



Planning Committee

Thursday 25 April 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 7 March 2024.

Copy **enclosed** (pp.6-10)

- 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.11-140)

- 7. Date of next meeting**

The date of the next meeting will be determined at Annual Council.

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

Thursday 7 March 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 I. Hussain
Councillor R. Larden
Councillor J. Murray
Councillor A. Nawaz
Councillor S. Samra

Officers Present:

P. Venables	Director – Regeneration and Economy
A. Ives	Head of Planning and Building Control
N. Alcock	Solicitor
N. Ball	Principal Planning Policy Officer
K. Gannon	Development Control and Public Rights of Way Manager
O. Horne	Senior Planning Officer
A. Scott	Senior Planning Officer
A. White	Team Leader Development Management
E. Cook	Democratic Services Officer
L. Cook	Assistant Democratic Services Officer

91 Apologies

Apologies were received from Councillors Harris, Horton, A. Hussain, K. Hussain and Martin.

92 Declarations of Interest and Party Whip

Councillor Statham declared an interest in Plans List Item 1.

93 Deputations and Petitions

There were no deputations or petitions submitted.

94 **Minutes**

A copy of the Minutes of the meeting held on the 8 February 2024 was submitted.

[annexed]

Resolved

That the minutes of the meeting held on 8 February 2024, a copy having previously been circulated to each member of the Committee, be approved and signed by the Chair as a correct record.

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

Exclusion of the Public

Resolved

There were no items for consideration in the private session.

96 **Response to local plan consultations – Cannock Chase and City of Wolverhampton Councils**

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

(annexed)

Responding to questions, the Principal Planning Policy Officer clarified that it was for the Secretary of State to determine if a plan was 'unsound', providing insufficient housing, but that any failure to meet demand would put increased pressure on neighbouring authorities. Under the current legislation local authorities should have their plans submitted by 2025. Both Wolverhampton and Cannock Chase were seeking to submit their plans under the existing framework. Current evidence showed that Walsall was currently the main source of new residents in Cannock Chase from Birmingham and the Black Country.

It was confirmed that the requirements were for 'dwellings' rather than 'houses'. It was noted that densification was a significant issue and housing provision still needed to be satisfactory.

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

Resolved (unanimously)

- 1. That Planning Committee agree the responses based on those set out in the appendices, and authorise the Executive Director for Economy, Environment & Communities, in consultation with the Portfolio Holder for Regeneration, to submit the response to the respective councils.**
- 2. That Planning Committee authorise the Head of Planning and Building Control to amend the final responses as necessary.**

97 **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.

Councillor Statham, having declared an interest in Plans List item 1, left the meeting at this point.

98 **Plans List 1 – 22/1117 – The Sneyd, 67 Vernon Way, Bloxwich, WS3 2LU**

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

(annexed)

There was one speaker, Mr Bal, in attendance to speak in support of the application.

The Chairman advised the Committee that a request had been received from the applicant for the item to be deferred and sought the Committee's position regarding the matter.

The Head of Planning and Building Control advised that because one of the recommended reasons for refusal was that the application was contrary to policy, officers did not believe negotiations could overcome the recommendation to refuse planning permission..

Members debated the request to defer the application. It was **moved** by Councillor Bains and **seconded** by Councillor Gandham and upon being put to the vote it was;

Resolved (11 in favour, 0 against)

That application 22/1117 be deferred to a future meeting to provide further opportunity for negotiations between the applicant and officers.

Councillor Statham returned to the meeting following the conclusion of the item.

99 **Plans List 2 – 22/0416 – 41 High Street, Pelsall, WS3 4LT**

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

(annexed)

There was speaker in support of the application, Mr Lloyd, who stated that the application was policy compliant, would not detract from the character of the area and there was no policy restricting the number of establishments in an area. He added that there was no evidence of anti-social behaviour (ASB) clearly linked to the existing establishment and that the applicants had engaged with the Council's Clean and Green team to mitigate previous issues regarding litter.

Responding to questions regarding numbers of fixed penalty notices and allegations which had previously been made regarding ASB, Mr Lloyd explained that there was lots of ASB throughout the Borough and that the applicant had taken on board some concerns and engaged with Community Protection. There was no evidence directly linking the existing establishment with issues of ASB and littering and the Police had not objected.

There were no questions to officers. Debating the item, some Members raised concerns regarding alleged issues including ASB, littering and events which had occurred during the COVID-19 pandemic. Several Members acknowledged that there were widespread issues throughout the Borough regarding ASB and littering but that there was no evidence the existing establishment associated with the application had any clear link to these and that it would be unwise to overlook the absence of objections from Community Protection and the Police.

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

Resolved (7 in favour, 5 against)

That Planning Committee grant planning permission for application 22/0416 subject to conditions, as set out in the officer's report and the supplementary paper.

In accordance with procedure rule 17.6, Councillor Bird requested that the minutes record that he voted against the resolution.

100 **Plans List 3 – 23/1509 – 10 Hay Hill, Walsall, WS5 3DN**

The Team Leader Development Management introduced the report of the Head of Planning and Building Control, outlining the planning history of the site, providing an overview of the application and the difference between the previous application which was granted for approval .

(annexed)

There was one speaker, Mr Martin, in attendance to speak in support of the application.

The Team Leader Development Management advised the Committee that the Council's legal services team had provided advice shortly prior to the meeting, at 4:30pm, recommending that the Committee defer the item. The Council's Solicitor explained that this was due to concerns regarding the recommendation and the clarity of the reasons for this contained in the officer's report, in particular with the regards to the reasons why the existing 'as built' development was unacceptable.

The Chairman clarified the situation to the applicant and confirmed that, in order to ensure that no future application or actions would be compromised or prejudiced, no further discussion would take place.

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

Resolved (unanimously)

That application 23/1509 be deferred to a future meeting.

Following the conclusion of the item, the Chairman expressed his thanks to the outgoing Head of Planning and Building Control on his and the Committee's behalf.

101 **Date of next meeting**

The date of the next meeting would be 25 April 2024.

There being no further business, the meeting terminated at 6:26pm.

Signed:

Date:



Development Management Planning Committee

Report of Head of Planning and Building Control on 25/04/2024

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3	23/0120	<p>SANDOWN QUARRY, STUBBERS GREEN ROAD, ALDRIDGE, WALSALL</p> <p>Ward: Rushall-Shelfield</p>	<p>PLANNING APPLICATION FOR THE RESTORATION OF SANDOWN QUARRY THROUGH THE IMPORTATION OF 3,100,000M3 OF INERT/NON-HAZARDOUS MATERIAL OVER A 20 YEAR PERIOD, THE CONSTRUCTION OF A NEW SITE ACCESS AND ANCILLARY DEVELOPMENT. (SITE WITHIN THE PUBLIC RIGHTS OF WAY ALD1)</p>	<p>DELEGATE TO THE HEAD OF PLANNING AND BUILDING CONTROL TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND A SECTION 106 AGREEMENT (TO SECURE TRAFFIC CALMING, PUBLIC RIGHT OF WAY AND ECOLOGICAL MEASURES) AND SUBJECT TO:</p> <ul style="list-style-type: none"> - RECEIVING SATISFACTORY AMENDMENTS TO HIGHWAY SAFETY, ECOLOGY AND AMENITY - THE AMENDMENT AND FINALISING OF PLANNING CONDITIONS 	73-89
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6	23/0446	74, MELLISH ROAD, WALSALL, WS4 2EB Ward: St Matthews	RETROSPECTIVE: REPLACEMENT 6 BEDROOM DETACHED DWELLING HOUSE	REFUSE	132- 140

Planning Committee

Report of Head of Planning and Building Control on 25 April 2024

Plans List Item Number: 1

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.

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: 03-May-2024



Recommendation

Refuse

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. Following receipt of amended plans on 15 January 2024 showing a complete layout re-design and re-location of the main vehicle access to the centre of the site, members of the planning committee meeting of 8 February 2024 resolved to defer the application to a future meeting for the applicant to consider and respond to concerns raised by the local highway authority in relation to those amended plans.

Further amended plans were received on 23 February in response to highway concerns. Neighbours, interested parties and relevant consultees were re-consulted on 27 February and provided with an opportunity to submit any comments by the 12 March.

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.

Supplementary Paper

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

The October supplementary paper explained that original refusal reason 6 would fall away as a result of an amended visibility splay to plot 1 and plot 3 and that refusal reason 3 was updated in relation to the bin collection point.

Any Other Updates

Further amended plans have since 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.

The red line site boundary now includes highways land (footpath) to the site frontage and demonstrates the necessary visibility splay without encroaching on any third party land.

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.

Consultation responses received in relation to the amended plans received in January and February 2024 are summarised below (officer comments in brackets):

- **Fire Service** – general advice on Building Regulation requirements (falls outside of the planning remit)
- **Local Highway Authority** – no objection subject to conditions / works to be carried out under S278 / S38 highways agreements regarding vehicle access, re-location of telegraph pole and utility chamber, visibility splay, parking spaces and construction plan
- **Waste Management** – No objection
- **Police Architectural Liaison Officer** – No objection, offers suggested additional security measures
- **Strategic Planning Policy** – No additional comments. Previous comments remain relevant that garden land is not defined as previously developed and small net gain of 4 dwellings would make little impact on Walsall's housing supply

Representations received supporting the revised scheme shown in amended plans received in January and February 2024 are summarised below (officer comments in brackets):

- No adverse comments – revised vehicle access and visibility is an improvement and gates could be installed for additional security
- Revised scheme is a considerable improvement to street scene and positive effect on adjoining properties
- Reduced height of bungalows at rear welcomed and addresses overlooking and loss of privacy issues
- Proposal similar to other development at Branton Hill Lane, Portland Road and Whetstone Lane (each application is judged on its own merits)
- Bringing this land forward to provide housing is supported

15 identical letters of representation were submitted as a single submission objecting to this amended application and each individually signed. For the purpose of this report this submission has been deemed to form a petition. The matters raised in the petition have also been repeated within individual representations received in relation to the amended plans received in January and February 2024; these are summarised below (officer comments in brackets):

- Backland development not appropriate
- Fails to accord with linear pattern of development
- Previous appeal decision at this site
- Contrary to adopted policies and guidance
- Would set a precedent (each application is judged on its own merits)
- Forward of established building line
- Minimal impact towards housing supply
- Some small bedroom sizes (these meet national space standards)
- Scheme profitability (this is not a material planning consideration)
- Highway safety and parking provision
- Separation distances not met

- Lack of bat survey details
- Lack of acoustic boundary treatment to entire site boundary and impacts on amenity
- Impact on protected trees (no objection from council's tree officer)
- Security issues, anti-social behaviour and fear of crime
- Loss of views (this is not a material planning consideration)
- Loss of sense of seclusion (the site is already within an established residential area)
- Odours from bin store to kitchen window in plot 3
- Lack of outlook for some proposed dwellings
- Proposed height of plots 1 and 2 out of character with area
- Controls, restrictions and conditions should be included in the event permission is granted (noted)
- Loss of wildlife
- Reduced property value (this is not a material planning consideration)
- Land ownership dispute (this is not a material planning consideration; it is a civil matter between the relevant parties)
- Third party wall issues (this is not a material planning consideration; it is a civil matter between the relevant parties)

Assessment

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, work has recently begun at neighbouring property No.29 including demolition of the existing dwelling in relation to an extant planning permission for a larger, and higher, replacement dwelling at No.29 which this revised proposal would integrate well with. Additional weight is therefore now given to this acceptable relationship in the street scene.

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 the 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 back-land development in this location as set out in the above appeal decision.

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 should permission be granted. 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 plots 5 and 6.

Furthermore, the bin collection area location would be located at only 1.4m distance from a side facing habitable window serving 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.

However, the recently submitted tracking plan demonstrates that a refuse vehicle can access and exit the site and the applicant's planning agent explains that the road can be built to adoptable standards. The local highway authority has confirmed acceptance of this position. The bin store could therefore be removed from this proposal to enable traditional door-to-door bin collections to all dwellings.

While this matter could be easily addressed by way of a suitably worded condition on any potential planning permission, the refusal reason remains at this time on the basis the recommendation remains one of refusal on principle grounds. It should be noted that the bin-store refusal reason would very likely fall away should an Inspector allow the principle of development at any future appeal submitted by the applicant.

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.

New material matters

Comments received refer to the replacement dwelling at No.29 subject of existing planning permission reference 21/0847 having been requested to reflect the wider building line. It should be noted that the original proposal at No.29 was some 3.3m forward of the building line to No.31, and 3.5m forward of No.27 before being revised to better reflect the building line in this location.

By comparison, projecting gable features to plot 1 the subject of this current application would only sit 0.9m forward of the building line to No.29 (1.9m forward adjacent the new proposed vehicle access further west) and the principle front elevation respects the existing building line. The existing property at No.27 includes a forward projecting garage that already sits 2m forward of the wider building line.

Plot 2 would only sit 0.6m forward of the building line to No.23 (0.7m forward adjacent the new proposed vehicle access further east) and the principle front elevation sits slightly behind the existing building line.

On balance, taking the above into account this is not considered to result in significant additional harm to the character or appearance of the area to warrant a refusal reason.

Conclusion

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. As mentioned above, it should be noted that the second bin-store refusal reason would very likely fall away should an Inspector allow the principle of development at any future appeal submitted by the applicant.

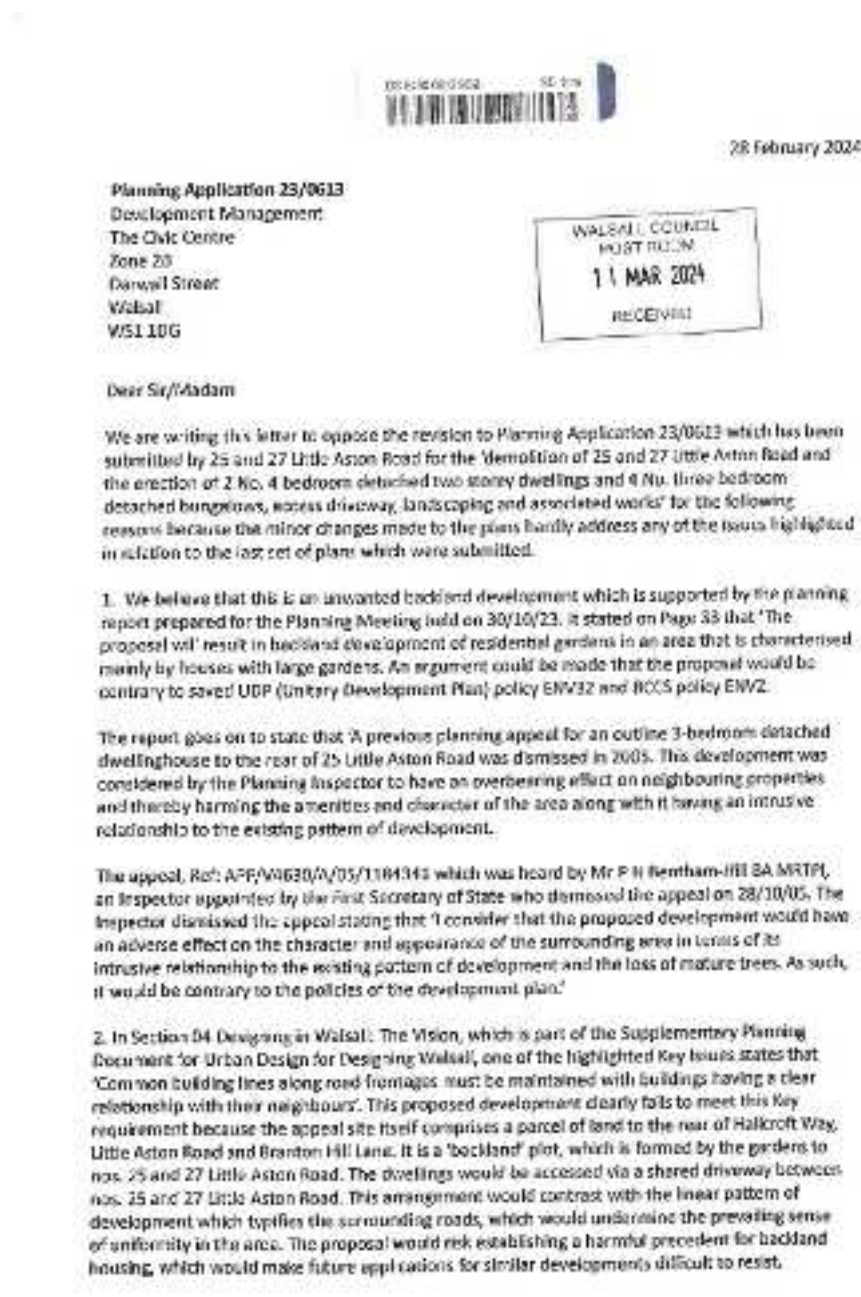
Updated reasons for refusal

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 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. 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.

Petition March 2024 - copy of first page:



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.

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

Representations

(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
- Unsightly 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
- Amenities 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 council's 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 developments 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, is 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 25 April 2024

Plans List Item Number: 2

Reason for bringing to committee

Major Application and Departure from the Unitary Development Plan

Application Details

Location: LAND OFF, BARRACKS LANE, BROWNHILLS, WS8 6LT

Proposal: OUTLINE APPLICATION FOR CLASS B8 (STORAGE AND DISTRIBUTION), CLASS B2 (GENERAL INDUSTRIAL) AND CLASS E (LIGHT INDUSTRIAL) DEVELOPMENT WITH ALL MATTERS RESERVED. RESUBMISSION OF 23/0410

Application Number: 23/1600

Case Officer: Ann Scott

Applicant: Keyhill Developments Ltd

Ward: Brownhills

Agent: Mr M Robson

Expired Date: 23-Apr-2024

Application Type: Outline Permission: Major Application

Time Extension Expiry: 25-Apr-2024



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Recommendation:

1. Refuse

Proposal

Outline application for Class B8 (storage and distribution), Class B2 (general industrial) and Class E (light industrial) development with all matters reserved. Resubmission of 23/0410.

Site and Surroundings

The application site is situated at the edge of the Walsall Metropolitan District Council area to the East side of Barracks Lane and the North side of Lichfield Road Brownhills. The site presently comprises of Green Belt land which is in agricultural and residential use. The site lies near the Anglesey Bridge over the Anglesey Branch Canal on Lichfield Road which runs along the West boundary to the application site to the application site and is a locally listed heritage asset. In addition to the Northwest of the application site is the Middleton Canal Bridge along Chase Road which is a locally listed heritage asset.

The site is situated in the zone of influence for the Cannock Chase SAC.

Relevant Planning History

23/0410 - Outline application for Class B8 (storage and distribution), Class B2 (general industrial) and Class E (light industrial) development with all matters reserved except for detailed access design. – Withdrawn 16 November 2023.

10/1265/FL -Demolition of the original buildings and the removal of 2 no. freight railway carriages and the retention of the existing buildings on land rear of 235 Watling Street Brownhills. – Refused 11 February 2011.

11/1086/FL - Resubmission of a retrospective application for the demolition of the original buildings and the removal of 2 no. freight railway carriages and the retention of the existing buildings. land rear of 235 Watling Street Brownhills. – Refused 18 October 2011.

12/1179 - Erection of 2no timber agricultural storage buildings (modification of existing brick building) and erection of 1no agricultural barn (modification of existing breezeblock building) in association with existing pig farm. 235 Watling Street Brownhills Granted 11 January 2013.

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

Human rights and reducing inequalities

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

Article 8 – Right to Respect for Private and Family Life

THE FIRST PROTOCOL – Article 1: Protection of Property

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

Walsall Council Development Plan - www.go.walsall.gov.uk

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 a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment.

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

Consultation Replies

Ecology – Objections. Since the previous application 23/1410 that applicant has submitted an Ecological Impact Assessment (EclA) dated November 2023. While it is understood that by submitting the report the applicant looks to address these comments. Upon reading section 1.4 of the report, it was disappointing that a full review of planning history and my original comments were not considered as part of the assessment. Concerns raised regarding the potential for lighting associated with the proposal to impact light sensitive species including bats.

The survey effort undertaken for bats is insufficient, falling short of the good practice guidelines outlined by the Bat Conservation Trust in 2023. Only in exceptional circumstances, can ecology surveys be conditioned, as such it is considered best practice to undertake all surveys prior to any permission given. From the review of the application and EclA, no exceptional circumstances apply at this stage. The ecological survey did not include breeding bird species.

The proposal whilst in outline presently is unlikely to meet the 10% net gain in biodiversity.

A metric biodiversity calculation measurement should be included to ensure accordance with the NPPF as part of the application for assessment.

Limited information has been provided on the hedgerow assessment.

Strategic Planning Policy – Objection. This application is a resubmission of application 23/0410 which was withdrawn. The development plan policies that applied to that application remain unchanged. We have amended our comments, however, to address the revised version of the National Planning Policy Framework (NPPF) that was published in December 2023. The site was allocated for employment development by the Black Country Plan (BCP). However, the decision of the four authorities not to proceed with the BCP means that any proposals in the draft plan now have no weight. Certain evidence prepared for the BCP may have some weight, but the December 2023 NPPF revision has significantly changed how local authorities may address a land supply shortfall in relation to the green belt. Paragraph 145 now states “once established, there is no requirement for green belt boundaries to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter green belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made

only through the plan-making process’.

Staffordshire County Council – Highways Objection.

The traffic flow figures provided in the Transport Assessment document do not match from one junction to the other – I am only looking at the junctions connected to Barracks Lane. There is insufficient information to assess the proposal.

Walsall MBC Highways Authority – Objection the Highway Authority cannot support the proposal in its current form until the issues raised are addressed: - Concerns raised by National Highways.

Highways England – Objection with regard to insufficient information to assess the impact of the proposal in relation to trip generation, trip distribution, traffic growth, drainage, air quality, noise and boundary treatments.

Archaeological Officer – Concerns Raised. The site comprises mostly undeveloped land, adjacent to the Watling Street Roman Road and within the Watling Street Archaeology Priority Area. As such, there is the potential for archaeological heritage assets to be present within the site boundaries (of prehistoric, Roman, and Saxon date), that may be impacted by this development. A 3-stage condition is recommended requiring a programme of archaeological work that identifies, records, and analyses any archaeology present, and to appropriately disseminate the results. This work would ensure that any loss of heritage asset from the development would be mitigated by preservation by record, in accordance with UDP Policy ENV25.

Canal and River Trust - Objection

The application documentation as submitted does not provide sufficient information to enable the LPA to consider the impact of the proposal on the ground conditions of the site, the structural stability of the canal and the impact of such solutions on the locality. Specifically, the continued safe use of the canal corridor and its quality as a SLINC and Greenway. These are material considerations that would determine the acceptability of the proposal in principal and therefore without provision of this information the proposal is contrary to Policies EN4 Canals, LC5 Greenways and EN1 Natural Environment Protection, Management and Enhancement of the Walsall SAD 2019; Policies ENV1 Nature Conservation, ENV4 Canals and ENV6 Open Space, Sport and Recreation of the Black Country Core Strategy 2011 as supported by paragraphs 174, 183-184 of the National Planning Policy Framework 2021 and the National Planning Practice Guidance (NPPG: Land Stability).

Lead Local Flood Authority – Insufficient information has been provided to demonstrate that an acceptable Flood Risk Assessment and Drainage Strategy has been provided in relation to an easement to the canal system, and mitigation measures in the submitted flood risk assessment including finished floor levels, surface water flows in the event of a severe flood event, and infiltration/porosity tests.

Environmental Protection- Objection regarding noise to adjacent neighbours based on the applicant's own submission, plus the limited detail and the proposal for a wide range of planning use classes

Police Architectural Liaison Officer – Concerns raised regarding the following.

The Wryley and Essington Canal towpath to the west of the site.

Rivers and canals can provide vulnerability, access other than via road.

I recommended the applicant contact the Canals and Rivers Trust.

Adjacent footpaths and towpaths can increase vulnerability to sites.

The following updated information. I would recommend security using the principles of Secured by Design.

Natural England – objection insufficient information provided to assess the impact of the development on the following sites. The Southern Staffordshire Coalfield Heaths, and Cannock Extension Canal SAC.

Lichfield Council - Following a review of this consultation from Walsall Council, Lichfield District Local Planning Authority raises no objection to the principal of the development. The LPA would like to recommend that you take into consideration your local policies and guidance contained in the National Planning Policy Framework.

West Midlands Fire Officer – concerns raised regarding requirements for B5 Access and facilities for the Fire Service. Approved Document B, Volume 2, Buildings other than Dwellings, 2019 edition incorporating 2020 and 2022 amendments – for use in England.

Inland Waterways Association Lichfield Branch – Objection The timetable for a new Walsall Local Plan is uncertain, but currently not expected to go to

Examination before 2026. Any major new development proposal, and particularly any involving removal of Green Belt protection, would clearly be premature before that process has completed, or even started, and to approve it would be to undermine the integrity of the whole planning system. Therefore, IWA objects in principle to this application and expects it to be refused.

Hammerwich Parish Council

1. Our councillors believe that part of the proposed development falls within the boundary of Hammerwich Parish Council, so the case should not be solely decided to Walsall Council.

2. The proposed development will bring heavy traffic flow and vehicles to the area. The Hammerwich Parish Council is concerned about the pressure to be put on Barracks Lane which was not built for to support industrial developments. The Parish Council requests the traffic concerns to be addressed.

Officer Comments – *the application site is not within the boundaries of Hammerwich Parish council the boundary is the A5 Watling Street, and the application site is to the South side of the A5 Watling Street. The application site is wholly within the Walsall Metropolitan Council Boundary.*

Neighbour and interested parties comments

102 Comments received objecting to proposal for the following reasons

- Highway safety
- Residential amenity
- Noise
- Increase in traffic
- Loss of green belt
- Impact on nearby residents
- Potential for impact on wildlife/ecology
- Overdevelopment
- Not the right location for this development

1 letter of support regarding local employment opportunities

Determining Issues

- Principle of development
- Green belt assessment
- Heritage assessment
- Cannock chase SAC and HRA
- Design, layout and character
- Amenity of neighbours and future occupiers
- Highways
- Ecology and Biodiversity Net Gain
- Flood Risk / Drainage
- Trees / Protected Trees
- Ground Conditions and Environment
- Planning Obligations
- Local Finance Considerations
- Other key determining issues

Principle of Development

The site is largely undeveloped agricultural land situated within the Green Belt to the North of Lichfield Road and the West side of Barracks Lane. The application is for outline permission with all other matters reserved for a later stage. A revised indicative site opportunity layout drawing has been provided and demonstrates access from Barracks Lane.

The Strategic Planning Policy Section advise, the planning policy issues for this application are balanced.

The current NPPF (December 2023) states; that the choice to not use Green Belt applies regardless of the proposed land use. As such, it also applies to the allocation of land for employment development. Regardless of this, the expectation that the Green Belt should only be reviewed through the local plan process remains unchanged from previous versions. The amount of land required for employment still has to be balanced with the amount required for housing and other uses. Without prejudice to any future decision on the Walsall Borough Local Plan, if the council chooses not to allocate land in the Green Belt for housing, it follows that the resulting reduction in housing growth will also reduce the number of jobs and the amount of employment land that will need to be required. If on the other hand more employment land is provided than there are people to fill the resulting jobs, a surplus of employment land could result in a requirement to provide additional housing to meet the demand for workers.

Of the documents provided by the applicant, 'Barracks Lane Consultation Objection Response 050424' only refers to the comments from other parties and does not deal with strategic planning policy issues. 'Barracks Lane Planning Statement Addendum' contains the following:

- Extracts from national green belt policy.
- Reference to a legal case in Bedfordshire from 2015 concerning the circumstances in which very special circumstances may apply in the absence of a green belt review through the local plan.
- Extract from the green belt assessment carried out for the Black Country Plan.
- Reference to Avison Young Strategic Employment Sites Study.
- References to two appeal cases, one for housing and one for logistics.
- Reference to a 2008 appeal court concerning very special circumstances.

All of these points however pre-date the December 2023 NPPF revision and do not address the very special circumstances which might apply to this particular proposal. With regards to the Avison Young Strategic Employment Sites Study, this was published in 2021 on behalf the West Midlands local authorities (a copy is available at West Midlands Strategic Employment Sites Study - Final Report May 2021 (Stratford.gov.uk)). However, it only examined the need and supply of sites of 25ha and larger. Whilst it identified areas of search, it was also not site-specific. The current site is also only 15ha so is outside the scope of the Avison Young report.

As such, the additional documents submitted on the 5 April 2024 do not raise any new planning policy issues and the review of the Green Belt should only take place as part of a review of the Walsall Borough Local Plan and not through the determination of a planning application.

The site lies within the West Midlands Green Belt as defined by SAD Policy GB1. The land is presently Grade 2 Very Good Agricultural land.

Paragraph 8 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. Paragraph 10 provides for the presumption in favour of sustainable development. In terms of the location of the proposed development there are objections in principle to the development for the development of this land as the development would be inappropriate development and is by definition, harmful to the Green Belt.

The proposed development does not fall within the identified categories set out in the revised National Planning Policy Framework paragraph 44 as having “very special circumstances” and conflicts with the purpose of including land within it. a) buildings for agriculture and forestry; b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it; c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; e) limited infilling in villages; f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and 44 g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings).

The applicant has not demonstrated why this proposal should be in this location rather than any other location as part of its very special circumstances and what other sites may have been considered and discounted before choosing this site. The applicant would also need to demonstrate clearly why other sites have been discounted and not just because they do not own any other sites considered.

The application is accompanied by a Planning Statement which identifies that the application site is situated within the Green Belt.

In addition, the LPA has undertaken a Screening Opinion for the application site and has found that the proposed development falls within the Schedule 2 of the Environmental Impact Assessment Regulations 2017 as its a site in excess of 0.5 hectares and for reasons related to noise impacts to neighbours, potential odour, traffic generation and safety, impact on ecology/protected species, limited BNG and the potential for below ground archaeological deposits it is considered at this stage an environmental statement weighing all of the competing issues should be carried out. No EIA statement has been submitted with the proposed development.

Green Belt Assessment

Para 142 of the National Planning Policy Framework seeks to ensure that the construction of new buildings in the Green Belt shall be regarded as inappropriate development, with a small number of exceptions. The application proposes limited buildings to facilitate the restoration of the quarry including a site office and facilities for the on-site staffing operation of the site. These buildings would be of a temporary nature and would not remain on the site once the restoration works are completed.

Paragraph 143. Green Belt serves five purposes: a) to check the unrestricted sprawl of large built-up areas; b) to prevent neighbouring towns merging into one another; c) to assist in safeguarding the countryside from encroachment; d) to preserve the setting and special character of historic towns; and e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

152. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

153. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

154. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.

Exceptions to this are: paragraph 154 a) buildings for agriculture and forestry; b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it; c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it

replaces; e) limited infilling in villages; f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and 154g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

The application is accompanied by a Planning Statement which identifies that the application site is situated within the Green Belt. Policy GB1: Green Belt Boundary and Control of Development in the Green Belt seeks to ensure that inappropriate development or where very special circumstances exist which clearly outweigh the potential harm to the green belt by reason of inappropriateness and any other harm. Paragraphs 152 to 154 of the National Planning Policy Framework relates to proposals affecting the Green Belt.

Work has ceased on the Black Country Plan (BCP). The policies in the BCCS and the Saved Walsall UDP still apply to this application together with the NPPF Chapter 13 Protecting Green Belt. The NPPF states; there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process. Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period. The proposal remains inappropriate development in the Green Belt. No very special circumstances have been evidenced or demonstrated to justify the development in this greenbelt location. The proposal would be contrary to the guidelines in the National Planning Policy Framework 2023. Protecting the Green Belt, and the Saved UDP Paragraphs 3.2 to 3.5 The Countryside and Green Belt and GB1: Green Belt Boundary and Control of Development in the Green Belt in the Walsall Site Allocation document.

Heritage Assessment

The application is accompanied by a heritage statement. Near the site there are two locally listed heritage assets. The site lies near the Anglesey Bridge over the Anglesey Branch Canal on Lichfield Road which runs along the West boundary to the application site to the application site and is a locally listed heritage asset. In addition to the Northwest of the application site is the Middleton Canal Bridge along Chase Road which is also a locally listed heritage asset.

Para 209 of the NPPF States “the effect of an application on the significance of a non-designated heritage asset should be considered in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset”.

The relevant Development Plan policies BCCC ENV2 (Historic Character and Local Distinctiveness) and SAD EN4 (Canals) and the NPPF revised December 2023 paragraph 209, The submitted heritage statement advises that there are no designated heritage assets within the site but within the wider settling the Wryley and Essington Canal Anglesey Branch there are non-designated heritage assets Middleton and Anglesey Bridges. In addition, the submitted Heritage assessment considers the outbuilding at Sandfield Farm, recorded on the HER, and concludes that this building is of limited heritage interest and that the loss of this setting would not be harmful to the non-designated heritage assets.

The Archaeology Officer advises that the site Concerns Raised. The site comprises mostly undeveloped land, adjacent to the Watling Street Roman Road and within the Watling Street Archaeology Priority Area. As such, there is the potential for archaeological heritage assets to be present within the site boundaries (of prehistoric, Roman, and Saxon date), that may be impacted by this development. An archaeological survey would therefore be required. The heritage assessment submitted does refer to the Staffordshire Hoard which lies across the road from the application site and advises that it is difficult to assess what contributions if any that the application site has made to that heritage asset.

The views of the Conservation Officer will be reported to the Planning Committee.

Based on the comments set out in the submitted heritage statement there is insufficient information provided to assess the impact of the development on existing designated and non-designated heritage assets including potential for local archaeology. Contrary to Development Plan policies BCCC ENV2 (Historic Character and Local Distinctiveness) and SAD EN4 (Canals) and the NPPF revised December 2023 paragraphs 207 and 208.

Design, Layout and Character

The application is in outline only with all other matters reserved for a later application. The application is accompanied by an indicative layout drawing to demonstrate access to Barracks Lane and what opportunities the development could potentially provide. A main route through the centre of the site with areas of proposed development potential to the North and South of the access through the site. Some areas are proposed to be kept as areas for a link between the site and the canal and to the Southwest boundary, landscaping, and ecological mitigation along the boundary with the adjacent Wryley and Essington Canal (Anglesey Branch) and to the Northwest boundary with Watling Street dual carriageway a green landscape buffer is shown. The north south cycle/walking route through the site unfortunately would bring

an un-surveilled route through the site that has the potential to increase anti-social behaviour and fear of crime to the locality. In trying to deal with the fear of crime in the future its likely additional lighting would need to be included which only serves to then impact on the ecology of the location or create further nuisance and to the detriment of neighbouring occupiers of the site including the caravan park. If there is to be a north south walking/cycling route, the applicant should work with the canal and rivers trust and look to enhance the canal towpath where there is already some traffic and make it a more attractive and safer route for any additional and existing users.

The site boundary follows the line to the south of an existing mobile home park where properties are sited for year-round residential use this is not a holiday park. There are no provisions in the current application for mitigation measures to protect the occupants of the existing mobile home park from noise, disturbance, visual intrusion, security and potential odours from the proposed development which would be detrimental to the existing amenities of the occupants. The existing noise survey does not take into account the full impact of the proposed development on nearby residential and commercial properties.

The topography of the land is flat in parts with undulating areas raising toward the canal bank which is bunded and at a higher level. A section through the site demonstrates the potential for five units in particular units E and F are along a similar ground level to the canal. There is insufficient information provided to demonstrate the height of the proposed industrial units which have the potential to be at least 15 metres in height and could potentially dominate the openness of the existing Green Belt land. In addition, any external lighting would potentially adversely impact the site and surrounding locality from additional light pollution which may adversely affect birds and other protected species.

The proposed development of the site would be inappropriate and would have a greater impact on the openness of the green belt than existing development and would cause substantial harm to the character of the of the openness of the Green Belt. Contrary to Paragraphs 152 to 154 of the NPPF.

The south boundary is adjacent to the boundary with Staffordshire County Council which means the impacts to the green belt have the potential to spill outside of the boundary of Walsall council to the detriment of a much wider population and area.

The proposal is contrary to Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, DW3 Character and GB1 (Green Belt Boundary) of the Walsall SAD. And the NPPF paragraphs 152 to 154. Protecting Green Belt Land.

Amenity of Neighbours and Amenity of Future Occupiers

Near to the application site are residential properties in proximity. A significant number of objections have been submitted by third parties as set out in the responses section to this report. The main concerns relate to residential amenity, highway safety, traffic speed, congestion, additional traffic generation, air quality impact on wildlife, canal and ecology, noise, and disturbance.

The application is accompanied by an interim noise impact assessment which advises that the site is in an area where background sound levels are dominated by road traffic from the A4 and M6 during day and night hours and advises that the development is appropriate for the location taking into account the likely effects on pollution, health, living conditions and the natural environment. The report advises that noise mitigation measures should be provided to reduce the impact of noise giving rise to significant adverse impacts on health and the quality of life. A baseline for noise data at the site is based on existing predicted ambient sound. The background sound level used in the assessment is advised as being considered conservative and therefore the assessment findings are conservative. As the end uses of the proposed development site are not yet identified, fixed plant sound levels and locations are not predicted in the interim noise assessment. The report assumes that good acoustic design can control noise emissions from plant and the delivery times are based on a worst-case situation. Proposed traffic flows have been predicted based on peak morning turning flows and may not represent the final level of traffic generated and concludes that a full BS4142 Noise Assessment should be undertaken with an updated site layout to avoid the potentially significant adverse effects identified.

The nearby residential mobile home site is adjacent to the Southern boundary and the application site encompasses the residential site on three sides. These mobile homes are unlikely to have the normal level of sound proofing expected in a traditional residential property construction. There is the potential therefore for the occupiers of these mobile dwellings to be adversely affected by the level of noise and disturbance from a resulting development. There is nothing proposed to protect the amenities of nearby residential properties. Bunding and landscaping screening would be necessary to mitigate the potential impact of noise, and visual intrusion.

The Council's Environmental Protection team object to the application on the basis that the submitted noise report provides a lack of detail about the likely impact of the proposed development. Of more concern is that the Noise Report (NIA) uses the site opportunity plan to make predictions about the level of noise from vehicle movements to affect the residential use at Sandfield Farm Home Park and concludes 'For existing sensitive receptors at Sandfield Park Mobile Home Park, the impact of noise from the proposed Development would be adverse during the day and significantly adverse at night'.

Having regard to the findings of the Noise Impact Assessment, the wide-ranging scope of the planning class uses requested and the lack of detail regarding layout etc. Environmental Protection is not able to support the proposal.

Insufficient information has therefore been provided to determine the impact of the proposal on the existing amenities of the locality.

The proposed development is considered contrary to the Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), and ENV3 (Design Quality) Designing Walsall SPD in particular policies DW1 Sustainability, DW3 Character and DW9 High Quality Public Realm, together with Together with the design advice in Chapter 12 of the NPPF Achieving well-designed places, and Policy GB1 (Green Belt Boundary) of the Walsall SAD and paragraphs 152 to 154 of the NPPF Protecting Green Belt Land.

Highways

The Local Highway Authority advises the site is located along the boundary between Walsall and Lichfield, with the site itself located within Walsall and access to the site, via Barracks Lane, located within Lichfield. A pedestrian and cyclist link to the site would be required between the site and Lichfield Road, to the south of the site. The link should be designed in accordance with LTN 1/20, with consideration given to personal security of users and future maintenance of this route.

VEHICLE PARKING: Car parking standards and cycle parking standards for Walsall can be found in Walsall UPD Policy T13. Electric Vehicle Charging Point (EVCP) provision should accord within 6.5.4 of The Black Country ULEV 2020.

Highways England recommend that the application is not granted as they have reviewed the Transport Assessment dated May 2023 and raise concerns regarding the trip generation data provided in the assessment provides limited information and the TRICS data has been used to assess a single Class E use. The submitted Transport Assessment fails to reflect the number of proposed buildings within the site as such cannot support the proposal. Highways England advise that the Good Practice Guide 2023 Table 1 should be used to ensure the selected sites appropriate reflect the location of the proposed development.

The adjacent authority Staffordshire County Council highways have concerns regarding the information provided in the applicants Transport Assessment regarding traffic flows as the figures provided does not match from one junction to another and cannot there support the application and recommends refusal because of insufficient information.

The Walsall Highway Authority concur with issues raised by National Highways regarding TRICS parameters and trip distribution and cannot support the proposal in its current form as there is insufficient information provided.

The proposal is contrary to saved policies T7 - Car Parking, T13: Parking Provision for Cars, Cycles and Taxis, of the Walsall UPD, and the Black Country Core Strategy Policy TRAN2: Managing Transport Impacts of New Development and the Revised National Planning Policy Framework Chapter 9 Promoting sustainable transport, paragraphs 114, 115 and 116.

Ecology and Biodiversity Net Gain

The Council's Ecologist has objected the application based on the submitted information. Previous comments made during the consideration of 23/0140 relate to the lack of an ecological survey submitted assessment in relation to protected species. An ecological survey has now been provided but fails to provide sufficient information regarding the constraints of the site and limited information on the potential for the proposed developments impact on bats in particular with regard to lighting and in addition the timing of the survey work undertaken from August to October 2023. Good practice for survey works as set out in the good practice guidelines set out by the Bat Conservation Trust.

The Ecologist therefore considers that the survey effort undertaken for bats is insufficient and would require best practice to be followed to ensure the level of survey data calculated on foraging and commuting bats is sufficient to inform the application. Only in exceptional circumstances can surveys be conditioned. Due to the area of the site which encompasses large agricultural fields the ecological survey should also have included breeding bird surveys this was omitted, and the ecologist would require this information to provide an informed response. The loss of agricultural land can have a significant impact on ground nesting birds.

There is no information regarding external lighting from the proposed development which has the potential to adversely impact nesting birds and protected species. Which would have an adverse effect on the ecological value and biodiversity of the application site.

Biodiversity Net Gain is to be measured to ensure accordance with the National Planning Policy Framework. Limited information has been provided on the hedgerow assessment survey and the ecologist would require this information to provide an informed response.

The application fails to provide sufficient information to inform the ecological impact of the proposed development and is contrary to the Unitary Development Plan Policies ENV14 (Development of Derelict and previously developed sites), ENV18 (Existing Woodlands, Trees and Hedgerows) and ENV23 (Nature conservation and new development) and the revised National Planning Policy Framework 2023 Chapter 15 Conserving and enhancing the natural environment.

Flood Risk / Drainage

The Lead Local Flood Authority object to the proposal based on insufficient information has been provided to demonstrate that an acceptable Flood Risk Assessment and Drainage Strategy has been provided in relation to an easement to the canal system, and mitigation measures in the submitted flood risk assessment including finished floor levels, surface water flows in the event of a severe flood event, and infiltration/porosity tests.

The proposed development is not acceptable in terms of flood risk and drainage and is contrary to the Black Country Core Strategy ENV5: Flood Risk, Sustainable Drainage Systems, Urban Heat Island and NPPF Chapter 14 of the revised NPPF December 2023. Meeting the Challenge of climate change flooding and coastal change.

Trees / Protected Trees

The application has been accompanied by a Trees Constraints plan for the site and the views of the Council's Trees and Landscape Officer will be reported to the committee. Normally a Tree Survey is required to fully inform the proposed development and its likely impact on existing trees within and near to the application site. A full tree survey has not been provided to identify the existing trees within the site and in addition as set out in the Ecologists Response insufficient information has been provided regarding the ecological impact of the proposed development. Limited information is provided on the proposed landscaping, where areas of landscaping and potential buffer areas are provided on the submitted site opportunities drawing.

Insufficient information has therefore been provided to adequately inform the likely impact of the development on existing trees and landscaping and the proposed development is not acceptable contrary to the Walsall Unitary Development Plan Policies ENV14 (Development of Derelict and previously developed sites), ENV18 (Existing Woodlands, Trees, and Hedgerows) and ENV23 (Nature conservation and new development) and Chapter 15 of the revised National Planning Policy Framework Conserving and enhancing the natural environment.

Ground Conditions and Environment

The application site is in an area at low risk of coal mining activity. No further coal investigation is considered necessary in this instance. There are no objections from the Coal Authority. Standing advice is advised. 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.

In addition, no information has been provided in an archaeological survey would be required as the site is in proximity to Watling Street and is in an area which could potentially be affected by below ground archaeological deposits. No information has been provided in relation to any potential ground contamination and a phase one ecological survey would be expected to identify any potential impacts on flora and fauna.

There is insufficient information provided on existing site conditions and existing and proposed site drainage conditions and capacity for a sustainable drainage system. As there is limited information on existing ground conditions, drainage, archaeological deposits, and the environment the proposal lacks sufficient detail to make an informed view on the suitability of the site to accommodate the proposed development. Contrary to saved UPD Policy ENV10 and G2 Environmental Protection. ENV5: Flood Risk, Sustainable Drainage Systems, Urban Heat Island and NPPF Chapter 14 of the revised NPPF December 2023. Meeting the Challenge of climate change flooding and coastal change.

Other key determining issues

Paragraph 2 of the National Planning Policy framework relates to achieving sustainable development and sets out the principles of achieving sustainable development.

The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs. At a similarly high level, members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being, and environmental protection. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives): an economic, social and environmental objective.

This application has failed to demonstrate sufficient information to assess the impact of the proposal on these fundamental objectives for sustainable development and the application is therefore contrary to the advice in the National Planning Policy Framework 2023 Chapter 2 Achieving Sustainable Development. And fails to provide sufficient information to demonstrate very special circumstances put forward to outweigh the Green Belt Policies set out in the Development Plan and the National Planning Policy Framework 2023.

Conclusions and Reasons for Decision

This application has failed to provide sufficient information regarding highway safety, impact on the existing amenities of nearby occupiers, the impact of the proposal on the openness of the Green Belt including any very special circumstances put forward to outweigh the Green Belt Policy. heritage assets, ecological impact, drainage, and flood risk and below ground archaeological deposits. This application is does not accord with local and national planning policies and guidance as set out in this report.

This application is a resubmission of a previous application where concerns were raised regarding the matters set out in the report and the application was subsequently withdrawn this application fails to overcome the concerns raised. The

application is not accompanied by an Environmental Impact Assessment and the Local Planning Authority has carried out a screening opinion for the application and considers that the application falls into Schedule 2 of the Environmental Impact Assessment Regulations 2017.

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

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and advised of concerns in relation to the proposal as set out in the reasons below. In this instance officers are unable to support the proposal due to the inappropriate development within the Green Belt with no special circumstances demonstrated to override the policy concerns.

Recommendation -

Refuse

Reason for Refusal

1. The proposed outline development of Class B8 (storage and distribution), Class B2 (general industrial) and Class E (light industrial) development with all matters reserved in the Green Belt is inappropriate development for which there are no very special circumstances put forward to outweigh the Green Belt Policy. The proposal is contrary to The National Planning Policy Framework, policy ENV1 of the Black Country Core Strategy, Saved Policies 3.2 to 3.5, GP2, and ENV7 of the Walsall UDP, Policies GB1 and EN1 of the Walsall Site Allocation Document.

2. Insufficient information has been put forward to demonstrate the likely impact of the proposed development on the safe and free flow of traffic on the highway network. Relevant policies regarding highway safety are “saved policies” T7 - Car Parking T13: Parking Provision for Cars, Cycles and Taxis, and the Black Country Core Strategy Policy TRAN2: Managing Transport Impacts of New Development.

3. The application fails to provide sufficient information to inform the ecological impact of the proposed development and is contrary to the Unitary Development Plan Policies ENV14 (Development of Derelict and previously developed sites), ENV18 (Existing Woodlands, Trees, and Hedgerows) and ENV23 (Nature conservation and new development) and the revised National Planning Policy Framework 2023 Chapter 15 Conserving and enhancing the natural environment.

4. Insufficient information has been put forward to demonstrate the likely impact existing trees within the site and the submitted Arboricultural assessment does not provide sufficient information to inform the proposal regarding the impact on existing trees/landscaping contrary to the Unitary Development Plan Policies ENV14 (Development of Derelict and previously developed sites), ENV18 (Existing Woodlands, Trees and Hedgerows) and ENV23 (Nature conservation and new development).

5. Insufficient information has therefore been provided to determine the impact of the proposal on the existing amenities of the locality, contrary to the Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), and ENV3 (Design Quality) Designing Walsall SPD in particular policies DW1 Sustainability, DW3 Character and DW9 High Quality Public Realm, together with Together with the design advice in Chapter 12 of the NPPF Achieving well-designed places.

6. Insufficient information has been provided to assess the impact of the development on existing designated and non-designated heritage assets. Contrary to Development Plan policies BCCC ENV2 (Historic Character and Local Distinctiveness) and SAD EN4 (Canals) and the NPPF revised December 2023 paragraphs 207 and 208.

7. Insufficient information has been provided to demonstrate that an acceptable Flood Risk Assessment and Drainage Strategy has been provided in relation to an easement to the canal system, and mitigation measures in the submitted flood risk assessment including finished floor levels, surface water flows in the event of a severe flood event, and infiltration/porosity tests. The proposed development is not acceptable in terms of flood risk and drainage, contrary to the Black Country Core Strategy ENV5: Flood Risk, Sustainable Drainage Systems, Urban Heat Island and NPPF Chapter 14 of the revised NPPF December 2023. Meeting the Challenge of climate change flooding and coastal change.

8. The application fails to provide sufficient information to inform the Environmental impact of the proposed development as the application falls into the Schedule 2 Category of the Environmental Impact Regulations 2017, and is contrary to the Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), and ENV3 (Design Quality) Designing Walsall SPD in particular policies DW1 Sustainability, DW3 Character and DW9 High Quality Public Realm, together with the advice in paragraph 8c of the National Planning Policy Framework 2023 in order to protect and enhance our natural, built and historic environment.

END OF OFFICERS REPORT



Planning Committee

Report of Head of Planning and Building Control on 25 April 2024

Plans List Item Number: 3

Reason for bringing to committee

Major Application: Significant Community Interest and Departure from the Unitary Development Plan

Application Details

Location: SANDOWN QUARRY, STUBBERS GREEN ROAD, ALDRIDGE, WALSALL

Proposal: PLANNING APPLICATION FOR THE RESTORATION OF SANDOWN QUARRY THROUGH THE IMPORTATION OF 3,100,000M3 OF INERT/NON-HAZARDOUS MATERIAL OVER A 20 YEAR PERIOD, THE CONSTRUCTION OF A NEW SITE ACCESS AND ANCILLARY DEVELOPMENT. (SITE WITHIN THE PUBLIC RIGHTS OF WAY ALD1)

Application Number: 23/0120

Case Officer: Ann Scott

Applicant: Mr Richard Lord

Ward: Rushall-Shelfield

Agent: Mrs Sian Hayle

Expired Date: 01-May-2023

Application Type: County Matters: Waste Application

Time Extension Expiry: 03-May-2024



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Recommendation:

Delegate to the Head of Planning and Building Control to grant planning permission subject to conditions and a Section 106 Agreement (to secure traffic calming, public right of way and ecological measures) and subject to:

- receiving satisfactory amendments to highway safety, ecology and amenity
- the amendment and finalising of planning conditions

Proposal

Planning application for the restoration of Sandown Quarry through the importation of an anticipated 3,100,000m³ of inert/non-hazardous material over a 20-year period, the construction of a new site access and ancillary development. (Site within the Public Rights of Way Ald1).

Site and Surroundings

The application site is situated on the Northern side of Stubbers Green Road adjacent to the Weinberger Brickworks and next to the Swan Pool a SSSI and is situated within the West Midlands Green Belt. The site is in an area at a low risk of legacy coal mining development. To the North of the site boundary is the Daw End Branch of the Wryley and Essington Canal and to the Southern side of the site across Stubbers Green Road is The Swag. The site is situated in flood zone 1 but is adjacent to Flood Zone 3 at highest risk of flooding and adjacent to Flood Zone 2 at medium risk of flooding as defined on the Environment Agency Flood Map for Planning.

There are no heritage assets in the vicinity of the application site. A public right of way ALD 1 runs around the perimeter of the application site but historically did exist within the site until it was excavated a diversion order was granted and the fenced off Public Right of Way runs around the site boundary to the North, West and Southwest corner of the application site.

The application has been submitted together with one for the importation of 100% of clay from the adjacent brickworks as the quarry is now largely worked with a minimal amount of clay left for extraction. The quarry therefore needs to be restored to ensure that the land is returned to a suitable original condition in accordance with the approval of the quarry and brickworks. The application to import 100% of clay to the brickworks has now been approved under the reference 23/0118.

Over time vegetation and trees have grown around the edge of the quarry mouth and created a tree and vegetation belt around the perimeter of the site. The depth of the quarry is presently 130 metres approximately. The quarry will be backfilled with non-hazardous materials mainly soils and some mixed materials that will not create any landfill gas or further decomposition. The application is accompanied by an

Environmental Statement in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Relevant Planning History

23/0118 -Application under Section 73 for the removal of condition number 8 of Planning permission 15/0303/FL (which varied condition 14 of planning permission

08/1338/FL and condition 14 of BA17797P) to allow an increase in the limit of imported clays from 95% to 100%. Site within the Public Rights of Way Ald1) – Approved 14 September 2023.

15/0303/FL- application under section 73 for the variation of condition 14 of planning permission BA17797P, (as amended by 08/1338/FL) to allow an increase in the limit on the percentage of imported clays used in the production of bricks at the brickworks from 65% to 95% - Approved 08 September 2015.

08/1338/FL- vary Condition 14 of planning approval BA17797P to Allow Increase of Limit on Imported Clays from 49% to 65% - Approved 05 November 2008.

BA17797P- Erection of Brickworks – Approved 25 September 1986.

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

Human rights and reducing inequalities

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

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

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good

relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Walsall Council Development Plan - www.go.walsall.gov.uk

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 a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment.

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

Consultation Replies

Natural England - No objection subject to conditions and a satisfactory mitigation scheme to be agreed with the LPA.

HSE – No comments to make.

Environment Agency – no objections.

Canal and River Trust – Concerns raised regarding the protection of the canal, ecological and visual impact of the proposal. Informative advised in regard to ensure any necessary consents are obtained in relation to the Code of Practice for works affecting the Canal and River Trust land.

Coal Authority – The site does not fall within the defined development high risk area and there are no objections. The Coal Authority Standing Advice is advised.

Highways- Concerns raised but accept the access to Stubbers Green Road is acceptable. Subject to the implementation of traffic calming measures to Stubbers Green Road and the relocation of the bus stop.

The submitted Traffic Calming Scheme at The Swag is acceptable in principle however the following amendments are required:

- The northern build-out across the culvert relocated / extended to create the missing footway link.

- Highway drainage will need to be adjusted to prevent ponding at the build-outs.
- There is a system of street lighting along Stubbers Green Road and there the is legal requirement for the regulatory signs to diag. 615 & 615.1 to be illuminated which is not shown on the plans.
- Signs to diagram 811A (Priority over oncoming vehicles) should be provided to face traffic approaching from the other direction’.

Ecology – The restoration proposals should include the submission of a management and monitoring report and should include a description evaluation and features to be managed, aims and objectives, options for achieving aims and objectives, prescribed management actions, time frames, work schedule and plan, legal and funding mechanisms and long-term implementation of Section 106, ongoing remedial measures.

Trees/Landscape- Wishes to see existing trees retained and specification for the proposed landscaping works to be submitted and agreed.

Archaeological Officer- No objections, there are no archaeological implications relating to this proposal.

Severn Trent Water - No objections to the proposals and do not require a drainage condition to be applied. These comments only relate to the public wastewater network and does not include the representation from other areas of Severn Trent Water, such as the provision of water supply or the protection of drinking water quality.

Public Health – No objection.

Public Rights of Way – The proposed public rights of way specification for Footpath 1 Aldridge upon restoration as set out within 7.10 of the Phasing Plan dated January 2024 proposed culvert design drawing ref 3162-01-09 dated 09/02/24, are accepted subject to revisions to show:

- Proposed construction materials, including, confirmation of a compacted inert stone surface, wooden edgings and fixings.
- Drawings to show that upon restoration and installation of the culvert the 90m reinstated footpath and remaining footpath width between Stubbers Green Lane and the canal, will comprise a minimum 3m width. A minimum width of 3m is to enable inclusive access/ passing spaces and assist with maintenance access for a small mower/ tractor with flail.
- The 90m section of the footpath that will be affected by the settlement lagoon and reinstated is to be shown on drawings.
- Details of the proposed post and rail timber fence to be provided – this fencing must be suitable to ensure pedestrian safety adjacent to the new waterbody/areas of standing water.
- A cross section to show the proposed footpath in relation to the new settlement lagoon, swales and timber post and rail fencing.

The Footpath 1 Aldridge Monitoring and Maintenance Plan is accepted subject to updates to confirm:

- When safety issues with the footpath are identified (including any cracks, rutting, waterlogging, mud, flooding) they will be made safe by appropriate maintenance and/or safety fencing in the first instance, and the Public Rights of Way team will be notified of the occurrence and measures taken.
- Details of proposed maintenance of Footpath 1 Aldridge upon restoration and following cessation of the 20-year lease require clarification.

Neighbour and interested Parties Comments

46 comments received objecting to proposal for the following reasons:

- Highway safety
- Residential amenity
- Impact on wildlife
- Impact on ecology
- Inappropriate to visual amenity of the area
- Congestion/additional traffic
- Air quality
- Injury/potential death to wildlife/pedestrians from the increase in lorries using Stubbers Green Road.
- Already two landfills in the locality residents have been subjected to odours and a third landfill is not acceptable.
- Detrimental impact on wildlife and canal.
- Too close to the SSSI
- Site would be better to be converted to parkland for the local community.
- New landfill activities will spoil the environment of the sailing club nearby.
- Visibility not good on Stubbers Green Road.
- Speeding Vehicles an issue

Determining Issues

- Principle of development
- Green belt assessment
- Heritage assessment
- Cannock chase SAC and HRA
- Design, layout and character.
- Amenity of neighbours and future occupiers
- Highways
- Ecology and Biodiversity Net Gain
- Flood Risk / Drainage
- Trees / Protected Trees
- Ground Conditions and Environment
- Planning Obligations
- Local Finance Considerations
- Other key determining issues

Principle of Development

The application site is on a 19.50 hectares parcel of land at Stubbers Green Road Aldridge. The application is accompanied by an Environmental Statement. The proposed development would fall within schedule 2 of the EIA regulations paragraph 11, (b) installations for the disposal of waste. The Development is therefore EIA development.

Paragraph 8 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. Paragraph 10 provides for the presumption in favour of sustainable development. In terms of the location of the proposed development there are no objections in principle to the development for the restoration of the quarry in this location.

The site lies within the Green Belt as defined by SAD policy GB1. The site was originally vacant scrub land but has been in use as a worked clay extraction quarry since the late 1980's. The land has changed over time including the levels and thus the application seeks to restore the quarry and land back to a suitable condition with biodiversity enhancement at the core of the proposal. The original permission for the quarry was granted in September 1986 BA17797P and covered the brickworks and adjacent clay working areas, with conditions in relation to yearly working scheme, covering method, and sequence of areas to be worked and extraction, angles of slopes and excavated faces, planting of trees and shrubs for screening, stripping and storage of subsoils, topsoil and overburden and measures to minimise noise, dust and a programme of implementation. Together with restrictions on working in proximity to the Swan Pool. In principle the proposed development can be supported subject to satisfactory mitigation measures and appropriate access arrangements.

Green Belt Assessment

Para 142 of the National Planning Policy Framework seeks to ensure that the construction of new buildings in the Green Belt shall be regarded as inappropriate development, with a small number of exceptions. The application proposes limited buildings to facilitate the restoration of the quarry including a site office and facilities for the on-site staffing operation of the site. These buildings would be of a temporary nature and would not remain on the site once the restoration works are completed.

Paragraph 143. Green Belt serves five purposes: a) to check the unrestricted sprawl of large built-up areas; b) to prevent neighbouring towns merging into one another; c) to assist in safeguarding the countryside from encroachment; d) to preserve the setting and special character of historic towns; and e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

152. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

153. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

154. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.

Exceptions to this are: a) buildings for agriculture and forestry; b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it; c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; e) limited infilling in villages; f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and 44 g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

The application is accompanied by a Planning Statement which identifies that the application site is situated within the Green Belt.

The restoration of the quarry will result in the land being restored to original condition to comprise of grassland/scrubland/vegetation and will incorporate drainage features to include a boggy area to facilitate the drainage of the land and balance drainage between the site and the adjacent SSSI. Bunding exists to the site boundary with the SSSI, and therefore it is anticipated that minimal impact will occur to the site and the SSSI in relation to drainage. The site will remain within the ownership of Wienerberger and will be leased by the applicants to carry out the restoration works. Once completed the land will be characterised by natural grassland, wetland and landscaping including the retention of the existing trees within the site. The proposal is considered to accord with the exceptions criteria of the National Planning Policy Framework and Policy GB1: Green Belt Boundary and Control of Development in the Green Belt of the Walsall Site allocation document. seeks to ensure that inappropriate development or where very special circumstances exist which clearly outweigh the potential harm to the green belt by reason of inappropriateness and any other harm.

The proposed restoration of the quarry is necessary to ensure that the site is put back to the condition it was prior to the excavation works in accordance with the original planning approval for the works to extract clay from the site.

Heritage Assessment

The Conservation Officer has no objections to the proposed restoration of the quarry.

The Daw End Branch Canal is a non-designated heritage asset and within an Area of High Historic Townscape Value. The AHHTV covers part of the Daw End Branch Canal (opened in 1800), which runs off from the Wryley and Essington Canal Extension at Catshill down to the Longwood Junction. Parts of the site are recorded on the Walsall historic environment record.

Para 209 of the NPPF States “the effect of an application on the significance of a non-designated heritage asset should be considered in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset”.

The proposed restoration of the quarry, new access and ancillary development would have minimal harm to the significance and setting of the Daw End Branch Canal.

The proposal accords with the Development Plan policies BCCC ENV2 (Historic Character and Local Distinctiveness) and SAD EN4 (Canals) and the NPPF revised December 2023 paragraph 209.

Design, Layout and Character

The proposed quarry restoration project is intended to create a grassland and wetland habitat to restore the site to its former condition prior to the quarrying operations to extract clay from the site. The existing site is now an area of land that has been excavated significantly from existing ground levels and the area of quarry void is approximately 19.5 hectares. The ground level of around the quarry is approximately 130m Above Ordnance Datum and the base of the quarry is approximately 90m Above Ordnance Datum.

The design of the completed site once backfilled with inert soils and crushed materials will encourage biodiversity habitats and wildlife to return to the site and will include a wetland area to act as a balancing/filter pond to ensure that water levels on the adjacent SSSI wetland area is not adversely affected by either significant increase or decrease in water levels. Presently water levels from the bottom of the quarry are pumped into a surface water settlement pond at the top of the site from accumulating if this did not continue then the existing quarried pit would fill up with groundwater. This would be potentially dangerous to the public and therefore pumping will still be required through the backfilling process. It is understood that the applicants have applied for an Environmental Permit to backfill the quarry from the Environment

Agency in particular this permit relates to the requirement to deposit and proposes approximately 35,000m³ of inert waste to facilitate the access road.

The Local Planning Authority has commented on the proposed licencing application which is dealt with under separate legislation from the planning legislation. There are no objections in principle to the granting of an environmental permit for the site subject to ensuring that there is no adverse impact on the existing wildlife and the adjacent SSSI Swan Pool and SWAG.

There are no objections in principle to the proposed restoration process set out in the submitted application. Amendments have been negotiated with the applicants to achieve an acceptable level of vehicular and pedestrian access to the site. Including work to the PROW ALD 1 which hugs the perimeter of the quarry to the South and West. Further changes have been requested to ensure that the Public Right of Way is maintained and fenced with timber post and rail boundary fencing and the section of the PROW around the SSSI area in particular to be surfaced with appropriate materials that are suitable around an area of sensitive nature conservation value.

The proposal is considered to accord with Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, DW3 Character

Amenity of Neighbours and Amenity of Future Occupiers

Near to the application site are residential properties and other established commercial premises, recreational and natural sites. The Daw End Canal Branch of the Wyrley and Essington Canal lies to the North of the application site with the existing brickworks run by the current landowners Wienerberger to the East of the site. The applicants for the site will have a long-term lease on the land to provide the restoration works. Regard has been taken to the likely impact of the backfilling process which is expected to take approximately 20 years and a further 2 years for the completion of the restoration works. Creation will last for the first two years after construction. as construction will end in 2045, A suggested period for these works commences in 2047 and runs to 2077.

The proposed highway works, and access mitigation measures proposed are negotiated to mitigate the impact of traffic generation to include traffic calming measures, to ensure the safety of other highway users, pedestrians and wildlife who all occupy space in and around the site including the links to the local and wider highway network and to ensure the existing amenities of surrounding properties are not adversely affected by the development.

A number of objections have been raised by third parties as set out in the responses section to this report. The main concerns relate to residential amenity, highway safety, traffic speed, congestion, additional traffic generation, air quality impact on wildlife, canal and ecology/SSSI. Impact on the nearby sailing club, odours, and noise.

The quarry backfilling works will be operated by strictly controlled hours of operation secured by a suitable planning condition. Works will only be carried out during the hours of operation for the backfilling which will be 07:00 to 19:00 Mondays to Fridays and 08:00 to 13:00 Saturdays. No work will be conditioned on bank and public holidays to ensure that neighbouring residential sites are not adversely affected during public holidays. The Planning system recognises the following days as public holidays, Easter Monday, last Monday in May, Last Monday in August, 26 December if it is not a Sunday and the 27 December in a year which 25 or 26 of December is a Sunday.

The application subject to relevant conditions to secure the ecological and PROW mitigation measures, highway and traffic calming measures and in accordance with the submitted noise survey is considered to accord with the Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), and ENV3 (Design Quality) Designing Walsall SPD in particular policies DW1 Sustainability, DW3 Character and DW9 High Quality Public Realm, and the advice in appendix D Guidelines for residential development and policies, together with Together with the design advice in Chapter 12 of the NPPF Achieving well-designed places.

Highways

The Highways Authority have no objections in principle to the proposed new access and public right of way proposals. However further information has been requested to demonstrate the proposed new access, and related traffic calming scheme/bus stop relocation are to be undertaken to the satisfaction of the Highway Authority. The final details of these works will be secured by a Section 278 agreement, but for the purpose of ensuring that the proposed traffic calming and associated highway works can be secured in the Section 106 the LPA have requested a drawing to demonstrate the extent of the proposed works and the position of the relocated bus stop. This is in order to secure a zone of influence for the proposed works to the highway which can be attached to the section 106 agreement. The same information is required for the public right of Way to secure the zone of influence for the proposed works to the PROW to secure via the section 106 agreement. Subject to the amendments set out in relation to the proposed traffic calming and associated works to the highway, relocation of the bus stop and the proposed works to fence and surface the public right of way ALD 1 the application is considered to accord with the considered to accord with "saved policies" T7 - Car Parking, T13: Parking Provision for Cars, Cycles and Taxis, and the Black Country Core Strategy Policy TRAN2: Managing Transport Impacts of New

Ecology and Biodiversity Net Gain

The Ecology Officer has no objections in principle to the proposal but seeks amendments and clarification of the following points.

The habitat management and maintenance plan are to last 30 years. In relation to a timeframe for these works it is recommended that the following timescale would be acceptable in principle. Creation will last for the first two years after construction. as construction will end in 2045, A suggested period for these works commences in 2047 and runs to 2077. Monitoring is stated to be held at minimum of 5-year intervals and the ecologist recommends this as the timeframe.

The Ecologist also advises the following: New information has been provided by the consultant within the Construction and Ecological management Plan (CEMP) that has provided commitment by the applicant to ensure that the tree loss will be minimised and replaced at 1 to 3 ratio upon completion of the development. The ditch will be regularly inspected to ensure it remains free of debris throughout the 20-year period. A timescale for the inspection of the ditch should be provided in the revised CEMP to ensure that this work is carried out in accordance with the agreed timescales.

Following consultation with the applicant it is understood that the proposed access road can be altered due to gradient issues. However, with the retention of the existing bunding and pollution control measures outlined within the CEMP measures have been put in place to avoid and minimise any potential risk. In addition, it is understood that by phase 6 the gradients of the site will allow for the access road to relocation, further to east. Should this be secured and implemented the ecologist has no further concerns.

The ecologist has raised concerns that the CEMP now includes an additional access track that will bring vehicles further into and adjacent to the SSSI area. This track is identified as Bulldozer and Excavator Access route and outlined within Appendix B site layout and traffic management plan. To bring in an additional trackway at this stage of consultation is disappointing especially considering its location the applicant has been advised to delete this this access track from the CEMP proposals and advised that the proposed two-way restoration Access Route proposed is utilised for these types of vehicles.

Subject to the proposed amendments to remove the access track for site excavation vehicles and clarification/justification for the proposed location of the balancing waterbody the application is considered acceptable subject to the amendments requested. In accordance with the proposal is considered to accord with the Unitary Development Plan Policies ENV14 (Development of Derelict and previously developed sites), ENV18 (Existing Woodlands, Trees and Hedgerows) and ENV23 (Nature

conservation and new development) and the revised National Planning Policy Framework 2023 Chapter 15 Conserving and enhancing the natural environment.

Flood Risk / Drainage

The site is situated in flood zone 1 but is adjacent to Flood Zone 3 at highest risk of flooding and adjacent to Flood Zone 2 at medium risk of flooding as defined on the Environment Agency Flood Map for Planning.

The application is accompanied by a surface water management plan and also additional information has been provided in support of the proposed means of drainage. There are no objections in principle to the proposed development from the LLFA or Severn Trent Water Authority. The Canal and River Trust advised that if there is to be any discharge of surface water to the canal then the applicant will require a licence from the Canal and River Trust. In terms of surface water management for the proposed restoration, further details of the means for the provision of a balancing area to ensure that the site does not adversely affect the SSSI pond adjacent to the site. In addition, the site already uses a lagoon adjacent to the Swan Pool SSSI and pumps surface water that accumulates into the lagoon. It is understood that the site owners Wienerberger have a licence from the Environment Agency to discharge accumulated water to the lagoon. The licence also controls any water quality from the discharge of surface water and the applicant intends to share any licencing information and water quality checks to the LPA to ensure that the nearby watercourses are not affected by any pollution or contamination from the discharge of surface water. Discharge is necessary to ensure that the quarry does not fill with water from run off and rainfall within the site and from any nearby areas around the site.

The proposed development is considered to be acceptable in terms of flood risk and drainage and the proposal subject to conditions in respect of the above is considered to accord with Black Country Core Strategy ENV5: Flood Risk, Sustainable Drainage Systems, Urban Heat Island and NPPF Chapter 14 of the revised NPPF December 2023.

Trees / Protected Trees

There are no protected trees within the site boundaries. The existing trees/hedging and vegetation is to remain as much as possible and further details of landscaping and native species should be provided and secured by conditions. The tree officer has no objection in principle but wishes to see the existing trees remain. In accordance with the Unitary Development Plan Policies ENV14 (Development of Derelict and previously developed sites), ENV18 (Existing Woodlands, Trees, and Hedgerows) and ENV23 (Nature conservation and new development) and Chapter 15 of the revised National Planning Policy Framework Conserving and enhancing the natural environment.

Ground Conditions and Environment

The application site is in an area at low risk of coal mining activity. No further investigation is considered necessary. There are no objections from the Coal Authority. Standing advice is advised. The proposal is considered to accord with "Saved" Unitary Development Plan Policy ENV10: Pollution and The Black Country Core Strategy ENV8 Air Quality.

Planning Obligations

A Planning Obligation to secure the policy requirement for the Ecological Construction Management and maintenance Plan and access and highway traffic calming and improvement works required which can be secured by a Section 106.

In accordance with the Conservation of Habitats and Species Regulations 2017, Black Country Core Strategy Policies CSP3 (Environmental Infrastructure), CSP4 (Place-Making) & ENV1 (Nature Conservation), UDP Saved Policy ENV23 (Nature Conservation), SAD Policy EN1 (Natural Environment Protection, Management and Enhancement) and the National Planning Policy Framework 2023.

Other key determining issues

Air Quality

Regarding the above application and air quality, Environmental Protection Officers have no significant concerns regarding pollution levels at the proposed site and the application is accompanied by an air quality assessment. With reference to the adopted Black Country Air Quality Supplementary Planning Document (SPD). The Environmental Protection advise that conditions are necessary to ensure that wheel washing facilities and sweepers are provided to ensure that if there is any site drag out of mud and debris and ensure that materials do not enter nearby drains. Conditions are advised however these are addressed in the submitted Ecological Environmental Management Plan as details are provided to address the matters raised in relation to contamination, air pollution and dust. In addition, the site will be covered by a Waste Management Licence by the Environment Agency who will require this type of operation to provide this as part of the waste management licence agreement. There is therefore no need for a duplication of this by conditions. In addition, a dust and emissions report is provided with the submission to advise on how dust will be managed during the restoration and remediation works.

Noise

The application is accompanied by a noise report to address the impact of noise regarding the proposed development. The Environmental Health Officer has not raised any concerns regarding the noise impact of the proposed restoration works on the surrounding area. Further information is provided regarding mitigation measures during the restoration backfilling. In relation to residential amenity of existing and future occupiers of nearby residential properties and surrounding premises. Works will only be carried out during the hours of operation for the backfilling which will be 07:00 to 19:00 Mondays to Fridays and 08:00 to 13:00 Saturdays. It is considered that a suitable planning condition to secure these hours should include no work to allow deliveries to customers for backfilling of waste on Bank or Public Holidays. To protect the residential amenities of nearby occupiers in the vicinity of the application site.

The findings of the submitted noise survey included a sound survey of the vicinity of the application site to determine the existing representative sound levels and provide a baseline for any mitigation measures. Account has been taken in the noise report in relation to Planning Policy Guidance on Minerals and the relevant identification of any necessary noise controls. In addition, account has been taken of the following documents WHO Guidelines for Community Noise 1999. DOT Calculation of Road Traffic Noise 1988. ISO 9612 1996 Acoustics. The NPPF 2021 which was relevant at the time of submission and the Noise Policy Statement for England 2010.

The proposal is considered to accord with the Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), and ENV3 (Design Quality) Designing Walsall SPD in particular policies DW1 Sustainability, DW3 Character and DW9 High Quality Public Realm, together with the design advice in Chapter 12 of the NPPF Achieving well-designed places.

Geology and Hydrology

The application is accompanied by a geology and hydrogeology report to address the potential environmental impacts on geology and hydrogeology and ground conditions.

The proposal sets out the infilling stage and surface restoration and advises that the stockpiling of the remains of the clay being stockpiled on the adjacent Wienerberger site will not have any potential impact on the geological and hydrogeological conditions of the quarry.

The report considers ground conditions, chemical properties of the ground, groundwater quality, ground water flow direction, surface water quality, surface water flows.

The restoration of the site will require an environmental permit for waste recovery to facilitate the works including the access road and then will utilise waste soils and inert wastes that are geotechnically suitable for disposal and backfill on the site and none that will create any landfill gas. The site will be infilled commensurate with existing ground levels around the perimeter of the site is 130m AOD and to the southeast of the quarry adjacent to the brickwork storage yard levels will be 133 AOD.

As discussed in the drainage section of the report a balancing area to ensure water levels across the site does not adversely affect adjacent land.

The proposal is considered to accord with saved Walsall Unitary Development Plan Policy GP2 (Environmental Protection).

Conclusions and Reasons for Decision

On balance, this application is considered acceptable when assessed against the local and national planning policies and guidance as set out in this report. Officers have worked with the applicant/agent to overcome the concerns regarding highway safety, ecology and amenity and the application is supported subject to the securing the traffic calming measures, a Construction Ecological Management Plan and the provision of satisfactory mitigation measures to public right of way via a section 106. The Local Planning Authority has worked positively and creatively with the applicant and have as a result secured negotiated amendments.

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 highway safety, ecology and amenity amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Delegate to the Head of Planning and Building Control to grant planning permission subject to conditions and a Section 106 Agreement (to secure traffic calming, public right of way and ecological measures) and subject to:

- receiving satisfactory amendments to highway safety, ecology and amenity
- the amendment and finalising of planning conditions

Conditions and Reasons

1. Time Limit

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

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

2. Approved Plans

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

- Site location plan received
- Surface water management plan received 12 October 2023
- Phasing drawings 1-4, 5-8, 9-12, 13-16, 17-20 Revision B received 9 February 2024.
- Landscape restoration scheme received 9 February 2024.
- Public Right of Way monitoring and maintenance Plan received 9 February 2024.
- Phasing plan Dated January 2024 received 9 February 2024.

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3. Hours of operation.

The development hereby permitted shall not be open to customers or for backfilling deliveries of waste otherwise than between the hours of 07:00 to 19:00 Mondays to Fridays and 08:00 to 13:00 Saturdays, with no opening for customers for the backfilling deliveries of waste on Sundays, Bank and Public Holidays.

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

Notes for Applicant

1. The following days are defined as bank/public holidays. Easter Monday, last Monday in May, Last Monday in August, 26 December if it is not a Sunday and the 27 December in a year which 25 or 26 of December is a Sunday.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 25 April 2024

Plans List Item Number: 4

Reason for bringing to committee

In public interest

Application Details

Location: BLOXWICH POST OFFICE, MARKET PLACE, BLOXWICH, WALSALL, WS3 2JF

Proposal: REFURBISHMENT AND EXTENSION OF A FORMER POST OFFICE BUILDING TO FORM A COMMUNITY AND LEARNING BUILDING WITH ASSOCIATED LANDSCAPING. INCLUDING CHANGE OF USE FROM A RETAIL USE (USE CLASS E) TO A BUILDING COMBINING USE CLASSES E, F1 AND F2 OR SUI GENERIS. (AFFECTS THE SETTING OF PROW NDA61)

Application Number: 24/0194

Case Officer: Nick Howell

Applicant: Walsall Council

Ward: Bloxwich West

Agent: Robothams Architects

Expired Date: 30-Apr-2024

Application Type: Full Application: Minor Mixed Use Classes

Time Extension Expiry:



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Recommendation:

Grant Planning Permission Subject to Conditions.

Proposal

As part of the Government's £3.6 billion Towns Fund, Walsall Council was awarded £47 million of which £23.5 million was awarded to Bloxwich, with the aim of transforming the economic prospects of the town. A key focus is the improvement of broadband connectivity, and the development of digital skills and higher value jobs.

The proposed scheme comprises the refurbishment and extension of the former Post Office building to form a community and learning building with associated landscaping. Including change of use from a retail use (use class E) to a building combining use classes E, F1 and F2 or Sui Generis.

In more detail the proposal is for the creation of a training space and digital access centre at the former Post Office to be called Launchpad Bloxwich. The scheme would support start-ups and small businesses whilst offering digital connectivity and training for the community.

The scheme would combine several community related functions into one facility. The ground floor would provide a space to support users of the facility to gain access to digital assets and online portals, with desktop PC's available to members of the public to use informally as 'drop in' visitors or as part of training courses run by the centre or third-party bodies. The facilities would be supported by a cafe area, meeting rooms and WC's.

The first floor is focused on providing support for local people looking to grow business ideas and as a base for creative, digital and professional services providers to create a first step for start-up companies. The form follows the function of a co-working environment with serviced desks available to users alongside meeting spaces within a support community.

It is envisaged that the average capacity of the building will be between 30-40 users with support from a small number of staff (3-4 people)

Site and Surroundings

The site comprises the former Post Office building and an adjoining car park/service area accessed off Market Place. The site is located within Bloxwich Town Centre, just off the High Street and the existing building Post Office building is situated adjacent to the Market Square with the main access on the front elevation accessed directly from the square.

The site is bounded by the Town's library and theatre to the south, a car park to the southeast, Market Place to the east, the open space for Bloxwich Market to the north and a pedestrian access from the market to an area of car parking accessed from Elmore Row to the west. The boundaries are formed by the elevations of an existing building to the southwest and a brick wall surrounding the service area to the west, east and southern perimeters.

The former post office is a 1970's era style building and is largely two storeys with elements of single storey accommodation on the front face of the building and at its eastern and western ends. A roof top plant building creates a small third storey element and allows access onto the upper roof.

The former Post Office building faces towards the Market Square and the buildings surrounding the Square are one and two storeys with the external elevations comprising a mix of brickwork and external cladding.

Relevant Planning History

None.

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 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 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

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV11: Light Pollution
- ENV25: Archaeology
- ENV26: Industrial Archaeology
- ENV29: Conservation Areas
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- S1: Definition of Town Centre Uses
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- S6: Meeting Local Needs
- S7: Out-of-Centre and Edge-of-Centre Developments
- 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
- LC7: Indoor Sport including Health and Fitness Centres
- LC8: Local Community Facilities
- BX3: Conservation Areas
- BX5: Environmental Improvements
- BX6: Development / Investment Opportunities

Black Country Core Strategy

- HOU5: Education and Health Care Facilities
- EMP1: Providing for Economic Growth
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy

- CEN8: Car Parking in Centres
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Walsall Site Allocation Document 2019

- RC1: The Regeneration Corridors
- SLC1: Local Centres
- EN5: Development in Conservation Areas
- T4: The Highway Network

Supplementary Planning Document

Designing Walsall

- 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

Air Quality SPD

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

Consultation Replies

Conservation Officer – no objections.

Environmental Protection – no objections – there are no significant noise, water, air or land pollution concerns associated with the application that require addressing.

Local Highways Authority – An amended site plan has been submitted to revise the size of a disabled parking space and the reversing aisle is now shown on the proposed site layout plan. The Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and supports the proposal subject to conditions relating to details of the cycle provision and the implementation of the parking area prior to occupation.

Strategic Planning Policy – strongly supported on planning policy grounds.

Archaeology – any archaeological remains present would not form a constraint on development and it is recommended a condition requiring a programme of archaeological monitoring (watching brief) to be undertaken during ground works.

Representations

The application was advertised by way of site notice, press notice and neighbour notification. One response has been received and the comments are as follows (officer comments in brackets).

- This development should be connected to Bloxwich library and theatre to complement the services already in place and not to compete. There is also an opportunity to provide accessible parking for the library, something that is not in place (market competition is not a material planning consideration and we are required to determine the application based on the details already submitted before us).

Determining Issues

- Principle of Development
- Heritage Assessment
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways

Assessment of the Proposal

Principle of Development

National Policy

Section 7 of the NPPF (December 2023) ensures the vitality of town centres. In particular, paragraph 90 states that planning policies should define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters.

Paragraph 97 states that planning policies and decisions should plan positively for the provision and use of ... community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;

c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;

d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and

e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services

Development Plan Policies

Relevant development plan policies include:

Black Country Core Strategy

Policy HOU5 states that new health care facilities and pre-school, school and further and higher education facilities should be:

- Well designed and well related to neighbourhood services and amenities;
- Well related to public transport infrastructure and directed to a Centre appropriate in role and scale to the proposed development and its intended catchment area.

Site Allocation Document

The site is positioned within SAD policy RC1 of the Regeneration Corridors, Town and District Centres and Wards. Proposals for development within or outside the Corridors will be expected to support the spatial objectives and policies set out in the BCCS, in particular policies CSP1 (Growth Network) which requires Regeneration Corridors to provide a sustainable mix of modern, strategic high quality employment land and new residential communities well supported by community services and local shops.

Unitary Development Plan

The site is also located within Bloxwich District Centre as part of policy S2 of the UDP which states that the District Centres could also potentially have roles in accommodating facilities of Borough-wide importance which cannot be located in Walsall Town Centre.

Policy BX7 of the UDP refers to the redevelopment of the Market Centre and states that Bloxwich Post Office should be retained within the development, but this policy relates to the redevelopment that was completed in 2005. It is understood that the post office relocated to other premises in the district centre in November 2023

Policy S3(a) ensures the proper integration of developments in or on the edge of centres, proposals should: -

- I. Be of scale and nature appropriate to the size and function of the centre concerned.

II. Be sensitively integrated, in functional and visual terms, with the primary shopping area and other land uses, pedestrian routes, car parking provision, public transport facilities, servicing arrangements, traffic circulation, and the local townscape.

(b) Development proposals will be considered as in-centre or edge-of-centre according to the following principles:- I. Within the Town and District Centres in-centre developments will be within the Inset Plan areas. Other activities which are likely to be visited on shopping trips should also be located close to the primary shopping area.

Policy S4(a) The Council will seek to sustain and enhance the range and quality of shopping, leisure and other town centre uses which these centres provide, consistent with the role and function of a centre within the hierarchy defined in Policy S2, in order to meet the needs and aspirations of all who use the centres.

(c) Development must not be at the expense of the vitality and viability of the centre as a whole, or that of other centres within the Borough or elsewhere in the affected catchment area.

The post office has relocated within the district centre, so the former post office building is currently vacant. The proposed use will provide a community and educational facility in an accessible location within the district centre. As such, it is strongly supported on planning policy grounds.

Heritage Assessment

The site does not fall within the conservation area, however, the Bloxwich High Street conservation area does sit directly adjacent to the site. The Design and Access Statement includes a heritage statement and the scheme provides a viable reuse of an existing vacant building and the proposed refurbishment would improve views from the conservation area and rejuvenate a tired building. It is considered that the proposed scheme would have negligible harm to the significance and setting of Bloxwich High Street Conservation Area.

Design, Layout and Character

The existing vacant building is a 1970's era modernist design and the proposed scheme would incorporate the existing features into a more modern setting. The proposed scheme works with the existing theme of the building, based on a modernist style and a lightweight approach to the proposed extensions and the external façade. The key façade treatments include;

- Windows and doors to be replaced with aluminium double-glazed units with a colour coated finish.
- New buff/yellow brickwork to match the existing colour.
- Lightweight metal standing seam cladding for new first floor extensions to reduce weight on the existing structural frame and visually signal new interventions to the facades.
- New handrail system to allow safe access to new solar panels.
- Shading system to south elevation to control heat gain.

The layout of the proposed scheme would re-use the existing building to provide the majority of the new facility's accommodation and there would be a new two storey side extension on the east elevation of the building and a two-storey rear extension providing a new lift and its lobby. The proposed design and layout is acceptable from a visual perspective, would refurbish and regenerate an existing vacant building into a viable re-use and improve the character of the immediate area.

At the rear of the building the remainder of the site is entirely hardstanding to allow for parking and servicing. The proposed scheme would allow for 6no parking spaces interspersed by area of paving and soft landscaping and would include bin and cycle provision. The Highway Authority supports the proposal that allows for off street parking and a landscape/paving scheme to improve the visual appearance of the site.

In regard to the materials, it is noticeable that there is range of external materials such as brick and cladding used on buildings within the immediate vicinity of the former Post Office and the materials proposed would not harmfully impact upon the visual amenity of the area.

Amenity of Neighbours and Amenity of Future Occupiers

The application site is located within Bloxwich Town Centre, adjoining the Market Square, away from residential properties and neighbouring amenity would not be adversely impacted by the proposed scheme. The proposed scheme would provide a learning, educational and community facility for the residents of Bloxwich and would not impact upon the amenity of future users of the facility.

Highways

The site is positioned within Bloxwich Town Centre and as such is located within a sustainable location with a variety of local amenities and sustainable transport links accessible within a short distance of the site. There are no objections subject to a condition relating to the provision of the parking area and charging points.

Conclusions and Reasons for Decision

The proposed scheme would improve the character and visual appearance of the area and increase footfall within the market square area as well as providing a new educational, learning and community facility for the local community. The design of the proposed scheme is visually acceptable and allows for a modern interpretation of an existing vacant building that will help ensure a viable reuse of the building.

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 the size of a disabled parking space and that the reversing aisle should be shown on the proposed site layout plan, amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Grant Planning Permission Subject to Conditions

Conditions and Reasons

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- Drawing No 4520-01 Rev C – Site Location Plan
- Drawing No 4520-103 Rev C – Proposed Site Plan
- Drawing No 4520-105 Rev F – Proposed Floor Plans
- Drawing No 4520-107 Rev C – Proposed Elevations

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3a. Prior to commencement of the development hereby permitted details of a programme of archaeological monitoring (watching brief) to be undertaken during ground works shall be submitted in writing to and approved in writing by the Local Planning Authority.

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

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

4a. Notwithstanding the details as submitted and prior to the occupation of development hereby permitted details of the proposed cycle shelter, which shall be secure, covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority.

4b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved cycle shelter and the approved cycle shelter shall thereafter be retained for the lifetime of the development and used for no other purpose.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 and DEL1 of the Black Country Core Strategy.

5. Prior to occupation of the development hereby permitted, the development shall not be implemented otherwise than in accordance with drawing number 4520-103C Proposed Site Plan. The parking spaces shall be clearly demarcated on the ground, consolidated hard surfaced and drained to prevent surface water from the parking/manoeuvring area running on to the public highway or into any highway drain. The parking spaces shall thereafter be retained for the purposes of parking vehicles and for no other purpose, including the storage of materials, apparatus and any other paraphernalia associated with the site operations for the lifetime of the development.

Reason: To reduce the need for on street parking in the interest of highway safety and ensure surface water does not run onto the highway and to avoid increased surface flooding to comply with Walsall's Unitary Development Plan saved policies GP2 and ENV40.

6a. Prior to occupation of the development hereby permitted, the development shall not be carried out otherwise than in accordance with the approved landscaping details, as shown on drawing no 4520-103 Rev C (Proposed Site Plan).

6b. 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.

7a. Notwithstanding the details as submitted and prior to occupation of the development hereby permitted details of the design and height of the gates as shown on 4520-103 Rev C shall be submitted in writing to and approved in writing by the local planning authority. The details shall demonstrate that the gates shall not be able to open out over the public highway at any time.

7b. The development hereby permitted 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: In the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 25 April 2024

Plans List Item Number: 5

Reason for bringing to committee

Applications on Council owned land or Council assets where the Council intends to dispose of that land or asset with the benefit of planning permission and where the value of the land or asset would be increased by more than £100,000.

Application Details

Location: Land Adjacent 26, Haley Street, WILLENHALL, Walsall

Proposal: PROPOSED 2 NEW PAIRS OF SEMI-DETACHED DWELLINGS COMPRISING OF 2 NO. 2 BEDROOM HOUSES, 1 X 3 BEDROOM HOUSE & 1 NO. 4 BEDROOM HOUSE ON VACANT LAND ADJACENT TO 26 HALEY STREET. OFF-STREET PARKING AND VEHICULAR ACCESS FROM HALEY STREET (AFFECTS PROW NDA40)

Application Number: 22/1715

Case Officer: Helen Smith

Applicant: Walsall Housing Group

Ward: Short Heath

Agent: Bernard Taylor Partnership Ltd

Expired Date: 15-Feb-2023

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

Time Extension Expiry: 26-Mar-2024



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Recommendation:

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and a S106 to secure the relocation/replacement of a lamppost and Cannock Chase Special Area of Conservation financial mitigation and subject to:
 - No new material considerations being received within the consultation period;
 - The amendment and finalising of conditions;
 - No further comments from a statutory consultee raising material planning considerations not previously addressed;
 - Finalising ground contamination and ecological and landscaping enhancements

Proposal

This planning application seeks planning permission for 2 pairs of semi-detached houses in a tandem layout on an area of unused green space land located off Haley Street. Council records indicate that the site was originally a playground, and the site boundary was enlarged to provide an improved proposed layout.

Plot no's 1 and 2 would have 2 bedrooms whilst plot no's 3 and 4, located towards the rear of the site would have 3 bedrooms. The proposed new dwellings would have a gable roof design with a front first floor gable feature and would be built of brick.

A new access driveway would be installed to the south of the site and would be separated from the neighbouring house, no. 24 Haley Street by a public right of way.

Each house would have 2 off-street parking spaces and private amenity space ranging from between 40m² (plot no. 1) and 142.3m² (plot 3). The proposal includes a refuse bin collection point at the entrance to the application site.

Front and rear facing habitable room windows are proposed for the new dwellings and plots 1 and 2 would have ground floor side facing windows.

The application is supported by the following documents:

- Stage 1 Risk Assessment (Ground Investigation)
- Contaminated Land Site Investigations
- Arboricultural Impact Assessment
- Biodiversity Net Gain Information
- Habitat Regulation Assessment
- Preliminary Ecological Appraisal Report
- Swept Path Analysis
- Waste Management Plan

Site and Surroundings

The surrounding area is residential in character comprising of a mix of detached houses and bungalows along with pairs of semi-detached and terraced houses of varying design and age.

There are existing residential properties with private rear gardens adjacent to the site boundaries including 24 and 26 Haley Street and 74, 76 and 78 Shepherd Drive.

There is a Non-Definitive Public Right of Way (NDA40) that runs along the southern boundary of the application site.

The application site lies within the Cannock Chase Special Area of Conservation 15km Zone of Influence.

There are no protected trees on the application site or close to the shared boundaries. Council records indicate that there were 2 Black Poplar Trees located on the opposite side of Haley Street to the application site.

The application site is a Coal Low Development Risk Area.

Relevant Planning History

None

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 (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

- GP2: Environmental Protection
- GP3: Planning Obligations
- ENV10: 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

- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality
- EQ2 - Cannock Chase Special Area of Conservation

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing
- EN1: Natural Environment Protection, Management and Enhancement
- T4: The Highway Network
- T5: Highway Improvements

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
- DW10 Well Designed Sustainable Buildings
- Appendix D

Consultation Replies

Ecology – No objections

Environmental Protection – No objections subject to planning conditions requiring the provision of a Construction Environmental Management Statement, solid fuel heating and the carrying out of an intrusive site investigation.

Local Access Forum – No objections

Fire Officer – No objections and recommend an informative note for the applicant is included.

Local Access Forum – No objections

Local Highway Authority – No objections to the revised layout subject to the inclusion of planning conditions in respect of hard-surfacing and drainage of the parking spaces, footway crossing alterations, parking in front of plots 1 and 2 and the provision of a construction environment management statement. Informative notes for the applicant are recommended.

Police Architectural Officer – No objections subject to the principles of Secured by Design being implemented. An informative note can be included for the applicants.

Public Rights of Way Officer – No objections subject to the inclusion of an informative for the applicant.

Public Lighting – No objections subject to S106 agreement for the re-location of the existing lamppost.

Severn Trent Water – No objections subject to the inclusion of a drainage condition and an informative note for the applicant to avoid vehicle impact damage.

Strategic Planning Policy – No objections on policy grounds.

Tree Officer – No adverse comments received.

Waste Management – commented that the initial proposed bin store and collection point were considered not suitable so bins will need to be presented on the footpath on collection day. An amended plan has been provided relocating the proposed bin collection point.

Representations

(Local Planning Authority comments are in brackets and italics below)

Councillor Whitehouse supports the proposal on the grounds that this would bring a derelict and previously overgrown site back into use and delivers much needed housing in the local area. The designs seem to be in-keeping with the local street scene and are similar to those opposite the site.

Four neighbours have objected to the proposal on the following grounds *(two residents now support the proposal)*:

- Noise
- Air pollution
- Noise and disturbance from children playing
- Parking should be to the front
- Highway safety
- Visitor parking on the highway
- Increased traffic movements
- Make Haley Street one-way for traffic *(this would be a separate matter for the Local Highway Authority to consider if advice is sought from the residents)*
- Install yellow lines on the eastern side of Haley Street *(this would be a separate matter for the Local Highway Authority to consider if advice is sought from the residents)*
- Anti-social behaviour on the public right of way from motorcycles and quad bikes *(this would be a separate matter for the Public Rights of Way Officer to consider if advice is sought from the residents)*

Two neighbours support the proposal.

Determining Issues

- Principle of Development
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways
- Public Rights of Way
- Ecology
- Flood Risk / Drainage
- Trees / Protected Trees
- Ground Conditions and Environment
- Planning Obligations

- Cannock Chase Special Area of Conservation and HRA
- Local Finance Considerations

Assessment of the Proposal

Principle of Development

This site was formerly a playground but has been disused for many years. As such, the proposal will make use of previously developed land to provide additional housing, so is supported by SAD policy HC2, BCCS policy CSP2, and NPPF (Dec. 2023) paragraphs 60, 123 and 124.

This application site is in a sustainable location located within a well-established residential area close to amenities and services. The NPPF seeks to deliver a wide choice of quality homes to create sustainable, inclusive, and mixed communities.

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.

Taking into account the aforementioned it is considered that in this instance the principle of the change of use of the land to residential use and the construction of 4 new dwellings is considered appropriate subject to all other matters being satisfactory.

The amended plans enlarge the site area and provide a more satisfactory layout. The proposal can therefore be supported on planning policy grounds

Design, Layout and Character

The amended plans enlarged the proposed site area and are considered would provide a more satisfactory residential layout. The character of the area is defined by residential uses, including detached, semi-detached and terraced, two storey dwelling houses with mostly gable roof designs.

Street scene drawings have been provided to demonstrate how the proposed new dwellings would integrate with the existing street scene.

The proposed houses with a brickwork face and gable roofs would pick up on the characteristics of the properties in the immediate vicinity. The plot sizes are similar in size to neighbouring houses, which has a mixed character, and they are considered to be appropriate for this location.

The proposed position of plot no's 1 and 2 in line with the front elevations of neighbouring houses is considered would have a limited impact on the existing character of the area whilst making efficient use of brownfield land.

A planning condition can be included requiring details of the proposed materials to be used to safeguard the appearance of the proposed development, if approved

The design and layout of the development is considered appropriate and in compliance with policy with the exception of the smaller private rear gardens for plot no's 1 and 2. Whilst these are less than the recommended minimum area of 68m² referred to in Appendix D of Designing Walsall SPD, at 40 and 41m² it is considered on balance that this is acceptable in this instance as there is Urban Open Space located to the east at Rough Wood and Fibbersley Playing Fields to the south-west within walking distance.

Furthermore, as a presumption in favour of sustainable development as described in the NPPF paragraph 11d) is in effect it is considered that a shortfall in private amenity space standards in this instance would not support a refusal reason on these grounds.

An amended plan has been provided confirming that the site accessway is 4.2 metres wide kerb to kerb and a footpath would be provided.

The proposal is supported by a proposed boundary treatment plan which proposes to make good existing fenced boundary along the northern edge of the site to the footpath with 300mm trellis added to the fencing along the parking area. There is existing 1.8 metres high fencing along this boundary with 26 Haley Street to the footpath and the addition of 300mm trellis on top has been sought. 0.9 metres high railings are proposed along the southern boundary alongside the public right of way and along the southern private garden boundary of plot 3 there would be 1.8 metres high timber fencing with 300mm trellis on top alongside the public right of way. A 2.1 metres high brick wall is proposed along the western boundary of the site. Further clarification and amendments to this are likely to be required in a boundary treatment condition is proposed.

The proposal demonstrates the re-use of brownfield land and saved UDP Policy ENV14 encourages the reclamation and development of derelict and previously developed land wherever this is technically feasible. In this instance it is considered that the re-use of this site for residential purposes on balance would be a positive re-cycling of existing under-utilised land within an existing residential area.

Amenity of Neighbours and Amenity of Future Occupiers

Plot no's 1 and 2 would sit to the front (east) of the application site between no's 24 and 26 Haley Street. No. 26 is separated from the application site by a detached garage and has a side facing non-habitable room window. The side elevation of No. 24 has no windows and this neighbouring house is separated from the application site by a public right of way (NDA40). The proposed position of this pair of semi-detached houses is considered would have a limited impact on neighbours existing outlook, light, and amenity.

Plot no's 1 and 2 would face across the public highway towards facing habitable room windows in the front elevations of no's 25 and 27 Haley Street across a separation distance of 20.2 metres. Whilst this separation distance would be 3.8 metres less than the recommended 24 metres referred to in Appendix D of Designing Walsall SPD, this standard is applied more robustly to the rear of residential properties than the front which is in the public realm.

There would be a habitable room window to window separation distance of 39 metres between the front elevations of plot no's 3 and 4 and the rear elevation of plot no's 1 and 2 in a poor style tandem development. Notwithstanding this, it is recognised that this separation distance would exceed the recommended 24 metres referred to in Appendix D of Designing Walsall SPD and would provide adequate privacy for future occupiers.

Plot no's 3 and 4 are situated towards the rear (west) of the application site and at right angles to dwelling no's 74, 76 and 78 Shepherd Drive. These neighbouring houses and flats have front and rear facing habitable room windows which do not directly face windows in the proposed new dwellings.

Plot no. 3 would sit further back and to the north of no. 74 Shepherd Drive however it is considered that as there would be a separation distance of 10.1 metres between the two properties and the new dwellings orientation to the north, the impacts on neighbours existing outlook, light and amenity would be limited.

The separation distance between flat no's 76 and 78 Shepherd Drive and the proposed new dwellings on plot no's 3 and 4 would be 17 metres and it is considered that the angled relationship when combined with the separation distance and orientation to the north-east would result in there being a limited impact on neighbour's existing outlook, light and amenity. Although, it is recognised that this form of development does expose the rear garden boundaries of plots 1 and 2 to public access and the risk of unauthorised access, however, some of this concern can be mitigated with improved boundary treatments to reduce opportunities of unauthorised access and should it happen assist in tracking where access was achieved.

The impacts of the proposed new dwellings have been assessed and it is considered that the proposal would have a limited additional impact on existing neighbours' amenity and would on balance provide an acceptable level of amenity for future occupiers subject to conditions for additional safety measures being installed in the homes to assist in protecting future occupiers, such as upgraded windows, doors, boundary treatments, external lighting and alarms to name a few.

To protect resident's amenity a planning condition would be included to remove householder permitted development allowances for extensions and roof alterations not included as part of this proposal because of the constraints of the site and limited garden size for plot no's 1 and 2.

The application site plan includes a separate bin storage and collection area however Walsall's Waste Management Team have stated that bins will need to be present on the footpath on the bin collection day.

To protect existing residents' amenity during any approved construction works the submission of a Construction Environment Management Statement could be conditioned to ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental impacts of the development

Local Highway Authority

The Local Highway Authority consider that the re-located entrance drive to the south of the site will provide better visibility at the shared access point onto Haley Street and would allow the boundary treatment between the shared access driveway to be of a more open nature, in the form of open railings. This is considered will improve natural surveillance of the public right of way with it being more open allowing shared light from the street light to filter access onto the development access road.

The access road has been widened from 3 metres to 4.2 metres which would be wide enough for two standard oncoming motor cars to pass, minimising the potential for vehicles to reverse out onto or stop on Haley Street when accessing the access driveway.

The Local Highway Authority has confirmed that they have no objections to the amended proposal on highway grounds subject to the inclusion of planning conditions.

Public Rights of Way

An adopted footpath, known as Footpath NDA40 runs between Haley Street and Shepherd Drive, directly adjoining the red planning boundary outline. Following changes to the proposed site layout and boundary treatments alongside the public footpath, there are no Public Rights of Way objections to the proposal.

The Public Rights of Way officer's earlier concerns about an area of unused land have been resolved. There was a grassed/ planting area between the footpath and amenity space for plot 3 which could have become a litter trap however the proposed layout and boundaries have been amended and this concern is no longer an issue.

These revisions are welcomed as they will help to enhance natural surveillance and overlooking of the public footpath, helping to enhance safety and security of the proposed dwellings and public footpath.

Ecology

A Preliminary Ecological Appraisal Report dated January 2024 has been provided in support of the planning application. This report concludes that no further surveys are required, and the following mitigation measures are recommended:

- Consideration for common amphibians and hedgehogs during habitat clearance.
- RAMs for reptiles.
- Bird boxes targeting local species should be incorporated into the scheme to mitigate for the loss of suitable breeding bird habitat.
- Lighting consideration for bats.
- Soft felling for the individual trees on site.
- Eradication of any non-native invasive flora (if necessary).

The report states that at the time of the assessment the site was found to comprise bare ground bordered by bramble scrub and a block of woodland to the west. The report advises that the site had recently been cleared for site investigation works and was previously colonised by dense bramble scrub, anticipated to have provided value for a range of fauna. This has been considered throughout the report.

The site was found to have value or potential value for bats, birds, reptiles, common amphibians, and hedgehog.

Specific enhancement recommendations for the site include the following:

- Planting of linear features such as hedgerows and trees between garden plots where possible, to add commuting features within the site.
- The inclusion of 'hedgehog highways' to facilitate movement across the site. This includes holes of 13 x 13cm at the bases of fence panels, leaving a sufficient gap beneath gates and/or leaving brick spaces at the bases of brick walls

Walsall Council does not require 10% BNG for any application submitted prior to the commencement of the national mandated biodiversity net gain. However, in accordance with the National Planning Policy Framework, the Local Planning Authority does look for development to result in a net gain in biodiversity. The comparison between these requirements, is that to be in accordance with the NPPF a development only needs to show that it has achieved 1% net gain, and this does not cover the requirement of the use of the DEFRA metric.

As a result, the level of requirement needed by the application is reduced from what has been submitted in the current submitted reports. To meet the net gain requirement, the Council's Ecologist would seek for the landscaping to be designed to provide native habitats and incorporate native species. Areas along the drive and outside the garden spaces can be made into wildflower grassland and hedgerows can be installed along the curtilage and site borders. The submission of a landscaping plan to address this can be included.

In respect to the request to provide Walsall a monetary contribution in lieu of achieving biodiversity net gain. There is currently not a process in place to undertake this. While the applicant may choose to use offsite net gain, it would be the responsibility of the applicant to find a suitable location to undertake this. The legislation does not require this provision at the present time and if it were a S106 agreement would be required.

Flood Risk / Drainage

The application site is located within Flood Zone 1 which is considered has a low probability of flooding from rivers and as the development site is less than 1ha in Flood Zone 1 a Flood Risk Assessment is not required.

Severn Trent Water have no objections to the proposal subject to the inclusion of a drainage condition and informative note for the applicant.

Trees / Protected Trees

An Arboricultural Impact Assessment has been provided in support of the proposal. The report recommends protection for the retained trees by Tree Protection Fencing to form a Construction Exclusion Zone and the locations for this protective fencing have been identified on a plan.

Trees identified as T3, T4 and G2 (group) in the report would be removed and a mitigation re-planting scheme has been provided and is considered in the report to provide sufficient new tree planting to include native species which would provide long term tree cover.

The submitted report states that the location of proposed buildings in relation to the existing trees has been assessed, and while there will be partial shade cast by trees, this is considered to be on balance at a tolerable level without resulting in overshadowing to any buildings or habitable areas. Due to the location of retained trees, future growth of trees is not considered in the report to be an issue to the Proposed Development and minor pruning of lateral branches will address any issues where the canopy of trees encroaches towards the proposed buildings.

The application site has no trees subject to Tree Preservation Orders and no adverse comments have been received from the Council's Tree Officer. Tree protection and a re-planting scheme can be conditioned if the application is approved.

Ground Conditions and Environment

Environmental Protection team have advised that the LCRM: Stage 1 Risk Assessment Hayley Street, Walsall Project Ref: GUK-0523-01 Groundsmith's Geotechnical Engineers has stated that a Phase II Intrusive Site Investigation for ground contamination and ground gas should be conducted to advise on any remedial measures.

In view of the submitted geotechnical report conclusions, Environmental Protection have suggested planning conditions to address this along with informative notes for the applicant for use if the planning application is granted approval. The planning agent has advised that further information will follow as the initial report was a baseline assessment of the site and has now been superseded by more recent intrusive site investigations and once the last remaining round of gas monitoring is completed this will be forwarded to the Local Planning Authority for review by the Environmental Protection Team.

Building Control Regulations were updated in June 2022, introducing new requirements for electric vehicle charging points within England. Building Regulations 2010, Approved Document S, 'Infrastructure for the Charging of Electric Vehicles' requires for the installation of charging points. Environmental Protection recommend the inclusion of an informative note for the applicant if the proposal is approved.

Environmental Protection consider that the proposed construction activities have the potential to cause local disturbance and environmental impacts, such as noise, dust, and debris. To address these concerns the submission of a Construction Environmental Management Statement can be conditioned to ensure that no works commence on the site until a suitable scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental impacts of the development.

The planning application does not contain details or state whether a solid fuel heating appliance (e.g. stove, open grate, multi-fuel burner) will be installed within the proposed development, and Environmental Protection have suggested a planning condition in respect of these installations. However, the installation of solid fuel stoves is covered by the Building Regulations 2010 (as per Approved Document J) and the inclusion of a planning condition would fail to meet the 6 tests where alternative legislation addresses this matter.

Planning Obligations

The Council's Public Lighting Officer has advised that the new bellmouth entrance to the site would leave the existing lighting column too close to the kerb edge and in danger of vehicle impact. They have confirmed that this is why lighting columns are routinely sited at the rear of paths.

The Public Lighting Officer has confirmed that the existing lighting column will need to be replaced/relocated (dependent on structural condition) and that this will be chargeable to the developers and on this basis, they have no objections. A S106 agreement would be required to address this requirement as this would directly relate to the development which has been agreed in principle.

Cannock Chase Special Area of Conservation (SAC) and HRA

Pursuant to the Habitats Directive (92/43/EEC), where a plan or project is not connected with the nature conservation management of a European designated site, the competent authority must determine whether the plan or project is likely to have a significant effect on the site, either alone or in combination with other plans or projects. This is reflected in national law in the Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations"), which place a duty upon competent authorities to consider the potential for effects upon sites of European importance prior to granting consent. This is referred to as a screening assessment. If likely significant effects are identified by the screening assessment, the competent authority must then undertake an Appropriate Assessment of the implications.

Approximately 20% of Cannock Chase falls within the Cannock Chase Special Area of Conservation ("SAC"), allocated primarily for its dry heathland. Council areas in the vicinity of the SAC have formed a Partnership and commissioned reports to assess impacts upon the SAC and how they arise. The evidence indicates that development which would increase visitors within 15km of the SAC may have a significant impact.

Walsall Council joined the Cannock Chase SAC Partnership on 17th October 2022 and has implemented Black Country Core Strategy Policy EQ2 which enables the collection of payments to mitigate against impacts arising from new relevant development falling within the 15km Zone of Influence of the Cannock Chase SAC. The mitigation payment of £329.83 per each net new dwelling is non-negotiable (amount payable per dwelling shall increase from 01/04/24). Permission must be refused where appropriate mitigation is not provided pursuant to the Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations").

The applicant/agent submitted a Habitat Regulation Assessment. The project has been screened to identify whether potential effect pathways between the project and the SAC are present which are likely to result in significant effects upon the SAC. The screening exercise carried out on April 1st 2022 by the SAC Partnership authorities found likely significant effects on the SAC arising as a result of increased recreational activity from new residential development and related population growth that is likely to disturb the ground. A 21/12/12 Cannock Chase SAC Visitors Survey investigating visitor access patterns found that the majority (75%) of visitors originated from within a 15km distance of the SAC (also supported by 2018 visitor survey data) and The Cannock Chase SAC Planning Evidence Base Report Stage 2 (12/07/21) determined that within this 15km 'zone of influence', measures to reduce recreational pressure would be most effective.

The applicant's/agent's submitted HRA information stated that the applicant agrees to making a financial contribution in mitigation of the partnership's requirements.

The Habitat Regulation Assessment Stage 1: Screening Assessment has been undertaken using the available information associated with this planning application. The screening assessment is designed to check if an application is likely to have a significant effect on Cannock Chase SAC's conservation objectives, based on available evidence. Should it be determined that no significant effects are likely, no further assessment in respect to the SAC is required. Please note as per guidance and CJEU ruling (case C323/17), mitigation measures cannot be taken into account at the screening stage of the HRA assessment.

The proposed application is situated approximately 13km from Cannock Chase SAC and proposes a net increase of 4 no. dwellings. This development would result in an increase in recreational disturbance resulting in significant harm of the SAC and should progress directly to Stage 2 the undertaking of an Appropriate Assessment.

While Walsall Council, as the Competent Authority, will carry out HRA Stage 2: Appropriate Assessment, which will include the consultation of key stakeholders including Natural England, it will be the responsibility of the applicant to provide and secure suitable mitigation on which to base the Appropriate Assessment. Suitable mitigation should be in the form of the necessary mitigation payment of £329.83 per each net new dwelling (amount shall be increased from 01/04/24 by indexing linking) which can be secured within a Section 106 Agreement as other obligations are required.

The applicant will be required to provide the SAC mitigation payment, in this instance via S106 (as there is also the replacement/movement of the streetlight via the S106) which will need to be completed prior to planning approval being granted and has been agreed in principle.

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 4 new homes.

The Government has indicated that, for 2019-20, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2019-20 the total payments, taking account of completions over the last 4 years, are expected to amount to £2,911,601.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

Conclusions and Reasons for Decision

This is a previously developed site is situated in a residential area in a sustainable location. The principle of residential development of the site is therefore considered appropriate and complies with Policies HOU2 and CSP4 of the BCCS, Policy HC2 of the SAD and ENV14 of the UDP.

The layout is considered acceptable and in compliance with policies GP2, ENV32 and T13 of the UDP and Appendix D of Designing Walsall.

The design of the new properties is considered appropriate and includes key characteristics of the surrounding properties and would comfortably within the street scene, in compliance with policy ENV32 of the UDP.

Access and parking arrangements would comply with policies GP2 and T13 of the UDP.

It is considered that the development would have a limited impact on the amenities of surrounding occupiers in compliance with policies GP2 and ENV32 of the UDP and Appendix D of Designing Walsall.

The requirements of the Cannock Chase SAC financial mitigation have been met and this can be incorporated into a combined S106 agreement along with replacement lamppost requirements.

This proposal is therefore considered to be acceptable and in accordance with local and national planning policies and guidance set out in this report. Taking into account the above factors it is considered that the application should be recommended for approval. The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and a s106 to secure the relocation/replacement of a lamppost and Cannock Chase Special Area of Conservation financial mitigation and subject to:
 - No new material considerations being received within the consultation period;
 - The amendment and finalising of conditions;
 - No further comments from a statutory consultee raising material planning considerations not previously addressed;
 - Finalising ground contamination ecology and ecological and landscaping enhancements

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2: This development shall not be carried out otherwise than in conformity with the following approved plans: -

- Location Plan, drawing no. HS-BTP-00-LP-DR-A-4109_100.A, deposited 20/02/24.
- Site Plan as Existing, drawing no. HS-BTP-00-XSP-DR-A-4109_101.A, deposited 20/02/24.
- Proposed Site Plan – Option 1, drawing no. HS-BTP-00-SP-DR-A-4109_105.S deposited 16/04/24.
- Proposed Floor Plans – 3B5P Semi-Detached, drawing no. HS-BTP-00-ZZ-DR-A-4109_115, deposited 20/02/24.
- Proposed Floor Plans – 2B4P Semi-Detached, drawing no. HS-BTP-00-ZZ-DR-A-4109_111.E, deposited 20/02/24.
- Proposed Elevations – 3B5P Semi Detached, drawing no. HS-BTP-00-E-DR-A-4109_116, deposited 20/02/24.
- Proposed Elevations – 3B5P Semi Detached, drawing no. HS-BTP-00-E-DR-A-4109_110F, deposited 20/02/24.
- Proposed Elevations – 2B4P Semi Detached, drawing no. HS-BTP-00-E-DR-A-4109_109F, deposited 20/02/24.
- Proposed Elevations – 2B4P Semi Detached, drawing no. HS-BTP-00-E-DR-A-4109_112.F, deposited 20/02/24.
- Proposed Boundary Plan, drawing no. HS-BTP-00-DR-A-4109_108.F, deposited 16/04/24.
- Demolition Plan, drawing no. HS-BTP-00-DR-A-4109_102.A, deposited 20/02/24.
- Constraints Plan, drawing no. HS-BTP-00-XSP-DR-4109_104.B, deposited 20/02/24.
- LCRM: Stage 1 Risk Assessment V1, project ref: GUK-0523-01, dated 15/5/23, deposited 18/05/23.
- LCRM: Stage 1 Risk Assessment Plates, project ref: GUK-0523-01, deposited 18/05/23.
- LCRM: Stage 1 Risk Assessment Appendix A, project ref: GUK-0523-01, deposited 18/05/23.
- LCRM: Stage 1 Risk Assessment Appendix C, project ref: GUK-0523-01, deposited 18/05/23.
- LCRM: Stage 1 Risk Assessment Appendix B, project ref: GUK-0523-01, deposited 18/05/23.
- LCRM: Stage 1 Risk Assessment Appendix B, project ref: GUK-0523-01, deposited 18/05/23.
- Indicative Below Ground Drainage Layout, drawing no. 5018961-RDG-XX-ST-PL-C-0501-P1, deposited 21/12/22
- Waste Management Plan, drawing no. HS-BTP-00-D-DR-A-4109_121, deposited 20/02/24.
- Swept Path Analysis; Fire Appliance, drawing no. 1901/SP/01, deposited 20/02/24.
- Proposed Street Elevations, drawing no. HS-BTP-00-E-DR-A-4109_120, deposited 20/02/24.

- Preliminary Ecological Appraisal Report deposited 28/02/24.
- Habitat Regulation Assessment deposited 14/03/24.
- Arboricultural Impact Assessment, Rev A dated February 2024, deposited 28/02/24.
- Report Site Investigation, reference no. AJM/31763, dated 07/02/24, deposited 28/02/24.
- Report Site Investigation, reference no. AJM/2024012, deposited 28/02/24.
- Report Site Investigation Radon deposited 28/02/24.
- Report Site Investigation Hydrology deposited 28/02/24.
- Haley Street Statutory BNG Metric, deposited 28/2/24.

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3. Notwithstanding the details submitted and prior to the commencement of the development hereby permitted shall not be carried out otherwise than in accordance with the installation of a vehicle footway crossing that aligns with the new development access, together with the reinstatement of any existing dropped kerbs, made redundant as a result of the development, back to full kerb height and shall thereafter be retained for the lifetime of the development. (See *Local Highway Authority Informative note – no's 2 and 3*).

Reason: To ensure the satisfactory completion and operation of the access, in accordance with UDP Policy GP2 and the NPPF and in the interests of highway safety.

4a. Prior to the commencement of development hereby permitted a scheme of intrusive investigations shall have been carried out on site to establish the risks posed to the development by past land contamination and to include a ground contamination survey and assessment of ground gas along with a remediation statement written by a competent person setting out remediation measures and a timetable for the remediation works to deal with the potential hazards arising from any land contamination and ground gas identified shall be submitted in writing to and agreed in writing by the local planning authority.

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

4c. Prior to occupation of the development hereby permitted a signed validation statement prepared by a competent person who oversaw the intrusive site investigations, writing of the remediation measures and the remediation works on site, confirming the site is safe and stable for the permitted development shall be submitted in writing to approved in writing by the Local Planning Authority.

(See notes CL1, CL2 and CL3)

Reason: To ensure safe development of the site and to protect human health and the environment, to meet the requirements of paragraphs 189 and 190 of the National Planning Policy Framework plus site investigation information reference of annex 2 of the NPPF and saved UDP polices ENV10 and GP2.

5a. Prior to the commencement of development hereby permitted a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

- i. Construction working hours (*please refer to the Informative note*)
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- iv. Measures to prevent flying debris
- v. Dust mitigation measures
- vi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- vii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

5b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental and highway impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan and SAD policy T4 plus NPPF paragraphs 180 and 191.

6a. Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water 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.

6b. The development shall not be carried out otherwise than in accordance with the approved details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.

6c. 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 reduce the risk of creating a flooding problem and to minimise the risk of pollution and to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF14, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

7. Prior to commencement of the development hereby permitted including any site preparation, site clearance or bringing onto site of machinery or materials shall not be carried out otherwise than in accordance with the approved tree protection measures recommended Arboricultural Impact Assessment, Revision A dated 08/02/24 on page no's 8 to 9 inclusive and the approved tree protection measures shall thereafter be retained for the construction period.

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

8a. Prior to commencement of the development hereby permitted details of landscaping including both hard and soft landscape works and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority.

8b. Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

8c. 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, ENV18 and ENV33 of Walsall's Unitary Development Plan.

9a. Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.

9b. The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

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

10. Prior to occupation of the development hereby permitted shall not be implemented otherwise than in accordance with the access road, parking spaces and turning areas being consolidated, hard surfaced and drained so that surface water run-off from the area does not discharge onto the highway or into any highway drain. The access way and the off-road vehicular parking spaces shall thereafter be retained for the lifetime of the development and used for no other purpose.

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

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

-All external doors to individual dwellings to be PAS24; 2022

-All ground floor windows and over accessible roofs to be PAS24; 2022

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

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

-1.8m high closed board fencing with 0.3m trellis topper to be erected around the perimeter of each dwelling.

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

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

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

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

Reason: To ensure the safety and security of the development and its occupiers, given the isolated nature of the development in compliance with NPPF 12 and saved policy ENV32 of Walsall's Unitary Development Plan. (See *Police Informative Note*)

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no side facing windows, doors, or other openings other than those shown on the approved plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved policy GP2 of the Walsall's Unitary Development Plan.

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

-Class AA enlargement of a dwellinghouse by construction of additional storeys

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

-Class B (additions to the roof),

-Class C (other alterations to the roof),

shall be installed in any part of this hereby approved development.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking, or succeeding that Order with or without modification at no time shall off street parking be permitted on the frontages of plot no's one and two.

Reason: To ensure the satisfactory operation of the development, to minimise vehicle movements on and off the site and conflicts with the main access way, in the interests of highway safety and in accordance with saved UDP policy GP2 and SAD policy T4.

Notes for Applicant

Public Rights of Way Officer Informative

1. Public rights of way may sometimes be in existence, and which are not shown on the definitive map and statement. In accordance with section 31 of the Highways Act 1980, where a route has been enjoyed by the public without interruption for a period of 20 years, a claim may be made under section 53 of the Wildlife and Countryside Act 1981. No evidence or claims have been received to date for this location. If any details are received by the applicant, they must contact publicrightsofway@walsall.gov.uk at the earliest opportunity to confirm any requirements for a legal order and/or amendments to the planning layout. This may affect delivery of the development.
2. To ensure pedestrian safety and create a safe work area, a permit to work and temporary prohibition of traffic order may be required. Prior to commencement of any work within, or adjoining footpath NDA40, the applicant must agree details of their proposed work with highways and apply for all necessary permits. Upon completion, the applicant must reinstate the path to its present condition. For details go to [Apply to temporarily close a public right of way \(PROW\) | Walsall Council](#), or contact PublicRightsofWay@walsall.gov.uk at least 28 days before commencement of any work within, or directly adjacent to, the footpath. No excavations, scaffolding, hoarding, signage, storage of materials, or other activities associated with the proposed development are to be present within, over or underneath this footpath without prior agreement of the Highways Authority.

Severn Trent Water Informative

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required, there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or is not permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

NOTE: we would not permit a surface water discharge into the public foul sewer, and recommend the applicant seeks alternative arrangements – please note, we would insist soakaways and other SUD techniques are investigated before considering a discharge to a public surface water sewer with restricted rates.

SITE SPECIFIC COMMENTS: Having viewed the submitted “Indicative Below Ground Drainage Plan” (drawing: 0501 Rev: P1) we would request the above drainage condition is applied. Foul sewage is proposed to be discharged to the public foul sewer at a new manhole. Surface water is shown to be discharged from the site at 2litres/second, with no confirmed outfall point. For your information, before we would consider a connection to the public surface water sewer for surface water discharge, we would request that soakaways and other SuD techniques are investigated. If these are proven to not be feasible on site (with satisfactory evidence) we would consider a connection to the public surface water sewer with flows restricted – please advise on the proposed discharge rate, how this was achieved and how the site will restrict the discharge. Note: the nearest public surface water sewer according to our statutory sewer records is on Mill Lane, manhole 2201.

IMPORTANT NOTE: This response only relates to the public wastewater network and does not include representation from other areas of Severn Trent Water, such as the provision of water supply or the protection of drinking water quality.

Please note if you wish to respond please send it to Planning.apwest@severntrent.co.uk where we will look to respond within 10 working days. If your query is regarding drainage proposals, please email to the aforementioned email address and mark for the attention of the Planning Liaison Technician.

Police Informative

The applicant may consider the following.

Suitable lighting will provide additional security.

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

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

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

The Police recommend security using the principles of Secured By Design.

The applicant may wish to consider crime prevention and home security advice contained within SBD New Homes.

Please see :

https://www.securedbydesign.com/images/downloads/HOMES_BROCHURE_2019_NEW_version_2.pdf

Dwelling entrance door-sets (SBD Homes 2019 page 29, 21.1-8).

PAS 24: 2022 standard doors for houses and apartments.

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

Combined fire resistance with security.(See SBD Brochure page 5, 5).

https://www.securedbydesign.com/images/downloads/DOORSET_BROCHURE_200319.pdf

Cycle stores, approved products. (SBD Homes 2019 page 68, 56).

Environmental Protection Informative

Contaminated Land Note

CL1

Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2018; British Standard BS10175: 2011+A2:2017 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); Land contamination risk management (LCRM) or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2 'Human health toxicological assessment of

contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3

Validation reports will need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported 'clean cover' materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation

ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

CL4

The desk study and site reconnaissance shall have regard to previous unknown filled ground and materials used and processes carried on. A further detail on the matters to be addressed is available in 'Model Procedures for the Management of Contamination' (CLR 11, DEFRA/Environment Agency). The results of the desk study and reconnaissance will be used to determine the need for further site investigation and remediation.

Electric Vehicle Charging Points Note

Building Regulations 2010, Approved Document S, 'Infrastructure for the Charging of

Electric Vehicles', requires for the installation of charging points for new residential buildings.

The Applicant is strongly advised to contact their Building Control provider and their architect to discuss requirements and implement these.

Construction Environmental Management Statement Note

Where stabilisation/piling works are included in the agreed Construction Management Plan, the level of structure-borne vibration transmitted to occupied buildings within the site and within a 5 metre radius of the site from the stabilisation/piling works shall not exceed the specified criteria for 'low probability of adverse comment', as prescribed within British Standard BS6472-1:2008 'Guide to evaluation of human exposure to vibration in buildings – vibration sources other than blasting' as may be amended or replaced from time to time.

Demolition, construction and engineering works (including land reclamation, stabilisation, preparation, remediation or investigation) shall not take place outside the hours of 08:00 to 18.00 weekdays and 08.00 to 14.00 Saturdays and no such works shall take place on Sundays, Bank Holidays or Public Holidays*. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. (* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

Local Highway Authority Informative

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 expected to obtain a Road Opening Permit from

Highway Authority for the dropped kerb works within the existing public highway.

For further advice please contact Highway Development Control Team at Stephen.Pittaway@walsall.gov.uk.

3. The applicant will be required to contact the Council's Street Lighting Partner AMEY LG Ltd, at Walsall Council Depot, 200 Pelsall Road, Pelsall, Walsall, WS8 7EN for the possible positioning of the street lighting column which may be affected by the new access works.

Mobile:+44(0)7709512501

Email: Nathan.davies1@amey.co.uk

4. The Highway Authority's permission is required under the Highways Act 1980 and the New Roads and Street Works Act 1991 for all works on or in the highway.

5. The occupiers of the development will be required to present their refuse/recycling bins for collection to Haley Street for bin collection days and shall return the refuse/recycling bins to their respective houses following their collection.

Fire Officer Informative

Approved Document B, Volume 1, Dwellings, 2019 edition incorporating 2020 and 2022 amendments – for use in England

Requirement B5: Access and facilities for the fire service

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

Requirement

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

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

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

Intention

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

- a. External access enabling fire appliances to be used near the building.
- b. Access into and within the building for firefighting personnel to both:
 - i. search for and rescue people
 - ii. fight fire.
- c. Provision for internal fire facilities for firefighters to complete their tasks.
- d. Ventilation of heat and smoke from a fire in a basement.
- e. A facility to store building information for firefighters to complete their tasks.

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

Section 13: Vehicle access

Provision and design of access routes and hard-standings

13.1 For dwelling houses, access for a pumping appliance should be provided to within 45m of all points inside the dwelling house. Every elevation to which vehicle access is provided should have a suitable door(s), not less than 750mm wide, giving access to the interior of the building.

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

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

Overall

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

Dead Ends including cul-de sacs

Dead ends including cul-de sacs should be avoided but where not possible the following should be applied.

The main problem with dead ends and cul-de sacs is access in an emergency and the issue of obstructions such as parking. In these circumstances fire service personnel are committed to approach on foot carrying equipment to deal with the situation. 225 to 250 metres carrying equipment is considered a maximum for efficient fire-fighting operations.

Dead ends/cul-de sacs roadways should be a minimum of 5.5 metres in width.

Vehicle Access

3.8.2 Emergency Vehicle Access

- a) A suitable means of preventing the use by other vehicles must be provided at the time of construction.
- b) The height of 4.1 metres minimum, width 3.7 metres minimum and the construction of the access road are sufficient to allow the free passage of fire appliances.
- c) Neither end is obstructed by parked cars.
- d) The emergency vehicle access may incorporate a pedestrian route but must not be used by statutory undertakers to accommodate underground services or public sewers.

3.8.4 General

- a) There is no maximum length to a dead end/cul-de sac access route, however, it should accommodate no more than 150 dwellings.
- b) A turning circle or hammer head should be provided in any dead end greater than 20 metres in length. It should be provided either at the end or within 25 metres of the end please see Approved Document B – Volume 2.
- c) When inspecting plans with regard to access it may be necessary to accept a temporary situation or phased approach until the matter can best be resolved.

Water Supplies

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

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

For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net .

Sprinklers

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

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

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

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

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

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

END OF OFFICERS REPORT

Planning Committee

Report of Head of Planning and Building Control on 25 April 2024

Plans List Item Number: 6

Reason for bringing to committee

Head of Service discretion

Application Details

Location: 74, Mellish Road, Walsall, WS4 2EB

Proposal: RETROSPECTIVE: REPLACEMENT 6 BEDROOM DETACHED DWELLING HOUSE

Application Number: 23/0446

Case Officer: Oliver Horne

Applicant: Majid Zeb

Ward: St Matthews

Agent: PAUL CLIFTON ASSOCIATES

Expired Date: 30-May-2023

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

Time Extension Expiry:



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Recommendation:

1. Refuse

Proposal

Retrospective: Replacement 6 bedroom detached dwelling house to be constructed over 2.5 storeys, forming a lounge, study, cloakroom, store, open plan dining, living and kitchen, with a WC, utility and open rear pergola at ground floor, with 4 bedrooms, bathroom, ensuite and landing area at first floor and 2 further bedrooms and ensuites at the second floor in the extended roof space, which includes a large rear box dormer. The works to the property have also included a second front gable and what was the side extension running the ridge height flush to the main house. Neither of these elements were previously approved and nor was the scale of the rear box dormer. The works include changes to the external materials, both roof and walls, changes to the window proportions facing the street to make them narrower and taller, plus changes to the second floor main front gable window, changes to the porch and the door detailing plus some additional ground floor space increases.

Site and Surroundings

The application site is located in the outskirts of Walsall, approximately 1.8km north east from the railway station on the southern side of Mellish Road. Mellish Road is a suburban residential street characterised predominantly by mid-20th Century,

2-storey detached dwelling houses set back from the road behind generous front gardens and/or driveways.

The site itself comprises a new build 2.5-storey 6-bedroom detached dwelling house, which was recently constructed following the demolition of the existing property under planning approval reference 20/0453. The building and boundary treatments that as erected have not been built in accordance with the approved plans and this retrospective application seeks permission to regularise these unauthorised works.

Relevant Planning History

21/0804 - Re-submission application of 20/0453: Replacement 6-bedroom dwellinghouse. Amendments include increased roof height and alteration to roof design, addition of rear box dormer, re-designed single storey rear extension, removal of side facing windows, additional two storey front extension and change to window design on front elevation. – **Withdrawn 21/11/2022**

20/0453 - Replacement 6-bedroom house over two and half storeys to include the loft – **GSTC 13/07/2020**

19/0762 - Replacement four bedroom detached house. – **GSTC 02/04/2020**

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 a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment.

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

Consultation Replies

Fire Officer – No objection

Ecology Officer – No objection STC

Environmental Protection – No Objection

Highway Authority – Concerns re that the frontage boundary wall re providing adequate pedestrian inter-visibility at the access point. Details are required.

Severn Trent Water - No objection STC.

Enforcement Officer – An enforcement notice has been drafted and has been put on hold awaiting the outcome of the current application.

Representations

0 comments received in support of proposal.

1 comment received objecting to proposal support for the following reasons:

- Overshadowing
- Noise and disturbance
- Overlooking
- Security
- Visual impact
- Poor design out of context
- Drainage and DPC

Determining Issues

- Principle of development
- Design, layout and character
- Amenity of neighbours and future occupiers
- Highways
- Ecology and Biodiversity Net Gain

Principle of Development

The principle of the redevelopment of this site for a replacement dwelling was approved planning permission under planning applications reference 19/0762 and 20/0453. Since these permission were approved there have been no material policy changes and the principle of the proposed residential development is supported, providing all other development plan policies are satisfied.

Design, Layout and Character

Paragraph 135 of the NPPF emphasises that policies should seek new development to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. The advice also requires development to be sympathetic to local character and history including the surrounding built environment and landscape setting'. Para 139 states 'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.

Saved Policy GP2 of the UDP requires development to make a positive contribution to the quality of the environment, including the visual appearance. Policy ENV32 asserts that proposals which fail to properly take account of the context or surroundings will not be permitted. When assessing the quality of the design of any development proposal the Policy will use some, or all, of a number of specified criteria including, inter alia; the appearance, height, proportion, scale, mass, materials of the proposal, and the visual relationship of the proposed development with the character of the surrounding area and neighbourhood. Policy ENV33 advises that good landscape design is an integral part of urban design. The Designing Walsall SPD offers more detailed design principles that should be used as guidance for development proposals.

Since the most recent approval of planning permission for the replacement dwelling reference 20/0453 development on the site commenced and it was brought to the attention to the Council that the dwelling did not accord with the approved plans. Planning enforcement undertook investigations and the current revised proposal was submitted to seek approval for the amended development as built. The enforcement action has been put on hold whilst this application is under consideration.

This current application seeks the following amendments to be made to the approved drawings under planning permission reference 20/0453:

- 1) Introduction of narrow vertical fenestration to the front elevation in place of the approved more traditional window design and revised rooflights.
- 2) Increase in height of western wing roof to integrate with the roof of the remainder of the dwelling
- 3) Erection of 2-storey front gable addition to eastern wing

- 4) New large box dormer with roof lantern to rear roof slope in place of the approved three dormer windows
- 5) Revised fenestration to rear first floor level
- 6) Revised rear single-storey addition incorporating a flat roof design with roof lanterns, in place of approved pitched roof addition and amended footprint.
- 7) New obscured glazed first floor window to eastern flank elevation and removal of ground floor windows
- 8) Removal of ground floor windows to eastern flank elevation.

It is recognised that several of the properties within the street have been extended or rebuilt since their original conception thereby offering a varied mixture of architectural designs within the street. The approved replacement dwelling on the application site pushed the boundaries in terms of its contemporary design approach and its design and detailing were considered by the determining planning officer to '*positively contribute to updating the character of the area*'. Unfortunately, however, the building as constructed and proposed within this current application has deviated significantly from this approved design.

To the front of the property, the window fenestration design with its curious vertical and narrow window openings is at odds with the character of the area, which universally comprises more conventional casement window openings.

The approved dwelling design had previously incorporated a western wing which was deliberately set back from the front building line of the dwelling with a reduced ridge height to ensure that it appeared subordinate and broke up and disguise the overall bulk of the property. The current as built proposal, however, with its unified ridge height and additional 2-storey front gable, notably increases the perceived bulk of the property and upsets its aesthetic balance. These changes away from the approved scheme are further exacerbated by the unwelcome choice of bright facing brickwork and grey roof tiles used in both the construction of the property itself and the new front boundary treatments. These materials conflict with the more traditional restrained palate of materials used in the construction of development elsewhere in the street. As a consequence of the above, when viewed from the front the proposed dwelling as built has a detrimental impact on the street scene and has an unacceptable adverse impact on the character of the area impacting on the amenity of neighbouring occupiers and users of this part of the street.

To the rear, the proposed dwelling as constructed includes a large box dormer addition with a raised roof lantern and full height central window, in place of the more traditional triple dormer window design of the approved scheme. No other properties within the vicinity have erected a large box dormer extension and this represents an unsightly roof addition that fails to take account of its context and surroundings, as well as providing increased opportunity for overlooking and impacts on privacy of neighbouring gardens from its elevated position. The other proposed external alterations that deviate from the approved plans, including the rear and side fenestration detailing and the single-storey rear addition, are considered to be on balance acceptable by virtue of their siting away from the public domain.

Overall, for the reasoning given above, the proposed development is considered to be detrimental to the character of the area and street scene being detrimental to the amenity of neighbouring occupiers and users of the street scene whilst conflicting with Saved Policies GP2, ENV32 and ENV33 of the UDP, the Designing Walsall SPD and the NPPF.

Amenity of Neighbours and Amenity of Future Occupiers

Under the provisions of Policy GP2 of the Walsall UDP the Council expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact. The Designing Walsall SPD sets out the recommended separation gaps between residential dwellings to ensure the amenity of existing and future occupiers is not unduly impacted.

The raised ridge height, front gable and box dormer additions will have had limited impact in terms of the effect upon neighbouring amenity by way of daylight, sunlight or sense of enclosure. Notwithstanding this, the new box dormer extends further rearwards from the roofslope than the individual approved dormer windows, and it includes a full height central glazing panel with windows either side serving new ensuite bathrooms. These windows, specifically the large central glazing panel, would provide increased opportunities for elevated direct overlooking of neighbours. This issue, however, could be addressed by way of a condition requiring that these upper floor windows be fixed shut and obscure glazed below 1.7m above internal floor levels. However, as the application is being refused on other grounds, this potential for increased overlooking is included as a reason for refusal in conflict with Saved Policy GP2 of the UDP.

Highways

Policy TRAN2 of the Core Strategy requires developments to manage transport impacts. Policy GP2 of the UDP requires development to be accessible by a choice of means of transport and to provide adequate parking provision. Policy T7 requires an adequate level of car parking to meet operational needs whilst not exceeding any maximum parking standards that are specified within Policy T13, which requires provision of 2 spaces per bedroom dwelling and 3 spaces per dwelling with 4-bedrooms or above. Policy T8 requires (inter alia) developments and transport projects to address the needs of pedestrians.

Sufficient off-street parking can be provided within the generous front driveway, however, the new front boundary walls that have been erected did not form part of the approved drawings, or indeed this current submission. The Highway authority raised concerns that the walls as built may not provide adequate pedestrian inter-visibility at the access point. On the basis that insufficient information has been provided to enable appropriate assessment, the proposal has failed to demonstrate that the development will not be detrimental to road safety and the development is in conflict with Saved Policies T7, T8 and T13 of the UDP.

Ecology and Biodiversity Net Gain

Paragraphs 174 and 180 of the National Planning Policy Framework supports development that achieves a net gain in biodiversity. Unitary Development Plan policy ENV23 requires that the layout of new development takes full account of existing features of value for wildlife and to include mitigating measures where loss is unavoidable. The Policy also requires developments take account of the potential for enhancement of the natural environment through habitat creation. Black Country Core Strategy Policy ENV1 sets out the spatial objectives with regard to safeguarding nature conservation.

As the planning application has been undertaken retrospectively with the works already complete, no further ecological impacts are anticipated from the planning application. A bat survey would have been required to support the application to ensure no adverse impacts to bats.

The Councils Ecology Officer recommended securing the addition of two bat boxes by way of condition to mitigate for any potential adverse impact to bats, which could have resulted from the works. However, as the application is being recommended for refusal on other grounds the imposition of a condition would not be possible in this instance.

Conclusions and Reasons for Decision

This application has failed to provide sufficient information regarding access and front boundary treatments, results in adverse impacts upon the amenities of neighbours in terms of loss of privacy, and causes significant harm to the character and appearance of the area.

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

Officers have corresponded with the applicant's agent.

Positive and Proactive Working with the Applicant

Refuse

Given this is a repeat of an earlier withdrawn application and in order to make the application acceptable in planning terms to take account of harms to both neighbours and the street scene, the applicant would need to make changes to what has been built, which they are aware of, no further negotiations have taken place. In this instance are unable to support the proposal.

Recommendation

Refuse

Reasons for Refusal

1. The proposed design including the fenestration to the front elevation, raised ridge height of the western wing with new front gable projection and inappropriately coloured roofing and facing brick materials would fail to properly take account of the context or surroundings and the proposal has an unacceptable adverse impact on the character of the area detrimental to the amenity of neighbouring occupiers and the users of the immediate street scene in conflict with Saved Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the UDP The Designing Walsall SPD, and the NPPF.
2. The applicant has failed to provide sufficient evidence to detail the proposed vehicle access arrangement and front boundary treatment would not impact on pedestrian and highway safety and the proposal fails to satisfy Saved Policies T7 (Car Parking), T8 (Walking) and T13 (Parking Provision for Cars, Cycles and Taxis) of the UDP and the NPPF.
3. The proposal includes second floor windows which would introduce a direct form of overlooking into the properties of 25, 27 and 29 Chapel Street and their rear gardens giving rise to an unacceptable adverse impact on their private amenity contrary to Saved UDP Policy GP2 (Environmental Protection) and the NPPF.

END OF OFFICERS REPORT