, research and development of products and processes, or any industrial use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Based on the above the need for an air quality assessment is dependent upon what activities will be conducted within the proposed units (not just those associated with traffic movement) and associated external areas, for example, proposed uses that may create noise, vibration, odour, dust and smoke, then there will be a need for an air quality assessment and possibly other controls. The difficulty with asking for an open/any use permission, means that we will need to include restrictions based on all scenarios.

The Air Quality Assessment submitted confirms that there will not be any significant impacts from vehicles using the access road, which we have always agreed with. As previously stated, the main concern is with air quality impacts is from the use of the buildings and yard area, which still appears to be unknown.

Indeed, 1.1.5 of the air quality report advises:

As the specifics of the materials to be stored are unknown under the outline application it is not possible to prepare an appropriate assessment. It is expected that potential operation dust impacts would be addressed at a later stage via a suitable planning condition or at the reserved matters stage.

The air quality report has concentrated on impacts from the construction of the proposed buildings and infrastructure, something that we generally control via an appropriate Construction Management Plan condition and from impacts traffic using the access road.

The Environmental Protection comments remain the same as previous, until they are given an indication of what the site is to be used for then it may be possible to consider appropriate mitigation measures and controls and the necessity for an air quality assessment. To reduce potential negative health impact upon future occupants in compliance with the saved policy ENV10 of Walsall's Unitary Development Plan.

Similarly, with the Applicant requesting an open planning permission, they will need to undertake a noise assessment to determine noise limits/mitigation measures that will ensure nearby residential premises will not be significantly affected by future activities. This noise survey will need to be undertaken before any construction activities commence, such that mitigation measures can be incorporated. In order to protect the amenities of the surrounding occupiers in compliance with Policies GP2 and ENV32 of the UDP.

Highways

The revised application looks for Outline consent, with access only for consideration, for a B2 industrial unit with ancillary detached office building and B8 open storage yard on land formerly a sewage treatment plant which has long since been removed and has become derelict and re-wilded.

The site is hemmed in with railway lines on all sides.

The revised proposal has reduced the site area from 9616sqm to 7674sqm.

The reduction in the site area does not affect the Highway Authority's previous support for the scheme and may well result in a corresponding reduction in vehicle movements to the site.

Vehicle access is via a private industrial shared vehicle access road off the A461 Bescot Road which is a classified road and a Strategic Highway.

The private shared access road also carries a Public Right of Way – see separate comments from the Public Rights of Way Officer.

Additional information has been submitted demonstrating that the largest HGV expected to visit the site can pass safely beneath the bridge without striking the bridge. This is subject to confirmation from Network Rail.

A 'Give-Way' arrangement is proposed beneath the bridge.

The underbridge is single track with no segregated footway to accommodate the Public Right of Way.

Para 3.2.10 of the submitted Transport Statement states that '*the route [the Byway] has been severed at the railway crossing to the east of the site and is not currently used. It is therefore proposed as part of the application to formally stop up the Byway*'. Comments from the Public Rights of Way Officer should be referred to in this respect.

Adequate turning and manoeuvring space is provided.

15 parking spaces are proposed inclusive of two disabled bays and two EV spaces.

Based upon the GFA of the B2 unit of 465sqm and the ancillary E(g) (iii) Office at 93sqm GFA the maximum T13 parking policy requirement is 15 spaces inclusive of 2 disabled spaces.

The development proposal therefore accords with T13 parking policy.

The development is predicted to generate less than 20 two-way trips during the peak periods.

This is not deemed to constitute a significant increase on the highway network.

Following the submission of additional information demonstrating that the largest vehicle expected to service the development can satisfactorily pass under the railway bridge (subject to confirmation from Network Rail) the Highway Authority supports the outline application, subject to conditions relating to access road, parking and vehicle manoeuvring areas.

Public Rights of Way

A definitive public right of way (PROW), known as restricted Byway 107 Walsall falls within

Development Management, Civic Centre, Darwall Street, Walsall, WS1 1DG

Website: <https://go.walsall.gov.uk/planning>, Email: planningservices@walsall.gov.uk, Telephone: (01922) 652677, Textphone: 0845 111 2910

the red planning boundary site outline, running along the private access road and the wooded area to the south of Bescot Triangle. There is currently a temporary Traffic Regulation Order in place on this PROW at Wallows Lane Level crossing directly adjacent to the red planning site boundary outline, although the public right of way remains in existence and open for public use across the site without restriction.

The revised Design and Access Statement, and updated Planning Layout confirm that no development is proposed to take place on the line of the PROW, and that it will be retained along the private access track, across the proposed site access and wooded area.

Public rights of way object to the proposed development, as insufficient details are currently available, to confirm safe public access along the public right of way at all times during introduction of the proposed development. These concerns may be addressed through the provision of additional planning details to ensure safety of the restricted byway prior to determination of this outline application. Alternatively, planning conditions may be included within the planning decision notice for this outline application, to enable details to be provided by the applicant at reserved matters and agreed prior to commencement of the proposed development.

The Public Rights of Way Officer has provided a condition to address the above concerns.

Ecology

Following correspondence and amendments to the proposals to include a 25m buffer strip along the western boundary alongside detailed information on the mitigation measures to ensure the retained areas and habitat creation areas are protected and enhanced during construction and operation of the development, the Ecology Officer believes that the development now meets the requirement stated with Policy ENV1: Nature Conservation that development should not negatively impact Sites of Local Importance for Nature Conservation (SLINC).

To ensure that stipulation within Ecological Appraisal report, Biodiversity Impact Assessment and Ecology Technical Note are implemented as part of the development The Ecology Officer would seek for a Construction and Ecological Management Plan and Landscape and Ecological Management Plan are secured by condition. This should include the securing of management of the SLINC for 30 years to ensure that habitat enhanced within the management plan which their target condition as set out with the Biodiversity Impact Assessment dated April 2023.

Flood Risk / Drainage

The Environment Agency note although some areas of the site are located in Flood Zone 3, the development is located in Flood Zone 1 and Flood Zone 2. Therefore, for applications such as this we refer the LPA to our Flood Risk Standing Advice.

Severn Trent Water raise no objection to the proposed development subject to the inclusion of a drainage condition.

The Lead Local Flood Authority are now satisfied with the submitted proposals and have no objection to the granting of outline planning permission. The Lead Local Flood Authority would however recommend that a condition relating to the control of surface water is attached to any planning permission in order to secure the implementation of the scheme in accordance with the submitted documents. To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF10, BCCS Policy ENV5 and

saved Walsall's Unitary Development Plan policy GP2 and ENV40.

Trees / Protected Trees

The Tree Preservation Officer raises no objection to the proposed development and recommended conditions relating to details of both hard and soft landscaping works, Protective fencing and ground protection and retained trees.

Ground Conditions and Environment

The Coal Authority have reviewed the proposals and confirm that part of the application site falls within the defined Development High Risk Area.

The Coal Authority records indicate that within that part of the application site and surrounding area there are coal mining features and hazards, which should be considered as part of development proposals.

The Coal Authority's general approach in cases where development is proposed within the Development High Risk Area is to recommend that the applicant obtains coal mining information for the application and submits a Coal Mining Risk Assessment to support the planning application.

However, when considering this particular proposal, the specific part of the site where the structures are proposed actually falls outside the defined Development High Risk Area. Therefore, the Coal Authority do not consider that a Coal Mining Risk Assessment is necessary for this proposal and do not object to this planning application.

As the development proposes a building and the site was previously associated with a sewage works, the Applicant will need to undertake a contaminated land investigation, and if necessary, agree and implement a remediation statement with the Local Planning Authority.

A Site Investigation Interpretative Report', March 2023, G&J Geoenvironmental Consultants Ltd, Report Reference: GJ280(01)-R001-V1 has been submitted in support of the application. The report represents the findings of an intrusive investigation of the application site.

The report has identified contaminants to be present and has offered a proposed remediation methodology based on the future activity being of an industrial/commercial nature. Environmental Protection are fine with the proposed recommendations. However, the Consultant has not undertaken any ground gas measurements, on the basis that the intrusive investigation works did not identify significant degradable material, although, they have recommended that the buildings include gas protection measures within their design.

Given that historically the site has been a sewerage works and some landfilling of materials has occurred, Environmental Protection are of the opinion that ground gas monitoring is required, particularly as any significant hard covering on the site may result in any ground gas migrating off site.

The consultant has also provided recommendations to the Applicant in the case where previously unidentified contamination is encountered, requiring them to undertake further investigation.

Planning conditions for contaminated land investigation and remediation are recommended. To prevent potential contamination of the ground due to any potentially hazardous materials associated with the buildings or their previous use in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

Conclusions and Reasons for Decision

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, it is considered that the principle of development would bring economic growth and productivity to the area. The proposed vehicle access arrangements would not have an impact and the proposal provides localised access improvements through the provision qualitative improvements to the public right of way Wal107.

The site has existing adverse ground conditions that would need to be addressed as part of a reserved matters, however in principle terms this is not a barrier to supporting the outline proposal. There are no substantial ecological constraints to development the site, but an opportunity to provide net ecologically grounds through sensitive and substantial landscape improvements.

The development is not at risk of or poses flood risk issues.

While the size of such a building and its operation could have impacts on visual and residential amenity grounds, the principle of a buildings in this location could be acceptable. Detailed designs through reserved matters will need to demonstrate a satisfactory relationship with neighbours and the general character of the area.

Taking into account the above factors it is considered that the application should be recommended for approval. The development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP1, CSP3, CSP4, CPS5, EMP1, EMP2, TRAN1, TRAN2, TRAN3, TRAN4, TRAN5, ENV1, ENV2, ENV3, ENV5, ENV7 and ENV8 of the Black Country Core Strategy, policies IND3, M1, RC1 and EN3 of the Walsall Site Allocation Document and saved policies GP2, 3.6, 3.7, ENV10, ENV11, ENV14, ENV18, ENV23, ENV24, ENV32, ENV33, ENV40, JP8, T1, T7, T8, T9, and T13 of Walsall Unitary Development Plan, Supplementary Planning Documents Designing Walsall, Conserving Walsall's Natural Environment and Air Quality.

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

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding ecology, policy, highways, public rights of way, environmental protection, Network Rail and the Lead Local Flood Authority amended plans and additional information have been submitted which enable full support to be given to the scheme.

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;
- No further comments from a statutory consultee raising material planning considerations not previously addressed.

Conditions and Reasons

1a: Application for the approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

1b: The development hereby permitted shall be begun not later than the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

2: Prior to the commencement of development hereby permitted approval of the details of the following reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced:

1. Appearance
2. Landscaping
3. Layout
4. Scale

Reason: Pursuant to Town & Country Planning (Development Management Procedure) Order 2015.

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

- Transport Statement received 15/11/2022
- Planning Statement received 15/11/2022
- Ecological Appraisal received 15/11/2022
- Arboricultural Statement and Tree Condition Survey received 16/11/2022
- Site Access (23400-02) received 16/11/2022
- Design and Access Statement received 27/04/2023
- Flood Risk Assessment received 20/12/2022
- Interpretative Desk Study received 16/02/2023
- Air Quality Assessment received 08/03/2023
- Site Investigation Interpretative Report received 31/03/2023
- BNG Calculation received 27/04/2023
- Ecology Technical Note – BNG Calculations received 27/04/2023
- Location Plan (PA-01 Revision A) received 27/04/2023
- Existing Site Plan (PA-02 Revision A) received 27/04/2023
- Proposed Site Plan (PA-03 Revision B) received 10/07/2023
- Proposed Habitats (Figure 2) received 10/07/2023
- Ecology Technical Note – Additional Ecological Information received 07/08/2023
- Biodiversity Metric received 07/08/2023
- Planning Statement Addendum received 19/09/2023
- Planning Statement Addendum 2 received 13/11/2023

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).

4a: Prior to commencement of the development hereby permitted (including any vegetation clearance/ or any demolition) a Construction Environment Management Plan (CEMP) shall be submitted in writing to and approved in writing by the Local Planning Authority. The approved CEMP shall be implemented in full according to the specified timescales. The revised plan shall include:

- i. Tree protection plan for all trees scheduled to be retained;

- ii. Precautionary working practices in respect to badgers, bats, birds, and hedgehogs;
- iii. Vegetation removal outside bird nesting season (Sept to Feb);
- iv. Invasive species control;
- v. Precautionary working measures, including mitigation to prevent dust and drainage from the construction and future operation of the development impacting the retained area of the onsite Site of Local Importance of Nature Conservation and Ford Brook Site of Local Importance of Nature Conservation; and
- vi. Lighting scheme to avoid light spill from the industrial uses onto the SLINC, open space area and the 25 m buffer to protect bats, detailing the provision of lighting across the site, in accordance with guidance outlined in Note 08/18 bats and artificial lighting in the UK, Bats and the Built Environment Series, BCT, 2018.

4b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Plan and the approved Construction Environmental Management Plan shall be maintained throughout the lifetime of the development.

Reason: To preserve and enhance the natural environment and safeguard any protected species in accordance with Black Country Plan policy ENV1, saved Unitary Development policy ENV23 and Supplementary Planning Document Conserving Walsall's Natural Environment.

5a: Prior to the commencement of building operations above damp-proof course for buildings one and two shown on plan PA_03 Revision B (planning drawings proposed site plan) dated November 2022 a Landscape and Ecological Management Plan shall be submitted in writing to and approved in writing by the Local Planning Authority. This shall include:

- i. Details of management practices for retained and newly created habitat for a minimum of 30 years;
- ii. The submission of monitoring reports to the Local Planning Authority for approval every 10 years to ensure the habitat conditions targets are on track.
- iii. A detailed habitat management regime for both retained and newly created habitat as per the Ecology Technical Note dated August 2023 and Biodiversity Impact Assessment dated April 2023;
- iv. Provision of three bird boxes, with 32mm hole, attached to retained trees on site;
- v. Provision of two hedgehog boxes within the retained woodland area away from the operational area;
- vi. Provision of hedgehog highways within all proposed fencing.

5b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved Landscape and Ecological Management Plan and approved monitoring reports.

5c: The approved Landscape and Ecological Management Plan shall be retained for the lifetime of the development.

Reason: To preserve and enhance the natural environment and safeguard any protected species in accordance with Black Country Plan policy ENV1, saved Unitary Development policy ENV23 and Supplementary Planning Document Conserving Walsall's Natural Environment.

6a: Prior to the commencement of building operations above damp-proof course of the development hereby permitted, details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure, 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 and all gates shall be designed and installed so they cannot open outwards onto a highway.

6b: 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.

6c: 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

7a: Prior to commencement of the development hereby permitted a noise survey assessment shall take into account the proposed use of the buildings and the site including the access to and from the public highway shall be submitted in writing to and approved in writing by the Local Planning Authority. The noise survey assessment shall include recommendations for mitigation measures for impacts to sensitive receptors.

7b: Prior to occupation of the development hereby permitted the approved noise survey mitigation measures shall not be carried out otherwise than in accordance with the approved details and such measures shall thereafter be retained for the lifetime of the development.

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

8a: Prior to commencement of the development hereby permitted a site survey to identify any potentially hazardous materials shall be carried out and a Method Statement detailing actions to be taken and timescales for the taking of such action to prevent localised contamination 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 Method Statement.

8c: Prior to commencement of the development hereby permitted including any site preparation or engineering operations, a validation report shall be submitted in writing to the Local Planning Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials and the building and to verify that the approved Method Statement has been carried out.

Reason: To prevent potential contamination of the ground due to any potentially hazardous materials associated with the buildings or their previous use in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

9a: Prior to commencement of the development hereby permitted, details of measures to ensure safe pedestrian, cycle and horse-riding access along the Public Right of Way known as restricted Byway 107 Walsall, along the site access track shall be submitted in writing to and approved in writing by the Local Planning Authority. Measures shall include:

- i. Introduction of a level and inclusive crossing point on the Public Right of Way where it crosses the new site access
- ii. Introduction of waiting areas for path users and site traffic at the railway bridge
- iii. Safety signs and alternative measures at the new site access and railway

- bridge, to alert drivers to path users, and vice versa
- iv. Public rights of way pointer signs and way markers to safely guide path users.
- v. Removal of the temporary concrete barriers adjacent to the new site entrance and replacement with new equestrian gates.
- vi. Proposed drainage scheme of the public right of way and site access, including underneath the railway bridge.
- vii. Details of the proposed PROW surface, where it passes through the wooded area, to comprise of inert type 1 stone laid on top of the existing natural path surface, to ensure the path surface remains free from mud and waterlogging, following the introduction of the hardstanding areas of the development.
- viii. Details of routine maintenance of the path surface, removal of any fly tipping and clearance of vegetation at regular intervals for the lifetime of the development.

9b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved Public Rights of Way details and shall be retained for the lifetime of the development.

Reason: To ensure that no works commence on the site until measures are in place to ensure safe public access at all times along the Public Right of Way, known as Restricted Byway 107 Walsall.

10a: Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water, to include all oil and chemical interceptors and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.

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

10c: The development hereby permitted shall not be occupied until the approved drainage has been installed in accordance with the approved plans.

Reason: To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

11a: Prior to the commencement of development hereby approved:

- 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. The approved protective fencing and ground protection shall be installed.
- iii. 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.

11b: 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.

11c: 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.

11d: 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 plus NPPF paragraphs 136 and 180.

12a: Prior to commencement of the development hereby permitted an air quality assessment taking into account the proposed uses of the buildings and the open storage area, plus the associated additional vehicles coming and going from the development shall be submitted in writing to and approved in writing by the Local Planning Authority. The assessment shall include details of recommendations for mitigation measures.

12b: Prior to occupation of the development hereby permitted shall not be carried out otherwise than in accordance with the agreed mitigation measures and such measures shall thereafter be retained for the lifetime of the development.

Reason: To reduce potential negative health impact upon future occupants in compliance with the saved policy ENV10 of Walsall's Unitary Development Plan.

13a: Prior to the commencement of development hereby permitted above the damp proof course 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. This scheme shall include details of all hard surfaces, walls, fences, access features, the existing trees, and hedges to be retained, together with any new planting and details of the measures to be taken to protect existing retained landscape features during the construction of the development.

13b: Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

13c: 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.

14a: 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.

14b: 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.

15a: Prior to the commencement of the development hereby permitted, details for the control of surface water as part of the temporary works and construction period shall be submitted in writing to and approved in writing by the Local Planning Authority.

15b: 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 construction period of the development.

Reason: To reduce the risk of surface water flooding to the development and surrounding properties during construction in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

16: Prior to occupation of the development hereby permitted, the access road, parking, and vehicle manoeuvring areas shall be implemented, consolidated, hard surfaced in tarmac. The access and parking areas shall thereafter be retained and used for no other purpose for the lifetime of the development.

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

17: 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 for the lifetime of the development.

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

18: No trees, scrub, or hedges shall be removed between September to February inclusive in any year.

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

19: The development hereby permitted shall not be used otherwise than for the purposes of Classes B2 (General Industry) and B8 (associated office) 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 and any office space supplied shall be ancillary to this use only.

Reason: To define and control the use of the site in accordance with levels of predicted traffic contained within the submitted Transport Statement in accordance with the saved Walsall's Unitary Development Plan policy GP2, T7, T13, ENV10 and ENV32.

20: No machinery shall be operated, or process shall be carried out, or deliveries taken at or despatched from the site otherwise than between the hours of 0800 and 1700 on Mondays to Fridays; 0800 and 1200 on Saturdays; and not at all on Sundays or Public Holidays*.

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

Notes for Applicant

*Hours of operation. 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.

Coal Authority

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848.

Further information is also available on The Coal Authority website at www.coal.gov.uk

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service at www.groundstability.com

West Midlands Police

Ensure security between any public and private areas of commercial premises. Particularly security of offices cash, higher value items.

Consider construction security.

https://www.securedbydesign.com/images/CONSTRUCTION_SITE_SECURITY_GUIDE_A4_8pp.pdf

Security is important.

A change of environment requires review of safety and security and an opportunity for improvement.

Any measures are more easily included during construction or alterations.

A review of security including alarm, CCTV, lighting and access control.

Suitable lighting provides some security.

External LED lights with daylight sensors to external walls, particularly by entrances and lighting to parking areas.

Other lighting should not be located close to fencing to provide a climbing aid.

Low bollard style lighting is not a security feature providing poor visibility and identification.

Any cycle storage should be located close to entrances in clear view, natural surveillance.

Alarm and CCTV installers should be approved by NSI, SSAIB or both

See <https://www.nsi.org.uk/> and <https://ssaib.org/>

I would recommend security using the principles of Secured By Design.

Below is a link to secured by design guides, including Commercial, police approved crime reduction information.

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

Below is a link to secured by design commercial, police approved crime reduction information guidance.

https://www.securedbydesign.com/images/downloads/SBD_Commercial_2015_V2.pdf

Secured by Design security standards are explained.

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

Electric Vehicle Charging Points

Building Regulation Approved Document S, 'Infrastructure for charging electric vehicles', requires for new dwellings to include electric vehicle charging points and appropriate cabling for other parking spaces. The Applicant will need to refer to Walsall Council Building Control Section or their own Building Control provider for further information on compliance.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 8 February 2024

Plans List Item Number: 2

Reason for bringing to committee

- Called in by a Councillor Andrew
- Contrary to the Unitary Development Plan

Application Details

Location: GREEN LANE MOTOR SALVAGE, FRYERS ROAD, BLOXWICH, WS2 7LZ

Proposal: PROPOSED CHANGE OF USE FROM OPEN AIR STORAGE (CLASS B8 - STORAGE AND DISTRIBUTION) TO A SCRAP METAL PROCESSING AND END OF VEHICLE LIFE CENTRE (SUI GENERIS) RESUBMISSION OF 22/1386.

Application Number: 23/0929

Case Officer: Ann Scott

Applicant: Enviroarm Limited

Ward: Birchills Leamore

Agent: Enviroarm Limited

Expired Date: 27-Dec-2023

Application Type: Full Application: Major Use
Class Sui Generis

Time Extension Expiry:



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Recommendation

Refuse Permission

Proposal

Proposed change of use from open air storage (Class B8 - Storage and Distribution) to a scrap metal processing and end of vehicle life centre (Sui Generis). The application site is known as the Green Lane Motor Salvage Fryers Road Bloxwich. This application is a resubmission of the previous application 22/1386. The proposal is to employ 9 full-time staff and will operate during the hours of 07:00 am to 18:00 Monday to Friday and 07:00 to 13:00 on Saturdays and will be closed on Sundays and Bank holidays.

Site and Surroundings

The application site is an area of land of 2750m², situated on Fryers Road near to other industrial premises including metal working and scrap metal recycling enterprises. Behind the application site is a waste skip company. The application site was previously used as a skip site with vehicle parking. On the opposite site of the access road is a waste recycling site.

Relevant Planning History

15/1099 – – Erection of a steel-clad portal frame industrial unit for storage of steel (class B8 use). Granted 1 February 2016.

19/0061 - Pavement crossover to an industrial open storage space with existing access gate. – Granted 29th May 2019.

22/1386 Proposed change of use from open air storage Class B8 Storage and Distribution to a scrap metal processing and end of life vehicle centre – Sui Generis – Refused 20 April 2023.

Relevant Policies

National Planning Policy Framework (NPPF)

[Read more on the 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". 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 considered in reaching the recommendation contained in this report. The articles/protocols identified below were considered of 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

[Read more on the development plan published on the council website.](#) .

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 Allocations Document
- Unitary Development Plan
- Walsall Town Centre Area Action Plan

Planning guidance is published within several 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.

Consultation Replies

Highways – Concerns previously raised insufficient information provided in relation to the proposed parking and means of access to the site. These concerns have been overcome by the submission of amendments to the proposed access, parking and turning to the site.

Environmental Protection – concerns raised that activities mentioned, such as crushing, screening and recycling of aggregates have not been adequately considered in the submitted dust, noise and odour management plans. In the absence of such information, it is not possible to provide meaningful comments on whether the site would be suitable for these operations.

In relation to the use of the site for scrap metal and end of life vehicle processing as our previous comment's details of the shearing operations and arrangements for noise control from scrap handling would need to be considered together with details of site drainage installations to ensure satisfactory site operation.

Ecology – No objections

Fire Officer – No objections

Canal and River Trust – No objections

Coal Authority – No objections.

West Midlands Fire Officer – 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.

Conservation Officer – No objections.

Representations

None received.

Determining Issues

- **Whether the application has addressed the previous reasons for refusal (22/1386)**

- **Reason 1**

Insufficient information is provided to address the concerns with regard to the suitability of the site from the resulting sui generis use proposed. The application is considered contrary to the Black County Core Strategy Policy WM4 Locational Considerations for New Waste Management Facilities, Black County Core Strategy EMP3 Local Quality Employment Areas, and Site Allocation Document W3 New Waste Management Development – Waste Treatment and Transfer, Site Allocation Document IND3 Retained Local Quality Industry, and Saved Policies JP8 of the Walsall Unitary Development Plan Bad Neighbour Industrial Uses and Policy GP2 Environmental Protection.

This has not been addressed.

- **Reason 2**

Insufficient information provided regarding parking and access to the and therefore on the basis of the current submission the development will have an unacceptable impact on road safety and have a negative impact on the operation of the strategic road network contrary to The proposal is contrary to Policies BCCS Policy TRAN2 Managing transport impacts of new development, and saved policies T7 Car Parking, T13 Parking provision for cars of the Walsall UDP and paragraph 110 (d) and 111 of the National Planning Policy Framework 2021. This has been overcome.

- **Reason 3**

The proposal fails to demonstrate that the existing amenities of nearby residential properties and a local school would be protected from noise, dust, odour and pollution and the proposal is considered contrary to the Saved Unitary Development Plan Policy GP2 (Environmental Protection), and Policies DW1 (Sustainability), DW2 (Safe and Welcoming places) and DW6 (Legibility). Of the Designing Walsall SPD.

This has not been addressed.

Additional considerations

- Principle of Development
- Heritage Assessment
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways
- Ecology
- Flood Risk / Drainage
- Ground Conditions and Environment
- Any other key determining issues.

Principle of Development

The site lies within the development limits for Bloxwich part of the Walsall Urban Area and is well related to the existing settlement pattern and other industrial type uses in this location. The site is relatively constrained on all sides by land in separate ownership, Fryers Road, and the vehicular access road to the application site.

Chapter 2 of the NPPF relates to achieving sustainable development and seeks to ensure that new development is sustainable in terms of the economy, social objectives, and environmental objectives.

Chapter 4, Paragraph 38 of the NPPF Decision Making advises that Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social, and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible. Decisions should encourage the effective use of land by reusing land that has been previously developed. The application site is mostly on commercial land in a sustainable location.

The site lies within an area designated as Retained Local Quality Industry under SAD Policy IND3. Site reference IN12.1 – Leamore Lane / Commercial Road / Bloxwich Business Park, Bloxwich. The local quality employment site is also identified as a Potential Waste Site in the SAD.

Other relevant Local Plan Policies include:

- BCCS WM4: Locational Considerations for New Waste Management Facilities
- BCCS EMP3: Local Quality Employment Areas
- SAD Policy W3: New Waste Management Development – Waste Treatment and Transfer
- SAD Policy IND3: Retained Local Quality Industry
- The provisions UDP Saved Policy JP8: Bad Neighbour Industrial Uses and Policy GP2:

Environmental Protection will also apply.

BCCS Policy WM4 advises that operations likely to be suitable on Local Quality Employment Areas include:

- Transfer stations / skip hire;
- Small scrap yards and open storage facilities;
- Hazardous waste treatment / processing facilities;
- Storage/ screening/ other treatment of contaminated soils.

All waste proposals should minimise adverse visual impacts, potential detrimental effects on the environment and human health, and localised impacts on neighbouring uses from noise, emissions, odours, vermin and litter. To minimise such impacts, wherever possible, waste management operations should be contained within a building or other physical enclosure. The clustering of related or complementary waste treatment, transfer and disposal operations in a specific location will also be supported, where this would not have adverse cumulative impacts on neighbouring uses.

The design of new buildings, other structures, boundaries, and landscaping should also make a positive contribution to the area (BCCS Policy ENV3).

The policy requires that all proposals for new waste management facilities include details of the proposed operations and the technologies involved, the types of waste to be managed, the maximum throughput capacity, the source of the wastes, and in the case of recycling, composting

and recovery facilities, the recovery rate/end products and whether the end products will be waste or usable raw materials.

The policy also sets out the Assessment Criteria for New Waste Management Facilities which include:

- Whether the proposal supports national and local waste strategies
- Whether the proposal is well-located in relation to the sources of waste it will be managing
- Whether the location is suitable for the type of facility and operations proposed and can adapt to changing circumstances
- Whether the proposal would provide opportunities for co-location of related use
- Whether the proposal would involve re-use of previously developed land
- Whether the proposal contributes towards the positive environmental transformation of the Black Country
- Whether the proposal is compatible with neighbouring uses (considering the nature of the wastes being managed, the technologies used, the hours of operation and cumulative effects)
- Whether the proposal supports economic and growth objectives for the Black Country
- Whether the proposal would address impacts on the highway/ transport

The site lies in the middle of an industrial area with other similar uses nearby, including the council's household waste transfer station (although this is due to relocate to Aldridge). The proposed use would be in accordance with the allocation of the site under SAD Policy IND3 (Retained Local Quality Industry) and the relevant waste management policies of the BCCS (Policy WM4) and SAD (Policy W3).

The proposal can therefore be supported in principle on planning policy grounds subject to resolving other relevant development control criteria.

Heritage Assessment

The Council's Conservation Officer has advised that they have no objections in principle to the proposal which is not considered to adversely affect any existing heritage assets. In relation to the Black Country Core Strategy: ENV2 Historic Character and Local Distinctiveness, Saved Policy ENV27 Buildings of Historic or Architectural Interest of the Walsall Unitary Development Plan.

Design, Layout and Character

The character of the area is primarily commercial and industrial premises. Whilst the proposed use may be considered an industrial process the site use does fall into a "sui generis" use class of its own. Environmental Protection has concerns regarding a lack of information on the proposal in relation to noise, dust, and the type of waste streams to be recycled. In addition, whilst floor plans of the proposed layout of the site have been provided there is limited detail regarding the proposed buildings other than the proposed site office no elevations have been provided. Further information was requested on these issues and the amended information did not provide any additional details on the design and external appearance of the proposed sorting buildings on the site. The proposal fails to overcome the policy concerns. Contrary to the Saved Unitary Development Plan Policy GP2 (Environmental Protection), and Policies DW1 (Sustainability), DW2 (Safe and Welcoming places) and DW6 (Legibility). Of the Designing Walsall SPD.

Amenity of Neighbours and Amenity of Future Occupiers

The site does lie within the proximity of existing residential properties less than 200m away and a nearby school over the canal which is less than 400 metres away from the application site. There are no objections to the proposal from the Canal and River Trust. However, Environmental Protection have concerns regarding a lack of information on the proposal in relation to noise, and dust and odour as there is limited information in the submitted amended information to provide meaningful comments. In addition, the use of the site for scrap metal and end of life vehicle processing is described in the description of development but the submitted amended information refers to general waste and would not therefore fall under the description of development. In particular the working plan for the development and operation of the waste transfer station and scrap metal storage and processing submitted on the 9 December 2023 relates to the operation of general waste transfer and treatment operation. The applicants have been given the opportunity to provide an amendment to overcome the concerns on these issues and the amended information has failed to overcome the policy concerns. It is considered that the proposal fails to demonstrate that the existing amenities of nearby residential properties and a local school would be protected from noise, dust, odour and pollution and the proposal is considered contrary to the Saved Unitary Development Plan Policy GP2 (Environmental Protection), and Policies DW1 (Sustainability), DW2 (Safe and Welcoming places) and DW6 (Legibility). Of the Designing Walsall SPD.

Highways

The local highway authority previously expressed concern regarding the provision of adequate access and concerns raised insufficient information was provided in relation to the proposed parking and means of access to the site. Amended information and plans have now been submitted to address these concerns and the Highway Authority therefore considers that there is sufficient information provided regarding parking and access to the site and therefore on the basis of the current submission the development will have an acceptable impact on road safety and have a negative impact on the operation of the strategic road network contrary to the Revised NPPF 2023 paragraph 115.

Ecology

The Councils Ecology Officer has no objections to the proposal. In relation to the Revised National Planning Policy Framework 2023 and the SPD "Conserving Walsall's Natural Environment".

Flood Risk / Drainage

The site is in flood zone one and is at low risk for flooding as defined on the Environment Agency Flood Map for Planning. The proposal does not conflict with the Black Country Core Strategy Policy ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island.

Ground Conditions and Environment

The application site is situated in a high-risk area for Coal Mining activity however the Coal Authority consider that the proposal will not propose a significant risk and do not object to the application. Following the submission of a quantitative environmental risk assessment on ground stability. The report concludes that there is limited potential for instability due to the mine working depths being over 100m and the cessation of workings over 150 years ago. There are no records of shafts or adits within the development footprint. Therefore, no further investigation is required. In relation to "Saved" Unitary Development Plan Policy ENV10: Pollution and The Black Country Core Strategy ENV8 Air Quality.

Any other key determining issues.

Environmental Protection noted the submission of amended documents in support of the application. Environmental Protection advise that the submitted Working Plan for the Development and Operation of the Waste Transfer Station and Scrap Metal Storage and Processing Facility Reference ARM/SCM/WPGLMS/1.00/2023, relates to a general waste transfer and treatment operation. This is at odds with the details in the consultation document and the description of development that has been publicly advertised.

The site is presently described as being used for the storage of skips and Heavy Goods Vehicles and the applicants are seeking to change the use of the site to scrap metal processing and end of life vehicle processing. The range of waste streams detailed in the working plan and the operations to be conducted on the site as described in the plan indicate that the facility will be a general waste transfer and sorting operation and that scrap metals and end of life vehicles will be a small part of the overall site use. This is not in accordance with the description of the development on the application forms.

Environmental Protection are concerned that the activities mentioned in the submission such as crushing, screening, and recycling of aggregates have not been adequately considered in the submitted dust, noise, and odour management plans. In the absence of information to assess this proposal for the described wastes the application cannot be supported due to insufficient information to determine whether the site would be suitable for this purpose and operation.

In relation to the use of the site for scrap metal and end of life vehicle processing in line with the previous concerns set out in the earlier comments from the Environmental Protection, advise that there is insufficient detail on the location of shearing operations, arrangements for the control of noise from scrap handling and other operations as set out in the submission together with the need to ensure the site drainage proposal is satisfactory in relation to sealed sumps and intercepted outflows, concerns still remain. The proposed use of the site therefore is unclear and there is insufficient information put forward to overcome the policy concerns against the development. Contrary to Black County Core Strategy Policy WM4 Locational Considerations for New Waste Management Facilities, Black County Core Strategy EMP3 Local Quality Employment Areas, and Site Allocation Document W3 New Waste Management Development – Waste Treatment and Transfer, Site Allocation Document IND3 Retained Local Quality Industry, and Saved Policies JP8 of the Walsall Unitary Development Plan Bad Neighbour Industrial Uses and Policy GP2 Environmental Protection.

Conclusions and Reasons for Decision

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

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent to request further information in support of the proposal in relation to Ground stability/Environmental Protection/amenity concerns and Highway safety. Additional information was provided and has overcome the Ground stability and highway safety concerns but is still not sufficient to overcome the policy concerns in regard to the environmental protection concerns and in this instance are unable to support the proposal.

Recommendation - Refusal

1. Insufficient information is provided to address the concerns regarding the suitability of the site from the resulting sui generis use proposed. Whilst additional information has been provided, there is still insufficient information submitted for the design of the buildings on the site and the types of waste to be recycled, from the resulting development. The application is considered contrary to the Black County Core Strategy Policy WM4 Locational Considerations for New Waste Management Facilities, Black County Core Strategy EMP3 Local Quality Employment Areas, and Site Allocation Document W3 New Waste Management Development – Waste Treatment and Transfer, Site Allocation Document IND3 Retained Local Quality Industry, and Saved Policies JP8 of the Walsall Unitary Development Plan Bad Neighbour Industrial Uses and Policy GP2 Environmental Protection.
2. The proposal fails to demonstrate that the existing amenities of the locality including nearby residential occupiers and users of a local school, would be protected from noise, dust, odour and pollution and the proposal is considered contrary to the Saved Unitary Development Plan Policy GP2 (Environmental Protection), and Policies DW1 (Sustainability), DW2 (Safe and Welcoming places) and DW6 (Legibility). Of the Designing Walsall SPD.
3. The proposal fails to demonstrate sufficient information in relation to noise, dust, and the type of waste streams to be recycled. In addition, whilst floor plans of the proposed layout of the site have been provided there is limited detail regarding the proposed buildings other than the proposed site office no elevations have been provided. Further information was requested on these issues and the amended information did not provide any additional details on the design and external appearance of the proposed sorting buildings on the site. The proposal fails to overcome the policy concerns. Contrary to the Saved Unitary Development Plan Policy GP2 (Environmental Protection), and Policies DW1 (Sustainability), DW2 (Safe and Welcoming places) and DW6 (Legibility). Of the Designing Walsall SPD.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 8 February 2024

Plans List Item Number: 3

Reason for bringing to committee

Called in by Councillor Tim Wilson who supports the proposal, on the grounds that the proposal provides the opportunity for new homes to the benefit of the wider borough and the design of the proposal requires wider consideration.

Application Details

Location: 25 and 27 Little Aston Road, Walsall WS9

Proposal: PROPOSED DEMOLITION OF 25 & 27 LITTLE ASTON ROAD AND THE ERECTION OF 2 NO. FOUR BEDROOM DETACHED TWO STOREY DWELLINGS AND 4 NO. THREE BEDROOM DETACHED BUNGALOWS, ACCESS DRIVEWAY, LANDSCAPING AND ASSOCIATED WORKS.

Application Number: 23/0613

Case Officer: Mike Brereton

Applicant: Levison Rose Homes Ltd

Ward: Aldridge Central And South

Agent:

Expired Date: 18-Jul-2023

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

Time Extension Expiry: 16-Feb-2024



Recommendation

Refuse Permission

Current Status

At the planning committee meeting of 30 October 2023 members resolved to defer to a future planning committee to enable applicant to negotiate an improved development scheme with the local planning authority.

The following section of this update report will set out any changes since the original report (which follows), including matters to be addressed which were contained within the previous supplementary paper.

While further responses have been received in response to amended plans received on 12 December 2023, a complete layout change has since been submitted by the applicant and the latest submitted amended plans received on 15 January 2024 are currently out to consultation as at the time of writing this report. Any responses received to the latest revised proposal will therefore be added to, and considered within, the supplementary paper.

Supplementary Paper

Additional representations received following publication of the original report were set out and addressed in the supplementary paper in relation to the above meeting.

The supplementary paper explained that refusal reason 6 would fall away as a result of an amended visibility splay to plot 1 and plot 3.

Refusal reason no.3 was also updated as follows:

3. The proposed bin collection point is considered would result in excessive distances for future residents to drag their bins to and its proposed position against the boundary of proposed plot 1 is considered to be an unacceptable detrimental impact to the amenities of the future residents at plot 1 from potential noise, odour and amenity. No details of future waste management strategy have been provided and the proposal is contrary to saved UDP policies GP2 and ENV32 and policy ENV3 of the Black Country Core Strategy.

Any Other Updates

Amended plans have been received showing an amended layout which re-locates the main vehicle access to the centre of the site away from the shared boundary with No.29. Plots 1 and 2 fronting Little Aston Road have been reduced in height by 1m and 0.7m respectively along with the inclusion of a hipped roof adjacent the shared boundaries and an additional single storey rear 2m deep extension. All plots to rear have been changed to single storey bungalows.

A bat DNA report and a completed S111 Agreement in relation to the Cannock Chase SAC mitigation payment have also been submitted to support the application.

The amended plans and supporting information have been assessed against the recommended refusal reasons (summarised) and set out below.

Reason 1. Unacceptable cramped back-land development, scale and design out of character and incongruous with the established pattern and design of surrounding development

The overall reduction in height to plots 1 and 2 along with the removal of one gable to the front elevation and replacement with a small dormer window and cat-slide roof is considered to be an improvement and would better reflect the local vernacular. The reduced height and addition of a part-hipped roof to the side elevations when combined with increased gaps between these plots and the adjacent neighbouring properties over and above the existing relationship is also

considered would better reflect the existing situation. Furthermore, some weight is given to the presence of an extant planning permission for a larger, and higher, replacement dwelling at No.29 which this revised proposal would integrate well with.

Plots at rear have also been reduced to single storey in height and views of built form at rear would be more apparent from the street scene at a distance of 41m to the nearest plot (plot 3) as opposed to 70m on the previous layout to plot 6.

The 2005 dismissed appeal at this site comprised a two-storey dwelling sited 21m south of No.25 (around 51m from back of footpath) with a narrow vehicle access to the east of No.25 (next to No.27). The Inspector concluded it would be at variance with existing pattern of development, would introduce an isolated dwelling without direct road frontage and that the new access would disrupt the street scene.

While the reduced distance to built form at rear from back of footpath in this revised proposal is an improvement it is considered that this does not fully address the key issue around the unacceptable principle of backland development in this location.

The submitted site density plan demonstrates that while the proposed rear garden sizes would all exceed the council's recommended minimum of 68sqm per dwelling, they would fail to reflect the pattern of development in the immediate area comprising properties within large plots fronting Little Aston Road with large rear gardens. The plan also demonstrates the proposed density at 17.7 per hectare would be over and above the average existing density taken across all surveyed areas at 13.2 dwellings per hectare, and would be higher than the existing density of properties fronting Little Aston Road (5.9, 10.7 and 9.5 respectively).

There has been no reduction in the quantity of proposed dwellings and it is considered the layout would still therefore result in a cramped form of backland development that would be out of character and incongruous with the established pattern and design of surrounding development.

As part of a recent appeal decision dated 8 January 2024 in relation to a backland residential proposal in East Suffolk (APP/X3540/W/23/3318779) the Inspector made clear that *"...Each application is decided on its own site-specific merits and reference to development elsewhere carries little weight..."*.

Notwithstanding this, the Inspector concluded *"...the siting of dwellings set back from the highway towards the rear of the site would be incongruous in the immediate context, where dwellings largely front the street...Even acknowledging that the backland development could comprise bungalow dwellings of a reduced height, they would remain notable additions of permanent built form. Due to their placement towards the rear of the site, they would fail to respect the predominant pattern of development...harming the character of the area...The subdivision of the site to accommodate four dwellings would result in four separate plots of notably smaller dimensions, resulting in the site appearing unduly cramped and contrived in context..."*

While this application has been assessed on its own merits, and taking account of the 2005 dismissed appeal at the application site there are also some parallels that can be drawn from the above recent 2024 appeal decision in relation to this current proposal in terms of backland appearance and a cramped development comprising bungalows of a reduced height.

On balance, while this current layout is an improvement it is the planning officer's view that the proposal would fail to provide an appropriate street frontage appearance to Little Aston Road and would not therefore reflect the character of the locality.

The National Planning Policy Framework, at paragraph 70d, requires great weight to be given to windfall sites and the proposal would make a modest contribution to the supply of housing in the borough. However, this benefit is considered would not outweigh the harm arising to the character of the area. Furthermore, garden land is not defined as previously developed land which is the focus of new development within the NPPF and less weight is therefore attributed to any modest housing contribution in this instance.

The first refusal reason is considered has not been fully addressed.

Reason 2. Insufficient separation distances, overlooking, additional noise and activity to neighbouring rear garden spaces, anti-social behaviour and increased fear of crime.

The amended layout has reduced the plots at rear to single storey bungalows. There are a limited number of side facing windows and rooflights to all proposed dwellings which mostly serve non-habitable rooms and could be conditioned where necessary to be obscurely glazed to safeguard neighbours amenity. In particular, the submitted boundary treatment plan for the site would serve to minimise any potential views from ground floor windows serving the proposed bungalows and would also reduce the level of actual, and perceived sense of, overlooking to adjacent neighbours rear gardens.

Furthermore, the re-location of the vehicle access to the centre of the application site would help to move some associated noise arising from vehicle movement away from neighbouring garden areas which is deemed to be the most incongruous form of noise that would otherwise arise. When combined with the proposed 1.8m close boarded boundary treatment including an acoustic 1.8m fence directly to the rear of No.29 next to the turning head and parking area serving plot 6 it is considered this would reduce noise levels over and above the previous layout and is acceptable. Environmental Protection do not object on noise grounds and conditions could be included to secure the boundary treatment along with secure by design measures and defensive planting within the site to reduce anti-social behaviour and fear of crime.

While the amended layout would result in some light pollution to two habitable windows in plot 3 serving kitchen and bedroom areas from headlights of vehicles entering the proposed shared access, these properties would be 'bought as seen' by any prospective purchaser and would not warrant a refusal on this basis alone.

On balance, it is considered that refusal reason 2 has been satisfactorily addressed and mitigation measures can be secured by condition if permission were to be granted.

Reason 3. Excessive distance of bin collection point and detrimental impact to the amenities of the future residents at plot 1 from potential noise, odour and amenity

The bin collection point has been re-located away from plot 1 at a distance of between 32m to 38m from plots 5 and 6, 25m from plot 4 and adjacent to plot 3. While this is an improvement it would still fail to meet Building Regulations recommended maximum distance of 30 metres for some plots and no waste management strategy has been submitted. Furthermore, the bin collection area location would be located at only 1.4m distance from side facing habitable windows serving bedroom and kitchen to plot 3 which is considered would result in a detrimental impact to the amenities of the future residents at plot 3 from potential noise, odour and amenity.

The third refusal reason is considered has not been fully addressed.

Reason 4. Insufficient evidence submitted in relation to potential impact on protected species (bats)

A bat DNA report has since been submitted which confirms the presence of a day roost for brown long-eared bats as identified within the previous survey work. This now provides a suitable level of detail to enable conditions and notes to be included should permission be granted to safeguard bats along with precautionary working methods and appropriate mitigation measures.

It is considered that refusal reason 4 has been satisfactorily addressed and measures can be secured by condition if permission were to be granted.

Reason 5. Failure to provide necessary mitigation measures in relation to the Cannock Chase SAC

The applicant has provided the necessary mitigation by way of a S111 agreement and the fifth and final refusal reason has therefore been addressed.

Conclusion

While some improvements have been made resulting in some issues having been addressed two issues remain that have not been addressed and the recommendation remains one of refusal for the following reasons.

Updated reasons for refusal

1. The development would provide an unacceptable back-land development with no street frontage to Little Aston Road for plot no's 3, 4, 5 and 6 that would be out of character with the established pattern of development in the surrounding area. The back-land layout is considered would represent a cramped development of the site which would appear incongruous and unrelated to the surrounding development causing harm to the character and appearance of the area. The proposal fails to respond to local character, reinforce local distinctiveness or reinforce the existing urban structure detrimentally impacting on the amenity and character of the locality. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies CSP4 (Place Making), HOU2 (Housing Density, Type and Accessibility), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) of the Black Country Core Strategy, saved policies GP2 (Environmental Protection), 3.6 (Environmental Improvement) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan and DW3 (Character) of Designing Walsall Supplementary Planning Document.

2. The proposed bin collection point is considered would result in excessive distances for future residents of plots 5 and 6 to drag their bins to and its proposed position in close proximity to habitable windows serving bedroom and kitchen to plot 3 is considered would result in an unacceptable detrimental impact to the amenities of the future residents at plot 3 from potential noise, odour and amenity. No details of future waste management strategy have been provided and the proposal is contrary to saved policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the Walsall Unitary Development Plan and policy ENV3 (Design Quality) of the Black Country Core Strategy.

THE ORIGINAL REPORT FOLLOWS:

Reason for bringing to committee:

The application has been called in by Councillor Tim Wilson who supports the proposal, on the grounds that the proposal provides the opportunity for new homes to the benefit of the wider borough and the design of the proposal requires wider consideration.

Recommendation:

1. Refuse

Proposal

This planning application seeks consent for the proposed demolition of two residential, detached, dwelling houses no's 25 & 27 Little Aston Road along with the proposed erection of 6 new dwellings. The existing garden land serving no's 25 and 27 would be used for residential development. The proposed dwellings comprise the following:

Plot no's 1, 2, 5 & 6 – 4 bedrooms, 4 parking spaces each.

Plot no. 3 - 3 bedrooms, 2 parking spaces.

Plot no. 4 – 3 bedrooms, 3 parking spaces.

Plot no's 1 and 2 would comprise two detached houses fronting Little Aston Road with twin projecting gables and would be handed. The exterior finish would be in brick and render. Their net floor areas would be 233.6 sq. metres excluding the garage.

Plot no's 3 and 4 would be detached bungalows, faced in brickwork with rendered gables and plot 4 would have an attached garage. Their net floor areas would be 122.3 sq. metres.

Plot no's 5 and 6 would include two detached houses which would be positioned at the southernmost part of the application site. The exterior finish would be brick and render. The position of the proposed dwelling house on plot no. 5 has been revised and this would be positioned forward of the adjacent, proposed dwelling on plot no. 6 to avoid tree root protection zones. Their net floor areas would be 181 sq. metres, respectively.

Private rear amenity space for the proposed 6 dwellings would range from 97 sq. metres to 192 sq. metres.

The submission states that an area of open space to the southwest of plot no. 4 would be set aside to give space to a retained mature tree.

A refuse collection area adjacent to the boundary of the existing 29 Little Aston Road is proposed towards the front of the driveway with refuse and recycling bin storage provided for each dwelling house.

The submission includes a boundary treatment plan which includes a low-level boundary wall fronting Little Aston Road, 1.2 metres high boundary fencing and hedging to the front gardens of plots no's 1 and 2. Boundary treatment to the eastern boundary with 29 Little Aston Road would include a 1.2 metres high close boarded fence to the front boundary element with a 1.8 metres high acoustic fence along the remaining side and rear garden boundaries serving no. 29. Internal site boundaries would be defined by 1.8 metres high close boarded fencing with hedging along the southern site boundaries.

The submission includes a landscape enhancement plan which includes the installation of bat and bird boxes, hedgehog routes, new tree, and landscape planting.

An ungated, access drive is located to the east of the site, and which runs along the side boundary with 29 Little Aston Road and the proposed dwelling on plot no. 1. The access drive would terminate with a turning head. Plans have been amended to include a footpath.

The proposed site density plan states that the proposed dwellings per hectare would be 17.7 dwellings per hectare. Neighbouring streets have densities which range from 5.9 dwellings per hectare (application site) upwards to 13.7 dwellings per hectare (Chaseley Drive).

The application is supported by the following documents:

- Planning Statement
- Arboricultural Impact Assessment
- Habitat Regulation Assessment
- Phase I and II Site Investigation
- Gas Addendum Letter
- Preliminary Ecological Assessment
- Drainage Strategy
- Landscape Enhancement and Biodiversity Enhancement Scheme
- Street Scene
- Site Density Plan
- Covering Letter from Agent dated 10/08/23.
- Preliminary Bat Roost Assessment and Bird Survey

The Planning agent has provided additional information relating to other backland sites in the borough including Seeds Lane and Whetstone Lane where planning appeals were allowed.

Site and Surroundings

The application site is located within a well-established residential area located approximately 450 metres from Aldridge Primary Shopping Area.

Little Aston Road is an adopted classified road (A454), a District Distributor and part of the Key Route Network.

The area is characterised by large, detached houses and bungalows of individual design with a spacious character and mature gardens on the southern side of the road. On the opposite side of Little Aston Road there is mature planting and trees along the boundary with Cooper and Jordan Primary School, a block of three storey apartments and an access drive serving residential properties no's 18 to 22 Little Aston Road.

The application site is an irregular L- shaped plot which has an angled southern boundary and a wider part extending behind the rear garden of 29 Little Aston Road.

The proposed site is bounded by private residential gardens serving properties which front Little Aston Road, Branton Hill Lane, and Hallcroft Way.

The application site is generally flat towards the north and approximately mid-point into the site the land levels fall towards the south and southeast.

The application site has protected trees with a Deodar Cedar (TPO 06/2022) located next to the shared front garden boundary between no's 23 and 25 Little Aston Road. There are groups of protected trees located along the southwestern boundary of the application site.

The boundary of the Aldridge Conservation Area lies to the north of the application site along Little Aston Road.

The site lies within the Cannock Chase Special Area of Conservation (SAC) 15km Zone of Influence. The application site is not within designated Green Belt. The application site is located within Flood Zone 1: Low Probability. As the site is less than 1 hectare the submission of a flood risk assessment is not required in this instance.

The neighbouring properties sharing a boundary with the application site include.

29 & 31 Little Aston Road

These two dwelling houses sit to the east of the application site and have front and rear facing habitable room windows. The side garden boundary of no, 29 would be alongside the proposed access drive.

23 Little Aston Road

This detached house sits to the west of the application site and its rear facing habitable room windows face south.

5, 7, 9, 11 & 15 Branton Hill Lane

These properties are a mix of bungalows and houses, and their rear elevations face west towards the application site. These properties have rear facing habitable room windows.

66, 68, 70, 72 & 74 Hallcroft Way

Hallcroft Way comprises detached bungalows and these dwellings sit to the south-west of the application site. These bungalows have rear facing habitable room windows which face north-east.

Relevant Planning History

25 Little Aston Road

21/1345 - T1 - Pine to fell – Permission granted by planning committee on 02/12/21, decision issued 08/12/21.

12/0238/FL - Two storey front extension with first floor balcony. Two storey side extension, first floor side extension and single storey rear extension – GSC 25/06/12.

10/1175/TR – Fell one pine tree in rear garden – refused permission 11/10/10.

05/0518/OL/E4 - Outline: Change of use from Rear Garden Land to Plot for 3 Bedroomed Detached Dwelling – refused permission 06/05/05 and a subsequent appeal (ref: APP/V4630/A/05/1184341 dated 28/10/05) was dismissed on the following grounds:

- At variance with existing pattern of development.
- Isolated dwelling without direct road frontage.
- Intrusive and uncharacteristic of the area of large gardens within which it would be set.
- Positioned close to boundaries thereby would harm amenities and character of the area.
- Loss of mature trees
- New access would disrupt the street scene.
- Adverse effect on the character and appearance of the surrounding area

29 Little Aston Road

21/0847 – Erection of 5-bedroom detached replacement dwelling – GSC 19/12/21 but not implemented.

23 Little Aston Road

23/0428 – Single storey front and rear extensions – GSC 30/06/23

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

NPPF 2 – Achieving sustainable development
NPPF 4 – Decision Making
NPPF 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 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. Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

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

Black Country Core Strategy

- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- TRAN2: Managing Transport Impacts of New Development
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing
- EN1: Natural Environment Protection, Management and Enhancement
- EN5: Development in Conservation Areas
- T4: The Highway Network

Supplementary Planning Document

Conserving Walsall's Natural Environment

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

Designing Walsall SPD

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity

- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW10 Well Designed Sustainable Buildings

Policy EQ2: Cannock Chase Special Area of Conservation

Historic England Guidance

- Good Practice Advice Note 3: The Setting of Heritage Assets (2017)
- Advice Note 12: Statements of Heritage Significance: Analysing Significance in Heritage Assets (2019)

Consultation Replies

Conservation Officer – No objection on heritage grounds however recommend that a planning condition is included in respect of the proposed front boundary treatment.

Ecology Officer – Objection as further bat surveys are required however there are no objections in relation to the proposed Cannock Chase SAC mitigation agreement and the proposed landscaping plan which includes acceptable biodiversity net gain. A planning condition would be required for landscape management for a period of 10 years if the application is approved.

Environmental Protection – No objections subject to conditions in respect of the submission of a Construction Environmental Management Plan and mitigation of vehicular noise impacts to existing properties. The proposed acoustic fencing would require ongoing maintenance commitment.

Fire Officer – No adverse comments

Local Highways Authority – No objections subject to the inclusion of a planning condition requiring a visibility splay in respect of plot no's 1 and 3, hard-surfacing and drainage, installation of a bell mouth entrance and the submission of a construction methodology statement if approved.

Natural England – No adverse comments received in respect of the Cannock Chase SAC Habitat Regulations Assessment.

Police – No objections subject to the implementation of principles of Secured by Design and an informative note can be included for the applicant if approved.

Severn Trent Water – No objections subject to the inclusion of a drainage condition and informative note in respect of public sewers if approved.

Strategic Planning Policy – No objections

Tree Preservation Officer – No objection

Waste Management (Clean and Green) – No objections

(Local Planning Authority comments are in italics and brackets)

A petition has been submitted with 83 signatories on the following grounds (The same 21 harms have been submitted separately by residents and are included in the separate list of objections below) A number of neighbours have sent the same petition attached to their comments:

- Inappropriate backland development
- Previous appeal dismissed at 25 Little Aston Road for backland development.
- Highway safety
- Drag-out distance for bins.
- No pavement proposed.
- Separation distances not met.
- Loss of security
- Noise
- Odour, flies and germs from bins near houses
- Brownfield sites should be used.
- Pollution from additional vehicles
- Impact on frail and elderly particularly those who fought in WWII (*comment noted but the Local Planning Authority is required to assess the planning applications put before them*)
- Cost of residents installing CCTV to protect rear gardens (*not a material planning consideration*)
- Impact on habitats
- Loss of 200 year old tree that marked out the division of land on land called Mince Pie Piece and loss of a Sycamore tree
- Agent has allegedly treated residents with disrespect (*not a material planning consideration*)
- This planning application has been pre-determined and legal advice has confirmed that the council has failed to show due diligence in this matter by giving permission to fell trees (*no evidence has provided to demonstrate that this is the case for the planning application being considered*)

Two letters of support from no's 25 and 27 Little Aston Road have been received on the following grounds:

- Housing shortage in Walsall.
- Replacement of two outdated houses with energy efficient homes
- Bungalows for older people (*Should planning permission be given, the council cannot require the bungalows are sold to older people as they are just market housing*)
- Short term disruption.
- Some neighbours want the removal of more trees not less.
- Efficient use of land and not over-development.
- Neighbours' will still back onto gardens. (*Not all neighbours with 5 of the 14 neighbours not achieving this*)
- Greater distance to no. 29 Little Aston Road so they will have more light.
- Two replacement houses at the front have a better design than the existing houses which benefit the character of the area.
- Tree roots affecting drains (*no evidence to substantiate this*)
- Other backfill cases in the borough. (*Every application is assessed on its own merits and there may be locations where backland development is appropriate*)
- Retention of trees and bushes supported.

- Addition of bat and bird boxes are positive.
- No overlooking (*This is part of the council's assessment*)
- No negative impact on privacy, amenity or daylight (*This is part of the council's assessment*)
- Sustainable development

Objections have been received from 42 residents on the following grounds:

- Impact on ecology of the site and wider area
- Loss of trees.
- Out of character
- Profiteering (*not a material planning consideration*)
- Will create a precedent (*planning applications are determined on the merits of the individual case without setting a precedent*).
- No swept path provided for fire appliance access. (*West Midlands Fire Service have been consulted*)
- Refuse bins left on Little Aston Road
- Category A trees not TPO'd.
- Backland development
- Previous appeal for backland development dismissed for one house and this would be for a further 4 houses.
- Highway safety
- 3 vehicle exits within 45 metres opening onto Little Aston Road.
- Increased traffic
- Distance of dwellings from refuse collection point for bins
- Lack of a pavement (*amended plans have been received adding a footpath*)
- Separation distance of 24 metres not achieved for all plots.
- Noise and odour from bin collection point
- Loss of green space
- Not previously developed land as defined by the NPPF.
- Noise and pollution from additional vehicles
- Noise from additional garden activity
- Fear of crime
- Impact on wildlife and protected species
- This planning application has been pre-determined and legal advice has confirmed that the council has failed to show due diligence in this matter by giving permission to fell trees (*no evidence has provided to demonstrate that this is the case for the planning application being considered*)
- Loss of privacy
- Overlooking
- Service road next to private house and impact on amenity
- De-valuation of property (*not a material planning consideration in this instance*)
- Brownfield first approach and protect green belt (*the application site is not within designated Green Belt*) .
- Over-development
- Plot sizes out of character with surrounding area
- Loss of habitat
- Street scene different if the new dwelling at no. 29 Little Aston Road is not built.
- Future pressure on tree removal from any new residents
- Lack of regard for health and safety of new owners
- Drive width does not aid legibility.

- Loss of view (*there is no right to a view in planning but there are some rights in respect of visual amenity*)
- Loss of light
- Harm would not outweigh the benefits of the proposed development.
- Chaseley Drive is not a comparable location.
- Twyford Close is not comparable as it was a former factory site.
- Maximum distance for bin drag out of 30m exceeded
- Unightly bin collection area visible on street
- Odour, flies, and germs from bins near houses
- Misleading statement that there are insufficient brownfield sites to meet future housing needs (*there is a shortage of housing land*).
- Replace the two rear houses with bungalows.
- No visitor parking for plots 3 to 6
- Driveway too narrow and pavement has reduced this width further
- No passing bay on the driveway
- Noise from gates opening and closing (*these have been removed from the proposal*)
- No shading plan and the rear gardens of plots 5 & 6 will be heavily shaded (*there is sufficient information to assess the proposal*).
- Impact on bats from light spillage
- Wildlife habitat assessment should be completed (bat and bird survey provided).
- Personal circumstances of the applicant (*not a material planning consideration*)
- Land opposite is designated as Priority Habitat and is protected for the Willow Tit.
- Disruption during construction
- Bungalows would be houses in the future (*the Local Planning Authority is required to assess the planning application as submitted*)
- Council is being misled regarding the previous intentions to sell the property and the need for tree removal to assist the sale for personal reasons rather than for the clearance of trees to assist the sale of the land for re- development (not a material planning consideration).
- Sentimental value of the site to residents (*not a material planning consideration*)
- Developer should be penalised for clearing the site (any evidence of harm to nesting birds could be reported to the Wildlife Crimes Officer by residents)
- MPs refer to amending planning guidance to refuse planning applications where an applicant provides misleading and inaccurate information in a Statement of Community Involvement (*this planning application does not include a Statement of Community Involvement*)
- Proposed garden sizes are uncharacteristic in this area of large gardens.
- Land Registry Title Register provided for 27 Little Aston Road dated 6/2/08
- 6 new properties would encroach on Green Belt (*the application site is not on designated Green Belt Land and Little Aston Road separates the site from Green Belt to the north*)
- Habitats were destroyed before the ecological survey was undertaken.
- Welcome the addition of new bungalows and the site should have 4 bungalows.
- No improvements to the sewer system (*not a material planning consideration*)
- Separation distance to orangery at 9 Branton Hill Lane
- Access road does not meet 2.4 pavement width visibility rule
- Hedge obstructs the highway view and applicant has no access to this
- Plot 6 fails the minimum SPD distance

Determining Issues

- Principle of Development
- Heritage Assessment

- Design, Layout and Character
- Amenity of Existing and Future Occupiers
- Ecology
- Protected Trees
- Cannock Chase Special Area of Conservation
- Ground Conditions
- Asbestos
- Noise
- Air Quality
- Parking and Access
- Local Finance Considerations

Assessment of the Proposal

Principle of Development

The site comprises previously developed land situated in a well-established residential area, within walking distance of shops within Aldridge Primary Shopping Area which is less than 0.5km from the site (as the crow flies).

The proposal will add to the supply of housing and can be supported on strategic planning policy grounds by the NPPF paragraph 60, as well as BCCS (Black Country Core Strategy) policy CSP2.

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 January 2022 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.

With respect to the agent's covering letter of 10/8/23, it is considered that the limited number of dwellings proposed in this application will make little impact on Walsall's housing land supply. NPPF paragraph 120(d) is primarily about encouraging the use of previously developed land. As garden land, this site is outside the NPPF definition of previously developed.

Paragraph 71 of the NPPF (2023) states that "Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area."

The proposal will result in backland development of residential gardens in an area that is characterised mainly by houses with large gardens. An argument could be made that the proposal would be contrary to saved UDP (Unitary Development Plan) policy ENV32 and BCCS policy ENV2. The submission states that this proposal is not backland development as two of the proposed plots front onto Little Aston Road. It is considered that as 4 of the 6 dwellings would be located behind the two proposed frontage houses, the proposal is largely backland development and is considered would cause detrimental harm to the character of the local area and to surrounding residents' amenity.

A previous planning appeal for an outline 3-bedroom detached dwellinghouse to the rear of 25 Little Aston Road was dismissed in 2005. This development was considered by the Planning Inspector to have an overbearing effect on neighbouring properties and thereby harming the amenities and character of the area along with it having an intrusive relationship to the existing pattern of development. The current proposal would add 4 backland houses, rather than just

one new backland dwelling, to the joint plots of 25 and 27 Little Aston Road and the proposal is not supported for similar reasons to the previously dismissed appeal. The planning agent has stated, they consider this appeal is not a material consideration worth any weight as the current proposal is substantially different. The Local Planning Authority considers the appeal provides an important steer for any future development of the site, especially as the current proposal includes backland housing and utilises the same site.

The Planning agent has provided additional information relating to other backland sites in the borough including Seeds Lane and Whetstone Lane where planning appeals were allowed. Whilst this information is noted the sites and proposals are considered to be different in character to the current proposal and each planning application is assessed on its own merits.

Heritage Assessment

The council's (built) conservation officer has commented that the application site is located on the southern side of Little Aston Road and the site is not within Aldridge Conservation Area but sits within the setting of the Conservation Area. The conservation officer considers that the proposal would have no harm to the setting of the adjacent Aldridge Conservation Area. There are no objections to the proposal on heritage grounds subject to the inclusion of a planning condition in respect of the appearance of the low front wall.

Design, Layout and Character

Whilst the proposal would have a street frontage for two of the proposed dwellings as a result of the demolition of two existing houses it is considered that the proposal is principally backland development regardless of the planning agent's comments. The planning agent has commented, 'the application site has uncharacteristically large rear gardens, however the introduction of 4 new dwelling on plot no's 3 to 6 would not be out of character with the pattern and density of the surrounding area'.

The NPPF (2023) states that planning decisions should support development that makes efficient use of land, taking into account:

"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 places."

The southern side of Little Aston Road between no's 1 to 33 (odds) comprises mainly of large, detached houses and bungalows with large private rear gardens with mature planting. To the south of Little Aston Road is Hallcroft Way which consists of detached bungalows with smaller rear gardens. Dwellings to the west of the application site along Branton Hill Lane are a mix of detached bungalows and houses with no's 5 to 15 (odds) sharing rear garden boundaries with the application site. These properties form a triangular pattern of existing development. All neighbouring properties have street frontage access which aids to provide a legible, secure well designed attractive and healthy location.

The proposed four backland plots would create a centrally positioned bank of 4 properties unrelated to this defined pattern of development which without street frontages are considered would not add to the location's legibility, reduces the locations security and does not contribute to a healthy location. Should planning committee consider the development should be approved, they should consider seeking an amended development of no more than 3 houses fronting Little Aston Road, plus the two outer plots stepping down in height to their neighbours and the rear gardens being divided between the 3 proposed houses as this would better integrate into the locality.

The proposal would be viewed in obvious contrast to the adjacent dwellings, appearing crammed into this small piece of land and as a consequence the proposal is considered forms

a contrived layout due to the plot shape being out of keeping with the prevailing local character. It would have a poor relationship with the existing adjacent properties within the immediate area, resulting in the disruption of the sense of cohesiveness within the street. The proposal is considered would not make a positive contribution to the street scene of the character of the locality and as a consequence would be considered poor design.

The proposal by virtue of its scale, massing and architectural detail would represent a cramped development of the site which would appear incongruous and unrelated to the surrounding development causing harm to the character and appearance of the area. The proposal is considered fails to respond to local character, reinforce local distinctiveness or reinforce the existing urban pattern of development. The proposal is considered would be out of character with the surrounding pattern of development with plots too small compared to the surrounding pattern.

The proposed separation distances are considered would be much less than would reflect the existing situation or that neighbours are used too or should reasonably expect at this location. Plus, the introduction of noise and activity in the rear garden spaces where people should expect less noise and disturbance, opens the rear gardens of neighbours to public access, giving way to the existing neighbours to suffer from anti-social behaviour and fear of crime. Plus, the proposed rear garden spaces being much less than the prevailing character, has the potential for future occupiers to use the reduced space more intensively which would also be to the detriment of the character of the area.

The NPPF says that decisions should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new development into the, built environment. In this instance, the proposal does not promote or reinforce local distinctiveness and does not integrate new development into the existing built environment. Where this is the case, the NPPF directs councils that permission should be refused for development of poor design that fails to take the opportunities available for improving the character. Policies CPS4, HOU2, ENV2, ENV3 of the BCCS; GP2, 3,6 and ENV32 of the UDP and Supplementary Planning Document Designing Walsall, require development to be informed and influenced by their context and reinforce locally distinctive elements.

This is further emphasised by the architecture of the proposed new buildings which has minimal reference to the existing buildings in the area. The design of the existing two houses at no's 25 and 27 Little Aston Road are simpler and both houses have cat-slide roofs fronting the street which are not design features incorporated into the proposed two new street frontage dwellings which would have double, two storey gable features, on plot no's 1 and 2. These existing characteristics do not feature in any part of the proposed development either. Furthermore, the existing house at no. 25 has a lower roof height adjacent to the neighbouring bungalow than the proposed replacement dwelling and the proposed height is considered looks over-dominant and jarring adjacent to the bungalow at no. 29 Little Aston Road with little attempt to integrate the new houses with the existing.

The street scene drawing shows the outline of the increased roof height of the proposed new dwelling house at 29 Little Aston Road. As the extant planning permission for this new dwelling has not yet been implemented, or is there any clear evidence at this stage, the replacement house for 29 Little Aston Road will be implemented, then this cannot be taken as mitigation when considering the heights of the proposed two new dwellings fronting Little Aston Road and the council can only consider the current proposal with the street scene as it is today.

On this basis it is considered that the design of the two plots fronting Little Aston Road would be overly dominant because of their excessive height and double fronted gable design features and would have a detrimental impact upon the character of the area.

This design seeks to maximise the potential of the site rather than seeking to integrate into the locality. The proportions of these front two buildings are considered do not relate to their surroundings and their design would over dominate the properties to either side.

Plot's 5 and 6 would be two storey dwellings in a tight location at the rear of the site and would be out of character with the locality as there are bungalows to the south on Hallcroft Way. If planning committee recommends the application be approved, despite the level of harm its likely to bring to the immediate locality, that all of the back-land dwellings should be bungalows without floor space in their roofs plus Permitted Development rights should be removed to convert the loft space to accommodation to aim to reduce some of the harm being created.

The size of the proposed rear gardens to serve the development are considered would be less than the prevailing character of neighbouring gardens and the rear garden serving plot no. 4 has a contrived design. Given the smaller scale of gardens compared the prevailing character, if planning committee were to approve the application, permitted development rights should be removed from all of the development to prevent further harm being created to the locality.

The planning agent has commented that the average density of the immediate area is 13.2 dwellings per hectare (dph) and the application site density is 17.7 dph. Hallcroft Way is 24.5dph and Branton Hill Lane 14.8dph. Whilst this comparison is noted it is considered that the application site has a different character to Hallcroft Way and Branton Hill Lane and there is limited benefit to argue density in this instance.

The bin collection point would appear prominent in the street scene and no details as to how this would be managed have been provided. The planning agent has set this back from the footpath and advises that an enclosure built from high quality materials and planting would reduce the visual impact of this area. It is also disappointing that the applicant does feel it's reasonable that a neighbour of the development should take the harm of the bin store being sighted on their boundary rather than being sighted against the boundary of plot 1, one of the proposed dwellings. Should members conclude the development is supportable, the planning authority recommends the bin store is moved to be adjacent to the boundary of plot 1. This will also allow for the applicant to further reinforce the boundary to number 29 with more planting.

The bin drag distance for future residents, particularly those occupying plot no's 3 to 6 with distances of between 34 metres to 64 metres are considered would be excessive and unacceptable for future residents' amenity. Building Regulations recommend a maximum distance of 30 metres and this proposal would fail to meet this standard although the applicants may look to use a private waste collection service although the submission does not include a waste management strategy along with confirmation that all regulations have been met around distances that residents are expected to carry waste/recycling.

Based on what is set out here, it is considered that the proposal is brings an unacceptable level of harm and is recommended for refusal.

Amenity of Existing and Future Occupiers

Plot no's 5 and 6 would be two storey backland, dwelling houses which are considered would be overbearing by way of height and closeness of relationship on neighbouring plots and would result in there being unacceptable overlooking of neighbouring private rear gardens.

The proposal is considered would introduce noise and activity in the rear garden spaces where people should expect less noise and disturbance, plus opening the existing neighbours rear gardens to public access reducing the quality of the existing neighbours amenity to levels of anti-social behaviour and fear of crime that they should not expect where their gardens were part of a defensible street block, the most secure of the urban forms of development.

Notwithstanding the poor backland development being promoted, should planning committee

consider the proposal is supportable, it is recommended that boundary treatments to proposed gardens especially those shared with existing dwellings, should be 1.8m high close boarded fencing with at least 0.3m high trellis on top, all with flush outer edges to reduce the opportunity for climbing aids, plus with the trellis helping trace where future unauthorised access may occur. All proposed gates should also be of the same construction, self-closing and locking again designed to minimise any potential climbing aids.

Designing Walsall SPD (Supplementary Planning Document) seeks 24 metres separation between habitable room windows and 13 metres separation between habitable room windows and blank elevations exceeding 3 metres in height for the purposes of providing sufficient privacy, outlook and access to natural light.

Plot's 1 and 2 (houses) would extend rearwards further than the existing two dwellings at 25 and 27 Little Aston Road. 23 Little Aston Road has front and rear facing habitable room windows. The rear elevations of 23 and 29 Little Aston Road and those of plots 1 and 2 would all face south which is considered that this orientation would limit the impacts on existing and future residents existing light. Plot no's 1 and 2 are considered would meet the council's 45-degree code in relation to 23 and 29 Little Aston Road.

Separation distances between habitable room windows in Plot no. 4 (bungalow) and 72 and 74 Hallcroft Way are less than the recommended 24m distance at 20.2 and 21.9 metres respectively. The proposed new dwelling is a bungalow, and it is considered that privacy could be maintained by intervening solid fencing along the shared boundary. Although it is considered there is little scope to allow for some planting to help screen the proposal from the existing Hallcroft dwellings. Should planning committee consider the development is acceptable and wish to approve the development, then permitted development rights should be removed from the whole development given the limited space there is within each plot and to prevent further substantive harm to the locality.

There would be an 11 metres separation distance between rear habitable room windows in plot's 1 and 2 however the side elevation wall of plot 3, a bungalow, would meet the SPD requirements as the blank side elevation (albeit with a side facing non-habitable room window) would be 2.2 metres which is less than the maximum 3 metres referred to in the SPD.

Plots 5 and 6 (houses), located to the south of the application site would meet the recommended minimum separation distance to habitable room windows in 64, 66 and 68 Hallcroft Way with distances of 28 metres, 28.1 metres and 25.3 metres respectively. Whilst technically, it can be said the development meets the council's minimum standards, the councils design guide does explain, the separation distances can be extended in locations where it reflects the local character. In this instance, greater separation would be expected by existing residents, so the level of harm by introducing two storey houses at this location of the site, would be just as harmful as if they failed to meet the minimum space standards. Should planning committee disagree and consider approving this application, they should also consider swapping plots 5 and 6 for bungalows and as stated elsewhere remove permitted development rights to try to mitigate the level of harm existing occupiers will suffer from including this poor backland development.

The internal site arrangement of the proposed 6 new dwellings would meet the Council's 45-degree code between each of the 6 proposed plots which is considered would provide satisfactory light and outlook for any future occupiers.

The proposed new dwellings would sit to the north of dwellings on Hallcroft Way, and it is considered this orientation would limit the impacts of this development on neighbours existing light.

Plot no's 5 and 6 (houses) would sit to the west of 7 to 11 Branton Hill Lane. There would be a separation distance of 20 metres between the side facing wall of plot 6 dwelling to the rear habitable room window in 9 Branton Hill Lane. This would exceed the recommended 13 metres separation distance referred to in Designing Walsall SPD. The orientation of the new dwelling house would result in some loss of light to the rear garden of 9 Branton Hill Lane during the afternoon however it is considered that whilst this impact would be limited gain, however it is reasonable that Branton Hill residents should expect greater separations distances than is proposed by this development. Consequently, it is considered even with the proposal exceeding the minimum separation distances, in this instance it would be like the proposal had failed to comply with them and therefore creates a level of harm to the existing residents.

The Police have advised that the removal of the gates on the access road would increase access and vulnerability of all rear plots from a security aspect however they have not objected to the proposal subject to the principles of Secured by Design being implemented if approval is granted. If the gates were to remain, it would create a gated community, and this only serves to increase the fear of crime for the immediate vicinity and makes the development and its immediate neighbours more likely to be targets for criminality. The best way to manage out fear of crime and anti-social behaviour is to start with a better designed proposal that has street frontages for all proposed dwellings.

If the proposal is granted permission, then it is considered that permitted development rights should be removed to protect the amenity of existing and future occupiers. Plus, should the proposal be resolved to be approved, it is recommended that a condition be imposed to add security measures to the proposed dwellings. Unfortunately, that does still leave neighbours vulnerable as the planning application cannot require development s to improve the levels of security of neighbouring dwellings.

Ecology

The submission is supported by a Preliminary Bat Roost Assessment and Bird Survey. The report states that there was no evidence of birds nesting in the buildings however if the planning application is approved the demolition of the buildings and any site clearance must not occur if birds are nesting in the building until the young have fledged. This can be conditioned.

The report advises that there is no evidence of bats using the building of 25 Little Aston Road as a place of shelter however there is evidence of bats using the building of 27 Little Aston Road as a place of shelter.

Consequently, the report advises that emergence surveys of 27 Little Aston Road are needed to determine how often and what species of bats are using the building as a place of shelter and that a licence from Natural England will be required to demolish 27 Little Aston Road if planning permission is granted for the development of the site. The emergence surveys would need to be completed between May and August 2024.

The submission states that mitigation will need to be provided in the new development for the loss of the roof space roosting for Brown long eared bats by installing an integrated bat box into the gable elevation of one dwelling. A new bat roosting opportunity can be created by installing an integrated bat box into the gable elevation of the other new dwellings, to meet the requirements of the National Planning Policy Framework (2023) and a method of working must be put in place with contractors to ensure that in the event of bats being found they will not be injured.

The council's ecologist has confirmed that roost characterisation surveys will be required to establish the numbers and type of bat roost present and these surveys should be undertaken prior to determination as bats are considered a material consideration for planning.

In addition, the council's ecologist has advised that the presence of a bat roost on this site has legal implications for the council to consider the 'three tests' set out in Conservation of Habitats and Species Regulations 2010, as part of the determination of the application. The three tests under the Habitat Regulations are set out below, together with a summary of the justifications put forward by the applicant.

Test 1: the 'Purpose' Test.

Is the development for the purpose of 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'?

Test 2: the 'No Satisfactory Alternative' Test.

Is there a satisfactory alternative?

Test 3: the 'Maintenance of Favourable Conservation Status' Test.

Will populations of the species be adversely affected?

For the Local Planning authority to address the 'three tests' the applicant will be required to submit the necessary information alongside the survey information.

The planning agent has advised that they consider that the three additional bat surveys could be conditioned if the planning application receives planning permission.

The council's ecologist has advised that attention should be drawn to the information provided within the Bat Conservation Trust Bat Surveys for Professional Ecologists Good Practice Guidelines (4th Edition)

"When presence is established, this should trigger roost characterisation surveys unless sufficient information has already been collected (using robust survey methods with no significant constraints) to inform the impact assessment and design of mitigation measures. Roost characterisation surveys include emergence surveys.

Where survey works is required, it should be designed to answer specific questions, such as:

- Are actual or potential bat roosts present?
- Which bat species use the site for roosting?
- How many bats are these roosts likely to support?
- Where are bat roost access points?
- Where are the bat roosts?
- At what times of the year are bats present? How does change seasonally?
- What types of bat roost are present e.g., day, night, feeding, transitional / occasional, maternity, hibernation, satellite
- What flight lines do the bats use after emerging from the roost?

All this information can then be used to assess the potential impacts of the proposed development activity and design suitable mitigation and monitoring strategies. For example, information on roost characteristics may be required to inform the construction of a like for like replacement roost where the original roost will be lost. This information is essential when applying for planning permission or an EPS licence."

Currently from the preliminary Bat Roost Assessment and Bird Survey report submitted to support the application, it states the 29 medium sized bat droppings were found within the roof void and during the individual emergence survey, a brown long-eared bat was found to emerge. Therefore, an assessment was made that a brown long-eared day roost was present.

However, the council's ecologist advises that as part of the good practice guidelines bat droppings should be DNA tested, which has not occurred and only one emergence survey at the end of the season has been undertaken. While the council's ecologist would agree that presence has been confirmed, sufficient information has not been provided on the numbers and type of roost present.

Without a DNA analysis of the bat dropping, it cannot be confirmed that the droppings are linked to the day roost or whether there are from a different species. There is also the potential that the further survey work undertaken after permission could confirm a separate roost, at this point the Local Planning Authority would not have undertaken their due diligence in respect to the three tests set out in the Conservation of Habitats and Species Regulations 2010. In addition, as bats are a material consideration in planning, Local Planning Authorities do not condition bat surveys to comply with its legal requirement for protected species.

As stated previously, the LPA (Local Planning Authority) would need to have sufficient information, gathered using good practice guidelines, on the type and size of the roost(s) present and the impact and mitigation measures that will be provided to Natural England to obtain a mitigation licence while, also addressing the three tests set out in the Conservation of Habitats and Species Regulations 2010. This would ensure the Walsall had due diligence in only approving an application where it is believed that a Natural England licence would be granted. Therefore, the council's ecologist has confirmed that roost characterisation surveys and DNA analysis of the dropping would be required before any approval of this application can take place.

The council's ecologist has commented that the proposals do not include any lighting specifications or lighting. As such this has not been included within their ecologist's assessment. If the development is to include lighting that details of this should be provided prior to determination to ensure this can be evaluated in respect to impact to light sensitive species.

The council's ecologist has advised that the proposed landscape plans include the use of native species planting and area of habitats outside residential ownership and as such they are satisfied that the development would result in a net gain in biodiversity in accordance with paragraphs 174 and 180 of the National Planning Policy Framework.

The council's ecologist would seek for the landscape plans and maintenance of the site to be secured for 10 years and this could be secured by planning condition if approved, reflective of the government's legislation.

From consultation comments provided by members of the public, it has been raised that clearance works had been undertaken prior to the ecological assessment. As clearance works have been known to reduce ecological importance and remove ecological features this required investigation.

From the investigation, the council's ecologist has advised that it was found that the clearance works was undertaken in February 2022, while the preliminary ecological appraisal was completed in April 2024. Although it is disappointing that clearance was undertaken to this extent, it was noted to be undertaken outside nesting bird season and over a year prior to the ecological survey, which has allowed self-setting trees and vegetation to grow in the interim period. Therefore, although the clearance of the garden is not recommended, it is not seen to have negatively impacted the assessment this time and should the application be recommended for approval, the applicant would still need to provide landscape and biodiversity uplift for the site compared to what it currently is.

Protected Trees

The trees on the application site are an integral part of the verdant character of the area with demonstrable visual public amenity value.

The council's tree officer has advised that most of the previous tree constraints have been removed from the site following consent being given at planning committee to remove a TPO Pine tree on 02 December 2021 and the removal of non-TPO trees on site being undertaken in February 2022.

The council's tree officer has advised that the council made TPO title no. 06/2022 in February 2022 in response to the tree removal, which was confirmed by planning committee in a modified form on 06 October 2022.

As a result, the council's tree officer has confirmed that there are currently 5 TPO trees on site including 1 Silver Birch (T3), 1 Crimson Norway Maple (T4), 1 Cedar (T5) and a group of 2 Silver Birch (G1). Except for the TPO Cedar (T5), which is adjacent, the front boundary of the site the remaining four TPO trees are situated towards the rear boundary shared with properties on Hallcroft Way.

To accommodate the proposed development, the initial submission planned to remove a large significant Sycamore (labelled T2 on the BS 5837 tree survey submitted with the application) which is south of plot 5. Using the BS 5837 categories, the tree survey categorises the tree as 'A', which is a tree of high quality with an estimated life expectancy of at least 40 years.

The council's tree officer has advised that whilst this tree does not benefit from the protection of a TPO, it is considered that its loss will be detrimental to the visual amenity of the area. In addition, plot 5 encroaches within the root protection areas (RPA) of the two TPO Silver Birch trees (G1) and Silver Birch (T3).

As a result of these concerns the planning agent has provided a revised site layout plan re-positioning plot 5 which is now outside the root protection area of the retained Silver Birch trees protected by a Tree Preservation Order. In addition, Category A sycamore labelled T2 is now shown for retention. Consequently, the Council's Tree Officer has removed their initial objections to the proposal and the submission is now considered to be acceptable in arboricultural terms.

Cannock Chase Special Area of Conservation (SAC)

The council's ecologist has advised that from a review of the Habitat Regulations Assessment form completed and submitted by the applicant, and proposed development details, they are in agreement that the development would, in line with advice from Natural England and the evidence base provided by the Cannock Chase SAC partnership, as part of the screening assessment be determined to have a likely significant impact, as a result of recreational pressures, to Cannock Chase SAC.

Therefore, an appropriate assessment would be required and would need to include suitable mitigation measures as agreed by the applicant and the Responsible Authority to avoid and or mitigate for the significant impacts identified, for the application to be approved.

As detailed within the HRA (Habitat Regulations Assessment) form provided, the applicant has agreed to utilise the financial contribute scheme for mitigation with payments going to Cannock Chase SAC partnership to pay for management of the protected site. Should the payment be secured by a unilateral undertaking and Natural England raises no objections regarding the development, the council's ecologist agrees with the conclusion stated in the HRA form on Step 3 Part 2 and have no further objections and concerns in respect of the SAC.

If the proposal receives planning consent, then a payment of £1978.98 plus legal fees will be required to be paid and this would be secured by a unilateral undertaking. The applicant wishes to proceed with this process and understands that if the planning application is refused permission any abortive legal costs are non-refundable. This would be included as a refusal reason if permission is not granted.

Ground Conditions

Environmental Protection Officers have advised that the applicant has undertaken a contaminated land and ground gas investigation, which indicated that there are no significant issues that require addressing.

Asbestos

Environmental Protection advise that existing properties were built and used during a time when asbestos containing materials were commonly used within structures and products. Should planning approval be given, the applicant will need to undertake an asbestos survey prior to any works commencing and if any is identified, then it will need to be removed under the appropriate national legislation and in accordance with relevant health and safety requirements. This can be conditioned if the proposal is approved.

The proposed construction activities, if approved, are considered would have the potential to cause local disturbance and environmental impacts, such as noise, dust, and debris. Consequently, Environmental Protection Officers require the submission of a Construction Environmental Management Plan should the development be resolved to be approved which could be a condition of approval.

Noise

Environmental Protection Officers have advised that as a new site access road is proposed this may lead to vehicular noise impacts upon neighbouring properties, in particular 29 Little Aston Road.

The planning agent has provided a proposed boundary treatment plan which indicates that there would be 1.8 metres high acoustic fencing along the shared eastern site boundary between the proposed access drive and 29 Little Aston Road (excluding alongside the existing front garden boundary with no. 29)

Environmental Protection have confirmed that the installation of proposed acoustic boundary fencing adjacent to 29 Little Aston Road should reduce some of the noise from the proposed access road upon the adjacent residential dwelling house. They have commented that given speeds are likely to be low they consider that vehicle noise levels will be reduced.

Environmental Protection Officers consider that if the planning application is approved a condition should be included requiring the maintenance and upkeep of the boundary fence to ensure that it remains in good condition, and which should ensure that noise mitigation measures will continue to remain in place for the lifetime of the development.

Air Quality

Building Regulations Part S has relevance, and the applicant will be required to install electric vehicle charging points within each of the proposed premises and the applicant should discuss this requirement with their intended Building Control Officer. This can be included as an informative note and each new dwelling would be required to have an electric vehicle charging point.

Parking and Access

The Local Highway Authority (LHA) have advised that Little Aston Road is an adopted classified road (A454), a District Distributor and part of the Key Route Network. UDP Policy T4

looks to strictly control direct frontage access onto the Key Route Network giving priority to traffic movements.

The development looks to utilise the three existing domestic vehicle access points, two to individual plots and one to a proposed shared driveway to serve the four plots to the rear.

An amended plan has been provided which introduces a segregated 1.2 metres wide footpath for pedestrians alongside the proposed access drive which the Local Highway Authority consider is acceptable. They require a planning condition if approved to provide an amended plan which improves the pedestrian inter-visibility splays at plot 1 at the corner of the 1.8 metres high garden fence and the proposed parking space to plot 3.

Further conditions would be required in respect of hard-surfacing and surface water run-off drainage, the installation of a bell mouth type access with radii kerbing and tactile paving, waste management strategy, visibility splay at the access point, the prevention of the installation of access gates and the submission of a construction methodology statement to protect residents' amenity during construction, if approved.

The additional impacts of the proposed development on existing traffic are considered by the Local Highway Authority to be negligible. Adequate parking is provided on each plot to accord with T13 parking policy.

On this basis the Local Highway Authority have advised that they have no objections to the proposal on highway grounds and the inclusion of an informative note for the applicant in respect of keeping the highway free from mud etc. would be required if the proposal is approved.

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 6 new homes (net gain of 4 new dwellings).

The Government has indicated that, for 2021-22, it will award £350 for each affordable dwelling, but the payment for all new homes (including both affordable and others) varies. There is no fixed payment of £1,000 per home: the sum will vary from £0 to an undisclosed figure. Essentially there is a fixed pot of money each year that is divided between all authorities depending on how many homes in total have been completed across the country.

The money is worked out based on performance in previous years (18 months in arrears), so the payment in 2022-23 will be based on the number of homes completed between October 2020 and October 2021.

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 be poor design and out of character with the surrounding pattern of development with plots too small compared to the surrounding pattern and front elevations overlooking the rears of existing dwellings and the introduction of noise and activity in the rear garden spaces where people should expect less noise and disturbance, opens the rear gardens of neighbours to public

access reducing the existing neighbours to anti-social behaviour and fear of crime, rear garden spaces much less than the prevailing character to the detriment of the character of the area

This proposal is therefore considered to be unacceptable and not in accordance with local and national planning policies and guidance as set out in this report.

Whilst the council does not have a 5-year housing land supply which means that the presumption in favour of sustainable development as described in the NPPF paragraph 11d is in effect. It is considered that the limited number of dwellings proposed in this application will make little impact on Walsall's housing land supply and the harm to the character of the area and neighbours' amenity is not outweighed in this instance. NPPF paragraph 120(d) is primarily about encouraging the use of previously developed land and garden land sits outside the NPPF definition of previously developed land.

The limited benefits of the proposal are considered 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

Officers have advised the applicant's agent of the council's concerns and in this instance are unable to support the proposal. Pre-application advice was not sought by the developer or their planning agents. It is considered that as an alternative three new dwellings only fronting Little Aston Road may be supported as this would be more reflective of the immediate character of the area and would reinforce local distinctiveness and assist with the new development integrating with the existing urban form and on-site development.

Recommendation

Refuse permission

Reasons for Refusal

1. The development would provide an unacceptable back-land development with no street frontage for plot no's 3, 4, 5 and 6 that would be out of character with the established pattern of development in the surrounding area. The proposal by virtue of its scale, excessive heights, massing, over-elaborate architectural detail, particularly for plots 1 and 2, and back-land layout is considered would represent a cramped development of the site which would appear incongruous and unrelated to the surrounding development causing harm to the character and appearance of the area. The proposal fails to respond to local character, reinforce local distinctiveness or reinforce the existing urban structure detrimentally impacting on the amenity and character of the locality. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies CPS4, HOU2, ENV2 and ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6 and ENV32 of the Walsall Unitary Development Plan and policy DW3 and appendix D of Supplementary Planning Document Designing Walsall.

2. The proposed separation distances are considered would be much less than would reflect the existing situation or that which neighbours are used to or should reasonably expect in this location. The proposed habitable room windows in the front elevations of the proposed dwellings of plot no's 5 and 6 would overlook the private rear gardens of existing dwellings and the proposed back-land dwellings would introduce additional noise and activity in the rear garden spaces where people should expect less noise and disturbance. This proposal opens

the rear gardens of neighbours to public access reducing the existing neighbours' defence against anti-social behaviour and serves to increase the fear of crime for existing residents. A combination of the reduced separation distances, overlooking, opening up of rear gardens to public access, creating the potential for anti-social behaviour, increasing the fear of crime all serve to detrimentally impact on the amenity of existing residents and the locality. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies CPS4, HOU2, ENV2 and ENV3 of the Black Country Core Strategy, saved policies GP2, 3.6 and ENV32 of the Walsall Unitary Development Plan and policy DW3 and appendix D of Supplementary Planning Document Designing Walsall.

3. The proposed bin collection point is considered would result in excessive distances for future residents to drag their bins to and its proposed position against the shared site boundary with 29 Little Aston Road is considered to be an unacceptable detrimental impact to the amenities of the existing residents at number 29 from potential noise, odour and visual amenity and should be relocated within the development proposal adjacent to plot 1. No details of future waste management strategy has been provided and the proposal is considered to be contrary to saved UDP policies GP2 and ENV32 and policy ENV3 of the Black Country Core Strategy.

4. The application has failed to provide the required further surveys and DNA evidence in respect of bats, which are a protected species, or the potential impact on their opportunities to roost or the habitat that can support these protected species. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policy ENV23, and the Supplementary Planning Document Conserving Walsall's Natural Environment.

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 (Site Allocation Document) Policy EN1 (Natural Environment Protection, Management and Enhancement) and the National Planning Policy Framework paragraph 181 (2023).

6. The pedestrian inter-visibility splays at plot 1 with the corner of the adjacent 1.8 metres high garden fence and the proposed parking space to plot 3 are unacceptable on highway safety grounds and the development would therefore be contrary to Walsall's Unitary Development Plan, in particular policy T7 and T13, and BCCS policy TRAN2 and Walsall's SAD policy T4.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 8 February 2024

Plans List Item Number: 4

Reason for bringing to committee

Called in by a Councillor Farhana Hassan on the grounds that the design of the proposal requires wider consideration

Application Details

Location: 10, DOWNHAM CLOSE, WALSALL, WS5 3BX

Proposal: PROPOSED 4 BEDROOM DETACHED DWELLING WITH ASSOCIATED OFF-STREET PARKING FOR 3NO. VEHICLES.

Application Number: 23/1162

Case Officer: Leah Wright

Applicant: A Ali

Ward: Pheasey Park Farm

Agent: PAUL CLIFTON ASSOCIATES

Expired Date: 14-Nov-2023

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

Time Extension Expiry: 01-Mar-2024



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Recommendation

Refuse Permission

Proposal

The application proposes the erection of a two-storey, 4no. bedroomed replacement dwelling with off-street car parking provision for 3no. vehicles.

Site and Surroundings

The application site comprises a prominent corner plot where both Downham Close and Elmstead Close intersect and is occupied by a late 1960's two-storey dwelling with single storey flat roofed accommodation to its side. The site has a generous rear garden area and off-street car parking provision.

The existing dwelling is of a simple design reflecting neighbouring dwellings in the immediate vicinity including the use of materials.

The site is located within a Coal Development Low Risk Area.

The site is not located within a flood risk zone as identified by the Environment Agency, nor a critical drainage area.

The site is not located near to any listed buildings or heritage assets. The site is not located within a conservation area.

Relevant Planning History

17/1410 - Construction of 2 x detached dwellings, creation of new vehicle accesses and extensions and alterations to the existing detached house (No.10) – Refused – 24/08/2018.

18/1328 - Construction of one 4 bedroom detached house on land adjacent to 10 Downham Close – Approved – 28/02/2019.

19/0725 - Construction of one 4 bedroom detached house on land adjacent to 10 Downham Close. Amendment to approval 18/1328 – Finally Disposed Of (Article 40 GDMPO) – 16/09/2021.

20/0273 - Two storey side extension with ground floor rear projection, single storey side garage extension and front porch – Approved – 08/06/2020.

23/0414 - Proposed 4 bedroom detached dwelling with associated off-street parking – Refused – 16/08/2023.

Reasons for refusal:

'1. The proposed works by virtue of the increases in footprint, width and depth will, when compared to the works approved under the lawful fallback position Ref: 20/0273, likely result in an unacceptable and somewhat unnecessary 21% increase in footprint and 81% increase in footprint when compared to the existing situation. In considering the limited site area and the proposed increases in footprint, width and depth, the works will likely result in an excessive amount of built form constituting overdevelopment by virtue of their overall bulk, scale and massing when compared against both the fallback position under Ref: 20/0273 and the existing situation on site. The development is therefore contrary to Saved Policies GP2 and ENV32 of the Walsall Unitary Development Plan and Policy ENV3 of the Black Country Core Strategy.

2. The proposed design changes including 3no. front gable additions / extensions and excessive amounts of glazing are not reflective of the main and dominant character and appearance of dwellings within the immediate vicinity and will likely detract from the streetscene. As such, the works are deemed to constitute a final incongruous design which detracts from the dominant character and appearance of dwellings within the immediate vicinity and wider street scene giving rise to significant, detrimental visual impacts at this highly prominent corner location. As such, the works fail to accord with Saved Policies GP2 and ENV32 of the Walsall Unitary Development Plan and Policy ENV3 of the Black Country Core Strategy.

3. In the absence of a suitable Bat Survey, the works, by virtue of their significant works / alterations to the existing building, will likely give rise to adverse impacts to bats and detriment to protected species. As such, the proposal fails to accord with Saved Policies GP2 and ENV23 of the Walsall Unitary Development Plan and Policy ENV1 of the Black Country Core Strategy.'

Relevant Policies

National Planning Policy Framework (NPPF)

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

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

Key provisions of the NPPF relevant in this case:

NPPF 2 – Achieving sustainable development

NPPF 4 – Decision Making

NPPF 5 – Delivering a sufficient supply of homes

NPPF 8 – Promoting healthy and safe communities

NPPF 9 – Promoting sustainable transport

NPPF 11 – Making effective use of land

NPPF 12 – Achieving well-designed places

NPPF 15 – Conserving and enhancing the natural environment.

On **planning conditions** the NPPF says:

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

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve

the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

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

Reducing Inequalities

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

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

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

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

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- **3.6 to 3.8 Environmental Improvement**
- **GP2: Environmental Protection**
- **GP5: Equal Opportunities**

- **GP6: Disabled People**
- **ENV23: Nature Conservation and New Development**
- **ENV32: Design and Development Proposals**
- **T7 - Car Parking**
- **T13: Parking Provision for Cars, Cycles and Taxis.**

Black Country Core Strategy

- **Vision, Sustainability Principles and Spatial Objectives**
- **CSP2: Development Outside the Growth Network**
- **CSP4: Place Making**
- **HOU2: Housing Density, Type and Accessibility**
- **TRAN2: Managing Transport Impacts of New Development**
- **ENV1: Nature Conservation**
- **ENV3: Design Quality.**

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
- NE4 – Survey Standards
- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision
- 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.

Consultation Replies

Fire – No objections – *‘This proposal does not appear to have any detrimental impact on B5 Access & Facilities. No adverse comments, however consideration should be given to the functional requirements of the Approved Document and the impact that this proposal has’.*

Strategic Policy – No objections.

Highways – Support – see relevant section of this report.

Ecology – No objections – see relevant section of this report.

Severn Trent Water – No objections, subject to conditions concerning the submission of both foul and surface water drainage plans – see relevant section of this report.

Environmental Protection - Concerns raised - Environmental Protection have provided conditions for inclusion within any permission to address Construction and Demolition management.

Representations

No responses have been received following the public consultation exercise.

Determining Issues

- Has the revised application overcome the previous reasons for refusal as per Ref: 23/0414?
- Other material considerations / matters.

Has the revised application overcome the previous reasons for refusal as per Ref: 23/0414?

This application is a resubmission of the recently refused planning application 23/0414 which was a replacement dwelling with 4no. bedrooms with off-street car parking provision.

The 23/0414 reasons for refusal state the following (in italics) and are each addressed in turn:

'Reason for Refusal 1: The proposed works by virtue of the increases in footprint, width and depth will, when compared to the works approved under the lawful fallback position Ref: 20/0273, likely result in an unacceptable and somewhat unnecessary 21% increase in footprint and 81% increase in footprint when compared to the existing situation. In considering the limited site area and the proposed increases in footprint, width and depth, the works will likely result in an excessive amount of built form constituting overdevelopment by virtue of their overall bulk, scale and massing when compared against both the fallback position under Ref: 20/0273 and the existing situation on site. The development is therefore contrary to Saved Policies GP2 and ENV32 of the Walsall Unitary Development Plan and Policy ENV3 of the Black Country Core Strategy'.

The planning history of an application site is a material consideration when assessing planning applications. In this instance, planning application 20/0273 permitted the erection of a 'Two storey side extension with ground floor rear projection, single storey side garage extension and front porch' on 8 June 2020 with three years to implement.

This current application was valid from the 19 September 2023 and as such, 20/0273 is not now deemed to constitute a lawful fallback position as the application has expired consequently, only limited weight is attached to this permission as part of this assessment.

The existing dwelling on-site measures the following dimensions:

Footprint – 99sqm;

Height – 7m;

Width – 14.1m;

Depth – 9.8m.

Ref: 20/0273 permitted a scheme measuring the following dimensions:

Footprint – 148sqm;

Height – 6.9m;

Width – 17.4m;

Depth – 10.4m.

This current proposal measures the following dimensions:

Footprint – 182sqm;

Height – 7.4m;

Width – 18.3m;

Depth – 12.8m.

In assessing the current proposed replacement dwelling and comparing with the drawing of the expired 20/0273 application, the council's policy framework is silent in requiring specific thresholds for increases in built form under such applications. As such, each application is assessed as a matter of fact and degree.

The 20/0273 application allowed a 50% increase in footprint when compared to the existing situation. When coupled with the design and use of materials, the 20/0273 application demonstrated a scheme with a design, bulk, scale and massing which is considered the constraints of the application site and the wider street-scene.

It is considered the approved and now expired planning application 20/0273 was a maximum allowable for this application site, taking into account the site and street constraints and any further increases would be incongruous in the locality.

The currently proposed application is an 84% increase in footprint when compared to the existing situation and a 23% increase in footprint upon the expired 20/0273 application.

Whilst some aspects of the proposed application are deemed acceptable (ridge and eaves level height), the combined effects of the proposed increases in width, depth and footprint at two-storey height, and in this prominent corner location, are deemed to constitute overdevelopment of the site, likely resulting in an incongruous development and consequent significant, detrimental visual impacts.

The agent's statement makes reference to neighbouring sites / properties and the coverage of sites with built form as a percentage ratio as a means to justify the proposed increase in footprint, bulk, scale and massing.

Such objective statements clearly fail to subjectively assess and consider the final design of the works and any likely visual impacts they may have when viewed collectively with other dwellings across the street scene.

The current proposal is a corner site, and therefore more visible within the street scene compared to the other sites referenced by the agent. Furthermore, members should be reminded that each site has its own unique constraints that must be considered and decisions on neighbouring sites cannot be used to overcome planning harm in this instance. As such, this approach is not deemed an effective test when assessing applications for replacement dwellings.

It may be the case that other dwellings within the immediate area have constrained sites however, it is noted that such dwellings are not of a size, scale, bulk and massing that departs so significantly from the dominant vernacular of the street scene so as to appear incongruous as is the case herein. The works clearly appear more visually intrusive than both the existing situation and the expired 20/0273 application and that, in essence, is the main concern.

Whilst the applicant's personal family needs are noted as requiring a dwelling of this size, the planning system does not consider personal requirements or needs are not material planning considerations and would not and cannot be used to outweigh the visual impacts the proposal has on the vicinity.

As such, the proposed works by virtue of the increases in footprint, width and depth will, when

compared to the previously approved now expired 20/0273, results in an unacceptable 23% increase in footprint and 84% increase in footprint when compared to the existing situation.

In considering the limited site area and the proposed increases in footprint, width and depth, the works will likely result in an excessive amount of built form by virtue of their overall bulk, scale and massing when compared against both the previously refused and expired 20/0273 and the existing situation on site.

This current revised application has not addressed the above concerns of reason for refusal 1 which are maintained.

'Reason for Refusal 2: The proposed design changes including 3no. front gable additions / extensions and excessive amounts of glazing are not reflective of the main and dominant character and appearance of dwellings within the immediate vicinity and will likely detract from the streetscene. As such, the works are deemed to constitute a final incongruous design which detracts from the dominant character and appearance of dwellings within the immediate vicinity and wider street scene giving rise to significant, detrimental visual impacts at this highly prominent corner location. As such, the works fail to accord with Saved Policies GP2 and ENV32 of the Walsall Unitary Development Plan and Policy ENV3 of the Black Country Core Strategy.'

This revised application has however, sought to address the concerns of the 3no. front gable additions yet this has only reduced the height of 1no. front gable feature with the remainder remaining as previously proposed in refused 23/0414.

Further, it is noted that as a result of this reduction, a new alteration to the rear roof plane is proposed in the form of two-storey gable projection. As such, whilst the efforts to reduce the number of gables along the front elevation are welcomed, the concerns previously raised via 23/0414 still remain. The proposed final design is not reflective of the main and dominant character and appearance of dwellings within the immediate vicinity and will likely detract from the street-scene.

As such, reason for refusal 2 remains relevant.

'Reason for refusal 3: In the absence of a suitable Bat Survey, the works, by virtue of their significant works / alterations to the existing building, will likely give rise adverse impacts to bats and detriment to protected species. As such, the proposal fails to accord with Saved Policies GP2 and ENV23 of the Walsall Unitary Development Plan and Policy ENV1 of the Black Country Core Strategy.'

A Bat Survey has been submitted and the council's ecologist makes the following observations:

'No objection to this application on ecological grounds. The planning conditions suggested below, should be incorporated into any permission granted to ensure that the mitigation stated within the Internal / External Bat Survey report dated September 2023 and general requirement under Unitary Development Plan ENV23 Nature Conservation and new development is undertaken.'

Recommended conditions:

1 If bat/s or evidence of bats are found during these operations Natural England or the ecologist for this project must be contacted.

a.) The bat/s should not be handled or touched and the vicinity of the roost shall be immediately reinstated.

b.) No further destructive works shall be carried out to the building until the need for Natural England licence has been established.

c.) Within one week of finding bats or evidence of bats, a written report by the 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

d.) 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

2. Lighting proposed for the development shall be minimised in accordance with the guidance available within Guidance Note 08/18 Bats and artificial lighting in the UK, bats and the Built Environment series, BCT, 2018.

3 In the event that the development hereby permitted has not commenced by September 2025, the bat surveys undertaken to support the application will be considered to have expired. In this case, and prior to the commencement of the development hereby permitted, a comprehensive bat survey shall be submitted in writing to and approved in writing by the Local Planning Authority. The requirements set out in the amended survey shall take precedence over any previously agreed measures and the development shall be implemented in accordance with the approved details.

Reason: To conserve local bat populations and to be in accordance with The Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural habitats, & c.) Regulations 1994 Saved UDP policy ENV23: Nature Conservation and New Development.

4a Prior to occupation of the development hereby permitted one brick bat box shall be incorporated into the proposed first floor side elevation, and one bird box shall be provided on site, and they shall thereafter be retained as such. The bat box shall be located at a point not lower than 2.5m from ground level and shall not be positioned directly above any doors or windows.

b The entrance to the brick bat box shall be kept clear from obstructions at all times.

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'.

As such, if all other matters were agreed and subject to the ecologist's amended conditions to meet the 6 tests, reason for refusal 3 is now addressed.

Other material considerations / matters:

Flood Risk / Drainage:

Severn Trent Water makes the following observations:

'I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

-The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and

- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution. [...]

As such if all other matters were acceptable, conditions would have been able to be included if the application were being recommended for approval.

Highways:

The council's highways engineers make the following observations:

'HIGHWAYS OVERVIEW:

The development seeks to replace the existing property into a 4no. bedroom detached dwelling with off-street car parking provision.

VEHICLE ACCESS:

As per the existing arrangement.

VEHICLE PARKING:

In line with Walsall UPD Policy T13 car parking standards, 3no. car parking spaces are located to the front of the dwelling.

Recommendation:

In light of the comments above, the Highway Authority supports the proposal, subject to the following recommended conditions;

1. a) The frontage parking area shall be fully consolidated, hard surfaced in tarmacadam or similar material and drained so that surface water run-off from the area does not discharge onto the highway or into any highway drain, full details of which shall be submitted to and approved in writing by the Local Planning Authority.

b) The access and parking areas shall thereafter be retained and used for no other purpose.

2. a) a 2.4m x 3.4m pedestrian visibility splay shall be always maintained at the new access point, within which no structure or planting exceeding 600mm in height above footway level will be permitted.

Reason: To ensure adequate pedestrian/vehicle inter-visibility is maintained at the access point in the interests of highway safety.

3. Notwithstanding any Permitted Development Rights, no alterations to the existing highway boundary treatment, including the installation of gates at the access point, shall be implemented at any time without full details firstly being submitted to the Local Planning Authority for written approval.

Reason: To ensure adequate inter-visibility is retained at the access point and adjoining access points in the interests of highway safety.

See Highway Authority – Notes to Applicant 1 below.

HIGHWAY AUTHORITY - NOTES TO 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 or any works pertaining thereto.

2. The applicant will be required to obtain the necessary Road Opening

Permit from the Highway Authority for the construction of the dropped kerb footway crossing within the public highway as well as reinstated full height kerbs. For further information and application forms please visit the Council's webpage under

Transport and Streets - Parking Roads and Vehicles'.

As such if all other matters were acceptable, amended conditions to meet the 6 tests would have been able to be included if the application were being recommended for approval.

Environmental protection have concerns about the redevelopment of the site due to asbestos, potential for dust, noise and debris. As such, if all other matters were acceptable, amended conditions to meet the 6 tests would have been included if the application were being recommended for approval. In addition, given the scale of the proposed dwelling, should it be considered the proposal is acceptable there would also be a need to impose other conditions, such as permitted development rights removal, protected species enhancements, drainage and surfacing and drainage of parking areas.

Conclusions and Reasons for Decision

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

Refuse

Given the previous concerns / reasons for refusal under Ref: 23/0414 have not fully been addressed, the works remain unacceptable for the reasons set out below.

Recommendation

Refuse

Reasons for Refusal:

1. The proposed works by virtue of the increases in footprint, width and depth will, when compared to the works approved under the fallback position Ref: 20/0273, likely result in an unacceptable and somewhat unnecessary 23% increase in footprint and 84% increase in footprint when compared to the existing situation. In considering the limited site area and the proposed increases in footprint, width and depth, the works will likely result in an excessive amount of built form constituting overdevelopment by virtue of their overall bulk, scale and massing when compared against both the fallback position under Ref: 20/0273 and the existing situation on site. The development is therefore contrary to Saved Policies GP2 and ENV32 of the Walsall Unitary Development Plan and Policy ENV3 of the Black Country Core Strategy.

2. *The proposed design changes including 3no. front gable additions / extensions and excessive amounts of glazing are not reflective of the main and dominant character and appearance of dwellings within the immediate vicinity and will likely detract from the streetscene. As such, the works are deemed to constitute a final incongruous design which detracts from the dominant character and appearance of dwellings within the immediate vicinity and wider street scene giving rise to significant, detrimental visual impacts at this highly prominent corner location. As such, the works fail to accord with Saved Policies GP2 and ENV32 of the Walsall Unitary Development Plan and Policy ENV3 of the Black Country Core Strategy.*

Notes for Applicant

N/A

END OF OFFICERS REPORT